



# Federal Register

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**Monday,  
December 9, 2002**

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**Part XII**

**Department of Labor**

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**Semiannual Regulatory Agenda**

**DEPARTMENT OF LABOR (DOL)**

**DEPARTMENT OF LABOR**

**Office of the Secretary**

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

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

**30 CFR Ch. I**

**41 CFR Ch. 60**

**48 CFR Ch. 29**

**Semiannual Agenda of Regulations**

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

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** This document sets forth the Department's semiannual agenda of regulations that have been selected for review or development during the coming year. The Department's agencies have carefully assessed their available resources and what they can accomplish in the next 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 October 2002 and October 2003 as well as those completed during the past six months.

**FOR FURTHER INFORMATION CONTACT:** Barbara Bingham, Acting Director for the Office of Regulatory Economics, 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.

For this edition of the Department of Labor's regulatory agenda, the most important significant regulatory actions are included in the Regulatory Plan, which appears in part II of this issue of the Federal Register. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

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. Note that the items from the Occupational Safety and Health Administration were on last year's list.

**Occupational Safety and Health Administration**

Occupational Exposure to Ethylene Oxide (RIN 1218-AB60)

Grain Handling Facilities (RIN 1218-AB73)

Excavations (RIN 1218-AC02)

Presence Sense Device Initiation of Mechanical Power Presses (RIN 1218-AC03)

The following 610 reviews were completed since last year. The reviews determined that none of these four regulations have a significant economic impact upon a substantial number of small entities within the meaning of Section 610(2) of the Regulatory Flexibility Act

**Pension Welfare Benefit Administration**

Bonding Rules Under ERISA 21974 (RIN 1210-AA82)

Enforcement Pursuant to Section 502(6)(2) (RIN 1210-AA83)

Civil Penalties Under ERISA Section 502(c)(2) (RIN 1210-AA84)

Assessment of Civil Penalties under ERISA Section 502(c)(2) (RIN 1210-AA85)

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

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

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1773	Production or Disclosure of Information or Materials .....	1290-AA17

## DOL

## Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1774	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H) ( <b>Reg Plan Seq No. 82</b> ) .....	1215-AA14
1775	Regulations To Implement the Federal Acquisition Streamlining Act of 1994 .....	1215-AA96
1776	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era .....	1215-AB24
1777	Stock Options, Stock Appreciation Rights, and Bona Fide Employee Stock Purchase Programs Under the Fair Labor Standards Act .....	1215-AB31
1778	Labor Organization Annual Financial Reports .....	1215-AB34
1779	Family and Medical Leave Act of 1993 ( <b>Reg Plan Seq No. 83</b> ) .....	1215-AB35

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 Identification Number
1780	Child Labor Regulations, Orders, and Statements of Interpretation (ESA/W-H) ( <b>Reg Plan Seq No. 84</b> ) .....	1215-AA09
1781	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models .....	1215-AB09
1782	Government Contractors: Nondiscrimination and Affirmative Action Obligations, Executive Order 11246 (ESA/OFCCP) (Revised) .....	1215-AB28
1783	Claims for Compensation Under the Energy Employees Occupational Illness Compensation Program Act of 2000, as Amended .....	1215-AB32

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 Identification Number
1784	Implementation of the 1996 Amendments to the Fair Labor Standards Act .....	1215-AB13
1785	Obligation of Federal Contractors and Subcontractors, Notice of Employee Rights Concerning Payment of Union Dues or Fees .....	1215-AB33

## Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1786	Federal-State Unemployment Compensation (UC) Program; Confidentiality and Disclosure of Information in State UC Records .....	1205-AB18
1787	Senior Community Service Employment Program ( <b>Reg Plan Seq No. 85</b> ) .....	1205-AB28
1788	Trade Adjustment Assistance for Workers ( <b>Reg Plan Seq No. 86</b> ) .....	1205-AB32

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 Identification Number
1789	Labor Certification Process for the Permanent Employment of Aliens in the United States ( <b>Reg Plan Seq No. 87</b> ) .....	1205-AA66
1790	Indian and Native American Welfare-to-Work Program .....	1205-AB16
1791	Disaster Unemployment Assistance Program Amendment .....	1205-AB31

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

## DOL

## Employment and Training Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1792	Attestations by Facilities Temporarily Employing H-1C Nonimmigrant Aliens as Registered Nurses .....	1205-AB27

## Employment and Training Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1793	Federal-State Unemployment Compensation Program; Unemployment Insurance Performance System .....	1205-AB10
1794	Labor Certification and Petition Process for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the United States; Modification of Fee Structure .....	1205-AB24
1795	Labor Certification and Petition Process for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the U.S.: Delegation of Authority to Adjudication Petitions .....	1205-AB30

## Pension and Welfare Benefits Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1796	Rulemaking Relating to Notice Requirements for Continuation of Health Care Coverage ( <b>Reg Plan Seq No. 88</b> ) ...	1210-AA60
1797	Default Rollover Safe Harbor .....	1210-AA92
1798	Electronic Filing By Investment Advisers .....	1210-AA94
1799	Suspension of Benefits Regulation .....	1210-AA96

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

## Pension and Welfare Benefits Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1800	Definition of Collective Bargaining Agreement (ERISA Section 3(40)) .....	1210-AA48
1801	Regulations Implementing the Health Care Access, Portability, and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996 ( <b>Reg Plan Seq No. 89</b> ) .....	1210-AA54
1802	Mental Health Benefits Parity .....	1210-AA62
1803	Health Care Standards for Mothers and Newborns .....	1210-AA63
1804	Reporting Requirements for MEWAs Providing Medical Care Benefits .....	1210-AA64
1805	Rulemaking Relating to the Women's Health and Cancer Rights Act of 1998 .....	1210-AA75
1806	Prohibiting Discrimination Against Participants and Beneficiaries Based on Health Status ( <b>Reg Plan Seq No. 90</b> ) ..	1210-AA77
1807	Blackout Notice Regulation ( <b>Reg Plan Seq No. 91</b> ) .....	1210-AA90
1808	Blackout Notice Civil Penalty ( <b>Reg Plan Seq No. 92</b> ) .....	1210-AA91
1809	Amendment of Procedural Regulations Under ERISA .....	1210-AA93
1810	Civil Monetary Penalty Adjustment Regulation .....	1210-AA95

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

## Pension and Welfare Benefits Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1811	Adequate Consideration .....	1210-AA15

## DOL

## Pension and Welfare Benefits Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1812	Regulation Exempting Certain Broker-Dealers and Investment Advisers From Bonding Requirements .....	1210-AA80
1813	Bonding Rules Under the Employee Retirement Income Security Act of 1974 <b>(Completion of a Section 610 Review)</b> .....	1210-AA82
1814	Requests for Enforcement Pursuant to Section 502(b)(2) <b>(Completion of a Section 610 Review)</b> .....	1210-AA83
1815	Civil Penalties Under ERISA Section 502(c)(2) <b>(Completion of a Section 610 Review)</b> .....	1210-AA84
1816	Procedures for the Assessment of Civil Penalties Under ERISA Section 502(c)(2) <b>(Completion of a Section 610 Review)</b> .....	1210-AA85

## Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1817	Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners <b>(Reg Plan Seq No. 93)</b> .....	1219-AB29
1818	Focused Inspections .....	1219-AB30

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

## Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1819	Belt Entry Use as Intake Aircourse To Ventilate Working Sections and Areas Where Mechanized Mining Equipment Is Being Installed or Removed .....	1219-AA76
1820	Independent Laboratory Testing .....	1219-AA87
1821	Improving and Eliminating Regulations .....	1219-AA98
1822	Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust <b>(Reg Plan Seq No. 94)</b> .....	1219-AB14
1823	Determination of Concentration of Respirable Coal Mine Dust <b>(Reg Plan Seq No. 95)</b> .....	1219-AB18
1824	Asbestos Exposure Limit <b>(Reg Plan Seq No. 96)</b> .....	1219-AB24

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 Identification Number
1825	Criteria and Procedures for Proposed Assessment of Civil Penalties .....	1219-AB32

## Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1826	Hazard Communication .....	1219-AA47
1827	Air Quality, Chemical Substances, and Respiratory Protection Standards .....	1219-AA48
1828	Requirements for Approval of Flame-Resistant Conveyor Belts .....	1219-AA92
1829	Occupational Exposure to Coal Mine Dust (Lowering Concentration Limit) .....	1219-AB08
1830	Mine Rescue Teams .....	1219-AB20

## DOL

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

Sequence Number	Title	Regulation Identification Number
1831	Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance From the Department of Labor .....	1291-AA21

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

Sequence Number	Title	Regulation Identification Number
1832	Audits of States, Local Governments, and Nonprofit Organizations .....	1291-AA26
1833	Audit Requirements for Grants, Contracts, and Other Agreements .....	1291-AA27
1834	Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Investment Act of 1998 .....	1291-AA29
1835	Effectuation of Title VI of the Civil Rights Act of 1964 and Implementation of Section 504 of the Rehabilitation Act of 1973 .....	1291-AA31
1836	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants) 29 CFR 98 .....	1291-AA33
1837	Department of Labor Acquisition Regulations .....	1291-AA34

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

Sequence Number	Title	Regulation Identification Number
1838	Grants and Agreements .....	1291-AA30

## Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1839	Confined Spaces in Construction (Part 1926): Preventing Suffocation/Explosions in Confined Spaces .....	1218-AB47
1840	Occupational Exposure to Ethylene Oxide ( <b>Section 610 Review</b> ) .....	1218-AB60
1841	Grain Handling Facilities ( <b>Section 610 Review</b> ) .....	1218-AB73
1842	Occupational Exposure to Beryllium .....	1218-AB76
1843	Hearing Conservation Program for Construction Workers .....	1218-AB89
1844	Presence Sensing Device Initiation of Mechanical Power Presses ( <b>Section 610 Review</b> ) .....	1218-AC03

## Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1845	Assigned Protection Factors: Amendments to the Final Rule on Respiratory Protection ( <b>Reg Plan Seq No. 97</b> ) ....	1218-AA05
1846	Longshoring and Marine Terminals (Parts 1917 and 1918) — Reopening of the Record (Vertical Tandem Lifts (VTLs)) .....	1218-AA56
1847	Occupational Exposure to Hexavalent Chromium (Preventing Occupational Illness: Chromium) .....	1218-AB45
1848	General Working Conditions for Shipyard Employment .....	1218-AB50
1849	Fire Protection in Shipyard Employment (Part 1915, Subpart P) (Shipyards: Fire Safety) ( <b>Reg Plan Seq No. 98</b> ) ...	1218-AB51
1850	Electric Power Transmission and Distribution; Electrical Protective Equipment .....	1218-AB67
1851	Occupational Exposure to Crystalline Silica ( <b>Reg Plan Seq No. 99</b> ) .....	1218-AB70
1852	Walking Working Surfaces and Personal Fall Protection Systems (1910) (Slips, Trips, and Fall Prevention) .....	1218-AB80
1853	Standards Improvement (Miscellaneous Changes) for General Industry, Marine Terminals, and Construction Standards (Phase II) ( <b>Reg Plan Seq No. 100</b> ) .....	1218-AB81
1854	Revision and Update of Subpart S—Electrical Standards .....	1218-AB95
1855	Commercial Diving Operations: Revision .....	1218-AB97

## DOL

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

Sequence Number	Title	Regulation Identification Number
1856	Controlled Negative Pressure Fit Testing Protocol: Amendment to the Final Rule on Respiratory Protection .....	1218-AC05

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 Identification Number
1857	Update and Revision of the Exit Routes Standard ( <b>Reg Plan Seq No. 101</b> ) .....	1218-AB82
1858	Procedures for Handling of Discrimination Complaints Under the Aviation Investment and Reform Act .....	1218-AB99

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 Identification Number
1859	Glycol Ethers: 2-Methoxyethanol, 2-Ethoxyethanol, and Their Acetates: Protecting Reproductive Health .....	1218-AA84
1860	Occupational Exposure to Tuberculosis .....	1218-AB46
1861	Employer Payment for Personal Protective Equipment .....	1218-AB77
1862	Cranes and Derricks .....	1218-AC01
1863	Excavations ( <b>Section 610 Review</b> ) .....	1218-AC02
1864	Occupational Injury and Illness Recording and Reporting Requirements .....	1218-AC06
1865	Updating OSHA Standards Based on National Consensus Standard .....	1218-AC08
1866	Explosives .....	1218-AC09

## Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1867	Access and Egress in Shipyards (Part 1915, Subpart E) (Shipyards: Emergency Exits and Aisles) .....	1218-AA70
1868	Accreditation of Training Programs for Hazardous Waste Operations (Part 1910) .....	1218-AB27
1869	Injury and Illness Prevention .....	1218-AB41
1870	Fall Protection in the Construction Industry .....	1218-AB62
1871	Signs, Signals, and Barricades .....	1218-AB88
1872	Changes to State Plans .....	1218-AB91

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

Sequence Number	Title	Regulation Identification Number
1873	Annual Report for Federal Contractors (2002 Revisions) .....	1293-AA08

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

Sequence Number	Title	Regulation Identification Number
1874	Annual Report From Federal Contractors .....	1293-AA07

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

## Proposed Rule Stage

**1773. 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	04/00/03	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Agency Contact:** Miriam McD. Miller, of Legislation and Legislative Counsel, Department of Labor, Office of the Secretary, 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)  
Employment Standards Administration (ESA)

## Proposed Rule Stage

**1774. DEFINING AND DELIMITING THE TERM "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY" (ESA/W-H)**

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

**RIN:** 1215-AA14

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	04/00/03	

**Regulatory Flexibility Analysis Required:** No

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

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

Phone: 202 693-0051  
Fax: 202 693-1432

**RIN:** 1215-AA96

amended; PL 94-502; PL 95-520; PL 96-466; PL 97-306; PL 98-223

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

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	06/00/03	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

**Agency Contact:** James I. Melvin, Program Development, OFCCP, Department of Labor, Employment Standards Administration, Room N3424, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
Phone: 202 693-0102  
TDD Phone: 202 693-1308  
Fax: 202 693-1304

**1775. REGULATIONS TO IMPLEMENT THE FEDERAL ACQUISITION STREAMLINING ACT OF 1994**

**Priority:** Substantive, Nonsignificant

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

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

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

Final, Statutory, October 1, 1995.

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

**1776. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 38 USC 4211; 38 USC 4212; PL 101-237; PL 102-127; PL 102-16; PL 102-484; PL 105-339; PL 93-508,



## DOL—ESA

## Proposed Rule Stage

Email: jimelvin@fenix2.dol-esa.gov

RIN: 1215-AB24

**1777. STOCK OPTIONS, STOCK APPRECIATION RIGHTS, AND BONA FIDE EMPLOYEE STOCK PURCHASE PROGRAMS UNDER THE FAIR LABOR STANDARDS ACT****Priority:** Other Significant**Legal Authority:** 29 USC 207(e)(8); PL 106-202, sec 2(e)**CFR Citation:** 29 CFR 546; 29 CFR 778**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	04/00/03	

**Regulatory Flexibility Analysis****Required:** Undetermined**Small Entities Affected:** Businesses, Organizations**Government Levels Affected:** None

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

Phone: 202 693-0051

Fax: 202 693-1432

RIN: 1215-AB31

**1778. • LABOR ORGANIZATION ANNUAL FINANCIAL REPORTS****Priority:** Other Significant**Legal Authority:** 29 USC 431; 29 USC 438; 5 USC 7120(d); 22 USC 4117(d)**CFR Citation:** 29 CFR 402; 29 CFR 403; 29 CFR 458**Legal Deadline:** None

**Abstract:** This regulation will revise Form LM-2, which is used by labor organizations with \$200,000 or more in annual receipts to file the annual financial reports required under title II of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). The proposed revisions will improve the transparency and accountability of labor organizations to their members, increase the information available to labor organization members, and make data disclosed in such reports more understandable and accessible. Among other things, unions filing the revised Form LM-2 will be required to report electronically (unless granted an exemption), to identify “major” receipts

and disbursements, to allocate disbursements among categories such as contract negotiation and administration, organizing, political activity, lobbying, etc., and to report receipts and disbursements of organizations that meet the statutory definition of a “trust in which a labor organization is interested” on a new Form T-1.

**Timetable:**

Action	Date	FR Cite
NPRM	11/00/02	

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

**Agency Contact:** Don Todd, Deputy Asst. Secretary for Labor-Management Programs, 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-mail@dol-esa.gov

RIN: 1215-AB34

**1779. • FAMILY AND MEDICAL LEAVE ACT OF 1993**

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

RIN: 1215-AB35

## Department of Labor (DOL)

## Employment Standards Administration (ESA)

## Final Rule Stage

**1780. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION (ESA/W-H)**

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

RIN: 1215-AA09

**1781. 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

## DOL—ESA

## Final Rule Stage

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	09/00/03	

**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. The Wage and Hour Division has removed the H-1B final rule from the Regulatory Plan as a part of the ongoing review of nonimmigrant employment programs in the light of events of September 11. The H-1B interim final rule currently in effect provides sufficient guidance to the regulated community until this reanalysis is completed. The H-1B final rule will remain on the Regulatory Agenda.

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

Phone: 202 693-0051

Fax: 202 693-1432

**RIN:** 1215-AB09

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**1782. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS, EXECUTIVE ORDER 11246 (ESA/OFCCP) (REVISED)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 29 USC 793; EO 11758; 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.

**Timetable:**

Action	Date	FR Cite
NPRM	10/12/00	65 FR 60815
NPRM Comment Period End	12/11/00	
Final Rule	06/00/03	

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

**Agency Contact:** James I. Melvin, Program Development, OFCCP, Department of Labor, Employment Standards Administration, Room N3424, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
Phone: 202 693-0102  
TDD Phone: 202 693-1308  
Fax: 202 693-1304  
Email: jimelvin@fenix2.dol-esa.gov

**RIN:** 1215-AB28

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**1783. CLAIMS FOR COMPENSATION UNDER THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT OF 2000, AS AMENDED**

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

**Legal Authority:** 42 USC 7384 et seq; EO 13179

**CFR Citation:** 20 CFR 30**Legal Deadline:** Other, Statutory, May 31, 2001, Interim Final Rule.

**Abstract:** The Department of Labor has issued regulations for its administration of the provisions of the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended. These regulations address all questions arising under this act which have not been specifically assigned to the Secretary of Health and Human Services, to the Secretary of Energy, or to the Attorney General.

## DOL—ESA

## Final Rule Stage

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	05/25/01	66 FR 28948
Interim Final Rule Effective	07/24/01	
Interim Final Rule Comment Period	09/24/01	66 FR 47382
Final Action	01/00/03	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Peter M. Turcic, Occupational Illness Compensation, OWCP, Department of Labor,Employment Standards Administration, 200 Constitution Avenue, NW, FP Building, Washington, DC 20210  
Phone: 202 693-0081

Fax: 202 693-1465

Email: eeoicpa-mail@fenix2.dol-esa.gov

**RIN:** 1215-AB32**Department of Labor (DOL)****Long-Term Actions****Employment Standards Administration (ESA)****1784. IMPLEMENTATION OF THE 1996 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:** The Small Business Job Protection Act of 1996 (H.R. 3448) was enacted on August 20, 1996, as Public Law 104-188. Title II of this enactment amended the Portal-to-Portal Act (PA) and the Fair Labor Standards Act (FLSA). The PA amendment excludes (under certain circumstances) from compensable "hours worked" the time spent by an employee in home-to-work travel in an employer-provided vehicle. The FLSA amendments: (1) increase the \$4.25 Federal minimum hourly wage by \$.90 in two steps over two years (i.e., to \$4.75 on October 1, 1996, and to \$5.15 on September 1, 1997); (2) provide a \$4.25 subminimum wage for youth under age 20 in their first 90 calendar days of employment with an employer; (3) set the employer's direct wage payment obligation for tipped employees at \$2.13 per hour (provided such employees receive the balance of the full minimum wage in tips); and (4) set the hourly compensation requirements at not less than \$27.63 per hour for certain exempt professional employees in computer-related occupations. Changes will be required in the regulations to reflect these amendments.

**Timetable:**

Action	Date	FR Cite
NPRM	To Be Determined	

**Regulatory Flexibility Analysis Required:** No**Government Levels Affected:** State, Local, Federal**Agency Contact:** Tammy D. McCutchen, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, FP Building Room S3502, Washington, DC 20210  
Phone: 202 693-0051  
Fax: 202 693-1432**RIN:** 1215-AB13**1785. OBLIGATION OF FEDERAL CONTRACTORS AND SUBCONTRACTORS, NOTICE OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES****Priority:** Other Significant**Legal Authority:** EO 13201**CFR Citation:** 29 CFR 470**Legal Deadline:** None

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

This regulation, if promulgated, would implement E.O. 13201 which requires Government contractors and subcontractors to post notices informing their employees that (1) under Federal law they cannot be required to join a union or maintain membership in a union to retain their

jobs, and (2) employees who choose not to be union members may object to the use of their compulsory union dues and fees for activities other than collective bargaining, contract administration, and grievance adjustment, and may be entitled to a refund and an appropriate reduction in their future payments. The proposed regulation, in accordance with E.O. 13201, would also require that, where applicable, each Government contracting agency include certain provisions of the Order in its Government contracts, and that Government contractors and subcontractors include these provisions in their nonexempt subcontracts and purchase orders.

**Timetable:**

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

**Regulatory Flexibility Analysis Required:** No**Government Levels Affected:** Federal**Agency Contact:** Don Todd, Deputy Asst. Secretary for Labor-Management Programs, 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-mail@dol-esa.gov**RIN:** 1215-AB33

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

**Proposed Rule Stage**

**1786. 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 is preparing to issue a notice of proposed rulemaking (NPRM) on confidentiality and disclosure of information in State records collected, created, or maintained for purposes of the Federal-State UC program. The NPRM would modify and expand the regulations implementing the Income and Eligibility Verification System (IEVS) to include the statutory requirements in

title III of the Social Security Act, the Federal Unemployment Tax Act, and the Wagner-Peyser Act concerning confidentiality and disclosure of information in State UC records. The use of unemployment compensation wage records under these and other statutes has increased in recent years while privacy and confidentiality issues have not yet been addressed.

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/03	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** State

**Additional Information:** Formerly RIN 1205-AA74; was taken off regulatory agenda in 1994 due to inactivity. An earlier NPRM was published on 03/23/92 at 57 FR 10063 with comment period ending 05/22/92.

**Agency Contact:** Gerard Hildebrand, Chief, Division of Legislation, Department of Labor, Employment and Training Administration, Room C4518, 200 Constitution Avenue NW., FB Building, Washington, DC 20210  
 Phone: 202 693-3038  
 Email: ghildebrand@doleta.gov

**RIN:** 1205-AB18

**1787. SENIOR COMMUNITY SERVICE  
 EMPLOYMENT PROGRAM**

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

**RIN:** 1205-AB28

**1788. • TRADE ADJUSTMENT  
 ASSISTANCE FOR WORKERS**

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

**RIN:** 1205-AB32

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

**Final Rule Stage**

**1789. LABOR CERTIFICATION  
 PROCESS FOR THE PERMANENT  
 EMPLOYMENT OF ALIENS IN THE  
 UNITED STATES**

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

**RIN:** 1205-AA66

**1790. 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 14 comments on the March 1, 1998 interim final rule, and none would substantively change the regulations. The Department will provide guidance in response to those comments. The March 1, 1998 Interim Final Rule will be adopted as the final rule, subject to the changes made by the new interim final rule implementing the 1999 amendments.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	04/01/98	63 FR 15985
Interim Final Rule Effective	04/01/98	
Interim Final Rule Comment Period	06/01/98	
Final Action	12/00/02	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** Tribal

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

**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: ggross@doleta.gov

**RIN:** 1205-AB16

**1791. DISASTER UNEMPLOYMENT  
 ASSISTANCE PROGRAM  
 AMENDMENT**

**Priority:** Other Significant

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

**CFR Citation:** 20 CFR 625.5

**Legal Deadline:** None

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

## DOL—ETA

## Final Rule Stage

clarify eligibility for disaster unemployment assistance in the wake of the major disasters as a result of the terrorist attacks of September 11, 2001.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	11/13/01	66 FR 56959
Interim Final Rule Effective	11/13/01	

Action	Date	FR Cite
Interim Final Rule Comment Period End	12/13/01	
Final Rule	01/00/03	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** State, Federal

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

**RIN:** 1205-AB31

## Department of Labor (DOL)

## Long-Term Actions

## Employment and Training Administration (ETA)

**1792. 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 Effective	09/21/00	
Interim Final Rule Comment Period	09/21/00	
Final Action	To Be Determined	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

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

**Agency Contact:** Michael Ginley, Wage and Hour Division, Department of Labor, Employment Standards Administration, Room S3510, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
Phone: 202 693-0745

**RIN:** 1205-AB27

## Department of Labor (DOL)

## Completed Actions

## Employment and Training Administration (ETA)

**1793. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; UNEMPLOYMENT INSURANCE PERFORMANCE SYSTEM**

**Priority:** Other Significant

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

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

**Legal Deadline:** None

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

unsatisfactory performance, an annual planning process, and actions which the Department may take when a State fails to perform satisfactorily.

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

**Timetable:**

Action	Date	FR Cite
ANPRM	01/16/97	62 FR 2543
ANPRM Comment Period End	03/17/97	
Withdrawn	09/16/02	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** State

**Federalism:** Undetermined

**Agency Contact:** Burman Skrable, Team Leader, Division of Performance Management, Department of Labor, Employment and Training Administration, Room S4522, 200 Constitution Avenue NW, FB Building, Washington, DC 20210  
Phone: 202 693-3197  
Email: bskrable@doleta.gov

**RIN:** 1205-AB10

## DOL—ETA

## Completed Actions

**1794. LABOR CERTIFICATION AND PETITION PROCESS FOR THE TEMPORARY EMPLOYMENT OF NONIMMIGRANT ALIENS IN AGRICULTURE IN THE UNITED STATES; MODIFICATION OF FEE STRUCTURE**

**Priority:** Other Significant

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

**CFR Citation:** 8 CFR 655

**Legal Deadline:** None

**Abstract:** The Employment and Training Administration (ETA) of the U.S. Department of Labor (hereafter referred to as the Department or DOL) is withdrawing its proposed rule published at 65 FR 43545 (July 13, 2001), which would have required employers seeking to temporarily employ nonimmigrant agricultural workers (H-2A) to submit, at the time of filing, a new consolidated application form, fees for the labor certification, and the associated H-2A petition. Agricultural employers and workers and their representatives strongly opposed DOL's petition to consolidate into a proposed new Form 9079 the existing two forms (Form ETA 750 and Form I-129) used by DOL for the certification process and by the Immigration and Naturalization Service for the H-2A visa petition process.

Based upon the Department's review of the rulemaking record as a whole, the Department has decided to withdraw the proposed rule and terminate the rulemaking action.

**Timetable:**

Action	Date	FR Cite
NPRM	07/13/00	65 FR 43545
NPRM	09/18/00	65 FR 50170
NPRM	09/27/01	66 FR 49328
Withdrawn	09/24/02	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Dale Ziegler, Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210  
Phone: 202 693-2942  
Fax: 202 693-2760  
Email: dmziegler@doleta.gov

**RIN:** 1205-AB24

**1795. LABOR CERTIFICATION AND PETITION PROCESS FOR THE TEMPORARY EMPLOYMENT OF NONIMMIGRANT ALIENS IN AGRICULTURE IN THE U.S.: DELEGATION OF AUTHORITY TO ADJUDICATION PETITIONS**

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

**Unfunded Mandates:** Undetermined

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

**CFR Citation:** 20 CFR 655, subpart B

**Legal Deadline:** None

**Abstract:** The Department of Labor (DOL or Department) is withdrawing the final rule published at 65 FR 45358 (July 13, 2000) pertaining to the delegation of authority from the Immigration and Naturalization Service (INS) to DOL to adjudicate petitions for the temporary employment of nonimmigrant aliens in agriculture in the United States.

Commenters raised a number of issues, and consequently, the Department at 66 FR 49275 (September 27, 2001) again reopened and extended the comment period on the July 13, 2000 NPRM. The Department also held two informal briefings on November 8, 2001 and November 16, 2001, (see 66 FR 49329, September 27, 2001) to give agricultural employers and workers, their

representatives and other interested parties an opportunity to communicate their views directly to the Department regarding the proposal to delegate authority from INS to DOL to adjudicate petitions for the temporary employment of nonimmigrant aliens in the proposed transfer of authority between the two agencies. DOL reviewed the concerns of the agricultural employers and workers, and determined that the concerns expressed by both groups have merit. The Department has concluded that it is in the best interest of agricultural employers and workers to withdraw the final rule from the CFR.

Concurrently, the INS is also withdrawing its final rule at 65 FR 43528 (July 13, 2000) which would have transferred authority from INS to the Department to adjudicate petitions for the temporary employment of nonimmigrant workers and the authority to make determinations for revocation of petition approvals.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	09/27/01	66 FR 49275
Interim Final Rule Comment Period End	10/29/01	
Withdrawn	09/24/02	
Interim Final Rule Effective	09/27/02	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Dale Ziegler, Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210  
Phone: 202 693-2942  
Fax: 202 693-2760  
Email: dmziegler@doleta.gov

**RIN:** 1205-AB30

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

**Proposed Rule Stage**

**1796. RULEMAKING RELATING TO NOTICE REQUIREMENTS FOR CONTINUATION OF HEALTH CARE COVERAGE**

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

**RIN:** 1210-AA60

**1797. • DEFAULT ROLLOVER SAFE HARBOR**

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

**Unfunded Mandates:** Undetermined

**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 (Pub. L. 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 sec. 404(a) of ERISA. The Department intends to issue 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	12/00/02	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Undetermined

**Agency Contact:** Louis J. Campagna, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue, NW, FP Building, Washington, DC 20210  
 Phone: 202 693-8500

**RIN:** 1210-AA92

**1798. • ELECTRONIC FILING BY INVESTMENT ADVISERS**

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

**Unfunded Mandates:** Undetermined

**Legal Authority:** 29 USC 1135; 29 USC 1002(38); 29 USC 1002 note

**CFR Citation:** 29 CFR 2510.3-38

**Legal Deadline:** None

**Abstract:** Upon adoption, this proposed regulation will clarify 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	02/00/03	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Undetermined

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

**RIN:** 1210-AA94

**1799. • SUSPENSION OF BENEFITS REGULATION**

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

**Unfunded Mandates:** Undetermined

**Legal Authority:** 29 USC 1053(2)(3)(B); 29 USC 1135

**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
NPRM	08/00/03	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Undetermined

**Federalism:** Undetermined

**Agency Contact:** Susan G. Lahne, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW., FP Building, Washington, DC 20210  
 Phone: 202 693-8500

**RIN:** 1210-AA96

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

**Final Rule Stage**

**1800. DEFINITION OF COLLECTIVE BARGAINING AGREEMENT (ERISA SECTION 3(40))**

**Priority:** Other Significant

**Legal Authority:** 29 USC 1002(40); 29 USC 1135

**CFR Citation:** 29 CFR 2510.3-40

**Legal Deadline:** None

**Abstract:** The regulation will establish standards for determining whether an employee benefit plan is established or

maintained under or pursuant to one or more collective bargaining agreements for purposes of its exclusion from the Multiple Employer Welfare Arrangement (MEWA) definition in section 3(40) of ERISA, and thus exempted from State regulation. The regulation will clarify the scope of the exception from the MEWA definition for plans established or maintained under or pursuant to one or more collective bargaining agreements by providing criteria which

will serve to distinguish welfare benefit arrangements which are maintained by legitimate unions pursuant to bona fide collective bargaining agreements from insurance arrangements promoted and marketed under the guise of ERISA-covered plans exempt from State insurance regulation. The regulation will also serve to limit the extent to which plans maintained pursuant to bona fide collective bargaining agreements may extend plan coverage

## DOL—PWBA

## Final Rule Stage

to individuals not covered by such agreements.

**Timetable:**

Action	Date	FR Cite
NPRM	08/01/95	60 FR 39208
NPRM Comment Period Extended to	09/29/95	60 FR 50508
Notice Establishing Negotiated	09/22/98	63 FR 50542
Second NPRM	10/27/00	65 FR 64498
Second NPRM Comment Period End	12/26/00	
Final Action	02/00/03	

**Regulatory Flexibility Analysis**

**Required:** Yes

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

**Government Levels Affected:** State

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

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

**RIN:** 1210-AA48

### 1801. 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. 89 in part II of this issue of the **Federal Register**.

**RIN:** 1210-AA54

### 1802. 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

**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 and 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 the Code, title XXVII of the PHS Act, and part 7 of subtitle B of title I of ERISA. On January 10, 2002, President Bush signed H.R. 3061 (Pub. L. 107-116, 115 Stat. 2177), the 2002 Appropriations Act for the Departments of Labor, Health and Human Services, and Education. This legislation extends MHPA's original sunset date under ERISA, the Code, and the PHS Act, so that MHPA's provisions will not apply to benefits for services furnished on or after December 31, 2002. On March 9, 2002, President Bush signed H.R. 3090, the Job Creation and Worker Assistance Act of 2002 (Pub. L. 107-147, 116 Stat. 21), that included an amendment to section 9812 of the Code (the mental health parity provisions). This legislation further extends MHPA's original sunset date under the Code to December 31, 2003. As a result of the statutory amendments to MHPA, and to assist employers, plan sponsors, health insurance issuers, and workers, the Department of Labor developed a amendment of the interim final regulations, in consultation with the Departments of the Treasury and Health and Human Services, conforming the regulatory sunset date to the new statutory sunset date under ERISA.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	12/22/97	62 FR 66932
Interim Final Amendment	09/27/02	67 FR 60859
Interim Final Amendment Effective	12/31/02	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Additional Information:** LEGAL AUTHORITIES CONT: Secs. 107, 209, 505, 701-703, 711, 712

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

Phone: 202 693-8335

**RIN:** 1210-AA62

### 1803. 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	07/00/03	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

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

**RIN:** 1210-AA63

### 1804. REPORTING REQUIREMENTS FOR MEWAS PROVIDING MEDICAL CARE BENEFITS

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 29 USC 1021(g); 29 USC 1135; 29 USC 1191c

**CFR Citation:** 29 CFR 2520

**Legal Deadline:** None

**Abstract:** These interim final rules govern certain reporting requirements



## DOL—PWBA

## Final Rule Stage

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

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	02/11/00	65 FR 7152
Final Action	01/00/03	

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

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

**RIN:** 1210-AA64**1805. 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 interim rules will provide guidance with respect to the WHCRA provisions.

**Timetable:**

Action	Date	FR Cite
Request for Information (RFI)	05/28/99	64 FR 29186
RFI Comment Period End	06/28/99	
Interim Final Rule	07/00/03	

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

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

**RIN:** 1210-AA75**1806. PROHIBITING DISCRIMINATION AGAINST PARTICIPANTS AND BENEFICIARIES BASED ON HEALTH STATUS**

**Regulatory Plan:** This entry is Seq. No. 90 in part II of this issue of the **Federal Register**.

**RIN:** 1210-AA77**1807. • BLACKOUT NOTICE REGULATION**

**Regulatory Plan:** This entry is Seq. No. 91 in part II of this issue of the **Federal Register**.

**RIN:** 1210-AA90**1808. • BLACKOUT NOTICE CIVIL PENALTY**

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

**RIN:** 1210-AA91**1809. • AMENDMENT OF PROCEDURAL REGULATIONS UNDER ERISA**

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

**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 1132(c); 29 USC 1135**CFR Citation:** 29 CFR 2570**Legal Deadline:** None

**Abstract:** This rulemaking would amend 29 CFR part 2570 to clarify the time at which a notice of intent to assess a civil penalty, where there is a failure to file a statement of reasonable cause, constitutes a final order of the Secretary.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	10/21/02	67 FR 64774
Interim Final Rule Comment Period End	11/20/02	
Interim Final Rule Effective	01/26/03	

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

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

**RIN:** 1210-AA93**1810. • CIVIL MONETARY PENALTY ADJUSTMENT REGULATION****Priority:** Info./Admin./Other**Legal Authority:** 29 USC 1135; 29 USC 2461 note**CFR Citation:** Not Yet Determined**Legal Deadline:** Final, Statutory, July 29, 2001, PL 104-134 sec 3720C.

**Abstract:** The Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires Federal agencies to adjust civil monetary penalties for inflation at least once every four years. This rulemaking will satisfy that requirement with respect to the civil monetary penalties under title I of ERISA.

**Timetable:**

Action	Date	FR Cite
Final Rule	12/00/02	

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

**Agency Contact:** Rudy F. Nuissl, Senior Pension Law Specialist,

## DOL—PWBA

## Final Rule Stage

Department of Labor, Pension and Welfare Benefits Administration, 200

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Phone: 202 693-8500  
RIN: 1210-AA95

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

## Long-Term Actions

**1811. ADEQUATE CONSIDERATION**

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

**Unfunded Mandates:** Undetermined

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

**CFR Citation:** 29 CFR 2510

**Legal Deadline:** None

**Abstract:** The Department intends to republish for public comment a proposed regulation originally published in 1988. The proposal sets standards for determining "adequate consideration" under section 3(18) of

ERISA for assets other than securities for which there is a generally recognized market. The proposal is being republished to obtain, through public comment, updated information to assist the Department in determining whether, and what, guidance concerning the definition of "adequate consideration" would be helpful to plan participants, sponsors, fiduciaries, and other professionals providing services to employee benefit plans.

**Timetable:**

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17632

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

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

**Agency Contact:** Morton Klevan, Department of Labor, Pension and Welfare Benefits Administration, N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
Phone: 202 693-8500  
RIN: 1210-AA15

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

## Completed Actions

**1812. REGULATION EXEMPTING CERTAIN BROKER-DEALERS AND INVESTMENT ADVISERS FROM BONDING REQUIREMENTS**

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

**Unfunded Mandates:** Undetermined

**Legal Authority:** 29 USC 1112; 29 USC 1135

**CFR Citation:** 29 CFR 2580

**Legal Deadline:** None

**Abstract:** This proposed regulation would provide an exemption from the bonding requirements of section 412(a) of ERISA for certain broker-dealers and investment advisers who handle plan assets.

**Timetable:**

Action	Date	FR Cite
Withdrawn	09/12/02	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

**Additional Information:** No further action is contemplated by the Agency on this item at this time.

**Agency Contact:** Jeffrey Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, N 5669, 200

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

RIN: 1210-AA80

**1813. BONDING RULES UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (COMPLETION OF A SECTION 610 REVIEW)**

**Priority:** Info./Admin./Other

**Legal Authority:** 29 USC 1112; 29 USC 1135

**CFR Citation:** 29 CFR 2580

**Legal Deadline:** None

**Abstract:** PWBA has determined that the bonding regulations under section 412 of ERISA (29 CFR part 2580) do not have a significant economic impact upon a substantial number of small entities within the meaning of section 610(2) of the Regulatory Flexibility Act (RFA). Accordingly a substantive review thereof is not required by section 610(6) of the RFA.

**Timetable:**

Action	Date	FR Cite
Begin Review	12/01/00	
End Review	08/15/02	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

RIN: 1210-AA82

**1814. REQUESTS FOR ENFORCEMENT PURSUANT TO SECTION 502(B)(2) (COMPLETION OF A SECTION 610 REVIEW)**

**Priority:** Info./Admin./Other

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

**CFR Citation:** 29 CFR 2560.502-1

**Legal Deadline:** None

**Abstract:** PWBA has determined that the regulations under section 502(b)(1) of ERISA (formerly ERISA section 502(b)(2)) do not have a significant economic impact upon a substantial number of small entities within the meaning of section 610(2) of the Regulatory Flexibility Act (RFA). Accordingly, a substantive review

## DOL—PWBA

## Completed Actions

thereof is not required of section 610(b) of the RFA.

**Timetable:**

Action	Date	FR Cite
Begin Review	12/01/00	
End Review	08/15/02	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

**RIN:** 1210-AA83

### 1815. CIVIL PENALTIES UNDER ERISA SECTION 502(C)(2) (COMPLETION OF A SECTION 610 REVIEW)

**Priority:** Other Significant

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

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

**Legal Deadline:** None

**Abstract:** PWBA has determined that the regulations under section 502(c)(2) of ERISA (29 CFR 2560(c)(2)) do not have a significant economic impact

upon a substantial number of small entities within the meaning of section 610(2) of the Regulatory Flexibility Act (RFA). Accordingly, a substantive review thereof is not required by section 610(b) of the RFA.

**Timetable:**

Action	Date	FR Cite
Begin Review	12/01/00	
End Review	08/15/02	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

**RIN:** 1210-AA84

### 1816. PROCEDURES FOR THE ASSESSMENT OF CIVIL PENALTIES UNDER ERISA SECTION 502(C)(2) (COMPLETION OF A SECTION 610 REVIEW)

**Priority:** Info./Admin./Other

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

**CFR Citation:** 29 CFR 2570.60 et seq

**Legal Deadline:** None

**Abstract:** PWBA has determined that the regulation relating to the procedures for the assessment of civil penalties under section 502(c)(2) of ERISA do not have a significant economic impact upon a substantial number of small entities within the meaning of section 610(2) of the Regulatory Flexibility Act(RFA). Accordingly, a substantive review thereof is not required by section 610(b) of the RFA.

**Timetable:**

Action	Date	FR Cite
Begin Review	12/01/00	
End Review	08/15/02	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

**RIN:** 1210-AA85

## Department of Labor (DOL)

## Prerule Stage

## Mine Safety and Health Administration (MSHA)

### 1817. ● DIESEL PARTICULATE MATTER EXPOSURE OF UNDERGROUND METAL AND NONMETAL MINERS

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

**RIN:** 1219-AB29

### 1818. ● FOCUSED INSPECTIONS

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 30 USC 957

**CFR Citation:** 30 CFR 4

**Legal Deadline:** None

**Abstract:** Compliance history and safety and health performance are

factors that provide an objective means for focusing MSHA resources. MSHA seeks comment on how best to maximize the effectiveness of resources and to further develop inspection procedures based upon experience. MSHA will evaluate current guidelines and practices for conducting inspections and determine how to best balance the complimentary objectives of protecting miners while focusing inspection resources on the greatest safety and health needs within each mine.

**Timetable:**

Action	Date	FR Cite
ANPRM	06/00/03	

**Regulatory Flexibility Analysis**

**Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

**Federalism:** Undetermined

**Agency Contact:** Marvin W. Nichols, Jr., Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 2352, 1100 Wilson Boulevard, Arlington, VA 22209-3939  
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Email: nichols-marvin@msha.gov

**RIN:** 1219-AB30

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

**Proposed Rule Stage**

**1819. BELT ENTRY USE AS INTAKE AIRCOURSE TO VENTILATE WORKING SECTIONS AND AREAS WHERE MECHANIZED MINING EQUIPMENT IS BEING INSTALLED OR REMOVED**

**Priority:** Other Significant

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

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

**Legal Deadline:** None

**Abstract:** Currently, mine operators must apply to MSHA for a modification of the existing regulations if they want to use belt entries to ventilate active working places. MSHA's current regulations prohibit belt entries from being used to ventilate areas where coal is being mined. The intent was to prevent smoke from a conveyor belt fire from traveling to a miner's workplace. Improved technology, including sophisticated monitoring devices, such as atmospheric monitoring systems (AMS), makes it possible to use belt entries safely to ventilate working sections in mines, provided certain precautions are met. An AMS is a network consisting of hardware and software capable of measuring atmospheric parameters, such as carbon monoxide and oxygen concentrations transmitting these measurements to the surface; providing local and remote alert and alarms; manipulating and cataloging atmospheric data; and providing reports.

**Timetable:**

Action	Date	FR Cite
NPRM	01/00/03	

**Regulatory Flexibility Analysis**

**Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

**Additional Information:** In 1985 MSHA published a "pre-proposal" that included a belt air provision as part of the revisions to the ventilation regulations. In 1988, MSHA published a proposed rule that included a provision that would have allowed belt air to ventilate the area where coal is being mined. Also in 1988, MSHA held six hearings to receive public comment on the proposed rule. Several thousand miners attended the hearings to voice their opposition to the belt air provision. As a result, in 1989 MSHA formed the Belt Air Ventilation Review

Committee to review the use of belt air. The Committee concluded that the use of belt air could be allowed, provided environmental sensors are used to detect belt fires. Another hearing took place in 1990 to solicit further comment on the use of belt air. In 1991, the Secretary of Labor formed a Federal Advisory Committee on the use of belt air. MSHA published final ventilation rules in 1992 that omitted the use of belt air, deferring further action until the Advisory Committee recommendations were completed. In December 1992, the Advisory Committee published a report that concluded that belt air can be used to safely ventilate areas where coal is being mined, provided certain conditions are met.

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**RIN:** 1219-AA76

**1820. INDEPENDENT LABORATORY TESTING**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 30 USC 957

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

**Legal Deadline:** None

**Abstract:** This rulemaking will revise text in the CFR to reduce burden or duplication, and streamline requirements. Our current regulations set out approval requirements for MSHA testing and evaluation for approval of certain products used in gassy underground mines. The rule as proposed would allow us to accept testing and evaluation of certain mine equipment by independent laboratories; and approve products which satisfy alternative testing and evaluation requirements if those requirements are equivalent to ours, or could be enhanced to be equivalent. We are repropounding the rule based on comments received on the 1994 proposal.

**Timetable:**

Action	Date	FR Cite
NPRM	11/30/94	59 FR 61376
NPRM	02/13/95	60 FR 8209
Public Hearing Notice	10/10/95	60 FR 52640
Notice to Reschedule Public Hearing	02/09/96	61 FR 15743
Comment Period End	05/31/96	
Second NPRM	10/17/02	67 FR 64196
Second NPRM Comment Period End	12/31/02	
Final Rule	09/00/03	

**Regulatory Flexibility Analysis**

**Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** Federal

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

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**RIN:** 1219-AA87

**1821. IMPROVING AND ELIMINATING REGULATIONS**

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 30 CFR 1 to 199

**Legal Deadline:** None

**Abstract:** This rulemaking will revise text in the CFR to reduce burden or duplication, and to streamline requirements. We have reviewed our current regulations and identified provisions that are outdated, redundant, unnecessary or otherwise require change. We will be making these changes through notice and comment rulemaking where necessary. We will also consider new regulations that reflect "best practices" in the mining industry. We view this effort to be evolving and ongoing and will continue to accept recommendations from the public. We are considering the following issues for direct final and/or proposed rulemaking: updating the 1985 SAE seat belt standard to the current 1997 standard; providing alternatives for containers which are used to store flammable liquids; addressing compliance burdens for small mines; reducing paperwork approval burden for sanitary toilet

## DOL—MSHA

## Proposed Rule Stage

facilities; and allowing the use of spring-loaded locking devices on battery-powered machines, rather than padlocks.

**Timetable:**

Action	Date	FR Cite
NPRM: Phase 5 Miscellaneous Technology Improvements (Methane Testing)	09/26/02	67 FR 60611
NPRM: Phase 5 Miscellaneous Technology Improvements (Methane Testing) Comment Period End	11/25/02	
NPRM: Phase 7- Storage Containers	09/00/03	
NPRM: Phase 9- Sanitary Toilet Facilities	09/00/03	
NPRM: Phase 8-Small Mine Compliance	09/00/03	
Direct Final Rule: Phase 6-Seat Belts	09/00/03	
Direct Final Rule: Phase 10-Spring -loaded locks	09/00/03	

Action	Date	FR Cite
Direct Final Rule: Phase 9-Sanitary Toilet Facilities	09/00/03	
Direct Final Rule: Phase 8-Small Mine Compliance	09/00/03	
Direct Final Rule: Phase 7-Storage Containers	09/00/03	
Final Action: Phase 5	09/00/03	

**Regulatory Flexibility Analysis Required: Yes**

**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, Arlington, VA 22209

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**RIN:** 1219-AA98

**1822. VERIFICATION OF UNDERGROUND COAL MINE OPERATORS' DUST CONTROL PLANS AND COMPLIANCE SAMPLING FOR RESPIRABLE DUST**

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

**RIN:** 1219-AB14

**1823. DETERMINATION OF CONCENTRATION OF RESPIRABLE COAL MINE DUST**

**Regulatory Plan:** This entry is Seq. No. 95 in part II of this issue of the **Federal Register**.

**RIN:** 1219-AB18

**1824. ASBESTOS EXPOSURE LIMIT**

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

**RIN:** 1219-AB24

## Department of Labor (DOL)

## Final Rule Stage

## Mine Safety and Health Administration (MSHA)

**1825. ● CRITERIA AND PROCEDURES FOR PROPOSED ASSESSMENT OF CIVIL PENALTIES**

**Priority:** Info./Admin./Other

**Legal Authority:** 30 USC 957; PL 104-134 Debt Collection Improvement Act of 1996.

**CFR Citation:** 30 CFR 100

**Legal Deadline:** None

**Abstract:** This rule would revise the Mine Safety and Health Administration's (MSHA) statutory penalties found in sections 110(a), 110(b), 110(c), and 110(g) of the Mine Act and the specific penalty amounts established in 30 CFR part 100 as

mandated by the Debt Collection Improvement Act of 1996 (DCIA). The DCIA required that civil penalties be increased by up to 10 percent within 6 months of its enactment. This was accomplished by a final rule published in the Federal Register, 63 FR 20032, April 22, 1998. It also required subsequent increases at least once every 4 years using a formula based on the Consumer Price Index. MSHA is issuing a final rule to satisfy that requirement.

**Timetable:**

Action	Date	FR Cite
Final Action	09/00/03	

**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, Arlington, VA 22209-3939

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**Related RIN:** Related To 1219-AB03

**RIN:** 1219-AB32

## Department of Labor (DOL)

## Completed Actions

## Mine Safety and Health Administration (MSHA)

**1826. HAZARD COMMUNICATION**

**Priority:** Other Significant

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

**CFR Citation:** 30 CFR 47

**Legal Deadline:** None

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

and other chemicals brought onto mine property.

On June 21, 2002, MSHA published a final Hazard Communication (HazCom)

## DOL—MSHA

## Completed Actions

rule and withdrew the interim final rule.

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

**Timetable:**

Action	Date	FR Cite
ANPRM	03/30/88	53 FR 10257
ANPRM Comment Period End	07/31/88	
NPRM	11/02/90	55 FR 46400
NPRM Comment Period End	02/01/91	
Notice of Public Hearing	09/25/91	56 FR 48720
Close of Record	09/25/91	56 FR 48720
Reopen Record	03/30/99	64 FR 15144
NPRM Comment Period End	06/30/99	
Interim Final Rule	10/03/00	65 FR 59048
Interim Final Rule Comment Period	11/17/00	
Public Hearing and Extension of Comment Period	12/11/00	65 FR 77292
Delay Effective Date of Interim Final Rule	08/28/01	66 FR 45167
Interim Final Rule Comment Period End	10/17/01	
Final Rule	06/21/02	67 FR 42314
Interim Final Rule Effective	06/30/02	
Final Rule Effective	09/23/02	
Final Rule Applicable to Small Entities	03/21/03	67 FR 42314

**Regulatory Flexibility Analysis**

**Required:** Yes

**Small Entities Affected:** Businesses

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

**Additional Information:** TIMETABLE  
CONT: The effective date for mines employing 6 or more miners is 9/23/02 and for mines employing 5 or more miners the effective date is 3/21/03.

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**RIN:** 1219-AA47

**1827. AIR QUALITY, CHEMICAL SUBSTANCES, AND RESPIRATORY PROTECTION STANDARDS**

**Priority:** Other Significant

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

**CFR Citation:** 30 CFR 56; 30 CFR 57; 30 CFR 58; 30 CFR 70; 30 CFR 71; 30 CFR 72; 30 CFR 75; 30 CFR 90

**Legal Deadline:** None

**Abstract:** Our current regulations for exposure to hazardous airborne contaminants are over 25 years old. Examples of these include lead, cyanide, arsenic benzene, asbestos and other well documented hazards. MSHA plans to withdraw this item as a result of changes in agency priorities and the possible adverse effects of unfavorable case law on the proposed rule.

**Timetable:**

Action	Date	FR Cite
Notice of Availability	07/06/83	48 FR 31171
ANPRM	11/19/85	50 FR 47702
NPRM	08/29/89	54 FR 35760
NPRM	10/19/89	54 FR 43026
NPRM Comment Period End	08/30/91	56 FR 29201
Final Rule: Abrasive Blasting and Drill Dust Control	02/18/94	59 FR 8318
Withdrawal Notice	09/26/02	67 FR 60611

**Regulatory Flexibility Analysis**

**Required:** Undetermined

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

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

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**RIN:** 1219-AA48

**1828. REQUIREMENTS FOR APPROVAL OF FLAME-RESISTANT CONVEYOR BELTS**

**Priority:** Substantive, Nonsignificant

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

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

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61524
Extension of Comment Period to	02/11/93	58 FR 8028
Reopen Record and Notice of Public Hearing	03/31/95	60 FR 16589
Record Closed	06/05/95	60 FR 16558
Record Reopened	10/31/95	60 FR 55353
Extension of Comment Period to	12/20/95	60 FR 65509
Record Reopened	12/28/99	64 FR 72617
Withdrawal Notice	07/15/02	67 FR 46431

**Regulatory Flexibility Analysis**

**Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

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**RIN:** 1219-AA92

**1829. OCCUPATIONAL EXPOSURE TO COAL MINE DUST (LOWERING CONCENTRATION LIMIT)**

**Priority:** Other Significant

**Legal Authority:** 30 USC 811

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

**Legal Deadline:** None

## DOL—MSHA

## Completed Actions

**Abstract:** MSHA considered rulemaking to lower the respirable coal mine dust concentration limit because miners continue to be at risk of developing dust-induced occupational lung disease. MSHA is currently developing regulatory alternatives to issues relating to respirable coal mine dust. Therefore, we are withdrawing this item at this time.

**Timetable:**

Action	Date	FR Cite
Withdrawn	09/04/02	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

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**RIN:** 1219-AB08

**1830. MINE RESCUE TEAMS**

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 30 CFR 49

**Legal Deadline:** None

**Abstract:** We were assessing our current regulations to identify areas where we might increase flexibility and encourage underground mine operators to provide mine rescue and recovery capability at their mines. We hoped to increase the number and improve the quality of mine rescue teams available to assist miners in life threatening emergencies. MSHA is withdrawing this item and plans to evaluate nonregulatory alternatives.

**Timetable:**

Action	Date	FR Cite
Notice of Public Meeting	03/12/02	67 FR 11145
Public Meeting	03/28/02	
Withdrawn	09/04/02	

**Regulatory Flexibility Analysis**

**Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

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**RIN:** 1219-AB20

## Department of Labor (DOL)

## Proposed Rule Stage

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

**1831. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE DEPARTMENT OF LABOR**

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 29 CFR 35

**Legal Deadline:** NPRM, Judicial, September 10, 1979, Publication is required within 90 days of submission to HHS of final rule within 120 days of NPRM.

**Abstract:** The proposed regulatory action implements the Age Discrimination Act of 1975 (the Act). The Act prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Age Act also contains specific

exceptions that permit the use of certain age distinctions and factors other than age that meet the Age Act's requirements. This NPRM is the second republication of an NPRM published on December 29, 1998, with updates to reflect the passage of the Workforce Investment Act of 1998 and to add the term "program or activity as it is defined in the Civil Rights Restoration Act of 1987. These changes do not alter the substance of the NPRM.

**Timetable:**

Action	Date	FR Cite
NPRM	12/29/98	63 FR 71714
NPRM Comment Period End	03/01/99	
Second NPRM	06/10/02	67 FR 39829
Second NPRM Comment Period End	08/09/02	
Third NPRM	06/00/03	

Action	Date	FR Cite
Third NPRM Comment Period End	08/00/03	
Final Rule	12/00/03	

**Regulatory Flexibility Analysis**

**Required:** No

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

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**RIN:** 1291-AA21

## Department of Labor (DOL)

Final Rule Stage

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

**1832. AUDITS OF STATES, LOCAL GOVERNMENTS, AND NONPROFIT ORGANIZATIONS****Priority:** Substantive, Nonsignificant**Legal Authority:** 31 USC 7501 Single Audit Act Amendments of 1996; OMB Circular A-110; OMB Circular A-133**CFR Citation:** 29 CFR 99**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	03/25/99	64 FR 14537
Interim Final Rule Effective	03/25/99	
Interim Final Rule Comment Period End	05/24/99	64 FR 14537
Final Rule	11/00/02	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** Governmental Jurisdictions, Organizations**Government Levels Affected:** State, Local**Additional Information:** The interim rule is in effect. The Final rule is expected in**Agency Contact:** Jeffrey Saylor, Management, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200Constitution Avenue NW, N5425, FP Building, Washington, DC 20210  
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Phone: 202 693-7283  
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Email: murphy-larry@dol.gov**RIN:** 1291-AA26**1833. AUDIT REQUIREMENTS FOR GRANTS, CONTRACTS, AND OTHER AGREEMENTS****Priority:** Info./Admin./Other**Legal Authority:** 31 USC 7500 et seq; OMB Circular A-133**CFR Citation:** 29 CFR 96**Legal Deadline:** None

**Abstract:** This interim final rule revises title 29 of the Code of Federal Regulations (CFR) part 96 "Audit Requirements for Grants, Contracts, and Other Agreements" to update references to the revised Office of Management and Budget (OMB) Circular A-133, which is simultaneously codified in 29 CFR part 99 and to consolidate various other provisions to ensure consistency, and continuity.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	03/25/99	64 FR 14537
Interim Final Rule Effective	03/25/99	
Interim Final Rule Comment Period End	05/24/99	
Final Rule	11/00/02	

**Regulatory Flexibility Analysis Required:** No**Government Levels Affected:** State, Local**Additional Information:** The interim final rule is in effect. The final rule is expected**Agency Contact:** Jeffrey D. Saylor, Management Services, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room N5425, FP Building, Washington, DC 20210-0001Phone: 202 693-7282  
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Phone: 202 693-7283  
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Email: murphy-larry@dol.gov**RIN:** 1291-AA27**1834. IMPLEMENTATION OF THE NONDISCRIMINATION AND EQUAL OPPORTUNITY REQUIREMENTS OF THE WORKFORCE INVESTMENT ACT OF 1998****Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 2938 Workforce Investment Act**CFR Citation:** 29 CFR 37**Legal Deadline:** Final, Statutory, August 7, 1999.

**Abstract:** The Workforce Investment Act of 1998 (WIA) was signed into law by President Clinton on August 7, 1998. Section 188 prohibits discrimination by recipients of financial assistance under title I of WIA on the grounds of race, color, national origin, sex, age, disability, religion, political affiliation or belief, and for beneficiaries only, participant status, and against certain noncitizens. Section 188(e) requires that the Secretary of Labor issue regulations necessary to implement section 188 not later than one year after the date of the enactment of the WIA. Such regulations will include standards for determining compliance and procedures for enforcement that are consistent with the acts referred to in section 188(a)(1), as well as procedures to ensure that complaints filed under section 188 and such acts are processed in a manner that avoids duplication of effort. 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. A final rule will be issued after congressional action on the reauthorization of WIA. In the meantime, a second interim final rule will be published to delete a particular paragraph from the earlier interim final rule and to redesignate two of the



## DOL—OASAM

## Final Rule Stage

remaining paragraphs of the interim final rule.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	11/12/99	64 FR 61692
Interim Final Rule Comment Period	12/13/99	
Second Interim Final Rule	02/00/03	
Second Interim Final Rule Comment Period End	03/00/03	
Final Rule	To Be	Determined

**Regulatory Flexibility Analysis**

**Required:** No

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

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**RIN:** 1291-AA29

### 1835. EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 AND IMPLEMENTATION OF SECTION 504 OF THE REHABILITATION ACT OF 1973

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 29 CFR 31; 29 CFR 32

**Legal Deadline:** None

**Abstract:** This proposal would incorporate into 29 CFR parts 31 and 32 the term "program or activity" and the definition of that term as it was defined in the Civil Rights Restoration Act of 1987. Part 31 effectuates title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin in programs or activities that receive financial assistance from the Department of Labor. Part 32 implements section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs or activities that receive financial assistance from the Department of Labor. The publication of this rule is being coordinated by the Department of Justice and will be

published as part of a Governmentwide issuance.

**Timetable:**

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	12/00/02	
Final Action Effective	01/00/03	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

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

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**RIN:** 1291-AA31

### 1836. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS) 29 CFR 98

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 40 USC 486(c); 41 USC 701; 5 USC 301

**CFR Citation:** 29 CFR 94; 29 CFR 98

**Legal Deadline:** None

**Abstract:** This document proposed substantive changes and amendments to the Governmentwide nonprocurement common rule for debarment and suspension and the Governmentwide rule implementing the Drug-Free Workplace Act of 1988. The most significant changes are: (1) This proposed common rule on debarment and suspension would limit the mandatory lower tier application of an exclusion to the first procurement level under a nonprocurement covered transaction; (2) This proposed common rule on debarment and suspension would set the dollar threshold on prohibited lower-tier procurement transactions with excluded persons at \$25,000; (3) Both this proposed rule on debarment and suspension and the proposed rule on drug-free workplace

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

**Timetable:**

Action	Date	FR Cite
NPRM	01/23/02	67 FR 3265
NPRM Comment Period End	03/25/02	
Interim Final Rule	12/00/02	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:**

Undetermined

**Additional Information:** OMB is waiting for other agencies participating in the common

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**RIN:** 1291-AA33

### 1837. DEPARTMENT OF LABOR ACQUISITION REGULATIONS

**Priority:** Info./Admin./Other

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

## DOL—OASAM

## Final Rule Stage

**CFR Citation:** 48 CFR 2900 to 2999**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	11/00/02	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** None**Agency Contact:** Jeffrey D. Saylor, Management Services, Department of

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**RIN:** 1291-AA34

## Department of Labor (DOL)

## Long-Term Actions

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

**1838. GRANTS AND AGREEMENTS****Priority:** Other Significant**Legal Authority:** PL 105-277**CFR Citation:** 29 CFR 95**Legal Deadline:** None

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

institutions, from all Federal agencies. OMB finalized the revision on September 30, 1999 (64 FR 54926). This interim final rule amends the agencies' codification of Circular A-110 so they reflect OMB's recent action.

**Timetable:**

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

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Additional Information:** HHS is the lead agency and will coordinate the next action with

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**RIN:** 1291-AA30

## Department of Labor (DOL)

## Prerule Stage

## Occupational Safety and Health Administration (OSHA)

**1839. CONFINED SPACES IN CONSTRUCTION (PART 1926): PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES****Priority:** Economically Significant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 655(b); 40 USC 333**CFR Citation:** 29 CFR 1926.36**Legal Deadline:** None

**Abstract:** In January 1993, OSHA issued a general industry rule to protect employees who enter confined spaces (29 CFR 1910.146). This standard does

not apply to the construction industry because of differences in the nature of the worksite in the construction industry. In discussions with the United Steel Workers of America on a settlement agreement for the general industry standard, OSHA agreed to issue a proposed rule to extend confined-space protection to construction workers appropriate to their work environment. OSHA intends to issue a proposed rule addressing this construction industry hazard next year.

**Timetable:**

Action	Date	FR Cite
Convene SBREFA Panel	04/00/03	

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

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**RIN:** 1218-AB47

## DOL—OSHA

## Prerule Stage

**1840. OCCUPATIONAL EXPOSURE TO ETHYLENE OXIDE (SECTION 610 REVIEW)****Priority:** Other Significant**Legal Authority:** 29 USC 655(b); 5 USC 553; 5 USC 610**CFR Citation:** 29 CFR 1910.1047**Legal Deadline:** None

**Abstract:** OSHA has undertaken a review of the ethylene oxide (ETO) standard in accordance with the requirements of the Regulatory Flexibility Act and section 5 of EO 12866. The review has considered the continued need for the rule, the impacts of the rule, comments on the rule received from the public, the complexity of the rule, whether the rule overlaps, duplicates or conflicts with other Federal, State or local regulations, and the degree to which technology, economic conditions or other factors may have changed since the rule was last evaluated. The Agency's findings with respect to this review will be published in a report available to the public in 2003.

**Timetable:**

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

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

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**RIN:** 1218-AB60**1841. GRAIN HANDLING FACILITIES (SECTION 610 REVIEW)****Priority:** Other Significant**Legal Authority:** 29 USC 655(b); 5 USC 553; 5 USC 610**CFR Citation:** 29 CFR 1910.272**Legal Deadline:** None

**Abstract:** OSHA is undertaking a review of its grain handling standard (29 CFR 1910.272) in accordance with the requirements of section 610 of the Regulatory Flexibility Act and section

5 of EO 12866. The review will cover the continued need for the rule; the nature of complaints or comments received from the public concerning the rule; the complexity of the rule; the extent to which the rule overlaps, duplicates or conflicts with other Federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in the industries affected by the rule.

**Timetable:**

Action	Date	FR Cite
Begin Review	10/01/97	
End Review	11/00/02	

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

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**RIN:** 1218-AB73**1842. OCCUPATIONAL EXPOSURE TO BERYLLIUM****Priority:** Economically Significant. Major under 5 USC 801.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 655(b); 29 USC 657**CFR Citation:** 29 CFR 1910**Legal Deadline:** None

**Abstract:** OSHA intends to issue a Request for Information and to evaluate the extensive research related to the mechanisms of disease underlying Chronic Beryllium Disease or beryllium sensitization and to identify the best ways of reducing employee exposure to beryllium. OSHA will also be identifying processes, industries, and kinds of businesses that involve the use of beryllium. This information is necessary if OSHA is to develop a rule to reduce worker exposure to dust or fumes from beryllium metal, metal oxides, or alloys, all of which may cause serious and sometimes fatal lung disease (chronic beryllium disease (CBD), lung cancer, and skin disease). In 1999 and in 2001, OSHA was

petitioned to issue an emergency temporary standard by the Paper, Allied-Industrial, Chemical, and Energy Workers Union (PACE), Public Citizen Health Research group and others. The Agency denied these petitions but stated its intent to begin data gathering efforts to collect needed information on beryllium's toxicity, risks, and patterns of usage. The Request for Information will be designed to obtain such information.

**Timetable:**

Action	Date	FR Cite
Request for Information	11/00/02	

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

Undetermined

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**RIN:** 1218-AB76**1843. 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 issued an advance notice of proposed rulemaking to gather information on the extent of noise-induced hearing loss

## DOL—OSHA

## Prerule Stage

among workers in different trades in this industry, current practices to reduce this loss, and additional approaches and protections that could be used to prevent such loss in the future.

**Timetable:**

Action	Date	FR Cite
ANPRM	08/05/02	67 FR 50610
Comment Period End	11/04/02	
Next Step To Be Determined	04/00/03	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** None

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**RIN:** 1218-AB89

**1844. PRESENCE SENSING DEVICE INITIATION OF MECHANICAL POWER PRESSES (SECTION 610 REVIEW)**

**Priority:** Substantive, Nonsignificant

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

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

**Legal Deadline:** None

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

duplicates, or conflicts with other regulations.

**Timetable:**

Action	Date	FR Cite
Begin Review	12/01/01	
Request for Comments	08/28/02	67 FR 55181
Comment Period End	01/27/03	
Next Step To Be Determined	To Be Determined	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:**

Undetermined

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**RIN:** 1218-AC03

## Department of Labor (DOL)

## Occupational Safety and Health Administration (OSHA)

## Proposed Rule Stage

**1845. ASSIGNED PROTECTION FACTORS: AMENDMENTS TO THE FINAL RULE ON RESPIRATORY PROTECTION**

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

**RIN:** 1218-AA05

**1846. 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 is going to request additional information from the public on this issue, and prepare a notice of proposed rulemaking to address the safety issues of this type of work.

**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
Request for Information (RFI)	11/00/02	
NPRM	06/00/03	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

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**RIN:** 1218-AA56

**1847. OCCUPATIONAL EXPOSURE TO HEXAVALENT CHROMIUM (PREVENTING OCCUPATIONAL ILLNESS: CHROMIUM)**

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

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

**CFR Citation:** 29 CFR 1910

**Legal Deadline:** None

**Abstract:** In July 1993, the Occupational Safety and Health Administration (OSHA) was petitioned for an emergency temporary standard (ETS) to reduce the permissible exposure limit (PEL) for occupational exposures to hexavalent chromium. The Oil, Chemical, and Atomic Workers International Union (OCAW) and Public Citizen's Health Research Group (HRG) petitioned OSHA to promulgate an ETS to lower the PEL for hexavalent chromium (CrVI) compounds to 0.5

## DOL—OSHA

## Proposed Rule Stage

micrograms per cubic meter of air (ug/m<sup>3</sup>) as an eight-hour, time-weighted average (TWA). This would represent a significant reduction in the current PEL. The current PEL in general industry is found in 29 CFR 1910.1000 Table Z and is a ceiling value of 100 ug/m<sup>3</sup>, measured as chromium (VI) and reported as chromic anhydride (CrO<sub>3</sub>). The amount of chromium (VI) in the anhydride compound equates to a PEL of 52 ug/m<sup>3</sup>. This ceiling limit applies to all forms of hexavalent chromium (VI), including chromic acid and chromates, lead chromate, and zinc chromate. The current PEL for hexavalent chromium (VI) in the construction industry is 100 ug/m<sup>3</sup> as a TWA PEL, which also equates to a PEL of 52 ug/m<sup>3</sup>. After reviewing the petition, OSHA denied the request for an ETS and initiated a section 6(b)(5) rulemaking.

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

OSHA will make a decision on what action to take next in May 2003.

**Timetable:**

Action	Date	FR Cite
Request for Information	08/22/02	67 FR 54389
Comment Period End	11/20/02	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:**

Undetermined

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**RIN:** 1218-AB45

**1848. GENERAL WORKING CONDITIONS FOR SHIPYARD EMPLOYMENT**

**Priority:** Substantive, Nonsignificant

**Unfunded Mandates:** Undetermined

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

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

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	01/00/03	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** None

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**RIN:** 1218-AB50

**1849. FIRE PROTECTION IN SHIPYARD EMPLOYMENT (PART 1915, SUBPART P) (SHIPYARDS: FIRE SAFETY)**

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

**RIN:** 1218-AB51

**1850. 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 nearly 30 years old. OSHA is developing a revision of this standard that will prevent many of these fatalities, add flexibility to the standard, and update and streamline the standard. 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.

**Timetable:**

Action	Date	FR Cite
NPRM	04/00/03	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:**

Undetermined

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**RIN:** 1218-AB67

## DOL—OSHA

## Proposed Rule Stage

**1851. 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

**1852. 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 is publishing a notice to re-open the rulemaking for comment on a number of issues raised in the record for the NPRM, or related to technological advances. OSHA will be updating its regulatory analysis as well.

**Timetable:**

Action	Date	FR Cite
NPRM	04/10/90	55 FR 13360
NPRM Comment Period End	08/22/90	
Hearing	09/11/90	55 FR 29224
NPRM	12/00/02	
Reopening of Record	12/00/02	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** None

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**RIN:** 1218–AB80

**1853. STANDARDS IMPROVEMENT (MISCELLANEOUS CHANGES) FOR GENERAL INDUSTRY, MARINE TERMINALS, AND CONSTRUCTION STANDARDS (PHASE II)**

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

**RIN:** 1218–AB81

**1854. 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 Subpart S-Electrical Standard since they were 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 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 initially believed that the changes in the first stage would not be controversial, and thus had planned to issue a direct final rule. However, as work has progressed, we have determined that this is not the case, and we are preparing an NPRM instead.

**Timetable:**

Action	Date	FR Cite
NPRM	04/00/03	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** None

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**RIN:** 1218–AB95

**1855. COMMERCIAL DIVING OPERATIONS: REVISION**

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 29 CFR 1910.423; 29 CFR 1910.426

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/02	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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**RIN:** 1218–AB97

## DOL—OSHA

## Proposed Rule Stage

**1856. CONTROLLED NEGATIVE PRESSURE FIT TESTING PROTOCOL: AMENDMENT TO THE FINAL RULE ON RESPIRATORY PROTECTION****Priority:** Info./Admin./Other**Legal Authority:** 29 USC 655(b); 29 USC 657**CFR Citation:** 29 CFR 1910.134**Legal Deadline:** None

**Abstract:** In January 1998, OSHA published the final Respiratory Protection standard (29 CFR 1910.134). In the final revised respirator standard, OSHA set up a mechanism for OSHA's acceptance of new fit test protocols under Mandatory Appendix A. Any person may submit to OSHA an application for approval of a new fit test protocol, and if the application meets certain criteria, OSHA will

initiate a rulemaking proceeding under 6(b)(7) of the OSH Act to determine whether to list the new protocol as an approved fit test protocol in Appendix A. OSHA has been petitioned to allow the use of a modified Controlled Negative Pressure (CNP) fit test protocol.

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

When OSHA published the final Respiratory Protection standard in 1998, it allowed for later rulemaking on new fit test methods. This rulemaking action will allow for the incorporation of new fit test methods into 1910.134.

**Timetable:**

Action	Date	FR Cite
NPRM	02/00/03	

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

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**RIN:** 1218-AC05

## Department of Labor (DOL)

## Final Rule Stage

## Occupational Safety and Health Administration (OSHA)

**1857. UPDATE AND REVISION OF THE EXIT ROUTES STANDARD****Regulatory Plan:** This entry is Seq. No. 101 in part II of this issue of the Federal Register.**RIN:** 1218-AB82

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

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	04/01/02	67 FR 15453
Interim Final Rule Effective	04/01/02	

Action	Date	FR Cite
Interim Final Rule Comment Period	05/31/02	
Comment Period Extended	06/07/02	67 FR 40597
Comment Period End	06/30/02	
Final Rule	11/00/02	

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

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**RIN:** 1218-AB99**1858. PROCEDURES FOR HANDLING OF DISCRIMINATION COMPLAINTS UNDER THE AVIATION INVESTMENT AND REFORM ACT****Priority:** Substantive, Nonsignificant**Legal Authority:** 49 USC 42121; PL 106-181, Wendell H. Ford Aviation Investment and Reform Act, sec 519**CFR Citation:** 29 CFR 1979**Legal Deadline:** None

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

## Department of Labor (DOL)

## Long-Term Actions

## Occupational Safety and Health Administration (OSHA)

**1859. GLYCOL ETHERS: 2-METHOXYETHANOL, 2-ETHOXYETHANOL, AND THEIR ACETATES: PROTECTING REPRODUCTIVE HEALTH**

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

**Unfunded Mandates:** Undetermined

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

**CFR Citation:** 29 CFR 1910.1000; 29 CFR 1910.1031

**Legal Deadline:** None

**Abstract:** OSHA published an advance notice of proposed rulemaking (ANPRM) on April 2, 1987 (52 FR 10586). OSHA used the information received in response to the ANPRM, as well as other information and analysis, and published a proposal on March 23, 1993 (58 FR 15526), that would reduce the permissible exposure limits for four glycol ethers and provide protection for approximately 46,000 workers exposed to these substances. OSHA has re-opened the record to collect updated information before determining what action should be taken.

OSHA will make a decision on what action to take next in April 2003.

**Timetable:**

Action	Date	FR Cite
ANPRM	04/02/87	52 FR 10586
ANPRM Comment Period End	07/31/87	
NPRM	03/23/93	58 FR 15526
NPRM Comment Period End	06/07/93	
Reopen Record	08/08/02	67 FR 51524
Comment Period End	11/06/02	

**Regulatory Flexibility Analysis Required:**

Undetermined

**Government Levels Affected:**

Undetermined

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**RIN:** 1218-AA84

**1860. OCCUPATIONAL EXPOSURE TO TUBERCULOSIS**

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

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

**CFR Citation:** 29 CFR 1910.1035

**Legal Deadline:** None

**Abstract:** In 1993, the Labor Coalition to Fight TB in the Workplace petitioned the Occupational Safety and Health Administration (OSHA) to develop an occupational health standard to protect workers who care for or oversee patients or others with active tuberculosis (TB) against the transmission of TB. After reviewing the available information, OSHA preliminarily concluded that a significant risk of occupational transmission of TB exists for some workers in some work settings and began rulemaking on a proposed standard. Examples of workers at risk of contracting TB as a result of their work are health care workers, detention facility personnel, and homeless shelter employees. On October 17, 1997, OSHA published its proposed standard for occupational exposure to TB (62 FR 54160). The proposed standard would require employers to protect TB-exposed workers using infection control measures that have been shown to be highly effective in reducing or eliminating work-related TB infections. Such measures include procedures for the early identification of individuals with infectious TB, isolation of individuals with infectious TB using appropriate ventilation, use of respiratory protection in certain situations, and skin testing and training of employees.

After the close of the written comment period for the proposed standard, informal public hearings were held in Washington, DC, Los Angeles, CA, New York City, NY, and Chicago, IL. The post-hearing comment period closed on October 5, 1998. On June 17, 1999, OSHA reopened the rulemaking record for 90 days to submit the Agency's report on homeless shelters and certain other documents that became available to the Agency after the close of the post-hearing comment period. During this limited reopening of the rulemaking record, OSHA also requested interested parties to submit comments and data on the Agency's preliminary risk assessment in order to obtain the best, most recent data for

providing the most accurate estimates of the occupational risk of tuberculosis.

At the request of Congress, the Institute of Medicine of the National Academy of Sciences (IOM) conducted a study of OSHA's proposal and the need for a TB standard. That study was completed in January 2001, and concluded that OSHA should move forward with a standard modeled after the CDC guidelines and tailored to the extent of TB risk present in the community. The IOM study concluded that an OSHA standard was needed to maintain national TB rates among health care and other employees at their current levels and to prevent future outbreaks of multidrug resistant and other forms of TB among these workers. OSHA has reopened the record to obtain comment on the IOM study, the draft final risk assessment and the peer reviewers' comment on the risk assessment. OSHA will make a decision on what action to take in November 2002.

**Timetable:**

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

**Regulatory Flexibility Analysis Required:**

Yes

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

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

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

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## DOL—OSHA

## Long-Term Actions

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**RIN:** 1218-AB46

### 1861. EMPLOYER PAYMENT FOR PERSONAL PROTECTIVE EQUIPMENT

**Priority:** Other Significant

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

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

**Legal Deadline:** None

**Abstract:** Generally, OSHA standards require that protective equipment (including personal protective equipment (PPE)) be provided and used when necessary to protect employees from hazards that can cause them injury, illness, or physical harm. In this discussion, OSHA uses the abbreviation "PPE" to cover both personal protective equipment and other protective equipment. The Agency proposed to revise its PPE standard to clarify who is required to pay for required PPE and under what circumstances. OSHA continues to consider the issue.

#### Timetable:

Action	Date	FR Cite
NPRM	03/30/99	64 FR 15401
NPRM Comment Period End	06/14/99	
Informal Public Hearing End	08/13/99	
Next Action	Undetermined	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** Businesses

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

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**RIN:** 1218-AB77

### 1862. 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, derricks, hoists, elevators and conveyors. The existing rule, which dates back to 1971, is based in part on industry consensus standards from 1958, 1968 and 1969. There have been considerable technological changes since those consensus standards were developed. Industry consensus standards for derricks and for crawler, truck and locomotive cranes were updated as recently as 1995. A number of industry stakeholders have asked OSHA to update subpart N.

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

A cross-section of the industry has stated that there is a need to update subpart N. OSHA has determined that the existing rule needs to be revised. OSHA will be monitoring these activities to determine whether recommendations developed for construction should be applied to cranes in general industry as well. OSHA will make a decision on what action to take next in December 2002.

**Timetable:** Next Action Undetermined

**Regulatory Flexibility Analysis Required:** No

**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

### 1863. 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 will undertake a review of the Agency's trenching and excavations standard (29 CFR 1926.650 to 1926.652) in accordance with the requirements of the Regulatory Flexibility Act and section 5 of Executive Order 12866. The review will consider the continued need for the rule, the impacts of the rule, public comments on the rule, the complexity of the rule, and whether the rule overlaps, duplicates, or conflicts with other regulations.

#### Timetable:

Action	Date	FR Cite
Begin Review	12/01/01	
Request for Comments	To Be Determined	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

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**RIN:** 1218-AC02

### 1864. OCCUPATIONAL INJURY AND ILLNESS RECORDING AND REPORTING REQUIREMENTS

**Priority:** Other Significant

**Legal Authority:** 29 USC 553; 29 USC 657

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

**Legal Deadline:** None

**Abstract:** The Occupational Safety and Health Administration (OSHA) issued a final rule on Occupational Injury and Illness Recording and Reporting Requirements (66 FR 5916, January 19, 2001), scheduled to become effective on January 1, 2002. Following a thorough regulatory review, the Agency

## DOL—OSHA

## Long-Term Actions

determined that all but two provisions of the final rule, regarding the recording of occupational hearing (1904.10) and musculoskeletal disorders — MSDs (1904.12), would take effect as scheduled (66 FR 35113, July 3, 2001). Following notice and comment, OSHA published a final rule delaying the effective dates for sections 1904.10, 1910.12 and a note to 1904.29(b)(7)(vi) until January 1, 2003. The same final rule provided interim guidance on recording hearing loss and MSD cases during 2002 (66 FR 52031, October 12, 2001).

OSHA issued a final 1904.10 regulation setting recording criteria for occupational hearing loss (67 FR 44037, July 1, 2002), and simultaneously issued a proposal to delay the requirements for checking a separate hearing loss column on the 300 Log, as well as an additional one-year delay for the 1904.12 MSD requirements (67 FR 44124, July 1, 2002).

OSHA is continuing to reconsider the 300 Log columns for occupational hearing loss and MSD, and for defining "musculoskeletal disorders" for recordkeeping purposes. OSHA will issue one or more final rules to deal with these injury and illness recording issues for the years 2003 and beyond. OSHA will make a decision on what action to take next in November 2002.

**Timetable:**

Action	Date	FR Cite
NPRM	07/03/01	66 FR 35113
NPRM Comment Period End	09/04/01	
Final Rule	10/12/01	66 FR 52031
NPRM	07/01/02	67 FR 44124
Final Rule	07/01/02	67 FR 44037
NPRM Comment Period End	08/30/02	

Next Action Undetermined

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** State

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**RIN:** 1218-AC06

**1865. • UPDATING OSHA STANDARDS BASED ON NATIONAL CONSENSUS STANDARD**

**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. OSHA will make a decision on what action to take next in June 2003.

**Timetable:** Next Action Undetermined

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** Undetermined

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**RIN:** 1218-AC08

**1866. • 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 small arms manufacturing. 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 is in the process of reviewing the petition and related information about the issue, and will determine the appropriate course of action regarding this standard when the review is completed. OSHA will make a decision on what action to take next in June 2003.

**Timetable:** Next Action Undetermined

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** Undetermined

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**RIN:** 1218-AC09

## Department of Labor (DOL)

## Completed Actions

## Occupational Safety and Health Administration (OSHA)

**1867. ACCESS AND EGRESS IN SHIPYARDS (PART 1915, SUBPART E) (SHIPYARDS: EMERGENCY EXITS AND AISLES)****Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 655(b); 33 USC 941**CFR Citation:** 29 CFR 1915.72; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.76**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48130
NPRM Comment Period End	02/27/89	
Withdrawal Notice	03/21/02	67 FR 13117

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

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**RIN:** 1218-AA70**1868. ACCREDITATION OF TRAINING PROGRAMS FOR HAZARDOUS WASTE OPERATIONS (PART 1910)****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 655(b); 5 USC 552(a); 5 USC 553; PL 101-549 (November 15, 1990)**CFR Citation:** 29 CFR 1910.121**Legal Deadline:** None**Abstract:** The Superfund Amendments and Reauthorization Act (SARA) of

1986 (Public Law 99-499) established the criteria under which OSHA was to develop and promulgate the Hazardous Waste Operations and Emergency Response standard. OSHA issued an interim final standard on December 19, 1986 (51 FR 45654) to comply with the law's requirements. OSHA issued a permanent final rule with provisions on training to replace this interim rule on March 9, 1989 (29 CFR 1910.120).

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

**Timetable:**

Action	Date	FR Cite
NPRM	01/26/90	55 FR 2776
NPRM Comment Period End	04/26/90	
Withdrawn	08/15/02	

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

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**RIN:** 1218-AB27**1869. INJURY AND ILLNESS PREVENTION****Priority:** Economically Significant. Major under 5 USC 801.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 653; 29 USC 655; 29 USC 657**CFR Citation:** 29 CFR 1900.1**Legal Deadline:** None

**Abstract:** The Occupational Safety and Health Administration (OSHA), many States, members of the safety and health community, insurance companies, professional organizations, companies participating in the Agency's Voluntary Protection Programs, and many proactive employers in all industries recognize the value of worksite-specific injury and illness prevention programs in reducing and preventing job-related injuries, illnesses, and fatalities. The reductions in job-related injuries and illnesses, workers' compensation costs, and absenteeism that occur after employers implement such programs dramatically demonstrate their effectiveness. OSHA has decided to withdraw this item from the regulatory agenda. The Agency plans to review and revise as appropriate its 1989 Voluntary Safety and Health Management Guidelines. OSHA has received feedback from participants in the Agency's voluntary programs and from other stakeholders on the strengths and weaknesses of the existing guidelines. Although the guidelines help employers understand the basic approach to managing safety and health in the workplace, they do not sufficiently reflect the importance of employee participation or program evaluation. In addition, the Agency will continue and expand efforts to communicate the value and benefits of injury and illness prevention programs to employers. Extended outreach efforts combined with revised voluntary guidelines will encourage more widespread adoption of comprehensive and systematic injury and illness prevention programs.

**Timetable:**

Action	Date	FR Cite
Withdrawn	08/15/02	

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

## DOL—OSHA

## Completed Actions

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

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**RIN:** 1218-AB41

### 1870. FALL PROTECTION IN THE CONSTRUCTION INDUSTRY

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 29 CFR 1926

**Legal Deadline:** None

**Abstract:** OSHA issued an ANPRM to gather information on fall protection issues regarding certain construction processes such as residential home building, precast concrete operations and post frame construction. The issues relate to the fall protection rules as they now apply to roofing work, residential construction operations, climbing reinforcement steel and vendors delivering materials to construction projects. These issues have arisen since OSHA revised the fall protection standard in August 1994. OSHA has determined that additional information is needed on residential construction. No rulemaking action is anticipated during the next year. OSHA is withdrawing this entry from the agenda.

**Timetable:**

Action	Date	FR Cite
ANPRM	07/14/99	64 FR 38077
ANPRM Comment Period End	01/24/00	
Withdrawn	08/15/02	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

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**RIN:** 1218-AB62

### 1871. SIGNS, SIGNALS, AND BARRICADES

**Priority:** Other Significant

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

**CFR Citation:** 29 CFR 1926

**Legal Deadline:** None

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

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

On April 15, 2002, OSHA issued a Direct Final Rule and a companion proposed rule to update its standard since it anticipated widespread support for and few objections to the change. The Agency Advisory Committee on Construction Safety and Health endorsed using a Direct Final Rule to make this change in its Winter 2000 meeting. However, on July 15, 2002, OSHA withdrew the direct final rule because two comments were received that the Agency treated as significant adverse comments. OSHA is now preparing a final rule that will address those comments.

**Timetable:**

Action	Date	FR Cite
Direct Final Rule	04/15/02	67 FR 18091
Final Rule	09/12/02	67 FR 57722
Final Rule Effective	12/11/02	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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**RIN:** 1218-AB88

### 1872. CHANGES TO STATE PLANS

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 29 USC 667

**CFR Citation:** 29 CFR 1953

**Legal Deadline:** None

**Abstract:** Section 18 of the Occupational Safety and Health Act of 1970 (the Act), 29 U.S.C. 667, provides that States that wish to assume responsibility for developing and enforcing their own occupational safety and health standards relating to any occupational safety or health issue may do so by submitting and obtaining Federal approval of a State plan. A State plan consists of the laws, standards and other regulations, and procedures under which the State operates its occupational safety and health program. From time to time after initial plan approval, States may make changes to their plans as a result of legislative, regulatory or administrative actions. If the State makes a change to its plan which differs from the Federal program, the State must notify OSHA of the change to its plan which differs from the Federal program (referred to as a plan supplement). OSHA then reviews the changes; if they meet the approval criteria OSHA publishes a notice announcing the approval of the change; if the change does not meet the criteria OSHA initiates procedures to reject the change.

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

**Timetable:**

Action	Date	FR Cite
NPRM	11/06/01	66 FR 56043
NPRM Comment Period End	01/07/02	

## DOL—OSHA

## Completed Actions

Action	Date	FR Cite
Final Rule	09/25/02	67 FR 60122
Final Rule Effective	11/25/02	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

**Government Levels Affected:** State, Federal

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RIN: 1218-AB91

## Department of Labor (DOL)

## Proposed Rule Stage

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

**1873. ANNUAL REPORT FOR FEDERAL CONTRACTORS (2002 REVISIONS)**

Priority: Other Significant

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

CFR Citation: 41 CFR 61-250

Legal Deadline: None

**Abstract:** The Veterans' Employment and Training Service (VETS) is proposing to issue a notice of proposed rulemaking (NPRM) to implement changes required by the Veterans'

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

**Timetable:**

Action	Date	FR Cite
NPRM	03/00/03	

**Regulatory Flexibility Analysis**

Required: No

Government Levels Affected: None

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RIN: 1293-AA08

## Department of Labor (DOL)

## Final Rule Stage

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

**1874. ANNUAL REPORT FROM FEDERAL CONTRACTORS**

Priority: Other Significant

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

CFR Citation: 41 CFR 61-250

Legal Deadline: None

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

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

**Timetable:**

Action	Date	FR Cite
NPRM	10/05/00	65 FR 59683
NPRM Comment Period End	12/06/00	

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

**Regulatory Flexibility Analysis**

Required: No

Government Levels Affected: None

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