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Part XII

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 twelve 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 2002 and

April 2003 as well as those completed during the past six months.

FOR FURTHER INFORMATION CONTACT: Barbara Bingham, Acting Director for the 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 became effective on January 1, 1981, and applies only to regulations for which a notice of proposed rulemaking was issued on or after that date. It 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.

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—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1548	Production or Disclosure of Information or Materials	1290-AA17

Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1549	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H)	1215-AA14
1550	Regulations To Implement the Federal Acquisition Streamlining Act of 1994	1215-AA96
1551	Implementation of the 1996 Amendments to the Fair Labor Standards Act	1215-AB13
1552	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era	1215-AB24
1553	Stock Options, Stock Appreciation Rights, and Bona Fide Employee Stock Purchase Programs Under the Fair Labor Standards Act	1215-AB31

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Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1554	Child Labor Regulations, Orders, and Statements of Interpretation (ESA/W-H)	1215-AA09
1555	Government Contractors: Nondiscrimination and Affirmative Action Obligations, Executive Order 11246 (ESA/OFCCP) (Revised)	1215-AB28
1556	Claims for Compensation Under the Energy Employees Occupational Illness Compensation Program Act of 2000, as Amended	1215-AB32

Employment Standards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1557	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models	1215-AB09
1558	Obligation of Federal Contractors and Subcontractors, Notice of Employee Rights Concerning Payment of Union Dues or Fees	1215-AB33

Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1559	Application of the Fair Labor Standards Act to Domestic Service	1215-AA82
1560	Minimum Wage and Overtime Violations—Civil Money Penalties (29 CFR 578); Child Labor Violations—Civil Money Penalties (29 CFR 579); Adjustment of Civil Money Penalties for Inflation	1215-AB20

Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1561	Labor Certification Process for the Permanent Employment of Aliens in the United States	1205-AA66
1562	Federal-State Unemployment Compensation (UC) Program; Confidentiality and Disclosure of Information in State UC Records	1205-AB18
1563	Senior Community Service Employment Program	1205-AB28

Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1564	Indian and Native American Welfare-to-Work Program	1205-AB16
1565	Labor Certification and Petition Process for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the United States; Modification of Fee Structure	1205-AB24
1566	Labor Certification and Petition Process for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the U.S.: Delegation of Authority to Adjudication Petitions; Deferral of Effective Date	1205-AB30
1567	Disaster Unemployment Assistance Program Amendment	1205-AB31

Employment and Training Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1568	Federal-State Unemployment Compensation Program; Unemployment Insurance Performance System	1205-AB10

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Employment and Training Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
1569	Attestations by Facilities Temporarily Employing H-1C Nonimmigrant Aliens as Registered Nurses	1205-AB27

Employment and Training Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1570	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas; Implementation of Electronic Filing	1205-AB29

Pension and Welfare Benefits Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1571	Bonding Rules Under the Employee Retirement Income Security Act of 1974 (Section 610 Review)	1210-AA82
1572	Requests for Enforcement Pursuant to Section 502(b)(2) (Section 610 Review)	1210-AA83
1573	Civil Penalties Under ERISA Section 502(c)(2) (Section 610 Review)	1210-AA84
1574	Procedures for the Assessment of Civil Penalties Under ERISA Section 502(c)(2) (Section 610 Review)	1210-AA85

Pension and Welfare Benefits Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1575	Adequate Consideration	1210-AA15
1576	Rulemaking Relating to Notice Requirements for Continuation of Health Care Coverage	1210-AA60
1577	Regulation Exempting Certain Broker-Dealers and Investment Advisers From Bonding Requirements	1210-AA80

Pension and Welfare Benefits Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1578	Definition of Collective Bargaining Agreement (ERISA Section 3(40))	1210-AA48
1579	Regulations Implementing the Health Care Access, Portability and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996	1210-AA54
1580	Mental Health Benefits Parity	1210-AA62
1581	Health Care Standards for Mothers and Newborns	1210-AA63
1582	Reporting Requirements for MEWAs Providing Medical Care Benefits	1210-AA64
1583	Rulemaking Relating to the Women's Health and Cancer Rights Act of 1998	1210-AA75
1584	Prohibiting Discrimination Against Participants and Beneficiaries Based on Health Status	1210-AA77

Pension and Welfare Benefits Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1585	Civil Penalties Under ERISA Section 502(1)	1210-AA37
1586	Elimination of Filing Requirements for Summary Plan Descriptions	1210-AA66
1587	Requirement To Furnish Plan Documents Upon Request by the Secretary of Labor	1210-AA67
1588	Civil Penalty for Failure To Furnish Certain Plan Documents	1210-AA68
1589	Electronic Disclosure of Employee Benefit Plan Information	1210-AA71
1590	Voluntary Fiduciary Correction Program (VFC Program)	1210-AA76

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Pension and Welfare Benefits Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
1591	Delinquent Filer Voluntary Compliance Program (DFVC Program)	1210-AA86

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1592	Occupational Exposure to Coal Mine Dust (Lowering Concentration Limit)	1219-AB08
1593	Asbestos Exposure Limit	1219-AB24

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1594	Belt Entry Use as Intake Aircourse To Ventilate Working Sections	1219-AA76
1595	Independent Laboratory Testing	1219-AA87
1596	Improving and Eliminating Regulations	1219-AA98
1597	Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust	1219-AB14
1598	Mine Rescue Teams	1219-AB20

Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1599	Hazard Communication	1219-AA47
1600	Air Quality, Chemical Substances, and Respiratory Protection Standards	1219-AA48
1601	Requirements for Approval of Flame-Resistant Conveyor Belts	1219-AA92
1602	Determination of Concentration of Respirable Coal Mine Dust	1219-AB18

Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1603	Electric Motor-Driven Mine Equipment and Accessories and High-Voltage Longwall Equipment Standards for Underground Coal Mines	1219-AA75
1604	Diesel Particulate Exposure of Underground Metal and Nonmetal Miners	1219-AB28

Office of the Assistant Secretary for Administration and Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1605	Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance From the Department of Labor	1291-AA21

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Office of the Assistant Secretary for Administration and Management—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1606	Audits of States, Local Governments, and Nonprofit Organizations	1291-AA26
1607	Audit Requirements for Grants, Contracts, and Other Agreements	1291-AA27
1608	Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Investment Act of 1998	1291-AA29
1609	Effectuation of Title VI of the Civil Rights Act of 1964 and Implementation of Section 504 of the Rehabilitation Act of 1973	1291-AA31
1610	Department of Labor Acquisition Regulations	1291-AA34

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

Sequence Number	Title	Regulation Identification Number
1611	Grants and Agreements	1291-AA30
1612	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants) 29 CFR 98	1291-AA33

Office of the Assistant Secretary for Administration and Management—Completed Actions

Sequence Number	Title	Regulation Identification Number
1613	Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting From Federal Financial Assistance	1291-AA28

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1614	Occupational Exposure to Hexavalent Chromium (Preventing Occupational Illness: Chromium)	1218-AB45
1615	Confined Spaces in Construction (Part 1926): Preventing Suffocation/Explosions in Confined Spaces	1218-AB47
1616	Occupational Exposure to Ethylene Oxide (Section 610 Review)	1218-AB60
1617	Fall Protection in the Construction Industry	1218-AB62
1618	Occupational Exposure to Crystalline Silica	1218-AB70
1619	Grain Handling Facilities (Section 610 Review)	1218-AB73
1620	Occupational Exposure to Beryllium	1218-AB76
1621	Hearing Loss Prevention in Construction Workers	1218-AB89
1622	Excavations (Section 610 Review)	1218-AC02
1623	Presence Sensing Device Initiation of Mechanical Power Presses (Section 610 Review)	1218-AC03
1624	Controlled Negative Pressure Fit Testing Protocol: Amendment to the Final Rule on Respiratory Protection	1218-AC05

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1625	Assigned Protection Factors: Amendments to the Final Rule on Respiratory Protection	1218-AA05
1626	Longshoring and Marine Terminals (Parts 1917 and 1918) — Reopening of the Record (Vertical Tandem Lifts (VTLs))	1218-AA56
1627	Glycol Ethers: 2-Methoxyethanol, 2-Ethoxyethanol, and Their Acetates: Protecting Reproductive Health	1218-AA84
1628	Injury and Illness Prevention	1218-AB41
1629	Occupational Exposure to Tuberculosis	1218-AB46
1630	General Working Conditions for Shipyard Employment	1218-AB50
1631	Fire Protection in Shipyard Employment (Part 1915, Subpart P) (Shipyards: Fire Safety)	1218-AB51

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Occupational Safety and Health Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1632	Electric Power Transmission and Distribution; Electrical Protective Equipment in the Construction Industry	1218-AB67
1633	Employer Payment for Personal Protective Equipment	1218-AB77
1634	Walking Working Surfaces and Personal Fall Protection Systems (1910) (Slips, Trips and Fall Prevention)	1218-AB80
1635	Standards Improvement (Miscellaneous Changes) for General Industry, Marine Terminals, and Construction Standards (Phase II)	1218-AB81
1636	Commercial Diving Operations: Revision	1218-AB97
1637	Cranes, Derricks, Hoists, Elevators, and Conveyors	1218-AC01

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1638	Access and Egress in Shipyards (Part 1915, Subpart E) (Shipyards: Emergency Exits and Aisles)	1218-AA70
1639	Update and Revision of the Exit Routes Standard	1218-AB82
1640	Signs, Signals, and Barricades	1218-AB88
1641	Changes to State Plans	1218-AB91
1642	Revision and Update of Subpart S—Electrical Standards	1218-AB95
1643	Procedures for Handling of Discrimination Complaints Under the Aviation Investment and Reform Act	1218-AB99
1644	Occupational Injury and Illness Recording and Reporting Requirements	1218-AC06

Occupational Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1645	Accreditation of Training Programs for Hazardous Waste Operations (Part 1910)	1218-AB27

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1646	Scaffolds in Shipyards (Part 1915 — Subpart N)	1218-AA68
1647	Indoor Air Quality in the Workplace	1218-AB37
1648	Advisory Committees	1218-AC04

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

Sequence Number	Title	Regulation Identification Number
1649	Annual Report for Federal Contractors (2002 Revisions)	1293-AA08

Office of the Assistant Secretary for Veterans' Employment & Training—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1650	Annual Report from Federal Contractors	1293-AA07

Department of Labor (DOL)
Office of the Secretary (OS)

Proposed Rule Stage

1548. 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	11/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Miriam McD. Miller, Co-Counsel for Administrative Law, Division of Legislation and Legislative Counsel, Department of Labor, Office of the Secretary, Room N2428, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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 Email: miller-miriam@dol.gov

RIN: 1290-AA17

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

Proposed Rule Stage

1549. DEFINING AND DELIMITING THE TERM "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY" (ESA/W-H)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 29 USC 213(a)(1)

CFR Citation: 29 CFR 541

Legal Deadline: None

Abstract: These regulations set forth the criteria for exemption from the Fair Labor Standards Act's minimum wage and overtime requirements for "executive," "administrative," "professional" and "outside sales employees." To be exempt, employees must meet certain tests relating to duties and responsibilities and be paid on a salary basis at specified levels. A final rule increasing the salary test levels was published on January 13, 1981 (46 FR 3010), to become effective on February 13, 1981, but was indefinitely stayed on February 12, 1981 (46 FR 11972). On March 27, 1981, a proposal to suspend the final rule indefinitely was published (46 FR 18998), with comments due by April 28, 1981. As a result of numerous comments and petitions from industry groups on the duties and responsibilities tests, and as a result of case law developments, the Department concluded that a more comprehensive review of these regulations was needed. An ANPRM reopening the comment period and broadening the scope of

review to include all aspects of the regulations was published on November 19, 1985, with the comment period subsequently extended to March 22, 1986.

The Department has revised these regulations since the ANPRM to address specific issues. In 1991, as the result of an amendment to the Fair Labor Standards Act (FLSA), the regulations were revised to permit certain computer systems analysts, computer programmers, software engineers, and other similarly skilled professional employees to qualify for the exemption, including those paid on an hourly basis if their rates of pay exceed 6 1/2 times the applicable minimum wage. Also, in 1992 the Department issued a final rule which modified the exemption's requirement for payment on a "salary basis" for otherwise exempt public sector employees.

Statement of Need: These regulations contain the criteria used to determine if an employee is exempt from the FLSA as an "executive," "administrative," "professional," or "outside sales" employee. The existing salary test levels used in determining which employees qualify as exempt were adopted in 1975 on an interim basis. These salary level tests are outdated and offer little practical guidance in applying the exemption. In addition, numerous comments and petitions have been received from industry groups regarding the duties and responsibilities tests in the regulations, requesting a review of these regulations.

These regulations have been revised to deal with specific issues. In 1991, as the result of an amendment to the FLSA, the regulations were revised to permit certain computer systems analysts, computer programmers, software engineers, and other similarly skilled professional employees to qualify for the exemption, including those paid on an hourly basis if their rates of pay exceed 6 1/2 times the applicable minimum wage. Also in 1991, the Department undertook separate rulemaking on another aspect of the regulations, the definition of "salary basis" for public-sector employees. Because of the limited nature of these revisions, the regulations are still in need of updating and clarification.

Summary of Legal Basis: These regulations are issued under the statutory exemption from minimum wage and overtime pay provided by section 13(a)(1) of the Fair Labor Standards Act, 29 USC 213(a)(1), which requires the Secretary of Labor to issue regulations that define and delimit the terms "any employee employed in a bona fide, executive, administrative, or professional capacity... or in the capacity of outside salesman..." for purposes of applying the exemption to employees who meet the specified criteria.

Alternatives: The Department will involve affected interest groups in developing regulatory alternatives. Following completion of these outreach and consultation activities, full regulatory alternatives will be developed.

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Although legislative proposals have been introduced in Congress to address certain aspects of these regulations, the Department continues to believe revisions to the regulations are the appropriate response to the concerns raised. Alternatives likely to be considered range from particular changes to address “salary basis” and salary level issues to a comprehensive overhaul of the regulations that also addresses the duties and responsibilities tests.

Anticipated Cost and Benefits: Some 19 to 26 million employees are estimated to be within the scope of these regulations. Legal developments in court cases are changing the guiding interpretations under this exemption and creating law without considering a comprehensive analytical approach to current compensation concepts and workplace practices. Clear, comprehensive, and up-to-date regulations would provide for central, uniform control over the application of these regulations and ameliorate many concerns. In the public sector, State and local government employers contend that the rules are based on production workplace environments from the 1940s and 1950s that do not readily adapt to contemporary government functions. The Federal Government also has concerns regarding the manner in which the courts and arbitration decisions are applying the exemption to the Federal workforce. Resolution of confusion over how the regulations are to be applied in the public sector will ensure that employees are protected, that employers are able to comply with their responsibilities under the law, and that the regulations are enforceable. Preliminary estimates of the specific costs and benefits of this regulatory action will be developed once the various regulatory alternatives are identified.

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

Timetable:

Action	Date	FR Cite
Indefinite Stay of Final Rule	02/12/81	46 FR 11972
Proposal To Suspend Rule Indefinitely	03/27/81	46 FR 18998
ANPRM	11/19/85	50 FR 47696

Action	Date	FR Cite
Extension of ANPRM Comment Period From 01/21/86 to 03/22/86	01/17/86	51 FR 2525
ANPRM Comment Period End	03/22/86	
NPRM	01/00/03	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

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

Agency Contact: Tammy D. McCutchen, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, FP Building, Room S3502, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215-AA14

1550. REGULATIONS TO IMPLEMENT THE FEDERAL ACQUISITION STREAMLINING ACT OF 1994

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-355, 108 Stat. 3243

CFR Citation: 29 CFR 4; 29 CFR 5; 41 CFR 50-201; 41 CFR 50-206

Legal Deadline: NPRM, Statutory, May 11, 1995.

Final, Statutory, October 1, 1995.

Abstract: The Federal Acquisition Streamlining Act of 1994, signed on October 13, 1994, amended several Acts administered by the Department of Labor: (1) the Contract Work Hours and Safety Standards Act (CWHSSA) to limit its applicability to contracts in an amount of \$100,000 or greater; (2) the Davis-Bacon Act (DB) to provide waivers from the Act's prevailing wage requirements under selected laws for volunteers performing services to a State or local government or agency and for volunteers performing services to a public or private nonprofit recipient of Federal assistance; and (3) the Walsh-Healey Public Contracts Act (PCA) to eliminate the requirements that contractors on covered contracts be

either manufacturers or regular dealers in the items to be supplied under the contract but retains the Secretary of Labor's authority to define the terms “regular dealer” and “manufacturer.” A final rule implementing the CWHSSA and PCA changes was published on August 5, 1996 (61 FR 40714).

Timetable:

Action	Date	FR Cite
NPRM	09/07/95	60 FR 46553
NPRM Comment Period End	10/10/95	
Final Rule - Walsh-Healey/CWHSSA Rule	08/05/96	61 FR 40714
Second NPRM	08/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Tammy D. McCutchen, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, FP Building, Room S3502, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215-AA96

1551. IMPLEMENTATION OF THE 1996 AMENDMENTS TO THE FAIR LABOR STANDARDS ACT

Priority: Other Significant

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

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: The “Small Business Job Protection Act of 1996” (H.R. 3448) was enacted on August 20, 1996, as Public Law 104-188. Title II of this enactment 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) increase the \$4.25 Federal minimum hourly wage by \$.90 in two steps over two years (i.e., to \$4.75 on October 1, 1996, and to

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\$5.15 on September 1, 1997); (2) provide 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 not 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.

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Tammy D. McCutchen, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, FP Building, Room S3502, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432
RIN: 1215-AB13

1552. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 4211; 38 USC 4212; PL 102-16; PL 102-127; PL 102-484; PL 95-520; PL 93-508, amended; PL 94-502; PL 96-466; PL 101-237; PL 97-306; PL 98-223; PL 105-339

CFR Citation: 41 CFR 60-250

Legal Deadline: None

Abstract: OFCCP proposes to amend the regulations implementing the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) 38 USC 4212, to conform with the Veterans Employment Opportunities Act (the Act) of 1998 and the Veterans Benefits and Health Care Improvement Act of 2000 (VBHCIA). The Act increases the current threshold for coverage from \$10,000 to \$25,000. The Act and VBHCIA of 2000 expand the scope of protection under VEVRAA to include recently separated veterans and veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized. Recently separated veterans means any veteran during the one-year period beginning on the date of such veteran's discharge or release from active duty.

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, Room N3424, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0102
TDD Phone: 202 693-1308
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RIN: 1215-AB24

1553. STOCK OPTIONS, STOCK APPRECIATION RIGHTS, AND BONA FIDE EMPLOYEE STOCK PURCHASE PROGRAMS UNDER THE FAIR LABOR STANDARDS ACT

Priority: Other Significant

Legal Authority: 29 USC 207(e)(8); PL 106-202, sec 2(e)

CFR Citation: 29 CFR 546; 29 CFR 778

Legal Deadline: None

Abstract: The Worker Economic Opportunity Act, Public Law 106-202 (May 18, 2000), amended section 7(e) of the Fair Labor Standards Act to clarify how certain employer-provided stock option programs are to be treated for purposes of overtime pay. Certain programs meeting prescribed criteria would not have to be factored into the "regular rate" otherwise required when calculating "time-and-one-half" overtime premium pay for overtime hours of work. The legislation calls for regulations to be promulgated as necessary, which will include amendments to some of the existing regulations on overtime pay.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Tammy D. McCutchen, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, FP Building, Room S3502, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432
RIN: 1215-AB31

Department of Labor (DOL)

Employment Standards Administration (ESA)

Final Rule Stage

1554. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Priority: Other Significant

Legal Authority: 29 USC 203(e)

CFR Citation: 29 CFR 570

Legal Deadline: None

Abstract: Section 3(l) of the Fair Labor Standards Act requires the Secretary of Labor to issue regulations with respect to minors between 14 and 16 years of age ensuring that the periods and conditions of their employment do not interfere with their schooling, health, or well-being. The Secretary is also

directed to designate occupations that are particularly hazardous for minors 16 and 17 years of age. Child Labor Regulation No. 3 sets forth the permissible industries and occupations in which 14- and 15-year-olds may be employed, and specifies the number of hours in a day and in a week, and time

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periods within a day, that such minors may be employed. The Department has invited public comment in considering whether changes in technology in the workplace and job content over the years require new hazardous occupation orders, and whether changes are needed in some of the applicable hazardous occupation orders. Comment has also been solicited on whether revisions should be considered in the permissible hours and time-of-day standards for 14- and 15-year-olds. Comment has been sought on appropriate changes required to implement school-to-work transition programs. Additionally, Congress enacted Public Law 104-174 (August 6, 1996), which amended FLSA section 13(c) and requires changes in the regulations under Hazardous Occupation Order No. 12 regarding power-driven paper balers and compactors, to allow 16- and 17-year-olds to load, but not operate or unload, machines meeting applicable American National Standards Institute (ANSI) safety standards and certain other conditions. Congress also passed the Drive for Teen Employment Act, Public Law 105-334 (October 31, 1998), which prohibits minors under age 17 from driving automobiles and trucks on public roads on the job and sets criteria for 17-year-olds to drive such vehicles on public roads on the job.

Statement of Need: Because of changes in the workplace and the introduction of new processes and technologies, the Department is undertaking a comprehensive review of the regulatory criteria applicable to child labor. Other factors necessitating a review of the child labor regulations are changes in places where young workers find employment opportunities, the existence of differing Federal and State standards, and the divergent views on how best to correlate school and work experiences.

Under the Fair Labor Standards Act, the Secretary of Labor is directed to provide by regulation or by order for the employment of youth between 14 and 16 years of age under periods and conditions which will not interfere with their schooling, health and well-being. The Secretary is also directed to designate occupations that are particularly hazardous for youth between the ages of 16 and 18 years or detrimental to their health or well-being. The Secretary has done so by specifying, in regulations, the

permissible industries and occupations in which 14- and 15-year-olds may be employed, and the number of hours per day and week and the time periods within a day in which they may be employed. In addition, these regulations designate the occupations declared particularly hazardous for minors between 16 and 18 years of age or detrimental to their health or well-being.

Public comment has been invited in considering whether changes in technology in the workplace and job content over the years require new hazardous occupation orders or necessitate revision to some of the existing hazardous orders. Comment has also been invited on whether revisions should be considered in the permissible hours and time-of-day standards for the employment of 14- and 15-year-olds, and whether revisions should be considered to facilitate school-to-work transition programs. When issuing the regulatory proposals (after review of public comments on the advance notice of proposed rulemaking), the Department's focus was on assuring healthy, safe and fair workplaces for young workers, and at the same time promoting job opportunities for young people and making regulatory standards less burdensome to the regulated community.

Summary of Legal Basis: These regulations are issued under sections 3(1), 11, 12, and 13 of the Fair Labor Standards Act, 29 USC sections 203(1), 211, 212, and 213 which require the Secretary of Labor to issue regulations prescribing permissible time periods and conditions of employment for minors between 14 and 16 years old so as not to interfere with their schooling, health, or well-being, and to designate occupations that are particularly hazardous or detrimental to the health or well-being of minors under 18 years old.

Alternatives: Regulatory alternatives developed based on recent legislation and the public comments responding to the advance notice of proposed rulemaking included specific proposed additions or modifications to the paper baler, teen driving, explosive materials, and roofing hazardous occupation orders, and proposed changes to the permissible cooking activities that 14- and 15-year-olds may perform in retail establishments.

Anticipated Cost and Benefits:

Preliminary estimates of the anticipated costs and benefits of this regulatory action indicated that the rule was not economically significant. Benefits will include safer working environments and the avoidance of injuries with respect to young workers.

Risks: The child labor regulations, by ensuring that permissible job opportunities for working youth are safe and healthy and not detrimental to their education as required by the statute, produce positive benefits by reducing health and productivity costs employers may otherwise incur from higher accident and injury rates to young and inexperienced workers. Given the limited nature of the changes in the proposed rule, a detailed assessment of the magnitude of risk was not prepared.

Timetable:

Action	Date	FR Cite
Final Action HOs 2, 10 and 12	11/20/91	56 FR 58626
Final Action Effective ANPRM	12/20/91	
ANPRM Comment Period End	05/13/94	59 FR 25167
NPRM	08/11/94	59 FR 40318
NPRM Comment Period End	11/30/99	64 FR 67130
Final Action	01/31/00	
	12/00/02	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: Tammy D.

McCutchen, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, FP Building, Room S3502, Washington, DC 20210

Phone: 202 693-0051

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RIN: 1215-AA09

1555. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS, EXECUTIVE ORDER 11246 (ESA/OFCCP) (REVISED)

Priority: Substantive, Nonsignificant

Legal Authority: EO 11246, as amended; 38 USC 4211; PL 94-502; PL 97-306; PL 102-484; 38 USC 4212; PL 93-508, amended; PL 96-466; PL 101-237; EO 11758; PL 98-223; PL 102-16; PL 102-127; PL 95-520; PL 105-339; 29 USC 706; 29 USC 793; EO 11758

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CFR Citation: 41 CFR 60-1 (Revision); 41 CFR 60-250 (Revision); 41 CFR 60-741 (Revision)

Legal Deadline: None

Abstract: The NPRM would remove the obligation to visit an establishment during a compliance check, which is currently required by section 60-1.20(a)(3) in order to enhance efficiency in resource allocation. OFCCP proposes also to make the same revision in section 60-250.60(a)(3) of the regulations implementing the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA). Lastly, OFCCP proposes to conform regulations implementing section 503 of the Rehabilitation Act of 1973, as amended, to the compliance evaluation procedures contained in the regulations implementing Executive Order 11246, as amended, and the affirmative action provisions of VEVRAA, both of which expressly authorize OFCCP to use additional investigative procedures to determine a contractor's compliance with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/12/00	65 FR 60815
NPRM Comment Period End	12/11/00	
Final Rule	12/00/02	

Regulatory Flexibility Analysis

Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

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RIN: 1215-AB28

1556. 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 7384 et seq; EO 13179

CFR Citation: 20 CFR 30

Legal Deadline: Other, Statutory, May 31, 2001, Interim Final Rule.

By executive order, regulations for administration of program were to be promulgated by 5/31/2001.

Abstract: The Department of Labor has issued regulations for its administration of the provisions of the Energy

Employees Occupational Illness Compensation Program Act of 2000, as amended. These regulations address all questions arising under this act which have not been specifically assigned to the Secretary of Health and Human Services, to the Secretary of Energy, or to the Attorney General.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/25/01	66 FR 28948
Interim Final Rule Effective	07/24/01	
Interim Final Rule Comment Period End	09/24/01	66 FR 47382
Final Action	09/00/02	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Peter M. Turcic, Director, Division of Energy Employees Occupational Illness Compensation, OWCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, FP Building, Washington, DC 20210
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RIN: 1215-AB32

Department of Labor (DOL)

Employment Standards Administration (ESA)

Long-Term Actions

1557. 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: 8 USC 1101(a)(15)(H)(i)(b); 8 USC 1182(n); 8 USC 1184; 29 USC 49 et seq; 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 Immigration and Naturalization Service 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

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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). 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.

Statement of Need: Statutory amendments to the Immigration and Nationality Act relating to the H-1B visa program were enacted in 1998 and again in 2000. Under the H-1B visa program, employers may temporarily employ nonimmigrants admitted into the U.S. under H-1B visas in specialty occupations and as fashion models, provided certain conditions are met. Section 412(d) of the American Competitiveness and Workforce Improvement Act of 1998 (Title IV of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Public Law 105-277), provides that some of the amendments made by the 1998 legislation (those relating to “H-1B-dependent” employers and willful violators) do not take effect until the Department of Labor issues implementing regulations, which are the subject of this rulemaking.

Summary of Legal Basis: This rule is issued pursuant to provisions of the Immigration and Nationality Act, as amended, and the American Competitiveness and Workforce Improvement Act of 1998, 8 U.S.C. 1101(a)(15)(H)(i)(b), 1182(n), and 1184; sec. 303(a)(8), Pub. L. 102-232 (8 U.S.C. 1182 note); and secs. 412(d) and (e), Pub. L. 105-277. The objectives of the rule are to enable employers to understand and comply with applicable requirements of the amended H-1B visa program, and to advise employees and applicants for employment of the protections afforded by the amendments to U.S. and H-1B workers.

Alternatives: Various regulatory alternatives were considered during the notice-and-comment period for implementing the statutory provisions, as discussed in the preamble to the December 2000 interim final rule. Alternatives considered included, among others, various approaches to the manner and timing for determining H-1B dependency status (and the meaning of “full-time equivalent employees” (FTEs) in the employer’s work force), documentation of the dependency determination and designation of such status on the Labor Condition Application, and implementing the requirements for no “displacement” and recruitment of U.S. workers, payment of required wages and benefits to H-1B and U.S. workers, and determining short-term placement options.

Anticipated Cost and Benefits: The Department concluded that the anticipated costs and benefits of this rule were not economically significant. This conclusion was based on the analysis that the direct, incremental costs that employers would incur because of the rule that were above customary business expenses associated with recruiting qualified job applicants and retaining qualified employees in specialized jobs would not exceed \$100 million per year or otherwise trigger “economic significance” under Executive Order 12866. However, because of the importance of the rule to the public, it was treated as a significant regulatory action and was, therefore, reviewed by the Office of Management and Budget under Executive Order 12866.

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

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	04/00/03	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Tammy D. McCutchen, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, FP Building, Room S3502, Washington, DC 20210
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RIN: 1215-AB09

1558. OBLIGATION OF FEDERAL CONTRACTORS AND SUBCONTRACTORS, NOTICE OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES

Priority: Other Significant

Legal Authority: EO 13201

CFR Citation: 29 CFR 470

Legal Deadline: None

Abstract: On January 2, 2002, the Federal District Court for the District of Columbia issued a decision in UAW-Labor Employment & Training Corp v. Chao, holding the Executive Order 13201 is invalid because it conflicts with the National Labor Relations Act. The court permanently enjoined the Department of Labor from implementing and enforcing Executive Order 13201. The Department is considering options for responding to the decision.

This regulation will implement E.O. 13201 which requires Government contractors and subcontractors to post notices informing their employees that (1) under Federal law they cannot be required to join a union or maintain membership in a union to retain their jobs, and (2) employees who choose not to be union members may object to the use of their compulsory union dues and fees for activities other than collective bargaining, contract administration, and grievance adjustment, and may be entitled to a refund and an appropriate reduction in their future payments. The proposed regulation, in accordance with E.O. 13201, will also require that, where applicable, each Government contracting agency include certain provisions of the Order in its Government contracts, and that Government contractors and subcontractors include these provisions in their nonexempt subcontracts and purchase orders.

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Statement of Need: The regulation is necessary in order to implement Executive Order 13201.

Summary of Legal Basis: The legal basis for this regulation is section 1(b) of Executive Order 13201. The legal basis for the Executive Order is the Constitution and laws of the United States, including the Federal Property and Administrative Services Act, 40 U.S.C. 471 et seq.

As noted above, on January 2, 2002, the Federal District Court for the District of Columbia issued a decision holding that Executive Order 13201 is invalid and the Department is considering options for responding to that decision.

Alternatives: There is no feasible alternative to issuing regulations. Regulations are needed in order to implement Executive Order 13201 by (1) clarifying the obligations of Federal contractors and subcontractors, (2) providing exemptions as authorized by

the Executive order, and (3) establishing enforcement mechanisms as authorized by the Executive order. Alternatives to the specific provisions of the proposed rule suggested in comments by the public will be considered in developing the final rule.

Anticipated Cost and Benefits: The only costs that Federal contractors will incur are for (1) posting the notice and (2) applying for waivers from the posting requirement. These will be minimal since (1) under the proposed regulation, the Department will supply the posters, and (2) the Department's experience under similar posting requirements is that few contractors request waivers. The benefits of the Executive order and the implementing regulation are the promotion of economy and efficiency in Government procurement by having workers who are informed of their rights regarding union membership and the use of union dues and fees.

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

Timetable:

Action	Date	FR Cite
Interim Procedural Rule	04/18/01	66 FR 19988
NPRM	10/01/01	66 FR 50010
NPRM Comment Period End	11/30/01	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Don Todd, Deputy Assistant Secretary, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, Room N5605, Washington, DC 20210
Phone: 202 693-0122
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RIN: 1215-AB33

Department of Labor (DOL)

Employment Standards Administration (ESA)

Completed Actions

1559. APPLICATION OF THE FAIR LABOR STANDARDS ACT TO DOMESTIC SERVICE

Priority: Other Significant

Legal Authority: Sec 13(a)(15), Fair Labor Standards Act (FLSA), as amended; Sec 13(b)(21), FLSA, as amended; 29 USC 213(a)(15); 29 USC 213(b)(21) 88 Stat 62; Sec 29(b), FLSA of 1974; PL 93-259 88, Stat 76

CFR Citation: 29 CFR 552

Legal Deadline: None

Abstract: Section 13(a)(15) of the Fair Labor Standards Act (FLSA) provides an exemption from minimum wage and overtime compensation for domestic service employees engaged in providing companionship services. Section 13(b)(21) of the FLSA provides an exemption from overtime compensation for live-in domestic service employees. DOL proposed certain technical amendments to update the regulations, 29 CFR part 552, Application of the Fair Labor Standards Act to Domestic Service, and to clarify the applicability of these exemptions to third-party employers (58 FR 69310). After reviewing the public comments, the Department adopted technical changes to update the regulations, including a

revision necessitated by amendments to title II of the Social Security Act under Public Law 103-387 (Social Security Domestic Employment Reform Act) 10/22/94, (see 60 FR 46766) and reopened the public comment period on proposed revisions affecting third-party employers (section 552.109). After further review of the history and background to this exemption, a new proposed rule was published for public comment on 1/19/2001 (66 FR 5481).

Timetable:

Action	Date	FR Cite
NPRM	12/30/93	58 FR 69310
NPRM Comment Period End	02/28/94	
Second NPRM	09/08/95	60 FR 46797
Final Rule	09/08/95	60 FR 46766
Third NPRM	01/19/01	66 FR 5481
NPRM Comment Period End	03/20/01	
Third NPRM Comment Period End Extended to 07/23/2001	04/23/01	66 FR 20411
Withdrawn	04/08/02	67 FR 17760

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Tammy D. McCutchen, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, FP Building, Room S3502, Washington, DC 20210
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RIN: 1215-AA82

1560. MINIMUM WAGE AND OVERTIME VIOLATIONS—CIVIL MONEY PENALTIES (29 CFR 578); CHILD LABOR VIOLATIONS—CIVIL MONEY PENALTIES (29 CFR 579); ADJUSTMENT OF CIVIL MONEY PENALTIES FOR INFLATION

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 216(e); PL 101-410; PL 104-134

CFR Citation: 29 CFR 578; 29 CFR 579

Legal Deadline: Final, Statutory, October 23, 1996.

Abstract: The Debt Collection Improvement Act of 1996 (PL 104-134) amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (PL 101-410) to require Federal agencies to adjust certain civil money penalties for

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Completed Actions

inflation. The Department is proposing adjustments in the civil money penalties that may be assessed under section 16(e) of the Fair Labor Standards Act for (1) repeated or willful violations of the minimum wage or overtime provisions; and (2) child labor violations. Any increase in the penalty amounts shall apply only to violations which occur after the effective date of the increase. The final rule was published 12/07/2001, 66 FR 63501, effective 01/07/2002.

Timetable:

Action	Date	FR Cite
NPRM	12/28/98	63 FR 71405
NPRM Comment Period End	01/27/99	
Final Action	12/07/01	66 FR 63501
Final Action Effective	01/07/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Tammy D.

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RIN: 1215-AB20

Department of Labor (DOL)

Proposed Rule Stage

Employment and Training Administration (ETA)

1561. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Priority: Other Significant

Legal Authority: 8 USC 1182(a)(5)(A), 1189(p)(1); 29 USC 49 et seq

CFR Citation: 20 CFR 656

Legal Deadline: None

Abstract: The Employment and Training Administration (ETA) is in the process of reengineering the permanent labor certification process. ETA's goals are to make fundamental changes and refinements that will: streamline the process, save resources, improve the effectiveness of the program and better serve the Department of Labor's (DOL) customer.

Statement of Need: The labor certification process has been described as being complicated, costly and time consuming. Due to the increases in the volume of applications received and a lack of adequate resources, it can take up to 2 years or more to complete processing an application. The process also requires substantial State and Federal resources to administer and is reportedly costly and burdensome to employers as well. Cuts in Federal funding for both the permanent labor certification program and the U.S. Employment Service have made it difficult for State and Federal administrators to keep up with the process. ETA, therefore, is taking steps to improve effectiveness of the various regulatory requirements and the application processing procedures, with a view to achieving savings in resources both for the government and employers, without diminishing protections now afforded U.S. workers

by the current regulatory and administrative requirements.

Summary of Legal Basis: Promulgation of these regulations is authorized by section 212(a)(5)(A) of the Immigration and Nationality Act.

Alternatives: Regulatory alternatives are now being developed by the Department. The public will be afforded an opportunity to comment on the Department's plans for streamlining the permanent labor certification process in a notice of proposed rulemaking which will be published in the Federal Register.

Anticipated Cost and Benefits: Preliminary estimates of the anticipated costs and benefits have not been determined at this time. Preliminary estimates will be developed after a decision is made as to what regulatory amendments are necessary and after the implementing forms and automated systems to support a streamlined permanent labor certification process have been developed.

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

Timetable:

Action	Date	FR Cite
NPRM	05/00/02	
Final Rule	08/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Dale Ziegler, Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room

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RIN: 1205-AA66

1562. FEDERAL-STATE UNEMPLOYMENT COMPENSATION (UC) PROGRAM; CONFIDENTIALITY AND DISCLOSURE OF INFORMATION IN STATE UC RECORDS

Priority: Other Significant

Legal Authority: 42 USC 1302 (a); 42 USC 503; 42 USC 1320b-7; 26 USC ch 23; 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 is preparing to issue a notice of proposed rulemaking (NPRM) on confidentiality and disclosure of information in State records collected, created, or maintained for purposes of the Federal-State UC program. The NPRM would modify and expand the regulations implementing the Income and Eligibility Verification System (IEVS) to include the statutory requirements in title III of the Social Security Act, the Federal Unemployment Tax Act, and the Wagner-Peyser Act concerning confidentiality and disclosure of information in State UC records. The use of unemployment compensation wage records under these and other statutes has increased in recent years while privacy and confidentiality issues have not yet been addressed.

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Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** State

Additional Information: Formerly RIN 1205-AA74; was taken off regulatory agenda in 1994 due to inactivity. An NPRM was published 3/23/92 at 57 FR 10063 with comment period ending 5/22/92.

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RIN: 1205—AB18**1563. SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 42 USC 3056(b)(2)**CFR Citation:** 20 CFR 641**Legal Deadline:** None

Abstract: The Employment and Training Administration will implement new regulations to govern the Senior Community Service Employment Program (SCSEP) under title V of the Older Americans Act Amendments of 2000. SCSEP is the only Federally sponsored job creation program targeted to low-income older

Americans. The program subsidizes part-time community service jobs for low-income persons age 55 years and older who have poor employment prospects. Approximately 100,000 program enrollees annually work in a wide variety of community service jobs, including nurse's aides, teacher aides, librarians, clerical workers and day care assistants. The Department of Labor allocates funds to operate the program to State agencies on aging and to national organizations.

Proposed regulations will improve integration of SCSEP with the broader workforce investment system.

Statement of Need: As the baby boom generation ages, the demand for employment and training services and income support for low-income older persons will increase. Low-income seniors generally must continue working and many may not be able to find employment without work experience and additional training. The basic goals of the SCSEP are to provide community service employment for older workers with few skills and little work experience, and to move many of those seniors into unsubsidized employment. The Employment and Training Administration will issue regulations and other guidance, provide technical assistance, and establish performance standards that will drive State and national grantees' efforts towards the program's goals.

Summary of Legal Basis: Promulgation of these regulations is authorized by section 502(b)(2) of Pub. L. 106-501 of the Older Americans Act Amendments of 2000.

Alternatives: The public provided comments on changes to the statute due to the Older Americans Act Amendments of 2000 during Town Hall meetings held throughout the country in spring 2001. The public also will be afforded an opportunity to comment on the Department's plans for implementing the Amendments in a notice of proposed rulemaking that will be published 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	08/00/02	
Final Action	01/00/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** State, Local, Tribal, Federal**Federalism:** Undetermined

Agency Contact: Erich W. Larisch, Chief, Division of Older Worker Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, FP Building, Room N4645, Washington, DC 20210
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RIN: 1205—AB28

Department of Labor (DOL)

Final Rule Stage

Employment and Training Administration (ETA)

1564. INDIAN AND NATIVE AMERICAN WELFARE-TO-WORK PROGRAM**Priority:** Substantive, Nonsignificant

Legal Authority: 42 USC 612(a)(3)(c)(iii); PL 106-113, Division B, section 1000(a)(4)

CFR Citation: 20 CFR 646

Legal Deadline: Final, Statutory, November 4, 1997, 90 days from enactment. Citation mandates Secretary to prescribe regulations within 90 days

of enactment, to publish interim final rule by 10/31/98.

Other, Statutory, January 1, 2000, for 1999 amendments.

Abstract: These are program regulations needed to implement the Indian and Native American set-aside under the Welfare-to-Work program authorized by section 412(a)(3) of the Social Security Act. New interim final regulations are being issued to implement changes made by the Welfare-to-Work and Child Support

Amendments of 1999 and other legislation. The Consolidated Appropriations Act of 2001 authorized the Department to extend welfare-to-work grants an additional two years. Therefore, the grants may operate until September 2004.

The Department received 14 comments on the March 1, 1998 interim final rule, and none would substantively change the regulations. The Department will provide guidance in response to those comments. The March 1, 1998 Interim

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Final Rule Stage

Final Rule will be adopted as the final rule, subject to the changes made by the new interim final rule implementing the 1999 amendments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/01/98	63 FR 15985
Interim Final Rule Effective	04/01/98	
Interim Final Rule Comment Period End	06/01/98	
Final Action	05/00/02	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: Tribal

Additional Information: Congress has changed eligibility criteria. A final rule will be published to conform with the State programs.

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Email: ggross@doleta.gov

RIN: 1205-AB16

1565. LABOR CERTIFICATION AND PETITION PROCESS FOR THE TEMPORARY EMPLOYMENT OF NONIMMIGRANT ALIENS IN AGRICULTURE IN THE UNITED STATES; MODIFICATION OF FEE STRUCTURE

Priority: Other Significant

Legal Authority: 8 USC 1101(a)(15)(h)(ii)(a); 8 USC 1184; 8 USC 1188; 29 USC 49 et seq

CFR Citation: 8 CFR 655

Legal Deadline: None

Abstract: The Employment and Training Administration (ETA) of the Department of Labor (Department or DOL) proposes to amend its regulations relating to the temporary employment of nonimmigrant agricultural workers (H-2A workers) in the United States. The proposed amendments would require employers to submit fees for labor certification and the associated H-2A petitions with consolidated application form at the time of filing. The proposal also would modify the fee structure for labor certification. If the application is denied, both fees will be refunded to the employer. It is conceivable in rare instances that the

statutory and regulatory standards for issuance of the certification will be met, but those applicable to the petition will not be met. In such occurrence, neither fee will be refunded because the certification fee is an issuance, while the petition fee is a processing fee.

The Department published a Notice of Proposed Rulemaking (NPRM) at 65 FR 43545 (July 13, 2000). Because of the continuing interest in the proposal, the Department published at 65 FR 50170 (August 17, 2000) a proposed rule reopening and extending the comment period on the July 13, 2000, NPRM. The comments received as a result of this reopening and extension of the comment period did not provide sufficient information to permit the Department to draft a final rule concerning a number of issues raised by commenters.

Timetable:

Action	Date	FR Cite
NPRM	07/13/00	65 FR 43545
NPRM Comment Period Reopened and Extended	09/18/00	65 FR 50170
NPRM Comment Period Reopened and Extended to 10/29/2001	09/27/01	66 FR 49328
Final Action	09/00/02	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dale Ziegler, Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210

Phone: 202 693-2942

Fax: 202 693-2760

Email: dziegler@doleta.gov

RIN: 1205-AB24

1566. LABOR CERTIFICATION AND PETITION PROCESS FOR THE TEMPORARY EMPLOYMENT OF NONIMMIGRANT ALIENS IN AGRICULTURE IN THE U.S.: DELEGATION OF AUTHORITY TO ADJUDICATION PETITIONS; DEFERRAL OF EFFECTIVE DATE

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

Unfunded Mandates: Undetermined

Legal Authority: 8 USC

1101(a)(15)(H)(ii)(a); 8 USC 1184; 8 USC 1188; 29 USC 49 et seq; 8 CFR 103.1(f)(iii)(j); 8 CFR 103.1(f)(iii)(w); 8 CFR 214.2(h)(5); 8 CFR 214.2(h)(11); 8 CFR 214.2(h)(12)

CFR Citation: 20 CFR 655, subpart B

Legal Deadline: None

Abstract: The Department of Labor (DOL or Department) published a final rule in this rulemaking in the Federal Register at 65 FR 43538 (July 13, 2000), with an effective date of November 13, 2000, implementing a delegation of authority from the INS to the Department of adjudicate petitions for the temporary employment of nonimmigrant aliens in agriculture in the United States. Concurrently, the INS published a final rule at 65 FR 43528 (July 13, 2000) with an effective date of November 13, 2000, transferring to the Secretary of Labor the authority to adjudicate petitions for temporary agricultural workers and the authority to decide appeals on these decisions and to make determinations for revocation of petition approvals.

Subsequently, the INS at 65 FR 67616 (November 13, 2000) published a final rule and DOL at 65 FR 67628 (November 13, 2000) published an interim final rule (IFR) deferring the effective dates of their final rules. The Department in its IFR invited comments on the deferral of the effective date. No comments were received by DOL on the deferral of the effective date.

The Department also reopened and extended the comment period at 65 FR 50170 (August 17, 2000) on a companion notice of proposed rulemaking (NPRM) published at 65 FR 43545 (July 13, 2000) and again at 66 FR 9382 (September 27, 2001) setting forth implementation measures necessary to the successful implementation of the delegation of authority to adjudicate petitions.

DOL—ETA

Final Rule Stage

Finalizing the proposed rule is essential to the effective implementation of any delegation of authority to DOL to adjudicate petitions for temporary employment of nonimmigrant aliens in the United States. Therefore, the Department has determined to defer the effective date of the July 13, 2000, final rule until September 27, 2002, which should be sufficient time to complete the rulemaking on the companion NPRM.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/27/01	66 FR 49275
Interim Final Rule	10/29/01	
Comment Period End		
Interim Final Rule	09/27/02	
Effective		

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dale Ziegler, Chief, Division of Foreign Labor Certification, Department of Labor, Employment and

Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
 Phone: 202 693-2942
 Fax: 202 693-2760
 Email: dziegler@doleta.gov
RIN: 1205-AB30

1567. DISASTER UNEMPLOYMENT ASSISTANCE PROGRAM AMENDMENT

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 5177; EO 12673

CFR Citation: 20 CFR 625.5

Legal Deadline: None

Abstract: This new rule on the Disaster Unemployment Assistance Program will only address one aspect of part 625; it adds a definition of “unemployment is a direct result of the major disaster.” ETA had not defined this term in its previous rule. The purpose of the new definition is to clarify eligibility for disaster unemployment assistance in the wake

of the major disasters as a result of the terrorist attacks of September 11, 2001.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/13/01	66 FR 56959
Interim Final Rule	11/13/01	
Effective		
Interim Final Rule	12/13/01	
Comment Period End		
Final Rule	09/00/02	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: State, Federal

Agency Contact: Betty E. Castillo, Chief, Division of Unemployment Insurance Operations, Department of Labor, Employment and Training Administration, Room S4231, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
 Phone: 202 693-3032

RIN: 1205-AB31

Department of Labor (DOL)

Employment and Training Administration (ETA)

Long-Term Actions

1568. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; UNEMPLOYMENT INSURANCE PERFORMANCE SYSTEM

Priority: Other Significant

Legal Authority: 42 USC 501 to 504; 42 USC 1302(a); 26 USC 3301 to 3311; 5 USC 8501 to 8508; 5 USC 8521 to 8525; 42 USC 5177 to 5189a; 19 USC 2271 to 2322; 40 FR 18515

CFR Citation: 20 CFR 602; 20 CFR 640; 20 CFR 650; 20 CFR 609.6(f); 20 CFR 614.6(f); 20 CFR 614.7(c); 20 CFR 609.7(c); 20 CFR 617.51(b)

Legal Deadline: None

Abstract: This regulation will formally establish a comprehensive system for helping ensure continuous improvement in UI operational performance. It will enunciate as the system’s building blocks principles for Federal and State cooperation, key nationwide performance measures, criteria distinguishing satisfactory from unsatisfactory performance, an annual planning process, and actions which

the Department may take when a State fails to perform satisfactorily.

The UI PERFORMS Regulation is consistent with the Administration’s and the Secretary’s emphasis on improved grants management. It is needed now to help complete the development and implementation of the UI PERFORMS system and will replace other regulations, two of which establish Secretary’s Standards for first payment and lower appeals timeliness. Until those regulations have been replaced the related UI PERFORMS measures and criteria cannot be put in place. It will also establish a definitive framework for enforcing, if necessary, the elements and performance standards established as parts of the UI PERFORMS system. Until the regulation is in place, UI PERFORMS will remain incomplete.

Timetable:

Action	Date	FR Cite
ANPRM	01/16/97	62 FR 2543
ANPRM Comment	03/17/97	
Period End		
NPRM	To Be	Determined

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: State

Federalism: Undetermined

Agency Contact: Gerard Hildebrand, Chief, Division of Legislation, Department of Labor, Employment and Training Administration, Room C4512, 200 Constitution Avenue NW, FB Building, Washington, DC 20210
 Phone: 202 693-3038
 Email: ghildebrand@doleta.gov

RIN: 1205-AB10

1569. ATTESTATIONS BY FACILITIES TEMPORARILY EMPLOYING H-1C NONIMMIGRANT ALIENS AS REGISTERED NURSES

Priority: Other Significant

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

CFR Citation: 20 CFR 655, subparts L and M

DOL—ETA

Long-Term Actions

Legal Deadline: Final, Statutory, February 11, 2000.
Final or Interim Final regulations required within 90 days of enactment.

Abstract: The Nursing Relief for Disadvantaged Areas Act of 1999 (P.L. 106-95; November 12, 1999) amended the Immigration and Nationality Act to create a new 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.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/22/00	65 FR 51137
Interim Final Rule Comment Period End	09/21/00	
Interim Final Rule Effective	09/21/00	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Agency Contact: Michael Ginley, Director, Office of Enforcement Policy, Wage and Hour Division, Department of Labor, Employment Standards Administration, Room N3510, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0745

RIN: 1205-AB27

Department of Labor (DOL)

Employment and Training Administration (ETA)

Completed Actions

1570. LABOR CONDITION APPLICATIONS AND REQUIREMENTS FOR EMPLOYERS USING NONIMMIGRANTS ON H-1B VISAS; IMPLEMENTATION OF ELECTRONIC FILING

Priority: Other Significant

Legal Authority: 8 USC 1101(a)(15)(h)(i)(b); 8 USC 1182(n); 8 USC 1184(c)

CFR Citation: 20 CFR 655, subparts H and I

Legal Deadline: None

Abstract: The Department of Labor is amending its regulations governing the filing and processing of labor condition applications for the employment of nonimmigrant aliens on H-1B visas in specialty occupations and as fashion models. The amendments will allow employers the option of submitting LCAs electronically, utilizing Web-based forms and instructions. The electronic filing system will be convenient and less burdensome for employers, since, unlike a system based on filing applications by facsimile transmission or by mail, the new system will allow the filing of an applications without the submission of a "hard copy." Submission by mail or fax will continue to be permitted for employers who prefer one of those formats.

Statement of Need: The current regulations permit employers to submit labor condition applications (LCAs) by facsimile transmission (FAX) or by mail. Although submission of LCAs by

FAX and processing of such applications have generally been more efficient than submission and processing of LCAs by mail, operational problems delayed the processing of some LCAs submitted by FAX for the first several months of its operation. To improve customer service, the Department will, through this Final Rule, provide employers the option to utilize an electronic filing system which will permit employers to fill out their LCAs on a Department of Labor website and submit them electronically to the Department's Employment and Training Administration (ETA). Electronic filing will permit more efficient ETA electronic processing of LCAs without the technical and administrative uncertainties inherent in the technology currently available to process applications that are submitted by FAX. Further, since the scope of the Department's review of LCAs under section 212(n)(1)(D) of the INA is limited to "completeness and obvious inaccuracies," the filing and processing of LCAs is particularly amenable to an electronic filing system. Because the electronic filing system includes guidance to the employers in filling out their LCAs "on line," the LCAs will have fewer incomplete or obviously inaccurate entries and will, therefore, ordinarily be acceptable for immediate electronic certification.

Summary of Legal Basis: Promulgation of these regulations is authorized by section 212(n) of the Immigration and Nationality Act.

Alternatives: The current regulations which allow employers to submit LCAs only by mail or by facsimile transmission.

Anticipated Cost and Benefits: It is expected that allowing employers to submit LCAs electronically will result in savings to employers and the Government since hard copies of the applications will not have to be filled and mailed by employers nor processed and stored by the Government. We have not determined at this time the precise amount of the savings.

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

Timetable:

Action	Date	FR Cite
Final Action	12/05/01	66 FR 63298
Final Action Effective	01/14/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dale Ziegler, Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210

Phone: 202 693-2942

Fax: 202 693-2760

Email: dziegler@doleta.gov

RIN: 1205-AB29

Department of Labor (DOL)
Pension and Welfare Benefits Administration (PWBA)

Prerule Stage

1571. BONDING RULES UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (SECTION 610 REVIEW)

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

Legal Authority: 29 USC 1135; 29 USC 1112

CFR Citation: 29 CFR 2580

Legal Deadline: None

Abstract: PWBA is conducting a review of the temporary bonding rules under section 412 of ERISA (29 CFR part 2580) in accordance with the requirements of section 610 of the Regulatory Flexibility Act. The review will cover the continued need for the rules; the nature of complaints or comments received from the public concerning the rules; the complexity of the rules; the extent to which the rules overlap, duplicate or conflict with other Federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in industries affected by the rules.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/00	
End Review	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Rudy Nuissl, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, N-5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210-AA82

1572. REQUESTS FOR ENFORCEMENT PURSUANT TO SECTION 502(B)(2) (SECTION 610 REVIEW)

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1132(b)(2)

CFR Citation: 29 CFR 2560.502-1

Legal Deadline: None

Abstract: PWBA is conducting a review of its regulation (29 CFR 2560.502-1) relating to requests for enforcement pursuant to section 502(b)(1) of ERISA (formerly ERISA) section 502(b)(2) of ERISA in accordance with the requirements of section 610 of the Regulatory Flexibility Act. The review will cover the continued need for the rules; the nature of complaints or comments received from the public concerning the rules; the complexity of the rule; the extent to which the rules overlap, duplicate or conflict with other Federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in industries affected by the rules.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/00	
End Review	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Rudy Nuissl, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, N-5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210-AA83

1573. CIVIL PENALTIES UNDER ERISA SECTION 502(C)(2) (SECTION 610 REVIEW)

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1132(c)(2)

CFR Citation: 29 CFR 2560.502(c)(2)

Legal Deadline: None

Abstract: PWBA is conducting a review of its regulations on civil penalties under section 502(c)(2) of ERISA (29 CFR 2560.502(c)(2) in accordance with the requirements of section 610 of the Regulatory Flexibility Act. The review will cover the continued need for the rules; the nature of complaints or comments received from the public concerning the rules; the complexity of the rules; the extent to which the rules overlap, duplicate or conflict with other

Federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in industries affected by the rules.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/00	
End Review	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Rudy Nuissl, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, N-5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210-AA84

1574. PROCEDURES FOR THE ASSESSMENT OF CIVIL PENALTIES UNDER ERISA SECTION 502(C)(2) (SECTION 610 REVIEW)

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

Legal Authority: 29 USC 1135; 29 USC 1132(c)(2)

CFR Citation: 29 CFR 2570.60 et seq

Legal Deadline: None

Abstract: PWBA is conducting a review of its regulations relating to the procedures for the assessment of civil penalties under section 502(c)(2) of ERISA (29 CFR 2570.60 et seq.) in accordance with the requirements of section 610 of the Regulatory Flexibility Act. The review will cover the continued need for the rules; the nature of complaints or comments received from the public concerning the rules; the complexity of the rules; the extent to which the rules overlap, duplicate or conflict with other Federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in industries affected by the rules.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/00	
End Review	05/00/02	

Regulatory Flexibility Analysis Required: No

DOL—PWBA

Prerule Stage

Government Levels Affected: None**Federalism:** Undetermined**Agency Contact:** Rudy Nuissl, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, N-5669, 200Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8500**RIN:** 1210-AA85**Department of Labor (DOL)
Pension and Welfare Benefits Administration (PWBA)****Proposed Rule Stage****1575. 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 Department intends to update its rulemaking record concerning this regulation by publishing a second notice of proposed rulemaking. The regulation would provide guidance as to what constitutes "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	
Second NPRM	09/00/02	

Regulatory Flexibility Analysis**Required:** Undetermined**Government Levels Affected:** None**Agency Contact:** Paul D. Mannina, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, Room N4611, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

Phone: 202 693-5600

RIN: 1210-AA15**1576. RULEMAKING RELATING TO NOTICE REQUIREMENTS FOR CONTINUATION OF HEALTH CARE COVERAGE****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 1135; 29 USC 1136**CFR Citation:** 29 CFR 2520**Legal Deadline:** None**Abstract:** This rulemaking will provide guidance concerning the notification requirements pertaining to continuation coverage under the Employee Retirement Income Security Act of 1974 (ERISA). Section 606 of ERISA requires that group health plans provide employees notification of the continuation coverage provisions of the plan and imposes notification obligations upon plan administrators, employers, employees, and qualified beneficiaries relating to certain qualifying events.**Statement of Need:** Part 6 of title I of ERISA requires that group health plans provide employees with notice of the continuation of health care coverage provisions of the plan; it imposes notification requirements upon employers, employees, plan administrators, and qualified beneficiaries in connection with certain qualifying events. The public needs guidance from the Department with regard to how they can fulfill their respective obligations under these statutory provisions.**Summary of Legal Basis:** Section 606 ERISA specifies the respective notification requirements for employers, employees, plan administrators, and qualified beneficiaries in connection with group health plan provisions relating to continuation of health care coverage. Section 606(a) of ERISA specifically refers to regulations to be issued by the Secretary of Labor clarifying these requirements. Section 505 of ERISA authorizes the Secretary to issue regulations clarifying the provisions of title I of ERISA.**Alternatives:** Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance which is needed by the public.**Anticipated Cost and Benefits:** Preliminary estimates of the anticipated

costs and benefits will be developed once decisions are reached regarding the alternatives to be considered.

Risks: Failure to provide guidance to the public concerning their notification obligations under section 606 of ERISA may complicate compliance by the public with the law and may reduce the availability of continued health care coverage in certain commonly encountered situations.**Timetable:**

Action	Date	FR Cite
ANPRM	09/23/97	62 FR 49894
ANPRM Comment Period End	11/24/97	
NPRM	12/00/02	

Regulatory Flexibility Analysis**Required:** Yes**Small Entities Affected:** Businesses, Organizations**Government Levels Affected:** None**Agency Contact:** Susan G. Lahne, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8500**RIN:** 1210-AA60**1577. REGULATION EXEMPTING CERTAIN BROKER-DEALERS AND INVESTMENT ADVISERS FROM BONDING REQUIREMENTS****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 1135; 29 USC 1112**CFR Citation:** 29 CFR 2580**Legal Deadline:** None**Abstract:** This proposed regulation would provide an exemption from the bonding requirements of Section 412(a) of ERISA for certain broker-dealers and investment advisers who handle plan assets.

DOL—PWBA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	08/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stacey L. DeWalt, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200

Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210-AA80

Department of Labor (DOL)

Final Rule Stage

Pension and Welfare Benefits Administration (PWBA)

1578. DEFINITION OF COLLECTIVE BARGAINING AGREEMENT (ERISA SECTION 3(40))

Priority: Other Significant

Legal Authority: 29 USC 1002(40)

CFR Citation: 29 CFR 2510.3-40

Legal Deadline: None

Abstract: The regulation will establish standards for determining whether an employee benefit plan is established or maintained under or pursuant to one or more collective bargaining agreements for purposes of its exclusion from the Multiple Employer Welfare Arrangement (MEWA) definition in section 3(40) of ERISA, and thus exempted from State regulation. The regulation will clarify the scope of the exception from the MEWA definition for plans established or maintained under or pursuant to one or more collective bargaining agreements by providing criteria which will serve to distinguish welfare benefit arrangements which are maintained by legitimate unions pursuant to bona fide collective bargaining agreements from insurance arrangements promoted and marketed under the guise of ERISA-covered plans exempt from State insurance regulation. The regulation will also serve to limit the extent to which plans maintained pursuant to bona fide collective bargaining agreements may extend plan coverage to individuals not covered by such agreements.

Timetable:

Action	Date	FR Cite
NPRM	08/01/95	60 FR 39208
NPRM Comment Period Extended to 11/16/95	09/29/95	60 FR 50508
Notice Establishing Negotiated Rulemaking Advisory Committee	09/22/98	63 FR 50542
Second NPRM	10/27/00	65 FR 64498

Action

Second NPRM Comment Period End

Final Action

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State

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

Agency Contact: Elizabeth A. Goodman, Pension Law Specialist, Office of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210-AA48

1579. REGULATIONS IMPLEMENTING THE HEALTH CARE ACCESS, PORTABILITY AND RENEWABILITY PROVISIONS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

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

Unfunded Mandates: Undetermined

Legal Authority: PL 104-91, sec 101; 29 USC 1027; 29 USC 1059; 29 USC 1135; 29 USC 1171; 29 USC 1172; 29 USC 1177

CFR Citation: 29 CFR 2590

Legal Deadline: Other, Statutory, April 1, 1997, Interim Final Rule. Per section 734 of ERISA as added by section 101 of HIPAA.

Abstract: The Health Insurance Portability and Accountability Act of 1996 (HIPAA) amended title I of ERISA by adding a new part 7, designed to improve health care access, portability

and renewability. This rulemaking will provide regulatory guidance to implement these provisions.

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	
Request for Information	10/25/99	64 FR 57520
Comment Period End	01/25/00	
Final Rule	08/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Amy Turner, Director, Office of Health Plan Standards, Department of Labor, Pension and Welfare Benefits Administration, Room N5677, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-8335

RIN: 1210-AA54

1580. MENTAL HEALTH BENEFITS PARITY

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1182 (PL 104-204; 110 Stat 2944); 29 USC 1194

CFR Citation: 29 CFR 2590

Legal Deadline: None

Abstract: The Mental Health Parity Act of 1996 (MHPA) was enacted on September 26, 1996 (P.L. 104-204). MHPA amended the Public Health Service Act (PHSA) and the Employee Retirement Income Security Act of 1974 (ERISA), as amended, to provide for parity in the application of limits on certain mental health benefits with limits on medical and surgical benefits. MHPA provisions are set forth in

DOL—PWBA

Final Rule Stage

chapter 100 of subtitle K of the Code, title XXVII of the PHSA, and part 7 of subtitle B of title I of ERISA. On January 10, 2002, President Bush signed H.R. 3061 (Pub. L. 107-116, 115 Stat. 2177), the 2002 Appropriations Act for the Departments of Labor, Health and Human Services, and Education. This legislation amended ERISA, the Code, and the PHSA to extend the original sunset date so that MHPA's provisions will not apply to benefits for services furnished on or after December 31, 2002. As a result, and to assist employers, plan administrators, and workers concerning the extension of MHPA's sunset provision, the Departments are developing an interim final amendment to the current regulation for publication in the Federal Register.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/22/97	62 FR 66932
Interim Final Amendment	06/00/02	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None**Additional Information:** LEGAL

AUTHORITIES CONT: Secs. 107, 209, 505, 701-703, 711, 712 731-734 of ERISA (29 U.S.C. 1027, 1059, 1135, 1171-1173, 1181 1182, 1191-1194), as amended by HIPAA (Pub. L. 104-191, 101 Stat. 1936) and NMHPA (Pub. L. 104-204) and Secretary of Labor's Order No. 1-87, 52 FR 13139, April 21, 1987.

Agency Contact: Mark Connor, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room C5331, 200 Constitution Avenue NW., FP Building, Washington, DC 20210 Phone: 202 693-8335

RIN: 1210-AA62

1581. 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, ERISA sec 107; 29 USC 1059, ERISA sec 209; 29 USC 1135, ERISA sec 505; 29 USC 1171 to 1173, ERISA sec 701 to 703; 29 USC 1181, ERISA sec 711; 29 USC 1182, ERISA sec 712; 29 USC 1191 to 1194, ERISA sec 731 to 734; PL 104-191, 101 Stat 1936 (HIPAA); PL 104-

204, 110 Stat 2935 (NMHPA); Secretary of Labor's Order No. 1-87, 52 FR 13139, April 21, 1987

CFR Citation: 29 CFR 2590.711**Legal Deadline:** None

Abstract: The Newborns' and Mothers' Health Protection Act of 1996 (NMHPA) was enacted on September 26, 1996 (PL 104-204). NMHPA amended the Public Health Service Act (PHSA) and the Employee Retirement Income Security Act of 1974, as amended, (ERISA) to provide protection for mothers and their newborn children with regard to the length of hospital stays following the birth of a child. NMHPA provisions are set forth in title XXVII of the PHSA and part 7 of subtitle B of title I of ERISA. This rulemaking will provide further 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	03/00/03	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None**Additional Information:** LEGAL

AUTHORITY CONT: Secs. 107, 209, 505, 701-703, 711, 712 731-734 of ERISA (29 U.S.C. 1027, 1059, 1135, 1171-1173, 1181 1182, 1191-1194), as amended by HIPAA (Pub. L. 104-191, 101 Stat. 1936) and NMHPA (Pub. L. 104-204) and Secretary of Labor's Order No. 1-87, 52 FR 13139, April 21, 1987.

Agency Contact: Amy Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room C5331, 200 Constitution Avenue NW, FP Building, Washington, DC 20210 Phone: 202 693-8335

RIN: 1210-AA63

1582. REPORTING REQUIREMENTS FOR MEWAS PROVIDING MEDICAL CARE BENEFITS**Priority:** Substantive, Nonsignificant

Legal Authority: 29 USC 1135; 29 USC 1021(g)(h) (PL 104-191; 110 Stat 1952); 29 USC 1194

CFR Citation: 29 CFR 2520**Legal Deadline:** None

Abstract: These interim final rules govern certain reporting requirements

under title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA) for multiple employer welfare arrangements (MEWAs) that provide benefits consisting of medical care. In part, the rules implement recent changes made to ERISA by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The rules also set forth elements that MEWAs would be required to file with the Department of Labor for the purpose of determining compliance with the portability, nondiscrimination, renewability and other requirements of part 7 of subtitle B of title I of ERISA including the requirements of the Mental Health Parity Act of 1996 and the Newborns' and Mothers' Protection Act of 1996. The rules provide guidance with respect to section 502(c)(5) of ERISA which authorizes the Secretary of Labor to assess a civil penalty of up to \$1,000 a day for failure to comply with the new reporting requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/11/00	65 FR 7152
Final Action	07/00/02	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: Amy Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room C5331, 200 Constitution Avenue NW, FP Building, Washington, DC 20210 Phone: 202 693-8335

RIN: 1210-AA64

1583. RULEMAKING RELATING TO THE WOMEN'S HEALTH AND CANCER RIGHTS ACT OF 1998**Priority:** Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1185; PL 105-277; 112 Stat 2681; 29 USC 1135; 29 USC 1194

CFR Citation: Not Yet Determined**Legal Deadline:** None

Abstract: The Women's Health and Cancer Rights Act of 1998 (WHCRA) was enacted on October 21, 1998 (P.L. 105-277). WHCRA amended the Employee Retirement Income Security Act of 1974 (ERISA) and the Public Health Service Act (PHS Act) to

DOL—PWBA

Final Rule Stage

provide protection for patients who elect breast reconstruction in connection with a mastectomy. The WHCRA provisions are set forth in part 7 of subtitle B of title I of ERISA and in title XXVII of the PHS Act. These interim rules will provide guidance with respect to the WHCRA provisions.

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	05/28/99	64 FR 29186
RFI Comment Period End	06/28/99	
Interim Final Rule	03/00/03	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected:

Undetermined

Agency Contact: Elena Hornsby, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room C5331, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-8335

RIN: 1210-AA75

1584. 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; 52 FR 13139, April 21, 1987; 29 USC 1059; 29 USC 1135; 29 USC 1171; 29 USC

1167; 29 USC 1194; PL 104-191 sec 101; 29 USC 1181, 101 Stat 1936; Secretary of Labor's Order No. 1-37

CFR Citation: 29 CFR 2590.702

Legal Deadline: None

Abstract: Section 702 of the Employee Retirement Income Security Act of 1974, amended by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), establishes that a group health plan or a health insurance issuer 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. These provisions are also contained in the Internal Revenue Code under the jurisdiction of the Department of the Treasury, and the Public Health Service Act under the jurisdiction of the Department of Health and Human Services.

On April 8, 1997, the Department, in conjunction with the Departments of the Treasury and Health and Human Services (collectively, the Departments) published interim final regulations implementing the nondiscrimination provisions of HIPAA. These regulations can be found at 26 CFR 54.9802-1 (Treasury), 29 CFR 2590.702 (Labor), and 45 146.121 (HHS). That notice of rulemaking also solicited comments on the nondiscrimination provisions and indicated that the Departments intend to issue further regulations on the nondiscrimination rules. This rulemaking contains additional regulatory interim guidance under HIPAA's nondiscrimination provisions.

In addition, the rulemaking contains proposed guidance on bona fide wellness programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16894
Interim Final Rule Comment Period End	07/07/97	
NPRM: Wellness	01/08/01	66 FR 1421
Second Interim Final Rule	01/08/01	66 FR 1378
NPRM Comment Period End	04/09/01	
Interim Final Rule Comment Period End	04/09/01	
Final Rule	07/00/02	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected:

Undetermined

Additional Information: This item has been split off from RIN 1210-AA54 in order to provide focused guidance on section 702 of ERISA, which prohibits discrimination against participants and beneficiaries by group health plans and health insurance issuers based on health status.

Agency Contact: Amy Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room C5331, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1210-AA77

Department of Labor (DOL)

Completed Actions

Pension and Welfare Benefits Administration (PWBA)

1585. CIVIL PENALTIES UNDER ERISA SECTION 502(1)

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1132

CFR Citation: 29 CFR 2570.80 (Procedural); 29 CFR 2560.502(l)-1 (Substantive)

Legal Deadline: None

Abstract: Section 502(l) of ERISA requires the Secretary of Labor to assess a civil penalty against a fiduciary who breaches a fiduciary duty under, or commits a violation of, part 4 of title

I of ERISA, or any other person who knowingly participates in such breach or violation. The Department has published an interim rule setting forth the procedures for the assessment of penalties under ERISA section 502(l) and for petitioning the Secretary to exercise his or her discretion to waive or reduce the mandated assessment, as well as a proposed rule that defines the following pivotal terms contained in section 502(l): "applicable recovery amount," "breach of fiduciary responsibility or violation," "settlement agreement," and "court order."

Timetable:

Action	Date	FR Cite
NPRM	06/20/90	55 FR 25284
Interim Final Rule	06/20/90	55 FR 25284
NPRM Comment Period End	08/20/90	
Withdrawn	03/04/02	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

Additional Information: This item is being withdrawn from PWBA's regulatory agenda due to competing priorities.

DOL—PWBA

Completed Actions

Agency Contact: Vicki Shteir-Dunn, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, Room N4638, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

Phone: 202 693-5600

RIN: 1210-AA37

1586. ELIMINATION OF FILING REQUIREMENTS FOR SUMMARY PLAN DESCRIPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1024; 29 USC 1135; PL 105-34, sec 1503

CFR Citation: 29 CFR 2520.104a-2; 29 CFR 2520.104a-3; 29 CFR 2520.104a-4; 29 CFR 2520.104a-7

Legal Deadline: None

Abstract: This rulemaking removed from the CFR certain regulations that have been superseded by amendments to title I of ERISA effected by the Taxpayer Relief Act of 1997 (PL 105-34) that eliminate the requirement for plan administrators to file summary plan descriptions (SPDs), summaries of material modifications (SMMs), and updated SPDs with the Department of Labor. Under the amendments plan administrators must continue to furnish participants and beneficiaries with copies of these documents. Separate rulemakings (RINs 1210-AA67 and 1210-AA68) implement the Taxpayer Relief Act amendments that require plan administrators to furnish copies of SPDs and any other documents relating to the plan to the Department on request, and authorize the Secretary of Labor to assess a civil penalty for failure to do so.

Timetable:

Action	Date	FR Cite
NPRM	08/05/99	64 FR 42792
NPRM Comment Period End	10/04/99	
Final Action	01/07/02	67 FR 772

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lisa M. Fields, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5625, 200 Constitution Avenue NW., FP Building, Washington, DC 20210

Phone: 202 693-8500

RIN: 1210-AA66

1587. REQUIREMENT TO FURNISH PLAN DOCUMENTS UPON REQUEST BY THE SECRETARY OF LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1024; 29 USC 1135; PL 105-34, sec 1503

CFR Citation: 29 CFR 2520.104a-8

Legal Deadline: None

Abstract: This rulemaking implements an amendment to title I of ERISA made by section 1503 of the Taxpayer Relief Act of 1997 (PL 105-34) which requires plan administrators to furnish copies of any documents relating to the plan to the Department on request.

Timetable:

Action	Date	FR Cite
NPRM	08/05/99	64 FR 42797
NPRM Comment Period End	10/04/99	
Final Action	01/07/02	67 FR 777

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

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RIN: 1210-AA67

1588. CIVIL PENALTY FOR FAILURE TO FURNISH CERTAIN PLAN DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-34, sec 1503; 29 USC 1135; 29 USC 1132

CFR Citation: 29 CFR 2560; 29 CFR 2570

Legal Deadline: None

Abstract: This rulemaking implements the enforcement aspects of amendments to title I of ERISA made by section 1503 of the Taxpayer Relief Act of 1997 (Public Law 105-34) which, while eliminating the requirement that plan administrators file summary plan descriptions (SPDs), summaries of material modifications (SMMs) and

updated SPDs with the Department of Labor, also provided that administrators must furnish copies of any documents relating to the plan, including but not limited to SPDs, to the Department on request. In particular, this rulemaking implements the amendments that authorize the Secretary of Labor to assess a civil penalty of up to \$100 a day, up to a maximum of \$1,000 per request, against a plan administrator who fails to furnish the requested documents on a timely basis.

Timetable:

Action	Date	FR Cite
NPRM	08/05/99	64 FR 42797
NPRM Comment Period End	10/04/99	
Final Action	01/07/02	67 FR 777

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

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Phone: 202 693-8500

RIN: 1210-AA68

1589. ELECTRONIC DISCLOSURE OF EMPLOYEE BENEFIT PLAN INFORMATION

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

Legal Authority: 29 USC 1024; 29 USC 1135; PL 105-34, Taxpayer Relief Act; Secretary of Labor's Order No. 1-87, April 21, 1987

CFR Citation: 29 CFR 2520.104b

Legal Deadline: NPRM, Statutory, December 31, 1998.

Abstract: This rulemaking will improve the ability of sponsors and administrators of all employee benefit plans covered by title I of ERISA to make certain disclosures of plan information to participants and beneficiaries through electronic means. The rule will provide guidance with respect to the conditions under which electronic disclosures will be deemed to satisfy the disclosure requirements under title I of ERISA. The rule also will establish recordkeeping standards

DOL—PWBA

Completed Actions

for maintaining or storing data in electronic form.

Timetable:

Action	Date	FR Cite
NPRM	01/28/99	64 FR 4506
NPRM Comment Period End	03/29/99	
Final Action	04/09/02	67 FR 17264
Final Action Effective	10/09/02	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

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RIN: 1210-AA71

1590. VOLUNTARY FIDUCIARY CORRECTION PROGRAM (VFC PROGRAM)

Priority: Other Significant

Legal Authority: 29 USC 1132; 29 USC 1134

CFR Citation: 29 CFR 2560

Legal Deadline: None

Abstract: Section 409 of ERISA provides that an employee benefit plan fiduciary who breaches any of the responsibilities, obligations, or duties imposed upon him or her by part 4 of title I of ERISA shall be personally liable to make good to such plan any losses to the plan resulting from each such breach, and to restore to such plan any profits that such fiduciary may have made through use of assets of the plan. The Department has the authority under section 504 of ERISA to conduct investigations to deter and correct violations of title I of ERISA and under section 502(a)(2) and 502(a)(5) to bring civil actions to enforce the provisions thereof. Section 502(l) of ERISA requires the assessment of a civil penalty in an amount equal to 20 percent of the applicable recovery amount with respect to any breach of fiduciary responsibility under (or other violation of) part 4 by a fiduciary.

To encourage and facilitate voluntary correction of certain breaches of fiduciary responsibility, PWBA is adopting a Voluntary Fiduciary

Correction Program (VFC Program). Under the VFC Program, plan officials will be relieved of the possibility of investigation and civil action by the Department and imposition of civil penalties, to the extent that plan officials satisfy the conditions for correcting breaches described in the program.

Statement of Need: The VFC Program is a key element in PWBA's effort to encourage and facilitate fiduciary voluntary correction of certain breaches of fiduciary responsibility. Under the Program, plan officials will be relieved of the possibility of investigation and civil action by the Department and imposition of civil penalties, to the extent that they satisfy the conditions for correcting breaches described in the Program.

Summary of Legal Basis: Section 409 of ERISA provides that an employee benefit plan fiduciary who breaches any of the responsibilities, obligations, or duties imposed upon him or her by part 4 of title I of ERISA shall be personally liable to make good to such plan any losses to the plan resulting from each such breach, and to restore to such plan any profits that such fiduciary may have made through use of the assets of the plan. The Department has the authority under section 504 of ERISA to conduct investigations to deter and correct violations of title I of ERISA and under sections 502(a)(2) and 502(a)(5) of ERISA to bring civil actions to enforce the provisions thereof. Section 502(1) of ERISA requires the assessment of a civil penalty in the amount equal to 20 percent of the applicable recovery amount with respect to any breach of fiduciary responsibility under (or other violation of) part 4 by a fiduciary.

Alternatives: The VFC Program is essentially a deregulatory initiative, and participation in the Program is entirely voluntary. PWBA has determined that this approach is more flexible, efficient and protective of plans than regulatory alternatives which do not serve to encourage voluntary correction of fiduciary breaches.

Anticipated Cost and Benefits: Participation in the VFC Program is entirely voluntary and, as such, it is assumed that plan officials will elect to participate only when the potential benefits to them are expected to exceed the costs of participation. Benefits may include the reduction of exposure to

the risk of investigation and subsequent litigation, the potential cost of which cannot be specifically quantified, and the savings of penalties under section 502(1) of ERISA which would otherwise be payable on amounts required to be restored to plans by fiduciaries pursuant to a settlement agreement with the Department or court order.

Risks: Failure to adopt the VFC Program would deprive plan officials of significant opportunities to voluntarily correct fiduciary breaches and to avoid costly litigation and civil penalties. Because the VFC Program encourages and facilitates compliance with the law, failure to implement the VFC Program may serve as a disincentive to the proper management of employee benefit plans.

Timetable:

Action	Date	FR Cite
Enforcement Policy	03/15/00	65 FR 14164
Comment Period End	05/15/00	
Final Action	03/28/02	67 FR 15062
Final Action Effective	04/29/02	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: Elizabeth A. Goodman, Pension Law Specialist, Office of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1210-AA76

1591. DELINQUENT FILER VOLUNTARY COMPLIANCE PROGRAM (DFVC PROGRAM)

Priority: Other Significant

Legal Authority: 29 USC 1132

CFR Citation: None

Legal Deadline: None

Abstract: Under ERISA section 502(c)(2) the Secretary of Labor is authorized to assess civil penalties of up to \$1100 per day against plan administrators who fail or refuse to file complete and timely Form 5500 Series Annual Returns/Reports. The Secretary may waive all or part of the civil penalty upon showing by the plan administrator of reasonable cause for failure to file a timely annual report.

DOL—PWBA

Completed Actions

The Department determined that the possible assessment of these civil penalties may deter certain delinquent filers from voluntarily complying with the annual reporting requirements under title I of ERISA and adopted, on April 27, 1995, the Delinquent Filer Voluntary Compliance (DFVC) Program which was published as a Federal Register rule-related notice (60 FR 20874). The DFVC Program permits delinquent plan administrators, who are otherwise subject to the assessment of higher civil penalties under ERISA section 502(c)(2), to pay reduced civil penalties for voluntarily complying with their annual reporting obligations under title I of ERISA.

PWBA has adopted modifications to the DFVC Program to further encourage and facilitate voluntary compliance by plan administrators who are delinquent in filing annual reports under title I of ERISA. The modifications also simplify the procedures governing participation in the DFVC Program and conform the program's provisions to the ERISA Filing Acceptance System (EFAST).

Statement of Need: Title I of ERISA authorizes the Secretary of Labor to assess civil penalties of up to \$1100 per day against plan administrators who fail or refuse to file complete and timely Form 5500 Annual Returns/Reports for employee benefit plans. ERISA also authorizes the Secretary to waive all or part of the civil penalty upon a showing of reasonable cause for failure to file a timely report. The DFVC Program,

adopted in 1995, permits delinquent plan administrators, who are otherwise subject to the assessment of higher civil penalties, to pay reduced civil penalties for voluntarily complying with their annual reporting obligations under title I of ERISA. The modifications to the DFVC Program provided by this rulemaking will further encourage and facilitate voluntary compliance by plan administrators, simplify the procedures governing participation in the Program, and conform the Program to the ERISA Filing Acceptance System (EFAST).

Summary of Legal Basis: Section 502(c)(2) authorizes the Secretary of Labor to assess the civil penalties described above upon plan administrators who are delinquent in fulfilling their annual reporting requirements with respect to employee benefit plans. A notice adopting the DFVC Program was published by the Department in the Federal Register on April 27, 1995, at 60 FR 20874. This notice will modify that Program.

Alternatives: The DFVC Program is essentially a deregulatory initiative, and participation in the program is entirely voluntary. PWBA has determined that this approach is more flexible, efficient and protective of plans than regulatory alternatives which do not serve to encourage voluntary compliance with the statutory annual reporting requirements for employee benefit plans.

Anticipated Cost and Benefits: Adoption of the DFVC Program

modifications incorporated in this initiative will not impose increased costs upon participants, but will instead simplify the procedures for participation in the Program and facilitate compliance. Since participation in the Program is entirely voluntary, plan administrators would not be likely to participate if the costs in doing so were to exceed the benefits.

Risks: Failure to adopt the modifications to the DFVC Program represented by this rulemaking would complicate compliance with ERISA's reporting requirements by plan administrators and may serve to discourage timely and complete reporting with regard to the operation of employee benefit plans.

Timetable:

Action	Date	FR Cite
Modified Enforcement Policy	03/28/02	67 FR 15052
Policy Effective	03/28/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1210-AA86

Department of Labor (DOL)

Mine Safety and Health Administration (MSHA)

Prerule Stage

1592. OCCUPATIONAL EXPOSURE TO COAL MINE DUST (LOWERING CONCENTRATION LIMIT)

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 70; 30 CFR 71; 30 CFR 90

Legal Deadline: None

Abstract: MSHA is considering rulemaking to lower the respirable coal mine dust concentration limit because miners continue to be at risk of developing dust-induced occupational lung disease.

Timetable:

Action	Date	FR Cite
ANPRM	09/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marvin W. Nichols Jr., Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
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RIN: 1219-AB08

1593. 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. Current scientific data indicate that this existing PEL is not

DOL—MSHA

Prerule Stage

adequate to protect miners' health. MSHA is considering rulemaking to lower the PEL in order to reduce the risk of miners developing asbestos-induced occupational disease. A recent report by the Office of the Inspector General (OIG) recommended that MSHA lower its existing permissible exposure limit 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 the existing asbestos PEL is not 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 proposed a 2 mppcf and 12 fibers/ml standard. This standard was promulgated in 1969. 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 at the end of 1978 for metal and nonmetal mining [43 FR 54064]. Since enactment of the Mine Act, MSHA has conducted regular inspections at both surface and underground operations at metal and nonmetal mines. During these 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 and the excursion limit to an eight (8) hour time-weighted average limit of 0.1 fiber per cubic centimeter of air and 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 increased asbestos-related disease risk to asbestos-exposed workers.

Alternatives: The Agency has increased sampling efforts in an attempt to determine current miners' exposure levels to asbestos, including taking samples at all existing vermiculite, taconite, talc, and other mines to determine whether asbestos is present and at what levels. Since the spring of 2000, MSHA has taken almost 900 samples at more than 40 operations employing more than 4,000 miners. During those sampling events, the MSHA staff also discussed with the miners and mine operators the potential hazards of asbestos and the types of preventive measures that could be implemented to reduce exposures. The course of action MSHA takes in addressing asbestos hazards to miners will, in part, be based on these sampling results.

Anticipated Cost and Benefits: MSHA will develop a preliminary economic analysis to accompany any proposed rule that may be developed.

Risks: There is concern that 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 mesothelioma and other forms of cancers, such as cancers of the digestive system, as well as asbestosis.

Timetable:

Action	Date	FR Cite
ANPRM	03/29/02	67 FR 15134
Notice of Public Meetings; Notice of Close of Record	03/29/02	
Notice of Change to Public Meetings	04/18/02	67 FR 19140
ANPRM Comment Period End	06/27/02	

Regulatory Flexibility Analysis

Required: Undetermined

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.

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RIN: 1219-AB24

Department of Labor (DOL)

Proposed Rule Stage

Mine Safety and Health Administration (MSHA)

1594. BELT ENTRY USE AS INTAKE AIRCOURSE TO VENTILATE WORKING SECTIONS

Priority: Other Significant

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

CFR Citation: 30 CFR 75; 30 CFR 12; 30 CFR 48

Legal Deadline: None

Abstract: Currently, mine operators must apply to MSHA for a modification of the existing regulations if they want to use belt entries for ventilation purposes. MSHA's current regulations

prohibit belt entries from being used to ventilate areas where coal is being mined. The intent was to prevent smoke from a conveyor belt fire from traveling to a miner's workplace. Improved technology, including sophisticated monitoring devices, such as atmospheric monitoring systems (AMS), makes it possible to use belt entries safely to ventilate these areas in mines, provided certain conditions are met. An AMS is a network consisting of hardware and software capable of measuring atmospheric parameters, such as carbon monoxide and oxygen concentrations; transmitting

these measurements to the surface; providing local and remote alarms; manipulating and cataloging atmospheric data; and providing reports.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

DOL—MSHA

Proposed Rule Stage

Additional Information: In 1985 MSHA published a “pre-proposal” that included a belt air provision as part of the revisions to the ventilation regulations. In 1988, MSHA published a proposed rule that would have allowed belt air to ventilate the area where coal is being mined. Also in 1988, MSHA held six hearings to receive public comment on the proposed rule. Several thousand miners attended the hearings to voice their opposition to the belt air provision. As a result, in 1989 MSHA formed the Belt Air Ventilation Review Committee to review the use of belt air. The Committee concluded that the use of belt air could be allowed, provided environmental sensors are used to detect belt fires. Another hearing took place in 1990 to solicit further comment on the use of belt air. In 1991, the Secretary of Labor formed a Federal Advisory Committee on the use of belt air. MSHA published final ventilation rules in 1992 that omitted the use of belt air, deferring further action until the Advisory Committee recommendations were completed. In December 1992, the Advisory Committee published a report that concluded that belt air can be used to safely ventilate areas where coal is being mined, provided certain conditions are met.

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RIN: 1219-AA76

1595. INDEPENDENT LABORATORY TESTING

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 6; 30 CFR 29; 30 CFR 33; 30 CFR 35; 30 CFR 18; 30 CFR 19; 30 CFR 20; 30 CFR 7; 30 CFR 22; 30 CFR 23; 30 CFR 27; 30 CFR 28; 30 CFR 36

Legal Deadline: None

Abstract: This rulemaking will revise text in the CFR to reduce burden or duplication, and streamline requirements. Our current regulations set out approval requirements for MSHA testing and evaluation for

approval of certain products used in gassy underground mines. The rule as proposed would allow us to accept testing and evaluation of certain mine equipment by independent laboratories; and approve products which satisfy alternative testing and evaluation requirements if those requirements are equivalent to ours, or could be enhanced to be equivalent. We are considering reproposing the rule to assure that the proposed changes are appropriate.

Timetable:

Action	Date	FR Cite
NPRM	11/30/94	59 FR 61376
NPRM Comment Period Extended to 2/21/1995	02/13/95	60 FR 8209
Public Hearing Notice	10/10/95	60 FR 52640
Notice to Reschedule Public Hearing to 4/30/1996	02/09/96	61 FR 15743
Comment Period End Second NPRM	05/31/96 09/00/02	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 1219-AA87

1596. IMPROVING AND ELIMINATING REGULATIONS

Priority: Substantive, Nonsignificant

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. We have reviewed our current regulations and identified provisions that are outdated, redundant, unnecessary or otherwise require change. We will be making these changes through notice and comment rulemaking where necessary. We will also consider new regulations that reflect “best practices” in the mining industry. We view this effort to

be evolving and ongoing and will continue to accept recommendations from the public.

Timetable:

Action	Date	FR Cite
NPRM - Phase 5 Miscellaneous Technology Improvements (Methane Testing)	09/00/02	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219-AA98

1597. VERIFICATION OF UNDERGROUND COAL MINE OPERATORS' DUST CONTROL PLANS AND COMPLIANCE SAMPLING FOR RESPIRABLE DUST

Priority: Other Significant

Legal Authority: 30 USC 811

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

Legal Deadline: None

Abstract: Our current regulations 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 proposed rule provides for MSHA to verify the effectiveness of mine ventilation plans to control respirable dust under typical mining conditions. For longwall mine operators, we proposed to permit the limited use of either approved loose-fitting powered air purifying respirators (PAPRs) or verifiable administrative controls as a supplemental means of compliance if we have determined that further reduction in respirable dust levels cannot be achieved using all feasible engineering controls.

DOL—MSHA

Proposed Rule Stage

Furthermore, MSHA proposed to assume responsibility for all compliance sampling for respirable dust in underground coal mines as required under 30 CFR parts 70 and 90. However, given significant public comments, MSHA will repropose this rule.

Statement of Need: Respirable coal mine dust levels in this country are significantly lower than they were two decades ago. Despite this progress, there continues to be concern about the respirable coal mine dust sampling program and its effectiveness in maintaining exposure levels in mines at or below the applicable standard. Our regulations require that all underground coal mine operators develop and follow a mine ventilation plan approved by us. The dust control portion of the mine ventilation plan is the key element of an operator's strategy to control respirable dust in the work environment. Although such plans are required to be designed to control respirable dust, there is no current requirement that provides for verification of each proposed plan's effectiveness under typical mining conditions. Consequently, plans may be implemented that may be inadequate to control respirable dust.

Therefore, we proposed to revoke existing operator respirable dust sampling and to implement new regulations that would require each underground coal mine operator to have a verified ventilation plan. MSHA would verify the effectiveness of the mine ventilation plan for each mechanized mining unit in controlling respirable dust under typical mining conditions.

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

Alternatives: In developing the proposed rule, we considered alternatives related to typical

production levels, the use of appropriate dust control strategies, use of supplemental controls for mining entities other than longwalls, and the level of protection of loose-fitting powered air purifying respirators (PAPRS) in underground coal mines.

Anticipated Cost and Benefits: Benefits sought are reduced dust levels over a miner's working lifetime by the elimination of over-exposures to respirable coal dust on each and every production shift. Additional benefits include reduced health care costs and disability and black lung benefit payments. There would be a cost savings for mine operators when MSHA completely takes over compliance and abatement sampling for respirable dust. We developed cost estimates and made them available for public review.

Risks: Respirable coal mine dust is one of the most serious occupational hazards in the mining industry. Occupational exposure to excessive levels of respirable coal mine dust can cause black lung and silicosis, which are potentially disabling and can cause death. We are pursuing both regulatory and non-regulatory actions to eliminate these diseases through the control of coal mine respirable dust levels in mines and the reduction of miners' exposure.

Timetable:

Action	Date	FR Cite
NPRM	07/07/00	65 FR 42122
Notice of Hearings; Close of Record	07/07/00	65 FR 42186
Extension of Comment Period; Close of Record	09/08/00	65 FR 49215
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking is related to RIN 1219-AB18

(Determination of Concentration of Respirable Coal Mine Dust).

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RIN: 1219-AB14

1598. MINE RESCUE TEAMS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 49

Legal Deadline: None

Abstract: We are assessing our current regulations to identify areas where we might increase flexibility and encourage underground mine operators to provide mine rescue and recovery capability at their mines. We hope to increase the number and improve the quality of mine rescue teams available to assist miners in life threatening emergencies.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting	03/12/02	67 FR 11145
Public Meeting	03/28/02	
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219-AB20

Department of Labor (DOL)

Final Rule Stage

Mine Safety and Health Administration (MSHA)

1599. HAZARD COMMUNICATION

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 47

Legal Deadline: None

Abstract: Today's complex mining environment exposes miners to many hazards, such as wastes being burned as fuel supplements at cement kilns

and other chemicals brought onto mine property.

On October 3, 2000, MSHA published an interim final Hazard Communication (HazCom) rule and opened a short

DOL—MSHA

Final Rule Stage

additional comment period which closed on November 17, 2000.

The purpose of this standard is to reduce chemically related injuries and illnesses among miners by increasing their knowledge and awareness of chemical hazards. It ensures that miners have the same protections that have been available to workers under OSHA's jurisdiction since 1987. MSHA's rule is consistent with OSHA's HazCom rule to the extent appropriate.

The interim final rule would have become effective on October 3, 2001. MSHA reopened the record and held public hearings to provide an additional opportunity for comment on any issue relevant to the rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/88	53 FR 10257
ANPRM Comment Period End	07/31/88	
NPRM	11/02/90	55 FR 46400
NPRM Comment Period End	01/31/92	56 FR 48720
Reopen Record	03/30/99	64 FR 15144
NPRM Comment Period End	06/30/99	
Interim Final Rule	10/03/00	65 FR 59048
Interim Final Rule Comment Period End	11/17/00	
Public Hearing and Extension of Comment Period to 12/19/00	12/11/00	65 FR 77292
Delay Effective Date of Interim Final Rule; Reopening of Record; Public Hearings; Close of Record	08/28/01	66 FR 45167
Comment Period End for Reopening of Record	10/17/01	
Interim Final Rule Effective	06/30/02	
Final Rule	07/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 1219-AA47

1600. AIR QUALITY, CHEMICAL SUBSTANCES, AND RESPIRATORY PROTECTION STANDARDS

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 75; 30 CFR 90

Legal Deadline: None

Abstract: Our current regulations for exposure to hazardous airborne contaminants are over 25 years old. They do not fully protect today's miners, who are potentially exposed to an array of toxic chemicals, and other hazards. Examples of these include lead, cyanide, arsenic benzene, asbestos and other well documented hazards. MSHA plans to withdraw this item.

Timetable:

Action	Date	FR Cite
Notice of Availability of Preproposal Draft	07/06/83	48 FR 31171
ANPRM	11/19/85	50 FR 47702
NPRM	08/29/89	54 FR 35760
NPRM Comment Period Extended to 3/2/1990	10/19/89	54 FR 43026
NPRM Comment Period End	08/30/91	56 FR 29201
Final Rule: Abrasive Blasting and Drill Dust Control	02/18/94	59 FR 8318
Withdrawal Notice	09/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

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

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RIN: 1219-AA48

1601. REQUIREMENTS FOR APPROVAL OF FLAME-RESISTANT CONVEYOR BELTS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957; 30 USC 811

CFR Citation: 30 CFR 14; 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: Our current regulations require conveyor belts used in underground coal mines to be flame-resistant. The rule, as proposed, would set new procedures and requirements for testing and approval of these belts to evaluate their resistance to fire ignition and propagation. The proposal would also require purchase of the improved belts after one year. MSHA plans to withdraw this item.

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61524
Extension of Comment Period to 3/26/93	02/11/93	58 FR 8028
Reopen Record and Notice of Public Hearing	03/31/95	60 FR 16589
Record Closed	06/05/95	60 FR 16558
Record Reopened	10/31/95	60 FR 55353
Extension of Comment Period to 2/5/1996	12/20/95	60 FR 65509
Record Reopened	12/28/99	64 FR 72617
Withdrawal Notice	09/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219-AA92

1602. 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

DOL—MSHA

Final Rule Stage

Mine Safety and Health Administration jointly proposed that a single, full-shift measurement (“single, full-shift 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 F3d 1264 (11th Cir. 1998).

Statement of Need: Respirable coal mine dust levels in this country are significantly lower than they were over two decades ago. Despite this progress, there continues to be concern about our current sampling programs’ ability to accurately measure and maintain respirable coal mine dust exposure at or below the applicable standard on each shift. For as long as miners have taken coal from the ground, many have suffered respiratory problems due to their occupational exposures to respirable coal mine dust. These respiratory problems affect the current workforce and range from mild impairment of respiratory function to more severe diseases, such as silicosis and pulmonary massive fibrosis. For some miners, the impairment of their respiratory systems is so severe, they die prematurely. Since there is a clear relationship between a miner’s cumulative exposure to respirable coal mine dust and the severity of the resulting respiratory conditions, it is imperative that each miner’s exposure

not exceed the applicable standard on each and every shift.

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 requirements of this rule (“single full-shift sample rule”) will work in tandem with those of the proposed rule (RIN 1219-AB14) in which MSHA proposed to verify the effectiveness of ventilation plans as well as conduct all compliance sampling in underground coal mines. However, given significant public comments, MSHA will repropose RIN 1219-AB14 - Verification of Underground Coal Mine Operators’ Dust Control Plans and Compliance Sampling for Respirable Dust.

Anticipated Cost and Benefits: Benefits sought are reduced dust levels over a miner’s working lifetime by the elimination of over-exposures to respirable coal dust on each and every production shift. Additional benefits include reduced health care costs and disability and black lung benefit payments.

Risks: Respirable coal mine dust is one of the most serious occupational hazards in the mining industry. Occupational exposure to excessive levels of respirable coal mine dust can cause workers’ pneumoconiosis and silicosis, which are potentially disabling and can cause death. We are

pursuing both regulatory and nonregulatory actions to eliminate these diseases through the control of coal mine respirable dust levels in mines and reduction of miners’ exposure.

Timetable:

Action	Date	FR Cite
NPRM	07/07/00	65 FR 42068
Notice of Hearings; Close of Record	07/07/00	65 FR 42185
Extension of Comment Period; Close of Record	09/08/00	65 FR 49215
Reopen Record for Comments	09/00/02	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

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).

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RIN: 1219—AB18

Department of Labor (DOL)

Mine Safety and Health Administration (MSHA)

Completed Actions

1603. ELECTRIC MOTOR-DRIVEN MINE EQUIPMENT AND ACCESSORIES AND HIGH-VOLTAGE LONGWALL EQUIPMENT STANDARDS FOR UNDERGROUND COAL MINES

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: Our current regulations require that high-voltage cables and transformers be kept at least 150 feet from coal extraction areas. These requirements are intended to eliminate an ignition source for methane and coal dust in close proximity to the work area. Highly productive longwall mining systems are now in widespread

use in the mining industry. They use safe high-voltage electrical equipment and associated cables. Mine operators, however, currently must apply to us for a modification from the existing regulations if they want to use this high-voltage equipment. The final rule eliminates the need for a modification to use this equipment and establishes safety requirements for the design, construction, installation, use, and maintenance of high-voltage longwall equipment and associated cables.

Timetable:

Action	Date	FR Cite
NPRM	08/27/92	57 FR 39036
Extension of Comment Period to	10/23/92	57 FR 48350
	11/13/1992	

Action	Date	FR Cite
Reopen Record	10/18/95	60 FR 53891
Extension of Comment Period	11/14/95	60 FR 57203
Comment Period End	12/18/95	
Reopen Record	12/28/99	64 FR 72620
Comment Period End	02/28/00	
Final Rule	03/11/02	67 FR 10971
Final Rule Effective	05/10/02	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The first high-voltage longwall system started operating in 1985. Since that time we have issued approximately 130 system design approvals for high-voltage

DOL—MSHA

Completed Actions

longwall equipment. Over the last 16 years, no electrical-type fatalities or serious injuries occurred to miners because of high-voltage equipment used in accordance with over 100 granted high-voltage petitions for modification (petitions). Because of this new improved high-voltage technology, the designed safety benefits and the observed use experience, MSHA is revising its existing 30 CFR part 18 electric motor-driven mine equipment and accessories approval requirements and part 75 safety standards by adding specific design and safety requirements for high-voltage longwall equipment in underground coal mines.

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RIN: 1219-AA75

1604. DIESEL PARTICULATE 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: This final rule addresses two provisions of the Mine Safety and Health Administration's final rule pertaining to "Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners," published in the Federal Register on January 19, 2001 (66 FR 5706, RIN 1219-AB11). The final rule was scheduled to become effective on March 20, 2001, but MSHA delayed the effective date of the rule until May 21, 2001 in accordance with a January 20, 2001 memorandum from the President's Chief of Staff. On May 21, 2001, MSHA delayed the effective date of the final rule until July 5, 2001. The final rule was challenged by mining industry trade associations, several mining companies and the United Steelworkers of America. On July 5, 2001, MSHA published a proposed rule addressing two provisions: section 57.5066(b) (regarding the tagging provision of the maintenance standard) and section 57.5067(b) (regarding the definition of "introduced" in the engine standard). The proposal gave notice of MSHA's intent to revise these two provisions and requested comments from the mining community. The Agency also held a public hearing to receive further input from the public. The final rule is identical to the proposed rule and with the comprehensive January 19, 2001 final rule (66 FR 5706). The requirements of the final rule will work in tandem with

the provisions that were effective on July 5, 2001 (66 FR 35518).

Timetable:

Action	Date	FR Cite
NPRM	07/05/01	66 FR 35521
NPRM Comment Period End	08/06/01	
Public Hearing	08/16/01	
Post-hearing Comment Period End and Close of Record	08/20/01	66 FR 35521
Final Action	02/27/02	67 FR 9180
Final Action Effective	03/29/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking is related to RIN: 1219-AB11, which was effective on July 5, 2001 (66 FR 35518), and to the comprehensive final rule 1219-AB11 published on January 19, 2001 (66 FR 5706).

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RIN: 1219-AB28

Department of Labor (DOL)

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

Proposed Rule Stage

1605. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE DEPARTMENT OF LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6101 et seq, Age Discrimination Act of 1975

CFR Citation: 29 CFR 35

Legal Deadline: NPRM, Statutory, September 10, 1979, Deadline requires publication of the NPRM within 90 days of publication and submission to HHS of final rule within 120 days of NPRM.

Abstract: The proposed regulatory action implements the Age Discrimination Act of 1975 (the Act).

The Act prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Age Act also contains specific exceptions that permit the use of certain age distinctions and factors other than age that meet the Age Act's requirements. This NPRM is a republication of an NPRM published on December 29, 1998, with updates to reflect the passage of the Workforce Investment Act of 1998 and to add the term "program or activity" as it is defined in the Civil Rights Restoration Act of 1987. These changes do not alter the substance of the NPRM.

Timetable:

Action	Date	FR Cite
NPRM	12/29/98	63 FR 71714

Action	Date	FR Cite
NPRM Comment Period End	03/01/99	
Second NPRM	07/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

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DOL—OASAM

Proposed Rule Stage

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RIN: 1291-AA21

Department of Labor (DOL)

Final Rule Stage

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

1606. AUDITS OF STATES, LOCAL GOVERNMENTS, AND NONPROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 7501 Single Audit Act Amendments of 1996; OMB Circular A-110; OMB Circular A-133

CFR Citation: 29 CFR 99

Legal Deadline: None

Abstract: This action adds a new title 29 CFR 99 “Audits of States, Local Governments, and Non-Profit Organizations” as a new regulation which codifies the revised Office of Management and Budget (OMB) Circular A-133 in its entirety. The Single Audit Act Amendments of 1996 (Public Law 104-156, 110 Stat. 136) and the June 24, 1997, revision of OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations,” required agencies to adopt in codified regulations the standards in the revised OMB Circular A-133 by August 29, 1997, so that they will apply to audits of fiscal years beginning after June 30, 1996. The revised OMB Circular A-133 co-located audit requirements for States, local governments, and nonprofit organizations. As a consequence, the OMB rescinded OMB Circular A-128, “Audits of States and Local Governments.” On August 29, 1997, the Department of Labor amended its grants common rules at 29 CFR 95 and 29 CFR 97 in accordance with OMB guidance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/25/99	64 FR 14537
Interim Final Rule Effective	03/25/99	
Interim Final Rule Comment Period End	05/24/99	
Final Rule	06/00/02	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: State, Local

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RIN: 1291-AA26

1607. AUDIT REQUIREMENTS FOR GRANTS, CONTRACTS, AND OTHER AGREEMENTS

Priority: Info./Admin./Other

Legal Authority: 31 USC 7500 et seq; OMB Circular A-133

CFR Citation: 29 CFR 96

Legal Deadline: None

Abstract: This interim final rule revises title 29 of the Code of Federal Regulations (CFR) part 96 “Audit Requirements for Grants, Contracts, and Other Agreements” to consolidate various provisions and ensure consistency, continuity, and ameliorate conflicts with subtitle A of 29 CFR parts 95 and 97.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/25/99	64 FR 14537
Interim Final Rule Effective	03/25/99	
Interim Final Rule Comment Period End	05/24/99	
Final Rule	06/00/02	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: State, Local

Additional Information: The interim final rule is in effect. The final rule is expected the first quarter of fiscal year 2002.

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RIN: 1291-AA27

1608. 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 prohibits discrimination by recipients of financial assistance under Title I of WIA on the grounds of race, color, national origin, sex, age, disability, religion, political affiliation or belief, and for beneficiaries only, participant status, and against certain noncitizens. 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 the WIA. Such regulations will include standards for determining compliance and procedures for enforcement that are consistent with the Acts referred to 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.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/12/99	64 FR 61692
Interim Final Rule Comment Period End	12/13/99	
Final Rule	10/00/02	

Regulatory Flexibility Analysis
Required: No

Government Levels Affected: State, Local, Tribal

DOL—OASAM

Final Rule Stage

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RIN: 1291-AA29

1609. EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 AND IMPLEMENTATION OF SECTION 504 OF THE REHABILITATION ACT OF 1973

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2000(d); 29 USC 794

CFR Citation: 29 CFR 31; 29 CFR 32

Legal Deadline: None

Abstract: This proposal would incorporate into 29 CFR parts 31 and 32 the term "program or activity" and the definition of that term as it was defined in the Civil Rights Restoration Act of 1987. Part 31 effectuates title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin in programs or activities that receive financial assistance from the Department of Labor. Part 32 implements section 504 of the

Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs or activities that receive financial assistance from the Department of Labor.

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	08/00/02	
Final Action Effective	09/00/02	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

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RIN: 1291-AA31

1610. • DEPARTMENT OF LABOR ACQUISITION REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 40 USC 486(C)

CFR Citation: 48 CFR 2900 to 2999

Legal Deadline: None

Abstract: Revisions to the DOLAR reflect changes in the Federal Acquisition Regulation and organizational changes within DOL. The changes to the DOLAR are extensive and reflect the large number of changes made to the Federal Acquisition Regulation since 1986.

Timetable:

Action	Date	FR Cite
Internal Review and Drafting	05/00/02	
Interim Final Rule	06/00/02	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1291-AA34

Department of Labor (DOL)

Long-Term Actions

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

1611. GRANTS AND AGREEMENTS

Priority: Other Significant

Legal Authority: PL 105-277

CFR Citation: 29 CFR 95

Legal Deadline: None

Abstract: The Department is joining with other Federal agencies to establish revised regulations for Grants. Congress included a two-sentence provision in OMB's appropriation for fiscal year 1999, contained in Public Law 105-277, directing OMB to revise section 95.36 of Circular A-110 "to require Federal awarding agencies to ensure that all data produced under an award will be made available to public through the procedures established under the Freedom of Information Act." Circular

A-110 applies to grants and cooperative agreements with institutions of higher education, hospitals, and nonprofit institutions, from all Federal agencies. OMB finalized the revision on September 30, 1999 (64 FR 54926). This interim final rule amends the agencies' codification of Circular A-110 so they reflect OMB's recent action.

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

Additional Information: HHS is the lead agency and will coordinate the next action with OMB.

Agency Contact: Phyllis McMeekin, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N5425, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1291-AA30

DOL—OASAM

Long-Term Actions

1612. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS) 29 CFR 98**Priority:** Substantive, Nonsignificant**Legal Authority:** 5 USC 301; 40 USC 486(c); 41 USC 701**CFR Citation:** 29 CFR 94; 29 CFR 98**Legal Deadline:** None

Abstract: This document proposed substantive changes and amendments to the Governmentwide nonprocurement common rule for debarment and suspension and the governmentwide rule implementing the Drug-Free Workplace Act of 1988. The most significant changes are: (1) This proposed common rule on debarment and suspension would limit the mandatory lower tier application of an exclusion to the first procurement level under a nonprocurement covered transaction; (2) This proposed common

rule on debarment and suspension would set the dollar threshold on prohibited lower-tier procurement transactions with excluded persons at \$25,000; (3) Both this proposed rule on debarment and suspension and the proposed rule on drug-free workplace requirements would eliminate the mandate for agencies and participants to obtain written certifications from awardees or persons with whom they propose to enter into covered transactions. The proposed rules will allow agencies and participants the flexibility to use other means if they so choose, such as award conditions or electronic access to the GSA List on the internet, to enforce compliance with the rules; and (4) The proposed rule on drug-free workplace requirements would be separated from this proposed rule on debarment and suspension. The drug-free workplace requirements currently are in subpart F of the Debarment and Suspension Nonprocurement Common Rule.

Timetable:

Action	Date	FR Cite
NPRM	01/23/02	67 FR 3265
NPRM Comment Period End	03/25/02	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** Undetermined**Additional Information:** OMB is waiting for other agencies participating in the common rule to submit their packages.

Agency Contact: Jeffrey D. Saylor, Procurement Analyst, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room N5425, FP Building
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RIN: 1291-AA33

Department of Labor (DOL)

Completed Actions

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

1613. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE**Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 794
Rehabilitation Act of 1973, as amended**CFR Citation:** 29 CFR 32**Legal Deadline:** None

Abstract: This item is being withdrawn from this agenda but will appear in the fall 2002 agenda.

Timetable:

Action	Date	FR Cite
Withdrawn	03/08/02	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** State, Local, Tribal

Agency Contact: Annabelle T. Lockhart, Director, Civil Rights Center, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N4123, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1291-AA28

Department of Labor (DOL)

Prerule Stage

Occupational Safety and Health Administration (OSHA)

1614. 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:** None

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. The Oil, Chemical, and Atomic Workers International Union (OCAW) and Public Citizen's Health Research Group

(HRG) petitioned OSHA to promulgate an ETS to lower the PEL for hexavalent chromium (CrVI) compounds to 0.5 micrograms per cubic meter of air (ug/m3) as an eight-hour, time-weighted average (TWA). This would represent a significant reduction in the current PEL. The current PEL in general industry is found in 29 CFR 1910.1000 Table Z and is a ceiling value of 100 ug/m3, measured as chromium (VI) and reported as chromic anhydride (CrO3). The amount of chromium (VI) in the

DOL—OSHA

Prerule Stage

anhydride compound equates to a PEL of 52 ug/m3. This ceiling limit applies to all forms of hexavalent chromium (VI), including chromic acid and chromates, lead chromate, and zinc chromate. The current PEL for hexavalent chromium (VI) 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.

The major illnesses associated with occupational exposure to hexavalent chromium are lung cancer and dermatoses. OSHA estimates that approximately one million workers are exposed to hexavalent chromium on a regular basis in all industries. The major uses of hexavalent chromium are: as a structural and anti-corrosive element in the production of stainless steel, ferrocromium, iron and steel, and in electroplating, welding and painting.

Timetable:

Action	Date	FR Cite
Request for Information	08/00/02	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected:

Undetermined

Agency Contact: Steven F. Witt, Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218-AB45

1615. CONFINED SPACES IN CONSTRUCTION (PART 1926): PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES

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 1926.36

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. OSHA intends to issue a proposed rule addressing this construction industry hazard next year.

Timetable:

Action	Date	FR Cite
Initiate Work for a SBREFA Panel	08/00/02	

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, Room N3468, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

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RIN: 1218-AB47

1616. OCCUPATIONAL EXPOSURE TO ETHYLENE OXIDE (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 29 USC 655(b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.1047

Legal Deadline: None

Abstract: OSHA has undertaken a review of the ethylene oxide (ETO) standard in accordance with the requirements of the Regulatory Flexibility Act and section 5 of EO 12866. The review has considered the continued need for the rule, the 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. The Agency's findings with respect to this review will be published in a report available to the public in 2002.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/96	
End Review	06/00/02	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: John F. Martonik, Director, Office of Program Audits and Evaluation, Department of Labor, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218-AB60

1617. FALL PROTECTION IN THE CONSTRUCTION INDUSTRY

Priority: Substantive, Nonsignificant

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

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: OSHA issued an ANPRM to gather information on fall protection issues regarding certain construction processes such as residential home building, precast concrete operations and post frame construction. The issues relate to the fall protection rules as they now apply to roofing work, residential construction operations, climbing reinforcement steel and vendors delivering materials to construction projects. These issues have arisen since OSHA revised the fall protection standard in August 1994. OSHA has determined that additional information is needed.

Timetable:

Action	Date	FR Cite
ANPRM	07/14/99	64 FR 38077
ANPRM Comment Period End	01/24/00	
Request for Information	12/00/02	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: Russell B. Swanson, Director, Directorate of Construction,

DOL—OSHA

Prerule Stage

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RIN: 1218-AB62

1618. 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 1926; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918

Legal Deadline: None

Abstract: OSHA is considering a consensus-based rulemaking to address the hazards posed by silica. Silica exposure remains a serious threat to nearly 2 million U.S. workers, including more than 100,000 workers in high risk jobs such as abrasive blasting, foundry work, stonecutting, rock drilling, quarry work and tunneling. The seriousness of the health hazards associated with silica exposure is demonstrated by the fatalities and disabling illnesses that continue to occur in sandblasters and rock drillers and by recent studies that indicate a statistically significant increase in lung cancer among silica-exposed workers. Exposure studies and OSHA enforcement data indicate that some workers are still exposed to very high levels of silica. OSHA plans in this rulemaking to modernize and standardize the Agency's current PELs for silica so that they will be consistent across all sectors.

Timetable:

Action	Date	FR Cite
Initiate SBREFA Process or Initiate Consensus-Based Process	10/00/02	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven F. Witt, Director, Directorate of Health

Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
 Phone: 202 693-1950

RIN: 1218-AB70

1619. GRAIN HANDLING FACILITIES (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 29 USC 655(b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.272

Legal Deadline: None

Abstract: OSHA is undertaking a review of its grain handling standard (29 CFR 1910.272) in accordance with the requirements of section 610 of the Regulatory Flexibility Act and section 5 of EO 12866. 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 degree to which technology, economic conditions, or other factors have changed in the industries affected by the rule.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/97	
End Review	05/00/02	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: John F. Martonik, Director, Office of Program Audits and Evaluation, Department of Labor, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218-AB73

1620. 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: OSHA intends to issue a Request for Information and to evaluate the extensive research related to the mechanisms of disease underlying Chronic Beryllium Disease or beryllium sensitization and to identify the best ways of reducing employee exposure to beryllium. OSHA will also be identifying processes, industries, and kind of businesses that involve the use of beryllium. This information is necessary if OSHA is to develop a rule to reduce worker exposure to dust or fumes from beryllium metal, metal oxides, or alloys, all of which may cause serious and sometimes fatal lung disease (chronic beryllium disease (CBD), lung cancer, and skin disease). In 1999 and in 2001, OSHA was petitioned to issue an emergency temporary standard by the Paper, Allied-Industrial, Chemical, and Energy Workers Union (PACE), Public Citizen Health Research group and others. The Agency denied these petitions but stated its intent to work on a standard to be issued under section 6(b)(5) of the Act to protect workers from beryllium-related disease. Before OSHA can do so, however, it needs a substantial amount of information on beryllium's toxicity, risks, and patterns of use. The Request for Information will be designed to obtain this information.

Timetable:

Action	Date	FR Cite
Request for Information	09/00/02	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven F. Witt, Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218-AB76

DOL—OSHA

Prerule Stage

1621. HEARING LOSS PREVENTION IN 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, a number of recent studies have shown that a large number of construction workers experience work-related hearing loss. In addition, the use of engineering, administrative and personal protective equipment to reduce exposures to noise is low in this industry. OSHA intends to issue an Advance Notice of Proposed Rulemaking (ANPRM) in 2002, and to initiate stakeholder meetings 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.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Steven F. Witt, Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218-AB89

1622. EXCAVATIONS (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 5 USC 610; 29 USC 651 et seq

CFR Citation: 29 CFR 1926.650 to 1926.652

Legal Deadline: None

Abstract: OSHA will undertake a review of the Agency's trenching and 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 will consider 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	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: John F. Martonik, Director, Office of Program Audits and Evaluation, Department of Labor, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218-AC02

1623. PRESENCE SENSING DEVICE INITIATION OF MECHANICAL POWER PRESSES (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 610; 29 USC 651 et seq

CFR Citation: 29 CFR 1910.217(h), app A,B,C

Legal Deadline: None

Abstract: OSHA will undertake a review of the Agency's Presence Sensing Device Initiation of Mechanical Power Presses rule (29 CFR 1910.217) in accordance with the requirements of the Regulatory Flexibility Act and section 5 of Executive Order 12866. The review will consider among other things, the 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	

Action	Date	FR Cite
Request for Comments	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John F. Martonik, Director, Office of Program Audits and Evaluation, Department of Labor, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218-AC03

1624. • CONTROLLED NEGATIVE PRESSURE FIT TESTING PROTOCOL: AMENDMENT TO THE FINAL RULE ON RESPIRATORY PROTECTION

Priority: Info./Admin./Other

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). In the final revised respirator standard, OSHA set up a mechanism for OSHA's acceptance of new fit test protocols under Mandatory Appendix A. Any person may submit to OSHA an application for approval of a new fit test protocol, and if the application meets certain criteria, OSHA will initiate a rulemaking proceeding under 6(b)(7) of the OSH Act to determine whether to list the new protocol as an approved fit test protocol in Appendix A. OSHA has been petitioned to allow the use of a modified Controlled Negative Pressure (CNP) fit test protocol.

Employers, employees, and safety and health professionals use fit testing to select respirators. Currently OSHA relies on fit testing methods specified in Appendix A of the final revised Respiratory Protection standard.

When OSHA published the final Respiratory Protection standard in 1998, it allowed for later rulemaking on new fit test methods. This rulemaking action will allow for the

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Prerule Stage

incorporation of new fit test methods into 1910.134.

Timetable:

Action	Date	FR Cite
Next Action To Be Determined	02/00/03	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Steven F. Witt, Director, Directorate of Health

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Phone: 202 693-1950
RIN: 1218-AC05

Department of Labor (DOL)

Proposed Rule Stage

Occupational Safety and Health Administration (OSHA)

1625. 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 the industry consensus standard, ANSI Z88.2-1992. For some classes of respirators, the NIOSH and ANSI APFs vary greatly.

When OSHA published the final Respiratory Protection standard in 1998, it reserved for later rulemaking those provisions of the standard dealing with APFs and MUCs. This rulemaking action will complete the 1998 standard, reduce compliance confusion among employers, and provide employees with

consistent and appropriate respiratory protection.

Statement of Need: About 5 million employees wear respirators as part of their regular job duties. Due to inconsistencies between the APFs found in the current industry consensus standard (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. Several industry and professional groups have asked OSHA to proceed with this rulemaking to resolve these inconsistencies and provide reliable protection of employees' health in cases where respirators must be worn.

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 of that standard.

Alternatives: OSHA has considered allowing the current situation to continue, in which OSHA generally enforces NIOSH APFs but many employers follow the more recent consensus standard APFs. However, allowing the continuation of this situation results in inconsistent enforcement, lack of guidance for employers, and the potential for inadequate employee protection.

Anticipated Cost and Benefits: The scope of the proposed APF table is still under development, and estimates of the costs and benefits have not yet been developed.

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 will be 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 on APFs or Initiate SBREFA Process	11/00/02	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Steven F. Witt, Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-1950

RIN: 1218-AA05

1626. 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: 33 USC 941; 29 USC 655(b)

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

DOL—OSHA

Proposed Rule Stage

lifts (VTLs) involve the lifting of two or more empty intermodal containers, secured together with twist locks, at the same time. Because some commenters to the record questioned the safety of allowing such tandem lifts and the record did not contain adequate information to allow the Agency to address this issue, OSHA continues to work with national and international organizations and gathering additional information on the safety of VTLs.

Timetable:

Action	Date	FR Cite
NPRM on Longshoring/Marine Terminals	06/06/94	59 FR 28594
NPRM Comment Period End	09/23/94	
Final Rule on Longshoring/Marine Terminals	07/25/97	62 FR 40142
Public Meeting on VTLs - 1/27/1998	10/09/97	62 FR 52671
Reopening of Record	10/00/02	
Second NPRM	06/00/03	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: Steven F. Witt, Acting Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue, NW, FP Building, Washington, DC 20210
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RIN: 1218-AA56

1627. GLYCOL ETHERS: 2-METHOXYETHANOL, 2-ETHOXYETHANOL, AND THEIR ACETATES: PROTECTING REPRODUCTIVE HEALTH

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655; 29 USC 657; 29 USC 651

CFR Citation: 29 CFR 1910.1000; 29 CFR 1910.1031

Legal Deadline: None

Abstract: OSHA published an advance notice of proposed rulemaking (ANPRM) on April 2, 1987 (52 FR 10586). OSHA used the information received in response to the ANPRM, as well as other information and analysis,

and published a proposal on March 23, 1993 (58 FR 15526), that would reduce the permissible exposure limits for four glycol ethers and provide protection for approximately 46,000 workers exposed to these substances. OSHA plans to re-open the record to collect updated information before determining what action should be taken.

Timetable:

Action	Date	FR Cite
ANPRM	04/02/87	52 FR 10586
ANPRM Comment Period End	07/31/87	
NPRM	03/23/93	58 FR 15526
NPRM Comment Period End	06/07/93	
Reopen Record	07/00/02	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected:

Undetermined

Agency Contact: Steven F. Witt, Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218-AA84

1628. INJURY AND ILLNESS PREVENTION

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1900.1

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA), many States, members of the safety and health community, insurance companies, professional organizations, companies participating in the Agency's Voluntary Protection Programs, and many proactive employers in all industries recognize the value of worksite-specific injury and illness prevention programs in reducing and preventing job-related injuries, illnesses, and fatalities. The reductions in job-related injuries and illnesses, workers' compensation costs, and absenteeism that occur after employers implement such programs

dramatically demonstrate their effectiveness. OSHA has decided to develop an injury and illness prevention rule because occupational injuries, illnesses, and fatalities are continuing to occur at an unacceptably high rate. For example, an average of about 16 workers were killed each day in 1999. This number does not include an estimated 137 daily deaths associated with job-related chronic illnesses. The Agency is currently evaluating the appropriate scope and form of the proposed rule, as well as the hazards the rule will address, and is considering a number of regulatory and non-regulatory alternatives.

Timetable:

Action	Date	FR Cite
Initiate SBREFA Process	12/00/02	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

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

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RIN: 1218-AB41

1629. OCCUPATIONAL EXPOSURE TO TUBERCULOSIS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1035

Legal Deadline: None

Abstract: In 1993, the Labor Coalition to Fight TB in the Workplace petitioned the Occupational Safety and Health Administration (OSHA) to develop an occupational health standard to protect workers who care for or oversee patients or others with active tuberculosis (TB) against the transmission of TB. After reviewing the available information, OSHA

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preliminarily concluded that a significant risk of occupational transmission of TB exists for some workers in some work settings and began rulemaking on a proposed standard. Examples of workers at risk of contracting TB as a result of their work are health care workers, detention facility personnel, and homeless shelter employees. On October 17, 1997, OSHA published its proposed standard for occupational exposure to TB (62 FR 54160). The proposed standard would require employers to protect TB-exposed workers using infection control measures that have been shown to be highly effective in reducing or eliminating work-related TB infections. Such measures include procedures for the early identification of individuals with infectious TB, isolation of individuals with infectious TB using appropriate ventilation, use of respiratory protection in certain situations, and skin testing and training of employees.

After the close of the written comment period for the proposed standard, informal public hearings were held in Washington, DC, Los Angeles, CA, New York City, NY, and Chicago, IL. The post-hearing comment period closed on October 5, 1998. On June 17, 1999 OSHA reopened the rulemaking record for 90 days to submit the Agency's report on homeless shelters and certain other documents that became available to the Agency after the close of the post-hearing comment period. During this limited reopening of the rulemaking record, OSHA also requested interested parties to submit comments and data on the Agency's preliminary risk assessment in order to obtain the best, most recent data for providing the most accurate estimates of the occupational risk of tuberculosis. At the request of Congress, the Institute of Medicine of the National Academy of Sciences (IOM) conducted a study of OSHA's proposal and the need for a TB standard. That study was completed in January 2001, and concluded that OSHA should move forward with a standard modeled after the CDC guidelines and tailored to the extent of TB risk present in the community. The IOM study concluded that an OSHA standard was needed to maintain national TB rates among health care and other employees at their current levels and to prevent future outbreaks of multi-drug resistant and other forms of TB among these

workers. OSHA has reopened the record to obtain comment on the IOM study, the draft final risk assessment and the peer reviewers' comment on the risk assessment.

Timetable:

Action	Date	FR Cite
SBREFA Panel	09/10/96	
NPRM	10/17/97	62 FR 54160
NPRM Comment Period End	02/17/98	62 FR 65388
Post Hearing Comment End	10/05/98	
Record Reopening	06/17/99	64 FR 32447
Second Reopening Comment Period End	06/28/99	64 FR 34625
Reopening Comment Period End	08/02/99	
Third Reopening Comment Period	01/24/02	67 FR 3465
Extension of Comment Period of Reopening	03/05/02	67 FR 9934
Reopening Comment Period End	03/25/02	
Comment Period End	05/24/02	
Next Step To Be Determined	10/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

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

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RIN: 1218-AB46

1630. 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 embarked on a project to update and

consolidate the various OSHA shipyard standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. 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. Over 100,000 workers are exposed annually to these hazards.

Timetable:

Action	Date	FR Cite
NPRM	01/00/03	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1218-AB50

1631. FIRE PROTECTION IN SHIPYARD EMPLOYMENT (PART 1915, SUBPART P) (SHIPYARDS: FIRE SAFETY)

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655

CFR Citation: 29 CFR 1915, subpart P

Legal Deadline: None

Abstract: This proposal is being developed through the negotiated rulemaking process. The rule will update and revise an important but outdated part of OSHA's shipyard rules. The original rule was adopted by OSHA in 1971 and has remained unchanged since then. The negotiated rulemaking committee was convened on October 15, 1996; members of the committee include: OSHA, state government, Federal agency, small and large shipyard employers, and maritime and firefighter union representatives.

Statement of Need: Fires in the shipyard environment claim the lives of several workers every year and thus account for a substantial number of

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deaths and more than 50 serious burns occurring in this 100,000-employee workforce. Updating OSHA's outdated shipyard requirements for fire extinguishers, sprinkler systems, detection systems, alarm systems, and fire brigades will facilitate compliance by employers and employees and reduce these fire-related injuries and fatalities.

Summary of Legal Basis: The legal basis for this proposed rule is a preliminary determination that an unacceptable risk of fire-related injuries and fatalities exists in the shipyard industry.

Alternatives: OSHA has considered but rejected the alternative of allowing the existing rule to remain in place, because the Agency believes that doing so would contribute to the unacceptable number of fire-related accidents occurring in shipyards every year.

Anticipated Cost and Benefits:

Detailed cost and benefits estimates have not yet been made for the rule, because it is still in draft form.

Risks: A detailed risk analysis has not yet been completed for this rule.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis

Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 1218-AB51

1632. ELECTRIC POWER TRANSMISSION AND DISTRIBUTION; ELECTRICAL PROTECTIVE EQUIPMENT IN THE CONSTRUCTION INDUSTRY

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 1910.136; 29 CFR 1910.137; 29 CFR 1910.269; 29 CFR 1926.97; 29 CFR 1926 subpart V

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 nearly 30 years old. OSHA is developing a revision of this standard that will prevent many of these fatalities, add flexibility to the standard, and update and streamline the standard. In addition, OSHA 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.

Timetable:

Action	Date	FR Cite
Initiate SBREFA Process	05/00/02	
NPRM	04/00/03	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected:

Undetermined

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RIN: 1218-AB67

1633. 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. The Agency has proposed to revise its PPE standards to clarify who is required to pay for required PPE and under what circumstances. OSHA continues to consider the issue and review the rulemaking docket.

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	
Next Step to be determined	10/00/02	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

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RIN: 1218-AB77

1634. 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 (55 FR 13360) a rule 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.

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Timetable:

Action	Date	FR Cite
NPRM	04/10/90	55 FR 13360
NPRM Comment Period End	08/22/90	
Hearing	09/11/90	55 FR 29224
NPRM (Subparts D and I)	12/00/02	

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

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RIN: 1218-AB80

1635. STANDARDS IMPROVEMENT (MISCELLANEOUS CHANGES) FOR GENERAL INDUSTRY, MARINE TERMINALS, AND CONSTRUCTION STANDARDS (PHASE II)

Priority: Other Significant**Legal Authority:** 29 USC 655(b)

CFR Citation: 29 CFR 1910.142; 29 CFR 1910.178; 29 CFR 1910.219; 29 CFR 1910.261; 29 CFR 1910.265; 29 CFR 1910.410; 29 CFR 1910.1001 to 1910.1052; 29 CFR 1926.60; 29 CFR 1926.62; 29 CFR 1926.1101; 29 CFR 1926.1127; 29 CFR 1926.1129; 29 CFR 1917.92; 29 CFR 1910, subpart Z

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA) proposes to remove or revise provisions in its health standards that are out of date, duplicative, unnecessary, or inconsistent. The Agency is proposing these changes to reduce the burden imposed on the regulated community by these requirements. In this document, substantive changes are proposed for standards that will revise or eliminate duplicative, inconsistent, or unnecessary regulatory requirements without diminishing employee protections. Phase I of this Standards Improvement process was completed in June 1998 (63 FR 33450). OSHA plans to initiate Phase III of this project at a future date to address problems in various safety standards.

Statement of Need: Some of OSHA's standards are out of date, duplicative,

unnecessary, or inconsistent. The Agency needs to periodically review its standards and make needed corrections. This effort results in standards that are easier for employers and employees to follow and comply with, and thus enhances compliance and worker protection.

Summary of Legal Basis: The legal basis for the proposed rule is a preliminary finding that the OSHA standards need to be updated to bring them up to date, reduce inconsistency, and remove unneeded provisions.

Alternatives: OSHA has considered updating each standard as problems are discovered, but has determined that it is better to make such changes to groups of standards so it is easier for the public to comment on like standards. OSHA has also considered the inclusion of safety standards that need to be updated. However, the Agency has decided to pursue a separate rulemaking for safety issues because the standards to be updated are of interest to different stakeholders.

Anticipated Cost and Benefits: This revision of OSHA's standards is a deregulatory action. It will reduce employers' compliance obligations.

Risks: The project does not address specific risks, but is intended to improve OSHA's standards by bringing them up to date and deleting unneeded provisions. The anticipated changes will have no negative effects on worker safety and health.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No**Government Levels Affected:** None

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RIN: 1218-AB81

1636. COMMERCIAL DIVING OPERATIONS: REVISION

Priority: Substantive, Nonsignificant**Legal Authority:** 29 USC 655(b)**CFR Citation:** 29 CFR 1910.423; 29 CFR 1910.426**Legal Deadline:** None

Abstract: OSHA's Commercial Diving Operations standard (29 CFR 1910.401 to 1910.441) was published in 1977. In the intervening years, major changes in the technology of diving systems and equipment have occurred. In December 1999, OSHA granted a permanent variance to Dixie Divers, Inc. permitting recreational diving instructors employed by that company to comply with the provisions of the variance rather than with paragraphs (b)(2) and (c)(3)(iii) of 1910.423 and paragraph (b)(1) of 1910.426. Since OSHA granted the variance, other employers of recreational diving instructors have asked OSHA to clarify the applicability of the variance to their operations. OSHA intends to issue a notice of proposed rulemaking to amend the commercial diving operations standard to reflect the alternative specified in the permanent variance granted to Dixie Divers, Inc.

Timetable:

Action	Date	FR Cite
NPRM	10/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No**Government Levels Affected:** None

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RIN: 1218-AB97

1637. CRANES, DERRICKS, HOISTS, ELEVATORS, AND CONVEYORS

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

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Abstract: Subpart N addresses hazards associated with various types of hoisting equipment used at construction sites. Such equipment includes cranes, derricks, hoists, elevators and conveyors. 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 number of industry stakeholders have asked OSHA to update Subpart N.

OSHA's Subpart N is now 30 years old, and is based in part on industry consensus standards as much as 42 years old. No changes have been made to the OSHA standard since 1971. Significant changes have occurred in the industry since the OSHA standard was promulgated.

A cross-section of the industry has stated that there is a need to update Subpart N. OSHA has determined that the existing rule needs to be revised.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish Negotiated Rulemaking Committee	05/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

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RIN: 1218-AC01

Department of Labor (DOL)

Occupational Safety and Health Administration (OSHA)

Final Rule Stage

1638. ACCESS AND EGRESS IN SHIPYARDS (PART 1915, SUBPART E) (SHIPYARDS: EMERGENCY EXITS AND AISLES)

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 1915.72; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.76

Legal Deadline: None

Abstract: In the 1980s, OSHA embarked on a project to update and consolidate OSHA standards that applied to the shipbuilding, shiprepair, and shipbreaking industry. Shipyard employers are subject to both the shipyard and general industry standards, and this project aimed at establishing a vertical standard for shipyard employment. A proposal on access and egress was issued in November 1988 (53 FR 48092). OSHA plans to withdraw this proposal.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48130
NPRM Comment Period End	02/27/89	
Withdrawal Notice	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218-AA70

1639. UPDATE AND REVISION OF THE EXIT ROUTES STANDARD

Priority: Other Significant

Legal Authority: 29 USC 655(b); 5 USC 353

CFR Citation: 29 CFR 1910.35; 29 CFR 1910.36; 29 CFR 1910.37; 29 CFR 1910.38

Legal Deadline: None

Abstract: Many Occupational Safety and Health Administration (OSHA) standards were adopted under section 6(a) of the Occupational Safety and Health Act (OSH Act; 29 U.S.C. 655(a)). This section of the OSH Act authorized the Agency, in its first 2 years of existence, to adopt national consensus standards without prior notice and comment. The versions of the consensus standards OSHA adopted are now typically well over 30 years old and have been superseded by newer ones. In addition, many of these old

standards were written in technical jargon and were hard for many employers and employees to understand.

To address these problems, OSHA is undertaking a consensus standards initiative to revise OSHA's exit routes (also known as means of egress) standard. The revisions will rewrite the standard in simple, easy-to-understand language that will be easier for employers and employees to follow.

Statement of Need: The standard being revised in this initiative is one of OSHA's oldest and most difficult to understand. The Agency has identified the exit routes standard as a standard in need of revision because it is out of date and unnecessarily complex, and stakeholders have recommended that the standard be updated quickly. OSHA also believes that revising the standard will lead to better voluntary compliance and fewer disputes about violations. With OSHA's limited resources, any effort that can substantially increase opportunities for compliance without sacrificing employee safety and health protection will have long-term benefits.

Summary of Legal Basis: The legal basis for the final rule will be a finding that, by making these OSHA standards easier to understand and comply with, the Agency will increase compliance and reduce work-related injuries and deaths.

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Alternatives: The alternative considered - leaving the outdated standard on the books - has been rejected because doing so would not encourage compliance or enhance safety.

Anticipated Cost and Benefits: The final standard for exit routes will have no economic impacts because this revision will not increase employers' obligations or reduce employee protections.

Risks: Employees can be injured or killed if they are not able to exit an area safely when a fire or other emergency occurs.

Timetable:

Action	Date	FR Cite
NPRM	09/10/96	61 FR 47712
Public Hearing	04/29/97	62 FR 9402
Final Rule	09/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1218-AB82

1640. SIGNS, SIGNALS, AND BARRICADES

Priority: Other Significant

Legal Authority: 29 USC 651(b); 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: Subpart G of 29 CFR part 1926 addresses the types of signs, signals and barricades that must be used in situations such as work areas on highways. OSHA's rule incorporates a 1971 ANSI standard, known as the MUTCD (Manual on Uniform Traffic Control Devices). Since the early 1970's, the U.S. Department of Transportation has drafted updates to the MUTCD. DOT requires all States to comply with its updates.

Several years ago, industry stakeholders asked OSHA to update its standard to reflect new technology and provide more flexibility for compliance.

OSHA has decided to use a Direct Final Rule to update its standard since it anticipates widespread support for and few objections to the change. The Agency's Advisory Committee on Construction Safety and Health endorsed using a Direct Final Rule to make this change in its Winter 2000 meeting.

With the current emphasis on rebuilding the Nation's highways and improving safety in work zone areas, OSHA's update is particularly appropriate.

Statement of Need: The safe and efficient flow of traffic through construction work zones is a major concern to transportation officials, the highway industry and the traveling public. Today the majority of highway funds are being used on system preservation-type projects (resurfacing, restoration, rehabilitation, and reconstruction) on the existing highway system; highway construction of this type is at an all time high and will continue for several years to come.

The fatality rate for highway construction workers is twice the rate for other types of construction trades (DOT FHWA Office of Program Quality Coordination, Sept. 1998).

Summary of Legal Basis: The legal basis for this direct final rule is a finding by the Secretary of Labor that the number of highway work zone injuries and fatalities is high and that the outdated OSHA standard may be contributing to this result.

Alternatives: The Directorate of Construction has formed a task group to formulate a plan for reducing the number of highway work zone fatalities. In order for this group to accomplish its mission the standards must reflect new technology and best practices. Other alternatives, such as compliance assistance and partnership programs, will not achieve these goals.

Anticipated Cost and Benefits: The overwhelming majority of public roads are currently covered by DOT regulations and their related State traffic control manuals. Moreover, private roads constitute the minority of total roads, and some local governments extend coverage to these roads. Accordingly, OSHA will be solely responsible for regulating only a fraction of all highway work. The costs of compliance for those solely regulated by OSHA will, therefore, be much

lower than those estimated for compliance with DOT regulations. Because DOT has found no significant costs of compliance for revisions of the MUTCD over the years, the costs of compliance for OSHA's direct final rule likewise will not be significant under Executive Order 12866.

Risks: OSHA believes that the adoption of the direct final rule will have a direct impact on the safety of workers engaged in work zone activities, although the extent of this risk reduction has not been quantified at this point.

Timetable:

Action	Date	FR Cite
Direct Final Rule	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 1218-AB88

1641. CHANGES TO STATE PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 667

CFR Citation: 29 CFR 1953

Legal Deadline: None

Abstract: Section 18 of the Occupational Safety and Health Act of 1970 (the Act), 29 U.S.C. 667, provides that States that wish to assume responsibility for developing and enforcing their own occupational safety and health standards relating to any occupational safety or health issue may do so by submitting and obtaining Federal approval of a State plan. A State plan consists of the laws, standards and other regulations, and procedures under which the State operates its occupational safety and health program. From time to time after initial plan approval, States may make changes to their plans as a result of legislative, regulatory or administrative actions. If the State makes a change to

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its plan which differs from the Federal program, the State must notify OSHA of the change to its plan which differs from the Federal program (referred to as a plan supplement). OSHA then reviews the changes; if they meet the approval criteria OSHA publishes a notice announcing the approval of the change; if the change does not meet the criteria OSHA initiates procedures to reject the change.

OSHA is proposing to amend its regulations regarding State plan changes to streamline the review and approval process and to allow more organizational flexibility in this process. Changes which are identical to components of the Federal program would not require formal review. The proposal also would reorganize 29 CFR part 1953 to eliminate repetitive language. Cross references to part 1953 in the CFR would be changed as necessary to reflect the correct references.

Timetable:

Action	Date	FR Cite
NPRM	11/06/01	66 FR 56043
NPRM Comment Period End and Request for Hearings	01/07/02	
Final Rule	06/00/02	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

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

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RIN: 1218-AB91

1642. REVISION AND UPDATE OF SUBPART S—ELECTRICAL STANDARDS

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

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 Standard. OSHA will rely heavily in that process on the 2000 Edition of 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 Subpart S-Electrical since the standard was originally published in 1981. 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. The update of Subpart S-Electrical will also at a future time permit the completion of standards covering safety-related maintenance requirements and safety requirements for special equipment. OSHA intends to complete this project in several stages. The first stage consists of changes OSHA believes to be noncontroversial, and the agency plans to publish it as a direct final rule.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/02	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

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RIN: 1218-AB95

1643. PROCEDURES FOR HANDLING OF DISCRIMINATION COMPLAINTS UNDER THE AVIATION INVESTMENT AND REFORM ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-181, Wendell H. Ford Aviation Investment and Reform Act, sec 519; 49 USC 42121

CFR Citation: 29 CFR 1979

Legal Deadline: None

Abstract: On March 8, 2000, Congress enacted the Wendell H. Ford Aviation Investment and Reform Act for the 21st

Century, commonly known as the Air Act. Section 519 of the Act (49 USC 42121) prohibits air carriers or air carrier contractors or subcontractors from discharging or otherwise discriminating against employees for exercising specified rights under the Act. The Act further provides that the Secretary of Labor investigate employee claims of discrimination and ultimately issue a determination and order after an opportunity for either party to request a hearing on the record. Procedural rules are needed for filing, investigating, litigating, and adjudicating complaints filed pursuant to the Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/01/02	67 FR 15453
Interim Final Rule Effective	04/01/02	
Interim Final Rule Comment Period End	05/31/02	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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RIN: 1218-AB99

1644. ● OCCUPATIONAL INJURY AND ILLNESS RECORDING AND REPORTING REQUIREMENTS

Priority: Other Significant

Legal Authority: 29 USC 657; 29 USC 553

CFR Citation: 29 CFR 1904.10; 29 CFR 1904.12; 29 CFR 1904.29(b)(7)(vi)

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA) issued a final rule on Occupational Injury and Illness Recording and Reporting Requirements (66 FR 5916, January 19, 2001), scheduled to become effective on January 1, 2002. Following a careful review conducted pursuant to White House Chief of Staff Andrew Card's memorandum (66 FR 7702), the Agency has determined that all but two provisions of the final rule, regarding

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Final Rule Stage

the recording of occupational hearing loss and musculoskeletal disorders (MSDs), would take effect as scheduled (66 FR 35113, July 3, 2001). The Agency issued a proposed rule on July 3, 2001, seeking comment on a delay of the two sections, and on the criteria that should be used for the recording of occupational hearing loss (RIN 1218-AC00). The record on this proposal closed on September 4, 2001. OSHA published a final rule delaying the effective dates for sections 1904.10, 1910.12 and a note to 1904.29(b)(7)(vi) until January 1, 2003. The same final rule provided interim guidance on recording hearing loss and MSD cases during 2002 (66 FR 52031, October 12, 2001).

OSHA is continuing to reconsider these two provisions for recording occupational hearing loss based on the occurrence of a Standard Threshold Shift (STS) in hearing acuity (section 1904.10), defining “musculoskeletal disorders” and checking the column on the OSHA 300 Log identifying a recordable case as an MSD (section 1904.12). OSHA will issue a subsequent final rule to deal with these injury and illness recording issues for the years 2003 and beyond.

Timetable:

Action	Date	FR Cite
NPRM	07/03/01	66 FR 35113
NPRM Comment Period End	09/04/01	

Action	Date	FR Cite
Final Action Delaying Effective Dates	10/12/01	66 FR 52031
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** State

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Phone: 202 693-1950

RIN: 1218-AC06

Department of Labor (DOL)

Long-Term Actions

Occupational Safety and Health Administration (OSHA)

1645. ACCREDITATION OF TRAINING PROGRAMS FOR HAZARDOUS WASTE OPERATIONS (PART 1910)

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); PL 101-549 (November 15, 1990); 5 USC 552(a); 5 USC 553

CFR Citation: 29 CFR 1910.121

Legal Deadline: None

Abstract: The Superfund Amendments and Reauthorization Act (SARA) of 1986 (Public Law 99-499) established the criteria under which OSHA was to develop and promulgate the Hazardous Waste Operations and Emergency Response standard. OSHA issued an interim final standard on December 19, 1986 (51 FR 45654) to comply with the law's requirements. OSHA issued a permanent final rule with provisions on

training to replace this interim rule on March 9, 1989 (29 CFR 1910.120).

On December 22, 1987, as part of an omnibus budget reconciliation bill (PL 100-202), Congress amended section 126(d)(3) of SARA to include accreditation of training programs for hazardous waste operations. OSHA issued a proposal on January 26, 1990 (55 FR 2776) addressing this issue. OSHA received public comments following the issuance of the proposal. OSHA also reopened the record in June 1992 to allow additional public comment on an effectiveness of training study that the Agency had conducted. Since that time, OSHA has developed nonmandatory guidelines to address training criteria for hazardous waste workers, and these have been widely adopted. In addition, the private sector has since established training accreditation procedures. At this time,

the next action in this rulemaking is undetermined.

Timetable:

Action	Date	FR Cite
NPRM	01/26/90	55 FR 2776
NPRM Comment Period End	04/26/90	

Next Action Undetermined

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

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RIN: 1218-AB27

Department of Labor (DOL)

Completed Actions

Occupational Safety and Health Administration (OSHA)

1646. SCAFFOLDS IN SHIPYARDS (PART 1915 — SUBPART N)

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 1915.71

Legal Deadline: None

Abstract: During the 1980s, OSHA embarked on a project to update and consolidate the various OSHA standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. Shipyard employers are subject to both shipyard

and general industry standards, and this project aimed at establishing a vertical standard for shipyard employment. A proposal on scaffolds was issued in November 1988 (53 FR 48092). OSHA plans to withdraw this proposal.

DOL—OSHA

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48182
NPRM Comment Period End	02/27/89	
Reopened Record	04/12/94	59 FR 17290
Comment Period End	06/13/94	
Withdrawal Notice	03/21/02	67 FR 13117

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

Undetermined

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RIN: 1218-AA68**1647. INDOOR AIR QUALITY IN THE WORKPLACE****Priority:** Economically Significant. Major under 5 USC 801.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 655**CFR Citation:** 29 CFR 1910; 29 CFR 1915; 29 CFR 1926; 29 CFR 1928**Legal Deadline:** None

Abstract: The health of American workers may be affected by indoor air pollution in the workplace. After reviewing and analyzing available information, OSHA published a proposed indoor air quality rule on April 5, 1994. The proposal would require employers to write and implement indoor air quality compliance plans that would include inspection and maintenance of current building ventilation systems to ensure they are functioning as designed. In buildings where smoking is allowed, the proposal would require designated smoking areas that would be separate, enclosed rooms where the air would be

exhausted directly to the outside. Other proposed provisions would require employers to maintain healthy air quality during renovation, remodeling, and similar activities. As proposed, the provisions for indoor air quality would apply to 70 million workers and more than 4.5 million nonindustrial indoor work environments, including schools and training centers, offices, commercial establishments, health care facilities, cafeterias and factory break rooms. The proposed environmental tobacco smoke provisions would apply to all 6 million industrial and nonindustrial work environments under OSHA's jurisdiction.

On December 17, 2001, OSHA withdrew its Indoor Air Quality proposal and terminated the rulemaking proceeding (66 FR 64946). In the years since the proposal was issued in 1994 a great many state and local governments and private employers have taken action to curtail smoking in public areas and in workplaces. In addition, the portion of the proposal not related to environmental tobacco smoke (ETS) received little attention during the rulemaking proceedings and the record evidence supporting the non-ETS portion of the proposal is sparse. The Agency found that withdrawal of the proposal would allow it to devote its resources to other projects.

Timetable:

Action	Date	FR Cite
Request for Information	09/20/91	56 FR 47892
NPRM	04/05/94	59 FR 15968
NPRM Comment Period End	08/13/94	59 FR 30560
Record Closed	02/09/96	
Withdrawn	12/17/01	66 FR 64946

Regulatory Flexibility Analysis**Required:** Undetermined**Government Levels Affected:** State**Federalism:** This action may have federalism implications as defined in EO 13132.

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RIN: 1218-AB37**1648. • ADVISORY COMMITTEES****Priority:** Info./Admin./Other**Legal Authority:** 29 USC 656; 29 USC 657; 5 USC 553**CFR Citation:** 29 CFR 1912.3; 29 CFR 1912.10; 29 CFR 1912.11; 29 CFR 1912a.3**Legal Deadline:** None

Abstract: OSHA is amending its rules governing membership on advisory committees to clarify that the Secretary has the discretion to remove and replace an advisory committee member at any time. This is a rule of agency organization, practice, or procedure, and does not require notice and comment procedures (5 USC 553(b)).

Timetable:

Action	Date	FR Cite
Final Action	01/07/02	67 FR 658
Final Action Effective	01/07/02	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal

Agency Contact: Frank Frodyma, Acting Director, Directorate of Policy, Department of Labor, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

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RIN: 1218-AC04

Department of Labor (DOL)

Proposed Rule Stage

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

1649. ANNUAL REPORT FOR FEDERAL CONTRACTORS (2002 REVISIONS)

Priority: Other Significant

Legal Authority: PL 106-419 Veterans Benefits and Health Care Improvement Act of 2000

CFR Citation: 41 CFR 61-250

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 Veterans'

Benefits and Health Care Improvement Act of 2000. The Act adds an additional category of veterans, "recently separated veterans," to the list of protected veterans under the Vietnam Era Veterans' Readjustment Assistance Act, as amended (VEVRAA). This proposal will assist VETS in meeting the statutory requirement of annually collecting the VETS-100 Report.

Timetable:

Action	Date	FR Cite
NPRM	09/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Norm Lance, Chief, Investigations and Compliance, VETS, Department of Labor, Office of the Assistant Secretary for Veterans' Employment & Training, S-1316, 200 Constitution Avenue, NW, Washington, DC 20210

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RIN: 1293-AA08

Department of Labor (DOL)

Final Rule Stage

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

1650. ANNUAL REPORT FROM FEDERAL CONTRACTORS

Priority: Other Significant

Legal Authority: PL 105-339 Veterans Employment Opportunities Act of 1998

CFR Citation: 41 CFR 61-250

Legal Deadline: None

Abstract: The Veterans' Employment and Training Service (VETS) issued a final rule implementing changes required by the Veterans' Employment Opportunities Act of 1998. The Act requires non-exempt Federal contractors and subcontractors with a contract in the amount of \$25,000 or more to report their efforts toward hiring and employment of qualified veterans. The Act adds an additional category of veterans, "other veterans who have served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized," to the list of protected veterans under the Vietnam Era Veterans' Readjustment Assistance Act,

as amended (VEVRAA). The Act also adds the requirement that covered contractors and subcontractors report their minimum and maximum number of employees. This rule will assist VETS in meeting the statutory requirement of annually collecting the VETS-100 Report. After publication VETS learned that the final rule may inadvertently increase the recordkeeping burden on some contractors. Accordingly, an interim final rule was published permitting contractors flexibility in how they determine the maximum and minimum number of employees reported. A notice has been published to request comments on best practices to determine how to calculate the minimum and maximum number of employees reported. Guidance that takes the comments into consideration will then be published.

Timetable:

Action	Date	FR Cite
NPRM	10/05/00	65 FR 59683

Action	Date	FR Cite
NPRM Comment Period End	12/06/00	
Final Rule	10/11/01	66 FR 51997
Final Rule Effective	11/13/01	
Interim Final Rule	12/19/01	66 FR 65452
Notice	03/08/02	67 FR 10804
Notice Comment Period End	04/08/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1293-AA07

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