



# Federal Register

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**Monday,  
October 31, 2005**

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**Part XIII**

**Department of Labor**

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**Semiannual Regulatory Agenda**

**DEPARTMENT OF LABOR (DOL)**

**DEPARTMENT OF LABOR**

**Office of the Secretary**

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

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

**30 CFR Ch. I**

**41 CFR Ch. 60**

**48 CFR Ch. 29**

**Semiannual Agenda of Regulations**

**AGENCY:** Office of the Secretary, Labor.

**ACTION:** Semiannual regulatory agenda.

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

The agenda complies with the requirements of both Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists all regulations that are expected to be under review or development between October 2005 and October 2006, as well as those completed during the past 6 months.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Franks, Director, Office of Regulatory Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution

Avenue NW., Room S-2312, Washington, DC 20210, (202) 693-5959.

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

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

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

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

The Regulatory Flexibility Act (under section 610) also requires agencies to

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

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

**Occupational Safety and Health Administration**

Excavations (RIN 1218-AC02)

Lead in Construction (RIN 1218-AC18)

**Employee Benefits Security Administration**

Prohibited Transaction Exemption Procedures (RIN 1210-AA98)

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

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

**Elaine L. Chao,**  
*Secretary of Labor.*

**Office of the Secretary—Final Rule Stage**

Sequence Number	Title	Regulation Identifier Number
2046	Production or Disclosure of Information or Materials .....	1290-AA17

**Employment Standards Administration—Prerule Stage**

Sequence Number	Title	Regulation Identifier Number
2047	Child Labor Regulations, Orders, and Statements of Interpretation .....	1215-AB44
2048	Union Officials: Guidelines for Fiduciary Responsibilities Under Section 501(a) of the Labor-Management Reporting and Disclosure Act .....	1215-AB52

## DOL

## Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2049	Amendments to the Fair Labor Standards Act .....	1215-AB13
2050	Family and Medical Leave Act of 1993; Conform to the Supreme Court's Ragsdale Decision ( <b>Reg Plan Seq No. 74</b> ) .....	1215-AB35
2051	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era .....	1215-AB46
2052	Labor Organization Officer and Employee Reports .....	1215-AB49

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

## Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2053	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era .....	1215-AB24
2054	Standards of Conduct for Federal Sector Labor Organizations .....	1215-AB48

## Employment Standards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2055	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models .....	1215-AB09
2056	Union Organization and Voting Rights: Criteria for Characterizing a Labor Organization as a Local, Intermediate, or National or International Labor Organization .....	1215-AB50
2057	Claims for Compensation Under the Energy Employees Occupational Illness Compensation Program Act of 2000, as Amended .....	1215-AB51

## Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2058	Government Contractors: Nondiscrimination and Affirmative Action Obligations, Executive Order 11246 (ESA/OFCCP) (Revised) .....	1215-AB28
2059	Requirements for Security of Insurance Obligations Under the Longshore and Harbor Workers' Compensation Act	1215-AB38
2060	Obligation To Solicit Race and Gender Data for Agency Enforcement Purposes .....	1215-AB45
2061	Service Contract Act Wage Determination OnLine Request Process .....	1215-AB47

## Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2062	Revision to the Department of Labor Benefit Regulations for Trade Adjustment Assistance for Workers Under the Trade Act of 1974, as Amended ( <b>Reg Plan Seq No. 75</b> ) .....	1205-AB32
2063	Revision to the Department of Labor Regulations for Petitions and Determinations of Eligibility To Apply for Trade Adjustment Assistance for Workers and Issuance of Regulations for the Alternative TAA ( <b>Reg Plan Seq No. 76</b> )	1205-AB40
2064	Labor Certification for the Permanent Employment of Aliens in the United States; Reducing the Incentives and Opportunities for Fraud and Abuse and Enhancing Program Integrity .....	1205-AB42

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

## DOL

## Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2065	Federal-State Unemployment Compensation (UC) Program; Confidentiality and Disclosure of Information in State UC Records .....	1205-AB18
2066	Attestations by Facilities Temporarily Employing H-1C Nonimmigrant Aliens as Registered Nurses .....	1205-AB27
2067	Post-Adjudication Audits of H-2B Petitions Other Than Logging in the United States .....	1205-AB36
2068	Labor Certification for the Permanent Employment of Aliens in the United States; Backlog Reduction .....	1205-AB37
2069	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models; Labor Attestations Re H-1B1 Visas for Chile and Singapore .....	1205-AB38
2070	Labor Condition Applications for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models; Filing Procedures .....	1205-AB39
2071	Federal-State Unemployment Compensation Program; Eligibility .....	1205-AB41
2072	Labor Conditions Applications for E-3 Visas in Specialty Occupations for Australian Non-immigrants .....	1205-AB43

## Employment and Training Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2073	Indian and Native American Welfare-to-Work Program .....	1205-AB16

## Employee Benefits Security Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2074	Prohibited Transaction Exemption Procedures ( <b>Section 610 Review</b> ) .....	1210-AA98
2075	Independence of Accountant .....	1210-AB09
2076	Plan Assets—Participant Contributions Regulation (610 Review) ( <b>Section 610 Review</b> ) .....	1210-AB11

## Employee Benefits Security Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2077	Civil Penalty for Failure To Provide Section 302 Notice .....	1210-AB01
2078	Amendment of Regulation Relating to Definition of Plan Assets—Participant Contributions ( <b>Reg Plan Seq No. 77</b> ) .....	1210-AB02
2079	Electronic Filing of Annual Reports .....	1210-AB04
2080	Revision of the Form 5500 Series and Implementing Regulations .....	1210-AB06
2081	Amendment of Section 404(c) Regulation—Disclosure .....	1210-AB07
2082	Amendment of Standards Applicable to General Statutory Exemption for Services .....	1210-AB08
2083	Amendment of Section 404(c) Regulation Default Investments ( <b>Reg Plan Seq No. 78</b> ) .....	1210-AB10

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

## Employee Benefits Security Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2084	Regulations Implementing the Health Care Access, Portability, and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996 ( <b>Reg Plan Seq No. 79</b> ) .....	1210-AA54
2085	Health Care Standards for Mothers and Newborns .....	1210-AA63
2086	Prohibiting Discrimination Against Participants and Beneficiaries Based on Health Status ( <b>Reg Plan Seq No. 80</b> ) .....	1210-AA77
2087	Rulemaking Relating to Termination of Abandoned Individual Account Plans ( <b>Reg Plan Seq No. 81</b> ) .....	1210-AA97
2088	Annual Funding Notice for Multiemployer Plans .....	1210-AB00
2089	Voluntary Fiduciary Correction Program .....	1210-AB03

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

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## Employee Benefits Security Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2090	Adequate Consideration .....	1210-AA15

## Employee Benefits Security Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2091	Rulemaking Relating to the Women's Health and Cancer Rights Act of 1998 .....	1210-AA75
2092	Statutory Exemption for Loans to Plan Participants ( <b>Completion of a Section 610 Review</b> ) .....	1210-AA99
2093	Claims Procedures for Medicare Integrated Plans .....	1210-AB05

## Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2094	Use of or Impairment From Alcohol and Other Drugs on Mine Property .....	1219-AB41

## Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2095	High-Voltage Continuous Mining Machine Standards for Underground Coal Mines .....	1219-AB34
2096	Revising Electrical Product Approval Regulations .....	1219-AB37
2097	Part 5—Fees for Testing, Evaluation, and Approval of Mining Products .....	1219-AB38
2098	Field Modifications of Permissible Mobile Diesel-Powered Equipment .....	1219-AB39

## Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2099	Improving and Eliminating Regulations .....	1219-AA98
2100	Asbestos Exposure Limit ( <b>Reg Plan Seq No. 82</b> ) .....	1219-AB24
2101	Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners ( <b>Reg Plan Seq No. 83</b> ) .....	1219-AB29
2102	Training Standards for Shaft and Slope Construction Workers at Underground Mines .....	1219-AB35
2103	Fire Extinguishers at Temporary Electrical Installations .....	1219-AB40

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

## Mine Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2104	Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust .....	1219-AB14
2105	Determination of Concentration of Respirable Coal Mine Dust .....	1219-AB18
2106	Respirable Crystalline Silica Standard .....	1219-AB36

DOL

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

Sequence Number	Title	Regulation Identifier Number
2107	Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Investment Act of 1998 .....	1291-AA29
2108	Grants and Agreements .....	1291-AA30

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2109	Occupational Exposure to Crystalline Silica ( <b>Reg Plan Seq No. 84</b> ) .....	1218-AB70
2110	Occupational Exposure to Beryllium .....	1218-AB76
2111	Cranes and Derricks .....	1218-AC01
2112	Excavations ( <b>Section 610 Review</b> ) .....	1218-AC02
2113	Ionizing Radiation .....	1218-AC11
2114	Emergency Response and Preparedness .....	1218-AC17
2115	Lead in Construction ( <b>Section 610 Review</b> ) .....	1218-AC18
2116	Standards Improvement .....	1218-AC19
2117	Hazard Communication .....	1218-AC20
2118	Notice on Supplier's Declaration of Conformity (SDoC) .....	1218-AC21

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2119	Confined Spaces in Construction (Part 1926): Preventing Suffocation/ Explosions in Confined Spaces .....	1218-AB47
2120	General Working Conditions for Shipyard Employment .....	1218-AB50
2121	Electric Power Transmission and Distribution; Electrical Protective Equipment .....	1218-AB67
2122	Explosives .....	1218-AC09

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2123	Assigned Protection Factors: Amendments to the Final Rule on Respiratory Protection ( <b>Reg Plan Seq No. 85</b> ) .....	1218-AA05
2124	Longshoring and Marine Terminals (Parts 1917 and 1918)—Reopening of the Record (Vertical Tandem Lifts (VTLs)) .....	1218-AA56
2125	Occupational Exposure to Hexavalent Chromium (Preventing Occupational Illness: Chromium) ( <b>Reg Plan Seq No. 86</b> ) .....	1218-AB45
2126	Employer Payment for Personal Protective Equipment .....	1218-AB77
2127	Revision and Update of Subpart S—Electrical Standards .....	1218-AB95
2128	Updating OSHA Standards Based on National Consensus Standards .....	1218-AC08
2129	Slip Resistance of Skeletal Structural Steel .....	1218-AC14
2130	Rollover Protective Structures; Overhead Protection .....	1218-AC15
2131	NFPA Standards in Shipyard Fire Protection .....	1218-AC16

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Occupational Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2132	Walking Working Surfaces and Personal Fall Protection Systems (1910) (Slips, Trips, and Fall Prevention) .....	1218-AB80

## DOL

## Occupational Safety and Health Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2133	Hearing Conservation Program for Construction Workers .....	1218-AB89

## Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2134	Oregon State Plan .....	1218-AC13

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

Sequence Number	Title	Regulation Identifier Number
2135	Jobs for Veterans Act of 2002: Contract Threshold and Eligibility Groups for Federal Contractor Program .....	1293-AA12

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

Sequence Number	Title	Regulation Identifier Number
2136	Uniformed Services Employment and Reemployment Rights Act Regulations ( <b>Reg Plan Seq No. 87</b> ) .....	1293-AA09
2137	Notice of Rights, Benefits, and Obligations Under the USERRA .....	1293-AA14

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

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

Sequence Number	Title	Regulation Identifier Number
2138	Jobs for Veterans Act of 2002: State Grant Funding Formula FY 2005 and Beyond .....	1293-AA11

## Department of Labor (DOL)

## Final Rule Stage

## Office of the Secretary (OS)

**2046. PRODUCTION OR DISCLOSURE OF INFORMATION OR MATERIALS**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 5 USC 301; 5 USC 552 as amended; 5 USC Reorganization Plan No. 6 of 1950; EO 12600, 52 FR 23781 (June 25, 1987)

**CFR Citation:** 29 CFR 70

**Legal Deadline:** None

**Abstract:** The regulation will incorporate the provisions of the 1996 FOIA amendments. These include

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

**Timetable:**

Action	Date	FR Cite
NPRM	03/30/04	69 FR 16740
NPRM Comment Period End	05/14/04	
Final Action	10/00/05	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Agency Contact:** Miriam McD. Miller, FOIA Counsel, Department of Labor, Office of the Secretary, Room N2428, 200 Constitution Avenue NW., FP Building, Washington, DC 20210  
Phone: 202 693-5522  
Email: miller.miriam@dol.gov

**RIN:** 1290-AA17

## Department of Labor (DOL)

Prerule Stage

## Employment Standards Administration (ESA)

**2047. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION**

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

**Unfunded Mandates:** Undetermined

**Legal Authority:** 29 USC 203(1)

**CFR Citation:** 29 CFR 570

**Legal Deadline:** None

**Abstract:** The Department of Labor is considering further possible revisions to the hazardous occupation orders that may be undertaken to address recommendations of the National Institute for Occupational Safety and Health in its May 2002 report to the Department on child labor regulations.

**Timetable:**

Action	Date	FR Cite
ANPRM	03/00/06	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Small Entities Affected:** Businesses, Governmental Jurisdictions

**Government Levels Affected:** Local, State

**Federalism:** Undetermined

**URL For Public Comments:**

[www.regulations.gov](http://www.regulations.gov)

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

Fax: 202 693-1302

**Related RIN:** Related to 1215-AA09

**RIN:** 1215-AB44

**2048. UNION OFFICIALS: GUIDELINES FOR FIDUCIARY RESPONSIBILITIES UNDER SECTION 501(A) OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT**

**Priority:** Other Significant

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

**CFR Citation:** Not Yet Determined

**Legal Deadline:** None

**Abstract:** This notice requests information from the public to assist the Department of Labor in determining whether to issue guidelines concerning the fiduciary obligations of union officers and other representative under section 501(a) of the LMRDA, 29 U.S.C. section 501. Section 501 states in general terms that officers and other representatives of a labor organization

occupy "positions of trust" within their labor organizations and must act in the best interest of their union. The LMRDA does not, however, describe in any detail the nature and scope of these fiduciary duties.

**Timetable:**

Action	Date	FR Cite
Request for Information	08/29/05	70 FR 51227
Comment Period End	10/28/05	
Next Action	Undetermined	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

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

**RIN:** 1215-AB52

## Department of Labor (DOL)

Proposed Rule Stage

## Employment Standards Administration (ESA)

**2049. AMENDMENTS TO THE FAIR LABOR STANDARDS ACT**

**Priority:** Other Significant

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

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

**Legal Deadline:** None

**Abstract:** Small Business Job Protection Act of 1996 (H.R. 3448) enacted on August 20, 1996 (Public Law 104-188, Title II) amended the Portal-to-Portal Act (PA) and the Fair Labor Standards Act (FLSA). The PA amendment excludes (under certain circumstances) from compensable "hours worked" the time spent by an employee in home-to-work travel in an employer-provided vehicle. The FLSA amendments: (1) Increased the \$4.25 Federal minimum hourly wage in two steps to \$5.15 on

September 1, 1997; (2) provided a \$4.25 subminimum wage for youth under age 20 in their first 90 calendar days of employment with an employer; (3) set the employer's direct wage payment obligation for tipped employees at \$2.13 per hour (provided such employees receive the balance of the full minimum wage in tips); and (4) set the hourly compensation requirements at no less than \$27.63 per hour for certain exempt professional employees in computer-related occupations. Changes will be required in the regulations to reflect these amendments. Other updates will address needed clarifications to additional sections of the regulations, including sections affected by Public Law 106-151, section 1 (Dec. 9, 1999), 113 Stat. 1731, and Public Law 106-202 (May 18, 2002), 114 Stat. 308.

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/05	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** Federal, Local, State

**URL For Public Comments:**

<http://www.regulations.gov>

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

**RIN:** 1215-AB13



## DOL—ESA

## Proposed Rule Stage

**2050. FAMILY AND MEDICAL LEAVE ACT OF 1993; CONFORM TO THE SUPREME COURT'S RAGSDALE DECISION**

**Regulatory Plan:** This entry is Seq. No. 74 in part II of this issue of the **Federal Register**.

**RIN:** 1215-AB35

**2051. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA**

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

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

**CFR Citation:** 41 CFR 60-300

**Legal Deadline:** None

**Abstract:** The Office of Federal Contract Compliance Programs (OFCCP) proposes to create a new regulation implementing the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) 38 USC 4212, to conform to the Jobs for Veterans Act (JVA). JVA amended VEVRAA in four ways. First, JVA raised contract coverage from \$25,000 to \$100,000. Second, JVA granted VEVRAA protection to a new group of veterans: those who, while serving on active duty in the Armed Forces, participated in a United States military operation for which an Armed Forces Service Medal was awarded pursuant to Executive Order 12985. Third, JVA changed the definition of "recently separated veteran" to include "any veteran during the three-year

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

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/05	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

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

**Related RIN:** Related to 1215-AB24

**RIN:** 1215-AB46

**2052. LABOR ORGANIZATION OFFICER AND EMPLOYEE REPORTS**

**Priority:** Other Significant

**Legal Authority:** 29 USC 432, 438

**CFR Citation:** 29 CFR 404.3

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	08/29/05	70 FR 51166
NPRM Comment Period End	10/28/05	
Final Action	05/00/06	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For More Information:** [www.olms.dol.gov](http://www.olms.dol.gov)

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

**RIN:** 1215-AB49

## Department of Labor (DOL)

## Employment Standards Administration (ESA)

## Final Rule Stage

**2053. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA**

**Priority:** Other Significant

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

**CFR Citation:** 41 CFR 60-250

**Legal Deadline:** None

**Abstract:** The regulation is a final rule that revises the current regulations

implementing the nondiscrimination and affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), as amended. VEVRAA requires Government contractors and subcontractors to take affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era. Today's rule makes three general types of revisions to the VEVRAA regulations. First, it generally conforms the VEVRAA regulations to the Veterans Employment Opportunities Act of 1998

and the Veterans Benefits and Health Care Improvement Act of 2000. Secondly, it removes language about the effective date of the rule published in 1998 because the language is obsolete, and regulations no longer contain an "effective date" paragraph. The Department of Labor has determined that this rulemaking need not be published as a proposed rule, as generally required by the Administrative Procedures Act, 5 U.S.C. 553, because the revisions in the rule are either nondiscretionary ministerial actions that merely

## DOL—ESA

## Final Rule Stage

incorporate, without change, statutory amendments into the preexisting regulations or are rules of agency procedures or practice.

**Timetable:**

Action	Date	FR Cite
Final Rule	10/00/05	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

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

Phone: 202 693-0102

TDD Phone: 202 693-1337

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**Related RIN:** Related to 1215-AB46

**RIN:** 1215-AB24

**2054. STANDARDS OF CONDUCT FOR FEDERAL SECTOR LABOR ORGANIZATIONS**

**Priority:** Other Significant

**Legal Authority:** 5 USC 7120

**CFR Citation:** 29 CFR 458.4 (New)

**Legal Deadline:** None

**Abstract:** This rulemaking action will revise the regulations implementing the standards of conduct for Federal sector unions under the Civil Service Reform Act of 1978 (CSRA). Under the CSRA standards of conduct provisions, the implementing regulations are to conform to the principles applied to private sector unions. Accordingly, the implementing regulations generally follow the provisions of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA). However, the standards of conduct regulations do not include one important provision of the LMRDA which requires unions to inform their members of the provisions of the statute. The proposed rule would amend the standards of conduct

regulations to include this important provision.

**Timetable:**

Action	Date	FR Cite
NPRM	11/03/04	69 FR 64221
NPRM Comment Period End	01/03/05	
Final Action	12/00/05	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** Organizations

**Government Levels Affected:** None

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

**RIN:** 1215-AB48

## Department of Labor (DOL)

## Employment Standards Administration (ESA)

## Long-Term Actions

**2055. LABOR CONDITION APPLICATIONS AND REQUIREMENTS FOR EMPLOYERS USING NONIMMIGRANTS ON H-1B VISAS IN SPECIALTY OCCUPATIONS AND AS FASHION MODELS**

**Priority:** Other Significant

**Legal Authority:** 29 USC 49 et seq; 8 USC 1101(a)(15)(H)(i)(b); 8 USC 1182(n); 8 USC 1184; PL 102-232; PL 105-277

**CFR Citation:** 20 CFR 655, subparts H and I

**Legal Deadline:** None

**Abstract:** The H-1B visa program of the Immigration and Nationality Act allows employers to temporarily employ nonimmigrants admitted into the United States under the H-1B visa category in specialty occupations and as fashion models, under specified labor conditions. An employer must file a labor condition application with the Department of Labor before the 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 public comment on earlier proposed provisions published in October 1995, and on particular interpretations of the statute and of the existing regulations which the Department proposed to incorporate into the regulations. Since publishing the proposed rule, Congress enacted further amendments to the H-1B provisions under the American Competitiveness in the Twenty-First Century Act of 2000 (Pub. L. 106-313; Oct. 17, 2000), the Immigration and Nationality Act—Amendments (Pub. L. 106-311; Oct. 17, 2000), and section 401 of the Visa Waiver Permanent Program Act (Pub. L. 106-396; Oct. 30, 2000).

**Timetable:**

Action	Date	FR Cite
NPRM	10/31/95	60 FR 55339
NPRM Comment Period End	11/30/95	
NPRM	01/05/99	64 FR 628

## DOL—ESA

## Long-Term Actions

Action	Date	FR Cite
NPRM Comment Period End	02/04/99	
Interim Final Rule	12/20/00	65 FR 80110
Interim Final Rule Effective	01/19/01	
Interim Final Rule Comment Period End	04/23/01	66 FR 10865
Final Action	To Be Determined	

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

**Additional Information:** On December 20, 2000, the Department published an interim final rule to implement the recent amendments and clarify the existing rules, and requested further public comment on those provisions.

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

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

**RIN:** 1215-AB09

### 2056. UNION ORGANIZATION AND VOTING RIGHTS: CRITERIA FOR CHARACTERIZING A LABOR ORGANIZATION AS A LOCAL, INTERMEDIATE, OR NATIONAL OR INTERNATIONAL LABOR ORGANIZATION

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

**Abstract:** The Request for Information sought comments from the public as to whether and how to revise the current tests for determining whether a labor

organization is a local union, intermediate union, or national or international union.

**Timetable:**

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

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

www.olms.dol.gov

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

**RIN:** 1215-AB50

### 2057. CLAIMS FOR COMPENSATION UNDER THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT OF 2000, AS AMENDED

**Priority:** Economically Significant. Major under 5 USC 801.

**Legal Authority:** 42 USC 7384d(a); 42 USC 7385s-10(e); EO 13179

**CFR Citation:** 20 CFR 1; 20 CFR 30**Legal Deadline:** None

**Abstract:** The regulations govern how the Office of Workers' Compensation Programs (OWCP) administers the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (EEOICPA), 42 U.S.C. 7384 et seq. Since July 31, 2001, OWCP has administered the provisions of Part B of the EEOICPA that were not assigned to the Secretary of Health and Human Services, to the Secretary of Energy, or to the Attorney General by EO 13179. Part B of the EEOICPA provides for the payment of lump-sum compensation and medical benefits to Department of Energy employees and certain of its

contractors and subcontractors (or their survivors) who sustained an occupational illness due to exposure to radiation, beryllium or silica. Part B also provides for medical benefits and a supplemental lump-sum payment to awardees under section 5 of the Radiation Exposure Compensation Act (RECA), 42 U.S.C. 2210 (note).

On October 28, 2004, the President signed legislation repealing former Part D of the EEOICPA that had been administered by the Secretary of Energy and creating a new Part E, which provides for the payment of additional monetary compensation (based on permanent impairment and/or wage loss) and medical benefits for DOE contractor employees (or their survivors) and uranium miners, millers and ore transporters covered by section 5 of the RECA (or their survivors) who sustained a covered illness due to exposure to a toxic substance while working at a DOE facility, or a uranium mine or mill covered under section 5 of RECA. Responsibility for administration of Part E of the EEOICPA was assigned to the Secretary of Labor.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	06/08/05	70 FR 33590
Interim Final Rule Comment Period End	08/08/05	
Interim Final Rule Effective	06/08/05	
Final Action	To Be Determined	

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

**Agency Contact:** Peter Turcic, Director, Division of Energy Employees Occupational Illness Compensation, OWCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, Room C-3321, Washington, DC 20210  
Phone: 202 693-0081  
Fax: 202 693-1465  
Email: turcic.peter@dol.gov

**RIN:** 1215-AB51

## Department of Labor (DOL)

## Completed Actions

## Employment Standards Administration (ESA)

**2058. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS, EXECUTIVE ORDER 11246 (ESA/OFCCP) (REVISED)****Priority:** Other Significant**Legal Authority:** 29 USC 793; EO 11246, as amended; 38 USC 4211; PL 94-502; EO 11758; PL 98-223; PL 102-16; PL 102-127; PL 95-520; PL 105-339; 29 USC 706; PL 97-306; PL 102-484; 38 USC 4212; PL 93-508, amended; PL 96-466; PL 101-237**CFR Citation:** 41 CFR 60-1 (Revision); 41 CFR 60-250 (Revision); 41 CFR 60-741 (Revision)**Legal Deadline:** None

**Abstract:** The final rule 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. The Office of Federal Contract Compliance Programs (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 Action	06/22/05	70 FR 36262
Final Action Effective	07/22/05	

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

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

N3422, FP Building, Washington, DC 20210

Phone: 202 693-0102

TDD Phone: 202 693-1337

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**RIN:** 1215-AB28**2059. REQUIREMENTS FOR SECURITY OF INSURANCE OBLIGATIONS UNDER THE LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT****Priority:** Other Significant**Legal Authority:** 33 USC 939(a)**CFR Citation:** 20 CFR 701 (Revision); 20 CFR 703**Legal Deadline:** None

**Abstract:** The Longshore and Harbor Workers' Compensation Act (LHWCA) makes a covered employer liable for compensation to employees injured in the course of their work. An employer may satisfy this liability by contracting with a private insurance carrier. By statute, an insurance carrier must obtain authorization from the Secretary of Labor to insure compensation, and the Secretary may revoke authorization for good cause. This proposed regulation would require, as a condition to authorization to write LHWCA insurance, an insurance carrier in certain circumstances to establish that its potential LHWCA obligations are sufficiently secured. Obligations would be considered sufficiently secured if funds would be available to cover all workers' compensation claims in the event of adverse market conditions and the carrier's insolvency. A carrier could fully secure its obligations by posting security deposits with the Secretary. Carriers would not, however, be required to make this showing in states which have a guaranty fund that fully and immediately covers LHWCA claims in the event of a carrier's insolvency.

**Timetable:**

Action	Date	FR Cite
NPRM	03/15/04	69 FR 12218
NPRM Comment Period End	05/14/04	
Final Action	07/26/05	70 FR 43224
Final Action Effective	08/25/05	

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

**Agency Contact:** Michael Niss, Director, Division of Longshore and Harbor Workers' Compensation, OWCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C-4315, FP Building, Washington, DC 20210

Phone: 202 693-0038

Fax: 202 693-1380

**RIN:** 1215-AB38**2060. OBLIGATION TO SOLICIT RACE AND GENDER DATA FOR AGENCY ENFORCEMENT PURPOSES****Priority:** Other Significant**Legal Authority:** EO 11246; EO 11375; EO 12086; EO 13279**CFR Citation:** 41 CFR 60-1**Legal Deadline:** None

**Abstract:** The Office of Federal Contract Compliance Programs (OFCCP) has promulgated regulations requiring covered federal contractors to maintain certain employment records for OFCCP compliance monitoring and other enforcement purposes. These regulations were amended on November 13, 2000, to require employers to be able to identify, where possible, the gender, race, and ethnicity of each applicant for employment. OFCCP promulgated this regulatory requirement to govern OFCCP compliance monitoring and enforcement purposes (e.g., to allow OFCCP to verify EEO data), consistent with the Uniform Guidelines on Employee Selection Procedures.

The Uniform Guidelines on Employee Selection Procedures were issued in 1978 by the Equal Employment Opportunity Commission, the Department of Labor, the Department of Justice, and the predecessor to the Office of Personnel Management (UGESP agencies). The Uniform Guidelines on Employee Selection Procedures require employers to keep certain kinds of information and detail methods for validating tests and selection procedures that are found to have a disparate impact.

In 2000, the Office of Management and Budget instructed the Equal Employment Opportunity Commission to consult with the Department of Labor, the Department of Justice, and the Office of Personnel Management and "evaluate the need for changes to the Questions and Answers

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## Completed Actions

accompanying the Uniform Guidelines necessitated by the growth of the Internet as a job search mechanism.”

The UGESP agencies recently have promulgated interpretive guidelines in question and answer format to clarify how the Uniform Guidelines on Employee Selection Procedures apply in the context of the Internet and related technologies. The recent interpretive guidelines expressly contemplate that each agency may provide further information, as appropriate, through the issuance of additional guidance or regulations that will allow each agency to carry out its specific enforcement responsibilities. The final rule would amend OFCCP recordkeeping requirements for OFCCP enforcement and compliance monitoring and other enforcement purposes to conform to the new interpretive guidance promulgated by the UGESP agencies.

**Timetable:**

Action	Date	FR Cite
NPRM	03/29/04	69 FR 16446
NPRM Comment Period End	05/28/04	
Final Action	10/07/05	70 FR 58946
Final Action Effective	02/06/06	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

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

**RIN:** 1215-AB45

**2061. SERVICE CONTRACT ACT WAGE DETERMINATION ONLINE REQUEST PROCESS**

**Priority:** Other Significant

**Legal Authority:** 41 USC 351 et seq; 41 USC 38; 41 USC 39; 5 USC 301

**CFR Citation:** 29 CFR 4

**Legal Deadline:** None

**Abstract:** The Department of Labor is revising the Service Contract Act (SCA) regulations to reflect changes and improvements in the process for requesting SCA wage determinations through the Wage Determinations OnLine (WDOL) system. WDOL (www.wdol.gov) is part of the Integrated Acquisition Environment, one of the e-Government initiatives in the President's Management Agenda. The WDOL program provides a Web-based environment for Federal

contracting agencies to use when obtaining appropriate wage determinations for their SCA-covered contract actions. The regulatory requirements set forth at 29 CFR part 4 that refer to the preparation and submission of Standard Form 98/98a, Notice of Intention to Make a Service Contract, will be revised to reflect the wage determination request process contemplated by the new WDOL program.

**Timetable:**

Action	Date	FR Cite
NPRM	12/16/04	69 FR 75408
NPRM Comment Period End	01/18/05	
Final Action	08/26/05	70 FR 50888
Final Action Effective	09/26/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For Public Comments:**

www.regulations.gov

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

**RIN:** 1215-AB47

## Department of Labor (DOL)

## Employment and Training Administration (ETA)

## Proposed Rule Stage

**2062. REVISION TO THE DEPARTMENT OF LABOR BENEFIT REGULATIONS FOR TRADE ADJUSTMENT ASSISTANCE FOR WORKERS UNDER THE TRADE ACT OF 1974, AS AMENDED**

**Regulatory Plan:** This entry is Seq. No. 75 in part II of this issue of the **Federal Register**.

**RIN:** 1205-AB32

**2063. REVISION TO THE DEPARTMENT OF LABOR REGULATIONS FOR PETITIONS AND DETERMINATIONS OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE FOR WORKERS AND ISSUANCE OF REGULATIONS FOR THE ALTERNATIVE TAA**

**Regulatory Plan:** This entry is Seq. No. 76 in part II of this issue of the **Federal Register**.

**RIN:** 1205-AB40

**2064. LABOR CERTIFICATION FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES; REDUCING THE INCENTIVES AND OPPORTUNITIES FOR FRAUD AND ABUSE AND ENHANCING PROGRAM INTEGRITY**

**Priority:** Other Significant

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

**CFR Citation:** 20 CFR 656

**Legal Deadline:** None

**Abstract:** The Department of Labor and the Department of Homeland Security are simultaneously proposing changes to reduce the incentives and opportunities for fraud and abuse related to the permanent employment of aliens in the United States. Among other key changes, the Department is

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## Proposed Rule Stage

proposing to eliminate the current practice of allowing the substitution of alien beneficiaries on applications and approved labor certifications. DOL is proposing to further reduce the likelihood of the submission of fraudulent applications for the permanent employment of aliens in the United States by proposing a 45-day deadline for employers to file approved permanent labor certifications in support of a petition with the Department of Homeland Security. The proposed rule expressly prohibits the sale, barter, or purchase of permanent

labor certifications or applications, as well as related payments. DOL will also propose enforcement mechanisms to protect program integrity, including debarment with appeal rights. These proposed amendments would apply to employers using both the Application for Alien Employment Certification (Form ETA 750) or the Application for Permanent Employment Certification (Form ETA 9089).

**Timetable:**

Action	Date	FR Cite
NPRM	10/00/05	

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

**Agency Contact:** Leticia Sierra, Acting Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4312, FP Building, Washington, DC 20210  
Phone: 202 693-3010  
Fax: 202 693-2768  
Email: sierra.leticia@dol.gov

**RIN:** 1205-AB42

## Department of Labor (DOL)

## Final Rule Stage

## Employment and Training Administration (ETA)

### 2065. FEDERAL-STATE UNEMPLOYMENT COMPENSATION (UC) PROGRAM; CONFIDENTIALITY AND DISCLOSURE OF INFORMATION IN STATE UC RECORDS

**Priority:** Other Significant**Legal Authority:** 26 USC ch 23; 42 USC 1302(a); 42 USC 1320b-7; 42 USC 503; Secretary's Orders 4-75 and 14-75**CFR Citation:** 20 CFR 603**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	08/12/04	69 FR 50022
NPRM Comment Period End	10/12/04	
Final Action	02/00/06	

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

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

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

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

**RIN:** 1205-AB18

### 2066. ATTESTATIONS BY FACILITIES TEMPORARILY EMPLOYING H-1C NONIMMIGRANT ALIENS AS REGISTERED NURSES

**Priority:** Other Significant**Legal Authority:** 29 USC 49 et seq; 8 USC 1101(a)(15)(H)(i)(c); 8 USC 1182(m); 8 USC 1184; PL 106-95, 113 Stat. 1312**CFR Citation:** 20 CFR 655, subparts L and M**Legal Deadline:** Final, Statutory, February 11, 2000.

**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	09/00/06	

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

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

**RIN:** 1205-AB27

### 2067. POST-ADJUDICATION AUDITS OF H-2B PETITIONS OTHER THAN LOGGING IN THE UNITED STATES

**Priority:** Other Significant**Legal Authority:** 8 USC 1101(a)(15)(H)(ii)(b); 8 USC 1184; 29 USC 49 et seq**CFR Citation:** 8 CFR 214.2(h)(5); 20 CFR 655.1 to 655.4**Legal Deadline:** None

**Abstract:** Under the redesigned H-2B temporary nonagricultural program employers seeking to use H-2B workers,

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## Final Rule Stage

except for applications filed for employment in Guam or in logging, will file directly with the Department of Homeland Security (DHS) instead of first filing an application for labor certification with the Department of Labor (DOL), as required under the current regulation. Under the regulations simultaneously proposed by DOL and DHS, the employer will be required to conduct recruitment before filing its petition. The petition will include a number of attestations concerning labor market and related issues identified in the DOL regulation. DHS will administer the petition adjudication process. After adjudication, DOL will audit selected approved petitions. In such audits, DOL will exclusively examine whether the employer has complied with those aspects of the approved petition related to the labor market and other related attestations. Employers will be expected to have documentation available supporting their attestations as specified in the regulation and will be required to provide this supporting documentation to DOL within 30 days from notice of audit. If, after completion of the audit, DOL determines that the employer has failed to comply with the terms of the attestations contained in the DHS petition or made material misrepresentations in its attestation, DOL will, after notice to the employer and opportunity for a hearing, recommend to DHS that the employer be debarred, for a period up to three years.

**Timetable:**

Action	Date	FR Cite
NPRM	01/27/05	70 FR 3993
NPRM Comment Period End	02/28/05	
NPRM Comment Period Reopened	03/09/05	70 FR 11592
NPRM Comment Period Extended to April 8, 2005	03/09/05	
Final Action	07/00/06	

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

**Agency Contact:** Leticia Sierra, Acting Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4312, FP Building, Washington, DC 20210  
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**RIN:** 1205-AB36**2068. LABOR CERTIFICATION FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES; BACKLOG REDUCTION****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 8 USC 1182(a)(5)(A)**CFR Citation:** 20 CFR 656**Legal Deadline:** None

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

**Timetable:**

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

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

**Agency Contact:** Leticia Sierra, Acting Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4312, FP Building, Washington, DC 20210  
Phone: 202 693-3010  
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**RIN:** 1205-AB37**2069. LABOR CONDITION APPLICATIONS AND REQUIREMENTS FOR EMPLOYERS USING NONIMMIGRANTS ON H-1B VISAS IN SPECIALTY OCCUPATIONS AND AS FASHION MODELS; LABOR ATTESTATIONS RE H-1B1 VISAS FOR CHILE AND SINGAPORE****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 8 USC 1101(a)(15)(H)(:)(b1) and 1184 (g)(8)(A); PL 108-77 sec 402; PL 108-78 sec 402**CFR Citation:** 20 CFR 656**Legal Deadline:** None

**Abstract:** The Department of Labor has amended its regulations relating to the temporary employment of foreign professionals to implement procedural requirements applicable to a new visa category - the H-1B1 visa. Congress created the new visa category as part of its approval of the Chile-United States Free Trade Agreement and the Singapore-United States Free Trade Agreement. Under the implementing legislation, DOL's responsibilities regarding H-1B1 visas are to be implemented in a manner similar to the existing H-1B program for temporary employment in specialty occupations and as fashion models. Under the regulatory procedures established by this Interim Final Rule, employers in the United States seeking to temporarily employ foreign professionals in specialty occupations through H-1B1 visas must file a labor condition application with the Department of Labor making the same attestations regarding payment of prevailing wages, working conditions, absence of strikes or lockouts, and notice to other employees that employers currently make when seeking entry of a foreign worker under the H-1B program.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	11/23/04	69 FR 68222
Interim Final Rule Effective	11/23/04	
Interim Final Rule Comment Period End	01/24/05	
Final Rule	02/00/06	

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

## DOL—ETA

## Final Rule Stage

**Agency Contact:** Leticia Sierra, Acting Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4312, FP Building, Washington, DC 20210  
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**RIN:** 1205-AB38

**2070. LABOR CONDITION APPLICATIONS FOR EMPLOYERS USING NONIMMIGRANTS ON H-1B VISAS IN SPECIALTY OCCUPATIONS AND AS FASHION MODELS; FILING PROCEDURES**

**Priority:** Other Significant

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

**CFR Citation:** 20 CFR 655.720; 20 CFR 655.730

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	04/01/05	70 FR 16774
NPRM Comment Period End	05/02/05	
Final Action	12/00/05	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Agency Contact:** Leticia Sierra, Acting Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4312, FP Building, Washington, DC 20210  
Phone: 202 693-3010  
Fax: 202 693-2768  
Email: sierra.leticia@dol.gov

**RIN:** 1205-AB39

**2071. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; ELIGIBILITY**

**Priority:** Other Significant

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

**CFR Citation:** 20 CFR 604 (New)

**Legal Deadline:** None

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

**Timetable:**

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

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** State

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

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

**RIN:** 1205-AB41

**2072. • LABOR CONDITIONS APPLICATIONS FOR E-3 VISAS IN SPECIALTY OCCUPATIONS FOR AUSTRALIAN NON-IMMIGRANTS**

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

**Legal Authority:** Not Yet Determined

**CFR Citation:** Not Yet Determined

**Legal Deadline:** None

**Abstract:** The Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, P.L. 109-13, 119 Stat. 231 was signed into law May 11, 2005. The Act adds a new treaty visa classification for Australian nonimmigrants coming to the U.S. solely to perform services in a specialty occupation. The Department proposes to amend the current H-1B regulation to incorporate references and provisions for the new E-3 program.

**Timetable:**

Action	Date	FR Cite
Final Action	02/00/06	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Undetermined

**Federalism:** Undetermined

**Agency Contact:** Leticia Sierra, Acting Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4312, FP Building, Washington, DC 20210  
Phone: 202 693-3010  
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Email: sierra.leticia@dol.gov

**RIN:** 1205-AB43



## Department of Labor (DOL)

## Completed Actions

## Employment and Training Administration (ETA)

**2073. 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. 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 were 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 operated until September 2004. The Department received no comments in response to the March 1, 1998, interim final rule, but through consultation received feedback on the interim final rule from 14 interested parties. None of these would substantively change the regulations. Because authority to spend WtW funds expired on September 30, 2004, we have decided not to finalize the interim final rule. Instead, we removed 20 CFR part 646.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	04/01/98	63 FR 15985

Action	Date	FR Cite
Interim Final Rule Effective	04/01/98	
Interim Final Rule Comment Period End	06/01/98	
Final Rule	07/14/05	70 FR 40869
Final Rule Effective	07/14/05	

**Regulatory Flexibility Analysis Required:** No**Government Levels Affected:** Tribal**Agency Contact:** Athena Brown, Department of Labor, Employment and Training Administration, Room N4641, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
Phone: 202 693-3841  
Email: brown.athena@dol.gov**RIN:** 1205-AB16

## Department of Labor (DOL)

## Prerule Stage

## Employee Benefits Security Administration (EBSA)

**2074. PROHIBITED TRANSACTION EXEMPTION PROCEDURES (SECTION 610 REVIEW)****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 1135; 29 USC 1108 (a); Reorganization Plan No. 4 or 1978; Secretary of Labor's Order 1-2003**CFR Citation:** 29 CFR 2570.30 to 2570.52**Legal Deadline:** None**Abstract:** EBSA is conducting a review of the prohibited transaction exemption procedures regulation 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 extent to which technology, economic conditions, or other factors have changed in industries affected by the rules. EBSA is preparing a Request for Information, which will invite interested persons to submit written comments on the regulation.**Timetable:**

Action	Date	FR Cite
Begin Review	12/01/03	
RFI	11/00/05	
End Review	11/00/05	

**Regulatory Flexibility Analysis Required:** Undetermined**Government Levels Affected:** Undetermined**Agency Contact:** Brian Buyniski, Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., Room N5649, Washington, DC 20210  
Phone: 202 693-8540**RIN:** 1210-AA98**2075. • INDEPENDENCE OF ACCOUNTANT****Priority:** Other Significant**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 1023(a)(3)(A); 29 USC 1135**CFR Citation:** 29 CFR 2509**Legal Deadline:** None**Abstract:** EBSA is conducting a review of the guidelines applicable to determining when a qualified public accountant is independent for purposes of auditing and rendering an opinion

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

**Timetable:**

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

**Regulatory Flexibility Analysis Required:** No**Government Levels Affected:** None**Agency Contact:** John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, Room N5669, 200 Constitution Avenue NW., FP Building, Washington, DC 20210  
Phone: 202 693-8500**RIN:** 1210-AB09

DOL—EBSA

Prerule Stage

**2076. • PLAN ASSETS – PARTICIPANT CONTRIBUTIONS REGULATION (610 REVIEW) (SECTION 610 REVIEW)**

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

**Unfunded Mandates:** Undetermined

**Legal Authority:** 29 USC 1135

**CFR Citation:** 29 CFR 2510.3–102

**Legal Deadline:** None

**Abstract:** EBSA is conducting a review of the plan assets - participant contributions regulation in accordance with the requirements of section 610 of the Regulatory Flexibility Act. The

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

**Timetable:**

Action	Date	FR Cite
Begin Review	12/00/05	
End Review	12/00/06	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** None

**Federalism:** Undetermined

**Agency Contact:** Rudolph F. Nuissl, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, Room N5669, 200 Constitution Avenue NW., FP Building, Washington, DC 20210  
Phone: 202 693–8500

**RIN:** 1210–AB11

**Department of Labor (DOL)**

**Proposed Rule Stage**

**Employee Benefits Security Administration (EBSA)**

**2077. CIVIL PENALTY FOR FAILURE TO PROVIDE SECTION 302 NOTICE**

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

**Unfunded Mandates:** Undetermined

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

**CFR Citation:** 29 CFR 2560

**Legal Deadline:** None

**Abstract:** This rulemaking implements the civil penalty provisions in section 103 of the Pension Funding Equity Act of 2004 (PFEA), which amended section 502(c)(4) of ERISA to permit the Secretary of Labor to assess a civil penalty of not more than \$1,000 a day for each violation by any person of the notice requirement in section 302(b)(7)(F)(vi) of ERISA, also added by the PFEA, relating to an election for deferral of charge for portion of net experience loss. Pursuant to section 101 of Presidential Reorganization Plan No. 4 of 1978, 43 FR 47713 (Oct. 17, 1978), all authority of the Secretary of Labor to issue regulations, rulings, opinions, variances and waivers under parts 2 and 3 of subtitle B of title I, including section 302 of ERISA, has been transferred to the Secretary of the Treasury.

**Timetable:**

Action	Date	FR Cite
NPRM	06/00/06	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:**

Undetermined

**Agency Contact:** Jeffrey Turner, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, N 5669, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210  
Phone: 202 693–8500

**RIN:** 1210–AB01

**2078. AMENDMENT OF REGULATION RELATING TO DEFINITION OF PLAN ASSETS—PARTICIPANT CONTRIBUTIONS**

**Regulatory Plan:** This entry is Seq. No. 77 in part II of this issue of the **Federal Register**.

**RIN:** 1210–AB02

**2079. ELECTRONIC FILING OF ANNUAL REPORTS**

**Priority:** Other Significant

**Legal Authority:** 29 USC 1135; 29 USC 1024(a)

**CFR Citation:** 29 CFR 2520.104a–2

**Legal Deadline:** None

**Abstract:** This rulemaking will amend the regulations under sec. 104(a) of ERISA setting forth the annual reporting requirements for employee benefit plans to require that such reports be filed electronically.

**Timetable:**

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

**Regulatory Flexibility Analysis Required:** Yes

**Small Entities Affected:** Businesses, Organizations

**Government Levels Affected:** None

**Public Compliance Cost:** Initial Cost: \$23,000,000; Yearly Recurring Cost: \$10,000,000; Base Year for Dollar Estimates: 2007

**Agency Contact:** Susan G. Lahne, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, Room N5669, 200 Constitution Avenue NW., FP Building, Washington, DC 20210  
Phone: 202 693–8500  
Fax: 202 219–7291

**RIN:** 1210–AB04

**2080. REVISION OF THE FORM 5500 SERIES AND IMPLEMENTING REGULATIONS**

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

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

**CFR Citation:** 29 CFR 2520

**Legal Deadline:** None

**Abstract:** This rulemaking would amend and update the regulatory and

## DOL—EBSA

## Proposed Rule Stage

related requirements for annual reporting by employer benefit plans in conjunction with EBSA's proposal to amend the regulations under section 104 to require that such reports be filed electronically.

**Timetable:**

Action	Date	FR Cite
NPRM	01/00/06	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** None

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

**RIN:** 1210-AB06

**2081. AMENDMENT OF SECTION 404(C) REGULATION—DISCLOSURE**

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

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

**CFR Citation:** 29 CFR 2550

**Legal Deadline:** None

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

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

**Timetable:**

Action	Date	FR Cite
NPRM	04/00/06	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** None

**Agency Contact:** Katherine D. Lewis, Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, Room N5669, 200 Constitution Avenue NW., FP Building, Room N-5669, Washington, DC 20210  
Phone: 202 693-8500

**RIN:** 1210-AB07

**2082. AMENDMENT OF STANDARDS APPLICABLE TO GENERAL STATUTORY EXEMPTION FOR SERVICES**

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

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

**CFR Citation:** 29 CFR 2550

**Legal Deadline:** None

**Abstract:** This rulemaking will amend the regulation setting forth the standards applicable to the exemption

under ERISA section 408(b)(2) for contracting or making a reasonable arrangements with a party in interest for office spaces for services (29 CFR section 2550.408b-2). This amendment will ensure that plan fiduciaries are provided or have access to that information necessary to a determination whether an arrangement for services is "reasonable" within the meaning of the statutory exemption, as well as the prudence requirements of ERISA section 404(a)(1)(B). This regulation is needed to eliminate the current uncertainty as to what information relating to services and fees plan fiduciaries must obtain and service providers must furnish for purposes of determining whether a contract for services to be rendered to a plan is reasonable.

**Timetable:**

Action	Date	FR Cite
NPRM	03/00/06	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** None

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

**RIN:** 1210-AB08

**2083. • AMENDMENT OF SECTION 404(C) REGULATION DEFAULT INVESTMENTS**

**Regulatory Plan:** This entry is Seq. No. 78 in part II of this issue of the **Federal Register**.

**RIN:** 1210-AB10

## Department of Labor (DOL)

## Final Rule Stage

## Employee Benefits Security Administration (EBSA)

**2084. REGULATIONS IMPLEMENTING THE HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY PROVISIONS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996**

**Regulatory Plan:** This entry is Seq. No. 79 in part II of this issue of the **Federal Register**.

**RIN:** 1210-AA54

**2085. HEALTH CARE STANDARDS FOR MOTHERS AND NEWBORNS**

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

**Unfunded Mandates:** Undetermined

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

**CFR Citation:** 29 CFR 2590.711

**Legal Deadline:** None

**Abstract:** The Newborns' and Mothers' Health Protection Act of 1996 (NMHPA) 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

## DOL—EBSA

## Final Rule Stage

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	06/00/06	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

**Agency Contact:** Amy Turner, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, Room N5677, 200 Constitution Avenue NW., FP Building, Washington, DC 20210  
Phone: 202 693-8335

**RIN:** 1210-AA63

### 2086. PROHIBITING DISCRIMINATION AGAINST PARTICIPANTS AND BENEFICIARIES BASED ON HEALTH STATUS

**Regulatory Plan:** This entry is Seq. No. 80 in part II of this issue of the **Federal Register**.

**RIN:** 1210-AA77

### 2087. RULEMAKING RELATING TO TERMINATION OF ABANDONED INDIVIDUAL ACCOUNT PLANS

**Regulatory Plan:** This entry is Seq. No. 81 in part II of this issue of the **Federal Register**.

**RIN:** 1210-AA97

### 2088. ANNUAL FUNDING NOTICE FOR MULTIEMPLOYER PLANS

**Priority:** Other Significant

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

**CFR Citation:** 29 CFR 2520

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

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

**Timetable:**

Action	Date	FR Cite
NPRM	02/04/05	70 FR 6306
NPRM Comment Period End	03/07/05	
Final Action	11/00/05	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:**

Undetermined

**Agency Contact:** Jeffrey Turner, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, N 5669, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210

Phone: 202 693-8500

**RIN:** 1210-AB00

### 2089. VOLUNTARY FIDUCIARY CORRECTION PROGRAM

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

**Unfunded Mandates:** Undetermined

**Legal Authority:** 29 USC 1132; 29 USC 1134

**CFR Citation:** 29 CFR 2560

**Legal Deadline:** None

**Abstract:** To encourage and facilitate voluntary correction of certain breaches by employee benefit plan fiduciaries of their obligations under title I of ERISA, EBSA previously implemented a Voluntary Fiduciary Correction Program (the Program). The Program relieves certain plan officials of the possibility of investigation and civil action by the Department and the imposition of civil penalties to the extent that plan officials satisfy the conditions for correcting breaches described in the Program. EBSA has decided to amend the Program by covering two additional transactions and by clarifying certain other operational requirements. EBSA will issue a restatement of the Program in its entirety and request public comment on the included amendments. EBSA believes that the restated Program will benefit workers by further encouraging the voluntary and timely correction of possible fiduciary breaches of part 4 of title I of ERISA. EBSA also anticipates that the restated Program will better assist plan officials in understanding the requirements of part 4 of title I of ERISA and their legal responsibilities in correcting fiduciary breaches.

**Timetable:**

Action	Date	FR Cite
Final Action	01/00/06	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** None

**Agency Contact:** Louis J. Campagna, Chief, Division of Fiduciary Interpretations, Office of Regulations and Interpretations, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210  
Phone: 202 693-8512  
Fax: 202 219-7291

**RIN:** 1210-AB03

## Department of Labor (DOL)

## Employee Benefits Security Administration (EBSA)

## Long-Term Actions

## 2090. ADEQUATE CONSIDERATION

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

**Unfunded Mandates:** Undetermined

**Legal Authority:** 29 USC 1002(18); 29 USC 1135

**CFR Citation:** 29 CFR 2510

**Legal Deadline:** None

**Abstract:** The regulation would set forth standards for determining "adequate consideration" under section 3(18) of ERISA for assets other than securities for which there is a generally recognized market.

## DOL—EBSA

## Long-Term Actions

## Timetable:

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

## Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

**Agency Contact:** Morton Klevan,  
Department of Labor, Employee  
Benefits Security Administration,

N5669, 200 Constitution Avenue NW.,  
FP Building, Washington, DC 20210  
Phone: 202 693-8500

RIN: 1210-AA15

## Department of Labor (DOL)

## Completed Actions

## Employee Benefits Security Administration (EBSA)

## 2091. RULEMAKING RELATING TO THE WOMEN'S HEALTH AND CANCER RIGHTS ACT OF 1998

Priority: Other Significant

**Legal Authority:** 29 USC 1135; 29 USC 1185; 29 USC 1191c

CFR Citation: None

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 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. This regulatory action is being withdrawn pending further interagency review.

## Timetable:

Action	Date	FR Cite
Request for Information (RFI)	05/28/99	64 FR 29186
Request for Information Comment Period End	06/28/99	
Withdrawn	07/15/05	

## Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

**Agency Contact:** Elena Lynett, Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., C5331, FP Building, Washington, DC 20210

Phone: 202 693-8335

RIN: 1210-AA75

## 2092. STATUTORY EXEMPTION FOR LOANS TO PLAN PARTICIPANTS (COMPLETION OF A SECTION 610 REVIEW)

Priority: Other Significant

**Legal Authority:** 29 USC 1135; 29 USC 1108 (b)(1)

CFR Citation: 29 CFR 2550.408 b-1

Legal Deadline: None

**Abstract:** EBSA has determined that the participant loan regulations under section 408(b)(1) of ERISA (29 CFR Part 2550) do not have a significant economic impact upon a substantial number of small entities within the meaning of section 610(a) of the Regulatory Flexibility Act (RFA). Accordingly, a substantive review thereof is not required by section 610(b) of the RFA.

## Timetable:

Action	Date	FR Cite
Begin Review	12/01/03	
End Review	05/27/05	

## Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

**Agency Contact:** Rudy Nuissl, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210  
Phone: 202 693-8500

RIN: 1210-AA99

## 2093. CLAIMS PROCEDURES FOR MEDICARE INTEGRATED PLANS

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

**Legal Authority:** 29 USC 1133; ERISA 503; 29 USC 1135; ERISA 505

CFR Citation: 29 CFR 2560.503-2

Legal Deadline: None

**Abstract:** This regulation would establish an alternative method of complying with the requirements of 29 CFR 2560.503-1 with respect to claims for benefits under group health plans that are integrated with Medicare programs, such as plans providing supplemental health benefits to enrollees in Medicare Advantage plan. This regulatory action is being withdrawn pending further agency review.

## Timetable:

Action	Date	FR Cite
Withdrawn	08/11/05	

## Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

**Agency Contact:** Jeffrey Turner, Senior Pension Law Specialist, Office of Regulations & Interpretations, Department of Labor, Employee Benefits Security Administration, Room N5669, 200 Constitution Avenue NW., FP Building, Washington, DC 20210  
Phone: 202 693-8500  
Fax: 202 219-7219  
Email: turner.jeffrey@dol.gov

RIN: 1210-AB05

**Department of Labor (DOL)**  
**Mine Safety and Health Administration (MSHA)**

Prerule Stage

**2094. • USE OF OR IMPAIRMENT FROM ALCOHOL AND OTHER DRUGS ON MINE PROPERTY**

**Priority:** Other Significant

**Legal Authority:** Not Yet Determined

**CFR Citation:** Not Yet Determined

**Legal Deadline:** None

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

soliciting information from the public to help determine how to proceed.

**Timetable:**

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

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** Businesses, Governmental Jurisdictions

**Government Levels Affected:** Local

**Agency Contact:** Rebecca J. Smith, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Rm 2350, Arlington, VA 22209

Phone: 202 693-9440

Fax: 202 693-9441

Email: smith.rebecca@dol.gov

**RIN:** 1219-AB41

**Department of Labor (DOL)**  
**Mine Safety and Health Administration (MSHA)**

Proposed Rule Stage

**2095. HIGH-VOLTAGE CONTINUOUS MINING MACHINE STANDARDS FOR UNDERGROUND COAL MINES**

**Priority:** Other Significant

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

**CFR Citation:** 30 CFR 18; 30 CFR 75

**Legal Deadline:** None

**Abstract:** Our current standards require that high-voltage equipment and transformers be kept at least 150 feet from coal extraction areas in underground coal mines. These requirements are intended to eliminate an ignition source for methane and coal dust in close proximity to the work area. The use of new mining technology, in the form of high-voltage continuous mining machines, is becoming more widespread in the mining industry. This equipment uses high-voltage electrical equipment and associated cables. Mine operators, however, must apply to MSHA for a petition for modification from the existing standards if they want to use this high-voltage equipment. The rule will eliminate the need for a modification to use this equipment, and will establish safety requirements for its use. The rule will also include design approval requirements for high-voltage continuous mining machines operated in face areas of underground coal mines.

**Timetable:**

Action	Date	FR Cite
NPRM	07/16/04	69 FR 42812
NPRM Comment Period End	08/23/04	69 FR 51784
Second NPRM	12/00/05	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Agency Contact:** Rebecca J. Smith, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Rm 2350, Arlington, VA 22209

Phone: 202 693-9440

Fax: 202 693-9441

Email: smith.rebecca@dol.gov

**RIN:** 1219-AB34

**2096. REVISING ELECTRICAL PRODUCT APPROVAL REGULATIONS**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 30 USC 957

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

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	01/00/06	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Agency Contact:** Rebecca J. Smith, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Rm 2350, Arlington, VA 22209

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**RIN:** 1219-AB37

**2097. PART 5—FEES FOR TESTING, EVALUATION, AND APPROVAL OF MINING PRODUCTS**

**Priority:** Other Significant

**Legal Authority:** 30 USC 957

**CFR Citation:** 30 CFR 5

**Legal Deadline:** None

**Abstract:** MSHA intends to publish a direct final rule to amend provisions of 30 CFR part 5, "Fees for testing, evaluation, and approval of mining products." MSHA has streamlined the manner in which the fee system is administered. This rule would update the existing regulation to reflect these changes, including: (1) The existing rule requires an application fee to offset costs of the initial administrative review of the application. Upon approval, this amount is deducted from the total fees due. MSHA deemed the practice to be an unnecessary administrative burden and eliminated the requirement. (2) Most fees are set

DOL—MSHA

Proposed Rule Stage

on an hourly basis; however, the MSHA Stamped Notification Acceptance Program (SNAP) and Stamped Revision Acceptance (SRA) Program charged only a nominal fixed fee for acceptance of certain changes to existing approvals. Each program covered specific types of products. To streamline this process, MSHA replaced both programs with the Revised Acceptance Modification Program (RAM), which provided one process for all types of products. (3) The existing rule requires MSHA to initially research the application and provide the applicant with an estimated maximum fee prior to beginning the technical investigation of the product. To expedite the approval process, MSHA now permits the applicant to pre-authorize an amount for each approval, which in turn allows MSHA to immediately begin the technical investigation while the fee estimate is being processed.

**Timetable:**

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

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

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**RIN:** 1219-AB38

**2098. • FIELD MODIFICATIONS OF PERMISSIBLE MOBILE DIESEL-POWERED EQUIPMENT**

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 30 CFR 36

**Legal Deadline:** None

**Abstract:** We are considering adding field modification requirements to part 36 - approval requirements for permissible mobile diesel-powered transportation equipment. The implementation of diesel regulations in

30 CFR parts 7, 36, 57, 72 and 75 has resulted in an increase in requests from owners of approved equipment, typically mine operators, to use modified permissible diesel-powered equipment, including mobile diesel-powered transportation equipment. These modifications allow permissible equipment to be modified for mine-specific use or to comply with existing diesel standards.

**Timetable:**

Action	Date	FR Cite
NPRM	02/00/06	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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**RIN:** 1219-AB39

Department of Labor (DOL)

Final Rule Stage

Mine Safety and Health Administration (MSHA)

**2099. 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. We published a proposed rule addressing the use of

low-and medium voltage three-phase circuits in underground coal mines. The rule would allow the use of low-and medium-voltage diesel-powered electrical generators as an alternative means of powering electrical equipment.

**Timetable:**

Action	Date	FR Cite
NPRM Comment Period End: Methane Testing	11/25/02	67 FR 60611
NPRM: Spring-Loaded Locks	01/22/03	68 FR 2941
Direct Final Rule: Spring-Loaded Locks	01/22/03	68 FR 2879
Withdrawal of Direct Final Rule: Spring-Loaded Locks	03/07/03	68 FR 10965
NPRM: Sanitary Toilets	04/21/03	68 FR 19477
NPRM: Seatbelts	04/21/03	68 FR 19474

Action	Date	FR Cite
Direct Final Rule: Sanitary Toilets	04/21/03	68 FR 19347
Direct Final Rule: Seatbelts	04/21/03	68 FR 19344
Final Rule: Sanitary Toilets	06/23/03	68 FR 37082
Final Rule: Spring-Loaded Locks	06/23/03	68 FR 37077
Final Rule Effective (Confirmation): Seatbelts	06/30/03	68 FR 36913
NPRM: Methane Testing	07/07/03	68 FR 40132
Final Rule: Methane Testing	07/07/03	68 FR 40132
Final Rule Effective: Sanitary Toilets	07/23/03	68 FR 37082
Final Rule Effective: Spring-Loaded Locks	08/22/03	68 FR 37077
NPRM: Portable Diesel Generator	06/25/04	69 FR 35992

DOL—MSHA

Final Rule Stage

Action	Date	FR Cite
Notice of Public Hearing – Diesel Generators	08/23/04	69 FR 51784
NPRM Comment Period End	12/10/04	
Final Action	11/00/05	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

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**RIN:** 1219-AA98

**2100. ASBESTOS EXPOSURE LIMIT**

**Regulatory Plan:** This entry is Seq. No. 82 in part II of this issue of the **Federal Register**.

**RIN:** 1219-AB24

**2101. DIESEL PARTICULATE MATTER EXPOSURE OF UNDERGROUND METAL AND NONMETAL MINERS**

**Regulatory Plan:** This entry is Seq. No. 83 in part II of this issue of the **Federal Register**.

**RIN:** 1219-AB29

**2102. TRAINING STANDARDS FOR SHAFT AND SLOPE CONSTRUCTION WORKERS AT UNDERGROUND MINES**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 30 USC 811; 30 USC 825

**CFR Citation:** 30 CFR 48.2; 30 CFR 48.3; 30 CFR 48.8; 30 CFR 48.22; 30 CFR 48.23; 30 CFR 48.28

**Legal Deadline:** None

**Abstract:** This rule would remove the language that exempts shaft and slope construction workers from being required to take part 48 training. Shaft and slope construction workers, for training purposes, would be treated like underground and surface extraction and production miners.

**Timetable:**

Action	Date	FR Cite
NPRM	07/16/04	69 FR 42842
Public Hearing	08/24/04	
Public Hearing	08/26/04	
Comment Period End	09/14/04	
Final Action	11/00/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

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**RIN:** 1219-AB35

**2103. ● FIRE EXTINGUISHERS AT TEMPORARY ELECTRICAL INSTALLATIONS**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 30 USC 811

**CFR Citation:** 30 CFR 75.1100-2

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
Direct Final Rule	12/00/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

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**RIN:** 1219-AB40

Department of Labor (DOL)

Mine Safety and Health Administration (MSHA)

Long-Term Actions

**2104. VERIFICATION OF UNDERGROUND COAL MINE OPERATORS' DUST CONTROL PLANS AND COMPLIANCE SAMPLING FOR RESPIRABLE DUST**

**Priority:** Other Significant

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

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

**Legal Deadline:** None

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

In response to comments received on the July 2000 proposed rule for MSHA

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

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



## DOL—MSHA

## Long-Term Actions

or environmental controls were exhausted.

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

**Timetable:**

Action	Date	FR Cite
NPRM	07/07/00	65 FR 42122
Notice of Hearings; Close of Record	07/07/00	65 FR 42186
Extension of Comment Period; Close	09/08/00	65 FR 49215
NPRM	03/06/03	68 FR 10784
Notice of Public Hearing; Close of Record	03/17/03	68 FR 12641
Extension of Comment Period	05/29/03	68 FR 32005
NPRM Comment Period End	06/04/03	
Extension of Comment Period	07/03/03	68 FR 39881
NPRM	To Be Determined	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** None

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

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**Related RIN:** Related to 1219-AB18

**RIN:** 1219-AB14

**2105. DETERMINATION OF CONCENTRATION OF RESPIRABLE COAL MINE DUST**

**Priority:** Other Significant

**Legal Authority:** 30 USC 811

**CFR Citation:** 30 CFR 72

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	07/07/00	65 FR 42068
Notice of Hearings; Close of Record	07/07/00	65 FR 42185
Extension of Comment Period	08/11/00	65 FR 49215
Reopen Record for Comments	03/06/03	68 FR 10940
Notice of Public Hearings; Close of Record	03/17/03	68 FR 12641
Extension of Comment Period	05/29/03	68 FR 32005
Reopen Record Comment Period End	06/04/03	
Extension of Comment Period; Reopening of Record	08/12/03	68 FR 47886
NPRM	To Be Determined	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** None

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

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**Related RIN:** Related to 1219-AB14

**RIN:** 1219-AB18

**2106. RESPIRABLE CRYSTALLINE SILICA STANDARD**

**Priority:** Other Significant

**Legal Authority:** 30 USC 811; 30 USC 813

**CFR Citation:** 30 CFR 56; 30 CFR 57; 30 CFR 58; 30 CFR 70; 30 CFR 71; 30 CFR 72; 30 CFR 90

**Legal Deadline:** None

**Abstract:** Current standards limit exposures to quartz (crystalline silica) in respirable dust. The coal mining industry standard is based on the formula 10mg/m<sup>3</sup> divided by the percentage of quartz where the quartz percent is greater than 5.0 percent calculated as an MRE equivalent concentration. The metal and nonmetal mining industry standard is based on the 1973 American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Values formula: 10 mg/m<sup>3</sup> divided by the percentage of quartz plus 2. Overexposure to crystalline silica can result in some miners developing silicosis which may ultimately be fatal. Both formulas are designed to maintain exposures to 0.1 mg/m<sup>3</sup> (100 ug) of silica. The Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers made several recommendations related to reducing exposure to silica. NIOSH and ACGIH recommend a 50ug/ m<sup>3</sup> exposure limit for respirable crystalline silica. MSHA is considering several options to reduce miners' exposure to crystalline silica.

**DOL—MSHA**

**Long-Term Actions**

**Timetable:**

Action	Date	FR Cite
Request for Information	To Be Determined	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

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**RIN:** 1219-AB36

**Department of Labor (DOL)**

**Long-Term Actions**

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

**2107. IMPLEMENTATION OF THE NONDISCRIMINATION AND EQUAL OPPORTUNITY REQUIREMENTS OF THE WORKFORCE INVESTMENT ACT OF 1998**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 29 USC 2938 Workforce Investment Act

**CFR Citation:** 29 CFR 37

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

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

final rule will be issued after congressional action on the reauthorization of WIA.

**Timetable:**

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

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** Local, State, Tribal

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**RIN:** 1291-AA29

**2108. GRANTS AND AGREEMENTS**

**Priority:** Other Significant

**Legal Authority:** PL 105-277

**CFR Citation:** 29 CFR 95

**Legal Deadline:** None

**Abstract:** This regulation amends 29 CFR 95.36, to ensure that all data produced under an award will be available to the public through the

procedures established in the Freedom of Information Act. P.L. 105-277 mandated this change. The regulation was published as “interim final” on May 16, 2000, and is in effect. This is a regulation developed and published as a common rule (Governmentwide). Since its publication, the lead agency (HHS) has not approached other Federal agencies to finalize the regulation. Public comments were submitted to HHS and to DOL (1 comment received) to be addressed in the publication of the regulation as final.

**Timetable:**

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

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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**RIN:** 1291-AA30

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

Prerule Stage

**2109. OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA**

**Regulatory Plan:** This entry is Seq. No. 84 in part II of this issue of the **Federal Register**.

**RIN:** 1218-AB70

**2110. OCCUPATIONAL EXPOSURE TO BERYLLIUM**

**Priority:** Economically Significant. Major under 5 USC 801.

**Unfunded Mandates:** Undetermined

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

**CFR Citation:** 29 CFR 1910

**Legal Deadline:** None

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

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

**Timetable:**

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

**Regulatory Flexibility Analysis**

**Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

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**RIN:** 1218-AB76

**2111. CRANES AND DERRICKS**

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

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

**CFR Citation:** 29 CFR 1926

**Legal Deadline:** None

**Abstract:** Subpart N addresses hazards associated with various types of hoisting equipment used at construction sites. Such equipment includes cranes and derricks. The existing rule, which dates back to 1971, is based in part on industry consensus standards from 1958, 1968, and 1969. There have been considerable technological changes since those consensus standards were developed. Industry consensus standards for derricks and for crawler, truck and locomotive cranes were updated as recently as 1995.

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

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

**Timetable:**

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

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** Undetermined

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**RIN:** 1218-AC01

**2112. EXCAVATIONS (SECTION 610 REVIEW)**

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 29 CFR 1926.650 to 1926.652

**Legal Deadline:** None

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

## DOL—OSHA

## Prerule Stage

**Timetable:**

Action	Date	FR Cite
Begin Review	12/01/01	
Request for Comments	08/21/02	67 FR 54103
Comment Period End	11/19/02	
End Review	04/00/06	

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

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**RIN:** 1218-AC02**2113. IONIZING RADIATION****Priority:** Other Significant**Legal Authority:** 29 USC 655(b)**CFR Citation:** 29 CFR 1910.109**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
Request for Information (RFI)	05/03/05	70 FR 22828

Action	Date	FR Cite
Request for Information Comment Period End	08/01/05	70 FR 22828
Request for Information Comment Period Extended	11/28/05	70 FR 44074

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

Undetermined

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**RIN:** 1218-AC11**2114. EMERGENCY RESPONSE AND PREPAREDNESS****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 655(b); 29 USC 657**CFR Citation:** 29 CFR 1910**Legal Deadline:** None

**Abstract:** Emergency responder health and safety is currently regulated primarily under the following standards: the fire brigade standard (29 CFR 1910.156); hazardous waste operations and emergency response (29 CFR 1910.120); the respiratory protection standard (29 CFR 1910.134); the permit-required confined space standard (29 CFR 1910.146); and the bloodborne pathogens standard (29 CFR 1910.1030). Some of these standards were promulgated decades ago and none were designed as comprehensive emergency response standards. Consequently, they do not address the full range of hazards or concerns currently facing emergency responders. Many do not reflect major changes in performance specifications for protective clothing and equipment. Current OSHA standards also do not reflect all the major developments in safety and health practices that have already been accepted by the emergency response community and

incorporated into National Fire Protection Association (NFPA) and American National Standards Institute consensus standards. OSHA will be collecting information to evaluate what action the agency should take.

**Timetable:**

Action	Date	FR Cite
Request for Information	12/00/05	

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

Undetermined

**Federalism:** Undetermined

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**RIN:** 1218-AC17**2115. LEAD IN CONSTRUCTION (SECTION 610 REVIEW)****Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 655(b); 5 USC 553; 5 USC 610**CFR Citation:** 29 CFR 1926.62**Legal Deadline:** None

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

**Timetable:**

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

## DOL—OSHA

## Prerule Stage

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

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**RIN:** 1218-AC18**2116. STANDARDS IMPROVEMENT****Priority:** Other Significant**Legal Authority:** 29 USC 655(b)**CFR Citation:** Not Yet Determined**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
ANPRM	12/00/05	

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

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**RIN:** 1218-AC19**2117. HAZARD COMMUNICATION****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 29 USC 655(b); 29 USC 657**CFR Citation:** 29 CFR 1910.1200; 29 CFR 1915.1200; 29 CFR 1917.28; 29 CFR 1918.90; 29 CFR 1926.59; 29 CFR 1928.21**Legal Deadline:** None

**Abstract:** OSHA's Hazard Communication Standard (HCS) requires chemical manufacturers and importers to evaluate the hazards of the chemicals they produce or import, and prepare labels and material safety data sheets to convey the hazards and associated protective measures to users of the chemicals. All employers with hazardous chemicals in their workplaces are required to have a hazard communication program, including labels on containers, material safety data sheets, and training for employees. Within the United States (US), there are other Federal agencies that also have requirements for classification and labeling of chemicals at different stages of the life cycle. Internationally, there are a number of countries that have developed similar laws that require information about chemicals to be prepared and transmitted to affected parties. These laws vary with regard to the scope of substances covered, definitions of hazards, the specificity of requirements (e.g., specification of a format for MSDSs), and the use of symbols and pictograms. The inconsistencies between the various laws are substantial enough that different labels and safety data sheets must often be used for the same product when it is marketed in different nations.

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

with the complexities and costs involved.

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

**Timetable:**

Action	Date	FR Cite
ANPRM	12/00/05	

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

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**RIN:** 1218-AC20**2118. • NOTICE ON SUPPLIER'S DECLARATION OF CONFORMITY (SDOC)****Priority:** Info./Admin./Other. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 655(b)**CFR Citation:** 29 CFR 1910**Legal Deadline:** None

**Abstract:** OSHA requests information and comments on a specific proposal submitted to OSHA to permit the use of a Supplier's Declaration of Conformity (SDoC) as part of, or as an

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Prerule Stage

alternative to, the Nationally Recognized Testing Laboratories (NRTLs) product approval process. NRTLs are third-party (i.e., independent) organizations, and many of OSHA's workplace standards require that certain types of equipment be approved (i.e., tested and certified) by an NRTL. Under SDoC, manufacturers self-approve their products.

**Timetable:**

Action	Date	FR Cite
Request for Information	10/00/05	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

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**RIN:** 1218-AC21

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

**Proposed Rule Stage**

**2119. CONFINED SPACES IN CONSTRUCTION (PART 1926): PREVENTING SUFFOCATION/ EXPLOSIONS IN CONFINED SPACES**

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

**Unfunded Mandates:** Undetermined

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

**CFR Citation:** 29 CFR 1926.36

**Legal Deadline:** None

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

**Timetable:**

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

**Regulatory Flexibility Analysis Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** Undetermined

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**RIN:** 1218-AB47

**2120. GENERAL WORKING CONDITIONS FOR SHIPYARD EMPLOYMENT**

**Priority:** Substantive, Nonsignificant

**Unfunded Mandates:** Undetermined

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

**CFR Citation:** 29 CFR 1915 subpart F

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	01/00/06	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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**RIN:** 1218-AB50

**2121. ELECTRIC POWER TRANSMISSION AND DISTRIBUTION; ELECTRICAL PROTECTIVE EQUIPMENT**

**Priority:** Economically Significant. Major under 5 USC 801.

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

**CFR Citation:** 29 CFR 1910.136; 29 CFR 1910.137; 29 CFR 1910.269; 29 CFR 1926 subpart V; 29 CFR 1926.97

**Legal Deadline:** None

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

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## Proposed Rule Stage

addresses fall protection in aerial lifts for power generation, transmission and distribution work. OSHA published a NPRM on June 15, 2005. A public hearing is scheduled to begin on March 6, 2006.

**Timetable:**

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

**Regulatory Flexibility Analysis**

**Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:**

Undetermined

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**RIN:** 1218-AB67

**2122. EXPLOSIVES**

**Priority:** Other Significant

**Legal Authority:** 29 USC 655(b)

**CFR Citation:** 29 CFR 1910.109

**Legal Deadline:** None

**Abstract:** OSHA is amending 29 CFR 1910.109 that addresses explosives and blasting agents. These OSHA regulations were published in 1974, and many of the provisions do not reflect technological and safety advances made by the industry since that time. Additionally, the standard contains outdated references and classifications. Two trade associations representing many of the employers subject to this rule have petitioned the Agency to consider revising it, and have recommended changes they believe address the concerns they are raising. Initially, OSHA planned to revise the pyrotechnics requirements in this NPRM. However, based on our

work to date, it appears appropriate to reserve action on these requirements for a second phase of rulemaking. The agency therefore plans to propose revisions to 29 CFR 1910.109 without any changes to the existing pyrotechnics requirements, and at a future date will develop a proposed rule for pyrotechnics revision.

**Timetable:**

Action	Date	FR Cite
NPRM	02/00/06	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:**

Undetermined

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**RIN:** 1218-AC09

## Department of Labor (DOL)

## Final Rule Stage

## Occupational Safety and Health Administration (OSHA)

**2123. ASSIGNED PROTECTION FACTORS: AMENDMENTS TO THE FINAL RULE ON RESPIRATORY PROTECTION**

**Regulatory Plan:** This entry is Seq. No. 85 in part II of this issue of the **Federal Register**.

**RIN:** 1218-AA05

**2124. LONGSHORING AND MARINE TERMINALS (PARTS 1917 AND 1918)—REOPENING OF THE RECORD (VERTICAL TANDEM LIFTS (VTLs))**

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

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

**CFR Citation:** 29 CFR 1918.11; 29 CFR 1918.85

**Legal Deadline:** None

**Abstract:** OSHA issued a final rule on Longshoring on July 25, 1997 (62 FR 40142). However, in that rule, the Agency reserved provisions related to

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

**Timetable:**

Action	Date	FR Cite
NPRM	06/06/94	59 FR 28594
NPRM Comment Period End	09/23/94	

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

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

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**RIN:** 1218-AA56

DOL—OSHA

Final Rule Stage

**2125. OCCUPATIONAL EXPOSURE TO HEXAVALENT CHROMIUM (PREVENTING OCCUPATIONAL ILLNESS: CHROMIUM)**

**Regulatory Plan:** This entry is Seq. No. 86 in part II of this issue of the Federal Register.

**RIN:** 1218–AB45

**2126. EMPLOYER PAYMENT FOR PERSONAL PROTECTIVE EQUIPMENT**

**Priority:** Other Significant

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

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

**Legal Deadline:** None

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

**Timetable:**

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

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** Federal, Local, State

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**RIN:** 1218–AB77

**2127. REVISION AND UPDATE OF SUBPART S—ELECTRICAL STANDARDS**

**Priority:** Other Significant

**Legal Authority:** 29 USC 655(b)

**CFR Citation:** 29 CFR 1910 subpart S

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	04/05/04	69 FR 17773
NPRM Comment Period End	06/04/04	
Final Action	02/00/06	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

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**RIN:** 1218–AB95

**2128. UPDATING OSHA STANDARDS BASED ON NATIONAL CONSENSUS STANDARDS**

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

**Legal Authority:** 29 USC 655(b)

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

**Legal Deadline:** None

**Abstract:** Under section 6(a) of the OSH Act, during the first two years of the Act, the Agency was directed to adopt national consensus standards as OSHA standards. Some of these standards were adopted as regulatory text, while others were incorporated by reference. In the more than thirty years since these standards were adopted by OSHA, the organizations responsible for these consensus standards have issued updated versions of these standards. However, in most cases, OSHA has not revised its regulations to reflect later editions of the consensus standards. OSHA standards also continue to incorporate by reference various consensus standards that are now outdated and, in some cases, out of print.

The Agency is undertaking a multi-year project to update these standards. A notice describing the project was published in the Federal Register on November 24, 2004 (69 FR 68283), along with a direct final rule and notice of proposed rulemaking on the first set of standards to be addressed. The direct final rule has been withdrawn since a significant adverse comment was received, and a final rule based on the NPRM has been prepared. The next set of standards is in preparation as well.

**Timetable:**

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



## DOL—OSHA

## Final Rule Stage

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

Undetermined

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**RIN:** 1218-AC08**2129. SLIP RESISTANCE OF SKELETAL STRUCTURAL STEEL****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 29 USC 655(b) ; 40 USC 333; 29 CFR 1911**CFR Citation:** 29 CFR 1926.754(c)(3)

**Legal Deadline:** Other, Judicial, July 18, 2004, Notice of limited reopening of record for 1926.754(c)(3). Final, Judicial, January 18, 2006, Final Rule Deadline per Settlement Agreement.

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

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

**Timetable:**

Action	Date	FR Cite
NPRM	07/15/04	69 FR 42379
NPRM Comment Period End	10/13/04	
Final Rule	01/00/06	

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

Undetermined

**Federalism:** Undetermined

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**RIN:** 1218-AC14**2130. ROLLOVER PROTECTIVE STRUCTURES; OVERHEAD PROTECTION****Priority:** Substantive, Nonsignificant**Unfunded Mandates:** Undetermined

**Legal Authority:** 29 CFR 1928 subpart C; sec 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 USC 653,655,657); Secretary of Labor's Order No. 12.71(36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736, 1-90(55 FR 9033), 6-96(62 FR 111), 3-2000(65 FR 50017) or 5-2002(67 FR 65008) as applicable.sec 1928.51, 192; 29 CFR 1926 subpart W – Rollover Protective Structures; Overhead Protection: sec 107, Contract Work Hours and Safety Standards Act (Construction Safety Act), 40 USC 333; sec 1926.1002 and 19

**CFR Citation:** 29 CFR 1926; 29 CFR 1928**Legal Deadline:** None

**Abstract:** In 1996, OSHA published a technical amendment revising the construction and agriculture standards that regulate testing of roll-over protective structures (ROPS) used to protect employees who operate wheel-type tractors. This revision removed the original, detailed ROPS standards and replaced them with references to national consensus standards for ROPS-testing requirements. The Agency believed that the national consensus standards largely duplicated the ROPS standards they replaced, and that any differences between them were not substantive. Subsequently, OSHA identified several substantive differences between the national consensus standards and the original ROPS standards. The direct final rule

will reinstate the original ROPS standards.

**Timetable:**

Action	Date	FR Cite
Direct Final Rule	11/00/05	

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

Undetermined

**Federalism:** Undetermined

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**RIN:** 1218-AC15**2131. NFPA STANDARDS IN SHIPYARD FIRE PROTECTION****Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 655(b); 29 USC 657**CFR Citation:** 29 CFR 1915.4; 29 CFR 1915.505; 29 CFR 1915.507**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
Direct Final Rule	12/00/05	

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

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## DOL—OSHA

## Final Rule Stage

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

## Long-Term Actions

**2132. WALKING WORKING SURFACES AND PERSONAL FALL PROTECTION SYSTEMS (1910) (SLIPS, TRIPS, AND FALL PREVENTION)**

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

**Unfunded Mandates:** Undetermined

**Legal Authority:** 29 USC 655(b)

**CFR Citation:** 29 CFR 1910 subparts D and I

**Legal Deadline:** None

**Abstract:** In 1990, OSHA proposed a rule (55 FR 13360) addressing slip, trip, and fall hazards and establishing requirements for personal fall protection systems. Since that time, new technologies and procedures have become available to protect employees from these hazards. The Agency has been working to update these rules to reflect current technology. OSHA published a notice to re-open the rulemaking for comment on a number of issues raised in the record for the NPRM. As a result of the comments received on that notice, OSHA has determined that the rule proposed in 1990 is out-of-date and does not reflect current industry practice or technology. The Agency will develop a new proposal, modified to reflect current information, as well as re-assess the impact.

**Timetable:**

Action	Date	FR Cite
NPRM	04/10/90	55 FR 13360
NPRM Comment Period End	08/22/90	
Hearing	09/11/90	55 FR 29224

Action	Date	FR Cite
Reopen Record	05/02/03	68 FR 23527
Comment Period End	07/31/03	
NPRM	10/00/06	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

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**RIN:** 1218–AB80

**2133. HEARING CONSERVATION PROGRAM FOR CONSTRUCTION WORKERS**

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

**Unfunded Mandates:** Undetermined

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

**CFR Citation:** 29 CFR 1926.52

**Legal Deadline:** None

**Abstract:** OSHA issued a section 6(b)(5) health standard mandating a comprehensive hearing conservation program for noise-exposed workers in general industry in 1983. However, no rule was promulgated to cover workers in the construction industry. A number of recent studies have shown that many construction workers experience work-

related hearing loss. In addition, the use of engineering, administrative and personal protective equipment to reduce exposures to noise is not extensive in this industry. OSHA published an advance notice of proposed rulemaking to gather information on the extent of noise-induced hearing loss among workers in different trades in this industry, current practices to reduce this loss, and additional approaches and protections that could be used to prevent such loss in the future. Work continues on collecting and analyzing information to determine technological and economic feasibility of possible approaches.

**Timetable:**

Action	Date	FR Cite
ANPRM	08/05/02	67 FR 50610
ANPRM Comment Period End	11/04/02	
Stakeholder Meetings	03/24/04	
Additional Stakeholder Meeting	07/21/04	
Next Action	Undetermined	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

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**RIN:** 1218–AB89

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

## Completed Actions

**2134. OREGON STATE PLAN**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 29 USC 667

**CFR Citation:** 29 CFR 1952

**Legal Deadline:** None

**Abstract:** OSHA will propose to grant final approval under section 18(e) of the OSH Act for the Oregon State occupational safety and health plan, administered by the Division of Occupational Safety and Health (OR-OSHA) of the Oregon Department of

Consumer and Business Services. Following a comment period and opportunity to request a public hearing, OSHA will make a final determination as to whether to grant final approval of the State plan. Actual performance by the State must be “at least as effective”

## DOL—OSHA

## Completed Actions

overall as the Federal OSHA program in all areas covered under the State plan. Final approval results in the relinquishment of authority for Federal concurrent enforcement jurisdiction in the State with respect to safety and health issues covered by the plan.

**Timetable:**

Action	Date	FR Cite
Notice of Eligibility for Final Approval	12/16/04	69 FR 75435
NPRM Comment Period End	01/18/05	

Action	Date	FR Cite
Notice of Final Approval Determination	05/12/05	70 FR 23886
Notice of Final Approval Determination Effective Date	05/12/05	70 FR 23886

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** State

**Agency Contact:** Paula O. White, Director, Federal-State Operations, Department of Labor, Occupational Safety and Health Administration, Room N3700, 200 Constitution Avenue NW., FP Building, Washington, DC 20210

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**RIN:** 1218-AC13

## Department of Labor (DOL)

## Proposed Rule Stage

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

**2135. JOBS FOR VETERANS ACT OF 2002: CONTRACT THRESHOLD AND ELIGIBILITY GROUPS FOR FEDERAL CONTRACTOR PROGRAM**

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

**Legal Authority:** 38 USC 4212(d) as amended by PL 107-288

**CFR Citation:** 41 CFR 61-300

**Legal Deadline:** None

**Abstract:** The Veterans' Employment and Training Service (VETS) is proposing to issue a notice of proposed rulemaking (NPRM) to implement changes required by the Jobs for Veterans Act (JVA) of 2002. This act amended the Vietnam Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA), by revising the reporting threshold from \$25,000 to \$100,000. JVA also eliminated the

collection categories of special disabled veterans and veterans of the Vietnam era and added the new collection categories of disabled veterans and armed forces expeditionary medal veterans. JVA continues the collection for the recently separated veterans category, but changed the definition for that category to include any veteran who served on active duty in the U.S. military ground, naval, or air service during the three-year period beginning on the date of such veteran's discharge or release from active duty. Additionally, Federal contractors and subcontractors will be required to report the total number of all current employees in nine job categories for each hiring location. This proposal will assist VETS in meeting the statutory requirement of annually collecting the VETS-100 Report.

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/05	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** Businesses, Organizations

**Government Levels Affected:** None

**Agency Contact:** Robert Wilson, Chief, Investigations and Compliance Division, Department of Labor, Office of the Assistant Secretary for Veterans' Employment and Training, 200 Constitution Avenue NW., Room S-1316, Washington, DC 20210  
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**RIN:** 1293-AA12

## Department of Labor (DOL)

## Final Rule Stage

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

**2136. UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT REGULATIONS**

**Regulatory Plan:** This entry is Seq. No. 87 in part II of this issue of the **Federal Register**.

**RIN:** 1293-AA09

**2137. NOTICE OF RIGHTS, BENEFITS, AND OBLIGATIONS UNDER THE USERRA**

**Priority:** Other Significant

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

**CFR Citation:** 20 CFR 1002, Appendix A

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

**Abstract:** The Veterans Benefits Improvement Act of 2004 (VBIA) amended several provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). VBIA imposed a new requirement that each employer shall provide to persons entitled to rights and benefits under USERRA a notice of the rights, benefits, and obligations of such persons and such employers under USERRA. The VBIA requires the

Secretary of Labor to make available to employers the text of the required notice not later than March 10, 2005, ninety days after the enactment of the VBIA.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	03/10/05	70 FR 12106
Interim Final Rule Effective	03/10/05	
Interim Final Rule Comment Period End	05/09/05	
Final Action	10/00/05	

## DOL—ASVET

Final Rule Stage

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** Federal, Local, State, Tribal**Agency Contact:** Robert Wilson, Chief, Investigations and Compliance Division, Department of Labor, Office of the Assistant Secretary for Veterans' Employment and Training, 200Constitution Avenue NW., Room S-1316, Washington, DC 20210  
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**RIN:** 1293-AA14**Department of Labor (DOL)****Completed Actions****Office of the Assistant Secretary for Veterans' Employment and Training (ASVET)****2138. JOBS FOR VETERANS ACT OF 2002: STATE GRANT FUNDING FORMULA FY 2005 AND BEYOND****Priority:** Other Significant**Legal Authority:** 38 USC 4102A (c) (2) (B) as amended by PL 107-288**CFR Citation:** 20 CFR 1001.150 to 1001.152**Legal Deadline:** None**Abstract:** Public Law 107-288, the Jobs for Veterans Act, enacted November 7, 2002 requires establishment of a new grant allocation formula for Disabled Veterans Outreach Program (DVOP) and Local Veterans Employment Representative (LVER) that reflects the ratio of the total number of veterans seeking employment residing in the State to the total number of veterans seeking employment in all States. Congress allowed for the phasing-in of

this funding formula requirement "over the three fiscal-year period" beginning October 1, 2002. Because funding for fiscal year 2003 had already been established before enactment of the law, this effectively meant the phase-in of this new funding formula would actually take place over a two-year period—fiscal years 2004 and 2005. To help minimize States' annual funding reductions, allocations will be limited to no more than eighty percent of the prior year's funding allocation, during the two-year phase-in period and ninety percent, after the funding formula is fully implemented.

**Timetable:**

Action	Date	FR Cite
NPRM	07/06/04	69 FR 40724
NPRM Comment Period End	09/07/04	

Action	Date	FR Cite
Final Action	05/17/05	70 FR 28402
Final Action Effective	06/16/05	

**Regulatory Flexibility Analysis Required:** No**Government Levels Affected:** State**Agency Contact:** Ronald Drach, Team Leader, Department of Labor, Office of the Assistant Secretary for Veterans' Employment and Training, 200 Constitution Avenue NW., Room S1325, FP Building, Washington, DC 20210Phone: 202 693-4749  
Fax: 202 693-4755**RIN:** 1293-AA11

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