



Monday
April 26, 1999

Part XII

Department of Labor

Semiannual Regulatory Agenda

DEPARTMENT OF LABOR (DOL)

DEPARTMENT OF LABOR

Office of the Secretary

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

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

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Department's semiannual agenda of regulations that have been selected for review or development during the coming year. The agenda complies with the requirements of both Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists all regulations that are expected to be under review or development between

April 1999 and April 2000, as well as those completed during the past 6 months.

FOR FURTHER INFORMATION CONTACT: Roland Droitsch, Deputy Assistant Secretary for Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-2312, Washington, DC 20210, (202) 219-6197.

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).

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.

Alexis M. Herman,
Secretary of Labor.

Office of the Secretary—Proposed Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|------------------------------------------------------------|------------------------------|
| 1903 | Production or Disclosure of Information or Materials | 1290-AA17 |
| 1904 | Equal Access to Justice Act | 1290-AA18 |

Office of the Secretary—Final Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|--------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 1905 | Supplemental Standards of Ethical Conduct for Employees of the Department of Labor | 1290-AA15 |
| 1906 | Process for Electing State Employment Statistics Agency Representatives for Consultations With Department of Labor | 1290-AA19 |

Employment Standards Administration—Proposed Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 1907 | Government Contractors: Nondiscrimination and Affirmative Action Obligations, Executive Order 11246 (ESA/OFCCP) (Section 610 Review) | 1215-AA01 |
| 1908 | Child Labor Regulations, Orders, and Statements of Interpretation (ESA/W-H) | 1215-AA09 |
| 1909 | Application of the Fair Labor Standards Act to Domestic Service | 1215-AA82 |
| 1910 | Procedures for Predetermination of Wage Rates (29 CFR Part 1) and Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5) | 1215-AA94 |
| 1911 | Regulations to Implement the Federal Acquisition Streamlining Act of 1994, 29 CFR Parts 4 and 5, 41 CFR Parts 50-201 and 50-206 | 1215-AA96 |
| 1912 | Records To Be Kept by Employers Under the Fair Labor Standards Act | 1215-AB03 |

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Employment Standards Administration—Proposed Rule Stage (Continued)

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 1913 | Assessment and Collection of User Fees | 1215-AB06 |
| 1914 | Exemptions Applicable to Agriculture, Processing of Agricultural Commodities, and Related Subjects Under the Fair Labor Standards Act | 1215-AB11 |
| 1915 | Implementation of the 1996 Amendments to the Fair Labor Standards Act | 1215-AB13 |
| 1916 | Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5) Definition of "Site of the Work" Under the Davis-Bacon Act | 1215-AB21 |
| 1917 | Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals With Disabilities | 1215-AB23 |
| 1918 | Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era | 1215-AB24 |
| 1919 | Amendment to Section 5333(b) Guidelines To Carry Out New Programs Authorized by the Transportation Equity Act for the 21st Century | 1215-AB25 |

Employment Standards Administration—Final Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 1920 | Standards for Waivers Under Section 503 of the Rehabilitation Act | 1215-AA84 |
| 1921 | Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models | 1215-AB09 |
| 1922 | Minimum Wage and Overtime Violations—Civil Money Penalties (29 CFR 578); Child Labor Violations—Civil Money Penalties (29 CFR 579); Adjustment of Civil Money Penalties for Inflation | 1215-AB20 |

Employment Standards Administration—Long-Term Actions

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 1923 | Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H) | 1215-AA14 |
| 1924 | Enforcement of Contractual Obligations for Temporary Alien Agricultural Workers Admitted Under Section 216 of the Immigration and Nationality Act | 1215-AA43 |
| 1925 | Benefits Under the Federal Coal Mine Safety and Health Act of 1977, as Amended Affecting the Black Lung Benefits Act | 1215-AA99 |
| 1926 | Reporting by Labor Relations Consultants and Other Persons | 1215-AB14 |

Employment Standards Administration—Completed Actions

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 1927 | Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era | 1215-AA62 |
| 1928 | Federal Employees' Compensation Act; Claims for Compensation for Work-Related Injury/Death | 1215-AB07 |
| 1929 | Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals With Disabilities | 1215-AB19 |

Employment and Training Administration—Proposed Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|--------------------------------------------------------------------------------------------------|------------------------------|
| 1930 | Disaster Unemployment Assistance Program, Amendment to Regulations | 1205-AB02 |
| 1931 | Federal-State Unemployment Compensation Program; Unemployment Insurance Performance System | 1205-AB10 |

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Employment and Training Administration—Proposed Rule Stage (Continued)

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|------------------------------------------------------|------------------------------|
| 1932 | Airline Deregulation: Employee Benefit Program | 1205-AB17 |

Employment and Training Administration—Final Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 1933 | Trade Adjustment Assistance for Workers—Implementation of 1988 Amendments | 1205-AB05 |
| 1934 | Trade Adjustment Assistance for Workers—Transitional Adjustment Assistance NAFTA-TAA | 1205-AB07 |
| 1935 | Welfare-to-Work (WTW) Grants | 1205-AB15 |
| 1936 | Federal-State Unemployment Compensation Program; Confidentiality and Disclosure of State Records | 1205-AB18 |
| 1937 | Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the U.S.; Administrative Measures to Improve Program Performance | 1205-AB19 |
| 1938 | Workforce Investment Act of 1998 | 1205-AB20 |

Employment and Training Administration—Long-Term Actions

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|-----------------------------------------------------------------------------------------------------------------|------------------------------|
| 1939 | Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring, and Enforcement | 1205-AA37 |
| 1940 | Labor Certification Process for the Permanent Employment of Aliens in the United States | 1205-AA66 |
| 1941 | Establishment of Fees for Immigration Programs Administered by the Employment and Training Administration | 1205-AB14 |
| 1942 | Indian and Native American Welfare-to-Work Program | 1205-AB16 |

Pension and Welfare Benefits Administration—Proposed Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|--------------------------------------------------------------------------------------------|------------------------------|
| 1943 | Definition of Collective Bargaining Agreement (ERISA Section 3(40)) | 1210-AA48 |
| 1944 | Rulemaking Relating to Notice Requirements for Continuation of Health Care Coverage | 1210-AA60 |
| 1945 | Elimination of Filing Requirements for Summary Plan Descriptions | 1210-AA66 |
| 1946 | Requirement to Furnish Plan Documents Upon Request by the Secretary of Labor | 1210-AA67 |
| 1947 | Civil Penalty for Failure to Furnish Certain Plan Documents | 1210-AA68 |
| 1948 | Amendment of Small Plan Exemption from Audit Requirement | 1210-AA73 |
| 1949 | Request for Information Relating to the Women's Health and Cancer Rights Act of 1998 | 1210-AA75 |
| 1950 | Voluntary Fiduciary Correction Program | 1210-AA76 |

Pension and Welfare Benefits Administration—Final Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 1951 | Revision of the Form 5500 Series and Implementing and Related Regulations Under the Employee Retirement Income Security Act of 1974 (ERISA) | 1210-AA52 |
| 1952 | Regulations Implementing the Health Care Access, Portability and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996 | 1210-AA54 |
| 1953 | Amendment of Summary Plan Description and Related ERISA Regulations to Implement Statutory Changes in the Health Insurance Portability and Accountability Act of 1996 | 1210-AA55 |
| 1954 | Limitation of Liability for Insurers and Others Under Part 4 of Title I of ERISA and Section 4975 of the Internal Revenue Code | 1210-AA58 |
| 1955 | Amendments to Employee Benefit Plan Claims Procedures Regulation | 1210-AA61 |
| 1956 | Mental Health Benefits Parity | 1210-AA62 |
| 1957 | Health Care Standards for Mothers and Newborns | 1210-AA63 |

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Pension and Welfare Benefits Administration—Final Rule Stage (Continued)

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|--------------------------------------------------------------------------------------------------------------|------------------------------|
| 1958 | Reporting Requirements for MEWAs Providing Medical Care Benefits | 1210-AA64 |
| 1959 | Amendments to Summary Plan Description Regulations | 1210-AA69 |
| 1960 | Payroll Deduction Programs for Contributions to Individual Retirement Accounts (Interpretive Bulletin) | 1210-AA70 |
| 1961 | Electronic Disclosure of Employee Benefit Plan Information | 1210-AA71 |
| 1962 | National Medical Support Notice | 1210-AA72 |
| 1963 | Soft Dollar (Interpretive Bulletin) | 1210-AA74 |
| 1964 | Prohibiting Discrimination Against Participants and Beneficiaries Based on Health Status | 1210-AA77 |

Pension and Welfare Benefits Administration—Long-Term Actions

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|---------------------------------------------------------------------------------|------------------------------|
| 1965 | Adequate Consideration | 1210-AA15 |
| 1966 | Civil Penalties Under ERISA Section 502(1) | 1210-AA37 |
| 1967 | Individual Benefits Reporting Requirements for Defined Contribution Plans | 1210-AA65 |

Pension and Welfare Benefits Administration—Completed Actions

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|------------------------------------------------------------------------------------------|------------------------------|
| 1968 | Reporting and Disclosure Under the Employee Retirement Income Security Act of 1974 | 1210-AA44 |
| 1969 | Enforcement Policy On AICPA SOP 92-6 | 1210-AA57 |

Mine Safety and Health Administration—Prerule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|-----------------------------------------------------------------------------------------------|------------------------------|
| 1970 | Occupational Exposure to Coal Mine Dust (Lowering Exposure Limit) | 1219-AB08 |
| 1971 | Underground Coal Mining; Self-Contained Self-Rescuer Service Life Approval and Training | 1219-AB19 |

Mine Safety and Health Administration—Proposed Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 1972 | Air Quality, Chemical Substances, and Respiratory Protection Standards | 1219-AA48 |
| 1973 | Metal/Nonmetal Impoundments | 1219-AA83 |
| 1974 | Surface Haulage | 1219-AA93 |
| 1975 | Training and Retraining of Miners | 1219-AB02 |
| 1976 | Verification of Dust Control Plan and Continuous Monitoring | 1219-AB14 |
| 1977 | Training and Retraining of Miners Engaged in Shell Dredging or Employed at Sand, Gravel Surface Stone, Surface Clay, Colloidal Phosphate, or Surface Limestone Mines | 1219-AB17 |
| 1978 | Determination of Concentration of Respirable Coal Mine Dust | 1219-AB18 |

Mine Safety and Health Administration—Final Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|----------------------------|------------------------------|
| 1979 | Hazard Communication | 1219-AA47 |
| 1980 | Noise Standard | 1219-AA53 |

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

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|---------------------------------------------------------------------------------------------|------------------------------|
| 1981 | Longwall Equipment (Including High-Voltage) | 1219-AA75 |
| 1982 | Independent Laboratory Testing | 1219-AA87 |
| 1983 | Requirements for Approval of Flame-Resistant Conveyor Belts | 1219-AA92 |
| 1984 | Improving and Eliminating Regulations | 1219-AA98 |
| 1985 | Safety Standards for Underground Coal Mine Ventilation—Preshift Examination Intervals | 1219-AB10 |

Mine Safety and Health Administration—Long-Term Actions

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|-------------------------------------------------------------------------------------|------------------------------|
| 1986 | Confined Spaces | 1219-AA54 |
| 1987 | Diesel Particulate Matter (Exposure of Underground Coal Miners) | 1219-AA74 |
| 1988 | Belt Entry Use as Intake Aircourse To Ventilate Working Sections | 1219-AA76 |
| 1989 | Safety Standards for Methane in Metal and Nonmetal Mines | 1219-AA90 |
| 1990 | Safety Standards for the Use of Roof-Bolting Machines | 1219-AA94 |
| 1991 | Safety Standard Revisions for Underground Anthracite Mines | 1219-AA96 |
| 1992 | Electrical Standards for Metal and Nonmetal Mines | 1219-AB01 |
| 1993 | Diesel Particulate Matter (Exposure of Underground Metal and Nonmetal Miners) | 1219-AB11 |
| 1994 | Respirable Crystalline Silica Standard | 1219-AB12 |

Mine Safety and Health Administration—Completed Actions

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|----------------------------------------------------------------------------------|------------------------------|
| 1995 | Carbon Monoxide Monitor Approval | 1219-AA72 |
| 1996 | Self-Contained Self-Rescue Devices in Underground Metal and Nonmetal Mines | 1219-AB06 |
| 1997 | X-Ray Surveillance Program for Surface Coal Miners | 1219-AB09 |
| 1998 | Training and Retraining of Miners: Supervisor Training | 1219-AB16 |

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

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 1999 | Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting From Federal Financial Assistance | 1291-AA28 |

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

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|--------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 2000 | Audits of States, Local Governments, and Nonprofit Organizations | 1291-AA26 |
| 2001 | Audit Requirements for Grants, Contracts, and Other Agreements | 1291-AA27 |
| 2002 | Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Investment Act of 1998 | 1291-AA29 |

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

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 2003 | Department of Labor Acquisition Regulation | 1291-AA20 |
| 2004 | Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance From the Department of Labor | 1291-AA21 |

Occupational Safety and Health Administration—Prerule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|-----------------------------------------------------------------------------------------|------------------------------|
| 2005 | Standards Advisory Committee on Metalworking Fluids | 1218-AB58 |
| 2006 | Control of Hazardous Energy Sources (Lockout/Tagout)(Section 610 Review) | 1218-AB59 |
| 2007 | Occupational Exposure to Ethylene Oxide (Section 610 Review) | 1218-AB60 |
| 2008 | Fall Protection in the Construction Industry | 1218-AB62 |
| 2009 | Process Safety Management of Highly Hazardous Chemicals | 1218-AB63 |
| 2010 | Safety Standards for Scaffolds Used in the Construction Industry—Part II | 1218-AB68 |
| 2011 | Grain Handling Facilities (Section 610 Review) | 1218-AB73 |
| 2012 | Cotton Dust (Section 610 Review) | 1218-AB74 |

Occupational Safety and Health Administration—Proposed Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|------------------------------------------------------------------------------------------------------------------|------------------------------|
| 2013 | Access and Egress in Shipyards (Part 1915, Subpart E) (Phase I) (Shipyards: Emergency Exits and Aisles) | 1218-AA70 |
| 2014 | Prevention of Work-Related Musculoskeletal Disorders | 1218-AB36 |
| 2015 | Safety and Health Programs (for General Industry and the Maritime Industries) | 1218-AB41 |
| 2016 | Occupational Exposure to Hexavalent Chromium (Preventing Occupational Illness: Chromium) | 1218-AB45 |
| 2017 | Confined Spaces in Construction (Part 1926): Preventing Suffocation/Explosions in Confined Spaces | 1218-AB47 |
| 2018 | General Working Conditions for Shipyard Employment | 1218-AB50 |
| 2019 | Fire Protection in Shipyard Employment (Part 1915, Subpart P) (Phase II) (Shipyards: Fire Safety) | 1218-AB51 |
| 2020 | Permissible Exposure Limits (PELs) for Air Contaminants | 1218-AB54 |
| 2021 | Nationally Recognized Testing Laboratories Programs: Fees | 1218-AB57 |
| 2022 | Flammable and Combustible Liquids | 1218-AB61 |
| 2023 | Revocation of Certification Records for Tests, Inspections, and Training | 1218-AB65 |
| 2024 | Plain Language Revision of the Mechanical Power-Transmission Apparatus Standard | 1218-AB66 |
| 2025 | Electric Power Transmission and Distribution; Electrical Protective Equipment in the Construction Industry | 1218-AB67 |
| 2026 | Safety and Health Programs for Construction | 1218-AB69 |
| 2027 | Requirement To Pay for Personal Protective Equipment | 1218-AB77 |
| 2028 | Consultation Agreements | 1218-AB79 |

Occupational Safety and Health Administration—Final Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|--------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 2029 | Respiratory Protection (Proper Use of Modern Respirators) | 1218-AA05 |
| 2030 | Steel Erection (Part 1926) (Safety Protection for Ironworkers) | 1218-AA65 |
| 2031 | Scaffolds in Shipyards (Part 1915—Subpart N) (Phase I) | 1218-AA68 |
| 2032 | Recording and Reporting Occupational Injuries and Illnesses (Simplified Injury/Illness Recordkeeping Requirements) | 1218-AB24 |
| 2033 | Plain Language Revision of Existing Standards (Phase I) | 1218-AB55 |

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Occupational Safety and Health Administration—Long-Term Actions

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|--------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 2034 | Longshoring and Marine Terminals (Parts 1917 And 1918)— Reopening of the Record (Vertical Tandem Lifts (VTLs)) | 1218-AA56 |
| 2035 | Glycol Ethers: 2-Methoxyethanol, 2-Ethoxyethanol, and Their Acetates: Protecting Reproductive Health | 1218-AA84 |
| 2036 | Accreditation of Training Programs for Hazardous Waste Operations (Part 1910) | 1218-AB27 |
| 2037 | Indoor Air Quality in the Workplace | 1218-AB37 |
| 2038 | Occupational Exposure to Tuberculosis | 1218-AB46 |
| 2039 | Fire Brigades | 1218-AB64 |
| 2040 | Occupational Exposure to Crystalline Silica | 1218-AB70 |
| 2041 | Control of Hazardous Energy (Lockout) in Construction (Part 1926) (Preventing Construction Injuries/Fatalities; Lockout) | 1218-AB71 |
| 2042 | Occupational Exposure to Beryllium | 1218-AB76 |
| 2043 | Consolidation of Records Maintenance Requirements in OSHA Standards | 1218-AB78 |
| 2044 | Walking Working Surfaces and Personal Fall Protection Systems (1910) (Slips, Trips and Fall Prevention) | 1218-AB80 |

Occupational Safety and Health Administration—Completed Actions

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|----------------------------------------------------------------------------------------------------------------|------------------------------|
| 2045 | Powered Industrial Truck Operator Training (Industrial Truck Safety Training) | 1218-AB33 |
| 2046 | Permit Required Confined Spaces (General Industry: Preventing Suffocation/Explosions in Confined Spaces) | 1218-AB52 |

DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)

Proposed Rule Stage

1903. 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 | 07/00/99 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Miriam McD. Miller, Co-Counsel for Administrative Law, Division of Legislation and Legislative Counsel, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room N2428 FP Building, Washington, DC 20210
Phone: 202 219-8188
Fax: 202 219-6896
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RIN: 1290-AA17

1904. EQUAL ACCESS TO JUSTICE ACT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504; 28 USC 2412

CFR Citation: 29 CFR 16

Legal Deadline: None

Abstract: The regulation will incorporate the 1996 amendments to the Equal Access to Justice Act and

revise the existing regulation to conform with the case law which has evolved since 1981.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 06/00/99 | |

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Robert A. Shapiro, Associate Solicitor for Legislation and Legal Counsel, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room N2428 FP Building, Washington, DC 20210
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Email: shapiro-robert@dol.gov

RIN: 1290-AA18

DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)

Final Rule Stage

1905. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF LABOR
Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 5 USC 7301; 5 USC 7353; 5 USC app (Ethics in Government Act); EO 12674; 18 USC 208

CFR Citation: 5 CFR 5201; 29 CFR 0; 3 CFR 1989 Comp; 5 CFR 2634; 5 CFR 2635; 3 CFR 1990

Legal Deadline: None

Abstract: The Department of Labor is developing a rule for its employees that supplements the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics (OGE). The rule would designate certain components of the Department as separate agencies for the purposes of provisions in the Executive Branch-wide standards regarding gifts from outside sources, the receipt of compensation for teaching, speaking, or writing, and fundraising in a personal capacity. The rule would also restrict the outside financial interests for employees of the Mine Safety and Health Administration and require approval of outside employment for employees of the Office of Inspector General. It repeals existing regulations governing outside employment and financial interests. Issuance of this rule would require OGE concurrence.

Timetable:

| Action | Date | FR Cite |
|--------------------|----------|-------------|
| Interim Final Rule | 11/06/96 | 61 FR 57281 |
| Final Action | 06/00/99 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Robert A. Shapiro, Associate Solicitor for Legislation and Legal Counsel, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room N2428 FP Building, Washington, DC 20210
 Phone: 202 219-8201
 Fax: 202 219-6896
 Email: shapiro-robert@dol.gov

RIN: 1290-AA15

1906. • PROCESS FOR ELECTING STATE EMPLOYMENT STATISTICS AGENCY REPRESENTATIVES FOR CONSULTATIONS WITH DEPARTMENT OF LABOR
Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 927(c); 29 USC 49e-2; 5 USC 301

CFR Citation: 29 CFR 44

Legal Deadline: Final, Statutory, December 31, 1999.

Abstract: This interim final rule establishes a process for the election of State representatives to participate in formal consultations with the Department of Labor relating to the development of an annual employment statistics plan and to address other employment statistics issues. Section 15(d)(2) of the Wagner-Peyser Act, as recently amended by section 309 of the

Workforce Investment Act of 1998, requires the Secretary to establish a process for the election of representatives from each of the 10 Federal regions of the Department. This provision requires that the representatives be elected by and from the directors of the State employment statistics agencies designed to carry at employment statistics responsibilities under section 15 of the Wagner-Peyser Act. The interim final rule addresses the election cycles, the tenure of representatives, the process for the distribution of ballots, tie-breaking procedures, methods of transmitting ballots and votes, and the filling of vacancies.

Timetable:

| Action | Date | FR Cite |
|--------------------|----------|-------------|
| Interim Final Rule | 12/18/98 | 63 FR 70260 |
| Interim Final Rule | 03/18/99 | |
| Comment Period End | | |
| Final Action | 12/00/99 | |

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: Mark Morin, Senior Attorney Adviser, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room N2428, FP Building, Washington, DC 20210
 Phone: 202 219-8065
 Fax: 202 219-6896

RIN: 1290-AA19

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Proposed Rule Stage

1907. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS, EXECUTIVE ORDER 11246 (ESA/OFCCP) (SECTION 610 REVIEW)
Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: EO 11246, as amended

CFR Citation: 41 CFR 60-1; 41 CFR 60-2

Legal Deadline: None

Abstract: These regulations cover nondiscrimination and affirmative action obligations of Federal contractors under Executive Order 11246 as amended. The part 60-1 final rule, published 8/19/97, revised parts of the regulations implementing E.O. 11246. OFCCP's review of regulatory options continues with emphasis on streamlining and clarifying the regulatory language and reducing paperwork requirements associated

with compliance. OFCCP plans to propose revisions to written affirmative action program (AAP) requirements to reduce burdens on the regulated community and to improve the enforcement of the Executive order.

Statement of Need: Parts of the regulations implementing Executive Order 11246 need to be revised to reflect changes in the law that have occurred over time, streamlined, and clarified. Executive Order 11246 requires all Federal contractors and subcontractors and federally assisted construction contractors and

DOL—ESA

Proposed Rule Stage

subcontractors to apply a policy of nondiscrimination and affirmative action in employment with respect to race, color, religion, sex, and national origin. The regulatory revisions are necessary in order to allow the DOL to effectively and efficiently enforce the provisions of the Executive order. As a first step in updating its Executive order regulations, the Department published changes to the provisions that govern preaward review requirements; recordkeeping and record retention requirements; certification requirements; and related provisions. In addition, other revisions have been made that conform Executive Order 11246 regulations to the recent changes made in the Department's regulations implementing section 503 of the Rehabilitation Act.

A second phase of revision will contain proposals to change provisions that govern requirements for written affirmative action plans and the provisions concerning evaluation of contractor procedures.

Summary of the Legal Basis: No aspect of this action is required by statute or court order.

Alternatives: After careful review, it was decided that the most effective way to improve compliance with the Executive Order 11246 provisions and reduce burdens on contractors, was to propose revisions to these regulations. Administrative actions alone could not produce the desired results.

Anticipated Costs and Benefits: It is anticipated that the net effect of the proposed changes will increase compliance with the nondiscrimination and affirmative action requirements of the Executive Order and reduce compliance costs to Federal contractors. The Department will also be able to utilize its resources more efficiently and more effectively.

Risks: Failure to move forward with OFCCP's regulatory agenda would cause the continuation of outdated methods of evaluating contractor compliance and impede effective enforcement of the E.O. 11246.

Timetable:

| Action | Date | FR Cite |
|--------------------------------------|----------|---------|
| NPRM Affirmative Action Plans (60-2) | 09/00/99 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Under the reinventing government initiative, OFCCP's emphasis is on regulatory reform, e.g., to revise the Executive Order 11246 regulations to reduce paperwork burdens, eliminate unnecessary regulations, and simplify and clarify the regulations while improving the efficiency and effectiveness of the contract compliance program.

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N3424, FP Building, Washington, DC 20210
Phone: 202 693-0102
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RIN: 1215-AA01

1908. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 203(e)

CFR Citation: 29 CFR 570

Legal Deadline: None

Abstract: Section 3(l) of the Fair Labor Standards Act requires the Secretary of Labor to issue regulations with respect to minors between 14 and 16 years of age ensuring that the periods and conditions of their employment do not interfere with their schooling, health, or well-being. The Secretary is also directed to designate occupations that may be particularly hazardous for minors 16 and 17 years of age. Child Labor Regulation No. 3 sets forth the permissible industries and occupations in which 14- and 15-year-olds may be employed, and specifies the number of hours in a day and in a week, and time periods within a day, that such minors may be employed. The Department has invited public comment in considering whether changes in technology in the workplace and job content over the

years require new hazardous occupation orders, and whether changes are needed in some of the applicable hazardous occupation orders. Comment has also been solicited on whether revisions should be considered in the permissible hours and time-of-day standards for 14- and 15-year-olds. Comment has been sought on appropriate changes required to implement school-to-work transition programs. Additionally, Congress enacted Public Law 104-174 (August 6, 1996), which amended FLSA section 13(c) and requires changes in the regulations under Hazardous Occupation Order No. 12 regarding power-driven paper balers and compactors, to allow 16- and 17-year-olds to load, but not operate or unload, machines meeting applicable American National Standards Institute (ANSI) safety standards and certain other conditions.

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

Under the Fair Labor Standards Act, the Secretary of Labor is directed to provide by regulation or by order for the employment of youth between 14 and 16 years of age under periods and conditions which will not interfere with their schooling, health and well-being. The Secretary is also directed to designate occupations that may be particularly hazardous for youth between the ages of 16 and 18 years or detrimental to their health or well-being. The Secretary has done so by specifying, in regulations, the permissible industries and occupations in which 14- and 15-year-olds may be employed, and the number of hours per day and week and the time periods within a day in which they may be employed. In addition, these regulations designate the occupations declared particularly hazardous for minors between 16 and 18 years of age or detrimental to their health or well-being.

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

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

Alternatives: Regulatory alternatives will be developed based on the public comments responding to the advance notice of proposed rulemaking. Alternatives likely to be considered include specific additions or modifications to the hazardous occupation orders and changes to the hours 14- and 15-year-olds may work.

Anticipated Costs and Benefits: Preliminary estimates of the anticipated costs and benefits of this regulatory action will be developed once decisions are reached on particular proposed changes in the child labor regulations. Benefits will include safer working environments and the avoidance of injuries with respect to young workers.

Risks: An assessment of the magnitude of the risk addressed by this action will be prepared once decisions are reached on particular proposed changes in the child labor regulations.

Timetable:

| Action | Date | FR Cite |
|-------------------------------|----------|-------------|
| Final Action HOS 2, 10 and 12 | 11/20/91 | 56 FR 58626 |
| Final Rule Effective | 12/20/91 | 56 FR 58626 |
| ANPRM | 05/13/94 | 59 FR 25167 |
| ANPRM Comment | 08/11/94 | 59 FR 40318 |
| Period End | | |
| NPRM | 06/00/99 | |

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210

Phone: 202 693-0051

Fax: 202 693-1432

RIN: 1215-AA09

1909. APPLICATION OF THE FAIR LABOR STANDARDS ACT TO DOMESTIC SERVICE

Priority: Substantive, Nonsignificant

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

CFR Citation: 29 CFR 552

Legal Deadline: None

Abstract: Section 13(a)(15) of the Fair Labor Standards Act (FLSA) provides an exemption from minimum wage and overtime compensation for domestic service employees engaged in providing companionship services. Section 13(b)(21) of the FLSA provides an exemption from overtime compensation for live-in domestic service employees. DOL proposed certain technical amendments to update the regulations, 29 CFR part 552, Application of the Fair Labor Standards Act to Domestic Service, and to clarify that these exemptions are applicable to third-party employers or temporary help agencies only where the domestic service worker is jointly employed by the third-party employer or temporary help agency and the family or household using their services (58 FR 69310). After reviewing the public comments, the Department adopted technical changes to update the regulations, including a revision

necessitated by recently-enacted amendments to title II of the Social Security Act under Public Law 103-387 (Social Security Domestic Employment Reform Act) 10/22/94, (see 60 FR 46766) and reopened the public comment period on proposed revisions affecting third-party employers (section 552.109).

Timetable:

| Action | Date | FR Cite |
|--------------|----------|-------------|
| NPRM | 12/30/93 | 58 FR 69310 |
| NPRM Comment | 02/28/94 | |
| Period End | | |
| NPRM Second | 09/08/95 | 60 FR 46797 |
| Final Rule | 09/08/95 | 60 FR 46766 |
| NPRM | 05/00/99 | |

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: State, Local, Federal

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RIN: 1215-AA82

1910. PROCEDURES FOR PREDETERMINATION OF WAGE RATES (29 CFR PART 1) AND LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (29 CFR PART 5)

Priority: Other Significant

Legal Authority: 40 USC 276a to 276a(7)

CFR Citation: 29 CFR 1; 29 CFR 5

Legal Deadline: None

Abstract: The Department attempted to implement revised rules governing the circumstances in which "helpers" may be used on federally funded and assisted construction contracts subject to the Davis-Bacon Act in May 1982 (see 47 FR 23644, 23658 (May 28, 1982); 47 FR 32090 (July 20, 1982)). After protracted litigation, a final rule was published in January 1989 (see 54 FR 4234) which became effective on February 4, 1991. Thereafter, on two occasions Congress acted to prevent the Department from expending any funds

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to implement these revised helper regulations--through the Dire Emergency Supplemental Appropriations Act of 1991, PL 102-27, 105 Stat. 130,151 (1991), and then through section 104 of the DOL Appropriations Act of 1994, PL 103-112. There is no such prohibition in the DOL's Appropriations Act for fiscal year 1999 Public Law 105-277 (October 21, 1998). Given the uncertainty of continuation of such moratoriums, the Department has determined that the helper issue needs to be addressed through further rulemaking. A notice inviting public comment on a proposal to continue the suspension of the former helper regulations while the Department conducts additional rulemaking proceedings was published August 2, 1996 (61 FR 40366). A final rule continuing the suspension while further rulemaking is considered was published December 30, 1996 (61 FR 68641).

Statement of Need: The current helper rules are difficult to administer and enforce and--as evidenced by the prolonged litigation history and subsequent Congressional actions--are highly controversial. In May 1982, the Department attempted to implement revised rules governing the circumstances in which "helpers" may be used on federally funded and assisted construction contracts subject to the Davis-Bacon Act. After protracted litigation, a final rule was published in January 1989 and became effective on February 4 1991. Thereafter, on two occasions, Congress acted to prevent the Department from expending any funds to implement these revised helper regulations through appropriations riders. Given the uncertainty of continuation of such moratoriums, the Department has determined that the helper issue needs to be addressed through further rulemaking.

Summary of the Legal Basis: These regulations are issued under the authority conferred upon the Secretary of Labor by Reorganization Plan No. 14 of 1950 (64 Stat. 1267, 5 USC appendix) and the Copeland Act (40 USC 276c) in order to provide coordinated enforcement of the prevailing wage provisions of the Davis-Bacon Act (40 USC 276a-276a-7) and several additional Federal statutes that require payment of prevailing wages as determined by the Secretary of Labor according to the Davis-Bacon

Act to laborers and mechanics working on federally funded or assisted construction contracts (see list of statutes in 29 CFR sec. 5.1).

Alternatives: The Administration has determined that there are only limited alternatives to addressing this issue through rulemaking, in addition to possible legislative changes.

Anticipated Costs and Benefits: A new rulemaking regarding the helper criteria will seek to make administration of the Davis-Bacon Act more efficient by establishing reasonable "helper" criteria and methodology--thus resolving the controversy and uncertainty currently experienced by interested parties. Changes in the helper regulations may affect prior estimates of potential construction procurement cost savings anticipated from the earlier rulemaking. Estimates of the financial impacts of revised "helper" regulations will be prepared for inclusion in the NPRM.

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

Timetable:

| Action | Date | FR Cite |
|---------------------------|----------|-------------|
| NPRM Continue Suspension | 08/02/96 | 61 FR 40367 |
| Final Continue Suspension | 12/30/96 | 61 FR 68641 |
| NPRM | 04/00/99 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
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RIN: 1215-AA94

1911. REGULATIONS TO IMPLEMENT THE FEDERAL ACQUISITION STREAMLINING ACT OF 1994, 29 CFR PARTS 4 AND 5, 41 CFR PARTS 50-201 AND 50-206

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in

the CFR to reduce burden or duplication, or streamline requirements.

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

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

Legal Deadline:

NPRM, Statutory, May 11, 1995.
Final, Statutory, October 1, 1995.

Abstract: The Federal Acquisition Streamlining Act of 1994, signed on October 13, 1994, amends several Acts administered by the Department of Labor: (1) It amends the Contract Work Hours and Safety Standards Act (CWHSSA) to limit its applicability to contracts in an amount of \$100,000 or greater. (2) It amends 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. (3) It also amends the Walsh-Healey Public Contracts Act (PCA) to eliminate the requirements that contractors on covered contracts be either manufacturers or regular dealers in the items to be supplied under the contract but retains the Secretary of Labor's authority to define the terms "regular dealer" and "manufacturer." A final rule implementing the CWHSSA and PCA changes was published on August 5, 1996 (61 FR 40714).

Timetable:

| Action | Date | FR Cite |
|---------------------------------------|----------|-------------|
| NPRM | 09/07/95 | 60 FR 46553 |
| NPRM Comment Period End | 10/10/95 | |
| Final Rule - Walsh-Healey/CWHSSA Rule | 08/05/96 | 61 FR 40714 |
| Second NPRM | 10/00/99 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Additional Information: These legislative amendments will require revisions to Regulations, 29 CFR parts 4 and 5 with respect to CWHSSA and DB and Regulations, 41 CFR part 50-201 and part 50-206 with respect to PCA.

Agency Contact: John R. Fraser, Deputy Administrator (WHD),

DOL—ESA

Proposed Rule Stage

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 RIN: 1215-AA96

1912. RECORDS TO BE KEPT BY EMPLOYERS UNDER THE FAIR LABOR STANDARDS ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 211; 29 USC 201 et seq; 29 USC 207(g); 52 Stat 1066, sec 11; 52 Stat 1060, sec 11; 103 Stat 944, sec 7

CFR Citation: 29 CFR 516 et seq

Legal Deadline: None

Abstract: This regulation gives guidance to employers on the information they must keep in records deemed essential for determining compliance with the monetary requirements of the Fair Labor Standards Act (FLSA) regarding payment of minimum wages and overtime compensation to covered and nonexempt employees, or for determining that certain statutory exemptions to FLSA's requirements for payment of the minimum wage or overtime (or both) may apply. This regulation was included in the Department's regulatory reinvention initiative as a candidate for possible simplification of regulatory language and streamlining of regulatory requirements to ensure that applicable standards are easily understandable and reasonable.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 06/00/99 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment

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 RIN: 1215-AB03

1913. ASSESSMENT AND COLLECTION OF USER FEES

Priority: Substantive, Nonsignificant

Legal Authority: PL 97-470; 96 Stat 2583; 29 USC 1801 to 1872; Secretary's Order No. 1-93 (58 FR 21190); PL 99-603, sec 210A(f); 100 Stat 3359; 8 USC 1161(f); 52 Stat 1068, sec 11 and 14; 75 Stat 74, sec 11; 29 USC 211; 29 USC 214; 52 Stat 1066, sec 11; 63 Stat 910, sec 9; 29 USC 211(d); 80 Stat 843 to 844, sec 501 and 602

CFR Citation: 29 CFR 500.45; 29 CFR 500.52; 29 CFR 519.3; 29 CFR 519.13; 29 CFR 530.4; 29 CFR 530.102

Legal Deadline: None

Abstract: In accordance with the authority provided by title V of the Independent Offices Appropriations Act of 1952, often referred to as the "user fee statute," and the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act of 1995 (PL 103-333), the Department is proposing to establish and collect user fees to recover the costs of providing certain services that are required by law and without which, the recipients of the services would not legally be allowed to engage in particular employment practices. The services for which user fees are to be collected include processing applications and issuing farm labor contractor certificates of registration under the Migrant and Seasonal Agricultural Worker Protection Act; processing applications and issuing certificates authorizing employers to employ certain students at special minimum wages under section 14(b) of the Fair Labor Standards Act; and processing applications and issuing certificates authorizing employers to employ homeworkers under section 11(d) of the Fair Labor Standards Act.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 06/00/99 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
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RIN: 1215-AB06

1914. EXEMPTIONS APPLICABLE TO AGRICULTURE, PROCESSING OF AGRICULTURAL COMMODITIES, AND RELATED SUBJECTS UNDER THE FAIR LABOR STANDARDS ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 201 et seq

CFR Citation: 29 CFR 780

Legal Deadline: None

Abstract: This regulation interprets various exemptions applicable to employees in agriculture, processing of agricultural commodities and related issues under the Fair Labor Standards Act (FLSA). The regulation has been targeted for updating and streamlining as part of the Department's regulatory reinvention initiative.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 08/00/99 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
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 Fax: 202 693-1432

RIN: 1215-AB11

DOL—ESA

Proposed Rule Stage

1915. IMPLEMENTATION OF THE 1996 AMENDMENTS TO THE FAIR LABOR STANDARDS ACT**Priority:** Other Significant**Legal Authority:** PL 104-188, sec 2101 to 2105; 29 USC 201 et seq**CFR Citation:** 29 CFR 4; 29 CFR 531; 29 CFR 541; 29 CFR 778; 29 CFR 785; 29 CFR 790; 29 CFR 870; 41 CFR 50-202**Legal Deadline:** None

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

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 09/00/99 | |

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** State, Local, Federal**Agency Contact:** John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210

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RIN: 1215-AB13**1916. LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (29 CFR PART 5) DEFINITION OF "SITE OF THE WORK" UNDER THE DAVIS-BACON ACT****Priority:** Substantive, Nonsignificant**Legal Authority:** 40 USC 276a to 276a-7; 40 USC 276c**CFR Citation:** 29 CFR 5**Legal Deadline:** None

Abstract: Two appellate court decisions have ruled that the Department of Labor's definition of "site of the work" in section 5.2(l) of the Davis-Bacon Act regulations does not conform to the statutory language of the Davis-Bacon Act, which requires payment of prevailing wages as determined under the Act to all laborers and mechanics "employed directly upon the site of the work." (See e.g., Ball, Ball and Brosamer v. Reich, 24 F.3d 1447, (D.C. Cir. 1994); L.P. Cavett Company v. U.S. Department of Labor, 101 F.3d 1111 (6th Cir. 1996).) The Department is proposing technical clarifications of Davis-Bacon coverage based on the site of the work definition as interpreted by these court decisions.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 07/00/99 | |

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** State, Local, Federal**Agency Contact:** John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210

Phone: 202 693-0051

Fax: 202 693-1432

RIN: 1215-AB21**1917. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS REGARDING INDIVIDUALS WITH DISABILITIES****Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 706; 29 USC 793; EO 11758**CFR Citation:** 41 CFR 60-741 (Revision)**Legal Deadline:** None

Abstract: OFCCP proposes to revise the regulation implementing section 503 of the Rehabilitation Act of 1973, as amended, to conform to the recently revised section 60-1.20(a) of the regulation implementing E.O. 11246, as amended. The section authorizes OFCCP to use a range of methods to evaluate a contractor's compliance with the regulations.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 07/00/99 | |

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

Undetermined

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N3424, FP Building, Washington, DC 20210

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TDD: 202 693-1308

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RIN: 1215-AB23**1918. • AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 4211; 38 USC 4212; PL 93-508, Amended; PL 94-502; PL 96-466; PL 101-237; EO 11758; PL 97-306; PL 98-223; PL 102-16; PL 102-127; PL 102-484; PL 95-520**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 newly enacted Veterans Employment Opportunities Act of 1998. The Act increases the current threshold for coverage from \$10,000 to \$25,000. The Act expands the existing definition of Veterans, i.e., special disabled veterans and veterans of the Vietnam Era, to

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include any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized. The Act also requires the contractor to add additional information to its annual VETS-100 report to provide the maximum and minimum number of employees of such contractor's workforce during the period covered by the report.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 05/00/99 | |

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

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N3424, FP Building, Washington, DC 20210

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RIN: 1215-AB24

1919. • AMENDMENT TO SECTION 5333(B) GUIDELINES TO CARRY OUT NEW PROGRAMS AUTHORIZED BY THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY
Priority: Substantive, Nonsignificant**Legal Authority:** Secretary's Order 5-96, 62 FR 107, January 2, 1997**CFR Citation:** 29 CFR 215.3(a); 29 CFR 215.8**Legal Deadline:** None

Abstract: The Transportation Equity Act for the 21st Century provides for three new transportation programs which require employee protection under section 5333(b) -- a Job Access and Reverse Commute Program, an Over-the-Road Bus Accessibility Program, and a State Infrastructure Bank Program. As a condition of release of assistance by FTA, the Department must certify that protective arrangements pursuant to section

5333(b) are in place. The Department is proposing to amend its guidelines to identify which of the new programs will be covered under the certification processes set forth therein.

Timetable:

| Action | Date | FR Cite |
|----------------------------|----------|-------------|
| NPRM | 03/30/99 | 64 FR 15276 |
| NPRM Comment Period End | 04/29/99 | |

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

Agency Contact: Kelley Andrews, Director, Statutory Programs Division, Office of Labor Management Standards, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N5603, FP Building, Washington, DC 20210

Phone: 202 693-1182

Fax: 202 693-1342

RIN: 1215-AB25

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Employment Standards Administration (ESA)

1920. STANDARDS FOR WAIVERS UNDER SECTION 503 OF THE REHABILITATION ACT**Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 706; 29 USC 793, as amended by PL 99-506; PL 100-630; PL 100-259; PL 101-336; PL 102-569; EO 11758**CFR Citation:** 41 CFR 60-741**Legal Deadline:** None

Abstract: OFCCP is planning to issue regulations that will set forth standards for waivers (from provisions of section 503 of the Rehabilitation Act) sought by Federal contractors for facilities that they deem totally separate from and not involved in Government contract work. OFCCP is required to issue these regulations by the 1992 Rehabilitation Act amendments.

Timetable:

| Action | Date | FR Cite |
|----------------------------|----------|------------|
| NPRM | 02/14/96 | 61 FR 5902 |
| NPRM Comment Period End | 04/15/96 | |
| Final Action | 04/00/99 | |

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

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N3424, FP Building, Washington, DC 20210

Phone: 202 693-0102

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RIN: 1215-AA84

1921. LABOR CONDITION APPLICATIONS AND REQUIREMENTS FOR EMPLOYERS USING NONIMMIGRANTS ON H-1B VISAS IN SPECIALTY OCCUPATIONS AND AS FASHION MODELS
Priority: Substantive, Nonsignificant**Legal Authority:** 8 USC 1101(a)(15)(H)(i)(b); 8 USC 1182(n); 8 USC 1184; 29 USC 49 et seq; PL 102-232**CFR Citation:** 20 CFR 655, subparts H & I**Legal Deadline:** None

Abstract: This proposed rule is a republication for notice and public comment of various provisions of the Department's final rule implementing provisions of the Immigration and Nationality Act as it relates to the temporary employment in the United States of nonimmigrants admitted under H-1B visas. As part of the DOL regulatory reinvention efforts, Regulations, 29 CFR part 507 which duplicate 20 CFR part 655, subparts H and I, have been removed from title 29. (See 61 FR 51013.) In addition, amendments are proposed to implement the American Competitiveness and Workforce Improvement Act of 1998 (Title IV, Public Law 105-277, October 21, 1998; 112 Stat. 2681).

Timetable:

| Action | Date | FR Cite |
|----------------------------|----------|-------------|
| NPRM | 10/31/95 | 60 FR 55339 |
| NPRM Comment Period End | 11/30/95 | |

DOL—ESA

Final Rule Stage

| Action | Date | FR Cite |
|----------------------------|----------|-----------|
| NPRM | 01/05/99 | 64 FR 628 |
| NPRM Comment Period End | 02/04/99 | |
| Final Action | 04/00/99 | |

**Regulatory Flexibility Analysis
Required:** No

Government Levels Affected: Federal

Agency Contact: John R. Fraser,
Deputy Administrator (WHD),
Department of Labor, Employment
Standards Administration, 200
Constitution Avenue NW., Room
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20210
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RIN: 1215-AB09

**1922. MINIMUM WAGE AND
OVERTIME VIOLATIONS—CIVIL
MONEY PENALTIES (29 CFR 578);
CHILD LABOR VIOLATIONS—CIVIL
MONEY PENALTIES (29 CFR 579);
ADJUSTMENT OF CIVIL MONEY
PENALTIES FOR INFLATION**

Priority: Substantive, Nonsignificant

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

CFR Citation: 29 CFR 578; 29 CFR 579

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

Abstract: The Debt Collection
Improvement Act of 1996 (PL 104-134)
amended the Federal Civil Penalties
Inflation Adjustment Act of 1990 (PL
101-410) to require Federal agencies to
adjust certain civil money penalties for
inflation. The Department is proposing
adjustments in the civil money
penalties that may be assessed under
section 16(e) of the Fair Labor
Standards Act for (1) repeated or
willful violations of the minimum wage
or overtime provisions; and (2) child

labor violations. Any increase in the
penalty amounts shall apply only to
violations which occur after the
effective date of the increase.

Timetable:

| Action | Date | FR Cite |
|----------------------------|----------|-------------|
| NPRM | 12/28/98 | 63 FR 71405 |
| NPRM Comment Period End | 01/27/99 | |
| Final Action | 04/00/99 | |

**Regulatory Flexibility Analysis
Required:** No

Government Levels Affected: State,
Local, Tribal, Federal

Agency Contact: John R. Fraser,
Deputy Administrator (WHD),
Department of Labor, Employment
Standards Administration, 200
Constitution Avenue NW., Room
S3502, FP Building, Washington, DC
20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215-AB20

DEPARTMENT OF LABOR (DOL)

Long-Term Actions

Employment Standards Administration (ESA)

**1923. DEFINING AND DELIMITING THE
TERM "ANY EMPLOYEE EMPLOYED
IN A BONA FIDE EXECUTIVE,
ADMINISTRATIVE, OR
PROFESSIONAL CAPACITY" (ESA/W-
H)**

Priority: Economically Significant.
Major under 5 USC 801.

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

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

CFR Citation: 29 CFR 541

Legal Deadline: None

Abstract: These regulations set forth
the criteria for exemption from the Fair
Labor Standards Act's minimum wage
and overtime requirements for
"executive," "administrative,"
"professional" and "outside sales
employees." To be exempt, employees
must meet certain tests relating to
duties and responsibilities and be paid
on a salary basis at specified levels. A
final rule increasing the salary test
levels was published on January 13,
1981 (46 FR 3010), to become effective
on February 13, 1981, but was
indefinitely stayed on February 12,

1981 (46 FR 11972). On March 27,
1981, a proposal to suspend the final
rule indefinitely was published (46 FR
18998), with comments due by April
28, 1981. As a result of numerous
comments and petitions from industry
groups on the duties and
responsibilities tests, and as a result of
recent case law developments, the
Department concluded that a more
comprehensive review of these
regulations was needed. An ANPRM
reopening the comment period and
broadening the scope of review to
include all aspects of the regulations
was published on November 19, 1985,
with the comment period subsequently
extended to March 22, 1986.

The Department has revised these
regulations since the ANPRM to
address specific issues. In 1991, as the
result of an amendment to the Fair
Labor Standards Act (FLSA), the
regulations were revised to permit
certain computer systems analysts,
computer programmers, software
engineers, and other similarly skilled
professional employees to qualify for
the exemption, including those paid on
an hourly basis if their rates of pay
exceed 6 1/2 times the applicable

minimum wage. Also, in 1992 the
Department issued a final rule which
provided, in part, that an otherwise
exempt public sector employee would
not be disqualified from the
exemption's requirement for payment
on a "salary basis" solely because the
employee is paid according to a public
pay and leave system that, absent the
use of paid leave, requires the
employee's pay to be reduced for
absences of less than one workday. In
addition, a number of court rulings
have caused confusion on the factors
to consider in meeting the regulation's
"salary basis" criteria, in both the
public and private sectors.

Statement of Need: These regulations
set forth the criteria used in the
determination of the application of the
FLSA exemption for "executive,"
"administrative," "professional," and
"outside sales employees." The existing
salary test levels used in determining
which employees qualify as exempt
from the minimum wage and overtime
rules were adopted in 1975 on an
interim basis. These salary level tests
are outdated and offer little practical
guidance in the application of the
exemption. In addition numerous

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Long-Term Actions

comments and petitions have been received in recent years from industry groups regarding the duties and responsibilities tests in the regulations. These factors, as well as recent case law developments, have led the Department to conclude that a review of these regulations is needed.

These regulations have been revised in recent years to deal with specific issues. In 1991, as the result of an amendment to the FLSA, the regulations were revised to permit certain computer systems analysts, computer programmers, software engineers, and other similarly skilled professional employees to qualify for the exemption, including those paid on an hourly basis if their rates of pay exceed 6 1/2 times the applicable minimum wage. Also in 1991, the Department undertook separate rulemaking on another aspect of the regulations, the definition of "salary basis" for public-sector employees. This interim final rule provided, in part, that an otherwise exempt public-sector employee would not be disqualified from the exemption's requirement for payment on a "salary basis" solely because the employee is paid according to a public pay and leave system that, absent the use of paid leave, requires the employee's pay to be reduced for absences of less than one workday. In 1992, the Department issued its final rule on this matter.

Because of the limited nature of these revisions, the regulations are still in need of updating and clarification. In addition, recent court rulings have caused confusion as to what constitutes compliance with the regulation's "salary basis" criteria in both the public and private sectors.

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

Alternatives: The Department will involve affected interest groups in developing regulatory alternatives.

Following completion of these outreach and consultation activities, full regulatory alternatives will be developed.

Although legislative proposals have been introduced in the Congress to address certain aspects of these regulations, the Department will continue to pursue revisions to the regulations as the appropriate response to the concerns raised. Alternatives likely to be considered include particular changes to address "salary basis" and salary level issues to a comprehensive overhaul of the regulations that also addresses the duties and responsibilities tests.

Anticipated Costs and Benefits: Some 23 million employees are estimated to be within the scope of these regulations. Legal developments in court cases are causing progressive loss of control of the guiding interpretations under this exemption and are creating law without considering a comprehensive analytical approach to current compensation concepts and workplace practices. These court rulings are creating apprehension in both the private and public sectors. Clear, comprehensive, and up-to-date regulations would provide for central, uniform control over the application of these regulations and ameliorate this apprehension. In the public sector, State and local government employers contend that the rules are based on production workplace environments from the 1940s and 1950s, and that they do not readily adapt to contemporary government functions. The Federal government also has concerns regarding the manner in which the courts and arbitration decisions are applying the exemption to the Federal workforce. Resolution of confusion over how the regulations are to be applied in the public sector will ensure that employees are protected, that employers are able to comply with their responsibilities under the law, and that the regulations are enforceable. Preliminary estimates of the specific costs and benefits of this regulatory action will be developed once the various regulatory alternatives are identified.

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

Timetable:

| Action | Date | FR Cite |
|-------------------------------------------------------------|----------|-------------|
| Indefinite Stay of Final Rule | 02/12/81 | 46 FR 11972 |
| Proposal To Suspend Rule Indefinitely | 03/27/81 | 46 FR 18998 |
| ANPRM | 11/19/85 | 50 FR 47696 |
| Extension of ANPRM Comment Period From 01/21/86 to 03/22/86 | 01/17/86 | 51 FR 2525 |
| ANPRM Comment Period End | 03/22/86 | 51 FR 2525 |
| NPRM | 04/00/00 | |

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210

Phone: 202 693-0051

Fax: 202 693-1432

RIN: 1215-AA14

1924. ENFORCEMENT OF CONTRACTUAL OBLIGATIONS FOR TEMPORARY ALIEN AGRICULTURAL WORKERS ADMITTED UNDER SECTION 216 OF THE IMMIGRATION AND NATIONALITY ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-603

CFR Citation: 29 CFR 501

Legal Deadline:

Final, Statutory, June 1, 1987.

Abstract: The Immigration Reform and Control Act of 1986 contains certain labor standards requirements for foreign agricultural workers employed under the H-2A foreign agricultural worker program, as well as for U.S. workers hired by employers who utilize foreign agricultural workers. The standards relate to pay, working conditions, housing, transportation and recruitment. The Employment Standards Administration issued an interim final rule on June 1, 1987 (53 FR 20524), that incorporates the labor standards issued by the Employment and Training Administration (ETA) and

DOL—ESA

Long-Term Actions

sets forth procedures for enforcement of these labor standards.

Timetable:

| Action | Date | FR Cite |
|------------------------------------|-------------------|---------------------------|
| NPRM | 05/05/87 | 52 FR 16795 |
| NPRM Comment Period End | 05/19/87 | |
| Interim Final Rule Final Action | 06/01/87 To Be | 52 FR 20524 Determined |

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: Federal

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215-AA43

1925. BENEFITS UNDER THE FEDERAL COAL MINE SAFETY AND HEALTH ACT OF 1977, AS AMENDED AFFECTING THE BLACK LUNG BENEFITS ACT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 901 et seq

CFR Citation: 20 CFR 718; 20 CFR 722; 20 CFR 725; 20 CFR 726; 20 CFR 727

Legal Deadline: None

Abstract: The Division of Coal Mine Workers' Compensation reviewed its existing regulations, pursuant to Executive Order 12866, with a goal of eliminating outdated and unnecessary rules and streamlining the processes. The result is a proposal to revise existing rules to facilitate alternative

dispute resolution during the informal conference; streamline the litigation process by encouraging the early development and submission of evidence; reduce the costs of copying and mailing; raise the dollar limit for prior approval for medical equipment; and rewrite existing rules to make them more customer-oriented.

There will be no additional administrative costs associated with these changes, but savings can be expected through streamlining.

Timetable:

| Action | Date | FR Cite |
|---------------------------------------------------|----------|------------|
| NPRM | 01/22/97 | 62 FR 3338 |
| NPRM Comment Period End | 03/24/97 | |
| NPRM Comment Period End Extended to 8/22/97 | 05/24/97 | 62 FR 8201 |
| Final Action | To Be | Determined |

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

Agency Contact: James L. DeMarce, Director, Coal Mine Workers' Compensation, OWCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3520, FP Building, Washington, DC 20210
Phone: 202 693-0046
Fax: 202 693-1395

RIN: 1215-AA99

1926. REPORTING BY LABOR RELATIONS CONSULTANTS AND OTHER PERSONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 433; 29 USC 438

CFR Citation: 29 CFR 406.3

Legal Deadline: None

Abstract: The Office of Labor-Management Standards (OLMS) is proposing to amend Receipts and Disbursements Report (Form LM-21) to narrow the scope of reporting. A Receipts and Disbursements Report is required in the circumstances specified in section 203(b) of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA). It is required to be filed by any labor relations consultant, or other individual or organization, who has made or received payment as a party to an agreement or arrangement with an employer, pursuant to which he has undertaken persuader or information-supplying activities on behalf of the employer. The proposed amendment would reflect reporting guidelines established in *Donovan v. The Rose Law Firm*, 768 F.2d 964 (8th Cir. 1985). This judicial decision narrowed the scope of reporting to eliminate reporting of receipts and disbursements in connection with labor relations advice and services rendered to employers for whom no persuader or information-supplying activities were undertaken.

Timetable:

| Action | Date | FR Cite |
|--------|-------|------------|
| NPRM | To Be | Determined |

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: Kay H. Oshel, Chief, Division of Interpretations and Standards, OLMS, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N5605, FP Building, Washington, DC 20210

Phone: 202 693-1233

Fax: 202 693-1340

RIN: 1215-AB14

DEPARTMENT OF LABOR (DOL)

Completed Actions

Employment Standards Administration (ESA)

1927. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA**Priority:** Substantive, Nonsignificant**Reinventing Government:** This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.**Legal Authority:** 38 USC 4211; 38 USC 4212; PL 93-508 Amended; PL 94-502; PL 95-520; PL 96-466; PL 101-237; EO 11758; PL 97-306; PL 98-223; PL 102-16; PL 102-127; PL 102-484**CFR Citation:** 41 CFR 60-250**Legal Deadline:** None**Abstract:** OFCCP is planning to revise its regulations implementing 38 USC 4212 (formerly 2012) the affirmative action provision of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 to: (1) make its provisions for special disabled veterans consistent with section 503 of the Rehabilitation Act of 1973 (2) incorporate some legislative and other changes that have occurred, and (3) generally clarify 38 USC 4212 Affirmative Action Program (AAP) requirements.**Timetable:**

| Action | Date | FR Cite |
|---------------------------------------------------------------------|----------|-------------|
| Interim Final Rule Invitation to Self-Identify (41 CFR 60-250.5(d)) | 05/01/96 | 61 FR 19336 |
| NPRM | 09/24/96 | 61 FR 50079 |
| NPRM Comment Period End | 12/27/96 | |
| Final Action | 11/04/98 | 63 FR 59630 |
| Final Action Effective | 01/04/99 | |

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** None**Agency Contact:** James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N3424, FP Building, Washington, DC 20210
Phone: 202 693-0102
TDD: 202 693-1308
Fax: 202 693-1304**RIN:** 1215-AA62**1928. FEDERAL EMPLOYEES' COMPENSATION ACT; CLAIMS FOR COMPENSATION FOR WORK-RELATED INJURY/DEATH****Priority:** Substantive, Nonsignificant**Reinventing Government:** This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.**Legal Authority:** 5 USC 8101 et seq**CFR Citation:** 20 CFR 1; 20 CFR 10; 20 CFR 25**Legal Deadline:** None**Abstract:** The Office of Workers' Compensation Programs will carry out a comprehensive review of and revision to the regulations implementing the Federal Employees' Compensation Act (FECA) to eliminate outdated or unnecessary rules reflecting a streamlining of the claims process, update rules to reflect legislative changes, modify the medical fee schedule to include hospital and pharmacy charges and simplify language.**Timetable:**

| Action | Date | FR Cite |
|-------------------------|----------|-------------|
| NPRM | 12/23/97 | 62 FR 67120 |
| NPRM Comment Period End | 02/23/98 | |
| Final Action | 11/25/98 | 63 FR 65284 |
| Final Action Effective | 01/04/99 | |

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** Federal**Agency Contact:** Thomas M. Markey, Director for Federal Employees' Compensation, OWCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3229, FP Building, Washington, DC 20210
Phone: 202 693-0040
Fax: 202 693-1498**RIN:** 1215-AB07**1929. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS REGARDING INDIVIDUALS WITH DISABILITIES****Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 706; 29 USC 793; EO 11758**CFR Citation:** 41 CFR 60-741 (Revision)**Legal Deadline:** None**Abstract:** This final rule revises appendix C to the regulations implementing section 503 of the Rehabilitation Act of 1973. Appendix C contains procedures that Government contractors may use to review their personnel processes to ensure that the processes are fair to disabled applicants and employees. The existing appendix recommends that contractors attach or include a description of accommodations considered or used for individuals with disabilities to application forms or personnel records. As revised, the appendix recommends that the description of accommodations be maintained in separate confidential medical files.

The revision results from a comment submitted by the Equal Employment Opportunity Commission in response to OFCCP's NPRM under the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA), which contains a similar appendix. The EEOC submitted that in most instances descriptions of accommodations constitute medical information that, under the Americans with Disabilities Act, must be maintained in separate files and treated as confidential medical records.

Accordingly, the revision is required in order to ensure that contractors complying with section 503 will not inadvertently violate the Americans with Disabilities Act. The revision also ensures continued consistency between OFCCP's rules under section 503 and VEVRAA, which minimizes contractor burdens and confusion.

Timetable:

| Action | Date | FR Cite |
|------------------------|----------|-------------|
| Final Action | 11/04/98 | 63 FR 59657 |
| Final Action Effective | 01/04/99 | 63 FR 59658 |

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** None**Agency Contact:** James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N3424, FP Building, Washington, DC 20210
Phone: 202 693-0102
TDD: 202 693-1308
Fax: 202 693-1304**RIN:** 1215-AB19

DEPARTMENT OF LABOR (DOL)

Proposed Rule Stage

Employment and Training Administration (ETA)

1930. DISASTER UNEMPLOYMENT ASSISTANCE PROGRAM, AMENDMENT TO REGULATIONS**Priority:** Other Significant**Legal Authority:** 42 USC 1302; 42 USC 5177; EO 12673**CFR Citation:** 20 CFR 625**Legal Deadline:** None

Abstract: Experience in several recent disasters has highlighted the complexity and time-consuming nature of the monetary benefit provisions of the current regulations and brought into question other provisions of the current regulations which are perceived to be unduly restrictive and/or result in perceived inequities in some disaster situations. These issues will be addressed in two stages. First, an ANPRM was published, with a 60-day comment period, on 12/08/94 at 59 FR 63670. This ANPRM outlined provisions in the Disaster Unemployment Assistance (DUA) program regulations (20 CFR part 625), other than the monetary benefit provisions, that have come into question and solicits public comment and suggestions relative to these provisions and on other provisions for review and potential revision in a future NPRM. Second, an interim final rule was published May 11, 1995, with a 60-day comment period. This rule simplified the monetary assistance provisions by removing cumbersome administrative provisions and inconsistencies in the computation of a weekly amount.

Timetable:

| Action | Date | FR Cite |
|--------------------------|----------|-------------|
| ANPRM | 12/08/94 | 59 FR 63670 |
| ANPRM Comment Period End | 02/06/95 | |
| Interim Final Rule NPRM | 05/11/95 | 60 FR 25560 |
| | 09/00/99 | |

Regulatory Flexibility Analysis Required: Yes**Small Entities Affected:** Governmental Jurisdictions**Government Levels Affected:** State, Federal**Agency Contact:** Robert Gillham, Team Leader, Federal Programs Team, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Washington, DC 20210

Phone: 202 219-5616

RIN: 1205-AB02

1931. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; UNEMPLOYMENT INSURANCE PERFORMANCE SYSTEM**Priority:** Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 503(a)(1); 42 USC 503(a)(6); 42 USC 503(b); 42 USC 1302**CFR Citation:** 20 CFR 602; 20 CFR 640; 20 CFR 650; 20 CFR 609.6(f); 20 CFR 614.6(f)**Legal Deadline:** None

Abstract: This regulation will formally establish a comprehensive system for helping ensure continuous improvement in UI operational performance. It will enunciate as the system's building blocks principles for Federal and State cooperation, key nationwide performance measures, criteria distinguishing satisfactory from unsatisfactory performance, an annual planning process, and actions which the Department may take when a State fails to perform satisfactorily. This regulation will be as brief and general as possible; detail and measures, standards, criteria and plans will be contained in implementing handbooks.

Timetable:

| Action | Date | FR Cite |
|--------------------------|----------|------------|
| ANPRM | 01/16/97 | 62 FR 2543 |
| ANPRM Comment Period End | 03/17/97 | |
| NPRM | 05/00/99 | |

Regulatory Flexibility Analysis Required: Undetermined**Government Levels Affected:** State**Agency Contact:** Sandra King, Chief, Division of Performance Review, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room S4321, FP Building, Washington, DC 20210
Phone: 202 219-5223
Fax: 202 219-8506
Email: sking@doleta.gov

RIN: 1205-AB10

1932. AIRLINE DEREGULATION: EMPLOYEE BENEFIT PROGRAM**Priority:** Other Significant**Legal Authority:** 49 USC 1552**CFR Citation:** 20 CFR 618**Legal Deadline:** None

Abstract: U.S. District Court for the District of Columbia held that section 43 of the Airline Deregulation Act was unconstitutional. On July 16, 1985, the U.S. Court of Appeals decided that employee protection provisions of section 43 were severable from the legislative veto provisions. The U.S. Supreme Court ruled on March 25, 1987, that the legislative veto provisions were unconstitutional but the employee protection provisions were constitutional; therefore, rulemaking on the monetary benefits aspect of the employee protection program can proceed. In 1991 DOT determined there were no job losses due to deregulation. In September 1993, the U.S. District Court for the District of Columbia ordered DOT to develop broader guidelines to apply to air carriers, which may result in a finding of job losses. DOL has reinstated clearance on the proposed rule. No benefits are payable to eligible workers until DOT determines that an air carrier experienced a qualifying dislocation and Congress appropriates the money to award benefits. To date, neither of these actions has occurred.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 06/00/99 | |

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** State, Federal**Agency Contact:** Betty E. Castillo, Chief, Division of Program Development and Implementation, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room S4514, FP Building, Washington, DC 20210
Phone: 202 219-5616
Fax: 202 219-8506

RIN: 1205-AB17

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Final Rule Stage

1933. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—IMPLEMENTATION OF 1988 AMENDMENTS

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

Legal Authority: 19 USC 2320

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: The final rule implementing the 1988 Amendments to the TAA program was published in the Federal Register on January 6, 1994. Although published as final, comments were requested on several material changes being made in the final rule which differ from the November 1988 proposed rule and on a number of other changes which were not included in the proposed rule. Comments have been received and another final rule will be published relating to these substantive changes.

Timetable:

| Action | Date | FR Cite |
|--------------|----------|---------|
| Final Action | 06/00/99 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Grant D. Beale, Acting Director, Office of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
 Phone: 202 219-5555
 Fax: 202 219-5753

RIN: 1205-AB05

1934. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—TRANSITIONAL ADJUSTMENT ASSISTANCE NAFTA-TAA

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

Legal Authority: PL 103-182, title V

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: Title V of the North American Free Trade Agreement Implementation Act (PL 103-182) amends chapter 2 of title II of the Trade Act of 1974 by adding a new Transitional Adjustment Assistance Program (NAFTA-TAA) for workers who lose their jobs because of

increased imports from or a shift of production to Mexico and Canada. Most of the provisions of title V are in the form of amendments to chapter 2, title II, of the Trade Act. While some of the provisions are not in the form of amendments to the Trade Act they nonetheless must be given effect in implementing the NAFTA-TAA program. A proposed rule to amend the regulations on the trade adjustment assistance program for workers was published in the Federal Register on January 17, 1995.

Timetable:

| Action | Date | FR Cite |
|-------------------------|----------|------------|
| NPRM | 01/17/95 | 60 FR 3472 |
| NPRM Comment Period End | 03/20/95 | |
| Final Action | 09/00/99 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Grant D. Beale, Acting Director, Office of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
 Phone: 202 219-5555
 Fax: 202 219-5555

RIN: 1205-AB07

1935. WELFARE-TO-WORK (WTW) GRANTS

Priority: Other Significant

Legal Authority: 42 USC 601 to 619

CFR Citation: 20 CFR 645

Legal Deadline:

Final, Statutory, November 3, 1997, 90 days from enactment.

Abstract: The Employment and Training Administration published interim final regulations on November 18, 1997, implementing the Welfare-to-Work Grants Program. The Personal Responsibility and Work Opportunity Reconciliation Act reformed the Nation's welfare laws, when enacted in August 1996, by creating a new system of block grants to the States for Temporary Assistance for Needy Families (TANF). Moving people from welfare to work is one of the primary goals of Federal welfare policy as well as one of five goals the Secretary of Labor has identified for the Department of Labor. section 5001 of the Balanced

Budget Act of 1997 authorized the Department of Labor to provide Welfare-to-Work Grants to States and local communities to create additional job opportunities for the hardest-to-employ recipients of TANF. The Welfare-to-Work Grants will be provided to the States through the use of a formula, and in a competitive process to local communities. A small amount of total grant funds will be set aside for special purposes: one percent for Indian tribes; 0.8 percent for evaluation; and \$100 million for performance bonuses to successful States.

The interim final regulations and other guidance focus on providing maximum local flexibility. Guidance and regulations reflect minimal amplification of the law and provide further information or clarification as needed to make the program operational. Existing regulations and systems are used wherever possible. Reporting requirements will assure program integrity and provide timely information for tracking performance. Performance measures will be established and will serve as the basis for the award of FY 2000 bonus grants to the States based on successful performance. Products provided link welfare agencies and workforce development system agencies at the operational level in order to maximize resources available and avoid duplication and overlap. Leveraging of non-Federal resources at the State and local level is encouraged.

These funds will allow States and local communities to help move eligible individuals into jobs by: job creation through public or private sector wage subsidies; on-the-job training; contracts with public or private providers of job readiness, job placement, and post-employment services; job vouchers for similar services; community service or work experience; or job retention and supportive services (if such services are not otherwise available).

Statement of Need: Since the passage of the Personal Responsibility and Work Opportunity Reconciliation Act, the President and the Congress recognized the need for a measure to complement the Temporary Assistance for Needy Families (TANF) block grant created as a result of the Act. On August 5, 1997, President Clinton signed into law the Balanced Budget Act of 1997, which authorized the

DOL—ETA

Final Rule Stage

Department of Labor to provide Welfare-to-Work Grants to States and local communities to create additional job opportunities for the hardest-to-employ recipients of TANF. The basic goal of the program is to move welfare recipients into unsubsidized jobs with good career potential for economic self-sufficiency. Welfare-to-Work formula and competitive grants provide States and local communities with an array of tools to help them accomplish this goal in ways that make sense and are most effective for their particular population needs. The Employment and Training Administration will issue final regulations and other guidance, provide technical assistance, and establish performance standards which will drive State and local efforts towards the program's goal while still allowing maximum local flexibility.

Summary of the Legal Basis:

Promulgation of these regulations is authorized by SSA section 403 (a)(1)(5)(C)(viii).

Alternatives: Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance which will be necessary to carry out the new provisions.

Anticipated Costs and Benefits:

Preliminary estimates of the anticipated costs of this regulatory action have not been determined at this time and will be determined at a later date. Welfare recipients will receive job placement and temporary, transitional employment opportunities leading to lasting employment and self-sufficiency. Employers will have ready access to a large pool of motivated hard-working entry-level workers who will be eligible for job retention and support services to maintain employment. Businesses will be eligible to receive wage and on-the-job training subsidies when they hire the hard-to-employ welfare recipients.

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

Timetable:

| Action | Date | FR Cite |
|--------------------|----------|-------------|
| Interim Final Rule | 11/18/97 | 62 FR 61587 |
| Final Action | 04/00/99 | |

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Dennis Lieberman, Director, Office of Welfare to Work, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., C4524, FP Building, Washington, DC 20210
Phone: 202 219-0181

RIN: 1205-AB15

1936. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; CONFIDENTIALITY AND DISCLOSURE OF STATE RECORDS

Priority: Other Significant

Legal Authority: 42 USC 1302 (a); 42 USC 503; 42 USC 1320b-7; 26 USC chapter 23; Secretary's Orders 4-75 and 14-75

CFR Citation: 20 CFR 603

Legal Deadline: None

Abstract: The Employment and Training Administration of the Department of Labor is preparing to issue a final rule on confidentiality and disclosure of State records in the Federal-State Unemployment Compensation program. The final rule modifies and expands the regulations implementing the Income and Eligibility Verification System (IEVS) to include the statutory requirements in title III of the Social Security Act, the Federal Unemployment Tax Act, and the Wagner-Peyser Act concerning confidentiality and disclosure of State records compiled or maintained for purposes of the Federal-State Unemployment Compensation Program.

Timetable:

| Action | Date | FR Cite |
|------------|----------|---------|
| Final Rule | 12/00/99 | |

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: State

Additional Information: Formerly RIN 1205-AA74; was taken off regulatory agenda in 1994 due to inactivity. An NPRM was published 3/23/92 at 57 FR 100064 with comment period ending 5/22/92.

Agency Contact: Anne Vogel, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., C4512, FP Building, Washington, DC 20210
Phone: 202 219-5201
Fax: 202 219-8506

RIN: 1205-AB18

1937. LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN AGRICULTURE IN THE U.S.; ADMINISTRATIVE MEASURES TO IMPROVE PROGRAM PERFORMANCE

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

Legal Authority: 8 USC 1101 (a); 8 USC 1184 (c) (1); 8 USC 1188

CFR Citation: 20 CFR 655 subpart B; 20 CFR 654 subpart E

Legal Deadline: None

Abstract: The Amendments would improve and streamline the operation of the temporary program for the temporary employment of nonimmigrant agricultural workers in the United States.

Timetable:

| Action | Date | FR Cite |
|------------------------|----------|-------------|
| NPRM | 10/02/98 | 63 FR 53243 |
| Final Action | 04/00/99 | |
| Final Action Effective | 05/00/99 | |

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: James Norris, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4456, FP Building, Washington, DC 20210
Phone: 202 219-5263
Fax: 202 208-5844
Email: jnorris@doleta.gov

RIN: 1205-AB19

1938. WORKFORCE INVESTMENT ACT OF 1998

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

Unfunded Mandates: Undetermined

Legal Authority: Workforce Investment Act of 1998, section 189(2)-506(c); 29 USC 939(a)

CFR Citation: 20 CFR 660 to 671; 20 CFR 652

Legal Deadline:

Other, Statutory, February 7, 1999, Interim Final Rule.

Final, Statutory, December 31, 1999.

Abstract: The Workforce Investment Act of 1998 was signed into law by President Clinton on August 7, 1998. Titles I, III, and V of the Act fall under

DOL—ETA

Final Rule Stage

the purview of the Employment and Training Administration. The Act makes significant changes in the way this country's employment and training programs do business. The Act will ensure that Americans have the information and training they need to qualify for good jobs and successfully manage their careers. The interim final regulations, final regulations, and other guidance will focus on providing maximum local flexibility. Guidance and regulations will reflect minimal amplification of the law and will provide further information or clarification as needed to make the program operational. Reporting requirements will assure program integrity and provide timely information for tracking performance.

Statement of Need: The purpose of title I of the Workforce Investment Act of 1998 is to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, and earnings of participants, and skill attainment of participants, and as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the Nation. The Employment and Training Administration will issue regulations and other guidance and provide technical assistance that will focus State and local efforts towards the

program's goal while allowing maximum local flexibility. The Department of Labor and its partners must move quickly to implement the reforms contained in the legislation. The law requires that interim final regulations be published no later than 180 days after the date of enactment and that final regulations be published no later than December 31, 1999.

Alternatives: Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance necessary to carry out new provisions under the new legislation, the Workforce Investment Act of 1998.

Anticipated Costs and Benefits: Preliminary estimates of the anticipated costs of this newly enacted legislation have not been determined at this time, but will be at a later date. It is anticipated, however, that successful implementation of this legislation will result in changes in the way this country's employment and training programs do business, and will ensure that Americans have the training they need to qualify for good jobs and successfully manage their careers. The Act consolidates more than 60 Federal programs. It will significantly enhance the ability of State and local areas to effectively implement welfare reform and move welfare recipients from welfare to work. It establishes a single

delivery system for adult employment and training and for dislocated worker employment and training that maximizes choice in the selection of occupations and training providers. Under the Act, individuals with disabilities will have access to a comprehensive job training system capable of serving all. Unemployed individuals with disabilities will have broader job opportunities allowing them to re-enter or in some cases enter the workforce for the first time.

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

Timetable:

| Action | Date | FR Cite |
|--------------------|----------|---------|
| Interim Final Rule | 04/00/99 | |
| Final Action | 12/00/99 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Eric Johnson, Director, WIA Implementation Team, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room S5513, FP Building, Washington, DC 20210
Phone: 202 219-0316
Fax: 202 219-0323

RIN: 1205-AB20

DEPARTMENT OF LABOR (DOL)

Long-Term Actions

Employment and Training Administration (ETA)

1939. SERVICES TO MIGRANT AND SEASONAL FARMWORKERS, JOB SERVICE COMPLAINT SYSTEM, MONITORING, AND ENFORCEMENT

Priority: Other Significant

Legal Authority: 29 USC 49k

CFR Citation: 20 CFR 653; 20 CFR 658; 20 CFR 651

Legal Deadline: None

Abstract: ETA is reviewing services to migrant and seasonal farmworkers under the Wagner-Peyser Act as a result of amendments to Wagner-Peyser under title VI of the Job Training Partnership Act.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Beverly, Director, U.S. Employment Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Washington, DC 20210
Phone: 202 219-5257

RIN: 1205-AA37

1940. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in

the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: INA 212(a)(5)(A)

CFR Citation: 20 CFR 656

Legal Deadline: None

Abstract: The Department of Labor (DOL) is currently re-engineering the labor certification process that is set forth in DOL regulations at 20 CFR 656. DOL's goals are to make fundamental changes and refinements that will (a) better serve customers, (b) streamline the process, (c) improve effectiveness, and (d) save resources. The re-engineering effort is a collaborative effort of Federal and State staff who are involved in the administration of alien certification programs. The re-engineering effort also involves

DOL—ETA

Long-Term Actions

consultation throughout the process with sponsors, stakeholders State partners, and outside interest groups to solicit ideas and suggestions for change.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: State, Federal

Agency Contact: James Norris, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4456, FP Building, Washington, DC 20210
Phone: 202 219-5263
Fax: 202 219-5844
Email: jnorris@doleta.gov

RIN: 1205-AA66

1941. ESTABLISHMENT OF FEES FOR IMMIGRATION PROGRAMS ADMINISTERED BY THE EMPLOYMENT AND TRAINING ADMINISTRATION

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The regulation would establish a new fee charged to employers for processing of alien labor certification and attestation applications by the Department of Labor (DOL) and State Employment Security Agencies. The user fee would be proposed in the FY 2000 Appropriations. The user fee would be a government receipt and would be applied to Federal and State expenditures for Federal and State

program administration in the State Unemployment Insurance and Employment Service account and the Program Operations Account in DOL's Employment and Training Administration (ETA).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: State, Local

Additional Information: Funding of ETA immigration programs has been reduced by 39 percent since FY 1995. The fee proceeds would be used to offset the costs of administering the alien labor certification program. However, in each of Fiscal Years 1999 and 2000 regular appropriations of \$41 million would be required in addition to user fees to work off a large backlog of applications already in the pipeline and future growing backlogs created primarily by appropriations reduction in FY 1996 and 1997.

Agency Contact: James Norris, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4456, FP Building, Washington, DC 20210
Phone: 202 219-5263
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Email: jnorris@doleta.gov

RIN: 1205-AB14

1942. INDIAN AND NATIVE AMERICAN WELFARE-TO-WORK PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 612(a)(3)(c)(iii), The Social Security Act, as amended

CFR Citation: 20 CFR 646

Legal Deadline:

Final, Statutory, November 4, 1997, Citation mandates Secretary to prescribe regulations within 90 days of enactment to publish Interim Final rule by 10/31/98.

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, as amended.

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 | |

Next Action Undetermined

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: Tribal

Agency Contact: Gregory Gross, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4641, FP Building, Washington, DC 20210
Phone: 202 219-8502
Fax: 202 219-6338
Email: ggross@doleta.gov

RIN: 1205-AB16

DEPARTMENT OF LABOR (DOL)

Proposed Rule Stage

Pension and Welfare Benefits Administration (PWBA)

1943. DEFINITION OF COLLECTIVE BARGAINING AGREEMENT (ERISA SECTION 3(40))

Priority: Other Significant

Legal Authority: 29 USC 1002(40)

CFR Citation: 29 CFR 2510.3-40

Legal Deadline: None

Abstract: The regulation will establish standards for determining whether an employee benefit plan is established or maintained pursuant to one or more

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

legitimate unions pursuant to bona fide collective bargaining agreements from health insurance arrangements promoted and marketed under the guise of ERISA-covered plans exempt from State insurance regulation. The regulation will also serve to limit the extent to which health plans maintained pursuant to bona fide collective bargaining agreements may extend plan coverage to individuals not covered by such agreements. The Department has determined to develop

DOL—PWBA

Proposed Rule Stage

a revised proposal utilizing the negotiated rulemaking process.

Timetable:

| Action | Date | FR Cite |
|------------------------------------------------|----------|-------------|
| NPRM | 08/01/95 | 60 FR 39208 |
| NPRM Comment Period Extended to 11/16/95 | 09/29/95 | 60 FR 50508 |
| NPRM Comment Period End | 10/02/95 | 60 FR 39208 |
| NPRM Second | 12/00/99 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elizabeth Goodman, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210-AA48

1944. RULEMAKING RELATING TO NOTICE REQUIREMENTS FOR CONTINUATION OF HEALTH CARE COVERAGE

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1135; 29 USC 1136

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: This rulemaking will provide guidance concerning the notification requirements pertaining to continuation coverage under the Employee Retirement Income Security Act of 1974 (ERISA). Section 606 of ERISA requires that group health plans provide employees notification of the continuation coverage provisions of the plan and imposes notification obligations upon plan administrators, employers, employees, and qualified beneficiaries relating to certain qualifying events.

Timetable:

| Action | Date | FR Cite |
|-----------------------------|----------|-------------|
| ANPRM | 09/23/97 | 62 FR 49894 |
| ANPRM Comment Period End | 11/24/97 | |
| NPRM | 07/00/99 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Susan G. Lahne, Senior Pension Law Specialist,

Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210

Phone: 202 219-8521

RIN: 1210-AA60

1945. ELIMINATION OF FILING REQUIREMENTS FOR SUMMARY PLAN DESCRIPTIONS

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

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

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

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

Legal Deadline: None

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

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 05/00/99 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey J. Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution

Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210-AA66

1946. REQUIREMENT TO FURNISH PLAN DOCUMENTS UPON REQUEST BY THE SECRETARY OF LABOR

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 2520.104a-8

Legal Deadline: None

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

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 05/00/99 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey J. Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210-AA67

1947. CIVIL PENALTY FOR FAILURE TO FURNISH CERTAIN PLAN DOCUMENTS

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 2560; 29 CFR 2570

Legal Deadline: None

Abstract: This rulemaking will implement the enforcement aspects of amendments to title I of ERISA made by section 1503 of the Taxpayer Relief

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Proposed Rule Stage

Act of 1997 (Public Law 105-34) which, while eliminating the requirement that plan administrators file summary plan descriptions (SPDs), summaries of material modifications (SMMs) and updated SPDs with the Department of Labor, also provided that administrators must furnish copies of any documents relating to the plan, including but not limited to SPDs, to the Department on request. In particular, this rulemaking will implement the amendments that authorize the Secretary of Labor to assess a civil penalty of up to \$100 a day, up to a maximum of \$1,000 per request, against a plan administrator who fails to furnish the requested documents on a timely basis.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 05/00/99 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey J. Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210-AA68

1948. AMENDMENT OF SMALL PLAN EXEMPTION FROM AUDIT REQUIREMENT

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1024; 29 USC 1191c; Secretary of Labor's Order No. 1-87, April 21, 1987

CFR Citation: 29 CFR 2520.104-41; 29 CFR 2520.104.46

Legal Deadline: None

Abstract: This initiative would amend the conditions under which small pension plans (i.e., those with fewer than 100 participants) will be exempt from the requirements of section 103(a)(3)(A) to engage an independent qualified public accountant and to include the report of such accountant as part of the plan's annual report. Specifically, the amendment would condition the availability of the exemption on plan assets being held by an approved institution, the approved institution providing a certification of

the assets held, and the availability of such certifications to plan participants and beneficiaries. This initiative is being undertaken to improve security and accountability with respect to assets of small employee pension benefit plans.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 07/00/99 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: John Keene, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8521

RIN: 1210-AA73

1949. • REQUEST FOR INFORMATION RELATING TO THE WOMEN'S HEALTH AND CANCER RIGHTS ACT OF 1998

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

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

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Department is requesting information from the public on a number of issues arising under the provisions of the Women's Health and Cancer Rights Act of 1998 (WHCRA), enacted on October 21, 1998 (P.L. 105-277). WHCRA amended the Employee Retirement Income Security Act of 1974, as amended (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. The Department has statutory authority to publish this rule as an interim final rule with a request for comments. A determination has yet to be made with regard to whether the rule should be promulgated on an interim basis.

Timetable:

| Action | Date | FR Cite |
|-------------------------------|----------|---------|
| Request for Information (RFI) | 04/00/99 | |

| Action | Date | FR Cite |
|------------------------|----------|---------|
| RFI Comment Period End | 05/00/99 | |
| Interim Final Rule | 09/00/99 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mila Kofman, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210-AA75

1950. • VOLUNTARY FIDUCIARY CORRECTION PROGRAM

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

Legal Authority: 29 USC 1132; 29 USC 1134

CFR Citation: Not yet determined

Legal Deadline: None

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

To encourage and facilitate voluntary correction of certain breaches of fiduciary responsibility, PWBA is considering a Voluntary Fiduciary Correction Program (VFC Program) that would be implemented on a pilot basis. Under this VFC Program, plan officials would be relieved of the possibility of investigation and civil action by the Department and imposition of civil

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Proposed Rule Stage

penalties, to the extent that plan officials satisfy the conditions for correcting breaches to be described in the Program. PWBA anticipates that the Program would assist plan officials in understanding the requirements of part 4 of title I of ERISA and their legal responsibilities in correcting fiduciary breaches. PWBA intends to invite public comment on the VFC Program

prior to its implementation on a pilot basis.

Timetable:

| Action | Date | FR Cite |
|-------------------------|----------|---------|
| NPRM | 06/00/99 | |
| NPRM Comment Period End | 08/00/99 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elizabeth Goodman, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210-AA76

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Pension and Welfare Benefits Administration (PWBA)

1951. REVISION OF THE FORM 5500 SERIES AND IMPLEMENTING AND RELATED REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)

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

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1021; 29 USC 1022; 29 USC 1023; 29 USC 1024; 29 USC 1025; 29 USC 1026; 29 USC 1027; 29 USC 1029; 29 USC 1030; 29 USC 1059; 29 USC 1135; 29 USC 1166; 29 USC 1168

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: Under title I of ERISA, title IV of ERISA, and the Internal Revenue Code, as amended, pension and other employee benefit plans are generally required to file returns/reports annually concerning, among other things, the financial condition and operations of the plan. These annual reporting requirements are satisfied generally by filing the Form 5500 Series in accordance with its instructions and related regulations. The Department of Labor, IRS, and PBGC have undertaken a comprehensive review of the annual return/report forms in an effort to streamline the information required to be reported and the methods by which such information is filed and processed.

Statement of Need: This project was included in prior PWBA regulatory

plans. The Form 5500 Series is the primary source of information concerning the operation, funding, assets and investments of pension and other employee benefit plans, and is both an important compliance and research tool for the Department, and a disclosure document for plan participants and beneficiaries and a source of information and data for use by other Federal agencies, Congress and the private sector in assessing employee benefit, tax, and economic trends and policies.

Summary of the Legal Basis: Title I of ERISA, sections 101 through 105, 107, 209, and 606 impose specific reporting and disclosure obligations on administrators of employee benefit plans. Sections 104(a)(2) 104(a)(3) and 110 of ERISA provide the Secretary with the authority to prescribe simplified reports, exemptions and alternative methods of compliance for employee welfare benefit plans and employee pension benefit plans. Section 505 provides the Secretary with general authority to prescribe regulations necessary or appropriate to carry out the provisions of title I of ERISA.

Alternatives: Amendments to the annual report regulations implementing the revisions to the Form 5500 Series are in development.

Anticipated Costs and Benefits: By simplifying the Form 5500 Series and creating an automated processing system for the filed reports, it is anticipated that filer costs of preparing forms and Government processing costs will be reduced. These measures will eliminate reporting requirements for information that is not needed for the discharge of the Department's statutory responsibilities, while ensuring that

participants and beneficiaries have access to the information they need to protect their rights and benefits under ERISA.

Risks: Failure to revise the Form 5500 Series Annual Reports for Employee Benefit Plans could deprive plans, sponsors and participants and beneficiaries, as well as the Government, of the cost savings and related benefits associated with streamlining the forms and their processing.

Timetable:

| Action | Date | FR Cite |
|----------------------------------------|----------|-------------|
| Proposed Forms Revisions | 09/03/97 | 62 FR 46556 |
| Proposed Forms Comment Period End | 11/03/97 | |
| NPRM Implementing/ Related Regulations | 12/10/98 | 63 FR 68370 |
| NPRM Comment Period End | 02/08/99 | |
| Final Action | 11/00/99 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Public hearing held November 17, 1997. Hearing comment period ended 12/03/97.

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8521

RIN: 1210-AA52

DOL—PWBA

Final Rule Stage

1952. REGULATIONS IMPLEMENTING THE HEALTH CARE ACCESS, PORTABILITY AND RENEWABILITY PROVISIONS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 2590

Legal Deadline:

Other, Statutory, April 1, 1997, Per Section 734 of ERISA as added by Section 101 of HIPAA.

Abstract: The Health Insurance Portability and Accountability Act of 1996 (HIPAA) amended title I of ERISA by adding a new part 7, designed to improve health care access, portability and renewability. This rulemaking will provide regulatory guidance to implement these provisions.

Statement of Need: HIPAA added a new part 7 to title I of ERISA, containing provisions designed to improve the availability and portability of health insurance coverage. Part 7 includes provisions limiting exclusions for preexisting conditions and providing credit for prior coverage, guaranteeing availability of health coverage for small employers, prohibiting discrimination against employees and dependents based on health status, and guaranteeing renewability of health coverage to employers and individuals.

Summary of the Legal Basis:

Promulgation of these regulations is authorized by sections 505 and 734 of ERISA.

Alternatives: Regulatory alternatives will be developed once determinations have been made, in conjunction with other concerned agencies with regard to the scope and nature of the final regulatory guidance which will be necessary to carry out the new provisions.

Anticipated Costs and Benefits:

Preliminary estimates of the anticipated costs and benefits of the regulatory actions found to be necessary to implement the new provision will be developed once decisions are reached on which specific actions are necessary.

Risks: Failure to provide regulatory guidance necessary to carry out these important health care reforms would adversely impact the availability and portability of health insurance coverage for American families.

Timetable:

| Action | Date | FR Cite |
|---------------------------------------|----------|-------------|
| Interim Final Rule | 04/08/97 | 62 FR 16894 |
| Interim Final Rule Effective | 06/07/97 | |
| Interim Final Rule Comment Period End | 07/07/97 | |
| Final Rule | 03/00/00 | |

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

Agency Contact: Daniel J. Maguire, Director, Health Care Task Force, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5677, FP Building, Washington, DC 20210

Phone: 202 219-4592

RIN: 1210-AA54

1953. AMENDMENT OF SUMMARY PLAN DESCRIPTION AND RELATED ERISA REGULATIONS TO IMPLEMENT STATUTORY CHANGES IN THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

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

Unfunded Mandates: Undetermined

Legal Authority: PL 104-191 section 101; PL 104-204 section 603

CFR Citation: 29 CFR 2520.102-3; 29 CFR 2520.104b-1; 29 CFR 2520.104b-3

Legal Deadline:

NPRM, Statutory, April 1, 1997, Per Section 707 of ERISA as added by Section 101 of HIPAA.

Abstract: The Health Insurance Portability and Accountability Act of 1996 (HIPAA) amended ERISA's summary plan description (SPD) and related reporting and disclosure provisions to require that participants and beneficiaries receive from their group health plans: (i) more timely notice if there is a material reduction in services or benefits under the plan; (ii) more information regarding the financing and administration of the plan; and (iii) specific identification of Department of Labor offices through

which they can seek assistance or information about HIPAA. The Newborns' and Mothers' Health Protection Act of 1996 (NMHPA) also amended ERISA's SPD and related reporting and disclosure provisions. This rulemaking will amend the Department's SPD and related regulations to implement those statutory changes.

Statement of Need: The existing SPD and related reporting and disclosure provisions need to be revised to reflect the changes made by HIPAA. HIPAA's statutory changes modify the requirements concerning the manner and timing of how certain important plan information is communicated to participants and beneficiaries by plan administrators. Without revised regulatory guidance administrators may not be able to improve the timely disclosure of plan information on both a quantitative and qualitative basis. HIPAA also requires the Secretary to issue regulations within 180 days after its enactment providing alternative mechanisms to delivery by mail through which group health plans may notify participants and beneficiaries of material reductions in covered services or benefits.

Summary of the Legal Basis:

Promulgation of these regulations is authorized by sections 104(b), 505 and 734 of ERISA.

Alternatives: Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance which will be necessary to carry out the new provisions.

Anticipated Costs and Benefits: There is estimated to be no capital/start-up cost. Total burden cost for operating maintenance is to average \$73,000,000 annually for the years 1997, 1998, and 1999. However, the Department believes that the regulation assures that participants have better access to more complete information about their benefit plans.

Risks: The SPD is a critical plan document for participants and beneficiaries. Without access to accurate and timely information participants and beneficiaries will not be able to protect their rights under ERISA. Improved disclosure requirements also should serve to facilitate compliance by plan administrators, thereby reducing litigation and penalty risks to plan

DOL—PWBA

Final Rule Stage

administrators. The failure to issue revised disclosure regulations also may result in a failure to achieve HIPAA's objective of improving the disclosure of plan information.

Timetable:

| Action | Date | FR Cite |
|---------------------------------------------|----------|-------------|
| Interim Final Rule | 04/08/97 | 62 FR 16979 |
| Interim Final Rule Comment Period End | 05/31/97 | |
| Interim Final Rule Effective | 06/01/97 | |
| Interim Final Rule Second | 09/09/98 | 63 FR 48372 |
| Interim Final Rule Effective | 11/09/98 | |
| Comment Period End | 11/09/98 | |
| Final Action | 09/00/99 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210

Phone: 202 219-8521

RIN: 1210-AA55

1954. LIMITATION OF LIABILITY FOR INSURERS AND OTHERS UNDER PART 4 OF TITLE I OF ERISA AND SECTION 4975 OF THE INTERNAL REVENUE CODE

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

Unfunded Mandates: Undetermined

Legal Authority: PL 104-188, Sec 1460; 29 USC 1101(c)(1); 29 USC 1135; 29 USC 1021

CFR Citation: 29 CFR 2550.401(c-1); 29 CFR 2510.3-101

Legal Deadline:

NPRM, Statutory, June 30, 1997.
Other, Statutory, September 30, 1997, Specifies 6/30/99 as latest date for the regulation to take effect. Regulation not effective until 18 months after final. Final, Statutory, December 31, 1997.

Abstract: Section 1460 of the Small Business Job Protection Act of 1991 (Public Law 104-188) amended ERISA section 401 to limit the liability of insurers and others under part 4 of title I of ERISA and section 4975 of the Internal Revenue Code with regard to

certain policies or contracts issued to or for the benefit of employee benefit plans which are supported by assets in the insurers' general accounts. Subsection 401(c) specifies the timetable by which the Secretary must issue regulatory guidance concerning this provision.

Timetable:

| Action | Date | FR Cite |
|----------------------------|----------|-------------|
| Request for Information | 11/25/96 | 61 FR 59845 |
| NPRM | 12/22/97 | 62 FR 66908 |
| NPRM Comment Period End | 03/23/98 | |
| Final Action | 09/00/99 | |

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ivan L. Strasfeld, Director, of Exemption Determinations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5649, FP Building, Washington, DC 20210

Phone: 202 219-8194

Fax: 202 219-7291

RIN: 1210-AA58

1955. AMENDMENTS TO EMPLOYEE BENEFIT PLAN CLAIMS PROCEDURES REGULATION

Priority: Other Significant

Legal Authority: 29 USC 1133; 29 USC 1135

CFR Citation: 29 CFR 2560.503-1

Legal Deadline: None

Abstract: The Department has proposed to amend the regulation governing the establishment and maintenance of benefit claims procedures by employee benefit plans covered by title I of the Employee Retirement Income Security Act (ERISA). The proposal would establish new standards for the processing of group health and other employee benefit plan claims filed by participants and beneficiaries. In the case of group health plans, as well as certain plans providing disability benefits, the new standards are intended to ensure more timely benefit determinations, improved access to information on which a benefit determination is based, and greater assurance that participants and beneficiaries will be afforded a full and fair review of denied claims.

Statement of Need: This regulation is necessary to insure more timely benefit determinations, improve access to information on which a benefit determination is made, and provide greater assurance that participants and beneficiaries will be afforded a full and fair review of denied claims.

Summary of the Legal Basis:

Promulgation of this regulation is authorized by sections 503 and 505 of ERISA.

Alternatives: Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the amendments which are necessary to update the rules which implement section 503 of ERISA.

Anticipated Costs and Benefits: On the basis of available data, the Department believes that the projected benefits of this proposed regulation would outweigh its projected costs. In particular, updating the existing regulation to address recent changes in the delivery and financing of health care services would improve health care quality by averting harmful, inappropriate delays and denials of health benefits thereby yielding substantial social benefits.

Risks: Failure to issue this regulation would deprive many plan participants and beneficiaries of the benefits of an improved claims review process.

Timetable:

| Action | Date | FR Cite |
|------------------------------------------------------------------------------------------|----------|-------------|
| Request for Information-- Amendment of Regulations on Plan Claims Procedures | 09/08/97 | 62 FR 47262 |
| Comment Period End | 11/07/97 | |
| Notice of Public Hearing Held on Feb. 17, 18 & 19, 1999 | 01/04/99 | 64 FR 65 |
| Final Action | 09/00/99 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210-AA61

DOL—PWBA

Final Rule Stage

1956. MENTAL HEALTH BENEFITS PARITY

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 2590

Legal Deadline: None

Abstract: The Mental Health Parity Act of 1996 (MHPA) was enacted on September 26, 1996 (P.L. 104-204). MHPA amended the Public Health Service Act (PHSA) and the Employee Retirement Income Security Act of 1974 (ERISA), as amended, to provide for parity in the application of limits on certain mental health benefits with limits on medical and surgical benefits. MHPA provisions are set forth in chapter 100 of subtitle K of the Code, title XXVII of the PHSA, and part 7 of subtitle B of title I of ERISA. The interim rules will provide guidance with regard to the provisions of the MHPA.

Timetable:

| Action | Date | FR Cite |
|--------------------|----------|-------------|
| Interim Final Rule | 12/22/97 | 62 FR 66932 |
| Final Action | 03/00/00 | |

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

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

Agency Contact: Mark Connor, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210

Phone: 202 219-8671

RIN: 1210-AA62

1957. 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 1181 (PL 104-204; 110 Stat 2935); 29 USC 1135; 29 USC 1194

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. The interim rules will provide guidance with regard to the provisions of the NMHPA.

Statement of Need: These regulations are needed to provide guidance to the public concerning the application of the provisions of section 711 of ERISA, which establishes requirements for group health plan standards for minimum hospital stays following birth.

Summary of the Legal Basis: Promulgation of these regulations is authorized by sections 505 and 734 of ERISA.

Alternatives: Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance which will be necessary to implement section 711 of ERISA.

Anticipated Costs and Benefits: Preliminary estimates of the anticipated costs and benefits of the regulatory actions found to be necessary to implement the new provision will be developed once decisions are reached on which specific actions are necessary.

Risks: Failure to issue these regulations would be likely to impair compliance by group health plans with the new standards established by section 711 of ERISA for mothers' and newborns' health care.

Timetable:

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

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

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

Agency Contact: Amy Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210-AA63

1958. REPORTING REQUIREMENTS FOR MEWAS PROVIDING MEDICAL CARE BENEFITS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 2520

Legal Deadline: None

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

Timetable:

| Action | Date | FR Cite |
|--------------------|----------|---------|
| Interim Final Rule | 07/00/99 | |

DOL—PWBA

Final Rule Stage

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

Additional Information: The Department has statutory authority to publish this rule as an interim final rule, with a request for comments. A determination has yet to be made with regard to whether the rule should be promulgated on an interim basis.

Agency Contact: Amy Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210-AA64**1959. AMENDMENTS TO SUMMARY PLAN DESCRIPTION REGULATIONS**

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1024; 29 USC 1135

CFR Citation: 29 CFR 2520.102-3; 29 CFR 2520.102-5

Legal Deadline: None

Abstract: These proposed amendments to the regulations governing the contents of summary plan descriptions are intended to ensure that all participants in group health plans are provided, consistent with the recommendations of the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry, understandable information concerning their plan; provider network composition; preauthorization and utilization review procedures; whether, and under what circumstances, coverage is provided for existing and new drugs; and whether, and under what circumstances, coverage is provided for experimental drugs, devices, and procedures. These amendments will include the repeal of special rules limiting the information that must be included in summary plan descriptions with respect to certain health maintenance organizations. In addition, the proposed amendments will include provisions that are intended to update or clarify the application of certain SPD content requirements affecting both pension and welfare benefit plans.

Statement of Need: This regulation is necessary to improve the disclosure of group health plan benefit information, consistent with the recommendations of the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry, as set forth in its November 20, 1997, report. The amendments will also update the general SPD content requirements and update other relevant regulatory provisions.

Summary of the Legal Basis: Promulgation of this regulation is authorized by sections 101(a) 102(b), and 505 of ERISA.

Alternatives: Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the amendments which are necessary to improve the disclosure of benefit information to participants and beneficiaries of group health plans under the applicable ERISA regulations.

Anticipated Costs and Benefits: The Department estimates that the aggregate additional costs associated with the proposed regulation would average approximately \$76 million per year for the years 1999, 2000, and 2001, although the Department believes that this estimate may be conservatively high. However, the Department believes that the proposed regulation would assure that participants have better access to more complete information on their benefit plans. Better information will lead both participants and plan sponsors to make more economically efficient decisions regarding benefit plans. This enhanced value and efficiency from better information constitute the benefits of the regulation.

Risks: Failure to issue the regulation would deprive participants, beneficiaries, and plan sponsors of the improvements in health care market efficiency which would be generated by the regulatory amendments specified therein.

Timetable:

| Action | Date | FR Cite |
|-------------------------|----------|-------------|
| NPRM | 09/09/98 | 63 FR 48376 |
| NPRM Comment Period End | 11/09/98 | |
| Final Action | 09/00/99 | |

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

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210

Phone: 202 219-8521

RIN: 1210-AA69**1960. PAYROLL DEDUCTION PROGRAMS FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT ACCOUNTS (INTERPRETIVE BULLETIN)****Priority:** Info./Admin./Other**Major:** Undetermined

Legal Authority: 29 USC 1002 (2); 29 USC 1135

CFR Citation: 29 CFR 2509**Legal Deadline:** None

Abstract: This interpretive bulletin will compile for ease of reference the views of the Department of Labor (the Department) concerning the circumstances under which the use of a payroll deduction program for forwarding employee monies to an individual retirement account annuity will not constitute an employee pension benefit plan subject to title I of the Employee Retirement Security Act of 1974 (ERISA). This guidance is intended to assist employers in their efforts to provide retirement savings opportunities to employees by clarifying the circumstances under which the use of payroll deduction programs will not implicate provisions of parts 1 (Reporting and Disclosure), 4 (Fiduciary Responsibility) and 5 (Administration and Enforcement) of title I of ERISA.

Timetable:

| Action | Date | FR Cite |
|--------------|----------|---------|
| Final Action | 05/00/99 | |

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

Agency Contact: Susan G. Lahne, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210

Phone: 202 219-0521

RIN: 1210-AA70

DOL—PWBA

Final Rule Stage

1961. ELECTRONIC DISCLOSURE OF EMPLOYEE BENEFIT PLAN INFORMATION

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

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

CFR Citation: 29 CFR 2520.104b

Legal Deadline:

NPRM, Statutory, December 31, 1998.

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

Timetable:

| Action | Date | FR Cite |
|-------------------------|----------|------------|
| NPRM | 01/28/99 | 64 FR 4506 |
| NPRM Comment Period End | 03/29/99 | |
| Final Action | 07/00/99 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8521

RIN: 1210-AA71

1962. NATIONAL MEDICAL SUPPORT NOTICE

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

Legal Authority: PL 105-200, section 401(b); 29 USC 1135; 29 USC 1169

CFR Citation: 29 CFR 2565

Legal Deadline:

Other, Statutory, May 16, 1999, Interim Final Rule.
Final, Statutory, May 16, 2000.

Abstract: The purpose of this rulemaking is to develop regulations which establish a model qualified medical child support order for use by State child support agencies to facilitate the extension of health care coverage to children under their jurisdiction. This initiative is mandated by the Child Support Performance and Incentive Act of 1998, P.L. 105-200.

Statement of Need: These regulations are needed to provide guidance to the public concerning the application of the provisions of section 401 of the Child Support Performance and Incentive Act of 1998 (CSPIA) and section 609 of ERISA, which require, respectively, the promulgation of a National Medical Support Notice to be used by State child support agencies to order health care coverage for children under their jurisdiction, and that such notice is to be deemed a qualified medical child support order for purposes of section 609 of ERISA.

Summary of the Legal Basis:

Promulgation of these regulations is mandated by section 401 of CSPIA, and authorized by sections 505 and 609 of ERISA.

Alternatives: Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance which will be necessary to implement section 401 of CSPIA and section 609 of ERISA. Section 401 of CSPIA mandates the promulgation of a National Medical Support Notice.

Anticipated Costs and Benefits: Preliminary estimates of the anticipated costs and benefits of the regulatory actions found necessary to implement the new provisions will be developed once decisions are reached on which specific actions are necessary.

Risks: Failure to issue these regulations would be likely to impair compliance by State child support agencies with the new standards established by section 401 of CSPIA and by group health plans with the requirements of section 609 of ERISA for the extension of health care coverage to children of plan participants.

Timetable:

| Action | Date | FR Cite |
|--------------------|----------|---------|
| Interim Final Rule | 05/00/99 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David J. Lurie, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210-AA72

1963. • SOFT DOLLAR (INTERPRETIVE BULLETIN)

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

Legal Authority: 29 USC 1103; 29 USC 1104; 29 USC 1106; 29 USC 1108; 29 USC 1135

CFR Citation: 29 CFR 2509.98-2

Legal Deadline: None

Abstract: This Interpretive Bulletin will codify the guidance provided by the Department concerning "soft dollar" and directed commission arrangements, for ease of reference by employee benefit plan fiduciaries, plan service providers, and others.

Timetable:

| Action | Date | FR Cite |
|-----------------------|----------|---------|
| Interpretive Bulletin | 08/00/99 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David J. Lurie, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210-AA74

1964. • PROHIBITING DISCRIMINATION AGAINST PARTICIPANTS AND BENEFICIARIES BASED ON HEALTH STATUS

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

Legal Authority: 29 USC 1027; 29 USC 1059; 29 USC 1135; 29 USC 1171; 29 USC 1167; 29 USC 1194; PL 104-191 SEC 101'; 29 USC 1181, 101 Stat 1936; Secretary of Labor's Order No. 1-37; 52 FR 13139, April 21, 1987

CFR Citation: 29 CFR 2590.702

Legal Deadline: None

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Final Rule Stage

Abstract: Section 702 of the Employee Retirement Income Security Act of 1974, amended by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), establishes that a group health plan or a health insurance issuer may not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of the plan based on any health status-related factor. These provisions are also contained in the Internal Revenue Code under the jurisdiction of the Department of the Treasury, and the Public Health Service Act within the jurisdiction of the Department of Health and Human Services.

On April 8, 1997, the Department, in conjunction with the Departments of the Treasury and Health and Human Services (collectively, the Departments) published interim final regulations

implementing the nondiscrimination provisions of HIPAA. These regulations can be found at 26 CFR 54.9802-1 (Treasury), 29 CFR 2590.702 (Labor), and 45 146.121 (HHS). That notice of rulemaking also solicited comments on the nondiscrimination provisions and indicated that the Departments intend to issue further regulations on the nondiscrimination rules. This rulemaking will contain additional regulatory guidance under HIPAA's nondiscrimination provisions.

Timetable:

| Action | Date | FR Cite |
|---------------------------------------------|----------|-------------|
| Interim Final Rule | 04/08/97 | 62 FR 16894 |
| Interim Final Rule Comment Period End | 07/07/97 | |
| Interim Final Rule | 11/00/99 | |
| Final Action | 03/00/00 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: This item is being split off from RIN 210-AA54 in order to provide focused guidance on section 702 of ERISA, which prohibits discrimination against participants and beneficiaries by group health plans and health insurance issuers based on health status.

Agency Contact: Amy Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210-AA77

DEPARTMENT OF LABOR (DOL)

Long-Term Actions

Pension and Welfare Benefits Administration (PWBA)

1965. 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: This regulation would provide guidance as to what constitutes "adequate consideration" under section 3(18) of ERISA for assets other than securities for which there is a generally recognized market.

Timetable:

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

Next Action Undetermined

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

Agency Contact: Paul Mannina, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N4611, FP Building, Washington, DC 20210

Phone: 202 219-4592

RIN: 1210-AA15

1966. CIVIL PENALTIES UNDER ERISA SECTION 502(1)

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1132

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

Legal Deadline: None

Abstract: Section 502(l) of ERISA requires the Secretary of Labor to assess a civil penalty against a fiduciary who breaches a fiduciary duty under, or commits a violation of, part 4 of title I of ERISA, or any other person who knowingly participates in such breach or violation. The Department has published an interim rule setting forth the procedures for the assessment of penalties under ERISA section 502(l) and for petitioning the Secretary to exercise his or her discretion to waive or reduce the mandated assessment, as well as a proposed rule that defines the following pivotal terms contained in section 502(l): "applicable recovery amount," "breach of fiduciary responsibility or violation," "settlement agreement," and "court order." The Department intends to finalize these two regulations.

Timetable:

| Action | Date | FR Cite |
|----------------------------|----------|-------------|
| NPRM | 06/20/90 | 55 FR 25284 |
| Interim Final Rule | 06/20/90 | 55 FR 25284 |
| NPRM Comment Period End | 08/20/90 | 55 FR 25284 |

Next Action Undetermined

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

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

Phone: 202 219-8610

RIN: 1210-AA37

1967. INDIVIDUAL BENEFITS REPORTING REQUIREMENTS FOR DEFINED CONTRIBUTION PLANS

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1025; 29 USC 1059; 29 USC 1135

CFR Citation: 29 CFR 2520.105-1

Legal Deadline: None

Abstract: ERISA sections 105 and 209 require the furnishing of statements of

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Long-Term Actions

accrued and vested pension benefits upon request of a participant or beneficiary, upon a participant's termination of service with an employer, and upon a participant's incurring a one-year break in service. This regulation will provide guidance with respect to the furnishing of individual benefit reports to

participants and beneficiaries in defined contribution pension plans.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Debra M. Golding, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210-AA65

DEPARTMENT OF LABOR (DOL)

Completed Actions

Pension and Welfare Benefits Administration (PWBA)

1968. REPORTING AND DISCLOSURE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

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

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1135; 29 USC 1029; 29 USC 1143; 29 USC 1021; 29 USC 1022; 29 USC 1024; 29 USC 1025; 29 USC 1059

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: PWBA has undertaken a comprehensive review of the current reporting and disclosure framework to identify changes that will serve to assure the disclosure of useful and timely information while eliminating any unnecessary administrative burdens and costs on plans and plan sponsors attendant to compliance with these requirements. On the basis of recommendations and information from the public concerning the need for regulatory and legislative changes in the disclosure area, PWBA concluded that only marginal changes to the disclosure requirements can be accomplished through the regulatory process and, therefore reform efforts should focus on regulatory changes relating to the streamlining of the Form 5500 Series, and related annual reporting regulations, in addition to

possible legislative changes to both the reporting and disclosure provisions.

Timetable:

| Action | Date | FR Cite |
|--------------------------|----------|-------------|
| ANPRM | 12/27/93 | 58 FR 68339 |
| ANPRM Comment Period End | 02/25/94 | |
| Complete Review | 06/30/95 | |
| Withdrawn | 02/01/99 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8521

RIN: 1210-AA44

1969. ENFORCEMENT POLICY ON AICPA SOP 92-6

Priority: Other Significant

Legal Authority: 29 USC 1021; 29 USC 1023; 29 USC 1024; 29 USC 1026; 29 USC 1027; 29 USC 1029; 29 USC 1030; 29 USC 1135

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Department received requests not to reject multiemployer welfare plan annual reports (Form 5500) or assess civil penalties solely because the opinion of an independent qualified public accountant, that is

required to be included with the Form 5500 either is adverse or qualified due to a failure to comply with the American Institute of Certified Public Accountants (AICPA) Statement of Position 92-6 (SOP 92-6). Under SOP 92-6, the AICPA has modified generally accepted accounting principles to require health and other welfare plans to calculate and disclose, as part of their financial statements, the present value of their future post-retirement benefit obligations. After considering comments received from the public on the burdens costs, and benefits of accounting for post-retirement welfare benefit obligations in accordance with SOP 92-6 prior to adopting a formal position on this matter for 1999 and future plan years, the Department determined not to adopt the proposed enforcement policy.

Timetable:

| Action | Date | FR Cite |
|-------------------------|----------|-------------|
| Request for Comments | 03/13/97 | 62 FR 11424 |
| NPRM Comment Period End | 05/12/97 | |
| Final Action | 11/25/98 | 63 FR 65506 |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1210-AA57

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Prerule Stage

1970. OCCUPATIONAL EXPOSURE TO COAL MINE DUST (LOWERING EXPOSURE LIMIT)

Priority: Other Significant

Legal Authority: 30 USC 811

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

Legal Deadline: None

Abstract: The Federal Coal Mine Health and Safety Act of 1969 established the first comprehensive respirable dust standards for coal mines. These standards were designed to reduce the incidence of coal workers' pneumoconiosis (black lung) and silicosis and eventually eliminate these diseases. While significant progress has been made toward improving the health conditions in our Nation's coal mines, miners continue to be at risk of developing occupational lung disease, according to the National Institute for Occupational Safety and Health (NIOSH). In September 1995, NIOSH issued a Criteria Document in which it recommended that the respirable coal mine dust permissible exposure limit (PEL) be cut in half. In February 1996, the Secretary of Labor convened a Federal Advisory Committee on the Elimination of Pneumoconiosis Among Coal Miners (Committee) to assess the adequacy of MSHA's current program and standards to control respirable dust in underground and surface coal mines, as well as other ways to eliminate black lung and silicosis among coal miners. The Committee represented the labor, industry, and academic communities. The Committee submitted its report to the Secretary of Labor in November 1996, with the majority of the recommendations unanimously supported by the Committee members. The Committee recommended that MSHA consider lowering the coal dust PEL.

Statement of Need: Respirable coal mine dust levels in this country are significantly lower than they were over two decades ago. Despite this progress, there continues to be concern about the respirable coal mine dust sampling program and its effectiveness in presenting an accurate picture of exposure levels in mines. Coal workers exposed after the implementation of the current PEL continue to develop pneumoconiosis. In response to this concern MSHA undertook an extensive review of the Agency's respirable coal mine dust program. The MSHA Coal

Mine Respirable Dust Task Group, which issued its report in June 1992, found that vulnerabilities exist which could impact miner health protection and made recommendations for improving the monitoring program. The Advisory Committee also addressed this issue and made recommendations.

The Agency has carefully reviewed the NIOSH Criteria Document on Occupational Exposure to Respirable Coal Mine Dust and the recommendations of the Advisory Committee on Elimination of Pneumoconiosis among Coal Mine Workers. MSHA finds that there remains unacceptable risk to miners' health at the current exposure limit for dust in coal mines.

Alternatives: MSHA will consider all recommendations carefully and will seek the public's input into alternatives through the use of an advance notice of proposed rulemaking (ANPRM). In the ANPRM, the Agency includes suggestions of alternative approaches, e.g., operation specific PEL, or an action level to trigger certain protective measures to lower this risk to miners' health.

Anticipated Costs and Benefits: Benefits sought are reduced dust levels over a miner's working lifetime, the key to eliminating black lung and silicosis as a risk to coal miners. Enhanced protection of miners from these diseases also will reduce the cost of future black lung benefits and lead to lower operator insurance premiums. MSHA is considering a rule to reduce the amount of respirable coal mine dust permitted in mines but has not yet developed cost estimates. As the Agency proceeds with the rulemaking, however, estimates will be developed and made available for public review.

Risks: Respirable coal mine dust is one of the most serious occupational hazards in the mining industry. Long-term exposure to excessive levels of respirable coal mine dust can cause black lung and silicosis, which are both potentially disabling and can cause death.

Timetable:

| Action | Date | FR Cite |
|---------------------------|----------|-------------|
| Recommendations Completed | 11/26/96 | 61 FR 60120 |
| Policy Document-Phase 2 | 02/03/98 | 63 FR 5664 |
| ANPRM | 06/00/99 | |

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking is related to RIN 1219-AA81.

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RIN: 1219-AB08

1971. • UNDERGROUND COAL MINING; SELF-CONTAINED SELF-RESCUER SERVICE LIFE APPROVAL AND TRAINING

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 42 CFR 84; 30 CFR 48.8

Legal Deadline: None

Abstract: Self-contained self-rescuers (SCSRs) are closed circuit breathing apparatuses that provide a source of oxygen and greatly increase a miner's chance of surviving a mine emergency involving an irrespirable atmosphere. Recent experience involving SCSR's stored or used in underground coal mines has revealed instances where SCSR's have not functioned properly and other instances where the devices have not been donned properly, rendering them ineffective. The Agency intends to publish a proposed rule to address the appropriate service life of SCSR's and the adequacy of training.

During a recent emergency evacuation of a coal mine, the use of SCSR's was supplemented by personal emergency devices (PEDs). PEDs are communication devices that inform individual miners underground of an emergency situation. The use of PEDs during this mine emergency enabled all of the miners underground (approximately 70) to escape safely, even when one SCSR could not be used. The Agency intends to publish an advance notice of proposed rulemaking (ANPRM) to explore the viability of implementing a PED type device in underground mines for use in mine emergencies. In addition,

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Prerule Stage

MSHA would address in the ANPRM other issues relating to the effective design, implementation and use of SCSRs in underground mines, whether metal and nonmetal or coal mines.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| ANPRM | 08/00/99 | |

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected:

Undetermined

Additional Information: This rulemaking includes the metal and nonmetal rulemaking RIN 1219-AB06 (Self-Contained Self-Rescue Devices in Underground Metal and Nonmetal Mines). This new rulemaking addresses SCSRs at both coal and metal and nonmetal mines.

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RIN: 1219-AB19

DEPARTMENT OF LABOR (DOL)

Proposed Rule Stage

Mine Safety and Health Administration (MSHA)

1972. AIR QUALITY, CHEMICAL SUBSTANCES, AND RESPIRATORY PROTECTION STANDARDS

Priority: Other Significant

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

Legal Authority: 30 USC 811

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

Legal Deadline: None

Abstract: MSHA's current air quality standards for exposure to hazardous airborne contaminants were promulgated over 25 years ago. They do not fully protect today's miners, who are potentially exposed to an array of toxic chemicals, including lead, cyanide, arsenic benzene, asbestos, and other well-documented hazards. Some miners have developed occupational illness (e.g., lead poisoning, acute cyanide poisoning, and silicosis) as a result of their exposure. MSHA has concluded that a gradual phase-in of provisions in the air quality rulemaking will be less burdensome for the industry and provide more immediate protection for the miners exposed to the most serious hazards. MSHA will be issuing the final rule in phases. Phase 2 addresses respiratory protection. Phase 3 will address selected PELs. MSHA is also considering subsequent phases to update PELs applicable to hazards encountered in metal and nonmetal and coal mines, revise requirements for exposure monitoring, improve precautions for handling restricted use chemicals, provide for observation of monitoring, and establish provisions for medical surveillance and transfer of miners required to use respirators and miners exposed to certain carcinogens.

Timetable:

| Action | Date | FR Cite |
|----------------------------------------------------|------------------|-------------|
| ANPRM | 07/06/83 | 48 FR 31171 |
| ANPRM | 11/19/85 | 50 FR 47702 |
| NPRM | 08/29/89 | 54 FR 35760 |
| NPRM Comment Period End | 08/30/91 | 56 FR 29201 |
| NPRM Phase 3 - PELs | 12/00/99 | |
| NPRM Phase 2 - Respiratory Protection - Reproposal | To Be Determined | |

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 1219-AA48

1973. METAL/NONMETAL IMPOUNDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: Water, sediment, and slurry impoundments for metal and nonmetal mining and milling operations are located throughout the country and some are within flood range of homes and well-traveled roads. Failure of an impoundment could endanger lives and cause property damage. This rulemaking addresses, among other

issues, proper design and construction of impoundments. MSHA may explore negotiated rulemaking to address this action.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 10/00/99 | |

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219-AA83

1974. SURFACE HAULAGE

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 77

Legal Deadline: None

Abstract: Accidents involving surface haulage equipment are a leading safety problem in the mining industry. A review of fatal mining accidents during the past 3 years shows that 30% of the deaths involved surface haulage equipment. This equipment includes large 240-ton haulage vehicles, over-the-road trucks, front-end loaders, and other equipment. The Agency issued an Advance Notice of Proposed Rulemaking (ANPRM) in July 1998 to share its ideas and to seek suggestions to reduce these surface haulage

DOL—MSHA

Proposed Rule Stage

accidents. MSHA will consider all comments received on the ANPRM in developing the proposed rule.

Timetable:

| Action | Date | FR Cite |
|--------|----------|-------------|
| ANPRM | 07/30/98 | 63 FR 40800 |
| NPRM | 08/00/99 | |

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219-AA93

1975. TRAINING AND RETRAINING OF MINERS

Priority: Substantive, Nonsignificant

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

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 48

Legal Deadline: None

Abstract: The Mine Act and 30 CFR part 48 require all mine operators to have approved training plans. Those plans set forth requirements for training miners. MSHA reviewed these training requirements as part of its Regulatory Flexibility review to determine if changes are appropriate. Based on comments and MSHA's experience, the Agency will develop a proposal rule to reflect more flexible requirements.

In 1991, MSHA published a proposed rule to revise portions of the existing part 48 regulations. In response to that proposal, we received numerous comments from both industry and labor representatives. Some commenters recommended that supervisors who are exposed to mine hazards receive training under part 48 beyond that required for other miners. These comments raised concerns that extended beyond the scope of that proposed rule. MSHA has evaluated the merits of these concerns and is considering a proposal which would

increase the number of hours of annual refresher training for supervisors from 8 hours to 12 hours. The training needs of supervisors are broader in scope and require a greater depth of understanding than that needed by other miners. MSHA expects that better trained, more knowledgeable supervisors will contribute to their own safety and that of the miners under their supervision.

Timetable:

| Action | Date | FR Cite |
|-----------------|----------|---------|
| Begin Review | 10/01/97 | |
| Complete Review | 10/30/98 | |
| NPRM | 07/00/99 | |

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Additional Information: RIN 1219-AB16 (Training and Retraining of Miners: Supervisor Training) is combined with this rulemaking.

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RIN: 1219-AB02

1976. VERIFICATION OF DUST CONTROL PLAN AND CONTINUOUS MONITORING

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 812

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

Legal Deadline: None

Abstract: The Federal Mine Safety and Health Act of 1969 established the first comprehensive respirable dust standards for coal mines. These standards were designed to reduce the incidence of coal workers' pneumoconiosis (black lung) and silicosis and eventually eliminate these diseases. While significant progress has been made toward improving the health conditions in our Nation's coal mines, miners continue to be at risk of

developing occupational lung disease, according to the National Institute for Occupational Safety and Health (NIOSH). In February 1996, the Secretary of Labor convened a Federal Advisory Committee on the Elimination of Pneumoconiosis Among Coal Miners (Advisory Committee) to assess the adequacy of MSHA's current program and standards to control respirable dust in underground and surface coal mines, as well as other ways to eliminate black lung and silicosis among coal miners. The Committee represented the labor industry, and academic communities. The committee submitted its report to the Secretary of Labor in November 1996, with the majority of the recommendations unanimously supported by the Committee members.

MSHA has completed an in-depth review of the Advisory Committee's recommendations. There are 20 principal recommendations set out in the Advisory Committee report, which are further subdivided into a total of approximately 100 distinct action items. The recommendations are both extensive and significant. The Agency is giving each recommendation careful consideration and has prioritized them for regulatory or administrative action.

The Agency will provide information to the mining community as it determines how to implement the Advisory Committee recommendations.

Statement of Need: Respirable coal mine dust levels in this country are significantly lower than they were over two decades ago. Despite this progress, there continues to be concern about the respirable coal mine dust sampling program and its effectiveness in presenting an accurate picture of exposure levels in mines. MSHA regulations require that all underground coal mine operators develop and follow a mine ventilation plan approved by the Agency. The dust control portion of the mine ventilation plan is the key element of an operator's strategy to control respirable dust in the work environment. Although such plans are required to be designed to control respirable dust, there is no current requirement that provides for early in-mine verification of the proposed plan's effectiveness under typical mining conditions. Consequently, plans may be implemented that may later be shown as inadequate to control respirable dust. To minimize this from occurring, the Advisory Committee recommended that

DOL—MSHA

Proposed Rule Stage

MSHA should require coal mine operators to verify the adequacy of the dust control provisions in new or revised plans by demonstrating that the plan will be effective under typical mining conditions.

Therefore, MSHA is considering regulatory actions which would require mine operators to verify a plan's adequacy in controlling respirable dust. Operators are presented with an alternative program to assure that miners' exposures are below the applicable standard on each and every shift by measuring respirable coal dust exposures at specified approved locations on each and every shift. Continuous monitoring is an option which would be conducted in lieu of sampling and reporting requirements specified in subpart C of 30 CFR part 70 and 90, as well as removing elements of ventilation verification plans.

Alternatives: In developing the proposed rule, MSHA will consider alternatives related to typical production levels and the use of appropriate dust control strategies.

Anticipated Costs and Benefits: Benefits sought are reduced dust levels over a miner's working lifetime by the elimination of over-exposures to respirable coal dust on each and every production shift, the key to eliminating black lung and silicosis as a risk to coal miners. Enhanced protection of miners from these diseases will reduce the cost of future black lung benefits and lead to lower operator insurance premiums. MSHA is in the early stages of developing proposed rules and does not have cost estimates. As we proceed, however, we will develop estimates and make them available for public review.

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

Timetable:

| Action | Date | FR Cite |
|------------------------------|----------------------|-------------|
| Recommendations Completed | 11/26/96 | 61 FR 60120 |
| Policy Document-Phase 2 NPRM | 02/03/98 09/00/99 | 63 FR 5664 |

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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

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RIN: 1219-AB14

1977. • TRAINING AND RETRAINING OF MINERS ENGAGED IN SHELL DREDGING OR EMPLOYED AT SAND, GRAVEL SURFACE STONE, SURFACE CLAY, COLLOIDAL PHOSPHATE, OR SURFACE LIMESTONE MINES

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 46

Legal Deadline: Final, Statutory, September 30, 1999.

Abstract: Section 115 of the Federal Mine Safety and Health Act of 1977 requires that each mine operator have a health and safety training program, and that new miners at surface mines receive no less than 24 hours of health and safety training. On October 13, 1978, MSHA published regulations at 30 CFR part 48 that implemented the miner training provisions. In 1979, various segments of the metal and nonmetal mining industry raised concerns with Congress regarding the appropriateness of applying the requirements of part 48 to their operations. Congress responded by inserting language in the Department of Labor's appropriations bill for fiscal year 1980 that prohibited the expenditure of appropriated funds to carry out Section 115 of the Mine Act relating to the enforcement of any

training requirements with respect to shell dredging, sand, gravel, surface stone, surface clay, colloidal phosphate or surface limestone mines ("exempted industries").

Over the last several years, the number of fatalities at the exempted industries has increased steadily. In addition, MSHA's fatal accident investigations have shown that the majority of victims at the exempted industries have not received safety and health training in accordance with the Mine Act. Congress has included language in MSHA's Fiscal Year 1999 appropriation that directs MSHA to promulgate training regulations that are appropriate for the exempted industries. The proposed rule would implement the training and retraining requirements contained in the Mine Act for the identified segments of the mining industry.

Timetable:

| Action | Date | FR Cite |
|---------------------------|----------|-------------|
| Notice of Public Hearings | 11/03/98 | 63 FR 59258 |
| NPRM | 04/00/99 | |
| Final Action | 09/00/99 | |

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

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RIN: 1219-AB17

1978. • DETERMINATION OF CONCENTRATION OF RESPIRABLE COAL MINE DUST

Priority: Other Significant

Legal Authority: 30 USC 811

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

Legal Deadline: None

Abstract: This proposal will address the United States Court of Appeals' final decision and order in National Mining Association v. Secretary of Labor, issued September 4, 1998. This NPRM will include a joint finding

DOL—MSHA

Proposed Rule Stage

between the National Institute for Occupational Safety and Health and MSHA that single, full-shift measurements will accurately represent the average dust concentrations to which miners are exposed. This proposal will address the Mine Act's requirement that miners' exposure to respirable coal dust be below the applicable standard on each and every shift. This proposal will present the use of single, full-shift respirable dust

exposure measurements collected by MSHA to determine noncompliance when the applicable respirable coal dust standard is exceeded.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 09/00/99 | |

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219-AB18

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Mine Safety and Health Administration (MSHA)

1979. HAZARD COMMUNICATION

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 120

Legal Deadline: None

Abstract: Today's complex mining environment subjects miners to well-known hazards, such as coal mine dust and crystalline silica; to emerging hazards, including hazardous wastes burned as fuel supplements at cement kilns; and to changing hazards from the many chemicals brought onto mine property. This rule would provide miners with the means to receive necessary information on the hazards of chemicals to which they are exposed and the actions necessary to protect them from such hazards. In developing this rule, MSHA has reviewed OSHA's hazard communication standard, information collected by NIOSH, and public comments. For its final rule, MSHA intends to publish a user-friendly regulation which will facilitate compliance by mine operators, while providing increased health and safety protection to miners.

Timetable:

| Action | Date | FR Cite |
|-------------------------------|----------|-------------|
| ANPRM | 03/30/88 | 53 FR 10257 |
| ANPRM Comment Period End | 07/31/88 | |
| NPRM | 11/02/90 | 55 FR 46400 |
| NPRM Comment Period End | 01/31/92 | 56 FR 48720 |
| Reopen Record Final Action | 03/30/99 | 64 FR 15144 |
| | 09/00/99 | |

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 1219-AA47

1980. NOISE STANDARD

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811; 30 USC 813

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 62; 30 CFR 70; 30 CFR 71

Legal Deadline: None

Abstract: Notwithstanding MSHA's firm enforcement of its current noise regulations, miners are continuing to incur hearing impairment. Data indicate that hearing impairment can be reduced significantly, however, if effective protective action is used both to reduce or eliminate the noise and to minimize exposure to the noise. MSHA has published a proposed rule applicable to all types of mining which would require that protective measures be taken where exposure to noise is at a level lower than that which is currently permitted. The final rule would address, for example, a hearing conservation plan and an "action level."

Consistent with the Mine Act and in response to comments, the final rule would include a new provision providing affected miners and their representatives with an opportunity to observe required operator monitoring.

Statement of Need: MSHA's existing standards, in spite of enforcement efforts, do not provide adequate protection against exposure to hazardous occupational noise levels. Several factors have shown that there is a need to replace the existing standards so that miners are adequately protected. One factor is that miners are continuing to incur occupational, noise-induced hearing loss. Another factor is that existing MSHA standards no longer reflect the opinions of experts or the current scientific evidence. In addition, MSHA's current noise standards for coal mines differ from those for metal and nonmetal mines. MSHA's final rule will provide consistent requirements for all mines.

Section 103(c) of the Mine Act requires, among other things that when the Secretary issues regulations requiring operator monitoring, such regulations "shall provide the miners' or their representatives with an opportunity to observe such monitoring or measuring, and to have access to the records thereof." The final rule would implement section 103(c) of the Mine Act.

Summary of the Legal Basis: Section 101(a) of the Mine Act requires that MSHA's promulgation of health standards adequately assure, on the basis of the best available evidence, that no miner will suffer material impairment of health or functional capacity over the miner's working lifetime. In addition to the attainment

DOL—MSHA

Final Rule Stage

of the highest degree of health and safety protection for the miner, the Mine Act requires that factors, such as the latest scientific data in the field, the feasibility of the standard, and the experience gained under the Mine Act and other health and safety laws, be considered when promulgating mandatory standards pertaining to toxic materials or harmful physical agents.

Alternatives: MSHA published a proposed rule which requested comments and data on a number of regulatory alternatives. In addition, MSHA held six public hearings providing the public an opportunity to comment on the noise proposal and submit data. Based upon its own research and experience, and data and information submitted to the record, MSHA is considering the respective roles of engineering controls and administrative controls and the use of personal hearing protection in controlling noise exposure; lowering the permissible exposure level and implementing a new action level; the lowering of the exchange rate; and the parameters and criteria for audiometric testing, exposure monitoring, and miner training. The proposed rule reflected the Agency's tentative decisions on these alternatives, mindful of their economic impact on small mines. The final rule will derive from MSHA's deliberations and decisions on the issues and alternatives.

Anticipated Costs and Benefits: MSHA prepared an analysis of benefits which compared the numbers of miners projected to incur a material impairment of hearing under the existing standards and under the proposal. At this stage in the development of the final rule, MSHA anticipates that the rule would prevent about 709 incidents of occupationally related material impairments of hearing per year. MSHA anticipates that the incremental annual cost of the final rule would be about \$8.7 million. Since the final rule is still under development, these estimates are preliminary.

Risks: Noise is a serious occupational hazard in the mining industry. Occupational exposure to loud noises results in hearing loss and hearing impairment, which affect both quality of life and functional capacity. In addition, cases of hearing loss reported to MSHA indicate that a significant number of these miners received all of

their noise exposure under existing standards. The Agency believes that the health evidence forms a reasonable basis for revising MSHA's existing noise standards.

Timetable:

| Action | Date | FR Cite |
|-------------------------------------------------------------------|----------|-------------|
| ANPRM | 12/04/89 | 54 FR 50209 |
| ANPRM Comment Period End | 06/22/90 | 55 FR 6011 |
| NPRM | 12/17/96 | 61 FR 66348 |
| Extension of Comment Period to 4/21/97; Notice of Public Hearings | 02/06/97 | 62 FR 5554 |
| Hearings - Date Change Extension of Comment Period to 6/20/97 | 03/03/97 | 62 FR 9404 |
| Extension of Comment Period to 8/1/97 | 06/13/97 | 62 FR 32252 |
| NPRM Comment Period End | 08/01/97 | 62 FR 32252 |
| Availability of Report Request for Comments Availability | 12/16/97 | 62 FR 65777 |
| Request for Comments Availability | 12/23/97 | 62 FR 67013 |
| Extension of Comment Period | 01/16/98 | 63 FR 2642 |
| National Environmental Policy Act | 05/26/98 | 63 FR 28496 |
| Final Action | 07/00/99 | |

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Additional Information: On December 31, 1997, MSHA issued a proposed rule on Observation of Operator Noise Monitoring (RIN 1219-AB05) (62 FR 68468). On April 10, 1998, the Agency issued a notice announcing extension of comment period and close of record (63 FR 17781). The Agency has combined this rulemaking with the Noise rule (RIN 1219-AA53).

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RIN: 1219-AA53

1981. LONGWALL EQUIPMENT (INCLUDING HIGH-VOLTAGE)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: Since 1970, MSHA regulations have required that high-voltage cables and transformers be kept at least 150 feet from the coal extraction area. The objective of this requirement is to prohibit the use of high-voltage cables and equipment that could serve as an ignition source for methane and coal dust in close proximity to the work area.

The modern development of highly productive longwall mining systems has resulted in their widespread use in the mining industry. Mine operators, however, currently must apply to MSHA for a variance from the existing standards in order to use this high-voltage equipment. The increased use of high-voltage longwalls in underground coal mines in recent years has led to the design of safe high-voltage electrical equipment and associated cables. These improvements have occurred specifically in the area of design and construction of explosion-proof equipment; insulation, short circuit, ground fault, and mechanical protection of cables; and equipment for safe handling of cables. For these reasons, in August 1992, MSHA published a proposed rule to establish safety requirements for the design construction, installation, use, and maintenance of high-voltage longwall equipment and associated cables. The final rule will eliminate the need for a variance to use this equipment.

Timetable:

| Action | Date | FR Cite |
|-----------------------------|----------|-------------|
| NPRM | 08/27/92 | 57 FR 39036 |
| NPRM Comment Period End | 11/13/92 | 57 FR 46350 |
| Reopen Record | 10/18/95 | 60 FR 53891 |
| Extension of Comment Period | 11/14/95 | 60 FR 57203 |
| Comment Period End | 12/18/95 | |

DOL—MSHA

Final Rule Stage

| Action | Date | FR Cite |
|---------------|----------|---------|
| Reopen Record | 04/00/99 | |
| Final Action | 07/00/99 | |

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

Additional Information: MSHA reopened the record on October 18, 1995. The comment period finally closed on December 18, 1995.

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RIN: 1219-AA75

1982. INDEPENDENT LABORATORY TESTING**Priority:** Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 6; 30 CFR 18; 30 CFR 19; 30 CFR 20; 30 CFR 22; 30 CFR 23; 30 CFR 26; 30 CFR 27; 30 CFR 28; 30 CFR 29; 30 CFR 33; 30 CFR 35

Legal Deadline: None

Abstract: To ensure that only safe products are used in mines, MSHA sets approval requirements and tests products itself. This rulemaking would allow MSHA to accept testing of certified mine equipment performed by independent laboratories which will improve the health and safety of miners. It also would allow MSHA to approve products which satisfied alternative testing and evaluation requirements, provided that the alternative requirements were equivalent to MSHA's own, or could be enhanced to be equivalent. By reducing its testing activities, MSHA could direct more resources toward verifying that products in use have been manufactured in compliance with the relevant approval. This rulemaking is consistent with a recommendation of the National Performance Review.

Timetable:

| Action | Date | FR Cite |
|-------------------------|----------|-------------|
| NPRM | 11/30/94 | 59 FR 61376 |
| NPRM Comment Period End | 02/21/95 | |
| Public Hearing Notice | 10/10/95 | 60 FR 52640 |
| Public Hearing | 04/30/96 | 61 FR 15743 |
| Comment Period End | 05/31/96 | |
| Final Action | 12/00/99 | |

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

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RIN: 1219-AA87

1983. REQUIREMENTS FOR APPROVAL OF FLAME-RESISTANT CONVEYOR BELTS**Priority:** Substantive, Nonsignificant**Legal Authority:** 30 USC 957; 30 USC 811**CFR Citation:** 30 CFR 14; 30 CFR 18; 30 CFR 75**Legal Deadline:** None

Abstract: The final rule would implement new procedures and requirements for testing and approval of flame-resistant conveyor belts to be used in underground mines. These revisions would replace the existing flame test for conveyor belts. Current regulations require that conveyor belts be flame-resistant in accordance with specifications of the Secretary. As part of this rulemaking, the Agency also would promulgate conforming amendments to relevant safety standards.

Timetable:

| Action | Date | FR Cite |
|-----------------------------|----------|-------------|
| NPRM | 12/24/92 | 57 FR 61524 |
| NPRM Comment Period End | 03/26/93 | 58 FR 8028 |
| Public Hearing | 05/02/95 | 60 FR 16589 |
| Record Closed | 06/05/95 | 60 FR 16558 |
| Extension of Comment Period | 02/05/96 | 60 FR 65509 |
| Reopen Record | 04/00/99 | |
| Final Action | 07/00/99 | |

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

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RIN: 1219-AA92

1984. IMPROVING AND ELIMINATING REGULATIONS**Priority:** Substantive, Nonsignificant**Unfunded Mandates:** Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811; 30 USC 957**CFR Citation:** 30 CFR 1 to 199**Legal Deadline:** None

Abstract: In response to the President's directive, MSHA conducted a review of its existing regulations to identify provisions that are outdated, redundant, unnecessary, or otherwise in need of changing. Many of the changes require notice and comment rulemaking while other non-substantive changes can be implemented upon publication. So far, the Agency has identified nine regulations that could be removed entirely without any adverse impact on miner safety and health. In general, these regulations are obsolete or redundant. MSHA has identified provisions in over 80 other regulations that need overhauling or the cleanup of non-substantive language. MSHA will also be considering new regulations that reflect "best practices" which are used widely in the mining industry to protect miners' safety and health. MSHA views this project to be an evolving, ongoing process and will continue to accept recommendations from the public.

DOL—MSHA

Final Rule Stage

Timetable:

| Action | Date | FR Cite |
|------------------------------------------------------------------|------------------|-------------|
| NPRM - Phase 1 Removal of 30 CFR 21 and 24 | 08/30/96 | 61 FR 45925 |
| Final Rule - Phase 1 Removal of 30 CFR 21, 24, and 75 | 09/03/98 | 63 FR 47118 |
| Final Rule Effective - Phase 1 Removal of 30 CFR 21 and 24 | 11/02/98 | |
| Final Rule - Phase 2 Removal of 30 CFR 26 and 29 | 04/00/99 | |
| Final Rule - Phase 3 Update of Reference IR 1240 | 04/00/99 | |
| Final Rule - Phase 4 Part 75 Subpart S | 04/00/99 | |
| NPRM - Phase 5 Miscellaneous Technology Improvements | To Be Determined | |

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

Additional Information: As part of its regulatory improvement project, MSHA published final technical amendments updating addresses in 30 CFR chapter 1 on July 11, 1995 (60 FR 35692).

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RIN: 1219-AA98**1985. SAFETY STANDARDS FOR UNDERGROUND COAL MINE VENTILATION—PRESHIFT EXAMINATION INTERVALS****Priority:** Other Significant**Legal Authority:** 30 USC 811**CFR Citation:** 30 CFR 75.360(a)(1)**Legal Deadline:** None

Abstract: MSHA is proposing to amend section 75.360(a)(1) by requiring preshift examinations to be conducted within 3 hours preceding the beginning of any 8-hour interval during which any person is scheduled to work or travel underground. MSHA's 1996 final rule revising its standards for ventilation of underground coal mines was challenged in the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit). The D.C. Circuit reviewed the validity of the rule and issued an order invalidating, on procedural grounds only, section 75.360(a)(1).

In response to the order, the Agency published a notice in the Federal Register reinstating the portion of the previous regulation requiring a preshift examination to be conducted prior to the beginning of any shift. This proposed rule is identical to the standard promulgated in the 1996 final rule which was invalidated by the D.C. Circuit.

The general practice in the mining industry at the time the Mine Act was enacted was for coal miners to work in shifts of 8 hours. Thus, the effect of the preshift examination requirement was that examiners conducted preshift examinations every 8 hours. However, over a period of time, overlapping work shifts and work shifts exceeding 8

hours have become common. MSHA continues to believe that it is necessary to address the issues surrounding the preshift examination interval. The proposal would clarify and standardize the application of the preshift examination requirements to assure that these examinations are concluded within appropriate time frames.

MSHA has determined that this proposed rule does not meet the criteria of a significant regulatory action. The proposal would cost under \$1 million and will only affect approximately 230 underground coal mines.

Timetable:

| Action | Date | FR Cite |
|--------------------|----------|-------------|
| NPRM | 07/14/98 | 63 FR 38066 |
| Comment Period End | 09/14/98 | |
| Final Action | 04/00/99 | |

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

Additional Information: MSHA published a notice reinstating the portion of the previous regulation requiring a preshift examination be conducted prior to the beginning of any shift. June 30, 1997 (62 FR 35085).

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RIN: 1219-AB10

DEPARTMENT OF LABOR (DOL)

Mine Safety and Health Administration (MSHA)

Long-Term Actions

1986. CONFINED SPACES**Priority:** Substantive, Nonsignificant**Legal Authority:** 30 USC 811**CFR Citation:** 30 CFR 56; 30 CFR 57; 30 CFR 70; 30 CFR 71; 30 CFR 75; 30 CFR 77**Legal Deadline:** None

Abstract: In mining operations, the majority of the fatalities associated with confined spaces occur in storage bins, hoppers, tanks, and stockpiles. The

primary hazards to miners occur from being trapped by shifting piles of loose materials, falling into materials, and being struck by overhanging materials. Due to the many chemicals used and stored in mining, the toxic and physical hazards encountered in mining are identical to those confined space hazards that exist in general industry. MSHA intends to explore both regulatory and non-regulatory options to address the hazards associated with working in confined spaces at mines.

Timetable:

| Action | Date | FR Cite |
|-----------------------------|------------------|-------------|
| ANPRM | 12/30/91 | 56 FR 67364 |
| ANPRM Comment Period End | 05/01/92 | 57 FR 8102 |
| NPRM | To Be Determined | |

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

DOL—MSHA

Long-Term Actions

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RIN: 1219-AA54

1987. DIESEL PARTICULATE MATTER (EXPOSURE OF UNDERGROUND COAL MINERS)

Priority: Other Significant

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

CFR Citation: 30 CFR 72; 30 CFR 75

Legal Deadline: None

Abstract: Several epidemiological studies have found that diesel exhaust presents potential health risks to workers. These possible health effects range from headaches and nausea to respiratory disease and cancer. In 1988, the National Institute for Occupational Safety and Health recommended that "whole diesel exhaust be regarded as a potential occupational carcinogen." In addition, in 1989 the International Agency for Research on Cancer concluded that "diesel engine exhaust is probably carcinogenic to humans."

In 1988, an advisory committee made recommendations to the Secretary of Labor concerning safety and health standards for the use of diesel-powered equipment in underground coal mines. One of the recommendations was that the Secretary of Labor set in motion a mechanism whereby a diesel particulate standard could be set. Based on that recommendation, MSHA published an advance notice of proposed rulemaking, in January 1992, seeking information relative to exposure limits, risk assessment, sampling and monitoring methods, and control feasibility. In April 1998, MSHA issued a proposed rule to control diesel particulate matter in underground coal mines.

Statement of Need: The use of diesel-powered equipment in underground mines has increased significantly and rapidly during the past decade. MSHA estimates that approximately 13,000 miners are occupationally exposed to diesel exhaust emissions in underground mines.

Several epidemiological studies have shown a positive carcinogenic risk associated with exposure to diesel exhaust. Other reported health effects associated with exposure to diesel exhaust include dizziness, drowsiness, headaches, nausea, decreased visual acuity, and forced expiratory volume. In addition, studies by MSHA and the former Bureau of Mines show that miners working in underground mining operations that use diesel equipment are probably the most heavily exposed workers of any occupational group. Based on the levels of diesel particulate measured in underground mining operations and the evidence of adverse health effects associated with exposure to diesel exhaust, MSHA is concerned about the potential health risk to miners. The proposed rule would control exposure of miners to diesel particulate matter by requiring the installation of high-efficiency filters on diesel powered equipment to trap diesel particulates before they enter the mine atmosphere.

Alternatives: In the fall of 1995, MSHA held a series of public workshops to gather suggestions for possible approaches to limit miners' exposure to diesel particulate. In addition, over the past 10 years, MSHA and the former Bureau of Mines have conducted research on methodologies for the measurement and control of diesel particulate in the mining environment. This research has demonstrated that the use of low sulfur fuel, good engine maintenance, exhaust after-treatment, new engine technology, and optimized application of ventilating air all play a role in reducing miners' exposure to diesel exhaust particulate matter.

MSHA considered establishing a PEL for diesel particulate, but found that technology for measuring it in the presence of coal mine dust is not currently feasible. MSHA encourages the mining community to continue to voluntarily use protective measures to address exposure to diesel exhaust. In addition, the proposal provides for MSHA technical assistance to operators and a phased-in period for compliance.

Anticipated Costs and Benefits: MSHA estimates that the per year compliance costs are just over \$10 million, of which underground coal mine operators would incur about \$10 million and manufacturers of diesel engines and equipment would incur about \$14,000.

The proposed rule would reduce a significant health risk to underground miners, reducing the potential for acute sensory irritations and respiratory symptoms, lung cancer, and premature death, along with the attendant suffering and costs thereof to their employees, their families, and society.

Risks: Several epidemiological studies have found that exposure to diesel exhaust presents potential health risks to workers. In addition, laboratory tests have shown diesel exhaust to be carcinogenic in rats, as well as toxic and mutagenic. These potential adverse health effects range from headaches and nausea to respiratory disease and cancer. In the confined space of the underground mine environment, occupational exposure to diesel exhaust may present a greater hazard due to ventilation limitations and the presence of other airborne contaminants, such as toxic mine dusts or mine gases. The Agency believes that the health evidence forms a reasonable basis for exploring possible methods to reduce miners' exposure to diesel particulate.

Timetable:

| Action | Date | FR Cite |
|---------------------------------------------------------|----------|-------------|
| ANPRM | 01/06/92 | 57 FR 500 |
| ANPRM Comment Period End | 07/10/92 | 57 FR 7906 |
| NPRM | 04/09/98 | 63 FR 17492 |
| Notice Significant Environment Impact | 07/14/98 | 63 FR 37796 |
| Extension of Comment Period Extension of Comment Period | 08/05/98 | 63 FR 41755 |
| Hearing Close of Record | 10/19/98 | 63 FR 55811 |
| Final Action | 06/00/00 | |

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected:

Undetermined

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RIN: 1219-AA74

DOL—MSHA

Long-Term Actions

1988. BELT ENTRY USE AS INTAKE AIRCOURSE TO VENTILATE WORKING SECTIONS**Priority:** Other Significant**Reinventing Government:** This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.**Legal Authority:** 30 USC 811**CFR Citation:** 30 CFR 75**Legal Deadline:** None

Abstract: Since 1970, MSHA regulations have generally prohibited belt haulage entries from being used to ventilate active working places. The intention of this prohibition is to prevent smoke from a belt conveyor fire from being coursed to miners in their workplace. Improved technology, including sophisticated atmospheric monitoring systems, has since made it possible to safely use "belt air" to ventilate active working places. This rulemaking would permit the use of belt air, provided that certain safety requirements are met. In many cases, the use of belt air may result in more efficient and effective ventilation systems, enhancing the health and safety of miners. Additionally because this regulation will eliminate the need for mine operators to seek regulatory variances from MSHA, costs and burdens on both industry and MSHA will be reduced.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 06/00/00 | |

Regulatory Flexibility Analysis Required: Yes**Small Entities Affected:** Businesses**Government Levels Affected:** None**Additional Information:** A public hearing was held in April 1990.

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RIN: 1219-AA76

1989. SAFETY STANDARDS FOR METHANE IN METAL AND NONMETAL MINES**Priority:** Substantive, Nonsignificant**Legal Authority:** 30 USC 811**CFR Citation:** 30 CFR 57**Legal Deadline:** None

Abstract: Current MSHA regulations place metal and nonmetal mines with a history of, or a potential for, methane liberation (gassy mines) into several categories. Safety standards for methane detection and prevention apply to a mine depending on its category. Recent legal decisions have narrowed the application of existing gassy mine standards, leading MSHA to conclude that the standards may need to be revised to protect adequately all miners who work in gassy mines. This action would revise the existing safety standards for methane in metal and nonmetal mines to address dangerous levels of methane in outburst cavities in abandoned idled, and worked-out areas of category II-A mines. It would further address the use of approved equipment in category III mines. The Agency is exploring the use of negotiated rulemaking to address this issue.

Timetable:

| Action | Date | FR Cite |
|--------|------------------|---------|
| NPRM | To Be Determined | |

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

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RIN: 1219-AA90

1990. SAFETY STANDARDS FOR THE USE OF ROOF-BOLTING MACHINES**Priority:** Substantive, Nonsignificant**Legal Authority:** 30 USC 811**CFR Citation:** 30 CFR 57; 30 CFR 75**Legal Deadline:** None

Abstract: Recent fatalities in underground coal mines involving roof-bolting machines indicate the need to

both modify the design of such machines and take additional precautions in their use. MSHA has evaluated roof-bolting machines currently in use focusing on potential hazards to the machine operators during the drilling and roof-bolt installation procedures. MSHA believes that machine design features may contribute to or cause accidents and that changes in machine design and operating procedures would make operating the equipment safer for the machine operator. The Agency issued an Advance Notice of Proposed Rulemaking (ANPRM) to obtain additional information and data on mine operators' experiences with these machines. MSHA will consider all comments received on the ANPRM and will determine if rulemaking or some other alternative other than rulemaking can address the problem with roof-bolting machines.

Timetable:

| Action | Date | FR Cite |
|---------------------------------------|------------------|-------------|
| ANPRM | 12/09/97 | 62 FR 64789 |
| ANPRM Comment Period End | 02/09/98 | |
| Extension of Comment Period to 3/9/98 | 02/12/98 | 63 FR 7089 |
| NPRM | To Be Determined | |

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

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RIN: 1219-AA94

1991. SAFETY STANDARD REVISIONS FOR UNDERGROUND ANTHRACITE MINES**Priority:** Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811**CFR Citation:** 30 CFR 75

DOL—MSHA

Long-Term Actions

Legal Deadline: None

Abstract: There are two major types of coal mines -- bituminous and anthracite. The mining methods used and hazards encountered in underground anthracite mines are different from those in underground bituminous coal mines. Mining methods in anthracite mines include minimal use of mechanized equipment, slow rate of advance into the coal seam, and pitching and undulating seams. Because of these differences, some mine operators find it difficult to comply with existing safety standards at their anthracite mines. These anthracite mine operators must request a variance from existing standards to change the requirements. The variance process costs time and money. Because anthracite mines are usually small operations, this burden can be significant. MSHA has received over 300 variance requests from anthracite mine operators since January 1993. MSHA intends to issue a proposed rule to modify several existing safety standards to address more appropriately the specific conditions of the anthracite mining industry.

Timetable:

| Action | Date | FR Cite |
|--------|-------|------------|
| NPRM | To Be | Determined |

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219-AA96

1992. ELECTRICAL STANDARDS FOR METAL AND NONMETAL MINES

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: Electric power is widely used in the mining and processing of minerals. Large, highly productive mining equipment, such as continuous

miners, loaders, shuttle cars, draglines, shovels and drills, are electrically powered. In addition, electricity is used for the transportation of material on conveyors, for electric railroads, and for processing plants. MSHA's accident records related to inadequate equipment grounding support the need for improved safety standards. The number of electrical accidents could be reduced by proper equipment grounding. The proposed rule would revise MSHA's existing safety standards addressing hazards associated with the grounding of circuits equipment, and metal enclosures at surface and underground metal and nonmetal mines. The proposed standard would specify requirements for grounding conductors to ensure that safe methods of grounding are used.

Timetable:

| Action | Date | FR Cite |
|--------|-------|------------|
| NPRM | To Be | Determined |

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219-AB01

1993. DIESEL PARTICULATE MATTER (EXPOSURE OF UNDERGROUND METAL AND NONMETAL MINERS)

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813(h); 30 USC 961; 30 USC 957

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: Several epidemiological studies have found that diesel exhaust presents potential health risks to workers. These possible health effects range from headaches and nausea to respiratory disease and cancer. In 1988, the National Institute for Occupational Safety and Health recommended that "whole diesel exhaust be regarded as a potential occupational carcinogen." In addition, in 1989, the International Agency for Research on Cancer

concluded that "diesel engine exhaust is probably carcinogenic to humans."

In 1988, an advisory committee made recommendations to the Secretary of Labor concerning safety and health standards for the use of diesel-powered equipment in underground coal mines. One of the recommendations was that the Secretary of Labor set in motion a mechanism whereby a diesel particulate standard could be set. Based on that recommendation, MSHA published an Advance Notice of Proposed Rulemaking (ANPRM) in January 1992, seeking information relative to exposure limits, risk assessment, sampling and monitoring methods, and control feasibility. In April 1998, MSHA issued a proposed rule to control diesel particulate matter in underground coal mines. The underground coal proposal would require the use of a very effective control technology (filters) to reduce exposures, because of a problem with measuring diesel particulate matter in coal mines.

In October 1998, MSHA published a proposed rule for underground metal nonmetal mines that would establish a concentration limit for diesel particulate matter. The proposed rule would also require the use of engineering and work practice controls to reduce diesel particulate matter. Underground metal and nonmetal mine operators would also be required to implement certain "best practice" work controls.

Statement of Need: The use of diesel-powered equipment in underground mines has increased significantly and rapidly during the past decade. MSHA estimates that about 7,500 miners working in production or development areas are occupationally exposed to diesel exhaust emissions in underground metal and nonmetal mines.

Several epidemiological studies have shown a positive carcinogenic risk associated with exposure to diesel exhaust. Other reported health effects associated with exposure to diesel exhaust include dizziness, drowsiness, headaches, nausea, decreased visual activity, and decreased forced expiratory volume. In addition, studies by MSHA and the former Bureau of Mines show that miners working in underground mining operations that use diesel equipment are probably the most heavily exposed workers of any

DOL—MSHA

Long-Term Actions

occupational group. Based on the levels of diesel particulate measured in underground mining operations and the evidence of adverse health effects associated with exposure to diesel exhaust, MSHA is concerned about the potential health risk to miners. The proposed rule for underground metal and nonmetal mines would establish a concentration limit for diesel particulate matter.

Alternatives: In the fall of 1995, MSHA held a series of public workshops to gather suggestions for possible approaches to limit miners' exposure to diesel particulate. In addition, over the past 10 years, MSHA and the former Bureau of Mines have conducted research on methodologies for the measurement and control of diesel particulate in the mining environment. This research has demonstrated that the use of low sulfur fuel, good engine maintenance, exhaust after-treatment, new engine technology, and optimized application of ventilating air all play a role in reducing miners' exposure to diesel exhaust particulate matter.

MSHA encourages the mining community to continue to voluntarily use protective measures to address exposure to diesel exhaust. In addition, the proposal provides for MSHA technical assistance to operators and a phase-in period for compliance.

Anticipated Costs and Benefits: MSHA estimates that the compliance costs for underground metal and nonmetal operators would be approximately \$19 million. The compliance costs to manufacturers are assumed to be passed through to underground metal and nonmetal operators and therefore, they would not incur any direct costs as a result on the rule. The proposed rule would reduce a significant health risk to underground miners, reducing the potential for acute sensory irritations and respiratory symptoms, lung cancer,

and premature death, along with the attendant suffering and costs thereof to their employees, their families, and society. In addition to savings related to acute health effects, MSHA estimates that some lung cancer would also be avoided.

Risks: Several epidemiological studies have found that exposure to diesel exhaust presents potential health risks to workers. Laboratory tests have shown diesel exhaust to be carcinogenic in rats, as well as toxic and mutagenic. Potential adverse health effects range from headaches and nausea to respiratory disease and cancer. In the confined space of the underground mine environment, occupational exposure to diesel exhaust may present a greater hazard due to ventilation limitations and the presence of other airborne contaminants, such as toxic mine dusts or mine gases. The Agency believes that the health evidence forms a reasonable basis for reducing miners' exposure to diesel particulate.

Timetable:

| Action | Date | FR Cite |
|-----------------------------|----------|-------------|
| ANPRM | 01/06/92 | 57 FR 500 |
| ANPRM Comment Period End | 07/10/92 | 57 FR 7906 |
| NPRM | 10/29/98 | 63 FR 58104 |
| Extension of Comment Period | 02/12/99 | 64 FR 7144 |
| Comment Period End | 02/26/99 | 63 FR 58104 |
| Public Hearings | 03/24/99 | 64 FR 14200 |
| Final Action | 06/00/00 | |

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219-AB11

1994. RESPIRABLE CRYSTALLINE SILICA STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 70.101 et seq; 30 CFR 90.101 et seq; 30 CFR 71.101 et seq; 30 CFR 72.101 et seq

Legal Deadline: None

Abstract: Existing respirable dust standards limit respirable dust when quartz (crystalline silica) is present. MSHA is considering a new standard specifying a separate exposure limit for silica (not tied to the respirable dust standard). This is in response to recommendations of the Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers who felt that separate standards for coal mine dust and for silica "should aid in targeting mining situations where silica exposure constitutes a significant hazard."

Timetable:

| Action | Date | FR Cite |
|--------|------------------|---------|
| NPRM | To Be Determined | |

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219-AB12

DEPARTMENT OF LABOR (DOL)

Completed Actions

Mine Safety and Health Administration (MSHA)

1995. CARBON MONOXIDE MONITOR APPROVAL

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 12

Legal Deadline: None

Abstract: The use of carbon monoxide monitoring systems in underground coal mines can be effective in monitoring mine atmospheres to detect fires in the early stages of development. This rulemaking would address minimum performance criteria for these

systems. MSHA may explore the use of negotiated rulemaking to address this regulatory action.

Timetable:

| Action | Date | FR Cite |
|-----------|----------|---------|
| Withdrawn | 02/18/99 | |

DOL—MSHA

Completed Actions

Regulatory Flexibility Analysis**Required:** Yes**Small Entities Affected:** Businesses**Government Levels Affected:** None**Additional Information:** This rulemaking is withdrawn from the agenda and combined with RIN 1219-AA76, Belt Entry Ventilation.**Agency Contact:** Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203

Phone: 703 235-1910

Fax: 703 235-5551

Email: cjones@msha.gov

RIN: 1219-AA72**1996. SELF-CONTAINED SELF-RESCUE DEVICES IN UNDERGROUND METAL AND NONMETAL MINES****Priority:** Substantive, Nonsignificant**Legal Authority:** 30 USC 811**CFR Citation:** 30 CFR 57**Legal Deadline:** None**Abstract:** The proposed rule would revise existing standards and add new standards to require certain operators of underground metal and nonmetal mines to make self-contained self-rescue devices (SCSRs) available to miners. SCSRs are emergency breathing units that generate oxygen. Existing MSHA standards require that SCSRs be available for emergencies at all underground coal mines. MSHA expects that this proposed rule would affect fewer than 20 metal and nonmetal mines where methane has been detected.**Timetable:**

| Action | Date | FR Cite |
|-------------------------------|----------|---------|
| Integrated With RIN 1219-AB19 | 02/18/99 | |

Regulatory Flexibility Analysis**Required:** Yes**Small Entities Affected:** Businesses**Government Levels Affected:** None**Additional Information:** This rulemaking is withdrawn from agenda and combined with RIN 1219-AB19-Underground Coal Mining; Self-Contained Self-Rescuer Approval Requirements Service Life Approval and Training and Use; Personal Emergency Devices.**Agency Contact:** Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203

Phone: 703 235-1910

Fax: 703 235-5551

Email: cjones@msha.gov

RIN: 1219-AB06**1997. X-RAY SURVEILLANCE PROGRAM FOR SURFACE COAL MINERS****Priority:** Other Significant**Legal Authority:** 30 USC 811; 30 USC 812**CFR Citation:** 30 CFR 70; 30 CFR 72; 30 CFR 90**Legal Deadline:** None**Abstract:** The Federal Coal Mine Health and Safety Act of 1969 established the first comprehensive respirable dust standards for coal mines. These standards were designed to reduce the incidence of coal workers' pneumoconiosis (black lung) and silicosis and eventually eliminate these diseases. While significant progress has been made toward improving the health conditions in our Nation's coal mines, miners continue to be at risk of developing occupational lung disease, according to the National Institute for Occupational Safety and Health (NIOSH). In February 1996, the Secretary of Labor convened a Federal Advisory Committee on the Elimination of Pneumoconiosis Among Coal Miners (Advisory Committee) to assess the adequacy of MSHA's current program and standards to control respirable dust in underground and surface coal mines, as well as other ways to eliminate black lung and silicosis among coal miners. The Committee represented the labor industry, and academic communities. The Committee submitted its report to the Secretary of Labor in November 1995, with the majority of the recommendations unanimously supported by the Committee members. MSHA has completed an indepth review of the Advisory Committee's recommendations. There are 20 principal recommendations set out in the Advisory Committee report, which are further subdivided into a total of approximately 100 distinct action items. The recommendations are both extensive and significant. The Agency

is giving each careful consideration and has prioritized them for regulatory or administrative action.

The Agency will provide information to the mining community as it determines how to implement the Advisory Committee recommendations.

Timetable:

| Action | Date | FR Cite |
|---------------------------|----------|-------------|
| Recommendations Completed | 11/26/96 | 61 FR 60120 |
| Policy Document-Phase 2 | 02/03/98 | 63 FR 5664 |
| Withdrawn | 02/18/99 | |

Regulatory Flexibility Analysis**Required:** Yes**Small Entities Affected:** Businesses**Government Levels Affected:** None**Agency Contact:** Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203

Phone: 703 235-1910

Fax: 703 235-5551

Email: cjones@msha.gov

RIN: 1219-AB09**1998. TRAINING AND RETRAINING OF MINERS: SUPERVISOR TRAINING****Priority:** Substantive, Nonsignificant**Legal Authority:** 30 USC 825**CFR Citation:** 30 CFR 48**Legal Deadline:** None**Abstract:** In 1991, MSHA published a proposed rule to revise portions of the existing part 48 regulations. In response to that proposal, MSHA received numerous comments from both industry and labor representatives. Some commenters recommended that supervisors who are exposed to mine hazards should receive training under part 48 beyond that required for other miners. While these comments raised concerns that extended beyond the scope of that proposed rule, MSHA has evaluated the merits of these concerns and determined that they warrant Agency consideration. For this reason, MSHA is addressing them in this proposal. MSHA is proposing to increase the number of hours of annual refresher training for supervisors from 8 hours to 12 hours. The training needs of supervisors are broader in scope and require a greater depth of understanding than that needed by

DOL—MSHA

Completed Actions

other miners. MSHA expects that better trained, more knowledgeable supervisors will contribute to their own safety and that of the miners under their supervision.

Timetable:

| Action | Date | FR Cite |
|-------------------------------|----------|---------|
| Integrated With RIN 1219-AB02 | 02/18/99 | |

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: This rulemaking is withdrawn from the agenda and is combined with RIN 1219-AB02.

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203

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RIN: 1219-AB16

DEPARTMENT OF LABOR (DOL)

Proposed Rule Stage

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

1999. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794 Rehabilitation Act of 1973, as amended

CFR Citation: 29 CFR 32

Legal Deadline: None

Abstract: Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of disability in federally financed

programs and activities. The Department last published a final rule implementing section 504 on October 7, 1980. Since that time, section 504 has been amended several times, generally to update terminology and provide new definitions. The Department is undertaking this rulemaking to update 29 CFR part 32 to incorporate those changes.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 09/00/99 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

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

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Email: lockhart-annabelle@dol.gov

RIN: 1291-AA28

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

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

2000. AUDITS OF STATES, LOCAL GOVERNMENTS, AND NONPROFIT ORGANIZATIONS

Priority: Info./Admin./Other

Legal Authority: PL 104-156 110 Stat.136; OMB Circular A-110; OMB Circular A-133

CFR Citation: 29 CFR 99

Legal Deadline: None

Abstract: The Department of Labor hereby adds title 29 CFR 99 "Audits of States, Local Governments, and Non-Profit Organizations" as a new regulation which codifies the revised Office of Management and Budget (OMB) Circular A-133 in its entirety. The Single Audit Act Amendments of 1996 (Public Law 104-156, 110 Stat. 136) and the June 24, 1997, revision of OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," required agencies to adopt in codified regulations the standards in the revised OMB Circular

A-133 by August 29, 1997, so that they will apply to audits of fiscal years beginning after June 30, 1996. The revised OMB Circular A-133 co-located audit requirements for States, local governments, and non-profit organizations. As a consequence, the OMB rescinded OMB Circular A-128, "Audits of States and Local Governments." On August 29, 1997, the Department of Labor amended its grants common rules at 29 CFR 95 and 29 CFR 97 in accordance with OMB guidance.

Timetable:

| Action | Date | FR Cite |
|--------------------|----------|---------|
| Interim Final Rule | 04/00/99 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no

statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Al Stewart, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room S5520, FP Building, Washington, DC 20210

Phone: 202 219-9174

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Email: stewart-milton@dol.gov

RIN: 1291-AA26

2001. AUDIT REQUIREMENTS FOR GRANTS, CONTRACTS, AND OTHER AGREEMENTS

Priority: Info./Admin./Other

Legal Authority: 31 USC 7500 et seq; OMB Circular A-183

CFR Citation: 29 CFR 96

Legal Deadline: None

DOL—OASAM

Final Rule Stage

Abstract: The Department of Labor hereby revises title 29 of the Code of Federal Regulations (CFR) part 96 "Audit Requirements for Grants, Contracts, and Other Agreements" to consolidate various provisions and ensure consistency, continuity, and ameliorate conflicts with subtitle A of 29 CFR parts 95 and 97.

Timetable:

| Action | Date | FR Cite |
|--------------------|----------|---------|
| Interim Final Rule | 04/00/99 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Al Stewart, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room S5520, FP Building, Washington, DC 20210

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RIN: 1291-AA27

2002. IMPLEMENTATION OF THE NONDISCRIMINATION AND EQUAL OPPORTUNITY REQUIREMENTS OF THE WORKFORCE INVESTMENT ACT OF 1998

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-220, sec 188 Workforce Investment Act

CFR Citation: 29 CFR 37

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

Abstract: The Workforce Investment Act of 1988 (WIA) was signed into law by President Clinton on August 7, 1998. Section 188 prohibits discrimination on the grounds of race, color, national origin, sex, age, disability, religion, political affiliation or belief, participant status, and against certain noncitizens. Section 188(e) requires that the Secretary of Labor issue regulations necessary to implement section 188 not later than one year after the date of the

enactment of the WIA. Such regulations will include standards for determining compliance and procedures for enforcement that are consistent with the Acts referred to in section 188(a)(1), as well as procedures to ensure that complaints filed under section 188 and such acts processed in a manner that avoids duplication of effort.

Timetable:

| Action | Date | FR Cite |
|--------------------|----------|---------|
| Interim Final Rule | 04/00/99 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Annabelle T. Lockhart, Director, Civil Rights Center, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room N4123, FP Building, Washington, DC 20210
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RIN: 1291-AA29

DEPARTMENT OF LABOR (DOL)

Long-Term Actions

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

2003. DEPARTMENT OF LABOR ACQUISITION REGULATION

Priority: Info./Admin./Other

Unfunded Mandates: Undetermined

Major: Undetermined

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

CFR Citation: 48 CFR 2900 to 2999

Legal Deadline: None

Abstract: Revisions to the DOLAR reflect changes in the Federal Acquisition Regulations and organizational changes within DOL.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Revision of the Department of Labor Acquisition Regulation is awaiting the final publication of revisions to the Federal Acquisition Regulations as a result of

changes being implemented pursuant to passage of the Federal Acquisition Streamlining Act of 1994 enacted October 13, 1994 and the Federal Acquisition Reform Act of 1995.

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RIN: 1291-AA20

2004. 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: 45 CFR 90

Legal Deadline:

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

Abstract: The proposed regulatory action is necessary to comply with the Department's statutory and regulatory obligations under the Age Discrimination Act of 1975, as amended (the Act). The Act and the general, Governmentwide implementing rule issued by the Department of Health and Human Services (HHS) (45 CFR 90) require each Federal agency providing financial assistance to any program or activity to publish proposed regulations implementing the Act no later than 90 days after the publication date of the Governmentwide rule, and to submit final agency regulations to HHS no later than 120 days after publication of the NPRM. As a practical matter, while DOL has not issued proposed or final regulations under the Age

DOL—OASAM

Long-Term Actions

Discrimination Act, it has complied with its enforcement obligations. Furthermore, discrimination on the basis of age is prohibited under section 167 of the Job Training Partnership Act of 1982 and the implementing regulations at 29 CFR 34.

Timetable:

| Action | Date | FR Cite |
|-------------------------|----------|-------------|
| NPRM | 12/29/98 | 63 FR 71714 |
| NPRM Comment Period End | 03/01/99 | |
| Final Action | 09/00/00 | |

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

Agency Contact: Annabelle T. Lockhart, Director, Civil Rights Center, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room N4123, FP Building, Washington, DC 20210
Phone: 202 219-8927

RIN: 1291-AA21

DEPARTMENT OF LABOR (DOL)

Prerule Stage

Occupational Safety and Health Administration (OSHA)

2005. STANDARDS ADVISORY COMMITTEE ON METALWORKING FLUIDS

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b)(1); 29 USC 656(b)

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: In December 1993, the International Union, United Automobile Aerospace and Agricultural Implement Workers of America petitioned OSHA to take emergency regulatory action to protect workers from the risks of occupational cancers and respiratory illnesses due to exposure to metalworking fluids. OSHA sent an interim response to the UAW stating that the decision to proceed with rulemaking would depend on the results of the OSHA Priority Planning Process. Following the Priority Planning Process report, which identified metalworking fluids as an issue worthy of Agency action, the Assistant Secretary asked the National Advisory Committee on Occupational Safety and Health (NACOSH) for a recommendation about how to proceed with metalworking fluids. NACOSH unanimously recommended that OSHA form a Standards Advisory Committee (SAC) to address the health risks caused by occupational exposure to metalworking fluids. The Assistant Secretary accepted the recommendation of NACOSH; OSHA has established a 15-member SAC to make recommendations regarding a standard, a guideline, or other appropriate response to the dangers of occupational exposures to metalworking fluids. The Committee has a balanced membership, including individuals appointed to

represent the following affected interests: industry; labor; Federal and State safety and health organizations; professional organizations; and national standards-setting groups.

Statement of Need: Under table Z-1 of the 1971 air contaminants rule, OSHA enforces a permissible exposure limit of 5 mg/m³ for mineral oil mists but evidence suggests this level is outdated and that exposure to metalworking fluids can lead to cancer, nonmalignant lung disease, and dermatitis. Giving a SAC the opportunity to examine and comment upon current studies and data concerning the risks associated with all metalworking fluid mixtures (straight oils, synthetic, and semisynthetic) will provide valuable information the Agency can use to develop a proposed rule for metalworking fluids or other appropriate response to hazards posed by occupational exposure to metalworking fluids. The SAC will also report on related issues such as fluid management, engineering controls, medical surveillance, and economic and technological feasibility.

Summary of the Legal Basis: The legal basis for convening this standards advisory committee is found at section 7(b) of the OSH Act.

Alternatives: The Agency recognizes the complex and difficult nature of the issues surrounding the regulation of metalworking fluids and believes a SAC can best alleviate some areas of confusion. The Committee has a unique opportunity to provide needed data and academic and professional expertise, as well as large and small industry and labor perspectives. Through OSHA's exhaustive Priority Planning Process and NACOSH recommendations, metalworking fluids were identified as a regulatory candidate that could be handled most successfully through a

SAC. The option of going directly to 6(b) rulemaking has been bypassed in favor of a SAC, which will give beneficial input to the agency as to how best to deal with the problems and the opportunity to build some consensus before a proposal is issued.

Anticipated Costs and Benefits:

Because the SAC is still considering the issues, the form of the Committee's recommendations is unknown at the present time. However, once the SAC report is written, OSHA will review it and determine whether to proceed with a proposed rule and other actions to protect employees. Quantitative estimates of costs and benefits will be made only after the proposed rule has been drafted.

Risks: OSHA has not yet assessed the risks confronting workers exposed to metalworking fluids, although the National Institute for Occupational Safety and Health has published risk estimates for some of the adverse health effects of interest to the SAC.

Timetable:

| Action | Date | FR Cite |
|------------------------------|----------|---------|
| Appointed Members | 07/11/97 | |
| Charter Approved | 08/15/97 | |
| Committee Meeting | 09/18/98 | |
| SAC Information to Asst Secy | 09/00/99 | |

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

Additional Information: The Agency is particularly concerned with the potential impact a metalworking fluids rule would have on small businesses. OSHA has been working closely with the Small Business Administration to reach small employers in order to involve them in the process at the earliest possible time. At least 30 small

DOL—OSHA

Prerule Stage

business interests have been identified to date. The Agency is required to have balanced committee representation and small business is represented on the SAC.

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210

Phone: 202 693-1950
Fax: 202 693-1678

RIN: 1218-AB58

2006. CONTROL OF HAZARDOUS ENERGY SOURCES (LOCKOUT/TAGOUT)(SECTION 610 REVIEW)

Priority: Other Significant

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

CFR Citation: 29 CFR 1910.147

Legal Deadline: None

Abstract: As required by section 610 of the Regulatory Flexibility Act and section 5 of Executive Order 12866, OSHA has reviewed the Agency's standard for the protection of employees from exposure to lockout/tagout hazards, 29 CFR 1910.147, to determine whether the rule should be continued without change or should be amended or rescinded, consistent with the objectives of the rule and of the Occupational Safety and Health Act, to minimize any significant impact on a substantial number of small entities. After a thorough review of the Agency's experience in enforcing this standard, the available literature, and comments received in connection with this review, OSHA has determined that there is a continued need for the rule, that the rule does not appear to overlap, duplicate, or conflict with other Federal rules or with other State and local rules, and that no technological, economic or other factors have arisen since the rule was published that would necessitate amendment or rescission of the rule at this time. OSHA has also concluded that no change that is consistent with the objectives of the OSH Act can be made to the rule that will further minimize any significant impact on a substantial number of small entities. OSHA will be responding to comments

received during this review of the standard by preparing materials to assist employers in complying with the rule.

Timetable:

| Action | Date | FR Cite |
|-----------------|----------|---------|
| Begin Review | 10/01/96 | |
| Complete Review | 06/00/99 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3641, FP Building, Washington, DC 20210

Phone: 202 693-2222

Fax: 202 693-1663

RIN: 1218-AB59

2007. OCCUPATIONAL EXPOSURE TO ETHYLENE OXIDE (SECTION 610 REVIEW)

Priority: Other Significant

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

CFR Citation: 29 CFR 1910.1047

Legal Deadline: None

Abstract: OSHA has undertaken a review of the ethylene oxide (ETO) standard in accordance with the requirements of the Regulatory Flexibility Act and section 5 of EO 12866. The review has considered the continued need for the rule, the impacts of the rule, comments on the rule received from the public, the complexity of the rule, whether the rule overlaps, duplicates or conflicts with other Federal, State or local regulations, and the degree to which technology, economic conditions or other factors may have changed since the rule was last evaluated. The Agency's findings with respect to this review will be published in a report available to the public in 1999.

Timetable:

| Action | Date | FR Cite |
|-----------------|----------|---------|
| Begin Review | 10/01/96 | |
| Complete Review | 12/00/99 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ross Eisenbery, Director, Directorate of Policy,

Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3641, FP Building, Washington, DC 20210

Phone: 202 693-2400

Fax: 202 693-1641

RIN: 1218-AB60

2008. FALL PROTECTION IN THE CONSTRUCTION INDUSTRY

Priority: Substantive, Nonsignificant

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

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: OSHA intends to issue an ANPRM to gather information on the feasibility of fall protection in certain construction processes, such as residential home building, precast concrete operations, and post frame construction. OSHA is preparing to raise a number of issues about the fall protection rules as they now apply to roofing work, residential construction operations, climbing reinforcement steel and vendors delivering materials to construction projects. These issues have arisen since OSHA revised the fall protection standard in August 1994. These issues will be raised in an advance notice of proposed rulemaking, which will be published this year.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| ANPRM | 12/00/99 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room S1506, FP Building, Washington, DC 20210

Phone: 202 693-2020

Fax: 202 693-1689

RIN: 1218-AB62

2009. PROCESS SAFETY MANAGEMENT OF HIGHLY HAZARDOUS CHEMICALS

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

Unfunded Mandates: Undetermined

DOL—OSHA

Prerule Stage

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

CFR Citation: 29 CFR 1910.119

Legal Deadline: None

Abstract: OSHA is considering two regulatory actions concerning the Process Safety Management of Highly Hazardous Chemicals (PSM) standard. One action is to publish an advance notice of proposed rulemaking to address the issue of covering additional reactive chemicals that are not currently covered by PSM. Another action is a proposal to add chemicals that were not included in the OSHA standard but were included in the Environmental Protection Agency's (EPA) Risk Management Program (RMP) rule (one part of the RMP rule addresses compliance with the OSHA Process Safety Management rule). OSHA has been asked by representatives of the regulated community to bring its chemical list into closer alignment with the RMP rule.

Timetable:

| Action | Date | FR Cite |
|--------------------------------|----------|------------|
| ANPRM Reactives | 04/00/99 | |
| NPRM Process Safety Management | To Be | Determined |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3641, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1663

RIN: 1218-AB63

2010. SAFETY STANDARDS FOR SCAFFOLDS USED IN THE CONSTRUCTION INDUSTRY—PART II

Priority: Info./Admin./Other

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

CFR Citation: 29 CFR 1926.450; 29 CFR 1926.451; 29 CFR 1926.452; 29 CFR 1926.453; 29 CFR 1926.454

Legal Deadline: None

Abstract: Since the promulgation of a final rule for scaffolds used in

construction in August 1996, OSHA has learned of several issues that have arisen under the new standard. The agency is gathering information on scaffolds to address these issues. These issues include: (1) providing access to platforms where decking extends past the ends of the scaffold; (2) changing the minimum width for roof brackets to less than 12 inches; (3) changing the requirements for grounding of the scaffold during welding operations; and (4) requiring the use of scaffold grade planks. This advance notice of proposed rulemaking will raise these issues for informational purposes.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| ANPRM | 04/00/99 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russell B. Swanson, Director, Directorate Of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room S1506, FP Building, Washington, DC 20210
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Email: bswanson@dol.gov

RIN: 1218-AB68

2011. GRAIN HANDLING FACILITIES (SECTION 610 REVIEW)

Priority: Other Significant

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

CFR Citation: 29 CFR 1910.272

Legal Deadline: None

Abstract: OSHA is undertaking a review of its grain handling standard (29 CFR 1910.272) in accordance with the requirements of section 610 of the Regulatory Flexibility Act and section 5 of EO 12866. The review will cover the continued need for the rule; the nature of complaints or comments received from the public concerning the rule; the complexity of the rule; the extent to which the rule overlaps, duplicates or conflicts with other Federal rules and to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in the industries affected by the rule.

Timetable:

| Action | Date | FR Cite |
|-----------------|----------|---------|
| Begin Review | 10/01/97 | |
| Complete Review | 09/00/99 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ross Eisenbrey, Director, Directorate of Policy, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3641, FP Building, Washington, DC 20210
Phone: 202 693-2043
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RIN: 1218-AB73

2012. COTTON DUST (SECTION 610 REVIEW)

Priority: Other Significant

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

CFR Citation: 29 CFR 1910.1043

Legal Deadline: None

Abstract: OSHA is undertaking a review of its cotton dust standard (29 CFR 1910.1043) in accordance with the requirements of section 610 of the Regulatory Flexibility Act and section 5 of EO 12866. The review will cover the continued need for the rule; the nature of complaints or comments received from the public concerning the rule; the complexity of the rule; the extent to which the rule overlaps, duplicates or conflicts with other Federal rules and to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in the industries affected by the rule.

Timetable:

| Action | Date | FR Cite |
|-----------------|----------|---------|
| Begin Review | 10/01/97 | |
| Complete Review | 09/00/99 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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

DOL—OSHA

Prerule Stage

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RIN: 1218-AB74

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA)

Proposed Rule Stage

2013. ACCESS AND EGRESS IN SHIPYARDS (PART 1915, SUBPART E) (PHASE I) (SHIPYARDS: EMERGENCY EXITS AND AISLES)

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

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

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

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

Legal Deadline: None

Abstract: In the 1980s, OSHA embarked on a project to update and consolidate OSHA standards that applied to the shipbuilding, shiprepair, and shipbreaking industry. Shipyard employers have been subject to both the "shipyard" standards and OSHA's general industry standards. This has resulted in inconsistent and contradictory requirements for essentially the same operations.

Phase 1 of this project aimed at establishing a vertical standard for shipyard employment and addressed six subparts (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these subparts were issued in November 1988 (53 FR 48092). The remaining subparts were categorized as Phase II of the consolidation project (including general working conditions and fire protection). This action was endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards. This particular standard will revise the existing shipyard employment standards covering access and egress and will consolidate all related and applicable 29 CFR part 1910 provisions

into 29 CFR part 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions. 75,000 workers are potentially exposed to these hazards annually.

Timetable:

| Action | Date | FR Cite |
|-------------------------|----------|-------------|
| NPRM | 11/29/88 | 53 FR 48130 |
| NPRM Comment Period End | 02/27/89 | |
| Reopen Record | 04/00/99 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218-AA70

2014. PREVENTION OF WORK-RELATED MUSCULOSKELETAL DISORDERS

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 651; 29 USC 652; 29 USC 655; 29 USC 657; 33 USC 941; 40 USC 333

CFR Citation: 29 CFR 1910; 29 CFR 1915

Legal Deadline: None

Abstract: Work-related musculoskeletal disorders (MSDs) are a leading cause of pain, suffering, and disability in American workplaces. Since the 1980's, the Occupational Safety and Health Administration (OSHA) has had a number of initiatives related to addressing these problems, including

enforcement under the general duty clause, issuance of guidelines for the meatpacking industry, and development of other compliance-assistance materials.

Ultimately, the Agency decided that, given the magnitude of the problem, a regulatory approach should be explored to ensure that the largest possible number of employers and employees become aware of the problems and ways of preventing work-related musculoskeletal disorders. OSHA has examined and analyzed the extensive scientific literature documenting the problem of work-related musculoskeletal disorders, the causes of the problem, and effective solutions; conducted a telephone survey of over 3,000 establishments regarding their current practices to prevent work-related musculoskeletal disorders; and completed a number of site visits to facilities with existing programs. The Agency has also held numerous stakeholder meetings to solicit input from individuals regarding the possible contents of a standard to prevent work-related musculoskeletal disorders. Agency representatives have delivered numerous outreach presentations to people who are interested in this subject and consulted professionals in the field to obtain expert opinions on the options considered by the Agency. Information obtained from these activities is undergoing Agency review. Options for regulatory action are being developed.

The Agency believes that the scientific evidence supports the need for a standard and that the availability of effective and reasonable means to control these hazards has been demonstrated. The criteria that have been developed for setting OSHA priorities support the need to reduce the incidence of work-related musculoskeletal disorders. The Agency is currently developing a proposed rule for ergonomics. The National Institute for Occupational Safety and Health (NIOSH) has issued a report evaluating the scientific basis for the relationship

DOL—OSHA

Proposed Rule Stage

of workplace stressors to MSDs. The report concludes that such a relationship exists for many stressors.

Statement of Need: OSHA estimates that work-related musculoskeletal disorders in the United States account for over 600,000 injuries and illnesses (34 percent of all lost workdays reported to the Bureau of Labor Statistics (BLS)). These disorders now account for one out of every three dollars spent on workers' compensation. It is estimated that employers spend as much as \$20 billion a year on direct costs for MSD-related workers' compensation, and up to five times that much for indirect costs, such as those associated with hiring and training replacement workers. In addition to these monetary effects, MSDs often impose a substantial personal toll on affected workers who can no longer work or perform simple personal tasks like buttoning their clothes or brushing their hair.

Scientific evidence associates MSDs with stresses to various body parts caused by the way certain tasks are performed. The positioning of the body and the type of physical work that must be done to complete a job may cause persistent pain and lead to deterioration of the affected joints, tissues, and muscles. The longer the worker must maintain a fixed or awkward posture, exert force, repeat the same movements, experience vibration, or handle heavy items, the greater the chance that such a disorder will occur. These job-related stresses are referred to as "workplace risk factors," and the scientific literature demonstrates that exposure to these risk factors, particularly in combination, significantly increases an employee's risk of developing a work-related musculoskeletal disorder. Jobs involving exposure to workplace risk factors appear in all types of industries and in all sizes of facilities.

Musculoskeletal disorders occur in all parts of the body--the upper extremity, the lower extremity, and the back. An example of the increasing magnitude of the problem involves repeated trauma to the upper extremity, or that portion of the body above the waist, in forms such as carpal tunnel syndrome and shoulder tendinitis. In 1996, employers reported 281,000 repeated trauma cases to the BLS. As a point of comparison, the number of reported cases in this

category was only 22,700 in 1981. When the data are adjusted to reflect changes in the size of the employee population, they indicate that such cases have increased more than 7-fold in the last ten years. In industries such as meatpacking and automotive assembly, approximately 10 out of 100 workers report work-related MSDs from repeated trauma each year. The number of work-related back injuries occurring each year is even larger than the number of upper extremity disorders. Industries reporting a large number of cases of back injuries include hospitals and personal care facilities.

The evidence OSHA has assembled and analyzed indicates that technologically and economically feasible measures are available to significantly reduce exposures to workplace risk factors and the risk of developing work-related musculoskeletal disorders. Many companies that have voluntarily implemented ergonomics programs have demonstrated that effective ergonomic interventions are available to reduce MSDs. Many of these interventions are simple and inexpensive, but nevertheless have a significant effect on the occurrence of work-related musculoskeletal disorders. Benefits include substantial savings in workers' compensation costs, increased productivity, and decreased turnover.

Summary of the Legal Basis: The legal basis for this proposed rule is a preliminary finding by the Secretary of Labor that workers in workplaces within OSHA's jurisdiction are at significant risk of incurring work-related musculoskeletal disorders.

Alternatives: OSHA is considering many different regulatory alternatives. These include variations in the scope of coverage, particularly with regard to industrial sectors, work processes, and degree of hazard. The Agency has also considered various phase-in options related to the size of the facility. The agency is still developing and refining its regulatory alternatives.

Anticipated Costs and Benefits: Implementation costs of a regulation would include those related to identifying and correcting problem jobs using engineering and administrative controls. Benefits expected include reduced pain and suffering, both from prevented disorders as well as reduced severity in those disorders that do occur, decreased numbers of workers' compensation claims, and reduced lost

work time. Secondary benefits may accrue from improved quality and productivity due to better designed work systems.

Risks: The data OSHA has obtained and analyzed indicate that employees are at a significant risk of developing or aggravating musculoskeletal disorders due to exposure to risk factors in the workplace. In addition, information from site visits, the scientific literature, the Agency's compliance experience, and other sources indicates that there are economically and technologically feasible means of addressing and reducing these risks to prevent the development or aggravation of such disorders, or to reduce their severity. These data and analyses will be presented in the preamble to any proposed standard published in the Federal Register.

Timetable:

| Action | Date | FR Cite |
|--------------------------|----------|-------------|
| ANPRM | 08/03/92 | 57 FR 34192 |
| ANPRM Comment Period End | 02/01/93 | |
| NPRM | 09/00/99 | |

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

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RIN: 1218-AB36

2015. SAFETY AND HEALTH PROGRAMS (FOR GENERAL INDUSTRY AND THE MARITIME INDUSTRIES)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 651; 29 USC 657

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

Legal Deadline: None

DOL—OSHA

Proposed Rule Stage

Abstract: The Occupational Safety and Health Administration (OSHA), many of the States, members of the safety and health community, insurance companies, professional organizations, companies participating in the Agency's Voluntary Protection Program, and many proactive employers in all industries have recognized the value of worksite-specific safety and health programs in preventing job-related injuries, illnesses, and fatalities. The effectiveness of these programs is seen most dramatically in the reductions in job-related injuries and illnesses, workers' compensation costs, and absenteeism that occur after employers implement such programs. To assist employers in establishing safety and health programs, OSHA in 1989 (54 FR 3904) published nonmandatory guidelines that were based on a distillation of the best safety and health management practices observed by OSHA in the years since the Agency was established. OSHA's decision to expand on these guidelines by developing a safety and health programs rule is based on the Agency's recognition that occupational injuries, illnesses, and fatalities are continuing to occur at an unacceptably high rate; for example, an average of about 17 workers were killed each day in 1997 in occupational fatalities, and this number does not reflect the estimated 50,000 job-related chronic illness deaths believed to occur annually.

The safety and health programs required by the proposed rule will include at least the following elements: management leadership of the program; active employee participation in the program; analysis of the worksite to identify serious safety and health hazards of all types; and requirements that employers eliminate or control those hazards in an effective and timely way. In addition, in response to extensive stakeholder involvement, OSHA has, among other things, focused the rule on significant hazards and reduced burdens on small business to the extent consistent with the goals of the OSH Act.

Statement of Need: Worksite-specific safety and health programs are increasingly being recognized as the most effective way of reducing job-related accidents, injuries, and illnesses. Many States have to date passed legislation and/or regulations mandating such programs for some or all employers, and insurance

companies have also been encouraging their client companies to implement these programs, because the results they have achieved have been dramatic. In addition, all of the companies in OSHA's Voluntary Protection Program have established such programs and are reporting injury and illness rates that are sometimes only 20 percent of the average for other establishments in their industry. Safety and health programs apparently achieve these results by actively engaging front-line employees, who are closest to operations in the workplace and have the highest stake in preventing job-related accidents, in the process of identifying and correcting occupational hazards. Finding and fixing workplace hazards is a cost-effective process, both in terms of the avoidance of pain and suffering and the prevention of the expenditure of large sums of money to pay for the direct and indirect costs of these injuries and illnesses. For example, many employers report that these programs return between \$5 and \$9 for every dollar invested in the program, and almost all employers with such programs experience substantial reductions in their workers' compensation premiums. OSHA believes that having employers evaluate the job-related safety and health hazards in their workplace and address any hazards identified before they cause occupational injuries, illnesses, or deaths is an excellent example of "regulating smarter," because all parties will benefit: workers will avoid the injuries and illnesses they are currently experiencing; employers will save substantial sums of money and increase their productivity and competitiveness; and OSHA's scarce resources will be leveraged as employers and employees join together to identify, correct, and prevent job-related safety and health hazards.

Summary of the Legal Basis: The legal basis for the proposed rule is a preliminary finding by the Secretary of Labor that unacceptably high injury, illness, and fatality rates can be substantially reduced by getting employers to systematically comply with the existing duty to control hazards under sections 5(a)(1) and 5(a)(2) of the OSH Act.

Alternatives: In the last few years, OSHA has considered both nonregulatory and regulatory alternatives in the area of safety and health program management. First,

OSHA published, in 1989, a set of voluntary management guidelines designed to assist employers to establish and maintain programs such as the one envisioned by the proposed safety and health programs rule. Although these guidelines have received widespread praise from many employers and professional safety and health associations, they have not been adequately effective in reducing job-related deaths, injuries, and illnesses, which have continued to occur at unacceptably high levels. Many of the States have also recognized the value of these programs and have mandated that some or all covered employers establish them; this has led to inconsistent coverage from State to State, with many States having no coverage and others imposing stringent program requirements.

Anticipated Costs and Benefits: Costs and benefits have not been determined at this time.

Risks: Workers in all major industry sectors in the United States continue to experience an unacceptably high rate of occupational fatalities, injuries, and illnesses. In 1996 the Bureau of Labor Statistics reports that 6.2 million injuries and illnesses occurred within private industry, and in 1997, 6,218 workers lost their lives on the job. There is increasing evidence that addressing hazards in a piecemeal fashion, as employers tend to do in the absence of a comprehensive safety and health program, is considerably less effective in reducing accidents than a systematic approach. Dramatic evidence of the seriousness of this problem can be found in the staggering workers' compensation bill paid by America's employers and employees: approximately \$54 billion annually. These risks can be reduced by the implementation of safety and health programs, as evidenced by the experience of OSHA's Voluntary Protection Program participants, who regularly achieve injury and illness rates averaging one-fifth to one-third those of competing firms in their industries. Other benefits of reducing accidents include enhanced productivity, improved employee morale, and reduced absenteeism. Because these programs address all significant job-related hazards--including those that are covered by OSHA standards as well as those currently addressed by the General Duty Clause --the proposed rule will be

DOL—OSHA

Proposed Rule Stage

effective in ensuring a systematic approach to the control of long-recognized hazards, such as lead, and emerging hazards, such as lasers and violence in the workplace.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 07/00/99 | |

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: A separate rule is being developed for the construction industry (29 CFR 1926). OSHA will coordinate the development of the two rules.

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RIN: 1218-AB41

2016. OCCUPATIONAL EXPOSURE TO HEXAVALENT CHROMIUM (PREVENTING OCCUPATIONAL ILLNESS: CHROMIUM)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

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

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: In July 1993, the Occupational Safety and Health Administration (OSHA) was petitioned for an emergency temporary standard (ETS) to reduce the permissible exposure limit (PEL) for occupational exposures to hexavalent chromium. The Oil, Chemical, and Atomic Workers International Union (OCAW) and Public Citizen's Health Research Group (HRG) petitioned OSHA to promulgate an ETS to lower the PEL for chromium (CrVI) compounds to 0.5 micrograms per cubic meter of air (ug/m3) as an eight-hour, time-weighted average (TWA). This represents a significant reduction in the current PEL. The

current PEL in general industry is found in 29 CFR 1910.1000 Table Z and is a ceiling value of 100 ug/m3 for "Chromic acid and chromates (as CrO3)." These are measured as chromium (VI) and reported as chromic anhydride (CrO3). The amount of chromium in the compound equates to a PEL of 52 ug/m3 of chromium (VI) measured and reported as chromium (VI). This ceiling limit applies to all forms of hexavalent chromium (VI) including chromic acid and chromates, lead chromate, and zinc chromate. The current PEL for chromium (VI) in the construction industry is 100 ug/m3 as a TWA PEL, which also equates to a PEL of 52 ug/m3. HRG and OCAW were unable to persuade the courts to impose legal deadlines on the rulemaking.

The major illnesses associated with occupational exposures to hexavalent chromium are lung cancer and dermatoses. OSHA estimates that approximately one million workers are exposed to hexavalent chromium on a regular basis in all industries. The major uses of hexavalent chromium are: as a structural and anti-corrosive element in the production of stainless steel, ferrochromium, iron and steel, and in electroplating, welding and painting. After reviewing the petition, OSHA denied the request for an ETS and initiated a section 6(b) rulemaking. Work on a proposed rule continues.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 09/00/99 | |

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected:

Undetermined

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RIN: 1218-AB45

2017. 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 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. One million construction workers are exposed to the hazards of confined space entry each year. OSHA intends to issue a proposed rule addressing this construction industry hazard in this year.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 12/00/99 | |

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected:

Undetermined

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RIN: 1218-AB47

2018. GENERAL WORKING CONDITIONS FOR SHIPYARD EMPLOYMENT

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

Unfunded Mandates: Undetermined

DOL—OSHA

Proposed Rule Stage

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

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

CFR Citation: 29 CFR 1915, subpart F

Legal Deadline: None

Abstract: During the 1980s, OSHA embarked on a project to update and consolidate the various OSHA shipyard standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. Shipyard employers have been subject to both the "shipyard" standards and OSHA's general industry standards for landside operations. Phase 1 of this project aimed at establishing a vertical standard for shipyard employment and addressed six shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these subparts were issued in November 1988 (53 FR 48092). The remaining subparts were categorized as Phase II of the consolidation project (including general working conditions and fire protection). This action was endorsed by the Shipyard Advisory Committee, which was chartered in 1989 to update and consolidate existing shipyard standards.

The operations that are addressed in this particular rulemaking relate to housekeeping, illumination, sanitation, first aid, and lockout/tagout. About 75,000 workers are exposed annually to these hazards.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 12/00/99 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1218-AB50

2019. FIRE PROTECTION IN SHIPYARD EMPLOYMENT (PART 1915, SUBPART P) (PHASE II) (SHIPYARDS: FIRE SAFETY)

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

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

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

CFR Citation: 29 CFR 1915, subpart P

Legal Deadline: None

Abstract: During the 1980s, OSHA embarked on a project to update and consolidate the various OSHA shipyard standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. A shipyard employer is subject to both the "shipyard" standards and OSHA's general industry standards. Phase 1 of this project aimed at establishing a vertical standard for shipyard employment and addressed six shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project (including general working conditions and fire protection in shipyard employment). This action was endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards.

The operations that are addressed in this particular rulemaking relate to fire brigades, fire extinguishers, sprinkler systems, detection systems, alarm systems, fire watches, and emergency plans. One hundred thousand workers are potentially exposed to these hazards annually. This proposed standard is being developed using the negotiated rulemaking process.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 12/00/99 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218-AB51

2020. PERMISSIBLE EXPOSURE LIMITS (PELS) FOR AIR CONTAMINANTS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 29 USC 655 (b)

CFR Citation: 29 CFR 1910.1000; 29 CFR 1915.1000; 29 CFR 1917.1(a)(2)(ii); 29 CFR 1918.1(b)(a); 29 CFR 1929.55

Legal Deadline: None

Abstract: OSHA enforces hundreds of permissible exposure limits (PELs) for toxic air contaminants found in U.S. workplaces. The air contaminant limits were adopted by OSHA in 1971 from recommendations issued by the American Conference of Governmental Industrial Hygienists and the American National Standards Institute. These PELs, which have not been updated since 1971, thus reflect the results of research conducted in the 1950s and 1960s. Since then, much new information has become available that indicates that, in many cases, these early limits are outdated and insufficiently protective of worker health. To correct this situation, OSHA issued a final rule in 1989 (54 FR 2332); it lowered the existing PELs for 212 toxic air contaminants and established PELs for 164 previously unregulated air contaminants. On June 12, 1992 (57 FR 26001), OSHA proposed a rule that would have extended these limits to workplaces in the construction, maritime, and agriculture industries. However, on July 10, 1992, the Eleventh Circuit Court of Appeals vacated the 1989 final rule on the grounds that "(1) OSHA failed to establish that existing exposure limits in the workplace presented significant risk of material health impairment or that new standards eliminated or

substantially lessened the risk; (2) OSHA did not meet its burden of establishing that its 428 new permissible exposure limits (PELs) were either economically or technologically feasible." The Court's decision forced the Agency to return to the earlier, insufficiently protective limits.

OSHA continues to believe that establishing a rulemaking approach that will permit the Agency to update existing air contaminant limits and establish new ones as toxicological evidence of the need to do so becomes available is a high priority. The rulemaking described in this Regulatory Plan entry reflects OSHA's intention to move forward with this process. In determining how to proceed, OSHA is being guided by the OSH Act and the Eleventh District Court decision regarding quantifying the risk and feasibility analyses required to support revised and new air contaminant limits. State-of-the-art risk assessment methodologies will be utilized for both carcinogens and noncarcinogens, and the determinations of feasibility contained in the economic analysis accompanying the proposal will be extensive. OSHA published (61 FR 1947) the candidate substances from which the proposed new PELs for the first update will be chosen: carbon disulfide, carbon monoxide, chloroform, dimethyl sulfate, epichlorohydrin, ethylene dichloride, glutaraldehyde, n-hexane, 2-hexanone, hydrazine, hydrogen sulfide, manganese and compounds, mercury and compounds, nitrogen dioxide, perchloroethylene, sulfur dioxide, toluene, toluene diisocyanate, trimellitic anhydride, and vinyl bromide. The specific hazards associated with the air contaminants preliminarily selected for regulation include cancer, neurotoxicity, respiratory sensitivity, etc. Using the same criteria as those used in the Priority Planning Process, OSHA evaluated each substance: severity of the health effect, the number of exposed workers, toxicity of the substance, uses and prevailing exposure levels of the substance, the potential risk reduction, availability and quality of information useful in quantitative risk assessment to ensure that significant risks are addressed and that workers will experience substantial benefits in the form of enhanced health and safety. Publication of the proposal will allow OSHA to institutionalize a

mechanism for updating and extending its air contaminant limits, which will, at the same time, provide added protection to many workers who are currently being overexposed to toxic substances in the workplace. OSHA is also considering supplemental mechanisms proposed by stakeholders to increase the effectiveness of the process.

Statement of Need: OSHA has permissible exposure limits for approximately 470 toxic substances, many of which are widely used in industrial settings. These PELs, which were adopted wholesale by OSHA in 1971 and have not been revised since then, often lead to adverse effects when workers are exposed to the contaminants at these levels. In addition, new chemicals are constantly being introduced into the working environment, and exposure to these substances can result in both acute and chronic health effects. Acute effects include respiratory and sensory irritation, chemical burns, and ocular damage; chronic effects include cardiovascular disease, respiratory, liver and kidney disease, reproductive effects, neurological damage, and cancer. For these reasons, it is a high OSHA priority to establish an ongoing regular process that will allow OSHA routinely to update existing PELs and establish limits for previously unregulated substances. The first step in achieving this goal is to publish an air contaminants proposal for a number of substances that will establish streamlined but scientifically sound and defensible procedures for conducting risk assessments and performing feasibility analyses that will permit regular updating and review of permissible exposure limits for air contaminants. The ability to lower existing limits and establish limits for new contaminants is an essential component of OSHA's mandate to protect the health and functional well-being of America's workers.

Summary of the Legal Basis: The legal basis for the proposed PELs for selected air contaminants is a preliminary determination by the Secretary of Labor that the substances for which PELs are being proposed pose a significant risk to workers and that the new limits will substantially reduce that risk.

Alternatives: OSHA has considered a variety of nonregulatory approaches to address the problem of the Agency's

outdated exposure limits for air contaminants. These include the issuance of nonmandatory guidelines, enforcing lower limits through the "general duty" clause of the OSH Act in cases where substantial evidence exists that exposure presents a recognized hazard of serious physical harm, and the issuance of hazard alerts. OSHA believes, however, that the problem of overexposure to hazardous air contaminants is so widespread, and the Agency's current limits are so out of date, that only a regulatory approach will achieve the necessary level of protection. The regulatory approach also has advantages for employers, because it gives them the information they need to establish appropriate control strategies to protect their workers and reduce the costs of job-related illnesses. This first phase of an ongoing air contaminants updating and revision process will begin to resolve a problem of long standing and major occupational health import.

Anticipated Costs and Benefits: The scope of the proposed rule is currently under development and thus quantitative estimates of costs and benefits have not been determined at this time. Implementation costs associated with the proposed standard include primarily those related to identifying and correcting overexposures using engineering controls and work practices. Additional costs may be incurred for the implementation of administrative controls and the purchase and use of personal protective equipment. Estimates of the magnitude of the problem of occupational illnesses, both acute and chronic, vary considerably. In 1989, OSHA concluded that its Air Contaminants rule in general industry, which lowered 212 exposure limits and added 164 where none had previously existed, would result in a reduction of approximately 700 deaths, 55,000 illnesses, and over 23,300 lost-workday illnesses annually. Chronic effects include cardiovascular disease, respiratory, liver and kidney disease, reproductive effects, neurological damage, and cancer. Acute effects include respiratory and sensory irritation, chemical burns, and ocular effects.

Risks: Risk assessments for the substances under consideration for this first phase of the air contaminants updating and revision process have not yet been completed.

DOL—OSHA

Proposed Rule Stage

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 12/00/99 | |

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

Undetermined

Additional Information: During the rulemaking, OSHA will meet with small business stakeholders to discuss their concerns, and will conduct an initial Regulatory Flexibility Screening Analysis to identify any significant impacts on a substantial number of small entities.

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RIN: 1218-AB54**2021. NATIONALLY RECOGNIZED TESTING LABORATORIES PROGRAMS: FEES****Priority:** Substantive, Nonsignificant**Legal Authority:** 31 USC 9701; 29 USC 653; 29 USC 655; 29 USC 657**CFR Citation:** 29 CFR 1910.7**Legal Deadline:** None

Abstract: A number of OSHA standards require that certain products and equipment used in the workplace be tested and certified by a laboratory that has been recognized and accredited by OSHA. Through the Nationally Recognized Testing Laboratory (NRTL) Program OSHA has, to date, recognized 17 laboratories operating 40 sites in the U.S., Canada, and the Far East as NRTLs. OSHA is proposing to revise 29 CFR 1910.7 to allow OSHA to charge fees to NRTLs for services that are provided to the NRTLs. The fees will be computed on the basis of the cost of the services to the Government. In determining the amount of such fees, OSHA will follow the guidelines established by the Office of Management and Budget in Circular Number A-25.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 06/00/99 | |

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

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RIN: 1218-AB57**2022. FLAMMABLE AND COMBUSTIBLE LIQUIDS****Priority:** Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 5 USC 553**CFR Citation:** 29 CFR 1910.106**Legal Deadline:** None

Abstract: This project responds to the President's Executive Memo of June 1998 regarding the use of plain language in Federal regulations. With this project, OSHA is initiating rulemaking that will revise the regulations contained in 29 CFR 1910.106 addressing flammable and combustible liquid storage. The purpose of this rulemaking will be to revise this standard into plain language.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 12/00/99 | |

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

Additional Information: The Flammable and Combustible Liquids Plain Language Revision Project 29 CFR 1910.106 was originally one of four projects listed under RIN 1218-AB55.

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RIN: 1218-AB61**2023. REVOCATION OF CERTIFICATION RECORDS FOR TESTS, INSPECTIONS, AND TRAINING****Priority:** Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 29 USC 655(b); 40 USC 333; 33 USC 941**CFR Citation:** 29 CFR 1910; 29 CFR 1915; 29 CFR 1926; 29 CFR 1917; 29 CFR 1918**Legal Deadline:** None

Abstract: OSHA is proposing to revoke certain requirements for employers to prepare and maintain records (certification records) which certify that employers have performed certain tests or inspections of equipment or machinery or that the employer has conducted certain training specified in the standards. The purpose of proposing to revoke these certification records is to minimize the paperwork burdens imposed on employers. OSHA preliminarily finds that there will be no reduction in employee safety and health as a result of reducing requirements to fill out and maintain these certification records.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 09/00/99 | |

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

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RIN: 1218-AB65**2024. PLAIN LANGUAGE REVISION OF THE MECHANICAL POWER-TRANSMISSION APPARATUS STANDARD****Priority:** Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing

DOL—OSHA

Proposed Rule Stage

Government effort. It will eliminate existing text in the CFR.

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

CFR Citation: 29 CFR 1910.219

Legal Deadline: None

Abstract: OSHA has identified one standard in part 1910 that needs to be revised as part of the President's initiative on Federal regulations discussed in the U.S. Department of Labor Report of June 15, 1995 and to respond to the President's June 1998 Executive Memo on Plain Language. This standard is 29 CFR 1910.219, Mechanical Power-Transmission Apparatus. OSHA intends to issue a plain language rule that will address the following: Mechanical power-transmission apparatus guarding and maintenance.

Timetable:

| Action | Date | FR Cite |
|------------------------------------------------|----------|---------|
| NPRM - Mechanical Power-Transmission Apparatus | 09/00/99 | |

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
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RIN: 1218-AB66

2025. ELECTRIC POWER TRANSMISSION AND DISTRIBUTION; ELECTRICAL PROTECTIVE EQUIPMENT IN THE CONSTRUCTION INDUSTRY

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

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

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

CFR Citation: 29 CFR 1910.136; 29 CFR 1910.137; 29 CFR 1910.269; 29 CFR 1926.97; 29 CFR 1926.950 to 968

Legal Deadline: None

Abstract: The annual fatality rate for power line workers is over 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 20 years old. OSHA is developing a revision of this standard that will prevent many of these fatalities, that will add flexibility to the standard, and that will update and streamline the standard. In addition, OSHA intends to amend the corresponding standard for general industry so that requirements for work performed during maintenance of electric power transmission and distribution installations are the same as those for similar work in construction.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 12/00/99 | |

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
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RIN: 1218-AB67

2026. SAFETY AND HEALTH PROGRAMS FOR CONSTRUCTION

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655; 29 USC 657; 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: In response to industry requests and OSHA's Advisory Committee on Construction Safety and Health (ACCSH) recommendation, OSHA has determined that the current

safety and health program standards contained in subpart C of the construction standards, 29 CFR 1926, need to be revised to provide construction employers with a more comprehensive set of requirements to assist them in establishing safety and health programs. Safety and health programs have proven to be an effective, systematic method of identifying and correcting existing workplace safety and health hazards, as well as preventing those that might arise in the future.

The ACCSH has been working to develop recommendations for OSHA on safety and health programs and training in construction for many years. After its April 1996 meeting, ACCSH began to develop language and concepts to submit to OSHA for consideration as a proposed rule. Over 130 stakeholders representing small, medium and large contractors and host employers and stakeholders (such as petroleum producers; contractor associations; labor unions; other governmental agencies; and non-profit institutions) have participated in these ACCSH discussions.

Although OSHA is still developing the details of a new proposed safety and health program standard, the proposal will require employers to set up a program for managing workplace safety and health in order to reduce the incidence of occupational deaths, injuries, and illnesses. The standard will not impose duties on employers to control hazards that they are not already required to control. Instead, the standard will provide a basic framework for systematically identifying and controlling workplace hazards already covered by the OSH Act under section 5(a)(1) and current OSHA standards.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 10/00/99 | |

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: A separate standard is being developed for general industry (29 CFR 1910) and the maritime (29 CFR 1915, 1917 and 1918) industries.

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

DOL—OSHA

Proposed Rule Stage

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RIN: 1218-AB69

2027. REQUIREMENT TO PAY FOR PERSONAL PROTECTIVE EQUIPMENT

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

Unfunded Mandates: Undetermined

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 which 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 is proposing to revise its PPE standards to clarify who is required to pay for required PPE and under what circumstances. According to the proposal, employers would be required to provide all OSHA-required PPE at no cost to employees, with the following exceptions: the employer would not need to pay for safety-toe protective footwear or prescription safety eyewear if all three of the following conditions are met: (1) the employer permits such footwear or eyewear to be worn off the job-site; (2) the footwear or eyewear is not used in a manner that renders it unsafe for use off the job-site (for example, contaminated safety-toe footwear would not be permitted to be worn off a job-site); and (3) such footwear or eyewear is not designed for special use on the job. Employers are also not required to pay for the logging boots required by 29 CFR 1910.266(d)(1)(v).

Statement of Need: OSHA has been issuing health, safety, and construction standards requiring appropriate PPE over a 28-year period. The regulatory language used in OSHA standards has generally clearly stated that the employer must provide PPE and ensure

that employees wear it. However, the regulatory language used regarding the employer's obligation to pay for the PPE has varied.

OSHA attempted to clarify its position on the issue of payment for required PPE in a compliance memorandum to its field staff dated October 18, 1994. The memorandum stated that it was the employer's obligation to provide and pay for PPE except in limited situations.

Very recently, the Occupational Safety and Health Review Commission declined to accept this interpretation (Secretary of Labor v. Union Tank Car, OSHRC No. 96-0563). The Commission vacated a citation against an employer who failed to pay for OSHA-required PPE, finding that the Secretary had failed to adequately explain the policy outlined in the 1994 memorandum in light of several inconsistent earlier letters of interpretation from OSHA.

Therefore, the Agency needs to clarify who is to pay for PPE under what conditions, to eliminate any confusion and unnecessary litigation.

Summary of the Legal Basis: The legal basis for this proposed rule is the need to clarify OSHA's intent with regard to the payment for protective equipment required by OSHA standards promulgated under section 6 of the OSH Act.

Alternatives: OSHA has considered several alternative approaches to resolving this issue, including leaving this as a labor-management issue, issuing compliance directives to identify what PPE the employer must pay for, or requiring the employer to pay for all PPE. OSHA believes that, in this case, revising the standard to clarify who is to pay for the PPE is the most appropriate way to proceed. It is the only approach that will assure significant public participation in the resolution of this issue, and the codification of that resolution.

Anticipated Costs and Benefits: At this stage of rulemaking, the Agency has only preliminary costs and benefits. A survey has been conducted to obtain additional data.

Risks: Substantive requirements for protective equipment are impacted by other standards. This proposed rule is designed solely to clarify OSHA's intent as to what protective equipment must be paid for by the employer.

Accordingly, no assessment of risk is required for this proposal.

Timetable:

| Action | Date | FR Cite |
|-------------------------|----------|-------------|
| NPRM | 03/30/99 | 64 FR 15401 |
| NPRM Comment Period End | 06/14/99 | |

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

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RIN: 1218-AB77

2028. CONSULTATION AGREEMENTS

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 670

CFR Citation: 29 CFR 1908

Legal Deadline: None

Abstract: This proposed amendment to 29 CFR 1908 is intended to provide for full employee involvement in the consultative process in line with the President's directive to enhance worker participation in the 7(c)(1) consultation program (The New OSHA: Reinventing Worker Safety and Health, May 1995).

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 04/00/99 | |

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paula O. White, Director, Directorate of Federal State Operations, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3700, FP Building, Washington, DC 20210
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RIN: 1218-AB79

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA)

Final Rule Stage

**2029. RESPIRATORY PROTECTION
 (PROPER USE OF MODERN
 RESPIRATORS)**

Priority: Economically Significant.
 Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

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

CFR Citation: 29 CFR 1910.134; 29 CFR 1915.152; 29 CFR 1918.102; 29 CFR 1926.103

Legal Deadline: None

Abstract: In January 1998, OSHA published the final respiratory protection standard, except for the reserved provision on assigned protection factors (APFs). APFs are numbers that estimate the degree of performance of the various classes of respirators. OSHA has developed a statistical model for analyzing available data that will be used to derive APFs. Accordingly, OSHA will request further public comment on the analyses conducted using that model, the ANSI Z88.2-1992 APFs, the NIOSH Respirator Decision Logic APFs and other relevant methods for deriving APFs. This will assure that OSHA receives and fully considers public input before issuing final APFs. OSHA expects to complete the rulemaking on APFs in 1999.

Timetable:

| Action | Date | FR Cite |
|---------------------------------------------|----------|-------------|
| ANPRM | 05/14/82 | 47 FR 20803 |
| ANPRM Comment Period End | 09/13/82 | |
| NPRM | 11/15/94 | 59 FR 58884 |
| Final Rule | 01/08/98 | 63 FR 1152 |
| Final Rule Effective | 01/08/98 | |
| Final Rule - Assigned Protection Factors | 11/00/99 | |

**Regulatory Flexibility Analysis
 Required:** No

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 1218-AA05

**2030. STEEL ERECTION (PART 1926)
 (SAFETY PROTECTION FOR
 IRONWORKERS)**

Priority: Economically Significant.
 Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655; 40 USC 333

CFR Citation: 29 CFR 1926.750
 (Revision); 29 CFR 1926.751 (Revision);
 29 CFR 1926.752 (Revision)

Legal Deadline: None

Abstract: On December 29, 1992, the Occupational Safety and Health Administration (OSHA) announced its intention to form a negotiated rulemaking advisory committee to negotiate issues associated with a revision of the existing steel erection standard. The Steel Erection Negotiated Rulemaking Advisory Committee (SENRAC), a 20-member committee, was established, and the SENRAC charter was signed by Secretary Reich on May 26, 1994. The primary issues the committee negotiated included the need to expand the scope and application of the existing standard to include construction specifications and work practices, written construction safety erection plans, and fall protection. The Committee met 11 times over an 18-month period and completed work on the draft regulatory text for the proposed steel erection standard on December 1, 1995.

The negotiated rulemaking process brought together the interested parties that will be affected by a revision to the steel erection rule. They found common ground on the major issues and developed language for a proposed rule. The use of this process allowed the stakeholders to develop an ownership stake in the proposal that they would not otherwise have had.

The process has led to a proposed revision to subpart R of 29 CFR 1926 that contains innovative provisions to help reduce the major causes of steel

erection injuries and fatalities. OSHA issued the proposal on August 13, 1998. A public hearing was held from December 1-11, 1998.

Statement of Need: In 1989, OSHA was petitioned by the Ironworkers Union and National Erectors Association to revise its construction safety standard for steel erection through the negotiated rulemaking process. OSHA asked an independent consultant to review the issues involved in a steel erection revision, render an independent opinion, and recommend a course of action to revise the standard. The consultant recommended that OSHA address the issues through negotiated rulemaking. Based on the consultant's findings and the continued requests for negotiated rulemaking, OSHA decided to use the negotiated rulemaking process to develop a proposed revision of subpart R. The use of negotiated rulemaking was thought to be the best approach to resolving steel erection safety issues, some of which had proven intractable in the past.

Summary of the Legal Basis: The legal basis for the proposed steel erection rule is a preliminary finding that workers engaged in steel erection work are at significant risk of serious injury or death as a result of that work.

Alternatives: An alternative to using the negotiated rulemaking process was to publish a notice of proposed rulemaking developed by Agency staff. OSHA anticipated that this alternative would result in an extremely long and contentious rulemaking proceeding, with subsequent challenge in the Court of Appeals. Another alternative would be not to revise the Agency's current steel erection rules for construction. This alternative was rejected because it would permit steel erection-related injuries and fatalities to continue.

Anticipated Costs and Benefits: The estimated annualized compliance costs of the proposal are approximately \$50 million per year, and the Agency believes that the benefits of the standard would include the prevention of an estimated 14 fatalities and 824 lost workday injuries per year.

Risks: The risk associated with steel erection activities is great. OSHA estimates that 28 workers are killed every year during steel erection activities. Falls are currently the number one killer of construction workers, and since the erection of

DOL—OSHA

Final Rule Stage

buildings necessarily involves high exposure to fall hazards, the central focus of this rule will be to eliminate or reduce the risks associated with falls.

Timetable:

| Action | Date | FR Cite |
|-----------------------------------|----------|-------------|
| Notice of Committee Establishment | 05/11/94 | 59 FR 24389 |
| NPRM | 08/13/98 | 63 FR 43451 |
| NPRM Comment Period End | 11/17/98 | |
| Public Hearing | 02/11/99 | |
| Final Rule | 12/00/99 | |

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1218-AA65

2031. SCAFFOLDS IN SHIPYARDS (PART 1915—SUBPART N) (PHASE I)

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

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

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

CFR Citation: 29 CFR 1915.71

Legal Deadline: None

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

Phase 1 of this project aimed at establishing a vertical standard for shipyard employment and addressed six shipyard employment safety

standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these subparts were issued in November 1988 (53 FR 48092). The remaining subparts were categorized as Phase II of the consolidation project (including general working conditions and fire protection). This action was endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards.

This particular regulatory action will revise the existing shipyard employment standards covering scaffolds and will consolidate all related and applicable 29 CFR part 1910 provisions. It will develop, in part, performance-oriented standards, address current gaps in coverage, and address new technologies.

Timetable:

| Action | Date | FR Cite |
|----------------------------------------------|----------|-------------|
| NPRM | 11/29/88 | 53 FR 48182 |
| NPRM Comment Period End | 02/27/89 | |
| Reopened Record Comment Period Ended 6/13/94 | 04/12/94 | 59 FR 17290 |
| Final Action | 12/00/99 | |

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218-AA68

2032. RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES (SIMPLIFIED INJURY/ILLNESS RECORDKEEPING REQUIREMENTS)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 657; 29 USC 673

CFR Citation: 29 CFR 1904; 29 CFR 1952.4

Legal Deadline: None

Abstract: OSHA requires employers to keep records of illnesses and injuries. These records are used by OSHA and the Bureau of Labor Statistics (BLS), among others, to develop data on workplace safety and health by industry and across industries. Over the years concerns about the reliability and utility of these data have been raised by Congress, the National Institute for Occupational Safety and Health (NIOSH), the National Academy of Sciences, the Office of Management and Budget (OMB), the General Accounting Office, business and labor, as well as BLS and OSHA. In the late 1980's, OSHA contracted with the Keystone Center to bring together representatives of industry, labor, government, and academia in a year-long effort to discuss problems with OSHA's injury and illness recordkeeping system. Keystone issued a report with specific recommendations on how to improve the system. In 1995, OSHA held several meetings with stakeholders from business, labor and government in order to obtain feedback on a draft OSHA recordkeeping proposal and to gather related information.

OSHA published a Notice of Proposed Rulemaking (NPRM) in the February 2, 1996 Federal Register that contained revised recordkeeping requirements and recordkeeping forms. The original 90-day public comment period was extended another 60 days and ended July 2, 1996. In addition, two public meetings were held in Washington, DC (March 26-29 and April 30-May 1). Over 450 written comments were entered into the Docket R-02, along with 1,200 pages of input derived from nearly 60 presentations given at the public meetings.

OSHA is now planning to issue a final rule that incorporates changes based on an analysis of the public comments and testimony.

Statement of Need: The occupational injury and illness records maintained by employers are an important component of OSHA's program. The records are used by employers and employees to identify and evaluate workplace safety and health hazards, and they provide OSHA personnel with necessary information during

DOL—OSHA

Final Rule Stage

workplace inspections. The records also provide the source data for the Annual Survey of Occupational Injuries and Illnesses conducted by the BLS.

All of these uses of the data are affected by the quality of the records employers maintain. Higher quality data lead to higher quality analyses, which in turn lead to better decisions about occupational safety and health matters. To improve the quality of the records and enhance the utility of the information for all the entities using the data, OSHA needs to provide clearer guidance to employers, simplify the recordkeeping forms and provide employees with access to the information.

Summary of the Legal Basis: The legal basis for issuance of this final rule is Section 8(c)(1) of the Act, which requires employers to record and report such records as are necessary for the enforcement of the Act and for developing information on the causes and prevention of occupational accidents and illnesses, as required by regulation and section 24(a) of the Act, which requires OSHA to develop an effective program of occupational safety and health statistics to further the purposes of the Act.

Alternatives: One alternative to publication of a final rule is to take no action and continue to administer the injury and illness recordkeeping system using the current regulation, forms and guidelines. Another alternative is to revise the current rule to expand its coverage and scope (i.e., eliminate the current rule's small employer and Standard Industrial Classification exemptions).

The first alternative is unacceptable because it does not address the problems with the current system identified by participants in the Keystone dialogue and other OSHA stakeholders. The second alternative is also unacceptable because it would require many employers, especially small-business employers, in low hazard industries to keep OSHA injury and illness data. This could impose a substantial paperwork burden on those employers without commensurate benefit.

Anticipated Costs and Benefits: The costs and benefits of the final rule have not yet been determined.

Risks: Not applicable.

Timetable:

| Action | Date | FR Cite |
|-------------------------|----------|------------|
| NPRM | 02/02/96 | 61 FR 4030 |
| NPRM Comment Period End | 07/02/96 | |
| Final Action | 06/00/99 | |
| Final Action Effective | 01/00/00 | |

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Sectors Affected: All

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RIN: 1218-AB24

2033. PLAIN LANGUAGE REVISION OF EXISTING STANDARDS (PHASE I)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

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

CFR Citation: 29 CFR 1910.107; 29 CFR 1910.94(c); 29 CFR 1910.94(d); 29 CFR 1910.35; 29 CFR 1910.36; 29 CFR 1910.37; 29 CFR 1910.38

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA) adopted its initial package of workplace safety and health standards in the 1970's. Many of these standards have been identified by the regulated community as being overly complex, difficult to read and follow, and out of date with current technology.

OSHA is initiating separate rulemakings to revise two of OSHA's most complex and out-of-date section 6(a) standards. The purpose of these rulemakings is to simplify and clarify these standards and to write them in "plain language," as directed by the President's report and the June 1998 Executive Memorandum on Plain

Language. The two standards address means of egress, section 1910.37 and spray finishing using flammable and combustible liquids, section 1910.107. Section 1910.107 also contains substantive ventilation requirements that duplicate ventilation requirements contained in section 1910.94, paragraphs (c) and (d).

Statement of Need:

These two OSHA standards are being revised as part of the President's initiative on Federal regulations discussed in the U.S. Department of Labor report of June 15, 1995 and in response to the June 1998 Executive Memorandum on Plain Language.

Exposure to flammable and combustible liquids during spray applications creates a variety of safety and health problems including thermal burns, chemical burns, smoke inhalation, respiratory inflammations and infections, nausea, dizziness, respiratory allergies, heart disease, lung cancer, decreases in pulmonary function, and other serious injuries and illnesses. In case of an emergency, proper exit routes are needed both to protect employees from being trapped in hazardous work areas and to guide employees to safety.

Summary of the Legal Basis: The legal basis for issuing these plain language rules derives from the OSH Act and responds to the Executive Memo issued by the President in June 1998.

Alternatives: OSHA has considered two alternatives to rewriting these rules in plain language: (1) leaving the rules unchanged; and (2) initiating a comprehensive revision and updating of these rules. The first alternative has been rejected because it would leave these complex and specification-driven rules in place, a situation that has led to confusion and misinterpretations of the rules. The second alternative--conducting comprehensive rulemaking--would take many years, during which the current, poorly-written standards would remain in place. The approach OSHA has taken--conducting rulemaking for the limited but important purpose of rewriting these rules in plain language--is the fastest and least resource-intensive approach to address the serious problems presented by these rules.

Anticipated Costs and Benefits: Because these plain language revisions do not substantively change these rules,

DOL—OSHA

Final Rule Stage

no cost impacts are associated with these revisions.

Risks: Because these revisions are designed solely to simplify and clarify these standards, no assessment of risks is required.

Timetable:

| Action | Date | FR Cite |
|-------------------------------------------------------|----------|-------------|
| NPRM Exit Routes (Means of Egress) | 09/10/96 | 61 FR 47712 |
| Hearing on Exit Routes | 04/29/97 | 62 FR 9402 |
| Final Action Dipping and Coating Operations | 03/23/99 | 64 FR 13897 |
| Final Action Effective Dipping and Coating Operations | 04/22/99 | |

| Action | Date | FR Cite |
|--------------------------------------------|----------|---------|
| NPRM Spray Finishing | 12/00/99 | |
| Final Action Exit Routes (Means of Egress) | 12/00/99 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Means of Egress, 29 CFR 1910 subpart E, and Spray Finishing Using Flammable and Combustible Materials, 29 CFR 1910.107, are two standards selected for revision under a Presidential Initiative to revise outdated, duplicative, or obsolete Federal regulations. These standards will be rewritten in plain

language to make them easier to read. 29 CFR 1910.94(c) will be combined with 29 CFR 1910.107 to eliminate duplicative standards. Another plain language initiative, the rewrite of Flammable and Combustible Liquids, 29 CFR 1910.106, has been moved to RIN 1218-AB61.

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RIN: 1218-AB55

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Long-Term Actions

2034. 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.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 941; 29 USC 655

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, OSHA is considering the issue of vertical tandem lifts. Vertical tandem lifts (VTLs) involve the lifting of two intermodal containers, secured together with twist locks, at the same time. Because some commenters to the record questioned the safety of allowing such tandem lifts and the record does not contain adequate information to allow the Agency to address this issue, OSHA is gathering additional information on this issue.

Timetable:

| Action | Date | FR Cite |
|--------|----------|-------------|
| NPRM | 06/06/94 | 59 FR 28594 |

| Action | Date | FR Cite |
|---------------------------|--------------|-------------|
| NPRM Comment Period End | 09/23/94 | |
| Final Rule on Longshoring | 07/25/97 | 62 FR 40142 |
| Public Meeting | 01/27/98 | 62 FR 52671 |
| Next Action | Undetermined | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1218-AA56

2035. GLYCOL ETHERS: 2-METHOXYETHANOL, 2-ETHOXYETHANOL, AND THEIR ACETATES: PROTECTING REPRODUCTIVE HEALTH

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 1910.1000; 29 CFR 1910.1031

Legal Deadline: None

Abstract: On May 20, 1986, the Environmental Protection Agency (EPA) issued a report to OSHA, under section 9(a) of the Toxic Substance Control Act, stating that EPA had reasonable basis to conclude that the risk of injury to worker health from exposure to four glycol ethers during their manufacture, processing and use was unreasonable, and that this risk may be prevented or reduced to a significant extent by OSHA regulatory action. EPA gave OSHA 180 days in which to respond to its report. OSHA published its response on December 11, 1986, stating that OSHA had preliminarily concluded that occupational exposures to the subject glycol ethers at the current OSHA permissible exposure limits may present significant risks to the health of workers. 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, 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 is working toward promulgation of a final rule in 2000.

Timetable:

| Action | Date | FR Cite |
|--------------------------|----------|-------------|
| ANPRM | 04/02/87 | 52 FR 10586 |
| ANPRM Comment Period End | 07/31/87 | |

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| Action | Date | FR Cite |
|----------------------------|----------|-------------|
| NPRM | 03/23/93 | 58 FR 15526 |
| NPRM Comment Period End | 06/07/93 | |
| Final Action | 12/00/00 | |

**Regulatory Flexibility Analysis
Required:** Undetermined

Government Levels Affected:
Undetermined

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RIN: 1218-AA84

**2036. ACCREDITATION OF TRAINING
PROGRAMS FOR HAZARDOUS
WASTE OPERATIONS (PART 1910)**

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 1910.121

Legal Deadline: None

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

On December 22, 1987, as part of an
omnibus budget reconciliation bill (PL
100-202), Congress amended section
126(d)(3) of SARA to include
accreditation of training programs for
hazardous waste operations. OSHA
issued a proposal on January 26, 1990
(55 FR 2776) addressing this issue.
OSHA received public comments
following the issuance of the proposal.
OSHA also reopened the record in June
1992 to allow additional public
comment on an effectiveness of training
study that the Agency had conducted.
OSHA has also developed

nonmandatory guidelines to further
address minimum training criteria.

Timetable:

| Action | Date | FR Cite |
|----------------------------|----------|------------|
| NPRM | 01/26/90 | 55 FR 2776 |
| NPRM Comment Period End | 04/26/90 | |
| Final Action | To Be | Determined |

**Regulatory Flexibility Analysis
Required:** Undetermined

Government Levels Affected:
Undetermined

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RIN: 1218-AB27

**2037. INDOOR AIR QUALITY IN THE
WORKPLACE**

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655

CFR Citation: 29 CFR 1910; 29 CFR
1915; 29 CFR 1926; 29 CFR 1928

Legal Deadline: None

Abstract: OSHA was petitioned in May
1987 by Action on Smoking and Health
(ASH), Public Citizen, and the
American Public Health Association to
issue an emergency temporary standard
on environmental tobacco smoke (ETS)
in the workplace. In March 1992,
OSHA was petitioned by the AFL-CIO
to establish workplace IAQ standards.
In December 1992, ASH again
petitioned for rulemaking on ETS.

Every day, more than 20 million
American workers face an unnecessary
health threat because of indoor air
pollution in the workplace. Thousands
of heart disease deaths, hundreds of
lung cancer deaths, respiratory disease,
Legionnaire's disease, asthma, and
other ailments are estimated to be
linked to this occupational hazard.
Further, America's workers are at risk
of developing thousands of upper
respiratory tract symptoms from indoor
air pollutants. EPA estimates that 20 to
35 percent of all workers in modern

mechanically ventilated buildings may
experience air-quality problems.

After reviewing and analyzing available
information, OSHA published a
proposed rule on April 5, 1994. The
proposal would require employers to
write and implement indoor air quality
compliance plans that would include
inspection and maintenance of current
building ventilation systems to ensure
they are functioning as designed. In
buildings where smoking is allowed,
the proposal would require designated
smoking areas that would be separate,
enclosed rooms where the air would be
exhausted directly to the outside. Other
proposed provisions would require
employers to maintain healthy air
quality during renovation, remodeling,
and similar activities. The provisions
for indoor air quality would apply to
70 million workers and more than 4.5
million nonindustrial indoor work
environments, including schools and
training centers, offices, commercial
establishments, health care facilities,
cafeterias and factory break rooms. ETS
provisions would apply to all 6 million
industrial and nonindustrial work
environments under OSHA's
jurisdiction. OSHA preliminarily
estimates that the proposed standard
will prevent a substantial number of
air-quality related illnesses per year.

Timetable:

| Action | Date | FR Cite |
|----------------------------|----------|-------------|
| Request for Information | 09/20/91 | 56 FR 47892 |
| NPRM | 04/05/94 | 59 FR 15968 |
| NPRM Comment Period End | 08/13/94 | 59 FR 30560 |
| Record Closed | 02/09/96 | |
| Final Action | To Be | Determined |

**Regulatory Flexibility Analysis
Required:** Undetermined

Government Levels Affected:
Undetermined

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RIN: 1218-AB37

DOL—OSHA

Long-Term Actions

2038. OCCUPATIONAL EXPOSURE TO TUBERCULOSIS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104-4.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1035

Legal Deadline: None

Abstract: On August 25, 1993, the Occupational Safety and Health Administration (OSHA) was petitioned by the Labor Coalition to Fight TB in the Workplace to initiate rulemaking for a permanent standard to protect workers against occupational transmission of tuberculosis (TB). Although the Centers for Disease Control and Prevention (CDC) have developed recommendations for controlling the spread of TB in several work settings (e.g., correctional institutions, health-care facilities, and homeless shelters), the petitioners stated that in every recent TB outbreak investigated by the CDC, noncompliance with CDC's TB control guidelines was evident. After reviewing the available information, OSHA preliminarily concluded that a significant risk of occupational transmission of TB exists for some workers and has accordingly issued a proposed rule. OSHA already regulates the exposure to the biological hazard of bloodborne pathogens (e.g., HIV, hepatitis B) under 29 CFR 1910.1030 and believes that development of a TB standard is consistent with the Agency's mission and previous activity. On October 17, 1997, OSHA published its proposed standard for occupational exposure to tuberculosis (62 FR 54160). The proposed rule covers workers in hospitals, nursing homes, hospices, correctional facilities, homeless shelters, and certain other work settings where workers are at significant risk of incurring TB infection while caring for their patients and clients or performing certain procedures. The proposed standard would require employers to protect TB-exposed employees by means of infection prevention and control measures that have been demonstrated to be highly effective in reducing or eliminating job-related TB infections. Such measures include procedures for early identification of individuals with infectious TB, isolation of individuals with infectious

TB using appropriate ventilation, use of respiratory protection in certain situations, skin testing and training of employees with occupational exposure, and medical management and follow-up after exposure incidents or skin test conversions.

The written comment period ended on February 17, 1998. Subsequently, informal public hearings were held in Washington, DC (April 7-17), Los Angeles, CA (May 5-7), New York City, NY (May 19-21) and Chicago, IL (June 2-4). At the end of the hearings a post-hearing comment period was established. The deadline for final summation, briefs and written comments was October 5, 1998.

In addition to the public hearings, OSHA consulted with parties outside of the Agency with regard to the proposal. The preliminary Risk Assessment was peer-reviewed by four individuals with specific knowledge in the areas of tuberculosis and risk assessment. In addition, OSHA conducted stakeholder meetings with representatives of relevant professional organizations, trade associations, labor unions, and other groups. The proposal was also reviewed and commented on by affected small business entities under the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). In addition, the draft proposed standard and preamble were reviewed by the Office of Management and Budget. OSHA is working on a final rule, which is expected in 2000.

OSHA will be reopening the rulemaking record for the limited purpose of placing a newly completed survey on homeless shelters, some new studies on respirator fit factors and another document in the record. The Agency will publish a notice in the Federal Register informing the public of the limited reopening and requesting public comment on the Agency submission.

Statement of Need: For centuries, TB has been responsible for the deaths of millions of people throughout the world. TB is a contagious disease caused by the bacterium *Mycobacterium tuberculosis*. Infection is generally acquired by the inhalation of airborne particles carrying the bacterium. These airborne particles, called droplet nuclei, can be generated when persons with pulmonary or laryngeal tuberculosis in the infectious

state of the disease cough, sneeze, speak, or sing. In some individuals exposed to droplet nuclei, TB bacilli enter the alveoli and establish an infection. In most cases, the bacilli are contained by the individual's immune response. However, in some cases, the bacilli are not contained by the immune system and continue to grow and invade the tissue, leading to the progressive destruction of the organ involved. Although in most cases this organ is the lung (i.e., pulmonary tuberculosis), other organs outside of the lung may also be infected and become diseased (i.e., extrapulmonary tuberculosis).

From 1953, when active cases began to be reported in the United States, until 1984, the number of annual reported cases declined 74 percent, from 84,304 to 22,255. However, this steady decline in TB cases did not continue. Instead, from 1985 through 1992 the number of reported TB cases increased 20.1 percent. In 1992 more than 26,000 new cases of active TB were reported in the United States. In New York City alone, 3,700 cases of active TB were reported in 1991. While a decrease in active cases has been observed recently, there were still 19,851 reported cases in 1996. A large portion of the decrease occurred in high incidence areas where intervention efforts have been focused. However, over thirteen states showed an increase or no change in the number of reported cases in 1997. In addition, the factors that led to the recent resurgence of TB (e.g., increases in homelessness, HIV infection, immigration from countries with high rates of infection) still exist and the job duties of certain workers require them to be exposed to patients and clients with suspected or confirmed infectious TB. In addition, outbreaks of multidrug-resistant TB (MDR-TB) continue to occur. These strains of TB are resistant to several of the first-line anti-TB drugs. This multidrug-resistant TB (MDR-TB) is often fatal due to the difficulty of halting the progression of the disease. Individuals with MDR-TB often remain infectious for longer periods of time due to delays in diagnosing resistance patterns and initiating proper treatment. This lengthened period of infectiousness increases the risk that the organism will be transmitted to other persons coming in contact with such individuals.

Providing health care for individuals with TB increases the risk of

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occupational exposure among health care workers. In fact, several outbreaks of tuberculosis, including MDR-TB, have occurred in health care facilities, resulting in transmission to both patients and health care workers. CDC found that factors contributing to these outbreaks included delayed diagnosis of TB, delayed recognition of drug resistance, delayed initiation of effective therapy, delayed initiation and inadequate duration of TB isolation, inadequate ventilation in TB isolation rooms, lapses in TB isolation practices, inadequate precautions for cough-inducing procedures, and lack of adequate respiratory protection. CDC analyzed data from three of the health care facilities involved in the outbreaks, and determined that transmission of TB decreased significantly or ceased entirely in areas where recommended TB control measures were implemented. In addition, workers outside of health care may provide services to patient or client populations that have an increased rate of TB. For example, occupational transmission of TB has been documented in correctional facilities.

Summary of the Legal Basis: The legal basis for the proposed TB standard is a preliminary finding by the Secretary of Labor that workers in hospitals, nursing homes, hospices, correctional facilities, homeless shelters, and certain other work settings are at significant risk of incurring TB infection while caring for their patients and clients or performing certain procedures.

Alternatives: Prior to a decision to publish a proposal, OSHA considered a number of options, including whether or not to develop an emergency temporary standard, publish an advance notice of proposed rulemaking, or to enforce existing regulations.

Anticipated Costs and Benefits: Costs will be incurred by employers for engineering controls, respiratory protection, medical surveillance, training, exposure control, recordkeeping, and work practice controls. Benefits will include the prevention of occupationally-related TB transmissions and infections, and a corresponding reduced risk of exposure among the general population. OSHA estimates that more than 5 million workers are exposed to TB in the course of their work. The Agency estimates that the proposed provisions will result in an annual cost of 245

million dollars. Implementation of the standard is estimated to reduce the number of job-related cases of TB by 70-90 percent in the work settings covered, thus preventing approximately 21,400 to 25,800 work-related infections per year, 1,500 to 1,700 active cases of TB resulting from these infections, and 115 to 136 deaths resulting from these active cases.

Risks: From 1985 to 1992, the number of reported cases of TB in the U.S. increased, reversing a previous 30-year downward trend. While there has been a recent decrease in the reported number of cases of TB in the general population, a large part of this decrease can be attributed to focused intervention efforts in areas of high incidence of TB. Thirteen states showed an increase or no change in the number of reported TB cases in 1997, and the factors that contributed to the resurgence continue to exist along with exposure of certain workers to patient and client populations with an increased rate of TB. In addition, outbreaks of multidrug-resistant TB, a more fatal form of the disease, continue to occur. Therefore, employees in work settings such as health care or correctional facilities, who have contact with infectious individuals, are at high risk of occupational transmission. TB is a contagious disease spread by airborne particles known as droplet nuclei. Active disease can cause signs and symptoms such as fatigue, weight loss, fever, night sweats, loss of appetite, persistent cough, and shortness of breath, and may possibly result in serious respiratory illness or death.

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 | |
| Final Rule | 12/00/00 | |

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: During the rulemaking, OSHA met with small business stakeholders to discuss their

concerns, and conducted an initial Regulatory Flexibility Analysis to identify any significant impacts on a substantial number of small entities. In addition, OSHA conducted a special study of homeless shelters and set aside certain hearing dates for persons who wished to testify on homeless shelter issues.

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RIN: 1218-AB46

2039. FIRE BRIGADES

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 1910.156

Legal Deadline: None

Abstract: Firefighting exposes members of fire brigades to a significant risk of harm. To mitigate these risks, OSHA promulgated a standard for fire brigades in 1980. However, the standard is now more than 18 years old, and does not reflect current advances in technology and safety. This action would revise the existing fire brigade standard to reflect the latest technology in safety, particularly with respect to personal protective equipment and emergency procedures. It would also address gaps in coverage since the existing fire brigade standard does not cover wildland fire fighting or crash-rescue type fire fighting. OSHA will be working closely with State Plan States to assess the potential impact of the proposed rule on municipal fire departments.

Timetable:

| Action | Date | FR Cite |
|--------|-------|------------|
| NPRM | To Be | Determined |

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: Undetermined

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DOL—OSHA

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RIN: 1218-AB64

2040. OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 1910; 29 CFR 1926; 29 CFR 1915; 29 CFR 1916; 29 CFR 1917; 29 CFR 1918

Legal Deadline: None

Abstract: Silica exposure remains a serious threat to nearly 2 million U.S. workers, including more than 100,000 workers in high risk jobs such as abrasive blasting, foundry work, stonecutting, rock drilling, quarry work and tunneling. The seriousness of the health hazards associated with silica exposure is demonstrated by the fatalities and disabling illnesses that continue to occur in sandblasters and rock drillers and by recent studies that demonstrate a statistically significant increase in lung cancer among silica-exposed workers. In October 1996, the International Agency for Research on Cancer classified crystalline silica as "carcinogenic to humans." Exposure studies indicate that some workers are still exposed to very high levels of silica. Although OSHA currently has a permissible exposure limit for crystalline silica (10mg/m³ divided by the percent of silica in the dust + 2 respirable), more than 30 percent of OSHA-collected silica samples from 1982 through 1991 exceeded this limit. Additionally recent studies suggest that the current OSHA standard is insufficient to protect against silicosis. For example, a recent study concluded that a 45-year exposure under the current OSHA standard would lead to a lifetime risk of silicosis of 35 percent to 47 percent.

OSHA plans to publish a proposed rule on crystalline silica because the agency has preliminarily concluded that there will be no significant progress in the prevention of silica-related diseases

without the adoption of a full and comprehensive silica standard, including provisions for exposure monitoring, engineering and work practice controls, training and education, respiratory protection, and medical surveillance. A comprehensive standard will improve worker protection, ensure adequate prevention programs, and further reduce the incidence of silica-related diseases.

Statement of Need: The current OSHA permissible exposure limit for silica is 10mg/m³ divided by the percent of silica in the dust + 2 (respirable) and 30 mg/m³ divided by the percent of silica in the dust + 2 (total dust). In the interval since this limit was promulgated there have been a number of studies of workers that have estimated that close to 50 percent of workers exposed to silica at the current limit for a 45-year working lifetime would develop silicosis, a disabling, progressive and sometimes fatal disease involving scarring of the lung, coughing, and shortness of breath. There are currently about 300 deaths reported per year from silicosis. However, the actual number of cases and the true risk is unknown due to inadequate case ascertainment, which means that the number of deaths is probably underreported. Also, since the promulgation of OSHA's permissible exposure limit, studies have demonstrated a statistically significant, dose-related increase in lung cancer in several occupational groups.

Because of these recent findings, OSHA believes that it will be necessary to conduct a risk assessment to determine whether the current permissible exposure limit is protective of worker health. OSHA also believes that, in addition to the permissible exposure limit, the ancillary provisions, such as engineering controls, provided by a comprehensive standard will be necessary to reduce worker exposure to crystalline silica.

Summary of the Legal Basis: The legal basis for the proposed rule is a preliminary determination by the Secretary of Labor that exposure to silica at the Agency's current permissible exposure limits poses a significant risk of material impairment of health and that a standard will substantially reduce that risk.

Alternatives: OSHA has considered or conducted several programs designed to reduce worker exposure to crystalline

silica. The OSHA Special Emphasis Program for Silicosis provides inspection targeting to reduce or eliminate workplace exposures to crystalline silica. The National Campaign to Eliminate Silicosis being conducted by OSHA (in conjunction with the National Institute for Occupational Safety and Health, the Mine Safety and Health Administration, and the American Lung Association) is an ongoing program involving outreach and education and the dissemination of materials on methods to reduce worker exposure to crystalline silica. Other nonregulatory approaches might include the issuance of nonmandatory guidelines, enforcing lower limits through the "general duty" clause of the OSH Act in cases where substantial evidence exists that exposure presents a recognized hazard of death or serious physical harm, and the issuance of hazard alerts. Although these approaches may be partially effective in reducing worker exposure to crystalline silica and reducing disease risk, OSHA believes that progress in the prevention of silica-related diseases demands the issuance of a comprehensive silica standard.

Anticipated Costs and Benefits: The scope of the proposed rule is currently under development and thus quantitative estimates of costs and benefits have not been determined at this time.

Risks: OSHA has not yet completed an assessment of the risks of exposure to crystalline silica. Other studies have shown risks ranging from 35 to 47 percent among workers exposed over a working lifetime and have additionally identified silica as a potential occupational carcinogen.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 06/00/00 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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DOL—OSHA

Long-Term Actions

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RIN: 1218-AB70

2041. CONTROL OF HAZARDOUS ENERGY (LOCKOUT) IN CONSTRUCTION (PART 1926) (PREVENTING CONSTRUCTION INJURIES/FATALITIES; LOCKOUT)

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

Legal Deadline: None

Abstract: OSHA issued a general industry rule on September 1, 1989 (54 FR 36644) to address the hazards posed to workers by the failure to control hazardous energy (i.e., the failure to properly lock out or tag out machines and equipment) during repair and servicing activities. OSHA has not yet issued a standard to prevent these accidents during equipment repair and maintenance activities in the construction industry. Four million workers annually may be exposed to this hazard in construction workplaces. As a result OSHA intends to issue a proposal to address this hazard in this industry.

Construction sites often do not have effective lockout/tagout procedures to control hazardous energy because of several factors, all associated with the nature of the construction industry. These factors basically relate to the types of machines and equipment found in construction; the makeup of the industry (i.e., employment is relatively "short term," lasting only as long as the length of the current project); multiple employers having different employer/employee relationships are present at the same site; and "in-the-field" maintenance activity is usually temporary.

Timetable:

| Action | Date | FR Cite |
|--------|-------|------------|
| NPRM | To Be | Determined |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218-AB71

2042. OCCUPATIONAL EXPOSURE TO BERYLLIUM

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: Beryllium is a lightweight metal that is used for nuclear weapons, for atomic energy, and for metal alloys such as beryllium-copper and beryllium-aluminum. The metal alloys are used in dental appliances, golf clubs, non-sparking tools, wheel chairs, etc. Beryllium is also used in the ceramics industry. The current permissible exposure limits for beryllium are: an 8-hour TWA of 2 ug/m3; a 5 ug/m3 ceiling concentration not to be exceeded over a 30-minute period; and a 25 ug/m3 maximum peak exposure never to be exceeded.

In 1977, OSHA proposed to reduce the 8-hour TWA exposure to beryllium from 2 ug/m3 to 1 ug/m3 based on evidence that beryllium caused lung cancer in exposed workers. A hearing followed the proposal, but a final standard was never published. Since the previous OSHA hearing, NIOSH has updated its studies on beryllium exposed workers. The study results again demonstrate a significant excess of lung cancer among exposed workers. The International Agency for Research on Cancer (IARC) has concluded that beryllium is a carcinogen in humans. (Category I)

In addition to lung cancer, a new OSHA beryllium standard would address chronic beryllium disease (CBD), a fatal disease involving lung fibrosis and other organ toxicity. Based on several recent studies involving workers employed in the beryllium ceramics industry, in beryllium production, and in Department of Energy facilities, there is now evidence that very low level beryllium exposure

(less than 0.5 ug/m3) may cause CBD. A recent (1997) study from Japan concludes that the level necessary to protect workers from developing CBD cannot exceed 0.01 ug/m3. A new medical surveillance tool is now available that allows for the early detection of workers with CBD prior to any signs of clinical disease or symptoms. Beryllium-sensitized workers convert to CBD at an estimated rate of about 10 percent per year. This "beryllium sensitization" test is being used in clinical studies of current and past exposed workers. Recent study results indicate that between 5 percent and 15 percent of beryllium-exposed workers are sensitized and will eventually develop CBD. In 1997, DOE issued interim guidelines to protect beryllium-exposed workers at all DOE facilities. The guidelines include provisions for exposure monitoring, medical surveillance and relocation of beryllium-sensitized workers.

The DOE guidelines, however, do not affect workers outside DOE facilities. Thus, OSHA needs to initiate rulemaking to protect beryllium-exposed workers from contracting CBD and lung cancer.

Timetable:

| Action | Date | FR Cite |
|--------|-------|------------|
| NPRM | To Be | Determined |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218-AB76

2043. CONSOLIDATION OF RECORDS MAINTENANCE REQUIREMENTS IN OSHA STANDARDS

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

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

DOL—OSHA

Long-Term Actions

Legal Authority: 40 USC 333; 29 USC 655; 33 USC 941; 5 USC 553

CFR Citation: 29 CFR 1910; 29 CFR 1915 to 1918; 29 CFR 1926; 29 CFR 1928

Legal Deadline: None

Abstract: OSHA is initiating a rulemaking to simplify and consolidate many of its requirements for employers to maintain records of training, testing, medical surveillance, and other activities conducted to comply with OSHA health and safety standards. These records maintenance requirements appear in many OSHA standards and are codified at 29 CFR 1910 (General Industry), 29 CFR 1915-1918 (Maritime), 29 CFR 1926 (Construction), and 29 CFR 1928 (Agriculture). The final rule, when published, will facilitate compliance with these requirements and reduce the amount of paperwork associated with these records, but will leave employee protections unchanged.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 06/00/00 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218-AB78

2044. 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

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655 (b)

CFR Citation: 29 CFR 1910, subpart D

Legal Deadline: None

Abstract: OSHA has had under consideration standards for walking working surfaces and personal fall protection systems. OSHA is analyzing the record to determine if it is appropriate to repropose the standard or issue a final rule based on the existing record.

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 |
| Next Action | Undetermined | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1218-AB80

DEPARTMENT OF LABOR (DOL)

Completed Actions

Occupational Safety and Health Administration (OSHA)

2045. POWERED INDUSTRIAL TRUCK OPERATOR TRAINING (INDUSTRIAL TRUCK SAFETY TRAINING)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 29 USC 655; 33 USC 941; 40 USC 333

CFR Citation: 29 CFR 1910.178; 29 CFR 1915.120; 29 CFR 1917.1; 29 CFR 1918.1; 29 CFR 1926.602

Legal Deadline: None

Abstract: Operation of powered industrial trucks, such as forklifts, is one of the leading causes of fatalities in the private sector. On average, there are 110 fatalities and 95,000 injuries annually in the workplace from this cause.

The former standard has proven to be ineffective in reducing the number of accidents involving powered industrial trucks. As a result, there has been

strong interest that OSHA issue a new standard to more effectively address this hazard. OSHA has revised the former standard to increase its effectiveness by requiring, in performance language, initial and refresher training and evaluation as necessary. The frequency of the refresher training is based upon the vehicle operator's knowledge, skills, and abilities to perform the job safely. OSHA also states in the revised rule what information the training should include. This rule applies to general industry, the maritime industries and construction.

Timetable:

| Action | Date | FR Cite |
|-------------------------|----------|-------------|
| NPRM | 03/14/95 | 60 FR 13782 |
| NPRM Second and Hearing | 01/30/96 | 61 FR 3092 |
| NPRM Comment Period End | 08/15/96 | |
| Final Action | 12/01/98 | 63 FR 66238 |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The final rule will prevent an estimated 11 deaths and 9500 injuries per year. Compliance with the new rule is required by November 11, 1999.

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RIN: 1218-AB33

DOL—OSHA

Completed Actions

2046. PERMIT REQUIRED CONFINED SPACES (GENERAL INDUSTRY: PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES)**Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 655(b)**CFR Citation:** 29 CFR 1910.146**Legal Deadline:** None

Abstract: OSHA issued a final standard governing employee entry into confined spaces in general industry on January 14, 1993 (58 FR 4462). The standard was challenged by a number of parties including the United Steelworkers of America. OSHA reached a settlement agreement with the Steelworkers in June 1994. As part of this settlement agreement, OSHA issued a proposal on

November 28, 1994 (59 FR 60735), to clarify paragraph (k) of the rule, Rescue and Emergency Services. OSHA also proposed to allow more flexibility in the point of retrieval line attachment and asked whether the standard should provide affected employees or their representatives with the opportunity to observe the evaluation of confined spaces, including atmospheric testing, and to have access to evaluation results. Hearings were held September 27-28 1995. The post-hearing comment period ended on December 20, 1995. In February 1996, the record was closed. The final rule was issued on December 1, 1998 (63 FR 66018).

Timetable:

| Action | Date | FR Cite |
|--------|----------|-------------|
| NPRM | 11/28/94 | 59 FR 60735 |

| Action | Date | FR Cite |
|-------------------------|----------|-------------|
| NPRM Comment Period End | 02/27/95 | |
| Final Action | 12/01/98 | 63 FR 66018 |

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

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RIN: 1218-AB52

[FR Doc. 99-7009 Filed 04-23-99; 8:45 am]

BILLING CODE 4510-23-F