



Federal Register

**Monday,
December 13, 2004**

Part XIII

Department of Labor

Semiannual Regulatory Agenda

DEPARTMENT OF LABOR (DOL)

DEPARTMENT OF LABOR

Office of the Secretary

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

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

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual regulatory agenda.

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

The agenda complies with the requirements of both Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists all regulations that are expected to be under review or development between November 2004 and November 2005, as well as those completed during the past six months.

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

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

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

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

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

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

The Regulatory Flexibility Act (under section 610) also requires agencies to periodically review rules "which have or will have a significant economic

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

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

Occupational Exposure to Ethylene Oxide (RIN 1218-AB60)

Excavations (RIN 1218-AC02)

Lead in Construction (RIN 1218-AC18)

Employee Benefits Security Administration

Prohibited Transaction Exemption Procedures (RIN 1210-AA98)

Statutory Exemption for Loans to Plan Participants (RIN 1210-AA99)

OSHA's Presence Sensing Device Initiation of Mechanical Power Presses was completed in June 2004.

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
1972	Production or Disclosure of Information or Materials	1290-AA17

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1973	Equal Treatment in Department of Labor Programs for Faith-Based and Community Organizations; Protection of Religious Liberty of Department of Labor Social Service Providers and Beneficiaries	1290-AA21

DOL

Employment Standards Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1974	Child Labor Regulations, Orders, and Statements of Interpretation	1215-AB44
1975	Union Organization and Voting Rights: Criteria for Characterizing a Labor Organization as a Local, Intermediate, or National or International Labor Organization	1215-AB50

Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1976	Davis Bacon Volunteers Under the Federal Acquisition Streamlining Act	1215-AA96
1977	Amendments to the Fair Labor Standards Act	1215-AB13
1978	Family and Medical Leave Act of 1993; Conform to the Supreme Court's Ragsdale Decision (Reg Plan Seq No. 88)	1215-AB35
1979	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era	1215-AB46
1980	Service Contract Act Wage Determination OnLine Request Process	1215-AB47
1981	Standards of Conduct for Federal Sector Labor Organizations	1215-AB48
1982	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
1983	Child Labor Regulations, Orders, and Statements of Interpretation (ESA/W-H) (Reg Plan Seq No. 89)	1215-AA09
1984	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era	1215-AB24
1985	Government Contractors: Nondiscrimination and Affirmative Action Obligations, Executive Order 11246 (ESA/OFCCP) (Revised)	1215-AB28
1986	Requirements for Security of Insurance Obligations Under the Longshore and Harbor Workers' Compensation Act	1215-AB38
1987	Obligation To Solicit Race and Gender Data for Agency Enforcement Purposes	1215-AB45

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

Employment Standards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1988	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models	1215-AB09

Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1989	Stock Options, Stock Appreciation Rights, and Bona Fide Employee Stock Purchase Programs Under the Fair Labor Standards Act	1215-AB31

DOL

Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1990	Revision to the Department of Labor Benefit Regulations for Trade Adjustment Assistance for Workers Under the Trade Act of 1974, as Amended (Reg Plan Seq No. 90)	1205-AB32
1991	Post-Adjudication Audits of H-2B Petitions Other Than Logging in the United States	1205-AB36
1992	Labor Condition Applications for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models; Filing Procedures	1205-AB39
1993	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 (Reg Plan Seq No. 91)	1205-AB40

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

Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1994	Labor Certification Process for the Permanent Employment of Aliens in the United States (Reg Plan Seq No. 92)	1205-AA66
1995	Indian and Native American Welfare-to-Work Program	1205-AB16
1996	Federal-State Unemployment Compensation (UC) Program; Confidentiality and Disclosure of Information in State UC Records	1205-AB18
1997	Labor Certification for the Permanent Employment of Aliens in the United States; Backlog Reduction	1205-AB37
1998	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 and Chile and Singapore	1205-AB38

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

Employment and Training Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1999	Attestations by Facilities Temporarily Employing H-1C Nonimmigrant Aliens as Registered Nurses	1205-AB27

Employee Benefits Security Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2000	Prohibited Transaction Exemption Procedures (Section 610 Review)	1210-AA98
2001	Statutory Exemption for Loans to Plan Participants (Section 610 Review)	1210-AA99

Employee Benefits Security Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2002	Rulemaking Relating to the Women's Health and Cancer Rights Act of 1998	1210-AA75
2003	Rulemaking Relating to Termination of Abandoned Individual Account Plans (Reg Plan Seq No. 93)	1210-AA97
2004	Annual Funding Notice for Multiemployer Plans	1210-AB00
2005	Amendment of Regulation Relating to Definition of Plan Assets—Participant Contributions (Reg Plan Seq No. 94)	1210-AB02
2006	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—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2007	Regulations Implementing the Health Care Access, Portability, and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996 (Reg Plan Seq No. 95)	1210-AA54
2008	Mental Health Benefits Parity	1210-AA62
2009	Health Care Standards for Mothers and Newborns	1210-AA63
2010	Prohibiting Discrimination Against Participants and Beneficiaries Based on Health Status (Reg Plan Seq No. 96)	1210-AA77

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

Employee Benefits Security Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2011	Adequate Consideration	1210-AA15
2012	Civil Penalty for Failure To Provide Section 302 Notice	1210-AB01

Employee Benefits Security Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2013	Default Rollover Safe Harbor	1210-AA92
2014	Electronic Filing By Investment Advisers	1210-AA94
2015	Suspension of Benefits Regulation	1210-AA96

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2016	Respirable Crystalline Silica Standard	1219-AB36

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2017	Asbestos Exposure Limit (Reg Plan Seq No. 97)	1219-AB24
2018	Revising Electrical Product Approval Regulations	1219-AB37

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

Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2019	Improving and Eliminating Regulations	1219-AA98
2020	Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners (Reg Plan Seq No. 98)	1219-AB29
2021	High-Voltage Continuous Mining Machine Standards for Underground Coal Mines	1219-AB34
2022	Training Standards for Shaft and Slope Construction Workers at Underground Mines	1219-AB35
2023	Part 5—Fees for Testing, Evaluation and Approval of Mining Products	1219-AB38

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

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Mine Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2024	Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust	1219-AB14
2025	Determination of Concentration of Respirable Coal Mine Dust	1219-AB18

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

Sequence Number	Title	Regulation Identifier Number
2026	Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Investment Act of 1998	1291-AA29
2027	Grants and Agreements	1291-AA30

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2028	Occupational Exposure to Ethylene Oxide (Section 610 Review)	1218-AB60
2029	Occupational Exposure to Crystalline Silica (Reg Plan Seq No. 99)	1218-AB70
2030	Occupational Exposure to Beryllium	1218-AB76
2031	Excavations (Section 610 Review)	1218-AC02
2032	Ionizing Radiation	1218-AC11
2033	Emergency Response and Preparedness	1218-AC17
2034	Lead in Construction (Section 610 Review)	1218-AC18

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
2035	Occupational Exposure to Hexavalent Chromium (Preventing Occupational Illness: Chromium) (Reg Plan Seq No. 100)	1218-AB45
2036	Confined Spaces in Construction (Part 1926): Preventing Suffocation/ Explosions in Confined Spaces	1218-AB47
2037	General Working Conditions for Shipyard Employment	1218-AB50
2038	Electric Power Transmission and Distribution; Electrical Protective Equipment	1218-AB67
2039	Walking Working Surfaces and Personal Fall Protection Systems (1910) (Slips, Trips, and Fall Prevention)	1218-AB80
2040	Cranes and Derricks	1218-AC01
2041	Explosives	1218-AC09

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

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2042	Assigned Protection Factors: Amendments to the Final Rule on Respiratory Protection (Reg Plan Seq No. 101) ...	1218-AA05
2043	Longshoring and Marine Terminals (Parts 1917 and 1918)—Reopening of the Record (Vertical Tandem Lifts (VTLs))	1218-AA56
2044	Employer Payment for Personal Protective Equipment	1218-AB77
2045	Standards Improvement (Miscellaneous Changes) for General Industry, Marine Terminals, and Construction Standards (Phase II) (Reg Plan Seq No. 102)	1218-AB81
2046	Revision and Update of Subpart S—Electrical Standards	1218-AB95
2047	Updating OSHA Standards Based on National Consensus Standards	1218-AC08

DOL

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

Sequence Number	Title	Regulation Identifier Number
2048	Procedures for Handling Discrimination Complaints Under Section 6 of the Pipeline Safety Improvement Act of 2002	1218-AC12
2049	Oregon State Plan	1218-AC13
2050	Slip Resistance of Skeletal Structural Steel	1218-AC14
2051	Rollover Protective Structures; Overhead Protection	1218-AC15
2052	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
2053	Hearing Conservation Program for Construction Workers	1218-AB89

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2054	Fire Protection in Shipyard Employment (Part 1915, Subpart P) (Shipyards: Fire Safety)	1218-AB51
2055	Controlled Negative Pressure Fit Testing Protocol: Amendment to the Final Rule on Respiratory Protection	1218-AC05
2056	Procedures for Handling Discrimination Complaints Under Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002	1218-AC10

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

Sequence Number	Title	Regulation Identifier Number
2057	Uniformed Services Employment and Reemployment Rights Act Regulations (Reg Plan Seq No. 103)	1293-AA09
2058	Jobs for Veterans Act of 2002: Contract Threshold and Eligibility Groups for Federal Contractor Program	1293-AA12

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—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2059	Jobs for Veterans Act of 2002: State Grant Funding Formula FY 2005 and Beyond	1293-AA11

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

Final Rule Stage

1972. 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

DOL—OS

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	05/14/04	
Final Action	12/00/04	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** None**Agency Contact:** Miriam McD. Miller, of Legislation and Legislative Counsel, Department of Labor, Office of theSecretary, Room N2428, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-5500
Email: miller-miriam@dol.gov**RIN:** 1290-AA17**Department of Labor (DOL)
Office of the Secretary (OS)****Completed Actions****1973. EQUAL TREATMENT IN DEPARTMENT OF LABOR PROGRAMS FOR FAITH-BASED AND COMMUNITY ORGANIZATIONS; PROTECTION OF RELIGIOUS LIBERTY OF DEPARTMENT OF LABOR SOCIAL SERVICE PROVIDERS AND BENEFICIARIES****Priority:** Substantive, Nonsignificant**Legal Authority:** EO 13279; EO 13198; PL 105-220, subtitle C, sec 506(c); 12 Stat. 936 (20 USC 2881 et seq and 9276(c)); 5 USC 301**CFR Citation:** 20 CFR 667 (Revision); 20 CFR 670 (Revision); 29 CFR 2 (Revision); 29 CFR 37 (Revision)**Legal Deadline:** None**Abstract:** The final rule clarifies, within the framework of constitutional guidelines, that faith-based and community organizations are able to participate in DOL social service programs without regard to their

religious character or affiliation, and are able to apply for and compete on an equal footing with other eligible organizations to receive DOL support. In addition, in order to consolidate in one place the Department's regulations on religious activities, the final rule revises both the Employment and Training Administration (ETA) regulation on religious services at Job Corps centers and the Workforce Investment Act of 1998 (WIA) regulations relating to the use of WIA Title I financial assistance to support employment and training in religious activities. DOL supports the participation of faith-based and community organizations in its programs.

Timetable:

Action	Date	FR Cite
NPRM	03/09/04	69 FR 11234
NPRM Comment Period End	05/10/04	

Action	Date	FR Cite
Final Action	07/12/04	69 FR 41882
Final Action Effective	08/11/04	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** Federal, Local, State, Tribal**URL For More Information:** www.dol.gov/cfbci**URL For Public Comments:** www.regulations.gov/grndr@dol.gov**Agency Contact:** Brent Orrell, Director, Center for Faith-Based and Community Initiatives, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room S-2235, Washington, DC 20210
Phone: 202 693-6450
Fax: 202 693-6146
Email: grndr@dol.gov**RIN:** 1290-AA21**Department of Labor (DOL)
Employment Standards Administration (ESA)****Prerule Stage****1974. 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. (See the related Plan entry for RIN 1215-AA09.)**Timetable:**

Action	Date	FR Cite
ANPRM	02/00/05	

Regulatory Flexibility Analysis Required: Undetermined**Small Entities Affected:** Businesses, Governmental Jurisdictions**Government Levels Affected:** Local, State**Federalism:** Undetermined**Agency Contact:** Alfred B. Robinson, Acting Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, S3502, Washington, DC 20210
Phone: 202 693-0051

Fax: 202 693-1302

Related RIN: Related to 1215-AA09**RIN:** 1215-AB44**1975. • 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 will seek comments from the public as to whether and how to revise the

DOL—ESA

Prerule Stage

current tests for determining whether a labor organization is a local union, intermediate union, or national or international union.

Timetable:

Action	Date	FR Cite
Request for Information	11/03/04	69 FR 64234
Comment Period End	12/03/04	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

URL For More Information:

www.olms.dol.gov

Agency Contact: Kay H. Oshel, Chief, Division of Interpretations and Standards, 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

Fax: 202 693-1340

Email: oshel.kay@dol.gov

RIN: 1215-AB50

Department of Labor (DOL)

Employment Standards Administration (ESA)

Proposed Rule Stage

1976. DAVIS BACON VOLUNTEERS UNDER THE FEDERAL ACQUISITION STREAMLINING ACT

Priority: Substantive, Nonsignificant

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

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

Legal Deadline: NPRM, Statutory, May 11, 1995.
Final, Statutory, October 1, 1995.

Abstract: The Federal Acquisition Streamlining Act of 1994, signed on October 13, 1994, amended several acts administered by the Department of Labor: (1) The Contract Work Hours and Safety Standards Act (CWHSSA) to limit its applicability to contracts in an amount of \$100,000 or greater; (2) the Davis-Bacon Act (DB) to provide waivers from the Act's prevailing wage requirements under selected laws for volunteers performing services to a State or local government or agency and for volunteers performing services to a public or private nonprofit recipient of Federal assistance; and (3) the Walsh-Healey Public Contracts Act (PCA) to eliminate the requirements that contractors on covered contracts be either manufacturers or regular dealers in the items to be supplied under the contract but retains the Secretary of Labor's authority to define the terms "regular dealer" and "manufacturer." A final rule implementing the CWHSSA and PCA changes was published on August 5, 1996 (61 FR 40714).

Timetable:

Action	Date	FR Cite
NPRM	09/07/95	60 FR 46553
NPRM Comment Period End	10/10/95	
Final Rule	08/05/96	61 FR 40714
Second NPRM	01/00/05	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: Federal, Local, State

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

RIN: 1215-AA96

1977. 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	03/00/05	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: Federal, Local, State

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

RIN: 1215-AB13

1978. FAMILY AND MEDICAL LEAVE ACT OF 1993; CONFORM TO THE SUPREME COURT'S RAGSDALE DECISION

Regulatory Plan: This entry is Seq. No. 88 in part II of this issue of the **Federal Register**.

RIN: 1215-AB35

DOL—ESA

Proposed Rule Stage

1979. 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: 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 (JFVA). JFVA amended VEVRAA in four ways. First, JFVA raised contract coverage from \$25,000 to \$100,000. Second, JFVA 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, JFVA 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 released from active duty." Fourth, JFVA 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 minor 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	03/00/05	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Joseph J. DuBray Jr., Director, Div. of Policy, Planning & Program Development, Off. of Fed. Contract Compliance Programs, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room

N-3422, FP Building, Washington, DC 20210

Phone: 202 693-0102

TDD Phone: 202 693-1308

Fax: 202 693-1304

Email: ofccp-mail@dol-esa.gov

Related RIN: Related to 1215-AB24

RIN: 1215-AB46

1980. SERVICE CONTRACT ACT WAGE DETERMINATION ONLINE REQUEST PROCESS

Priority: Substantive, Nonsignificant

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	11/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

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

RIN: 1215-AB47

1981. 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	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Don Todd, Deputy Assistant Secretary, Office of Labor-Management Standards Employment Standards Administration, Department of Labor, Employment Standards Administration, Room N5605, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-0122
TDD Phone: 800 877-8339
Fax: 202 693-1340
Email: olms-public@dol.gov

RIN: 1215-AB48

1982. • LABOR ORGANIZATION OFFICER AND EMPLOYEE REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 432, 438

CFR Citation: 29 CFR 404.3

Legal Deadline: None

DOL—ESA

Proposed Rule Stage

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	01/00/05	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For More Information:
www.olms.dol.gov

Agency Contact: Kay H. Oshel, Chief, Division of Interpretations and Standards, 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
Fax: 202 693-1340
Email: oshel.kay@dol.gov
RIN: 1215-AB49

Department of Labor (DOL)

Final Rule Stage

Employment Standards Administration (ESA)

1983. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Regulatory Plan: This entry is Seq. No. 89 in part II of this issue of the **Federal Register**.

RIN: 1215-AA09

1984. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 4211; 38 USC 4212; 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, as amended (VEVRAA). 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 (VEOA) and the Veterans Benefits and Health Care Improvement Act of 2000 (VBHCIA). Second, it removes reference to Letters of Commitment (LOC) because the violations formerly incorporated into the LOC are now summarized in the Compliance

Evaluation Closure Letter. Third, 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 (APA), 5 U.S.C. 553, because the revisions in the rule are either nondiscretionary ministerial actions that merely incorporate, without change, statutory amendments into the preexisting regulations or are rules of agency procedures or practice.

Timetable:

Action	Date	FR Cite
Final Rule	04/00/05	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph J. DuBray Jr., Director, Div. of Policy, Planning & Program Development, Off. of Fed. Contract Compliance Programs, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N-3422, FP Building, Washington, DC 20210
Phone: 202 693-0102
TDD Phone: 202 693-1308
Fax: 202 693-1304
Email: ofccp-mail@dol-esa.gov

Related RIN: Related to 1215-AB46

RIN: 1215-AB24

1985. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS, EXECUTIVE ORDER 11246 (ESA/OFCCP) (REVISED)

Priority: Substantive, Nonsignificant

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. 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.

DOL—ESA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/12/00	65 FR 60815
NPRM Comment	12/11/00	
Period End		
Final Rule	12/00/04	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joseph J. DuBray Jr., Director, Div. of Policy, Planning & Program Development, Off. of Fed. Contract Compliance Programs, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N-3422, FP Building, Washington, DC 20210

Phone: 202 693-0102

TDD Phone: 202 693-1308

Fax: 202 693-1304

Email: ofccp-mail@dol-esa.gov

RIN: 1215-AB28

1986. REQUIREMENTS FOR SECURITY OF INSURANCE OBLIGATIONS UNDER THE LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT

Priority: Substantive, Nonsignificant

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	05/14/04	
Period End		
Final Action	12/00/04	

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, Room C4315, 200 Constitution Ave., NW, Room C-4315, FP Building, Washington, DC 20210

Phone: 202 693-0038

Fax: 202 693-1380

RIN: 1215-AB38

1987. 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 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	05/28/04	
Period End		
Final Action	12/00/04	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: Joseph J. DuBray Jr., Director, Div. of Policy, Planning & Program Development, Off. of Fed. Contract Compliance Programs, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N-3422, FP Building, Washington, DC 20210

DOL—ESA

Final Rule Stage

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RIN: 1215-AB45

Department of Labor (DOL)

Long-Term Actions

Employment Standards Administration (ESA)

1988. 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
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.

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

RIN: 1215-AB09

Department of Labor (DOL)

Completed Actions

Employment Standards Administration (ESA)

1989. STOCK OPTIONS, STOCK APPRECIATION RIGHTS, AND BONA FIDE EMPLOYEE STOCK PURCHASE PROGRAMS UNDER THE FAIR LABOR STANDARDS ACT

Priority: Other Significant

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

CFR Citation: 29 CFR 546; 29 CFR 778

Legal Deadline: None

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

overtime premium pay for overtime hours of work. The legislation does not obligate the Department to promulgate regulations; rather, it provides that the Secretary of Labor "may" promulgate such regulations as "may" be necessary. Moreover, Congress included a detailed statement of legislative intent in the Congressional Record (146 Cong. Rec. H2437-43 (May 3, 2002); 146 Cong. Rec. S2576-81 (April 12, 2000)). After

DOL—ESA

Completed Actions

reviewing the clear statutory language and thorough statement of legislative intent, ESA's Wage and Hour Division has determined that rulemaking is not necessary. Accordingly, ESA is permanently withdrawing this entry from the regulatory agenda.

Timetable:

Action	Date	FR Cite
Withdrawn	10/29/04	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

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

RIN: 1215-AB31

Department of Labor (DOL)

Proposed Rule Stage

Employment and Training Administration (ETA)

1990. 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. 90 in part II of this issue of the **Federal Register**.

RIN: 1205-AB32

1991. 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 import H-2B workers, except for applications filed for employment on Guam or in logging, will file directly with the Department of Homeland Security (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. DHS will administer the petition adjudication process. After adjudication, the Department of Labor (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	01/00/05	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: State

Agency Contact: William L. Carlson, 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: carlson.william@dol.gov

RIN: 1205-AB36

1992. 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)

CFR Citation: 20 CFR 655.720; 20 CFR 655.730

Legal Deadline: None

Abstract: Currently, Department of Labor Regulations (hereinafter

Department or DOL) allows employers to file labor condition applications (LCA) electronically, by facsimile transmission (FAX), and by mail. The Department seeks comments on a proposal to eliminate the provision that allows employers to file LCAs by FAX. 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 an impending change in address for the submission of LCA by mail. The Department believes the e-filing process will ensure expeditious processing of H-1B 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 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 employers or alien beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	12/00/04	
NPRM Comment Period End	01/00/05	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: William L. Carlson, 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

DOL—ETA

Proposed Rule Stage

Email: carlson.william@dol.gov

RIN: 1205-AB39

1993. • 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. 91 in part II of this issue of the **Federal Register**.

RIN: 1205-AB40

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

Final Rule Stage

1994. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Regulatory Plan: This entry is Seq. No. 92 in part II of this issue of the **Federal Register**.

RIN: 1205-AA66

1995. 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 are being issued to implement changes made by the Welfare-to-Work and Child Support Amendments of 1999 and other legislation. The Consolidated Appropriations Act of 2001 authorized the Department to extend welfare-to-work grants an additional two years. Therefore, the grants may operate until September 2004.

The Department received 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 will expire on September 30, 2004, we have decided not to finalize the interim final rule. Instead, we will remove 20 CFR part 646 following closeout of these grants.

Timetable:

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

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Gregory Gross, Department of Labor, Employment and Training Administration, Room N4641, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-3752
Email: gross.gregory@dol.gov

RIN: 1205-AB16

1996. 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	10/00/05	

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

DOL—ETA

Final Rule Stage

Avenue NW., Room C-4518,
Washington, DC 20210
Phone: 202 693-3038
Email: hildebrand.gerard@dol.gov
RIN: 1205-AB18

1997. 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: Seeks comment on a proposed amendment to the regulations governing labor certification applications for the permanent employment of aliens in the United States. To reduce an existing backlog in pending applications for permanent employment certification, the amendment would allow that National Certifying Officer to transfer to a centralized ETA processing center(s) applications that are awaiting processing by State Workforce Agencies (SWA's) or ETA Regional Offices.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/21/04	69 FR 43716
Interim Final Rule Comment Period End	08/20/04	
Final Action	12/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William L. Carlson, 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: carlson.william@dol.gov

RIN: 1205-AB37

1998. 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 AND CHILE AND SINGAPORE

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

Legal Authority: PL 108-77 sec 402; PL 108-78 sec 402

CFR Citation: 20 CFR 656

Legal Deadline: None

Abstract: The Department of Labor intends to amend 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 and the Chile and Singapore agreements, the H-1B1 program is to be implemented in a manner similar to the existing H-1B program for temporary employment in specialty occupations and as fashion models. 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	12/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William L. Carlson, 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

Department of Labor (DOL)

Employment and Training Administration (ETA)

Long-Term Actions

1999. 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	

Action	Date	FR Cite
Interim Final Rule Effective	09/21/00	
Next Action	Undetermined	

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, Room S3510, 200 Constitution Avenue NW, FP Building, Room S3510, Washington, DC 20210

DOL—ETA

Long-Term Actions

Phone: 202 693-0745

RIN: 1205-AB27

Department of Labor (DOL)

Prerule Stage

Employee Benefits Security Administration (EBSA)

2000. 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	01/00/05	
End Review	03/00/05	

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

2001. STATUTORY EXEMPTION FOR LOANS TO PLAN PARTICIPANTS (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 (b)(1)

CFR Citation: 29 CFR 2550.408 b-1

Legal Deadline: None

Abstract: EBSA is conducting a review of the participant loan rules under

section 408(b)(1) of ERISA in accordance with the requirements of section 610 of the Regulatory Flexibility Act. The review will cover the continued need for the rules; the nature of complaints or comments received from the public concerning the rules; the complexity of the 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.

Timetable:

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

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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

RIN: 1210-AA99

Department of Labor (DOL)

Proposed Rule Stage

Employee Benefits Security Administration (EBSA)

2002. RULEMAKING RELATING TO THE WOMEN'S HEALTH AND CANCER RIGHTS ACT OF 1998

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

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

CFR Citation: Not Yet Determined

Legal Deadline: None

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

Act of 1974 (ERISA) and the Public Health Service Act (PHS Act) to provide protection for patients who elect breast reconstruction in connection with a mastectomy. The WHCRA provisions are set forth in part 7 of subtitle B of title I of ERISA and in title XXVII of the PHS Act. These proposed rules would provide guidance with respect to the WHCRA provisions.

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	05/28/99	64 FR 29186

Action	Date	FR Cite
Request for Information Comment Period End	06/28/99	
NPRM	06/00/05	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elena Lynett, Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, Room C5331, 200

DOL—EBSA

Proposed Rule Stage

Constitution Avenue NW, FP Building,
C5331, Washington, DC 20210
Phone: 202 693-8335

RIN: 1210-AA75

2003. RULEMAKING RELATING TO TERMINATION OF ABANDONED INDIVIDUAL ACCOUNT PLANS

Regulatory Plan: This entry is Seq. No. 93 in part II of this issue of the **Federal Register**.

RIN: 1210-AA97

2004. ANNUAL FUNDING NOTICE FOR MULTIEMPLOYER PLANS

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

Unfunded Mandates: Undetermined

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	01/00/05	

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

2005. • AMENDMENT OF REGULATION RELATING TO DEFINITION OF PLAN ASSETS— PARTICIPANT CONTRIBUTIONS

Regulatory Plan: This entry is Seq. No. 94 in part II of this issue of the **Federal Register**.

RIN: 1210-AB02

2006. • 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
NPRM	12/00/04	

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, Rm N5669, FP Building, Washington, DC 20210
Phone: 202 693-8512
Fax: 202 219-7291

RIN: 1210-AB03

Department of Labor (DOL)

Final Rule Stage

Employee Benefits Security Administration (EBSA)

2007. 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. 95 in part II of this issue of the **Federal Register**.

RIN: 1210-AA54

2008. MENTAL HEALTH BENEFITS PARITY

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1182; 29 USC 1194; PL 104-204, 110 Stat. 2944; PL 107-313; 29 USC 1027; 29 USC 1059; 29 USC 1181; 29 USC 1183; 29 USC 1185

CFR Citation: 29 CFR 2590

Legal Deadline: None

Abstract: The Mental Health Parity Act of 1996 (MHPA) was enacted on September 26, 1996 (Pub. L. 104-204). MHPA amended the Public Health Service Act (PHS Act) and the Employee Retirement Income Security Act of 1974 (ERISA), as amended, to provide for parity in the application of certain mental health benefits with limits on medical surgical benefits. These changes were subsequently added to the Internal Revenue Code (the Code). MHPA provisions are set forth in chapter 100 of subtitle K of

DOL—EBSA

Final Rule Stage

the Code, title XXVII of the PHS Act, and part 7 of subtitle B of title I of ERISA. The Department of Labor has amended the interim final regulations, in consultation with the Departments of the Treasury and Health and Human Services, conforming the regulatory sunset date to the current statutory sunset date of December 31, 2004. Final action depends on legislation extending the sunset date.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/22/97	62 FR 66932
Interim Final Rule	09/30/01	
Amendment Effective		
Interim Final Rule	09/27/02	67 FR 60859
Amendment		
Interim Final Rule	12/02/02	68 FR 18048
Amendment Effective		
Interim Final Rule	04/14/03	68 FR 18048
Amendment		
Interim Final Rule	01/26/04	69 FR 3816
Amendment		
Final Action	04/00/05	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: Lisa Campbell, Pension Law Specialist, Department of

Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

Phone: 202 693-8335

RIN: 1210-AA62

2009. 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 stays following the birth of a child. NMHPA provisions are set forth in title XXVII of the PHSA and part 7 of

subtitle B of title I of ERISA. This rulemaking will provide further guidance with regard to the provisions of the NMHPA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/27/98	63 FR 57546
Final Action	03/00/05	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: Amy Turner, 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

2010. PROHIBITING DISCRIMINATION AGAINST PARTICIPANTS AND BENEFICIARIES BASED ON HEALTH STATUS

Regulatory Plan: This entry is Seq. No. 96 in part II of this issue of the **Federal Register**.

RIN: 1210-AA77

Department of Labor (DOL)

Long-Term Actions

Employee Benefits Security Administration (EBSA)

2011. ADEQUATE CONSIDERATION

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 2510

Legal Deadline: None

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

Timetable:

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

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

2012. 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: Next Action Undetermined**Regulatory Flexibility Analysis**

Required: Undetermined

DOL—EBSA

Long-Term Actions

Government Levels Affected:

Undetermined

Labor, Employee Benefits Security Administration, N 5669, 200 Constitution Avenue NW, Room N5669, FP Building, Washington, DC 20210

Phone: 202 693–8500

Agency Contact: Jeffrey Turner, Senior Pension Law Specialist, Department of

RIN: 1210–AB01

Department of Labor (DOL)**Completed Actions****Employee Benefits Security Administration (EBSA)****2013. DEFAULT ROLLOVER SAFE HARBOR****Priority:** Other Significant**Legal Authority:** 29 USC 1104(c); 29 USC 1105; PL 107–16, sec 657**CFR Citation:** 29 CFR 2550

Legal Deadline: Final, Statutory, June 7, 2004, Deadline prescribed by sec 657(c)(2)(A) of the Economic Growth and Tax Reconciliation Act of 2001 (PL 107–16).

Abstract: This regulation would provide safe harbors under which the designation of an institution and investment of funds is deemed to satisfy the fiduciary requirements of section 404(a) of ERISA. The Department had previously issued a request for information in order to obtain additional information from the public to assist it in developing the required safe harbors.

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	01/07/03	68 FR 992
NPRM	03/02/04	69 FR 9899
NPRM Comment Period End	04/01/04	69 FR 9900
Final Action	09/28/04	69 FR 58018
Final Action Effective	03/28/05	

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

Undetermined

Agency Contact: Louis J. Campagna, Supervisory Pension Law Specialist,

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RIN: 1210–AA92

2014. ELECTRONIC FILING BY INVESTMENT ADVISERS**Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 1002 note; 29 USC 1002(38); 29 USC 1135**CFR Citation:** 29 CFR 2510.3–38**Legal Deadline:** None

Abstract: This regulation clarifies that an electronic filing with the Investment Advisers Registration Depository (IARD), a centralized electronic filing system established by the Securities and Exchange Commission in conjunction with the NASD and State securities authorities, will satisfy the filing requirement for investment advisers seeking investment manager status under section 3(38) of ERISA.

Timetable:

Action	Date	FR Cite
NPRM	12/09/03	68 FR 68709
NPRM Comment Period End	02/09/04	
Final Action	08/24/04	69 FR 52120
Final Action Effective	10/25/04	

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

Undetermined

Agency Contact: Florence Novellino–Ott, Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

Phone: 202 693–8500

RIN: 1210–AA94

2015. SUSPENSION OF BENEFITS REGULATION**Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 1053(a)(3)(B); 29 USC 1135(a)(3)(B)**CFR Citation:** 29 CFR 2530.203–3**Legal Deadline:** None

Abstract: This regulation would amend the requirements of 29 CFR 2530.203–3(b)(4), relating to notification of suspension of benefit payments.

Timetable:

Action	Date	FR Cite
Withdrawn	08/23/04	

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

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

RIN: 1210–AA96

Department of Labor (DOL)**Prerule Stage****Mine Safety and Health Administration (MSHA)****2016. RESPIRABLE CRYSTALLINE SILICA STANDARD****Priority:** Other Significant**Legal Authority:** 30 USC 811; 30 USC 813**CFR Citation:** 30 CFR 70; 30 CFR 71; 30 CFR 90; 30 CFR 72; 30 CFR 58; ...**Legal Deadline:** None

Abstract: Current standards limit exposures to quartz (crystalline silica) in respirable dust. The coal mining industry standard is based on the formula 10mg/m3 divided by the percentage of quartz where the quartz

percent is 5.0 percent or greater calculated as an MRE equivalent concentration. The metal and nonmetal mining industry standard is based on the 1973 American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Values formula: 10 mg/m3 divided by the

DOL—MSHA

Prerule Stage

percentage of quartz plus 2. Overexposure to crystalline silica can result in some miners developing silicosis which may ultimately be fatal. Both formulas are designed to maintain exposures to 0.1 mg/m³ (100 ug) of silica. The Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers made several recommendations related to reducing exposure to silica. NIOSH and ACGIH

recommend a 50ug/ m³ exposure limit for respirable crystalline silica. MSHA is considering several options to reduce miners' exposure to crystalline silica.

Timetable:

Action	Date	FR Cite
Request for Information	12/00/04	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Marvin W. Nichols Jr., Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 2352, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209
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Email: nichols-marvin@dol.gov

RIN: 1219-AB36

Department of Labor (DOL)

Proposed Rule Stage

Mine Safety and Health Administration (MSHA)

2017. ASBESTOS EXPOSURE LIMIT

Regulatory Plan: This entry is Seq. No. 97 in part II of this issue of the **Federal Register**.

RIN: 1219-AB24

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	05/00/05	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marvin W. Nichols Jr., Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 2352, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209
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RIN: 1219-AB37

Department of Labor (DOL)

Final Rule Stage

Mine Safety and Health Administration (MSHA)

2019. 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. MSHA will propose a rule addressing issues related to portable diesel generators.

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

Action	Date	FR Cite
NPRM: Sanitary Toilets	04/21/03	68 FR 19477
NPRM: Seatbelts	04/21/03	68 FR 19474
Direct Final Rule: Sanitary Toilets	04/21/03	68 FR 19347
Direct Final Rule: Seatbelts	04/21/03	68 FR 19344
Final Rule: Sanitary Toilets	06/23/03	68 FR 37082
Final Rule: Spring-Loaded Locks	06/23/03	68 FR 37077
Final Rule Effective (Confirmation): Seatbelts	06/30/03	68 FR 36913
NPRM: Methane Testing	07/07/03	68 FR 40132
Final Rule: Methane Testing	07/07/03	68 FR 40132

DOL—MSHA

Final Rule Stage

Action	Date	FR Cite
Final Rule Effective: Sanitary Toilets	07/23/03	68 FR 37082
Final Rule Effective: Spring-Loaded Locks	08/22/03	68 FR 37077
NPRM: Portable Diesel Generator	06/25/04	69 FR 35992
Notice of Public Hearing – Diesel Generators	08/23/04	69 FR 51784
NPRM Comment Period End	08/24/04	
Final Action	06/00/05	

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

Agency Contact: Marvin W. Nichols Jr., Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 2352, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209
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RIN: 1219-AA98**2020. DIESEL PARTICULATE MATTER EXPOSURE OF UNDERGROUND METAL AND NONMETAL MINERS**

Regulatory Plan: This entry is Seq. No. 98 in part II of this issue of the **Federal Register**.

RIN: 1219-AB29**2021. 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
Final Action	07/00/05	

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

Agency Contact: Marvin W. Nichols Jr., Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 2352, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209
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RIN: 1219-AB34**2022. TRAINING STANDARDS FOR SHAFT AND SLOPE CONSTRUCTION WORKERS AT UNDERGROUND MINES**

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

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 49.28**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
Final Action	04/00/05	

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

Agency Contact: Marvin W. Nichols Jr., Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 2352, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209
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RIN: 1219-AB35**2023. PART 5—FEES FOR TESTING, EVALUATION AND APPROVAL OF MINING PRODUCTS****Priority:** Info./Admin./Other**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 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

DOL—MSHA

Final Rule Stage

to immediately begin the technical investigation while the fee estimate is being processed.

Timetable:

Action	Date	FR Cite
Final Action	12/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, Tribal

Agency Contact: Marvin W. Nichols Jr., Director, Office of Standards,

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RIN: 1219-AB38

Department of Labor (DOL)

Long-Term Actions

Mine Safety and Health Administration (MSHA)

2024. 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 or environmental controls were exhausted.

Public hearings were held in May 2003, and the rulemaking record 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: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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

Agency Contact: Marvin W. Nichols Jr., Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 2352, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209
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Related RIN: Related to 1219-AB18

RIN: 1219-AB14

2025. 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 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 rulemaking record, 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.

DOL—MSHA

Long-Term Actions

Timetable:

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

Action	Date	FR Cite
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: Yes		
Small Entities Affected: Businesses		
Government Levels Affected: None		
Additional Information: This rulemaking is related to RIN 1219-AB14		

(Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust).

Agency Contact: Marvin W. Nichols Jr., Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 2352, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209
Phone: 202 693-9440
Fax: 202 693-9441
Email: nichols-marvin@dol.gov
Related RIN: Related to 1219-AB14
RIN: 1219-AB18

Department of Labor (DOL)

Long-Term Actions

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

2026. IMPLEMENTATION OF THE NONDISCRIMINATION AND EQUAL OPPORTUNITY REQUIREMENTS OF THE WORKFORCE INVESTMENT ACT OF 1998

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 2938 Workforce Investment Act

CFR Citation: 29 CFR 37

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

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

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

Timetable:

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

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, State, Tribal

Agency Contact: Annabelle T. Lockhart, Director, Civil Rights Center, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N4123, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-6500
TDD Phone: 202 693-6515
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Email: civilrightscenter@dol.gov

RIN: 1291-AA29

2027. 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

Agency Contact: Daniel P. Murphy, Management Services, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW, FP Building Room S-1513(B), Washington, DC 20210
Phone: 202 693-7283
Fax: 202 693-7290
Email: oasamregcomments@dol.gov
RIN: 1291-AA30

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

Prerule Stage

2028. OCCUPATIONAL EXPOSURE TO ETHYLENE OXIDE (SECTION 610 REVIEW)

Priority: Other Significant

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

CFR Citation: 29 CFR 1910.1047

Legal Deadline: None

Abstract: OSHA has undertaken a review of the ethylene oxide (ETO) standard in accordance with the requirements of the Regulatory Flexibility Act and section 5 of EO 12866. The review is considering the continued need for the rule, the impacts of the rule, comments on the rule received from the public, the complexity of the rule, whether the rule overlaps, duplicates or conflicts with other Federal, State or local regulations, and the degree to which technology, economic conditions or other factors may have changed since the rule was last evaluated. The Agency's findings with respect to this review will be published in a report available to the public in 2005.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/96	
End Review	03/00/05	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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

RIN: 1218-AB60

2029. OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA

Regulatory Plan: This entry is Seq. No. 99 in part II of this issue of the **Federal Register**.

RIN: 1218-AB70

2030. 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. OSHA plans to initiate the SBREFA process by January 2005.

Timetable:

Action	Date	FR Cite
Request for Information	11/26/02	67 FR 70707
Initiate SBREFA Process	01/00/05	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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

RIN: 1218-AB76

2031. EXCAVATIONS (SECTION 610 REVIEW)

Priority: Other Significant

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

CFR Citation: 29 CFR 1926.650 to 1926.652

Legal Deadline: None

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

Timetable:

Action	Date	FR Cite
Begin Review	12/01/01	
Request for Comments	08/21/02	67 FR 54103
Comment Period End	11/19/02	
End Review	09/00/05	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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

RIN: 1218-AC02

2032. IONIZING RADIATION

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.109

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

DOL—OSHA

Prerule Stage

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.

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	12/00/04	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected:

Undetermined

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

RIN: 1218-AC11

2033. • 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 responder. 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	12/00/04	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected:

Undetermined

Federalism: Undetermined

Agency Contact: Steven F. Witt, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3718, FP Building, Washington, DC 20210
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RIN: 1218-AC17

2034. • LEAD IN CONSTRUCTION (SECTION 610 REVIEW)

Priority: Other Significant

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	03/00/05	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: John Smith, Directorate of Evaluation and Analysis, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218-AC18

Department of Labor (DOL)

Proposed Rule Stage

Occupational Safety and Health Administration (OSHA)

2035. OCCUPATIONAL EXPOSURE TO HEXAVALENT CHROMIUM (PREVENTING OCCUPATIONAL ILLNESS: CHROMIUM)

Regulatory Plan: This entry is Seq. No. 100 in part II of this issue of the Federal Register.

RIN: 1218-AB45

2036. CONFINED SPACES IN CONSTRUCTION (PART 1926): PREVENTING SUFFOCATION/ EXPLOSIONS IN CONFINED SPACES

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 1926.36

Legal Deadline: None

Abstract: In January 1993, OSHA issued a general industry rule to protect employees who enter confined spaces (29 CFR 1910.146). This standard does not apply to the construction industry

DOL—OSHA

Proposed Rule Stage

because of differences in the nature of the worksite in the construction industry. In discussions with the United Steel Workers of America on a settlement agreement for the general industry standard, OSHA agreed to issue a proposed rule to extend confined-space protection to construction workers appropriate to their work environment. OSHA intends to issue a proposed rule addressing this construction industry hazard next year.

Timetable:

Action	Date	FR Cite
SBREFA Panel Report	11/24/03	
NPRM	03/00/05	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N3468, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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Fax: 202 693-1689
Email: bswanson@dol.gov

RIN: 1218-AB47

2037. 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	03/00/05	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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

RIN: 1218-AB50

2038. ELECTRIC POWER TRANSMISSION AND DISTRIBUTION; ELECTRICAL PROTECTIVE EQUIPMENT

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 1910.136; 29 CFR 1910.137; 29 CFR 1910.269; 29 CFR 1926 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 is developing a revision of this standard that will prevent many of these fatalities, add flexibility to the standard, and update and streamline the standard. 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 will also address fall protection in aerial lifts for power generation, transmission and distribution work. The SBREFA process has been completed, and OSHA is making changes to the regulatory analysis based on that review.

Timetable:

Action	Date	FR Cite
SBREFA Report	06/30/03	
NPRM	01/00/05	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven F. Witt, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3718, FP Building, Washington, DC 20210
Phone: 202 693-1950
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RIN: 1218-AB67

2039. 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 additional information is needed on its proposed requirements to allow certain employees (qualified climbers) to climb fixed ladders

DOL—OSHA

Proposed Rule Stage

without fall protection. OSHA plans to reopen the record and ask the public for more, specific information about the concept of “qualified climbers” and to solicit comment on an updated/revise economic analysis and related issues.

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
Reopen Record	05/02/03	68 FR 23527
Comment Period End	07/31/03	
Reopen Record	12/00/04	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven F. Witt, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3718, FP Building, Washington, DC 20210
Phone: 202 693-1950
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RIN: 1218-AB80

2040. 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 has submitted a drafted revision of the crane standard to the Assistant Secretary of OSHA. OSHA is currently conducting an economic analysis of the draft rule to determine if a SBREFA Panel will be needed. Should the SBREFA process not be needed, as determined by a regulatory flexibility screening analysis, a proposed rule is anticipated to be issued in August of 2005.

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	
Initiate SBREFA Panel	05/00/05	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N3468, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218-AC01

2041. EXPLOSIVES

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 1910.109 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. OSHA has reviewed the petition and related information about the issue. Initially, OSHA planned to revise the pyrotechnics requirement 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. OSHA expects to publish an NPRM by February 2005.

Timetable:

Action	Date	FR Cite
NPRM	02/00/05	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: Undetermined

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

RIN: 1218-AC09

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

Final Rule Stage

2042. ASSIGNED PROTECTION FACTORS: AMENDMENTS TO THE FINAL RULE ON RESPIRATORY PROTECTION

Regulatory Plan: This entry is Seq. No. 101 in part II of this issue of the *Federal Register*.

RIN: 1218-AA05

2043. 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 will remain open through 11/30/04.

Timetable:

Action	Date	FR Cite
NPRM	06/06/94	59 FR 28594
NPRM Comment Period End	09/23/94	
Final Rule on Longshoring/Marine	07/25/97	62 FR 40142
Public Meeting on VTLs - 1/27/1998	10/09/97	62 FR 52671
Second NPRM	09/16/03	68 FR 54298
NPRM Comment Period End 2/13/04	12/10/03	68 FR 68804
Public Hearing	07/29/04	69 FR 19361
Final Action	06/00/05	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven F. Witt, Director, Directorate of Standards and

Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3718, FP Building, Washington, DC 20210
 Phone: 202 693-1950
 Fax: 202 693-1678

RIN: 1218-AA56

2044. 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	03/00/05	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, Local, State

Agency Contact: Steven F. Witt, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3718, FP Building, Washington, DC 20210

Phone: 202 693-1950

Fax: 202 693-1678

RIN: 1218-AB77

2045. STANDARDS IMPROVEMENT (MISCELLANEOUS CHANGES) FOR GENERAL INDUSTRY, MARINE TERMINALS, AND CONSTRUCTION STANDARDS (PHASE II)

Regulatory Plan: This entry is Seq. No. 102 in part II of this issue of the *Federal Register*.

RIN: 1218-AB81

2046. REVISION AND UPDATE OF SUBPART S—ELECTRICAL STANDARDS

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

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910 subpart S

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA) is planning to revise and update its 29 CFR 1910 subpart S-Electrical Standards. OSHA will rely heavily on the 2000 edition of the National Fire Protection Association's (NFPA's) 70 E standard for Electrical Safety Requirements for Employee Workplaces. This revision will provide the first update of 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 is evaluating public comment 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	06/00/05	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

DOL—OSHA

Final Rule Stage

Agency Contact: Steven F. Witt, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3718, FP Building, Washington, DC 20210
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RIN: 1218-AB95

2047. 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 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 now considering the possibility of initiating rulemaking to update some of these standards. In that regard, OSHA has asked various consensus standards organizations to review their standards, compare the latest versions of these standards to the ones currently adopted by OSHA, and determine which ones are most important for OSHA to update. Additionally, OSHA has asked them to consider whether the changes to these standards would be noncontroversial, and if the new versions would reduce risk. The organizations were enthusiastic about the possibility of updating references to their standards, and they have provided considerable information on priorities and other related issues. OSHA is in the process

of evaluating the information it has received in order to determine the best way to proceed. It is possible that a direct final rule may be appropriate to address some of these standards, and others may be more appropriately addressed by an NPRM.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/04	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Steven F. Witt, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3718, FP Building, Washington, DC 20210
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RIN: 1218-AC08

2048. PROCEDURES FOR HANDLING DISCRIMINATION COMPLAINTS UNDER SECTION 6 OF THE PIPELINE SAFETY IMPROVEMENT ACT OF 2002

Priority: Other Significant

Legal Authority: 29 USC 60129

CFR Citation: 29 CFR 1981

Legal Deadline: None

Abstract: This rule establishes procedures and timeframes for the handling of complaints under section 6 of the Pipeline Safety Improvement Act of 2002, including investigations by OSHA, appeals to the Administrative Law Judge (ALJ), appeals of ALJ decisions to the Administrative Review Board and judicial review.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/05/04	69 FR 17587
Interim Final Rule Effective	04/05/04	
Interim Final Rule Comment Period End	06/04/04	
Final Action	12/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Marple, Director, Office of Investigative Assistance,

Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3622, Washington, DC 20210
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RIN: 1218-AC12

2049. 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" 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	11/00/04	
Notice of Final Approval Determination	12/00/04	

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

DOL—OSHA

Final Rule Stage

2050. 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 (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	09/00/05	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected:

Undetermined

Federalism: Undetermined

Agency Contact: Bruce Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Room N-3468, Washington, DC 20210

Phone: 202 693-2020

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RIN: 1218-AC14

2051. ROLLOVER PROTECTIVE STRUCTURES; OVERHEAD PROTECTION

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 29 CFR 1928 subpart C; Sections 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.Sections 1928.51, 192; 29 CFR 1926 subpart W – Rollover Protective Structures; Overhead Protection: Section 107, Contract Work Hours and Safety Standards Act (Construction Safety Act), 40 USC 333; Sections 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 rulemaking would reinstate the original ROPS standards.

Timetable:

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

Regulatory Flexibility Analysis

Required: No

Government Levels Affected:

Undetermined

Federalism: Undetermined

Agency Contact: Steven F. Witt, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3718, FP Building, Washington, DC 20210
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RIN: 1218-AC15

2052. • 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 reference in the OSHA 29 CFR part 1915 subpart P fire protection standards. OSHA published a final rule 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 and encourage the use of the most recent NFPA guidance.

Timetable:

Action	Date	FR Cite
Direct Final Rule	01/00/05	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: Steven F. Witt, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3718, FP Building, Washington, DC 20210
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RIN: 1218-AC16

Department of Labor (DOL)

Long-Term Actions

Occupational Safety and Health Administration (OSHA)

2053. 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. The Agency continues to review comments received, the additional public input from Stakeholder meetings that were held in March and July of 2004, and is determining the next appropriate action.

Timetable:

Action	Date	FR Cite
ANPRM	08/05/02	67 FR 50610

Action	Date	FR Cite
ANPRM Comment Period End	11/04/02	
Stakeholder Meetings	03/24/04	
Additional Stakeholder Meeting	07/21/04	
Next Action Undetermined	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Steven F. Witt, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3718, FP Building, Washington, DC 20210
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RIN: 1218-AB89

Department of Labor (DOL)

Completed Actions

Occupational Safety and Health Administration (OSHA)

2054. FIRE PROTECTION IN SHIPYARD EMPLOYMENT (PART 1915, SUBPART P) (SHIPYARDS: FIRE SAFETY)

Priority: Other Significant

Legal Authority: 29 USC 655

CFR Citation: 29 CFR 1915, subpart P

Legal Deadline: None

Abstract: The rule updates and revises an important but outdated part of OSHA's shipyard rules. The original rule was adopted by OSHA in 1971 and has remained unchanged since then. A negotiated rulemaking committee was convened on October 15, 1996. Members of the committee included: OSHA, State government, Federal agency, small and large shipyard employers, and maritime and firefighter union representatives. The committee completed work in February 2002, and recommended proposal requirements to OSHA. The Agency published an NPRM based on their recommendations. Comments were received and reviewed and a final rule has been issued.

Timetable:

Action	Date	FR Cite
NPRM	12/11/02	67 FR 76213
NPRM Comment Period End	03/11/03	

Action	Date	FR Cite
Final Rule	09/15/04	69 FR 55668
Final Rule Effective	12/14/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, Local, State

Agency Contact: Steven F. Witt, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3718, FP Building, Washington, DC 20210
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RIN: 1218-AB51

2055. CONTROLLED NEGATIVE PRESSURE FIT TESTING PROTOCOL: AMENDMENT TO THE FINAL RULE ON RESPIRATORY PROTECTION

Priority: Substantive, Nonsignificant

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

CFR Citation: 29 CFR 1910.134

Legal Deadline: None

Abstract: In this rulemaking, OSHA is approving an additional quantitative fit testing protocol, the controlled negative

pressure (CNP)REDON fit testing protocol, for inclusion in Appendix A of its Respiratory Protection Standard. The protocol affects, in addition to general industry, OSHA respiratory protection standards for shipyard employment and construction. The Agency is adopting this protocol under the provisions contained in the Respiratory Protection Standard that allow individuals to submit evidence for including additional fit testing protocols in this standard.

The (CNP)REDON protocol requires the performance of three different test exercises followed by two redonnings of the respirator, while the CNP protocol approved previously by OSHA specifies eight test exercises, including one redonning of the respirator. In addition to amending the Standard to include the (CNP)REDON protocol, this rulemaking makes several editorial and non-substantive technical revisions to the Standard associated with the (CNP)REDON protocol and the previously approved CNP protocol.

When OSHA published the Final Respiratory Protection standard in 1998, it allowed for later rulemaking on new fit test methods. This rulemaking action incorporates the (CNP)REDON fit test method into 1910.134.

DOL—OSHA

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	06/06/03	68 FR 33887
NPRM Comment Period End	09/04/03	
Final Rule	08/04/04	69 FR 46986
Final Action Effective	09/03/04	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: Federal, Local, State, Tribal

Agency Contact: Steven F. Witt, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3718, FP Building, Washington, DC 20210
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RIN: 1218-AC05

2056. PROCEDURES FOR HANDLING DISCRIMINATION COMPLAINTS UNDER SECTION 806 OF THE CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY ACT OF 2002

Priority: Other Significant

Legal Authority: 18 USC 1514A

CFR Citation: 29 CFR 1980

Legal Deadline: None

Abstract: The Sarbanes Oxley Act of 2002, Public Law 107-204 was enacted July 30, 2002. Among other provisions, title VIII, entitled the Corporate and Criminal Fraud Accountability Act of 2002, provides protection for employees of publicly traded companies who provide evidence of fraud to any Federal law enforcement agency, members of Congress, or a person with supervisory authority over the employee. This rule establishes

procedures and time frames for the handling of complaints under the Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/28/03	68 FR 318859
Final Rule	08/24/04	69 FR 52103
Final Rule Effective	08/24/04	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Marple, Director, Office of Investigative Assistance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3622, Washington, DC 20210
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RIN: 1218-AC10

Department of Labor (DOL)

Proposed Rule Stage

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

2057. UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT REGULATIONS

Regulatory Plan: This entry is Seq. No. 103 in part II of this issue of the Federal Register.

RIN: 1293-AA09

2058. 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	05/00/05	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Robert Wilson, Chief, Investigation 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)

2059. JOBS FOR VETERANS ACT OF 2002: STATE GRANT FUNDING FORMULA FY 2005 AND BEYOND

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

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

Action	Date	FR Cite
NPRM Comment Period End	09/07/04	
Final Action	03/00/05	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

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RIN: 1293-AA11

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