



Federal Register

**Monday,
December 22, 2003**

Part XIII

Department of Labor

Semiannual Regulatory Agenda

DEPARTMENT OF LABOR (DOL)

DEPARTMENT OF LABOR

Office of the Secretary

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

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

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Department's semiannual agenda of regulations that have been selected for review or development during the coming year. The Department#146;s agencies have carefully assessed their available resources and what they can accomplish in the next twelve months and have adjusted their agendas accordingly.

The agenda complies with the requirements of both Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists all regulations that are expected to be under review or development between November 2003 and November 2004, as well as those completed during the past six months.

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

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

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

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

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

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

The Regulatory Flexibility Act (under section 610) also requires agencies to periodically review rules #147;which have or will have a significant economic impact upon a substantial number of small entities#148; 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#146;s list.

Occupational Safety and Health Administration

Occupational Exposure to Ethylene Oxide (RIN 1218-AB60)

Excavations (RIN 1218-AC02)

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

Employee Benefits Security Administration

Prohibited Transaction Exemption Procedures (RIN 1210-AA98)

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

OSHA#146;s Grain Handling Facilities regulation was completed in final last year.

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
2044	Production or Disclosure of Information or Materials	1290—AA17

Employment Standards Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2045	Child Labor Regulations, Orders, and Statements of Interpretation	1215—AB44

DOL

Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2046	Davis Bacon Volunteers Under the Federal Acquisition Streamlining Act	1215—AA96
2047	Amendments to the Fair Labor Standards Act	1215—AB13
2048	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era	1215—AB24
2049	Stock Options, Stock Appreciation Rights, and Bona Fide Employee Stock Purchase Programs Under the Fair Labor Standards Act	1215—AB31
2050	Family and Medical Leave Act of 1993 (Reg Plan Seq No. 77)	1215—AB35
2051	Requirements for Security of Insurance Obligations Under the Longshore and Harbor Workers' Compensation Act	1215—AB38

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
2052	Child Labor Regulations, Orders, and Statements of Interpretation (ESA/W—H) (Reg Plan Seq No. 78)	1215—AA09
2053	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W—H) (Reg Plan Seq No. 79)	1215—AA14
2054	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H—1B Visas in Specialty Occupations and as Fashion Models	1215—AB09
2055	Government Contractors: Nondiscrimination and Affirmative Action Obligations, Executive Order 11246 (ESA/OFCCP) (Revised)	1215—AB28
2056	Obligation of Federal Contractors and Subcontractors, Notice of Employee Rights Concerning Payment of Union Dues or Fees	1215—AB33
2057	Amendments to Title 20 Parts 718 and 725 That Implement the Black Lung Benefits Act	1215—AB40

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

Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2058	Labor Organization Annual Financial Reports	1215—AB34
2059	Affirmative Action and Nondiscrimination Obligations of Government Contractors, Executive Order 11246; Exemption for Religious Entities	1215—AB39

Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2060	Federal—State Unemployment Compensation (UC) Program; Confidentiality and Disclosure of Information in State UC Records	1205—AB18
2061	Trade Adjustment Assistance for Workers (Reg Plan Seq No. 80)	1205—AB32
2062	Post—Adjudication Audits of H—2B Petitions Other than Logging in the United States	1205—AB36

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
2063	Labor Certification Process for the Permanent Employment of Aliens in the United States (Reg Plan Seq No. 81)	1205—AA66
2064	Indian and Native American Welfare—to—Work Program	1205—AB16

DOL

Employment and Training Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2065	Senior Community Service Employment Program (Reg Plan Seq No. 82)	1205—AB28

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

Employment and Training Administration—Long—Term Actions

Sequence Number	Title	Regulation Identification Number
2066	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
2067	Unemployment Compensation—Trust Fund Integrity Rule: Birth and Adoption Unemployment Compensation; Removal of Regulations	1205—AB33

Employee Benefits Security Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2068	Prohibited Transaction Exemption Procedures (Section 610 Review)	1210—AA98
2069	Statutory Exemption for Loans to Plan Participants (Sec. 610 Review)	1210—AA99

Employee Benefits Security Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2070	Default Rollover Safe Harbor	1210—AA92
2071	Electronic Filing By Investment Advisers	1210—AA94
2072	Suspension of Benefits Regulation	1210—AA96
2073	Rulemaking Relating to Termination of Abandoned Individual Account Plans (Reg Plan Seq No. 83)	1210—AA97

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

Employee Benefits Security Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2074	Regulations Implementing the Health Care Access, Portability, and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996 (Reg Plan Seq No. 84)	1210—AA54
2075	Rulemaking Relating to Notice Requirements for Continuation of Health Care Coverage (Reg Plan Seq No. 85) ..	1210—AA60
2076	Mental Health Benefits Parity	1210—AA62
2077	Health Care Standards for Mothers and Newborns	1210—AA63
2078	Rulemaking Relating to the Women's Health and Cancer Rights Act of 1998	1210—AA75
2079	Prohibiting Discrimination Against Participants and Beneficiaries Based on Health Status (Reg Plan Seq No. 86) ..	1210—AA77

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

DOL

Employee Benefits Security Administration—Long—Term Actions

Sequence Number	Title	Regulation Identification Number
2080	Adequate Consideration	1210—AA15

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2081	Respirable Crystalline Silica Standard	1219—AB36

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2082	Improving and Eliminating Regulations	1219—AA98
2083	Asbestos Exposure Limit (Reg Plan Seq No. 87)	1219—AB24
2084	High—Voltage Continuous Mining Machine Standards for Underground Coal Mines	1219—AB34
2085	Training Standards for Shaft and Slope Construction Workers at Underground Mines	1219—AB35
2086	Revising Electrical Product Approval Regulations	1219—AB37

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

Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2087	Underground Coal Mine Ventilation—Safety Standards for the Belt Entry as an Intake Air Course	1219—AA76
2088	Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners (Reg Plan Seq No. 88)	1219—AB29

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

Mine Safety and Health Administration—Long—Term Actions

Sequence Number	Title	Regulation Identification Number
2089	Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust	1219—AB14
2090	Determination of Concentration of Respirable Coal Mine Dust	1219—AB18

Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2091	Testing and Evaluation by Independent Laboratories and Non—MSHA Product Safety Standards	1219—AA87
2092	Focused Inspections	1219—AB30
2093	Emergency Evacuation; Emergency Temporary Standard	1219—AB33

DOL

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

Sequence Number	Title	Regulation Identification Number
2094	Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Investment Act of 1998	1291—AA29

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

Sequence Number	Title	Regulation Identification Number
2095	Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance From the Department of Labor	1291—AA21
2096	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
2097	Grants and Agreements	1291—AA30

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

Sequence Number	Title	Regulation Identification Number
2098	Effectuation of Title VI of the Civil Rights Act of 1964 and Implementation of Section 504 of the Rehabilitation Act of 1973	1291—AA31
2099	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug—Free Workplace (Grants) 29 CFR 98	1291—AA33

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2100	Occupational Exposure to Hexavalent Chromium (Preventing Occupational Illness: Chromium) (Reg Plan Seq No. 89)	1218—AB45
2101	Confined Spaces in Construction (Part 1926): Preventing Suffocation/Explosions in Confined Spaces	1218—AB47
2102	Occupational Exposure to Ethylene Oxide (Section 610 Review)	1218—AB60
2103	Occupational Exposure to Crystalline Silica (Reg Plan Seq No. 90)	1218—AB70
2104	Occupational Exposure to Beryllium	1218—AB76
2105	Excavations (Section 610 Review)	1218—AC02
2106	Presence Sensing Device Initiation of Mechanical Power Presses (Section 610 Review)	1218—AC03
2107	Ionizing Radiation	1218—AC11

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

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2108	Longshoring and Marine Terminals (Parts 1917 and 1918) — Reopening of the Record (Vertical Tandem Lifts (VTLs))	1218—AA56
2109	General Working Conditions for Shipyard Employment	1218—AB50
2110	Electric Power Transmission and Distribution; Electrical Protective Equipment	1218—AB67

DOL

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

Sequence Number	Title	Regulation Identification Number
2111	Walking Working Surfaces and Personal Fall Protection Systems (1910) (Slips, Trips, and Fall Prevention)	1218—AB80
2112	Hearing Conservation Program for Construction Workers	1218—AB89
2113	Revision and Update of Subpart S—Electrical Standards	1218—AB95
2114	Updating OSHA Standards Based on National Consensus Standards	1218—AC08
2115	Explosives	1218—AC09

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2116	Assigned Protection Factors: Amendments to the Final Rule on Respiratory Protection (Reg Plan Seq No. 91)	1218—AA05
2117	Glycol Ethers: 2—Methoxyethanol, 2—Ethoxyethanol, and Their Acetates: Protecting Reproductive Health	1218—AA84
2118	Occupational Exposure to Tuberculosis	1218—AB46
2119	Fire Protection in Shipyard Employment (Part 1915, Subpart P) (Shipyards: Fire Safety) (Reg Plan Seq No. 92) ...	1218—AB51
2120	Standards Improvement (Miscellaneous Changes) for General Industry, Marine Terminals, and Construction Standards (Phase II) (Reg Plan Seq No. 93)	1218—AB81
2121	Commercial Diving Operations: Revision	1218—AB97
2122	Controlled Negative Pressure Fit Testing Protocol: Amendment to the Final Rule on Respiratory Protection	1218—AC05
2123	Procedures for Handling Discrimination Complaints Under Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002	1218—AC10
2124	Procedures for Handling Discrimination Complaints Under Section 6 of the Pipeline Safety Improvement Act of 2002	1218—AC12

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
2125	Employer Payment for Personal Protective Equipment	1218—AB77
2126	Cranes and Derricks	1218—AC01

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2127	Occupational Injury and Illness Recording and Reporting Requirements	1218—AC06

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

Sequence Number	Title	Regulation Identification Number
2128	Uniformed Services Employment and Reemployment Rights Act Regulations (Reg Plan Seq No. 94)	1293—AA09
2129	Jobs for Veterans Act of 2002: State Grant Funding Formula FY 2005	1293—AA11
2130	Jobs for Veterans Act of 2002: Contract Threshold and Eligibility Groups for Federal Contractor Program	1293—AA12

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

DOL

Office of the Assistant Secretary for Veterans' Employment & Training—Long—Term Actions

Sequence Number	Title	Regulation Identification Number
2131	Jobs for Veterans Act of 2002: Uniform National Threshold	1293—AA13

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

Sequence Number	Title	Regulation Identification Number
2132	Jobs for Veterans Act of 2002	1293—AA10

Department of Labor (DOL)

Proposed Rule Stage

Office of the Secretary (OS)

2044. 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	12/00/03	

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)

Prerule Stage

Employment Standards Administration (ESA)

2045. • CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 203(1)

CFR Citation: 29 CFR 570

Legal Deadline: None

Abstract: The Department of Labor is considering further possible revisions to the hazardous occupation orders that may be undertaken to address

recommendations of the National Institute for Occupational Safety and Health in its May 2002 report to the Department on child labor regulations. (See the related Plan entry for RIN: 1215—AA09.)

Timetable:

Action	Date	FR Cite
ANPRM	04/00/04	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Federalism: Undetermined

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—1303

RIN: 1215—AB44

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

Proposed Rule Stage

2046. DAVIS BACON VOLUNTEERS UNDER THE FEDERAL ACQUISITION STREAMLINING ACT

Priority: Substantive, Nonsignificant

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

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

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

Final, Statutory, October 1, 1995, Final.

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

Timetable:

Action	Date	FR Cite
NPRM	09/07/95	60 FR 46553
NPRM Comment Period End	10/10/95	
Final Rule	08/05/96	61 FR 40714
Second NPRM	06/00/04	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: Federal, Local, State

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—1303

RIN: 1215—AA96

2047. 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 no less than \$27.63 per hour for certain exempt professional employees in computer—related occupations. Changes will be required in the regulations to reflect these amendments.

Timetable:

Action	Date	FR Cite
NPRM	09/00/04	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: Federal, Local, State

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—1303

RIN: 1215—AB13

2048. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Priority: Other Significant

Legal Authority: 38 USC 4211; 38 USC 4212; PL 101—237; PL 102—127; PL 102—16; PL 102—484; PL 105—339; PL 93—508, 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 Jobs for Veterans Act of 2002 (JFVA). JFVA amended VEVRAA in four ways. First, JFVA raised contract coverage from \$25,000 to \$100,000. Second, JFVA granted VEVRAA protection to a new group of veterans—those who, while serving on active duty in the Armed Forces, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985. Third, JFVA changed the definition of "recently separated veteran" to include "any veteran during the three—year period beginning on the date of such veteran's discharge or release from active duty." Fourth, JFVA changed "Special Disabled Veterans" to "Disabled Veterans," expanding the coverage to conform to 38 U.S.C. section 4211 (3). JFVA also superseded changes to VEVRAA from the Veterans Employment Opportunities Act of 1998 (VEOA) and the Veterans Benefits and Health Care Improvement Act of 2000 (VBHCIA). This proposal revises these regulations to conform to the requirements of JFVA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/04	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

Agency Contact: James I. Melvin, Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N—3422, FP Building, Washington, DC 20210

DOL—ESA

Proposed Rule Stage

Phone: 202 693—0102
 TDD Phone: 202 693—1308
 Fax: 202 693—1304
 Email: ofccp—mail@dol—esa.gov
 RIN: 1215—AB24

2049. 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	06/00/04	

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—1303

RIN: 1215—AB31

2050. FAMILY AND MEDICAL LEAVE ACT OF 1993

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

RIN: 1215—AB35

2051. REQUIREMENTS FOR SECURITY OF INSURANCE OBLIGATIONS UNDER THE LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 939(a)

CFR Citation: 20 CFR 701 (Revision); 20 CFR 703

Legal Deadline: None

Abstract: The Longshore and Harbor Workers' Compensation Act (LHWCA) makes a covered employer liable for compensation to employees injured in the course of their work. An employer may satisfy this liability by contracting with a private insurance carrier. By statute, an insurance carrier must obtain authorization from the Secretary of Labor to insure compensation, and the Secretary may revoke authorization

for good cause. This proposed regulation would require, as a condition to authorization to write LHWCA insurance, an insurance carrier in certain circumstances to establish that its potential LHWCA obligations are sufficiently secured. Obligations would be considered sufficiently secured if funds would be available to cover all workers' compensation claims in the event of adverse market conditions and the carrier's insolvency. A carrier could fully secure its obligations by posting security deposits with the Secretary. Carriers would not, however, be required to make this showing in states which have a guaranty fund that fully and immediately covers LHWCA claims in the event of a carrier's insolvency.

Timetable:

Action	Date	FR Cite
NPRM	01/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Michael Niss, Director, Division of Longshore and Harbor Workers' Compensation, OWCP, Department of Labor, Employment Standards Administration, Room C4315, 200 Constitution Ave., NW, Room C—4315, FP Building, Washington, DC 20210
 Phone: 202 693—0038
 Fax: 202 693—1380

RIN: 1215—AB38

Department of Labor (DOL)

Employment Standards Administration (ESA)

Final Rule Stage

2052. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION (ESA/W—H)

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

RIN: 1215—AA09

2053. 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. 79 in part II of this issue of the **Federal Register**.

RIN: 1215—AA14

2054. 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

DOL—ESA

Final Rule Stage

Legal Deadline: None

Abstract: The H—1B visa program of the Immigration and Nationality Act allows employers to temporarily employ nonimmigrants admitted into the United States under the H—1B visa category in specialty occupations and as fashion models, under specified labor conditions. An employer must file a labor condition application with the Department of Labor before the Immigration and Naturalization Service may approve a petition to employ a foreign worker on an H—1B visa. The Department's Employment and Training Administration administers the labor condition application process; the Wage and Hour Division of the Department's Employment Standards Administration handles complaints and investigations regarding labor condition applications. The Department published a proposed rule on January 5, 1999, in response to statutory changes in the H—1B program made by the American Competitiveness and Workforce Improvement Act of 1998 (title IV, Pub. L. 105—277; Oct. 21, 1998). Those changes placed additional obligations on "H—1B—dependent" employers (generally, those with work forces comprised of more than 15 percent H—1B workers) and on willful violators. These employers must recruit for U.S. workers, hire U.S. workers who are at least as qualified as H—1B workers, and not displace U.S. workers by hiring H—1B workers or placing them at another employer's job site. The 1998 amendments also imposed additional obligations on all H—1B employers, such as offering benefits to H—1B workers on the same basis and according to the same criteria as offered to U.S. workers, and payment to H—1B workers during periods they are not working for an employment—related reason. The 1999 proposed rule also requested further public comment on earlier proposed provisions published in October 1995, and on particular interpretations of the statute and of the existing regulations which the Department proposed to incorporate into the regulations. Since publishing the proposed rule, Congress enacted further amendments to the H—1B provisions under the American Competitiveness in the Twenty—First Century Act of 2000 (Pub. L. 106—313; Oct. 17, 2000), the Immigration and Nationality Act — Amendments (Pub. L. 106—311; Oct. 17, 2000), and section 401 of the Visa Waiver Permanent

Program Act (Pub. L. 106—396; Oct. 30, 2000).

Timetable:

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

Regulatory Flexibility Analysis Required: No

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

Agency Contact: 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—1303

RIN: 1215—AB09

2055. 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	02/00/04	

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, 200 Constitution Avenue NW., Room N—3422, FP Building, Washington, DC 20210
 Phone: 202 693—0102
 TDD Phone: 202 693—1308
 Fax: 202 693—1304
 Email: ofccp—mail@dol—esa.gov

RIN: 1215—AB28

2056. 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

DOL—ESA

Final Rule Stage

conflicts with the National Labor Relations Act. The court permanently enjoined the Department of Labor from implementing and enforcing Executive Order 13201. The decision was appealed. On April 22, 2003, the U.S. Court of Appeals for the District of Columbia reversed the January 2, 2002, decision of the Federal District Court for the District of Columbia in *UAW—Labor Employment and Training Corp. v. Chao*, and directed the lower court to grant summary judgment in favor of the Secretary of Labor.

This regulation 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 Action	03/00/04	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Don Todd, 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

2057. AMENDMENTS TO TITLE 20 PARTS 718 AND 725 THAT IMPLEMENT THE BLACK LUNG BENEFITS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; Reorganization Plan No. 6 of 1950; 15 FR 3174; 30 USC 901, et seq, 902(f), 934, 936, 945; 33 USC 901 et seq; 42 USC 405; Secretary's Order 7—87; 52

FR 48466; Employment Standards Order No. 90—02; ...

CFR Citation: 20 CFR 718.2; 20 CFR 725.2; 20 CFR 725.459

Legal Deadline: None

Abstract: The amendments implement National Mining Ass'n v. Department of Labor, 292 F.3d 849 (D.C. Cir. 2002) which invalidated a portion of 20 CFR 725.459 and required several other provisions which became effective in January 2001 to be prospective only in their application.

Timetable:

Action	Date	FR Cite
Final Rule	12/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James L. DeMarce, Director, Division of Coal Mine Workers' Compensation, Department of Labor, Employment Standards Administration, Room C3520, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693—0046
Fax: 202 693—1398
Email: nojld@dol—esa.gov

RIN: 1215—AB40

Department of Labor (DOL)

Completed Actions

Employment Standards Administration (ESA)

2058. 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 will be used by labor organizations with \$250,000 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 certain "major" receipts and disbursements, to allocate disbursements among categories such as representational activities, political activities and lobbying, and union administration, 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	12/27/02	67 FR 79280

Action	Date	FR Cite
NPRM Comment Period End	03/27/03	
Final Rule	10/09/03	68 FR 58374
Final Rule Effective	01/01/04	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Don Todd, 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

DOL—ESA

Completed Actions

2059. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF GOVERNMENT CONTRACTORS, EXECUTIVE ORDER 11246; EXEMPTION FOR RELIGIOUS ENTITIES**Priority:** Substantive, Nonsignificant**Legal Authority:** EO 13279; EO 11246, as amended**CFR Citation:** 41 CFR 60—1.5**Legal Deadline:** None**Abstract:** On December 12, 2002, President Bush issued Executive Order 13279 regarding faith-based and community organizations that, in part, amends Executive Order 11246. Section 4 of Executive Order 13279 amends

section 204 of Executive Order 11246 by adding an exemption for religious entities. The final rule would make religious entities exempt from allegations of discrimination based on religion. OFCCP regulations at 41 CFR 60—1.5 will be amended to add the new religious entity exemption. The new exemption is limited to religious discrimination by religious entities. Religious entities will continue to be precluded from basing employment decisions on race, color, sex, or national origin.

Timetable:

Action	Date	FR Cite
Final Rule	09/30/03	68 FR 56392
Final Rule Effective	10/30/03	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** James I. Melvin, Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N—3422, FP Building, Washington, DC 20210

Phone: 202 693—0102

TDD Phone: 202 693—1308

Fax: 202 693—1304

Email: ofccp—mail@dol—esa.gov

RIN: 1215—AB39

Department of Labor (DOL)

Employment and Training Administration (ETA)

Proposed Rule Stage

2060. 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 State UC information. The NPRM would modify and expand the regulations implementing the Income and Eligibility Verification System (IEVS) to include statutory requirements in title III of the Social Security Act and the Federal Unemployment Tax Act concerning confidentiality and disclosure of State UC information. The use of UC wage records and other information under these and other statutes has increased in recent years while privacy and confidentiality issues have not yet been fully addressed.**Timetable:**

Action	Date	FR Cite
NPRM	06/00/04	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** State**Federalism:** This action may have federalism implications as defined in EO 13132.**Additional Information:** Formerly RIN 1205—AA74; was taken off regulatory agenda in 1994 due to inactivity. An earlier NPRM was published on 3/23/92 at 57 FR 10063 with comment period ending 5/22/92.**Agency Contact:** Gerard Hildebrand, Chief, Division of Legislation, Department of Labor, Employment and Training Administration, Office of Workforce Security, 200 Constitution Avenue NW., Room C—4518, Washington, DC 20210
Phone: 202 693—3038
Email: hildebrand.gerard@dol.gov**RIN:** 1205—AB18**2061. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS****Regulatory Plan:** This entry is Seq. No. 80 in part II of this issue of the **Federal Register**.**RIN:** 1205—AB32**2062. • POST—ADJUDICATION AUDITS OF H—2B PETITIONS OTHER THAN LOGGING IN THE UNITED STATES****Priority:** Other Significant**Legal Authority:** 8 USC 1101(a)(15)(H)(ii)(b); 8 USC 1184; 29 USC 49 et seq**CFR Citation:** 8 CFR 214.2(h)(5); 20 CFR 655.1 to 655.4**Legal Deadline:** None**Abstract:** Under the redesigned H—2B temporary nonagricultural program employers seeking to import H—2B workers, except for applications filed for employment on Guam or in logging, will file directly with the Department of Homeland Security (DHS). The employer will be required to conduct recruitment before filing its petition. The petition will include a number of attestations concerning labor market and related issues. DHS will administer the petition adjudication process. After adjudication, the Department of Labor (DOL) will audit selected approved petitions. In such audits, DOL will exclusively examine whether the employer has complied with those aspects of the approved petition related to the labor market and other related attestations. Employers will be expected to have documentation available supporting their attestations as specified in the regulation and will be required to provide this supporting documentation to DOL within 30 days from notice of audit. If, after

DOL—ETA

Proposed Rule Stage

completion of the audit, DOL determines that the employer has failed to comply with the terms of the attestations contained in the DHS petition or made material misrepresentations in its attestation, DOL will, after notice to the employer and opportunity for a hearing, recommend to DHS that the employer be debarred, for a period up to three years.

Timetable:

Action	Date	FR Cite
NPRM	11/00/03	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** State**Agency Contact:** William Carlson, Chief, Division of Foreign Labor Certification, Department of Labor,

Employment and Training Administration, 200 Constitution Avenue NW., Room C4318 FP Building, Washington, DC 20210
 Phone: 202 693—3989
 Fax: 202 693—2760
 Email: carlson.william@dol.gov
RIN: 1205—AB36

Department of Labor (DOL)

Final Rule Stage

Employment and Training Administration (ETA)

2063. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES**Regulatory Plan:** This entry is Seq. No. 81 in part II of this issue of the **Federal Register**.**RIN:** 1205—AA66

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.

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: gross.gregory@dol.gov**RIN:** 1205—AB16**2064. 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, Final. Other, Statutory, January 1, 2000, Other.**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

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 End	06/01/98	
To Be Withdrawn	01/00/04	

2065. SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM**Regulatory Plan:** This entry is Seq. No. 82 in part II of this issue of the **Federal Register**.**RIN:** 1205—AB28

Department of Labor (DOL)

Long-Term Actions

Employment and Training Administration (ETA)

2066. ATTESTATIONS BY FACILITIES TEMPORARILY EMPLOYING H—1C NONIMMIGRANT ALIENS AS REGISTERED NURSES**Priority:** Other Significant**Legal Authority:** 29 USC 49 et seq; 8 USC 1101(a)(15)(H)(i)(c); 8 USC 1182(m); 8 USC 1184; PL 106—95, 113 Stat. 1312**CFR Citation:** 20 CFR 655, subparts L and M**Legal Deadline:** Final, Statutory, February 11, 2000, Final.**Abstract:** The Nursing Relief for Disadvantaged Areas Act of 1999 (P.L. 106—95; November 12, 1999) amended the Immigration and Nationality Act to create a new temporary visa program for nonimmigrant aliens to work as registered nurses for up to three years in facilities serving health professional shortage areas, subject to certain conditions.**Timetable:**

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

Regulatory Flexibility Analysis Required: No

DOL—ETA

Long-Term Actions

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, 200Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693—0745**RIN:** 1205—AB27**Department of Labor (DOL)
Employment and Training Administration (ETA)****Completed Actions****2067. UNEMPLOYMENT
COMPENSATION—TRUST FUND
INTEGRITY RULE: BIRTH AND
ADOPTION UNEMPLOYMENT
COMPENSATION; REMOVAL OF
REGULATIONS****Priority:** Other Significant**Legal Authority:** 42 USC 503(a)(2) and 503(a)(5); 42 USC 1302(a); 26 USC 3304(a)(1) and 3304(a)(4); 26 USC 3306**CFR Citation:** 20 CFR 604**Legal Deadline:** None**Abstract:** The Department of Labor is proposing to remove the Birth and Adoption Unemployment

Compensation regulations. Those regulations permit states to provide, in the form of UC, partial wage replacement to employees who take approved leave or otherwise leave their employment following the birth or placement for adoption of a child.

Timetable:

Action	Date	FR Cite
NPRM	12/04/02	67 FR 72122
NPRM Comment Period End	02/03/03	
Final Rule	10/09/03	68 FR 58540
Final Rule Effective	11/10/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** State**Federalism:** No**Agency Contact:** Gerard Hildebrand, Chief, Division of Legislation, Department of Labor, Employment and Training Administration, Office of Workforce Security, 200 Constitution Avenue NW., Room C—4518, Washington, DC 20210
Phone: 202 693—3038
Email: hildebrand.gerard@dol.gov**RIN:** 1205—AB33**Department of Labor (DOL)
Employee Benefits Security Administration (EBSA)****Prerule Stage****2068. ● PROHIBITED TRANSACTION
EXEMPTION PROCEDURES****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 1135; 29 USC 1108 (a); Reorganization Plan No. 4 or 1978; Secretary of Labor's Order 1—2003**CFR Citation:** 29 CFR 2570.30 to 2570.52**Legal Deadline:** None**Abstract:** EBSA is conducting a review of the prohibited transaction exemption procedures regulation in accordance with the requirements of Section 610 of the Regulatory Flexibility Act. The review will cover the continued need for the rules; the nature of complaints or comments received from the public concerning the rules; the complexity of the rules; the extent to which the rules overlap, duplicate or conflict with other Federal rules and, to the extent feasible, with State and local rules; and the extent to which technology, economic conditions, or other factors have changed in industries affected by the rules. To facilitate the review, EBSA is

preparing a Request for Information, which will invite interested persons to submit written comments on these and related matters.

Timetable:

Action	Date	FR Cite
Begin Review	12/00/03	
RFI	07/00/04	

Regulatory Flexibility Analysis**Required:** Undetermined**Government Levels Affected:** Undetermined**Agency Contact:** Karen E. Lloyd, Supervisory Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., Room N5649, Washington, DC 20210
Phone: 202 693—8554**RIN:** 1210—AA98**2069. ● STATUTORY EXEMPTION FOR
LOANS TO PLAN PARTICIPANTS
(SEC. 610 REVIEW)****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 1135; 29 USC 1108 (b)(1)**CFR Citation:** 29 CFR 2550.408 b—1**Legal Deadline:** None**Abstract:** EBSA is conducting a review of the participant loan rules under section 408(b)(1) of ERISA in accordance with the requirements of section 610 of the Regulatory Flexibility Act. The review will cover the continued need for the rules; the nature of complaints or comments received from the public concerning the rules; the complexity of the rules; the extent to which the rules overlap, duplicate, or conflict with other Federal rules, and to the extent feasible, with State and local rules; and the extent to which technology, economic conditions, or other factors have changed in industries affected by the rules.**Timetable:**

Action	Date	FR Cite
Begin Review	12/00/03	
End Review	12/00/04	

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

DOL—EBSA

Prerule Stage

Agency Contact: Rudy F. Nuissl,
Senior Pension Law Specialist,
Department of Labor, Employee

Benefits Security Administration, 200
Constitution Avenue NW, Rm N5669,
FP Building, Washington, DC 20210

Phone: 202 693—8500

RIN: 1210—AA99

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

Proposed Rule Stage

2070. 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, Final.

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 has issued a request for information in order to obtain additional information from the public to assist it in developing the required safe harbors.

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	01/07/03	68 FR 992
NPRM	02/00/04	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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

RIN: 1210—AA92

2071. ELECTRONIC FILING BY INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant

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

CFR Citation: 29 CFR 2510.3—38

Legal Deadline: None

Abstract: 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	12/00/03	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Florence Novellino—Ott, Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693—8500

RIN: 1210—AA94

2072. SUSPENSION OF BENEFITS REGULATION

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 2530.203—3

Legal Deadline: None

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

Timetable:

Action	Date	FR Cite
NPRM	02/00/04	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

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

RIN: 1210—AA96

2073. • RULEMAKING RELATING TO TERMINATION OF ABANDONED INDIVIDUAL ACCOUNT PLANS

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

RIN: 1210—AA97

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

Final Rule Stage

2074. 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. 84 in part II of this issue of the **Federal Register**.

RIN: 1210-AA54

2075. RULEMAKING RELATING TO NOTICE REQUIREMENTS FOR CONTINUATION OF HEALTH CARE COVERAGE

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

RIN: 1210-AA60

2076. MENTAL HEALTH BENEFITS PARITY

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 2590

Legal Deadline: None

Abstract: The Mental Health Parity Act of 1996 (MHPA) was enacted on September 26, 1996 (Pub. L. 104—204). MHPA amended the Public Health Service Act (PHS Act) and the Employee Retirement Income Security Act of 1974 (ERISA), as amended, to provide for parity in the application of certain mental health benefits with limits on medical surgical benefits. These changes were subsequently added to the Internal Revenue Code (the Code). MHPA provisions are set forth in chapter 100 of subtitle K of the Code, title XXVII of the PHS Act, and part 7 of subtitle B of title I of ERISA. On December 2, 2002, President Bush signed H.R. 5716 (Pub. L. 107—313), the Mental Health Parity Reauthorization Act of 2002. This legislation amended ERISA and the PHS Act to further extend MHPA's original sunset date to December 31, 2003 (the Code provisions already contained a sunset date of December 31, 2003). As a result of this statutory amendment, and to assist employers, plan sponsors, health insurance issuers,

and workers, the Department of Labor has amended the interim final regulations, in consultation with the Departments of the Treasury and Health and Human Services, conforming the regulatory sunset date to the current statutory sunset date of December 31, 2003.

Timetable:

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

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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

RIN: 1210-AA62

2077. 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	04/00/04	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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

RIN: 1210-AA63

2078. 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
Request for Information Comment Period End	06/28/99	
Interim Final Rule	05/00/04	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elena Lynett, Pension Law Specialist, Department of Labor, Employee Benefits Security

DOL—EBSA

Final Rule Stage

Administration, Room C5331, 200
Constitution Avenue NW, FP Building,
C5331, Washington, DC 20210
Phone: 202 693—8335

RIN: 1210—AA75

**2079. PROHIBITING DISCRIMINATION
AGAINST PARTICIPANTS AND
BENEFICIARIES BASED ON HEALTH
STATUS**

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

RIN: 1210—AA77

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

Long-Term Actions

2080. ADEQUATE CONSIDERATION

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 2510

Legal Deadline: None

Abstract: The regulation would set forth standards for determining

“adequate consideration” under section 3(18) of ERISA for assets other than securities for which there is a generally recognized market.

Timetable:

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

**Regulatory Flexibility Analysis
Required:** Undetermined

Government Levels Affected: None

Agency Contact: Morton Klevan,
Department of Labor, Employee
Benefits Security Administration,
N5669, 200 Constitution Avenue NW,
FP Building, Washington, DC 20210
Phone: 202 693—8500

RIN: 1210—AA15

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

Prerule Stage

**2081. • RESPIRABLE CRYSTALLINE
SILICA STANDARD**

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

Legal Authority: 30 USC 811; 30 USC 813

CFR Citation: 30 CFR 70; 30 CFR 71;
30 CFR 90; 30 CFR 72; 30 CFR 58; ...

Legal Deadline: None

Abstract: Current standards limit exposures to quartz (crystalline silica) in respirable dust. The coal mining industry standard is based on the formula 10mg/m³ divided by the percentage of quartz where the quartz percent is 5.0 percent or greater calculated as an MRE equivalent concentration. The metal and nonmetal mining industry standard is based on the 1973 American Conference of

Governmental Industrial Hygienists (ACGIH) Threshold Limit Values formula: 10 mg/m³ divided by the percentage of quartz plus 2. Overexposure to crystalline silica can result in some miners developing silicosis which may ultimately be fatal. Both formulas are designed to maintain exposures to 0.1 mg/m³ (100 ug) of silica.

The Secretary of Labor’s Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers made several recommendations related to reducing exposure to silica. NIOSH and ACGIH recommend a 50ug/ m³ exposure limit for respirable crystalline silica. MSHA is considering several options to reduce miners’ exposure to crystalline silica.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/04	

**Regulatory Flexibility Analysis
Required:** Undetermined

Government Levels Affected: None

Energy Effects: Statement of Energy Effects planned as required by Executive Order 13211.

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

RIN: 1219—AB36

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

Proposed Rule Stage

2082. IMPROVING AND ELIMINATING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 1 to 199

Legal Deadline: None

Abstract: This rulemaking will revise text in the CFR to reduce burden or duplication, and to streamline requirements. We have reviewed our current regulations and identified provisions that are outdated, redundant, unnecessary, or otherwise require change. We will be making these changes through notice and comment rulemaking where necessary. We will also consider new regulations that reflect "best practices" in the mining industry. We view this effort to be evolving and ongoing and will continue to accept recommendations from the public. MSHA will propose a rule addressing issues related to portable diesel generators.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End: Methane Testing	11/25/02	67 FR 60611
NPRM: Spring—Loaded Locks	01/22/03	68 FR 2941
Direct Final Rule: Spring—Loaded Locks	01/22/03	68 FR 2879
Withdrawal of Direct Final Rule: Spring—Loaded Locks	03/07/03	68 FR 10965
NPRM: Sanitary Toilets	04/21/03	68 FR 19477
NPRM: Seatbelts	04/21/03	68 FR 19474
Direct Final Rule: Sanitary Toilets	04/21/03	68 FR 19347
Direct Final Rule: Seatbelts	04/21/03	68 FR 19344
Final Rule: Sanitary Toilets	06/23/03	68 FR 37082
Final Rule: Spring—Loaded Locks	06/23/03	68 FR 37077
Final Rule Effective (Confirmation): Seatbelts	06/30/03	68 FR 36913
NPRM: Methane Testing	07/07/03	68 FR 40132
Final Rule: Methane Testing	07/07/03	68 FR 40132
Final Rule Effective: Sanitary Toilets	07/23/03	68 FR 37082
Final Rule Effective: Spring—Loaded Locks	08/22/03	68 FR 37077
NPRM: Portable Diesel Generator	03/00/04	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

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

RIN: 1219—AA98

2083. ASBESTOS EXPOSURE LIMIT

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

RIN: 1219—AB24

2084. • HIGH—VOLTAGE CONTINUOUS MINING MACHINE STANDARDS FOR UNDERGROUND COAL MINES

Priority: Other Significant

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

CFR Citation: 30 CFR 18; 30 CFR 75

Legal Deadline: None

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

Timetable:

Action	Date	FR Cite
NPRM	03/00/04	

Regulatory Flexibility Analysis Required: Yes

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, Room 2350, Arlington, VA 22209
 Phone: 202 693—9440
 Fax: 202 693—9441
 Email: nichols—marvin@dol.gov

RIN: 1219—AB34

2085. • TRAINING STANDARDS FOR SHAFT AND SLOPE CONSTRUCTION WORKERS AT UNDERGROUND MINES

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

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 48.2; 30 CFR 48.7; 30 CFR 48.8; 30 CFR 48.22; 30 CFR 48.23; 30 CFR 49.28

Legal Deadline: None

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

Timetable:

Action	Date	FR Cite
NPRM	03/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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

RIN: 1219—AB35

DOL—MSHA

Proposed Rule Stage

2086. • REVISING ELECTRICAL PRODUCT APPROVAL REGULATIONS

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

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 22; 30 CFR 23; 30 CFR 27

Legal Deadline: None

Abstract: Part 18 of 30 CFR, entitled "Electric Motor—Driven Mine Equipment and Accessories," sets out the requirements to obtain MSHA approval of electrically operated machines and accessories intended for use in underground mines, as well as

other related matters, such as approval procedures, certification of components, and acceptance of flame-resistant hoses and conveyor belts. Aside from minor modifications, part 18 has been largely unchanged since it was promulgated in 1968. This update of part 18 is intended to improve the efficiency of the approval process, recognize new technology, add quality assurance provisions, and address existing policies through the rulemaking process.

Timetable:

Action	Date	FR Cite
NPRM	09/00/04	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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

RIN: 1219—AB37

Department of Labor (DOL)

Mine Safety and Health Administration (MSHA)

Final Rule Stage

2087. UNDERGROUND COAL MINE VENTILATION—SAFETY STANDARDS FOR THE BELT ENTRY AS AN INTAKE AIR COURSE

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 961

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: The proposed rule would give a coal mine operator the option of using air from a belt entry (belt air) in mines with three or more entries (parallel tunnels), as an intake air course to ventilate working sections and areas where mechanized mining equipment is being installed or removed. Current standards require belt air to be separated from intake and return air courses for mines opened after 1970, unless a mine operator is

granted a petition for modification of a safety standard (30 CFR 75.350) as set forth in the Federal Mine Safety and Health Act (Mine Act) of 1977 section 101(c), 30 USC 811(c) (1998). For three or more entry mines, regardless of the date they were opened, the proposed rule would eliminate the need for mine operators to seek a petition for modification to use belt air and establish safety requirements for its use.

Timetable:

Action	Date	FR Cite
NPRM	01/27/88	53 FR 2382
Public Hearing Notice	01/27/03	68 FR 3936
Second NPRM	01/27/03	68 FR 3936
Second NPRM	03/28/03	
Comment Period		
End		
Final Rule	03/00/04	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

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

RIN: 1219—AA76

2088. DIESEL PARTICULATE MATTER EXPOSURE OF UNDERGROUND METAL AND NONMETAL MINERS

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

RIN: 1219—AB29

Department of Labor (DOL)

Mine Safety and Health Administration (MSHA)

Long-Term Actions

2089. VERIFICATION OF UNDERGROUND COAL MINE OPERATORS' DUST CONTROL PLANS AND COMPLIANCE SAMPLING FOR RESPIRABLE DUST

Priority: Other Significant

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

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

Legal Deadline: None

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

could be inadequate to control respirable dust.

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

DOL—MSHA

Long-Term Actions

mining unit specified in the approved mine ventilation plan.

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

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

Timetable:

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

Regulatory Flexibility Analysis

Required: Yes

Government Levels Affected: None

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

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

RIN: 1219—AB14

2090. DETERMINATION OF CONCENTRATION OF RESPIRABLE COAL MINE DUST

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 72

Legal Deadline: None

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

production prototype Personal Dust Monitors (PDMs) units. The results of the collaborative effort will guide the Agency in determining the functionality of these real—time dust monitoring devices and need for revisions to the coal respirable dust monitoring requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/07/00	65 FR 42068
Notice of Hearings; Close of Record	07/07/00	65 FR 42185
Extension of Comment Period; Close	09/08/00	65 FR 49215
Reopen Record for Comments	03/06/03	68 FR 10940
Notice of Public Hearings; Close of Record	03/17/03	68 FR 12641
Extension of Comment Period	05/29/03	68 FR 32005
Reopen Record Comment Period End	06/04/03	
Extension of Comment Period; Reopening of Record	08/12/03	68 FR 47886
NPRM	To Be Determined	

Regulatory Flexibility Analysis

Required: Yes

Government Levels Affected: None

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

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

RIN: 1219—AB18

Department of Labor (DOL)

Completed Actions

Mine Safety and Health Administration (MSHA)

2091. TESTING AND EVALUATION BY INDEPENDENT LABORATORIES AND NON—MSHA PRODUCT SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957

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

Legal Deadline: None

Abstract: The proposed rule contains modifications to MSHA's existing

product approval requirements for use of products in gassy underground mines. MSHA currently issues product approvals from MSHA's Approval and Certification Center after MSHA tests and evaluates the products based on regulations in 30 CFR parts 7 through 36. The proposed rule would establish

DOL—MSHA

Completed Actions

alternative requirements for the testing and evaluation of products for MSHA approval. It would permit manufacturers who seek MSHA product approval to use an independent laboratory to perform the necessary product testing and evaluation in lieu of it being performed by MSHA. It also would allow MSHA product approval to be based on equivalent non—MSHA product safety standards.

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	04/09/96	61 FR 15743
Comment Period End	04/09/96	
Public Hearing Notice	10/17/02	67 FR 64196
Second NPRM	10/17/02	67 FR 64196
Second NPRM Comment Period End	12/31/02	
Final Rule	06/17/03	68 FR 36408
Final Rule Effective	08/18/03	

Regulatory Flexibility Analysis**Required:** Yes**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, Room 2350, Arlington, VA 22209
Phone: 202 693—9440
Fax: 202 693—9441
Email: nichols—marvin@dol.gov

RIN: 1219—AA87**2092. 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 a quantifiable 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 has withdrawn this item and will address this issue through non—regulatory means.

Timetable:

Action	Date	FR Cite
Withdrawn	08/28/03	

Regulatory Flexibility Analysis**Required:** No**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, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209

Phone: 202 693—9440

Fax: 202 693—9441

Email: nichols—marvin@dol.gov

RIN: 1219—AB30**2093. EMERGENCY EVACUATION; EMERGENCY TEMPORARY STANDARD****Priority:** Other Significant**Legal Authority:** 30 USC 811**CFR Citation:** 30 CFR 75.1501; 30 CFR 75.1502**Legal Deadline:** None

Abstract: The Mine Safety and Health Administration (MSHA) issued an Emergency Temporary Standard (ETS)

under the Federal Mine Safety and Health Act of 1977 (Mine Act), section 101(b) in response to the grave danger that underground coal miners are exposed to during mine fires, explosions, and gas or water inundation emergencies. The deaths of 14 miners at two underground coal mines demonstrated the need for MSHA to address proper training and mine emergency evacuation procedures. Under the Mine Act, the ETS, which became effective on December 12, 2002, acts as a proposed rule. MSHA conducted public hearings and accepted written comments on the proposed rule. The Mine Act requires that the Secretary promulgate a final rule no later than 9 months after publication of the ETS as provided for under section 101(b) of the Mine Act.

Timetable:

Action	Date	FR Cite
Emergency Temporary Standard	12/12/02	67 FR 76658
Comment Period End	01/13/03	
Post Hearing Comment End	02/28/03	
Final Rule	09/09/03	68 FR 53037
Final Rule Effective	09/09/03	

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

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

Phone: 202 693—9440

Fax: 202 693—9441

Email: nichols—marvin@dol.gov

RIN: 1219—AB33

Department of Labor (DOL)

Proposed Rule Stage

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

2094. 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, Final.

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

DOL—OASAM

Proposed Rule Stage

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.

Timetable:

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

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

Agency Contact: Annabelle T. Lockhart, Director, Civil Rights Center, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N4123, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693—6500
TDD Phone: 202 693—6515
Fax: 202 693—6505
Email: civilrightscenter@dol.gov

RIN: 1291-AA29

Department of Labor (DOL)

Final Rule Stage

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

2095. 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, 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 will be the third republication of an NPRM published on June 10, 2002, with updates to reflect the passage of the Workforce Investment Act of 1998 and to add the term "program or activity" as it is defined in the Civil Rights Restoration Act of 1987. These changes do not alter the substance of the NPRM.

Timetable:

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

Action	Date	FR Cite
NPRM Comment Period End	03/01/99	
Second NPRM	06/10/02	67 FR 39829
Second NPRM Comment Period End	08/09/02	
Third NPRM	07/11/03	
Third NPRM Comment Period End	09/09/03	
Final Rule	12/00/03	

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

Agency Contact: Annabelle T. Lockhart, Director, Civil Rights Center, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N4123, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693—6500
TDD Phone: 202 693—6515
Fax: 202 693—6505
Email: civilrightscenter@dol.gov

RIN: 1291-AA21**2096. DEPARTMENT OF LABOR ACQUISITION REGULATIONS****Priority:** Info./Admin./Other**Legal Authority:** 40 USC 486(C); 5 USC 301**CFR Citation:** 48 CFR 2900 to 2999**Legal Deadline:** None

Abstract: The Department of Labor's Acquisition Regulations are being completely revised in order to reflect the significant changes made to the Federal Acquisition Regulation over the last 17 years, as well as organizational changes within DOL.

Timetable:

Action	Date	FR Cite
NPRM	08/11/03	68 FR 48996
NPRM Comment Period End	10/14/03	
Final Rule	01/00/04	

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

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—0001
Phone: 202 693—7282
Fax: 202 693—7290
Email: oasamregcomments@dol.gov

RIN: 1291-AA34

Department of Labor (DOL)

Long-Term Actions

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

2097. 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 the 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

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—0001

Phone: 202 693—7282

Fax: 202 693—7290

Email: oasamregcomments@dol.gov

RIN: 1291—AA30

Department of Labor (DOL)

Completed Actions

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

2098. 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

Action	Date	FR Cite
NPRM Comment Period End	01/05/01	
Final Action	08/26/03	68 FR 51333
Final Action Effective	09/25/03	

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

Agency Contact: Annabelle T. Lockhart, Director, Civil Rights Center, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N4123, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693—6500
TDD Phone: 202 693—6515
Fax: 202 693—6505
Email: civilrightscenter@dol.gov

RIN: 1291—AA31**2099. 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

DOL—OASAM

Completed Actions

F of the debarment and suspension nonprocurement common rule.

Timetable:

Action	Date	FR Cite
NPRM	01/23/02	67 FR 3265
NPRM Comment Period End	03/25/02	
Final Rule	11/26/03	68 FR 66533

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

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

Additional Information: Lead agencies are developing responses to the comments submitted.

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—0001

Phone: 202 693—7282

Fax: 202 693—7290

Email: oasamregcomments@dol.gov

RIN: 1291—AA33

Department of Labor (DOL)

Prerule Stage

Occupational Safety and Health Administration (OSHA)

2100. OCCUPATIONAL EXPOSURE TO HEXAVALENT CHROMIUM (PREVENTING OCCUPATIONAL ILLNESS: CHROMIUM)

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

RIN: 1218—AB45

2101. 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
SBREFA Panel Report	12/00/03	
NPRM	08/00/04	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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

Phone: 202 693—2020

Fax: 202 693—1689

Email: bswanson@dol.gov

RIN: 1218—AB47

2102. OCCUPATIONAL EXPOSURE TO ETHYLENE OXIDE

Priority: Other Significant

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

CFR Citation: 29 CFR 1910.1047

Legal Deadline: None

Abstract: OSHA has undertaken a review of the ethylene oxide (ETO) standard in accordance with the requirements of the Regulatory Flexibility Act and section 5 of EO 12866. The review is considering the continued need for the rule, the impacts of the rule, comments on the rule received from the public, the complexity of the rule, whether the rule overlaps, duplicates or conflicts with other Federal, State or local regulations, and the degree to which technology, economic conditions or other factors may have changed since the rule was last evaluated. The Agency's findings with respect to this review will be published in a report available to the public in 2004.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/96	
End Review	04/00/04	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John F. Martonik, Evaluation, Department of Labor, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

Phone: 202 693—2043

Fax: 202 693—1641

Email: john.martonik@osha.gov

RIN: 1218—AB60

2103. OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA

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

RIN: 1218—AB70

2104. OCCUPATIONAL EXPOSURE TO BERYLLIUM

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: In 1999 and 2001, OSHA was petitioned to issue an emergency temporary standard by the Paper Allied—Industrial, Chemical, and Energy Workers Union, Public Citizen Health Research Group and others. The Agency denied the petitions but stated

DOL—OSHA

Prerule Stage

its intent to begin data gathering to collect needed information on beryllium's toxicity, risks, and patterns of usage.

On November 26, 2002, OSHA published a Request for Information (RFI) (67 FR 70707) to solicit information pertinent to occupational exposure to beryllium including: current exposures to beryllium; the relationship between exposure to beryllium and the development of adverse health effects; exposure assessment and monitoring methods; exposure control methods; and medical surveillance. In addition, the Agency conducted field surveys of selected work sites to assess current exposures and control methods being used to reduce employee exposures to beryllium. OSHA is using this information to develop a proposed rule addressing occupational exposure to beryllium. OSHA plans to initiate the SBREFA process could be initiated by September 2004.

Timetable:

Action	Date	FR Cite
Request for Information	11/26/02	67 FR 70707
Initiate SBREFA Process	09/00/04	

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

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

RIN: 1218—AB76**2105. EXCAVATIONS****Priority:** Other Significant**Legal Authority:** 29 USC 651 et seq; 5 USC 610**CFR Citation:** 29 CFR 1926.650 to 1926.652**Legal Deadline:** None

Abstract: OSHA has undertaken a review of the Agency's 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 is considering the continued need for the rule, the impacts of the rule, public comments on the rule, the complexity of the rule, and whether the rule overlaps, duplicates, or conflicts with other regulations.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/01	
Request for Comments	08/21/02	67 FR 54103
Comment Period End	11/19/02	
End Review	09/00/04	

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

Agency Contact: John F. Martonik, Evaluation, Department of Labor, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693—2043
Fax: 202 693—1641
Email: john.martonik@osha.gov

RIN: 1218—AC02**2106. PRESENCE SENSING DEVICE INITIATION OF MECHANICAL POWER PRESSES****Priority:** Other Significant**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 has undertaken 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 is considering 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	
End Review	02/00/04	

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

Agency Contact: John F. Martonik, Evaluation, Department of Labor, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693—2043
Fax: 202 693—1641
Email: john.martonik@osha.gov

RIN: 1218—AC03**2107. IONIZING RADIATION****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 655(b)**CFR Citation:** 29 CFR 1910.109**Legal Deadline:** None

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

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	01/00/04	

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

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

DOL—OSHA

Prerule Stage

Fax: 202 693—1678

RIN: 1218—AC11

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

Proposed Rule Stage

2108. LONGSHORING AND MARINE TERMINALS (PARTS 1917 AND 1918) — REOPENING OF THE RECORD (VERTICAL TANDEM LIFTS (VTLs))

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

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

CFR Citation: 29 CFR 1918.11; 29 CFR 1918.85

Legal Deadline: None

Abstract: OSHA issued a final rule on Longshoring on July 25, 1997 (62 FR 40142). However, in that rule, the Agency reserved provisions related to vertical tandem lifts. Vertical tandem lifts (VTLs) involve the lifting of two or more empty intermodal containers, secured together with twist locks, at the same time. OSHA has continued to work with national and international organizations to gather additional information on the safety of VTLs. The Agency has published an NPRM to address safety issues related to VTLs.

Timetable:

Action	Date	FR Cite
NPRM	06/06/94	59 FR 28594
NPRM Comment Period End	09/23/94	
Final Rule on Longshoring/Marine	07/25/97	62 FR 40142
Public Meeting on VTLs — 1/27/1998	10/09/97	62 FR 52671
Second NPRM	09/16/03	68 FR 54298
NPRM Comment Period End	12/15/03	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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

RIN: 1218—AA56

2109. 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	05/00/04	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

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

RIN: 1218—AB50

2110. ELECTRIC POWER TRANSMISSION AND DISTRIBUTION; ELECTRICAL PROTECTIVE EQUIPMENT

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

Unfunded Mandates: Undetermined

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

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

Legal Deadline: None

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

Timetable:

Action	Date	FR Cite
SBREFA Report	06/30/03	
NPRM	06/00/04	

Regulatory Flexibility Analysis

Required: Yes

Government Levels Affected: Undetermined

Agency Contact: Steven F. Witt, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution

DOL—OSHA

Proposed Rule Stage

Avenue, NW, Room N—3718, FP
Building, Washington, DC 20210
Phone: 202 693—1950
Fax: 202 693—1678

RIN: 1218—AB67

2111. WALKING WORKING SURFACES AND PERSONAL FALL PROTECTION SYSTEMS (1910) (SLIPS, TRIPS, AND FALL PREVENTION)

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655 (b)

CFR Citation: 29 CFR 1910 subparts D and I

Legal Deadline: None

Abstract: In 1990, OSHA proposed a rule (55 FR 13360) addressing slip, trip, and fall hazards and establishing requirements for personal fall protection systems. Since that time, new technologies and procedures have become available to protect employees from these hazards. The Agency has been working to update these rules to reflect current technology. OSHA published a notice to re—open the rulemaking for comment on a number of issues raised in the record for the NPRM, or related to technological advances. OSHA is currently reviewing the comments and the record will be reopened again for comment on the revised analysis.

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
Reopening of Record	05/02/03	68 FR 23527
Comment Period End	07/31/03	
Reopen the Record	09/00/04	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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

RIN: 1218—AB80

2112. HEARING CONSERVATION PROGRAM FOR CONSTRUCTION WORKERS

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 1926.52

Legal Deadline: None

Abstract: OSHA issued a section 6(b)(5) health standard mandating a comprehensive hearing conservation program for noise—exposed workers in general industry in 1983. However, no rule was promulgated to cover workers in the construction industry. A number of recent studies have shown that many construction workers experience work—related hearing loss. In addition, the use of engineering, administrative and personal protective equipment to reduce exposures to noise is not extensive in this industry. OSHA published an advance notice of proposed rulemaking to gather information on the extent of noise—induced hearing loss among workers in different trades in this industry, current practices to reduce this loss, and additional approaches and protections that could be used to prevent such loss in the future. The Agency has reviewed the comments received and other information to determine the appropriate course of action. In order to get additional public input, stakeholder meetings will be convened.

Timetable:

Action	Date	FR Cite
ANPRM	08/05/02	67 FR 50610
ANPRM Comment Period End	11/04/02	
Stakeholder Meetings	03/00/04	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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

RIN: 1218—AB89

2113. REVISION AND UPDATE OF SUBPART S—ELECTRICAL STANDARDS

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

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910 subpart S

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA) is planning to revise and update its 29 CFR 1910 subpart S—Electrical Standards. OSHA will rely heavily on the 2000 edition of the National Fire Protection Association's (NFPA's) 70 E standard for Electrical Safety Requirements for Employee Workplaces. This revision will provide the first update of the General Industry—Electrical Standard since it was originally published in 1981. OSHA intends to complete this project in several stages. The first stage will cover design safety standards for electrical systems, while the second stage will cover safety—related maintenance and work practice requirements and safety requirements for special equipment. It will thus allow the latest technological developments to be considered. Several of these state—of—the—art safety developments will be addressed by OSHA for the first time.

Timetable:

Action	Date	FR Cite
NPRM	03/00/04	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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

RIN: 1218—AB95

2114. UPDATING OSHA STANDARDS BASED ON NATIONAL CONSENSUS STANDARDS

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

Legal Authority: 29 USC 655(b)

DOL—OSHA

Proposed Rule Stage

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

Legal Deadline: None

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

The Agency is now considering the possibility of initiating rulemaking to update some of these standards. In that regard, OSHA has asked various consensus standards organizations to review their standards, compare the latest versions of these standards to the ones currently adopted by OSHA, and determine which ones are most important for OSHA to update. Additionally, OSHA has asked them to consider whether the changes to these standards would be noncontroversial, and if the new versions would reduce risk. The organizations were enthusiastic about the possibility of

updating references to their standards, and they have provided considerable information on priorities and other related issues. OSHA is in the process of evaluating the information it has received in order to determine the best way to proceed. It is possible that a direct final rule may be appropriate to address some of these standards, and others may be more appropriately addressed by an NPRM.

Timetable:

Action	Date	FR Cite
NPRM	09/00/04	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

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

RIN: 1218—AC08

2115. EXPLOSIVES

Priority: Other Significant

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.109

Legal Deadline: None

Abstract: OSHA is considering amending 29 CFR 1910.109 that

addresses explosives and blasting agents. These OSHA regulations were published in 1974, and many of the provisions do not reflect technological and safety advances made by the industry since that time. Additionally, the standard contains outdated references and classifications. Two trade associations representing many of the employers subject to this rule have petitioned the Agency to consider revising it, and have recommended changes they believe address the concerns they are raising. OSHA 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 expects to publish an NPRM by July 2004.

Timetable:

Action	Date	FR Cite
NPRM	07/00/04	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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

RIN: 1218—AC09

Department of Labor (DOL)

Final Rule Stage

Occupational Safety and Health Administration (OSHA)

2116. ASSIGNED PROTECTION FACTORS: AMENDMENTS TO THE FINAL RULE ON RESPIRATORY PROTECTION

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

RIN: 1218—AA05

2117. 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 re—opened the record to collect updated information to help determine what action should be taken. Based on the information received and a review of the record, the Agency has decided to withdraw the proposal.

DOL—OSHA

Final Rule Stage

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	
To Be Withdrawn	01/00/04	

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

Undetermined

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

RIN: 1218—AA84**2118. 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. 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.

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

The Agency has decided to withdraw the proposal and terminate the rulemaking.

Timetable:

Action	Date	FR Cite
SBREFA Panel	09/10/96	
NPRM	10/17/97	62 FR 54160
NPRM Comment Period End	02/17/98	62 FR 65388
Post Hearing Comment End	10/05/98	
Record Reopening	06/17/99	64 FR 32447
Second Reopening Comment Period End	06/28/99	64 FR 34625
Reopening Comment Period End	08/02/99	
Third Reopening Comment Period	01/24/02	67 FR 3465
Extension of Comment Period of Reopening Comment Period End	03/05/02	67 FR 9934
Comment Period End	05/24/02	
To Be Withdrawn	11/00/03	

Regulatory Flexibility Analysis**Required:** Yes

Government Levels Affected: Federal, Local, State, Tribal

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

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

RIN: 1218—AB46**2119. FIRE PROTECTION IN SHIPYARD EMPLOYMENT (PART 1915, SUBPART P) (SHIPYARDS: FIRE SAFETY)**

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

RIN: 1218—AB51**2120. STANDARDS IMPROVEMENT (MISCELLANEOUS CHANGES) FOR GENERAL INDUSTRY, MARINE TERMINALS, AND CONSTRUCTION STANDARDS (PHASE II)**

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

RIN: 1218—AB81**2121. 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

DOL—OSHA

Final Rule Stage

instructors have asked OSHA to clarify the applicability of the variance to their operations. OSHA published 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. Comments have been received and reviewed, and a final rule is being issued.

Timetable:

Action	Date	FR Cite
NPRM	01/10/03	68 FR 1399
NPRM Comment Period End	04/10/03	
Final Rule	12/00/03	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

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

RIN: 1218—AB97

2122. CONTROLLED NEGATIVE PRESSURE FIT TESTING PROTOCOL: AMENDMENT TO THE FINAL RULE ON RESPIRATORY PROTECTION

Priority: Substantive, Nonsignificant

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

CFR Citation: 29 CFR 1910.134

Legal Deadline: None

Abstract: In 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	06/06/03	68 FR 33887
NPRM Comment Period End	09/04/03	
Final Action	02/00/04	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: Federal, Local, State, Tribal

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

RIN: 1218—AC05

2123. PROCEDURES FOR HANDLING DISCRIMINATION COMPLAINTS UNDER SECTION 806 OF THE CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY ACT OF 2002

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 18 USC 1514A

CFR Citation: 29 CFR 1980

Legal Deadline: None

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

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/28/03	68 FR 318859
Final Rule	02/00/04	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Robert Spear, Director, Office of Investigative Assistance, Department of Labor, Occupational Safety and Health Administration, Rm 3603, 200 Constitution Ave., NW, Washington, DC 20210
Phone: 202 693—2187
Fax: 202 693—1681
Email: john.spear@osha—no.osha.gov
RIN: 1218—AC10

2124. ● PROCEDURES FOR HANDLING DISCRIMINATION COMPLAINTS UNDER SECTION 6 OF THE PIPELINE SAFETY IMPROVEMENT ACT OF 2002

Priority: Other Significant

Legal Authority: 29 USC 60129

CFR Citation: 29 CFR 1981

Legal Deadline: None

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

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/04	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Robert Spear, Director, Office of Investigative Assistance, Department of Labor, Occupational Safety and Health Administration, Rm 3603, 200 Constitution Ave., NW, Washington, DC 20210
Phone: 202 693—2187
Fax: 202 693—1681
Email: john.spear@osha—no.osha.gov
RIN: 1218—AC12

Department of Labor (DOL)

Long-Term Actions

Occupational Safety and Health Administration (OSHA)

2125. 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 continues to consider how to address this 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:** Federal, Local, State**Agency Contact:** Steven F. Witt, Director, Directorate of Standards and

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

RIN: 1218—AB77**2126. CRANES AND DERRICKS****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 29 USC 651(b); 29 USC 655(b); 40 USC 333**CFR Citation:** 29 CFR 1926**Legal Deadline:** None

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

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

committee to develop a draft proposed rule.

Timetable:

Action	Date	FR Cite
Notice of Intent To Establish Negotiated Rulemaking	07/16/02	67 FR 46612
Comment Period Ends	09/16/02	
Request for Comments on Proposed Committee Members	02/27/03	68 FR 9036
Request for Comment Period Ends	03/31/03	68 FR 9036
Establishing Negotiated Rulemaking Committee	06/12/03	68 FR 35172
NPRM	To Be Determined	

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

Undetermined

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

Phone: 202 693—2020

Fax: 202 693—1689

Email: bswanson@dol.gov

RIN: 1218—AC01

Department of Labor (DOL)

Completed Actions

Occupational Safety and Health Administration (OSHA)

2127. 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

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). The final rule on hearing loss and delay of the effective date was published in December of 2002. The final rule on MSD column was issued on June 30, 2003.

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

DOL—OSHA

Completed Actions

Action	Date	FR Cite
NPRM	07/01/02	67 FR 44124
Final Rule	07/01/02	67 FR 44037
NPRM Comment Period End	08/30/02	
Final Rule	12/17/02	67 FR 77165
Final Rule	06/30/03	68 FR 38601

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: State
Agency Contact: Steven F. Witt, Director, Directorate of Standards and Guidance, Department of Labor,

Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Room N—3718, FP Building, Washington, DC 20210
 Phone: 202 693—1950
 Fax: 202 693—1678
RIN: 1218—AC06

Department of Labor (DOL)

Proposed Rule Stage

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

2128. UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT REGULATIONS

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

RIN: 1293—AA09

2129. JOBS FOR VETERANS ACT OF 2002: STATE GRANT FUNDING FORMULA FY 2005

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

Legal Authority: 38 USC 4102A (c) (2) (B) as amended by PL 107—288

CFR Citation: 20 CFR 1001.150 to 1001.152

Legal Deadline: None

Abstract: Public Law 107—288, the Jobs for Veterans Act, enacted November 7, 2002 requires establishment of a new grant allocation formula for Disabled Veterans Outreach Program (DVOP) and Local Veterans Employment Representative (LVER) that reflects the ratio of the total number of veterans seeking employment residing in the state to the total number of veterans seeking employment in all states. Congress allowed for the phasing—in of this funding formula requirement “over the three fiscal—year period” beginning October 1, 2002. Because funding for fiscal year 2003 had already been established before enactment of the law, this effectively meant the phase—in of this new funding formula would actually take place over a two—year period — fiscal years 2004 and 2005. To help minimize states' annual funding reductions, allocations will be limited to no more than eighty percent of the prior year's funding allocation, during the two—year phase—in period and ninety percent, after the funding formula is fully implemented.

Timetable:

Action	Date	FR Cite
NPRM	01/00/04	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Ronald Drach, Team Leader, Department of Labor, Office of the Assistant Secretary for Veterans' Employment & Training, 200 Constitution Avenue, NW, Room S1325, FP Building, Washington, DC 20210
 Phone: 202 693—4749

RIN: 1293—AA11

2130. JOBS FOR VETERANS ACT OF 2002: CONTRACT THRESHOLD AND ELIGIBILITY GROUPS FOR FEDERAL CONTRACTOR PROGRAM

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

Legal Authority: 38 USC 4212(a) as amended by PL 107—288

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 Jobs For Veterans Act (JFVA) of 2002. This act amended the Vietnam Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA), by revising the reporting threshold from \$25,000 to \$100,000. JFVA also eliminated the collection categories of special disabled veterans and veterans of the Vietnam era and added the new collection categories of disabled veterans and armed forces expeditionary medal veterans. JFVA continues the collection for the recently separated veterans category, but changed the definition for

that category to include any veteran who served on active duty in the U.S. military ground, naval, or air service during the three—year period beginning on the date of such veteran's discharge or release from active duty. Additionally, Federal contractors and subcontractors will be required to report the total number of all current employees in each of the nine categories and for each hiring location. This proposal will assist VETS in meeting the statutory requirement of annually collecting the VETS—100 Report.

PL 107—288 also requires VETS to establish in regulations a uniform national threshold entered employment rate for veterans receiving service through the public labor exchange. States will be gauged against a national entered employment rate threshold measured considering the state's unemployment rate and the states economic condition. This proposed rule will assist in determining performance deficiencies.

Timetable:

Action	Date	FR Cite
NPRM	01/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Norm Lance, Chief, Investigations and Compliance, VETS, Department of Labor, Office of the Assistant Secretary for Veterans' Employment & Training, S—1316, 200 Constitution Avenue, NW, Washington, DC 20210
 Phone: 202 693—4731
 Fax: 202 693—4755

RIN: 1293—AA12

Department of Labor (DOL)

Long-Term Actions

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

2131. • JOBS FOR VETERANS ACT OF 2002: UNIFORM NATIONAL THRESHOLD

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

Legal Authority: 38 USC 4102(c) (3) (B) as amended by PL 107—288

CFR Citation: 20 CFR 1001

Legal Deadline: None

Abstract: Public Law 107—288, the Jobs for Veterans Act, enacted November 7, 2002 requires the establishment of a uniform threshold Veterans' Entered Employment Rate

(EER). The uniform national threshold Veterans' Entered Employment Rate (EER) is the rate at which veterans enter employment after receiving labor exchange services. A state's EER is considered deficient if it falls below this established national threshold for the preceding program year. As a condition for receipt of funds, the Act stipulates that any state found to be deficient in its EER shall develop a plan to improve its performance.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: State

Agency Contact: Ronald Drach, Team Leader, Department of Labor, Office of the Assistant Secretary for Veterans' Employment & Training, 200 Constitution Avenue, NW, Room S1325, FP Building, Washington, DC 20210

Phone: 202 693—4749

RIN: 1293-AA13

Department of Labor (DOL)

Completed Actions

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

2132. JOBS FOR VETERANS ACT OF 2002

Priority: Other Significant

Legal Authority: PL 107—288

CFR Citation: 41 CFR 61—250

Legal Deadline: None

Abstract: The Jobs for Veterans Act requires the Department to establish and phase—in a new funding formula for Disabled Veterans Outreach Program (DVOP) and Local Veterans Employment Representatives (LVER) grants to states over a three—year period beginning October 1, 2002. Because funding for fiscal year 2003 had already been established before enactment of the law, this effectively meant the phase—in of this new funding formula would actually take

place over a two—year period — fiscal years 2004 and 2005. The interim final rule applies only to fiscal year 2004. This new formula is based on the ratio of the total number of veterans seeking employment residing in a State to the total number of veterans seeking employment in all States.

Timetable:

Action	Date	FR Cite
Interim Final Rule: State Grant Funding Formula—FY 2004	06/30/03	68 FR 39000
Interim Final Rule Comment Period End: State Grant Funding Formula—FY 2004	06/30/03	
Comments Integrated Into RIN 1293—AA11	10/22/03	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Ronald Drach, Team Leader, Department of Labor, Office of the Assistant Secretary for Veterans' Employment & Training, 200 Constitution Avenue, NW, Room S1325, FP Building, Washington, DC 20210

Phone: 202 693—4749

RIN: 1293-AA10

[FR Doc. 03—27748 Filed 12—19—03; 8:45 am]

BILLING CODE 4510—23—S