



# Federal Register

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**Monday,  
April 24, 2000**

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**Part XII**

**Department of Labor**

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**Semiannual Regulatory Agenda**

**DEPARTMENT OF LABOR (DOL)**

**DEPARTMENT OF LABOR**

**Office of the Secretary**

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

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

**30 CFR Ch. I**

**41 CFR Ch. 60**

**48 CFR Ch. 29**

**Semiannual Agenda of Regulations**

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

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** This document sets forth the Department's semiannual agenda of regulations that have been selected for review or development during the coming year. The 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 2000 and April 2001 as well as those completed during the past 6 months.

**FOR FURTHER INFORMATION CONTACT:** Barbara Bingham, Acting Director for the Office of Regulatory Economics, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-2312, Washington, DC 20210, (202) 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 Identification Number
1836	Production or Disclosure of Information or Materials .....	1290-AA17

**Office of the Secretary—Completed Actions**

Sequence Number	Title	Regulation Identification Number
1837	Supplemental Standards of Ethical Conduct for Employees of the Department of Labor .....	1290-AA15
1838	Equal Access to Justice Act .....	1290-AA18
1839	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 Identification Number
1840	Government Contractors: Nondiscrimination and Affirmative Action Obligations, Executive Order 11246 (ESA/OFCCP) ( <b>Section 610 Review</b> ) .....	1215-AA01
1841	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
1842	Records To Be Kept by Employers Under the Fair Labor Standards Act .....	1215-AB03
1843	Assessment and Collection of User Fees .....	1215-AB06
1844	Implementation of the 1996 Amendments to the Fair Labor Standards Act .....	1215-AB13

## DOL

## Employment Standards Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1845	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
1846	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals With Disabilities .....	1215-AB23
1847	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era .....	1215-AB24
1848	Service Contract Act Exemption for Certain Commercial Service Contracts .....	1215-AB26
1849	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Special Disabled Veterans and Veterans of the Vietnam Era (Revised) .....	1215-AB27
1850	Government Contractors: Nondiscrimination and Affirmative Action Obligations, Executive Order 11246 (ESA/OFCCP) (Revised) .....	1215-AB28
1851	Longshore Act Medical Fee Schedule .....	1215-AB30

## Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1852	Child Labor Regulations, Orders, and Statements of Interpretation (ESA/W-H) .....	1215-AA09
1853	Standards for Waivers Under Section 503 of the Rehabilitation Act .....	1215-AA84
1854	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
1855	Black Lung Benefits Under the Federal Coal Mine Safety and Health Act of 1969, as Amended .....	1215-AA99
1856	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models .....	1215-AB09
1857	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 Identification Number
1858	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H) .....	1215-AA14
1859	Application of the Fair Labor Standards Act to Domestic Service .....	1215-AA82

## Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1860	Enforcement of Contractual Obligations for Temporary Alien Agricultural Workers Admitted Under Section 216 of the Immigration and Nationality Act .....	1215-AA43
1861	Exemptions Applicable to Agriculture, Processing of Agricultural Commodities, and Related Subjects Under the Fair Labor Standards Act .....	1215-AB11
1862	Reporting by Labor Relations Consultants and Other Persons .....	1215-AB14
1863	Labor Organization Annual Financial Report .....	1215-AB29

## Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1864	Disaster Unemployment Assistance Program, Amendment to Regulations .....	1205-AB02

## DOL

## Employment and Training Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1865	Federal-State Unemployment Compensation Program; Unemployment Insurance Performance System .....	1205-AB10
1866	Labor Certification and Petition Process for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the United States; Modification of Fee Structure .....	1205-AB24
1867	Labor Certification Process for the Permanent Employment of Aliens in the United States; Refiling of Applications .....	1205-AB25

## Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1868	Trade Adjustment Assistance for Workers—Implementation of 1988 Amendments .....	1205-AB05
1869	Trade Adjustment Assistance for Workers—Transitional Adjustment Assistance NAFTA-TAA .....	1205-AB07
1870	Welfare-to-Work (WTW) Grants .....	1205-AB15
1871	(UC) Program; Confidentiality and Disclosure of Information in State UC Records .....	1205-AB18
1872	Workforce Investment Act of 1998 .....	1205-AB20
1873	Birth and Adoption Unemployment Compensation .....	1205-AB21
1874	Labor Certification and Petition Process for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the United States; Delegation of Authority to Adjudicate H-2A Petitions .....	1205-AB23
1875	Attestations by Facilities Temporarily Employing H-1C Nonimmigrant Aliens as Registered Nurses .....	1205-AB27

## Employment and Training Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1876	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring, and Enforcement .....	1205-AA37
1877	Labor Certification Process for the Permanent Employment of Aliens in the United States .....	1205-AA66
1878	Establishment of Fees for Immigration Programs Administered by the Employment and Training Administration .....	1205-AB14
1879	Indian and Native American Welfare-to-Work Program .....	1205-AB16

## Pension and Welfare Benefits Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1880	Definition of Collective Bargaining Agreement (ERISA Section 3(40)) .....	1210-AA48
1881	Rulemaking Relating to Notice Requirements for Continuation of Health Care Coverage .....	1210-AA60
1882	Voluntary Fiduciary Correction Program .....	1210-AA76
1883	Regulation Exempting Certain Broker-Dealer and Investment Advisers from Bonding Requirements .....	1210-AA80

## Pension and Welfare Benefits Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1884	Revision of the Form 5500 Series and Implementing and Related Regulations Under the Employee Retirement Income Security Act of 1974 (ERISA) .....	1210-AA52
1885	Regulations Implementing the Health Care Access, Portability and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996 .....	1210-AA54
1886	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
1887	Amendments to Employee Benefit Plan Claims Procedures Regulation .....	1210-AA61
1888	Mental Health Benefits Parity .....	1210-AA62
1889	Health Care Standards for Mothers and Newborns .....	1210-AA63
1890	Reporting Requirements for MEWAs Providing Medical Care Benefits .....	1210-AA64

## DOL

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

Sequence Number	Title	Regulation Identification Number
1891	Elimination of Filing Requirements for Summary Plan Descriptions .....	1210-AA66
1892	Requirement To Furnish Plan Documents Upon Request by the Secretary of Labor .....	1210-AA67
1893	Civil Penalty for Failure To Furnish Certain Plan Documents .....	1210-AA68
1894	Amendments to Summary Plan Description Regulations .....	1210-AA69
1895	Electronic Disclosure of Employee Benefit Plan Information .....	1210-AA71
1896	National Medical Support Notice .....	1210-AA72
1897	Small Pension Plan Security Amendments .....	1210-AA73
1898	Soft Dollar (Interpretive Bulletin) .....	1210-AA74
1899	Rulemaking Relating to the Women's Health and Cancer Rights Act of 1998 .....	1210-AA75
1900	Prohibiting Discrimination Against Participants and Beneficiaries Based on Health Status .....	1210-AA77
1901	Amendments Regarding Allocation of Fiduciary Responsibility; Federal Retirement Thrift Investment Board .....	1210-AA79

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

Sequence Number	Title	Regulation Identification Number
1902	Adequate Consideration .....	1210-AA15
1903	Civil Penalties Under ERISA Section 502(1) .....	1210-AA37
1904	Individual Benefits Reporting Requirements for Defined Contribution Plans .....	1210-AA65

## Pension and Welfare Benefits Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1905	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

## Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1906	Occupational Exposure to Coal Mine Dust (Lowering Exposure Limit) .....	1219-AB08
1907	Mine Rescue Teams .....	1219-AB20

## Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1908	Air Quality, Chemical Substances, and Respiratory Protection Standards .....	1219-AA48
1909	Belt Entry Use as Intake Aircourse To Ventilate Working Sections .....	1219-AA76
1910	Metal/Nonmetal Impoundments .....	1219-AA83
1911	Surface Haulage .....	1219-AA93
1912	Improving and Eliminating Regulations .....	1219-AA98
1913	Respirable Crystalline Silica Standard .....	1219-AB12
1914	Underground Coal Mine Operators Plan Verification and MSHA Compliance Sampling for Respirable Dust .....	1219-AB14
1915	Determination of Concentration of Respirable Coal Mine Dust .....	1219-AB18
1916	Safety Standards for Self-Contained Self-Rescue Devices in Coal and Metal/Nonmetal Underground Mines .....	1219-AB19

**DOL**

Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1917	Hazard Communication .....	1219-AA47
1918	Diesel Particulate Matter (Exposure of Underground Coal Miners) .....	1219-AA74
1919	Longwall Equipment (Including High-Voltage) .....	1219-AA75
1920	Independent Laboratory Testing .....	1219-AA87
1921	Requirements for Approval of Flame-Resistant Conveyor Belts .....	1219-AA92
1922	Diesel Particulate Matter (Exposure of Underground Metal and Nonmetal Miners) .....	1219-AB11

Mine Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1923	Confined Spaces .....	1219-AA54
1924	Safety Standard Revisions for Underground Anthracite Mines .....	1219-AA96
1925	Electrical Standards for Metal and Nonmetal Mines .....	1219-AB01
1926	Training and Retraining of Miners .....	1219-AB02

Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1927	Safety Standards for the Use of Roof-Bolting Machines .....	1219-AA94

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

Sequence Number	Title	Regulation Identification Number
1928	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 Identification Number
1929	Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Investment Act of 1998 .....	1291-AA29
1930	Grants and Agreements .....	1291-AA30

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

Sequence Number	Title	Regulation Identification Number
1931	Department of Labor Acquisition Regulation .....	1291-AA20
1932	Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance From the Department of Labor .....	1291-AA21
1933	Audits of States, Local Governments, and Nonprofit Organizations .....	1291-AA26
1934	Audit Requirements for Grants, Contracts, and Other Agreements .....	1291-AA27

## DOL

## Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1935	Process Safety Management of Highly Hazardous Chemicals .....	1218-AB63
1936	Safety Standards for Scaffolds Used in the Construction Industry—Part II .....	1218-AB68
1937	Grain Handling Facilities ( <b>Section 610 Review</b> ) .....	1218-AB73
1938	Cotton Dust ( <b>Section 610 Review</b> ) .....	1218-AB74
1939	Prevention of Needlestick and Other Sharps Injuries .....	1218-AB85
1940	Occupational Exposure to Perchloroethylene .....	1218-AB86
1941	Sanitation .....	1218-AB87
1942	Hearing Loss Prevention in Construction Workers .....	1218-AB89

## Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1943	Permissible Exposure Limits (PELs) for Air Contaminants .....	1218-AB54
1944	Occupational Exposure to Ethylene Oxide ( <b>Section 610 Review</b> ) .....	1218-AB60
1945	Plain Language Revision of the Flammable and Combustible Liquids Standard .....	1218-AB61
1946	Plain Language Revision of the Mechanical Power-Transmission Apparatus Standard .....	1218-AB66
1947	Electric Power Transmission and Distribution; Electrical Protective Equipment in the Construction Industry .....	1218-AB67
1948	Standards Improvement (Miscellaneous Changes) for General Industry, Marine Terminals, and Construction Standards (Phase II) .....	1218-AB81
1949	Plain Language Revisions to Spray Applications .....	1218-AB84
1950	Signs, Signals, and Barricades .....	1218-AB88

## Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1951	Steel Erection (Part 1926) (Safety Protection for Ironworkers) .....	1218-AA65
1952	Recording and Reporting Occupational Injuries and Illnesses (Simplified Injury/Illness Recordkeeping Requirements) .....	1218-AB24
1953	Ergonomics Programs: Preventing Musculoskeletal Disorders .....	1218-AB36
1954	Occupational Exposure to Tuberculosis .....	1218-AB46
1955	Nationally Recognized Testing Laboratories Programs: Fees .....	1218-AB57
1956	Employer Payment for Personal Protective Equipment .....	1218-AB77
1957	Consultation Agreements .....	1218-AB79
1958	Plain Language Revisions to the Exit Routes Standard .....	1218-AB82

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

Sequence Number	Title	Regulation Identification Number
1959	Respiratory Protection (Proper Use of Modern Respirators) .....	1218-AA05
1960	Longshoring and Marine Terminals (Parts 1917 and 1918) — Reopening of the Record (Vertical Tandem Lifts (VTLs)) .....	1218-AA56
1961	Scaffolds in Shipyards (Part 1915 — Subpart N) .....	1218-AA68
1962	Access and Egress in Shipyards (Part 1915, Subpart E) (Shipyards: Emergency Exits and Aisles) .....	1218-AA70
1963	Glycol Ethers: 2-Methoxyethanol, 2-Ethoxyethanol, and Their Acetates: Protecting Reproductive Health .....	1218-AA84
1964	Accreditation of Training Programs for Hazardous Waste Operations (Part 1910) .....	1218-AB27
1965	Indoor Air Quality in the Workplace .....	1218-AB37
1966	Safety and Health Programs (for General Industry and the Maritime Industries) .....	1218-AB41
1967	Occupational Exposure to Hexavalent Chromium (Preventing Occupational Illness: Chromium) .....	1218-AB45
1968	Confined Spaces in Construction (Part 1926): Preventing Suffocation/Explosions in Confined Spaces .....	1218-AB47
1969	General Working Conditions for Shipyard Employment .....	1218-AB50

DOL

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

Sequence Number	Title	Regulation Identification Number
1970	Fire Protection in Shipyard Employment (Part 1915, Subpart P) (Shipyards: Fire Safety) .....	1218-AB51
1971	Metalworking Fluids: Protecting Respiratory Health .....	1218-AB58
1972	Fall Protection in the Construction Industry .....	1218-AB62
1973	Revocation of Certification Records for Tests, Inspections, and Training .....	1218-AB65
1974	Safety and Health Programs for Construction .....	1218-AB69
1975	Occupational Exposure to Crystalline Silica .....	1218-AB70
1976	Control of Hazardous Energy (Lockout) in Construction (Part 1926) (Preventing Construction Injuries/Fatalities: Lockout) .....	1218-AB71
1977	Occupational Exposure to Beryllium .....	1218-AB76
1978	Consolidation of Records Maintenance Requirements in OSHA Standards .....	1218-AB78
1979	Walking Working Surfaces and Personal Fall Protection Systems (1910) (Slips, Trips and Fall Prevention) .....	1218-AB80
1980	Oil and Gas Well Drilling and Servicing .....	1218-AB83

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1981	Control of Hazardous Energy Sources (Lockout/Tagout) .....	1218-AB59

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

Sequence Number	Title	Regulation Identification Number
1982	Annual Report for Federal Contractors .....	1293-AA07

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

Proposed Rule Stage

**1836. 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	06/00/00	

**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, Room N2428, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
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**RIN:** 1290-AA17

**DEPARTMENT OF LABOR (DOL)**  
**Office of the Secretary (OS)**
**Completed Actions**
**1837. 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	12/30/99	64 FR 73853
Final Action Effective	01/31/00	

**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, Room N2428,

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**RIN:** 1290-AA15

**1838. 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
Withdrawn	02/25/00	

**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, Room N2428, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
 Phone: 202 219-8201

Email: shapiro-robort@dol.gov

**RIN:** 1290-AA18

**1839. 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 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 Comment Period End	03/18/99	
Final Action	02/11/00	65 FR 7194
Final Action Effective	03/13/00	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal, State

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

**RIN:** 1290-AA19

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

**Proposed Rule Stage**

**1840. 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 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 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 Cost 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 Executive Order 11246.

**Timetable:**

Action	Date	FR Cite
NPRM Affirmative Action Plans (60-2)	04/00/00	

**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, Room

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**RIN:** 1215-AA01

**1841. 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	

## DOL—ESA

## Proposed Rule Stage

Action	Date	FR Cite
Final Rule - Walsh-Healey/CWHSSA Rule	08/05/96	61 FR 40714
Second NPRM	12/00/00	

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

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**RIN:** 1215-AA96**1842. 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	04/00/00	

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

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**RIN:** 1215-AB03**1843. 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	11/00/00	

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

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**RIN:** 1215-AB06**1844. 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-

## DOL—ESA

## Proposed Rule Stage

related occupations. Changes will be required in the regulations to reflect these amendments.

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/00	

**Regulatory Flexibility Analysis Required:** No

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

**Agency Contact:** John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
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**RIN:** 1215-AB13

**1845. 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	10/00/00	

**Regulatory Flexibility Analysis Required:** No

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

**Agency Contact:** John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
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**RIN:** 1215-AB21

**1846. 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.

In incorporating the recent revisions of 60-1.20, however, this NPRM would remove the obligation to visit an establishment during a compliance check, which is currently required by section 60-1.20(a)(3) in order to enhance efficiency in resource allocation. (OFCCP also proposes to make the same revision in section 60-1.20(a)(3) and in section 60-250.60(a)(3) of the regulation implementing the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA).)

**Timetable:**

Action	Date	FR Cite
NPRM	06/00/00	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Undetermined

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**RIN:** 1215-AB23

**1847. 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; PL 95-520; PL 93-508, amended; PL 94-502; PL 96-466; PL 101-237; EO 11758; PL 97-306; PL 98-223; PL 105-339; 38 USC 4212; PL 102-16; PL 102-127; PL 102-484

**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 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	06/00/00	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

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## DOL—ESA

## Proposed Rule Stage

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**RIN:** 1215-AB24

### 1848. SERVICE CONTRACT ACT EXEMPTION FOR CERTAIN COMMERCIAL SERVICE CONTRACTS

**Priority:** Other Significant

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

**CFR Citation:** 29 CFR 4.123(e)

**Legal Deadline:** None

**Abstract:** This rule proposes to exempt from prevailing wage, fringe benefit and related labor standards requirements of the McNamara-O'Hara Service Contract Act(SCA) certain types of commercial service contracts meeting prescribed criteria pursuant to Section 4(b) of the SCA. The exemption has been requested by the Office of Federal Procurement Policy(OFPP) following its review of an earlier final rule issued in the Federal Acquisition Regulation (FAR) that exempted all subcontracts for commercial services from the SCA based on the Federal Acquisition Streamlining Act.

**Timetable:**

Action	Date	FR Cite
NPRM	04/00/00	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

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**RIN:** 1215-AB26

### 1849. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS REGARDING SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (REVISED)

**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; PL 105-339

**CFR Citation:** 41 CFR 60-250 (Revision)

**Legal Deadline:** None

**Abstract:** OFCCP proposes to amend the regulations at 60-250.60(a)(3) to remove the obligation to visit an establishment during a compliance check in order to enhance efficiency in resource allocation.

**Timetable:**

Action	Date	FR Cite
NPRM	06/00/00	

**Regulatory Flexibility Analysis Required:** Undetermined

**Small Entities Affected:** No

**Government Levels Affected:** Undetermined

**Agency Contact:** James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, Room N3424, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
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**RIN:** 1215-AB27

### 1850. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS, EXECUTIVE ORDER 11246 (ESA/OFCCP) (REVISED)

**Priority:** Substantive, Nonsignificant

**Legal Authority:** EO 11246, as amended

**CFR Citation:** 41 CFR 60-1 (Revision)

**Legal Deadline:** None

**Abstract:** OFCCP proposes to amend the regulations at 60-1.20(a)(3) to remove the obligation to visit an establishment during a compliance check in order to enhance efficiency in resource allocation.

**Timetable:**

Action	Date	FR Cite
NPRM	06/00/00	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Undetermined

**Agency Contact:** James I. Melvin, Director, Division of Policy, Planning,

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**RIN:** 1215-AB28

### 1851. • LONGSHORE ACT MEDICAL FEE SCHEDULE

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 33 USC 907(g); 33 USC 939

**CFR Citation:** 20 CFR 702.301; 20 CFR 702.406; 20 CFR 702.407; 20 CFR 702.411; 20 CFR 702.413; 20 CFR 702.414; 20 CFR 702.417; 20 CFR 702.435; ...

**Legal Deadline:** None

**Abstract:** The Longshore and Harbor Workers' Compensation Act(LHWCA) directs the Secretary of Labor to actively supervise the medical care and treatment given to injured workers and to determine the necessity, character and sufficiency of the care furnished and to regulate the amounts charged by medical providers for providing such medical services and supplies. The proposed rule clarifies this authority, which is delegated to OWCP's district directors, and the procedure for challenging its exercise. The proposed rule also provides that the recent expansion of the OWCP Medical Fee Schedule to cover pharmacy and inpatient hospital care may be used to determine the prevailing community rate for such services under the LHWCA. Finally, the proposed rule clarifies the circumstances under which a doctor may not be selected to perform an impartial medical examination.

**Timetable:**

Action	Date	FR Cite
NPRM	07/00/00	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

**Agency Contact:** Michael Niss, Director, Longshore and Harborworkers' Compensation, OWCP, Department of Labor, Employment Standards Administration, Room C4315, 200 Constitution Avenue NW., FP Building, Washington, DC 20210

DOL—ESA

Proposed Rule Stage

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RIN: 1215-AB30

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Employment Standards Administration (ESA)

**1852. 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.

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 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 developed based on recent legislation and the public comments responding to the advance notice of proposed rulemaking included specific proposed additions or modifications to the paper baler, teen driving, explosive materials, and roofing hazardous occupation orders, and proposed changes to the permissible cooking activities that 14- and 15-year-olds may perform in retail establishments.

**Anticipated Cost and Benefits:** Preliminary estimates of the anticipated costs and benefits of this regulatory action indicated that the rule was not economically significant. Benefits will include safer working environments and the avoidance of injuries with respect to young workers.

**Risks:** The child labor regulations, by ensuring that permissible job opportunities for working youth are safe and healthy and not detrimental

## DOL—ESA

## Final Rule Stage

to their education as required by the statute, produce positive benefits by reducing health and productivity costs employers may otherwise incur from higher accident and injury rates to young and inexperienced workers. Given the limited nature of the changes in this proposed rule, a detailed assessment of the magnitude of risk was not prepared.

**Timetable:**

Action	Date	FR Cite
Final Action HOS 2, 10 and 12	11/20/91	56 FR 58626
Final Rule Effective	12/20/91	
ANPRM	05/13/94	59 FR 25167
ANPRM Comment Period End	08/11/94	59 FR 40318
NPRM	11/30/99	64 FR 67130
NPRM Comment Period End	01/31/00	
Final Action	10/00/00	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

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**RIN:** 1215-AA09

**1853. 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

Action	Date	FR Cite
NPRM Comment Period End	04/15/96	
Final Action	06/00/00	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

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**RIN:** 1215-AA84

**1854. 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 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 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 Cost and Benefits:** A new rulemaking regarding the helper criteria will seek to make administration of the

## DOL—ESA

## Final Rule Stage

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 included in the NPRM range from \$72.8 million to \$296 million, depending upon the alternative considered and the data sources used.

**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	04/09/99	64 FR 17442
NPRM Comment Period End	06/08/99	
Final Action	08/00/00	

**Regulatory Flexibility Analysis**

**Required:** No

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

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**RIN:** 1215-AA94

### 1855. BLACK LUNG BENEFITS UNDER THE FEDERAL COAL MINE SAFETY AND HEALTH ACT OF 1969, AS AMENDED

**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 the resolution of claims through the informal conference; streamline the litigation process by encouraging the early development and submission of evidence; reduce costs; 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
Second NPRM	10/08/99	64 FR 54966
Second NPRM Comment Period Extended to 1/6/00	11/18/99	64 FR 62997
Second NPRM Comment Period End	12/07/99	
Final Action	12/00/00	

**Regulatory Flexibility Analysis**

**Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

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

**RIN:** 1215-AA99

### 1856. 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	
NPRM	01/05/99	64 FR 628
NPRM Comment Period End	02/04/99	
Interim Final Rule	04/00/00	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** Federal

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

**RIN:** 1215-AB09

### 1857. 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.

## DOL—ESA

## Final Rule Stage

**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	04/00/00	

**Regulatory Flexibility Analysis Required:** No

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

**Agency Contact:** John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
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**RIN:** 1215-AB20

## DEPARTMENT OF LABOR (DOL)

## Long-Term Actions

## Employment Standards Administration (ESA)

**1858. 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 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

## DOL—ESA

## Long-Term Actions

compliance with the regulation's "salary basis" criteria in both the public and private sectors.

**Summary of 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 Cost 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	
NPRM	04/00/01	

**Regulatory Flexibility Analysis**

**Required:** Yes

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

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

**Federalism:** Undetermined

**Agency Contact:** John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
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**RIN:** 1215-AA14

**1859. 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 Period End	02/28/94	
NPRM Second Final Rule	09/08/95	60 FR 46797
Next Action	09/08/95	60 FR 46766

**Regulatory Flexibility Analysis**

**Required:** No

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

**Federalism:** Undetermined

**Agency Contact:** John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
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**RIN:** 1215-AA82

## DEPARTMENT OF LABOR (DOL)

## Completed Actions

## Employment Standards Administration (ESA)

**1860. 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 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	06/01/87	52 FR 20524
Withdrawn	02/25/00	

**Regulatory Flexibility Analysis****Required:** No**Government Levels Affected:** Federal**Additional Information:** This regulatory agenda item is being withdrawn.

**Agency Contact:** John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
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**RIN:** 1215-AA43**1861. 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 was targeted for possible updating and streamlining.

**Timetable:**

Action	Date	FR Cite
Withdrawn	02/25/00	

**Regulatory Flexibility Analysis****Required:** No**Government Levels Affected:** Federal, State**Additional Information:** This regulatory agenda item is being withdrawn.

**Agency Contact:** John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
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**RIN:** 1215-AB11**1862. 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
Withdrawn	03/13/00	

**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, Room N5605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

Phone: 202 693-0123

Fax: 202 693-1340

**RIN:** 1215-AB14**1863. • LABOR ORGANIZATION ANNUAL FINANCIAL REPORT****Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 401 et seq; "Secretary's Order 5-96"**CFR Citation:** 29 CFR 403**Legal Deadline:** None

**Abstract:** This final rule makes only minor and technical revisions to existing regulations which do not require notice and comment. These revisions, which relate to the annual financial reporting forms which labor organizations are required to file under the Labor Management Reporting and Disclosure Act of 1959, as amended (LMRDA), are being made in order to enable the Department to optically scan the reports and make them available on its Internet Web site, and to make the reports more uniform.

## DOL—ESA

## Completed Actions

## Timetable:

Action	Date	FR Cite
Final Action	12/21/99	64 FR 71622

**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, Room N5605, 200 Constitution Avenue

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**RIN:** 1215-AB29

## DEPARTMENT OF LABOR (DOL)

## Proposed Rule Stage

## Employment and Training Administration (ETA)

### 1864. 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:** During the past few years, several disasters have highlighted the complexity of interpreting the present regulations. In addition, other provisions of the current regulations are perceived to be unduly restrictive and/or result in perceived inequities in some situations. To correct a serious problem with the monetary computation provisions the Department published an interim final rule on May 11, 1995. In addition, an ANPRM was published on 12/8/94 soliciting comments for other changes. In-the-meantime the administration's Federal Government reinvention effort was initiated to, among other matters, make communication more understandable with the public. Therefore, this NPRM will completely revise part 625 to utilize a plain language format to correct and simplify complex provisions and add amendments due to law changes affecting the disaster unemployment assistance program.

## Timetable:

Action	Date	FR Cite
ANPRM	12/08/94	59 FR 63670
ANPRM Comment Period End	02/06/95	
Interim Final Rule	05/11/95	60 FR 25560
NPRM	07/00/00	
Final Action	12/00/00	

**Regulatory Flexibility Analysis Required:** Yes

**Small Entities Affected:** Governmental Jurisdictions

**Government Levels Affected:** Federal, State

**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

### 1865. 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 614.7(c); 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

Action	Date	FR Cite
ANPRM Comment Period End	03/17/97	
NPRM	06/00/00	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** State

**Agency Contact:** Sandra T. King, Chief, Division of Performance Review, Department of Labor, Employment and Training Administration, Room S4321, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
 Phone: 202 219-5223  
 Email: sking@doleta.gov

**RIN:** 1205-AB10

### 1866. LABOR CERTIFICATION AND PETITION PROCESS FOR THE TEMPORARY EMPLOYMENT OF NONIMMIGRANT ALIENS IN AGRICULTURE IN THE UNITED STATES; MODIFICATION OF FEE STRUCTURE

**Priority:** Other Significant

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

**CFR Citation:** 8 CFR 655

**Legal Deadline:** None

**Abstract:** The Employment and Training Administration (ETA) of the Department of Labor (Department or DOL) proposes to amend its regulations relating to the temporary employment of nonimmigrant agricultural workers (H-2A workers) in the United States. The proposed amendments would require employers to submit fees for labor certification and the associated H-2A petitions with consolidated application form at the time of filing. The proposal also would modify the fee structure for labor certification. If the application is denied, both fees will be

## DOL—ETA

## Proposed Rule Stage

refunded to the employer. It is conceivable in rare instances that the statutory and regulatory standards for issuance of the certification will be met, but those applicable to the petition will not be met. In such occurrence, neither fee will be refunded because the certification fee is an issuance, while the petition fee is a processing fee.

Concurrently with the publication of this proposed rule, the Department is publishing an interim final rule with a request for comments setting forth the procedures and requirements for submission and processing of a consolidated Application for Temporary Agricultural Labor Certification and H-2A Petition (Form ETA 9079).

**Timetable:**

Action	Date	FR Cite
NPRM	04/00/00	
NPRM Comment Period End	05/00/00	
Final Action	07/00/00	
Final Action Effective	08/00/00	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** James Norris, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training

Administration, Room N4456, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
Phone: 202 219-5263  
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**RIN:** 1205-AB24

**1867. • LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES; REILING OF APPLICATIONS**

**Priority:** Other Significant

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

**CFR Citation:** 20 CFR 656

**Legal Deadline:** None

**Abstract:** This rulemaking would amend the regulations relating to the permanent employment of aliens in the United States. The proposed amendments would permit employers to request that any labor certification application for permanent employment filed prior to a certain date and which has not been sent to the regional certifying officer to be processed as a reduction in recruitment request, provided recruitment has not been conducted pursuant to the permanent labor certification regulations. ETA anticipates that proposed amendment would reduce the backlog of labor certification application for permanent employment in State Employment Security Agencies.

This Measure to reduce backlogs would result in a variety of desirable benefits, including a reduction in government resources necessary to process applications for alien employment certification a reduction in processing time for both new application and those applications currently in the queue, and would facilitate the development and implementation of a new, more efficient system for processing labor certification applications for permanent employment in the United States.

**Timetable:**

Action	Date	FR Cite
NPRM	04/00/00	
Final Action	06/00/00	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** James Norris, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, Room N4456, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
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**RIN:** 1205-AB25

## DEPARTMENT OF LABOR (DOL)

## Final Rule Stage

## Employment and Training Administration (ETA)

**1868. 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	09/00/00	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

**Agency Contact:** Edward A. Tomchick, Director, Division of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, Room C4318, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

Phone: 202 219-5555

**RIN:** 1205-AB05

**1869. 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

## DOL—ETA

## Final Rule Stage

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	12/00/00	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

**Agency Contact:** Edward A. Tomchick, Director, Division of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, Room C4318, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
Phone: 202 219-5555

**RIN:** 1205-AB07

**1870. 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.

Other, Statutory, January 1, 2000, For 1999 amendments.

**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 and certain noncustodial parents. 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 have been 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 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 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 Cost 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
Interim Final Rule	06/00/00	
Final Rule	06/00/00	

## DOL—ETA

## Final Rule Stage

**Regulatory Flexibility Analysis****Required:** No**Government Levels Affected:** State, Local, Tribal**Agency Contact:** Dennis Lieberman, Director, Division 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**1871. (UC) PROGRAM; CONFIDENTIALITY AND DISCLOSURE OF INFORMATION IN STATE UC 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 information in State records collected, created, or maintained for purposes of 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 information in State UC records.**Timetable:**

Action	Date	FR Cite
Final Action	06/00/00	

**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 100063 with comment period ending 5/22/92.**Agency Contact:** Gerard Hildebrand, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, C4512, FP Building, Washington, DC 20210

Phone: 202 219-5201

Email: ghildebrand@doleta.gov

**RIN:** 1205-AB18**1872. WORKFORCE INVESTMENT ACT OF 1998****Priority:** Other Significant. Major status under 5 USC 801 is 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 and III, and V of the Act fall under the purview of the Employment and Training Administration. Title V falls under the purview of ETA as well as the Department of Education. 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. Interim final regulations were published on April 15, 1999. The law requires 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 Cost 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	04/15/99	64 FR 18662
Interim Final Rule Effective	05/17/99	
Interim Final Rule Comment Period End	07/14/99	
Final Action	06/00/00	

**Regulatory Flexibility Analysis****Required:** Undetermined

DOL—ETA

Final Rule Stage

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

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

**Agency Contact:** Eric Johnson, Director, Office of Career Transition Assistance, Department of Labor, Employment and Training Administration, Room S5513, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
Phone: 202 219-0316  
Email: ejohnson@doleta.gov

**RIN:** 1205-AB20

### 1873. BIRTH AND ADOPTION UNEMPLOYMENT COMPENSATION

**Priority:** Other Significant

**Legal Authority:** 42 USC 1302(a); 42 USC 503(a)(2) and (5); Secretary's Order No. 4-75 (40 FR 18515); Secretary's Order No. 14-75 (November 12, 1975); 26 USC 3306(h); 26 USC 3304(a)(1) and (4)

**CFR Citation:** 20 CFR 604

**Legal Deadline:** None

**Abstract:** The Department of Labor plans to issue a Final Rule to create, by regulation, the opportunity for the State agencies that administer the Unemployment Compensation (UC) program to pay, under a voluntary experimental program, UC to parents who take time off from employment after the birth or placement for adoption of a child. This regulation will permit interested States to experiment with methods for allowing the use of the UC program for this purpose.

**Statement of Need:** This effort responds to the President's Executive Memorandum issued May 24, 1999, directing the Secretary of Labor to allow States the opportunity to develop innovative ways of using UC to support parents taking leave to be with their newborns or newly-adopted children and to evaluate the effectiveness of using the UC system for these or related purposes. That Memorandum cited a Family and Medical Leave Commission study indicating that lost pay was the most significant barrier to parents taking advantage of unpaid leave after the birth or adoption of a child. The Department of Labor wants to test whether providing parents with BAA-VC at a point during the first year of

a newborn's life, or after placement of a child for adoption, will help employees maintain or even promote their connection to the workforce by allowing them time to bond with their children and to develop stable child care systems while adjusting to the accompanying changes in lifestyle before returning to work.

**Summary of Legal Basis:** This rulemaking action is undertaken under the authority of sections 1102(a) and 303(a)(2) and (5) of the Social Security Act, sections 3304(a)(1) and (4) and 3306(h) of the Federal Unemployment Tax Act, and the Secretary's Orders No. 4-75 and 14-75.

**Alternatives:** The Department of Labor considered different regulatory alternatives and intends to pursue, in the proposed rule, an approach that gives States as much flexibility as possible within the defined parameters of the experimental program.

**Anticipated Cost and Benefits:** The Department estimates that the possible annual aggregate cost for BAA-VC could range from zero to approximately \$68 million. The regulation is permissive, and the Department of Labor does not know how many states will choose to enact experimental BAA-VC programs. The estimate of the annual aggregate BAA-VC cost of \$68 million is based on the expressed interest of a small number of states. The benefit of this regulatory action will be to help eliminate a significant barrier that parents face in taking leave, thus having a positive effect on family well-being.

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

#### Timetable:

Action	Date	FR Cite
NPRM	12/03/99	64 FR 67971
NPRM Comment Period End	02/12/00	
Final Action	05/00/00	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** State

**Agency Contact:** Gerard Hildebrand, Chief Division of Legislation, Department of Labor, Employment and Training Administration, C-4512, FP Bldg, 200 Constitution Avenue NW, Washington, DC 20210

Phone: 202 219-5201

Fax: 202 219-8506

**RIN:** 1205-AB21

### 1874. LABOR CERTIFICATION AND PETITION PROCESS FOR THE TEMPORARY EMPLOYMENT OF NONIMMIGRANT ALIENS IN AGRICULTURE IN THE UNITED STATES; DELEGATION OF AUTHORITY TO ADJUDICATE H-2A PETITIONS

**Priority:** Other Significant

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

**CFR Citation:** 8 CFR 655

**Legal Deadline:** None

**Abstract:** This rule amends the Employment and Training Administration (ETA) regulations to implement the delegation of authority to adjudicate petitions for temporary nonimmigrant agricultural workers (H-2A's) from the Department of Justice, Immigration and Naturalization Service (INS), to the United States Department of Labor (DOL). Among the implementation measures is a new form, Application for Temporary Agricultural Labor Certification and H-2A Petition. The rulemaking further implements the delegation of authority, from INS to DOL, to hear appeals on determinations and to revoke petition approvals. The rule does not affect INS authority to make determinations at port-of-entry of an alien's admissibility to the United States, to make determinations of an alien's eligibility for change of nonimmigrant status, or to make determinations of an alien's eligibility for extension of stay. This rule streamlines existing H-2A processes to make it more efficient for petitioners to seek the admission of temporary agricultural workers without diminishing the workplace rights of U.S. workers or foreign workers admitted under the program.

#### Timetable:

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

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

## DOL—ETA

## Final Rule Stage

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

**RIN:** 1205-AB23

**1875. • ATTESTATIONS BY  
FACILITIES TEMPORARILY  
EMPLOYING H-1C NONIMMIGRANT  
ALIENS AS REGISTERED NURSES**

**Priority:** Other Significant

**Legal Authority:** 8 USC  
1101(a)(15)(H)(i)(c); 8 USC 1182(m); 8

USC 1184; 29 USC 49 et seq; PL 106-  
95, 113 Stat. 1312

**CFR Citation:** 20 CFR 655, subparts L  
and M

**Legal Deadline:** Final, Statutory,  
February 11, 2000.  
Final or Interim Final regulations  
required within 90 days of enactment.

**Abstract:** The Nursing Relief for  
Disadvantaged Areas Act of 1999 (P.L.  
106-95; November 12, 1999) amended  
the Immigration and Nationality Act to  
create a new temporary visa program  
for nonimmigrant aliens to work as  
registered nurses for up to three years  
in facilities serving health professional  
shortage areas, subject to certain  
conditions.

**Timetable:**

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

**Regulatory Flexibility Analysis  
Required:** No

**Small Entities Affected:** No

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

**Agency Contact:** Michael Ginley,  
Director, Office of Enforcement Policy,  
Wage and Hour Division, Department  
of Labor, Employment Standards  
Administration, Room N3510, 200  
Constitution Avenue NW, FP Building,  
Washington, DC 20210  
Phone: 202 693-0071

**RIN:** 1205-AB27

## DEPARTMENT OF LABOR (DOL)

## Long-Term Actions

## Employment and Training Administration (ETA)

**1876. 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:** Federal,  
State, Local

**Federalism:** Undetermined

**Agency Contact:** Tim Sullivan,  
Director, Division of U.S. Employment  
Service, Department of Labor,  
Employment and Training  
Administration, 200 Constitution  
Avenue NW, Washington, DC 20210  
Phone: 202 219-5257  
Email: tsullivan@doleta.gov

**RIN:** 1205-AA37

**1877. 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  
consultation throughout the process  
with sponsors, stakeholders State  
partners, and outside interest groups to  
solicit ideas and suggestions for change.

**Timetable:**

Action	Date	FR Cite
NPRM	To Be	Determined

**Regulatory Flexibility Analysis  
Required:** No

**Government Levels Affected:** Federal,  
State

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

**RIN:** 1205-AA66

**1878. 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

## DOL—ETA

## Long-Term Actions

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, Room N4456, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
Phone: 202 219-5263  
Fax: 202 208-5844  
Email: jnorris@doleta.gov

**RIN:** 1205-AB14

**1879. 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, 90 days from enactment 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

**Additional Information:** There are two possibilities for future action anticipated for this regulation. A final rule will be published if (1) Congress extends the program and/or changes the eligibility criteria; or (2) Congress does not extend the program but (retroactive or not) eases the eligibility criteria.

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

**RIN:** 1205-AB16

## DEPARTMENT OF LABOR (DOL)

## Proposed Rule Stage

## Pension and Welfare Benefits Administration (PWBA)

**1880. 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 under or pursuant to one or more collective bargaining agreements for purposes of its exclusion from the Multiple Employer Welfare Arrangement (MEWA) definition in section 3(40) of ERISA, and thus exempted from State regulation. The regulation will clarify the scope of the exception from the MEWA definition for plans established or maintained under or pursuant to one or more collective bargaining agreements by providing criteria which will serve to distinguish welfare benefit arrangements which are maintained by

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

Action	Date	FR Cite
Notice Establishing Negotiated Rulemaking Advisory Committee	09/22/98	63 FR 50542
Second NPRM	06/00/00	

**Regulatory Flexibility Analysis**

**Required:** Yes

**Small Entities Affected:** Governmental Jurisdictions

**Government Levels Affected:** Undetermined

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

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

**RIN:** 1210-AA48

## DOL—PWBA

## Proposed Rule Stage

**1881. RULEMAKING RELATING TO NOTICE REQUIREMENTS FOR CONTINUATION OF HEALTH CARE COVERAGE**

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

**Unfunded Mandates:** Undetermined

**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	09/00/00	

**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, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
Phone: 202 219-0521

**RIN:** 1210-AA60

**1882. VOLUNTARY FIDUCIARY CORRECTION PROGRAM**

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 29 CFR 2560

**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 adopting a Voluntary Fiduciary Correction Program (VFC Program). Under this VFC Program, plan officials will be relieved of the possibility of investigation and civil action by the Department and imposition of civil penalties, to the extent that plan officials satisfy the conditions for correcting breaches described in the Program.

**Timetable:**

Action	Date	FR Cite
Enforcement Policy	03/15/00	65 FR 14164
Comment Period End	05/15/00	
Final Action	11/00/00	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

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

**RIN:** 1210-AA76

**1883. • REGULATION EXEMPTING CERTAIN BROKER-DEALER AND INVESTMENT ADVISERS FROM BONDING REQUIREMENTS**

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

**Unfunded Mandates:** Undetermined

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

**CFR Citation:** 29 CFR 2580

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	10/00/00	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** None

**Agency Contact:** George M. Holmes, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
Phone: 202 523-8521

**RIN:** 1210-AA80

## DEPARTMENT OF LABOR (DOL)

Final Rule Stage

## Pension and Welfare Benefits Administration (PWBA)

**1884. REVISION OF THE FORM 5500 SERIES AND IMPLEMENTING AND RELATED REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)****Priority:** Economically 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 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:** 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 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 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 Cost 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, 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 Forms	02/02/00	65 FR 5026
Final Action Implementing Related Regulations	04/00/00	

**Regulatory Flexibility Analysis Required:** Yes**Small Entities Affected:** Businesses, Organizations**Government Levels Affected:** None**Additional Information:** Public hearing held November 17, 1997. Hearing comment period ended 12/03/97.**Agency Contact:** Eric A. Raps, Pension Law Specialist, Department of Labor,Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
Phone: 202 219-8521**RIN:** 1210-AA52**1885. 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, Interim Final Rule. 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 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.

## DOL—PWBA

## Final Rule Stage

**Anticipated Cost 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	
Request for Information	10/25/99	64 FR 57520
Comment Period End	01/25/00	
Final Rule	09/00/00	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

**Agency Contact:** Daniel J. Maguire, Director, Health Care Task Force, Department of Labor, Pension and Welfare Benefits Administration, Room N5677, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
Phone: 202 219-4592

**RIN:** 1210-AA54

### 1886. 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

**Legal Authority:** PL 104-191 sec 101; PL 104-204 sec 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 sections 707 and 734 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 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 Cost and Benefits:** There is estimated to be no capital/start-up cost. Total burden cost for operating/maintenance is estimated 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 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	
Second Interim Final Rule	09/09/98	63 FR 48372
Interim Final Rule Effective	11/09/98	
Comment Period End	11/09/98	
Final Action	11/00/00	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

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

**RIN:** 1210-AA55

### 1887. AMENDMENTS TO EMPLOYEE BENEFIT PLAN CLAIMS PROCEDURES REGULATION

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

**Unfunded Mandates:** This action may affect the private sector under PL 104-4.

**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 amendment 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 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 necessary to update the rules that implement section 503 of ERISA.

**Anticipated Cost 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	
NPRM	09/09/98	63 FR 48390
NPRM Comment Period End	11/09/98	
Notice of Public Hearing Held on Feb. 17, 18 & 19, 1999	01/04/99	64 FR 65
Final Action	11/00/00	

**Regulatory Flexibility Analysis Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

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

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

**RIN:** 1210-AA61

**1888. 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. This rulemaking will provide further 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	09/00/00	

**Regulatory Flexibility Analysis Required:** No

**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, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
Phone: 202 219-7006

**RIN:** 1210-AA62

**1889. 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. This rulemaking will provide further 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 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 Cost and Benefits:** Preliminary estimates of the anticipated costs and benefits of the regulatory actions found to be necessary to

## DOL—PWBA

## Final Rule Stage

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	12/00/00	

**Regulatory Flexibility Analysis**

**Required:** No

**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), 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:** Amy Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
Phone: 202 219-7006

**RIN:** 1210-AA63

**1890. REPORTING REQUIREMENTS FOR MEWAS PROVIDING MEDICAL CARE BENEFITS**

**Priority:** Substantive, Nonsignificant

**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 interim final rules 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 implement recent changes made to ERISA by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The rules also set forth elements that MEWAs would be required to file with the Department of Labor for the purpose of determining

compliance with the portability nondiscrimination, renewability and other requirements of part 7 of subtitle B of title I of ERISA including the requirements of the Mental Health Parity Act of 1996 and the Newborns' and Mothers' Protection Act of 1996. The rules would provide guidance with respect to section 502(c)(5) of ERISA which authorizes the Secretary of Labor to assess a civil penalty of up to \$1,000 a day for failure to comply with the new reporting requirements.

**Timetable:**

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

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

**Agency Contact:** Amy Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
Phone: 202 219-7006

**RIN:** 1210-AA64

**1891. ELIMINATION OF FILING REQUIREMENTS FOR SUMMARY PLAN DESCRIPTIONS**

**Priority:** Substantive, Nonsignificant

**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, sec 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 of 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. Separate rulemakings (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	08/05/99	64 FR 42792
NPRM Comment Period End	10/04/99	
Final Action	08/00/00	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** None

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

**RIN:** 1210-AA66

**1892. REQUIREMENT TO FURNISH PLAN DOCUMENTS UPON REQUEST BY THE SECRETARY OF LABOR**

**Priority:** Substantive, Nonsignificant

**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	08/05/99	64 FR 42797
NPRM Comment Period End	10/04/99	
Final Action	08/00/00	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** None

**Agency Contact:** Lisa M. Fields, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW., FP Building, Washington, DC 20210

## DOL—PWBA

## Final Rule Stage

Phone: 202 219-8671

RIN: 1210-AA67

**1893. CIVIL PENALTY FOR FAILURE TO FURNISH CERTAIN PLAN DOCUMENTS****Priority:** Substantive, Nonsignificant**Legal Authority:** PL 105-34, sec 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 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	08/05/99	64 FR 42797
NPRM Comment Period End	10/04/99	
Final Action	08/00/00	

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

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

RIN: 1210-AA68

**1894. AMENDMENTS TO SUMMARY PLAN DESCRIPTION REGULATIONS****Priority:** Other Significant. Major under 5 USC 801.**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 amendments to the regulations governing the contents of summary plan descriptions (SPD) will 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 repeal special rules limiting the information that must be included in summary plan descriptions with respect to certain health maintenance organizations. In addition, the amendments include provisions that 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 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 Cost and Benefits:** The Department estimates that the aggregate additional costs associated with the regulation would average

approximately \$125 million per year for the years 2000, 2001, and 2002.

However, the Department believes that the 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	11/00/00	

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

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

RIN: 1210-AA69

**1895. 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

## DOL—PWBA

## Final Rule Stage

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	07/00/00	

**Regulatory Flexibility Analysis**

**Required:** Yes

**Small Entities Affected:** Businesses, Organizations

**Government Levels Affected:** None

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

**RIN:** 1210-AA71

**1896. NATIONAL MEDICAL SUPPORT NOTICE**

**Priority:** Other Significant

**Legal Authority:** PL 105-200, sec 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, November 15, 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 (CSPIA), 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 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 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 have been considered based on 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 Cost and Benefits:** Preliminary estimates of the anticipated costs and benefits of the regulatory actions found necessary to implement the new provisions have been developed based on the published proposal.

**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
NPRM	11/15/99	64 FR 62054
Comment Period End	02/14/00	
Final Action	09/00/00	

**Regulatory Flexibility Analysis**

**Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** Undetermined

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

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

**RIN:** 1210-AA72

**1897. SMALL PENSION PLAN SECURITY AMENDMENTS**

**Priority:** Other Significant

**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 the plan meeting certain additional conditions regarding plan assets being held by a regulated financial institution and related improvements in fidelity bonding and disclosures 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	12/01/99	64 FR 67436
Final Action	09/00/00	

**Regulatory Flexibility Analysis**

**Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

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

**RIN:** 1210-AA73

**1898. SOFT DOLLAR (INTERPRETIVE BULLETIN)**

**Priority:** Other Significant

**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.

DOL—PWBA

Final Rule Stage

**Timetable:**

Action	Date	FR Cite
Interpretive Bulletin	07/00/00	

**Regulatory Flexibility Analysis**

Required: No

**Government Levels Affected:**

Undetermined

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

RIN: 1210-AA74

**1899. RULEMAKING RELATING TO THE WOMEN'S HEALTH AND CANCER RIGHTS ACT OF 1998**

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

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

**CFR Citation:** Not Yet Determined

**Legal Deadline:** None

**Abstract:** The Women's Health and Cancer Rights Act of 1998 (WHCRA) was enacted on October 21, 1998 (P.L. 105-277). WHCRA amended the Employee Retirement Income Security Act of 1974 (ERISA) and the Public Health Service Act (PHS Act) to provide protection for patients who elect breast reconstruction in connection with a mastectomy. The WHCRA provisions are set forth in Part 7 of Subtitle B of Title I of ERISA and in Title XXVII of the PHS Act. These interim rules will provide guidance with respect to the WHCRA provisions.

**Timetable:**

Action	Date	FR Cite
Request for Information (RFI)	05/28/99	64 FR 29186
RFI Comment Period End	06/28/99	
Interim Final Rule	08/00/00	

**Regulatory Flexibility Analysis**

Required: No

**Government Levels Affected:**

Undetermined

**Agency Contact:** Mila Kofman, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

Phone: 202 219-7006

RIN: 1210-AA75

**1900. 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

**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	
Final Action	06/00/00	

**Regulatory Flexibility Analysis**

Required: No

**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, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
Phone: 202 219-7006

RIN: 1210-AA77

**1901. • AMENDMENTS REGARDING ALLOCATION OF FIDUCIARY RESPONSIBILITY; FEDERAL RETIREMENT THRIFT INVESTMENT BOARD**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 5 USC 8477(e)(1)(E); Secretary of Labor's Order No.1-87

**CFR Citation:** 29 CFR 2584.8477(e)-2

**Legal Deadline:** None

**Abstract:** This rulemaking will amend the Department's current regulation regarding the allocation of fiduciary responsibility by the Executive Director of the Federal Retirement Thrift Investment Board to provide for the allocation to investment managers of fiduciary responsibility for two new investment funds, the Small Capitalization Index Stock Investment Fund and the International Stock Index Investment Fund. These amendments will also update the definition of investment manager and make other miscellaneous changes to 29 Part 2584.

**Timetable:**

Action	Date	FR Cite
Final Action	05/00/00	

**Regulatory Flexibility Analysis**

Required: No

**Small Entities Affected:**

None

**Agency Contact:** Rudy Nuissl, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, N-5669, 200

## DOL—PWBA

## Final Rule Stage

Constitution Avenue NW, FP Building,  
Washington, DC 20210

Phone: 202 291-7461  
RIN: 1210-AA79

## DEPARTMENT OF LABOR (DOL)

## Long-Term Actions

## Pension and Welfare Benefits Administration (PWBA)

**1902. 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, Room N4611, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

Phone: 202 219-4592

RIN: 1210-AA15

**1903. 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	
NPRM Comment Period End	08/20/90	

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, Room N4638, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

Phone: 202 219-8610

RIN: 1210-AA37

**1904. 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 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:** John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
Phone: 202 219-8521

RIN: 1210-AA65

**DEPARTMENT OF LABOR (DOL)****Completed Actions****Pension and Welfare Benefits Administration (PWBA)****1905. 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**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, Per Section 734 of ERISA as added by Section 101 of HIPAA per Section 707 of ERISA as added by Section 101 of HIPAA.

Other, Statutory, September 30, 1997, Per Section 734 of ERISA as added by Section 101 of HIPAA per Section 707 of ERISA as added by Section 101 of HIPAA. Specifies 6/30/99 as latest date for the regulation to take effect.

Final, Statutory, December 31, 1997, Per Section 734 of ERISA as added by Section 101 of HIPAA Per Section 707 of ERISA as added by Section 101 of HIPAA. Specifies 6/30/99 as latest date for the regulation to take effect.

**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	01/05/00	65 FR 614

**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, Room N5649, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
Phone: 202 219-8194**RIN:** 1210-AA58**DEPARTMENT OF LABOR (DOL)****Prerule Stage****Mine Safety and Health Administration (MSHA)****1906. 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:** In 1996 the Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Miners recommended that we consider lowering the coal dust permissible exposure limit (PEL). In 1995, the National Institute for Occupational Safety and Health issued a Criteria Document in which they recommended that the respirable coal mine dust PEL be cut in half. We are considering rulemaking to lower the coal dust PEL because miners continue to be at risk of developing dust-induced occupational lung disease.**Timetable:**

Action	Date	FR Cite
ANPRM	07/00/00	

**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, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203  
Phone: 703 235-1910Fax: 703 235-5551  
Email: cjones@msha.gov**RIN:** 1219-AB08**1907. MINE RESCUE TEAMS****Priority:** Substantive, Nonsignificant**Unfunded Mandates:** Undetermined**Legal Authority:** 30 USC 811**CFR Citation:** 30 CFR 49**Legal Deadline:** None**Abstract:** We are assessing our current regulations to identify areas where we might increase flexibility and provide increased safety for miners. We anticipate publishing an ANPRM to solicit ideas from the mining community.**Timetable:**

Action	Date	FR Cite
ANPRM	05/00/00	

**Regulatory Flexibility Analysis****Required:** Undetermined**Government Levels Affected:** None**Agency Contact:** Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203  
Phone: 703 235-1910Fax: 703 235-5551  
Email: cjones@msha.gov**RIN:** 1219-AB20

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

**Proposed Rule Stage**

**1908. 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; 30 USC 813

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

**Legal Deadline:** None

**Abstract:** Our current regulations for exposure to hazardous airborne contaminants are over 25 years old. They do not fully protect today's miners, who are potentially exposed to an array of toxic chemicals, and other hazards. Examples of these include lead, cyanide, arsenic benzene, asbestos and other well-documented hazards. We will propose provisions of the air quality rule in phases based on our assessment of priority needs.

**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	12/00/00	
NPRM Phase 2 - Respiratory Protection - Reproposal	To Be	Determined

**Regulatory Flexibility Analysis Required:** Yes

**Small Entities Affected:** Businesses

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

**Agency Contact:** Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203  
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**RIN:** 1219-AA48

**1909. 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:** Our current regulations prohibit belt haulage entries from being used to ventilate active working places in mines. This prevents smoke from a belt conveyor fire from being coursed to a miner's workplace.

Improved technology, including sophisticated atmospheric monitoring systems, makes it possible now to safely use belt haulage entries to ventilate active working places in mines provided certain conditions are met. In some instances this would result in more efficient and effective ventilation systems. Mine operators, however, must apply to MSHA for a modification of the current regulations if they want to use belt haulage entries for ventilation purposes.

The proposed rule would permit the use of this type ventilation in certain circumstances and eliminate the need for the mine operator to apply for a modification.

**Timetable:**

Action	Date	FR Cite
NPRM	09/00/00	

**Regulatory Flexibility Analysis Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

**Additional Information:** A public hearing was held in April 1990.

**Agency Contact:** Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203  
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**RIN:** 1219-AA76

**1910. 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.

Some are within flood range of homes and well-traveled roads. Impoundment failures could endanger lives and cause property damage. The proposed rule will address proper design, construction, and other safety issues.

**Timetable:**

Action	Date	FR Cite
NPRM	01/00/01	

**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, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203  
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**RIN:** 1219-AA83

**1911. 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:** Approximately thirty percent of the fatal accidents which occurred during the past 4 years involved large haulage vehicles, over-the-road trucks, front-end loaders, and similar equipment. The proposed rule will set safety requirements for restraint systems, lighting, and blind areas for this equipment.

**Timetable:**

Action	Date	FR Cite
ANPRM	07/30/98	63 FR 40800
NPRM	07/00/00	

**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, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203  
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## DOL—MSHA

## Proposed Rule Stage

Email: cjones@msha.gov

RIN: 1219-AA93

### 1912. 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:** We have reviewed our current regulations and identified provisions that are outdated, redundant, unnecessary or otherwise require change. We will be making these changes through notice and comment rulemaking where necessary. We will also consider new regulations that reflect "best practices" in the mining industry. We view this effort to be evolving and ongoing and will continue to accept recommendations from the public.

**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	08/10/99	64 FR 43280
Final Rule - Phase 3 Update of Reference IR 1240	08/10/99	64 FR 43283
Final Rule - Phase 4 Part 75 Subpart S	08/10/99	64 FR 43286
NPRM - Phase 5 Miscellaneous Technology Improvements	06/00/00	

**Regulatory Flexibility Analysis**

**Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

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RIN: 1219-AA98

### 1913. 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:** Our current regulations set limits for respirable coal dust when crystalline silica is present. We are also aware of many conditions that result in worker overexposure to silica. This overexposure will result in the development of silicosis in some workers. Therefore, we are currently evaluating recommendations of the Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers to determine which one, or combination of recommendations, will most effectively reduce worker overexposure to silica. We are considering rulemaking to implement relevant recommendations.

**Timetable:**

Action	Date	FR Cite
NPRM	02/00/01	

**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, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203  
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RIN: 1219-AB12

### 1914. UNDERGROUND COAL MINE OPERATORS PLAN VERIFICATION AND MSHA COMPLIANCE SAMPLING FOR RESPIRABLE DUST

**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:** Our current regulations require that all underground coal mine operators develop and follow a mine ventilation plan that we approve. However, we do not have a requirement that provides for in-mine verification of each plan's effectiveness under typical mining conditions. Consequently, plans may be implemented by mine operators that could be inadequate to control respirable dust. The proposed rule would require mine operators to verify a plan's adequacy in controlling respirable dust. For longwall mine operators we are proposing to permit the use of either approved loose-fitting powered, air purifying respirators (PAPRS) or verifiable administrative controls as a supplemental means of compliance if we have determined that further reduction in respirable dust levels cannot be achieved using all feasible engineering or environmental controls appropriate for operational condition involved. Furthermore, this proposal would revoke underground operator compliance and abatement sampling. Consequently, in underground coal mines, we intend to increase the number of compliance inspections per year, and we will conduct abatement sampling for non-compliance. The proposed rule also will discuss our long term objective to use continuous monitoring for sampling.

**Statement of Need:** Respirable coal mine dust levels in this country are significantly lower than they were two decades ago. Despite this progress, there continues to be concern about the respirable coal mine dust sampling program and its effectiveness in maintaining of exposure levels in mines at or below the applicable standard. Our regulations require that all underground coal mine operators develop and follow a mine ventilation plan approved by us. 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 verification of each proposed plan's effectiveness under typical mining conditions. Consequently, plans may be

## DOL—MSHA

## Proposed Rule Stage

implemented that may later be shown as inadequate to control respirable dust.

Therefore, we are considering regulatory action which would require 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.

**Alternatives:** In developing the proposed rule, we will consider alternatives related to typical production levels and the use of appropriate dust control strategies, use of supplemental controls for mining entities other than longwalls, and the level of protection of loose-fitting (PAPRS) in underground coal mines.

**Anticipated Cost 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 lung disease as a risk to coal miners. Enhanced protection of miners from disease will reduce the number of cases of pneumoconiosis and their associated costs, reduce the cost of future black lung benefits, and lead to lower operator insurance premiums. Underground mine operators would have a reduction in cost due to MSHA completely taking over compliance and abatement sampling for respirable dust once this rule is promulgated. 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 potentially disabling and can cause death. We are pursuing both regulatory and nonregulatory actions to eliminate these diseases through the control of coal mine respirable dust levels in mines and the reduction of miners' exposure.

**Timetable:**

Action	Date	FR Cite
NPRM	04/00/00	

**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

**1915. 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:** The National Institute for Occupational Safety and Health and the Mine Safety and Health Administration jointly determined that a single, full-shift measurement "single, full-shift sample" will accurately represent the atmospheric condition to which a miner is exposed. The proposed rule will address the U.S. Court of Appeals' final decision and order in *National Mining Association v. Secretary of Labor*, 1535 F2d 1267 (11th Cir. 1998).

**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 our current sampling programs' ability to accurately measure and maintain respirable coal mine dusts exposure at or below the applicable standard on each shift. For as long as miners have taken coal from the ground, many have suffered respiratory problems due to their occupational exposures to respirable coal mine dust. These respiratory problems affect the current workforce and range from mild impairment of respiratory function to more severe diseases, such as silicosis and pulmonary massive fibrosis. For some miners, the impairment of their respiratory systems is so severe, they die prematurely. Since there is a clear relationship between a miner's cumulative exposure to respirable coal mine dust and the severity of the resulting respiratory conditions it is imperative that each miner's exposure

not exceed the applicable standard on each and every shift.

**Alternatives:** The requirements of this rule ("single, full-shift sample rule") will work in tandem with those of the proposed rule (RIN 1219-AB14) requiring operators to verify the effectiveness of their ventilation plans as well as our assumption for all compliance sampling underground coal mines. We believe that modification of operator compliance sampling and their verification of ventilation plans will off-set costs for this rule.

**Anticipated Cost 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, a key to reducing occupationally induced lung disease among coal miners. Enhanced protection of miners from disease will reduce the costs to society, mining families, and operators. For example, there will be a decrease in future black lung benefits, leading to lower operator insurance premiums. As we proceed, we will develop cost 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. Occupational exposure to excessive levels of respirable coal mine dust can cause coal workers' pneumoconiosis and silicosis, which are potentially disabling and can cause death. Even after eliminating or substantially reducing individual shift overexposures, reductions in lung disease prevalence are not expected to materialize immediately. We are pursuing both regulatory and nonregulatory actions to eliminate these diseases through the control of coal mine respirable dust levels in mines and reduction of miners' exposure.

**Timetable:**

Action	Date	FR Cite
NPRM	04/00/00	

**Regulatory Flexibility Analysis Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

**Additional Information:** This rulemaking is related to RIN 1219-AB14 (Underground Coal Mine Operator's Plan Verification and MSHA Compliance Sampling for Respirable Dust).

## DOL—MSHA

## Proposed Rule Stage

**Agency Contact:** Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203  
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**RIN:** 1219-AB18

### 1916. SAFETY STANDARDS FOR SELF-CONTAINED SELF-RESCUE DEVICES IN COAL AND METAL/NONMETAL UNDERGROUND MINES

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 30 CFR 48; 30 CFR 75; 30 CFR 57

**Legal Deadline:** None

**Abstract:** Self-contained self-rescuers (SCSR) 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. The mining industry has had recent experiences with SCSRs which did not function properly or were not donned properly, rendering them ineffective. We are considering a rule to limit the service life of the devices, address the appropriate inspection of SCSRs and the adequacy of training. In addition, we are proposing to apply SCSR regulations to metal and nonmetal mines.

#### Timetable:

Action	Date	FR Cite
ANPRM	07/07/99	64 FR 36632
NPRM	05/00/00	

**Regulatory Flexibility Analysis Required:** Yes

**Small Entities Affected:** Businesses

**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.

**Agency Contact:** Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203  
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**RIN:** 1219-AB19

## DEPARTMENT OF LABOR (DOL)

## Final Rule Stage

## Mine Safety and Health Administration (MSHA)

### 1917. HAZARD COMMUNICATION

**Priority:** Other Significant

**Legal Authority:** 30 USC 811

**CFR Citation:** 30 CFR 47

**Legal Deadline:** None

**Abstract:** Today's complex mining environment subjects miners to many hazards such as from wastes burned as fuel supplements at cement kilns and from the many chemicals brought onto mine property. The rule as proposed 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. It would be consistent with OSHA's rule to the extent appropriate.

#### Timetable:

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

#### Regulatory Flexibility Analysis

**Required:** Yes

**Small Entities Affected:** Businesses

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

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**RIN:** 1219-AA47

### 1918. DIESEL PARTICULATE MATTER (EXPOSURE OF UNDERGROUND COAL MINERS)

**Priority:** Other Significant

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

**CFR Citation:** 30 CFR 72; 30 CFR 75

**Legal Deadline:** None

**Abstract:** Epidemiological studies indicate that diesel exhaust presents potential health risks to workers ranging from headaches and nausea to respiratory disease and cancer. The National Institute for Occupational Safety and Health considers whole diesel exhaust to be a potential occupational carcinogen. The International Agency for Research on Cancer found that diesel engine exhaust is probably carcinogenic to humans.

The rule as proposed for underground coal mines requires the use of filtration to remove diesel particulate matter and requires the use of engineering and work practice controls to reduce diesel particulate matter.

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

## DOL—MSHA

## Final Rule Stage

exhaust, we are concerned about the potential health risk to miners.

**Alternatives:** In the fall of 1995, we 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.

We considered establishing a PEL for diesel particulate in coal mines, but found that technology for measuring it in the presence of coal mine dust is not currently feasible. Therefore, the use of filtration to remove diesel particulate matter is required by the proposed rule.

**Anticipated Cost and Benefits:** We estimate 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 to the miners, their families, and society. In addition to savings related to acute health effects, we estimate that some lung cancers 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. 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. We believe 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	04/09/98	63 FR 17492
Notice Significant Environment Impact	07/14/98	63 FR 37796
Extension of Comment Period; Notice of Hearings; Close of Record	08/05/98	63 FR 41755
Notice of Hearings; Close of Record	10/19/98	63 FR 55811
Extension of Comment Period; Availability of Studies; Close of Record	02/12/99	64 FR 7144
Extension of Comment Period; Close of Record	04/27/99	64 FR 2259
Corrections	07/08/99	64 FR 36826
Final Action	09/00/00	

**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, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203  
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**RIN:** 1219-AA74

**1919. 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:** Our current regulations require that high-voltage cables and transformers be kept at least 150 feet from coal extraction areas. These requirements are intended to eliminate an ignition source for methane and coal dust in close proximity to the work area.

Highly productive longwall mining systems are now in widespread use in the mining industry. They use safe high-voltage electrical equipment and associated cables. Mine operators, however, currently must apply to us for a modification from the existing regulations if they want to use this high-voltage equipment.

The rule as proposed would eliminate the need for a modification to use this equipment and would establish safety requirements for the design, construction, installation, use, and maintenance of high-voltage longwall equipment and associated cables.

**Timetable:**

Action	Date	FR Cite
NPRM	08/27/92	57 FR 39036
Extension of Comment Period to 11/13/1992	08/27/92	57 FR 48350
Reopen Record	10/18/95	60 FR 53891
Extension of Comment Period	11/14/95	60 FR 57203
Comment Period End	12/18/95	
Reopen Record	12/28/99	64 FR 72620
Comment Period End	02/28/00	
Final Rule	07/00/00	

**Regulatory Flexibility Analysis Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

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**RIN:** 1219-AA75

**1920. 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

## DOL—MSHA

## Final Rule Stage

**Abstract:** Our current regulations allow us to set approval requirements and test products used in mines. The rule as proposed would allow us to: accept testing of certain mine equipment by independent laboratories; and approve products which satisfy alternative testing and evaluation requirements if those requirements are equivalent to ours, or could be enhanced to be equivalent.

**Timetable:**

Action	Date	FR Cite
NPRM	11/30/94	59 FR 61376
NPRM Comment Period Extended to 2/21/1995	02/13/95	60 FR 8209
Public Hearing Notice	10/10/95	60 FR 52640
Notice to Reschedule Public Hearing to 4/30/1996	02/09/96	61 FR 15743
Comment Period End	05/31/96	
Final Action	12/00/00	

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

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**RIN:** 1219-AA87**1921. 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:** Our current regulations require conveyor belts used in underground coal mines to be flame-resistant. The rule as proposed would set new procedures and requirements for testing and approval of these belts to provide additional protective measures relating to fire ignition and propagation.

**Timetable:**

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61524

Action	Date	FR Cite
Extension of Comment Period to 3/36/93	02/11/93	58 FR 8028
Reopen Record and Notice of Public Hearing	03/31/95	60 FR 16589
Record Closed	06/05/95	60 FR 16558
Reopen Record	10/31/95	60 FR 55353
Extension of Comment Period to 2/5/1996	12/20/95	60 FR 65509
Reopen Record	12/28/99	64 FR 72617
Final Action	07/00/00	

**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, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203  
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**RIN:** 1219-AA92**1922. DIESEL PARTICULATE MATTER (EXPOSURE OF UNDERGROUND METAL AND NONMETAL MINERS)****Priority:** Other Significant**Legal Authority:** 30 USC 811; 30 USC 813**CFR Citation:** 30 CFR 57**Legal Deadline:** None

**Abstract:** Epidemiological studies indicate that diesel exhaust presents potential health risks to workers ranging from headaches and nausea to respiratory disease and cancer. The National Institute for Occupational Safety and Health considers whole diesel exhaust to be a potential occupational carcinogen. The International Agency for Research on Cancer found that diesel engine exhaust is probably carcinogenic to humans.

The rule as proposed for underground metal and nonmetal mines would establish a concentration limit for diesel particulate matter and require the use of engineering and work practice controls to reduce diesel particulate matter.

**Statement of Need:** The use of diesel-powered equipment in underground mines has increased significantly and rapidly during the past decade. We estimate 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 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.

**Alternatives:** In the fall of 1995, we 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.

**Anticipated Cost and Benefits:** We estimate 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 of 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 to the miners, their families, and society. In addition to savings related to acute health effects, we estimate that some lung cancer would also be avoided.

## DOL—MSHA

## Final Rule Stage

**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. 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. We believe 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; Availability of Studies; Close of Record	02/12/99	64 FR 7144
Notice of Hearings; Close of Record	03/24/99	64 FR 14200
Corrections	07/08/99	64 FR 36826
Final Action	09/00/00	

**Regulatory Flexibility Analysis Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

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**RIN:** 1219-AB11

## DEPARTMENT OF LABOR (DOL)

## Long-Term Actions

## Mine Safety and Health Administration (MSHA)

**1923. CONFINED SPACES**

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 30 CFR 56; 30 CFR 57; 30 CFR 70; 30 CFR 71; 30 CFR 75; 30 CFR 77

**Legal Deadline:** None

**Abstract:** Storage bins, hoppers, tanks, stockpiles, and other confined spaces at mining operations create hazards to miners. These hazards include entrapment by shifting piles of loose materials, falling into materials, and being struck by overhanging materials. Additionally, miners are exposed to toxic and physical hazards in these confined spaces. We will explore both regulatory and non-regulatory ways to eliminate or reduce these hazards.

**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:** Undetermined

**Government Levels Affected:** None

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**RIN:** 1219-AA54

**1924. 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

**Legal Deadline:** None

**Abstract:** Our current regulations for coal mines do not adequately apply to anthracite coal mining because of the significant difference in conditions and hazards in those mines. Mining methods in anthracite mines include minimal use of mechanized equipment and a slow rate of advance into the coal seam. In addition, anthracite coal is found in pitched, undulating seams.

Mine operators currently must petition us for a modification of the existing regulations for certain mining situations. The proposed rule will address the specific conditions of the anthracite mining industry and eliminate the need for a modification of existing safety requirements.

**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

**1925. 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:** Electricity is used widely in the mining industry to power mining equipment, transport material and people, and for other purposes. Our records show that accidents occur from inadequate or improper equipment grounding. We are considering rulemaking to address proper equipment grounding.

**Timetable:**

Action	Date	FR Cite
NPRM	To Be Determined	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** None

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## DOL—MSHA

## Long-Term Actions

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 RIN: 1219-AB01

### 1926. TRAINING AND RETRAINING OF MINERS (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

**Priority:** Other Significant

**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:** Our current regulations require all mine operators to have approved plans for training of their

miners. We reviewed these requirements as part of our Regulatory Flexibility Review to determine if changes were appropriate. We are considering developing a proposed rule to reflect a more flexible approach.

In response to public comments we are considering increasing 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 than those of miners. We believe that better trained, more knowledgeable, supervisors will contribute to their own safety and that of miners under their supervision.

**Timetable:**

Action	Date	FR Cite
Begin Review	10/01/96	
End Review	10/30/98	
NPRM	To Be	Determined

**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

## DEPARTMENT OF LABOR (DOL)

### Mine Safety and Health Administration (MSHA)

## Completed Actions

### 1927. 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:** We believe that the current design of some roof-bolting machines may contribute to or cause accidents during drilling and roof-bolt installation procedures. Accident and fatality information points to the need to modify the design of such machines

and take additional precautions in their use. Nonregulatory actions have significantly reduced these hazards; therefore, regulatory action will not be taken.

**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
Withdrawn	02/25/00	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

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**RIN:** 1219-AA94

## DEPARTMENT OF LABOR (DOL)

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

## Proposed Rule Stage

### 1928. 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	04/00/00	

**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, Room N4123, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
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## DOL—OASAM

## Proposed Rule Stage

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RIN: 1291-AA28

## DEPARTMENT OF LABOR (DOL)

## Final Rule Stage

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

**1929. 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	11/12/99	64 FR 61692

Action	Date	FR Cite
Interim Final Rule	12/13/99	
Comment Period		
End		
Final Rule	10/00/00	

**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, Room N4123, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
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RIN: 1291-AA29

**1930. • GRANTS AND AGREEMENTS****Priority:** Other Significant**Legal Authority:** PL 105-277**CFR Citation:** 29 CFR 95**Legal Deadline:** None

**Abstract:** The Department is joining with other Federal agencies in establishing revised regulations for Grants. Congress included a two-sentence provision in OMB's appropriation for fiscal year 1999, contained in Public Law 105-277, directing OMB to Section 95.36 of Circular A-110 "to require Federal

awarding agencies to ensure that all data produced under an award will be made available to public through the procedures established under the Freedom of Information Act." Circular A-110 applies to grants and cooperative agreements to institutions of higher education, hospitals, and non-profit institutions, from all Federal agencies. OMB finalized the revision on September 30, 1999(64 FR 54926). This interim final rule amends the agencies, codification of Circular A-110 so they reflect OMB's recent action.

**Timetable:**

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

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

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RIN: 1291-AA30

## DEPARTMENT OF LABOR (DOL)

## Long-Term Actions

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

**1931. DEPARTMENT OF LABOR ACQUISITION REGULATION****Priority:** Info./Admin./Other. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** 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

**Procurement:** This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

**Additional Information:** Revision of the Department of Labor Acquisition Regulation is awaiting the final

## DOL—OASAM

## Proposed Rule Stage

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

### 1932. 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 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	03/01/99	
Period End		
Final Action	04/00/01	

#### Regulatory Flexibility Analysis

**Required:** No

**Government Levels Affected:** None

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**RIN:** 1291-AA21

### 1933. 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	03/25/99	64 FR 14537
Interim Final Rule Effective	03/25/99	
Interim Final Rule Comment Period End	05/24/99	
Final Action	To Be Determined	

#### 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.

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**RIN:** 1291-AA26

### 1934. 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

**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	03/25/99	64 FR 14537
Interim Final Rule Effective	03/25/99	
Interim Final Rule Comment Period End	05/24/99	
Final Action	To Be Determined	

#### Regulatory Flexibility Analysis

**Required:** No

## DOL—OASAM

## Proposed Rule Stage

**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.

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**RIN:** 1291-AA27

## DEPARTMENT OF LABOR (DOL)

## Prerule Stage

## Occupational Safety and Health Administration (OSHA)

### 1935. PROCESS SAFETY MANAGEMENT OF HIGHLY HAZARDOUS CHEMICALS

**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 1910.119

**Legal Deadline:** None

**Abstract:** OSHA is undertaking two regulatory actions concerning the Process Safety Management of Highly Hazardous Chemicals (PSM) standard. One action was to publish, in April, 2000, an advance notice of proposed rulemaking to address the need to add reactive chemicals that are not currently covered by PSM to the rule and the need to revise the language of the rule to clarify OSHA's intent to cover flammable liquids stored in atmospheric tanks that are connected to a process. Another action is a proposal to add chemicals to the list of highly hazardous chemicals in the PSM standard that were not originally 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	04/00/00	
NPRM Process Safety Management	To Be Determined	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Undetermined

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**RIN:** 1218-AB63

### 1936. SAFETY STANDARDS FOR SCAFFOLDS USED IN THE CONSTRUCTION INDUSTRY—PART II

**Priority:** Substantive, Nonsignificant

**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, several issues have arisen under the new standard. The agency will solicit information on several issues including (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.

**Timetable:**

Action	Date	FR Cite
ANPRM	09/00/00	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

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**RIN:** 1218-AB68

### 1937. GRAIN HANDLING FACILITIES (SECTION 610 REVIEW)

**Priority:** Other Significant

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

**CFR Citation:** 29 CFR 1910.272

**Legal Deadline:** None

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

**Timetable:**

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

**Regulatory Flexibility Analysis Required:** No

## DOL—OSHA

## Prerule Stage

**Government Levels Affected:** None

**Agency Contact:** John F. Martonik, Director, Office of Program Audits and Evaluation, Department of Labor, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
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**RIN:** 1218-AB73

### 1938. 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	
End Review	09/00/00	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Agency Contact:** John F. Martonik, Director, Office of Program Audits and Evaluation, Department of Labor, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
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**RIN:** 1218-AB74

### 1939. PREVENTION OF NEEDLESTICK AND OTHER SHARPS INJURIES

**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 1910.1030

**Legal Deadline:** None

**Abstract:** In 1998, OSHA published a Request for Information (RFI) requesting information from the public on the incidence of needlestick and sharps injuries among workers in healthcare, nursing home, and other related work settings; the availability and extent of use of safer medical devices to prevent such injuries; the potential cost and feasibility implications of relying on such devices; how best to evaluate the efficacy of these devices and encourage worker acceptance of them, and other issues. Workers receiving such injuries may contract such deadly diseases as Hepatitis B, Hepatitis C, or Acquired Immune Deficiency Syndrome (AIDS) if the needle or sharp causing the injury is contaminated by blood or other potentially infectious material from a patient or client with bloodborne disease. OSHA received 396 responses to the RFI. It has been estimated that there are 590,000 contaminated needlestick and sharps injuries every year. OSHA decided to take several actions in response to the information received: issuance of the RFI summary report; revision of the compliance directive (CPL 2-2.44D) for the Bloodborne Pathogens standard (29 CFR 1910.1030); and proposed revision of the Bloodborne Pathogens standard to clarify that, where feasible, safer medical devices must be used to satisfy the requirements of that paragraph: "Engineering and work practice controls shall be used to eliminate or minimize employee exposure." The revised compliance directive was issued in 1999. OSHA intends to issue the proposed rule in the Spring of 2001, and to hold stakeholder meetings in the summer of 2000.

**Timetable:**

Action	Date	FR Cite
ANPRM	03/00/01	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** Undetermined

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

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**RIN:** 1218-AB85

### 1940. OCCUPATIONAL EXPOSURE TO PERCHLOROETHYLENE

**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 1910.1000

**Legal Deadline:** None

**Abstract:** OSHA intends to issue an Advance Notice of Proposed Rulemaking (ANPR) to address the hazards associated with occupational exposure to perchloroethylene (also called "tetrachloroethylene"), (CAS 127-18-4). OSHA's limits for this substance are 100 ppm as an 8-hour TWA; 200 ppm as a 15-minute ceiling; and 300 ppm as a 5-minute peak not to be exceeded in any 3-hour period (29 CFR 1910.1000). These limits have been in place for nearly 30 years and are widely recognized as being inadequately protective. NIOSH classifies perchloroethylene as an occupational carcinogen. Workers exposed to perchloroethylene may experience sensory irritation, narcosis, liver damage, and cancer. The ANPR will solicit information from interested parties on the risk, current exposure levels, current industry control practices, and feasible means of achieving reductions in existing exposure levels among workers in perchloroethylene-using industries.

**Timetable:**

Action	Date	FR Cite
ANPRM	05/00/00	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

## DOL—OSHA

## Prerule Stage

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**RIN:** 1218-AB86

**1941. SANITATION**

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

**Unfunded Mandates:** Undetermined

**Legal Authority:** 29 USC 655; 40 USC 333

**CFR Citation:** 29 CFR 1926.51

**Legal Deadline:** None

**Abstract:** On October 7, 1998, the Advisory Committee on Construction Safety and Health (ACCSH) recommended that OSHA consider proposed revisions to the construction sanitation standard (29 CFR 1926.51). OSHA believes that the ACCSH recommendation raises important issues regarding the type of sanitation facilities needed for construction workers. OSHA intends to issue an ANPRM to consider revisions to the sanitation standard that would include washing facilities, gender-separate and lockable toilet facilities, and (where other OSHA standards require change rooms), gender-separate and lockable change facilities.

**Timetable:**

Action	Date	FR Cite
ANPRM	12/00/00	

**Regulatory Flexibility Analysis Required:** Undetermined

**Small Entities Affected:** No

**Government Levels Affected:** None

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**RIN:** 1218-AB87

**1942. HEARING LOSS PREVENTION IN CONSTRUCTION WORKERS**

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

**Unfunded Mandates:** Undetermined

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

**CFR Citation:** 29 CFR 1926.52

**Legal Deadline:** None

**Abstract:** OSHA issued a Sec. 6(b)(5) health standard mandating a comprehensive hearing conservation program for noise exposed workers in general industry in 1983. However, a number of recent studies have shown that a large number of construction workers experience work-related hearing loss. In addition, current industry practice with regard to the use of engineering, administrative and personal protective equipment to reduce exposures to noise is low in this industry. OSHA intends to issue an

Advance Notice of Proposed Rulemaking (ANPRM) early in 2000, and to initiate stakeholder meetings later in the year, to gather information on the extent of noise-induced hearing loss among workers in different trades in this industry, current practices to reduce this loss, and additional approaches and protections that could be used to prevent such loss in the future.

**Timetable:**

Action	Date	FR Cite
ANPRM	04/00/00	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

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**RIN:** 1218-AB89

**DEPARTMENT OF LABOR (DOL)****Proposed Rule Stage****Occupational Safety and Health Administration (OSHA)****1943. 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 1926.55

**Legal Deadline:** None

**Abstract:** OSHA enforces hundreds of permissible exposure limits (PELs) for toxic air contaminants found in U.S. workplaces. Most of 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 analyzing the feasibility of any 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 name of the 20 substances from which the proposed new PELs for the first update were 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 and skin irritation and sensitivity, and cardiovascular disease, etc. Using the same criteria as those used in the Priority Planning Process, OSHA has evaluated for each substance: the 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, and the 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.

Although OSHA has evaluated factors for the twenty substances and plans to develop more PELs in the future, for this first stage in the current rulemaking process OSHA has decided to propose new PELs for four chemicals - carbon disulfide, glutaraldehyde, hydrazine, and trimellitic anhydride - that have different adverse health effects, both carcinogenic and non-carcinogenic, requiring different risk assessment approaches. For these four chemicals, OSHA has modified or developed new quantitative risk assessment approaches for cancer, respiratory sensitization and irritation, cardiovascular disease and neurotoxicity effects. Publication of the proposal will allow OSHA to continue to develop a mechanism for updating and extending its air contaminant limits, that 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 and timeliness of the process. The agency is considering the establishment of an advisory committee to review issues related to the PELs 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 to establish limits for some currently

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 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 Cost 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

## DOL—OSHA

## Proposed Rule Stage

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 are being completed at this time.

**Timetable:**

Action	Date	FR Cite
NPRM	08/00/00	

**Regulatory Flexibility Analysis Required:** No

**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

#### 1944. 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 2000.

**Timetable:**

Action	Date	FR Cite
Begin Review	10/01/96	
Publish Report	06/00/00	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

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**RIN:** 1218-AB60

#### 1945. PLAIN LANGUAGE REVISION OF THE FLAMMABLE AND COMBUSTIBLE LIQUIDS STANDARD

**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 liquids storage. The purpose of this rulemaking will be to restate this standard in plain language.

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/00	

**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

#### 1946. PLAIN LANGUAGE REVISION OF THE MECHANICAL POWER-TRANSMISSION APPARATUS STANDARD

**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 1910.219

**Legal Deadline:** None

**Abstract:** OSHA has identified this standard in part 1910 for revision 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

## DOL—OSHA

## Proposed Rule Stage

President's June 1998 Executive Memo on Plain Language. OSHA intends to propose a plain language revision of the rule.

**Timetable:**

Action	Date	FR Cite
NPRM - Mechanical Power-Transmission Apparatus	06/00/00	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

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**RIN:** 1218-AB66

#### 1947. 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	12/00/00	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** Undetermined

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**RIN:** 1218-AB67

#### 1948. STANDARDS IMPROVEMENT (MISCELLANEOUS CHANGES) FOR GENERAL INDUSTRY, MARINE TERMINALS, AND CONSTRUCTION STANDARDS (PHASE II)

**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)

**CFR Citation:** 29 CFR 1910.142; 29 CFR 1910.178; 29 CFR 1910.219; 29 CFR

1910.261; 29 CFR 1910.265; 29 CFR 1910.410; 29 CFR 1910.1001-.1052; 29 CFR 1926.60; 29 CFR 1926.62; 29 CFR 1926.1101; 29 CFR 1926.1127; 29 CFR 1926.1129; 29 CFR 1917.92

**Legal Deadline:** None

**Abstract:** The Occupational Safety and Health Administration (OSHA) is continuing the process of removing or revising provisions in its standards that are out of date, duplicative, unnecessary, or inconsistent. The Agency is proposing these changes to reduce the burden imposed on the regulated community by these provisions and to further respond to a March 4, 1995 memorandum from the President. In this document, substantive changes are proposed for standards that will revise or eliminate duplicative, inconsistent, or unnecessary regulatory requirements without diminishing employee protections. Phase I of this Standards Improvement process was completed in June 1998 (63 FR 33450).

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/00	

**Regulatory Flexibility Analysis**

**Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

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**RIN:** 1218-AB81

#### 1949. PLAIN LANGUAGE REVISIONS TO SPRAY APPLICATIONS

**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); 29 USC 657

**CFR Citation:** 29 CFR 1910.107; 29 CFR 1910.94(c), (d)

**Legal Deadline:** None

**Abstract:** This plain language effort will revise one of OSHA's most complex and out-of-date rules, those for spray finishing using flammable and combustible liquids (29 CFR 1010.107). This standard addresses the hazards associated with the use of spray areas or spray booths to apply flammable or combustible liquids to manufactured equipment and objects. It includes specifications for the design of spray booths and areas, and for the use of these booths and areas and associated equipment. The plain language rule will be titled "Spray Applications." This rule was originally listed under RIN 1218-AB55.

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/00	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** Undetermined

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**RIN:** 1218-AB84

**1950. SIGNS, SIGNALS, AND BARRICADES**

**Priority:** Substantive, Nonsignificant

**Unfunded Mandates:** Undetermined

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

**CFR Citation:** 29 CFR 1926.200; 29 CFR 1926.201; 29 CFR 1926.202; 29 CFR 1926.203

**Legal Deadline:** None

**Abstract:** OSHA's standard on Signs, Signals and Barricades (Subpart G-29 CFR 1926.200 through 1926.203) currently incorporates the American

National Standards Institute's 1971 industry consensus standard ANSI D6.1-1971. The ANSI organization has withdrawn its 1971 standard and the U.S. Department of Transportation has issued an updated standard entitled: A Manual on Uniform Traffic Control Devices (MUTCD). Because the OSHA standard is out-of-date, the Agency intends to propose changes to update Subpart G to incorporate the requirements of the Department of Transportation's MUTCD into the OSHA rule.

**Timetable:**

Action	Date	FR Cite
NPRM	08/00/00	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

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**RIN:** 1218-AB88

## DEPARTMENT OF LABOR (DOL)

## Final Rule Stage

## Occupational Safety and Health Administration (OSHA)

**1951. 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:** In 1992, OSHA announced that it would develop a proposal for revising steel erection safety requirements using the negotiated rulemaking process. In negotiated rulemaking, OSHA, public, industry and employee representatives meet as an advisory committee and attempt to forge a consensus on a proposed standard. An advisory committee for this rule was formed in 1994. Its work resulted in the publication of a proposed rule on August 13, 1998.

The written comment period ended November 17, 1998. A public hearing was held in Washington, D.C. on December 1-11, 1998. The post-hearing comment period closed April 12, 1999. OSHA is now working to complete a final rule.

**Statement of Need:** In 1989, the Ironworkers International Union and National Erectors Association petitioned OSHA to revise the steel erection standard through negotiated rulemaking. In light of the significant number of steel erection fatalities and injuries and concerns that the Agency's existing rule fails to adequately address a number of factors affecting safety, OSHA determined that the current rule needed to be revised.

**Summary of 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:** OSHA considered continuing to rely on the existing rule.

## DOL—OSHA

## Final Rule Stage

The Agency also considered issuing a proposed rule without negotiated rulemaking. Leaving the existing rule unchanged was rejected because of the apparent inadequacies of the standard. Negotiated rulemaking was chosen to help resolve conflicts and produce a proposal sooner.

**Anticipated Cost and Benefits:** OSHA expects compliance with the proposal to impose annualized costs of about \$50 million per year. Benefits are expected to include the prevention of about 14 fatalities and 824 lost workday injuries per year.

**Risks:** OSHA estimates that at least 28 workers die each year while engaged in steel erection. Falls continue to be the leading cause of job-related deaths among construction workers, and steel erection involves a significant degree of exposure to fall hazards.

**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	12/01/98	
Final Rule	07/00/00	

**Regulatory Flexibility Analysis**

**Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

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**RIN:** 1218-AA65

## 1952. 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 occupational 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 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. During that comment period, the public submitted over 450 written comments to OSHA Docket R-02. In addition, OSHA held two public meetings in Washington, DC (March 26-29 and April 30-May 1) resulting in 1,200 pages of transcripts from nearly 60 presentations. 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 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 use of the information, OSHA needs to provide clearer regulatory guidance to employers and simplify the recordkeeping forms.

**Summary of Legal Basis:** The legal basis for issuance of this final rule is Section 8(c)(1) of the OSH 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 Cost and Benefits:** OSHA has not determined the costs and benefits of the final rule.

**Risks:** Not applicable.

**Timetable:**

Action	Date	FR Cite
NPRM	02/02/96	61 FR 4030

## DOL—OSHA

## Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	07/02/96	
Final Action	06/00/00	
Final Action Effective	01/00/01	

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

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**RIN:** 1218-AB24**1953. ERGONOMICS PROGRAMS: PREVENTING MUSCULOSKELETAL DISORDERS****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 651; 29 USC 652; 29 USC 655; 29 USC 657; 33 USC 941; 40 USC 333**CFR Citation:** 29 CFR 1910**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 was appropriate 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.

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 Agency, therefore, has developed a proposed rule for ergonomics and is currently working on a final rule.

**Statement of Need:** OSHA estimates that work-related musculoskeletal disorders in the United States account for over 600,000 injuries and illnesses that are serious enough to result in days away from work (34 percent of all lost workday injuries 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 \$15-\$18 billion a year on direct costs for MSD-related workers' compensation, and up to three to four 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 "ergonomic 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 ergonomic 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 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 ergonomic 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 Legal Basis:** The legal basis for the rule is a 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 has considered many different regulatory alternatives. These include variations in the scope

## DOL—OSHA

## Final Rule Stage

of coverage, particularly with regard to industrial sectors, work processes, and degree of hazard.

**Anticipated Cost and Benefits:**

Implementation costs of an ergonomics program standard 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 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 were presented in the preamble to the 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	
SBREFA Panel	03/02/99	
NPRM	11/23/99	64 FR 65768
Final Action	12/00/00	

**Regulatory Flexibility Analysis**

**Required:** Yes

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

**Government Levels Affected:**

Undetermined

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**RIN:** 1218-AB36

**1954. 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 Labor Coalition to Fight TB in the Workplace petitioned the Occupational Safety and Health Administration (OSHA) to develop an occupational health standard to protect workers against the transmission of tuberculosis (TB). The Coalition stated that although the Centers for Disease Control and Prevention (CDC) had developed guidelines for controlling the spread of TB, many of the TB outbreak investigations conducted by CDC showed that many employers were not fully implementing the CDC guidelines. After reviewing the available information, OSHA preliminarily concluded that a significant risk of occupational transmission of TB exists for some workers in some work settings and began rulemaking on a proposed standard.

To assist in the development of the proposed standard, OSHA consulted with parties outside the Agency. The preliminary risk assessment was peer-reviewed by four experts with specific knowledge in the areas of TB disease and risk assessment. In addition, OSHA conducted stakeholder meetings with representatives of various groups that might be affected by the proposed standard. The draft proposed standard was also reviewed and commented on by affected small business entities under the Small Business Advocacy Review Panel requirements of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) and by the Office of Management and Budget (OMB) under Executive Order 12866.

On October 17, 1997 OSHA published its proposed standard for occupational exposure to TB (62 FR 54160). The proposed standard would cover workers in hospitals, nursing homes, hospices, correctional facilities,

homeless shelters, and certain other work settings where workers are at significant risk of becoming infected with TB while caring for their patients or clients or performing certain procedures. The proposed standard would require employers to protect TB-exposed workers using infection control measures that have been shown to be highly effective in reducing or eliminating work-related TB infections. Such measures include procedures for early identification of individuals with infectious TB, isolation of individuals with infectious TB using appropriate ventilation, use of respiratory protection in certain situations, and skin testing and training of employees.

After the close of the written comment period for the proposed standard on February 17, 1998, 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 public hearings a post-hearing comment period was established. The post-hearing comment period closed on October 5, 1998. On June 17, 1999 OSHA re-opened the rulemaking record to submit the Agency's report on homeless shelters and certain other documents that became available to the Agency after the close of the post-hearing comment period. During this limited re-opening of the rulemaking record, OSHA also requested interested parties to submit comments and data on the Agency's preliminary risk assessment in order to obtain the best, most recent data for providing the most accurate estimates of the occupational risk of tuberculosis.

**Statement of Need:** TB is a contagious disease caused by the bacterium *Mycobacterium tuberculosis*. Infection is acquired by the inhalation of airborne particles carrying the bacterium. These airborne particles, called droplet nuclei, can be generated when persons with pulmonary TB in the infectious stage of the disease cough, sneeze, or speak. In some individuals who inhale the droplet nuclei, TB bacteria establish an infection. In most cases, the bacteria are contained by the individual's immune system. However, in some cases, the bacteria are not contained by the immune system and continue to grow and invade the tissue, leading to the progressive destruction of the organ involved. In most cases, this organ is

## DOL—OSHA

## Final Rule Stage

the lung, although other organs may also become infected.

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 cases to 22,255 cases. However, this steady decline did not continue. Instead, from 1985 to 1992, the number of reported cases increased 20.1 percent. TB control efforts were re-initiated in some areas of the country and from 1993 to 1998, the number of cases in the United States again declined. A large portion of the decrease occurred in high incidence areas, such as New York City, where intervention efforts were focused. However, despite the recent decrease in active cases, there were still 18,371 reported TB cases in 1998. Outbreaks of TB continue to occur and multidrug-resistant forms of TB disease continue to spread to new states. In addition, more than 10 to 15 million persons in the United States have latent TB infection and are at risk of developing TB disease sometime in the future. Moreover, the factors that led to the resurgence from 1985 to 1992 (e.g., increases in homelessness, HIV infection, immigration from countries with high rates of infection) still exist.

Providing health care for individuals with TB increases the risk of occupational exposure among healthcare workers. Many of the outbreaks of TB have occurred in health care facilities, resulting in the transmission of TB to both patients and health care workers. CDC found that the factors contributing to these outbreaks included delayed diagnosis of TB, delayed initiation of effective therapy, delayed initiation and inadequate duration of TB isolation, inadequate ventilation of isolation rooms, lapses in TB isolation practices, and lack of adequate respiratory protection. CDC analyzed data from several of the outbreaks and found that the transmission of TB decreased significantly when recommended TB control measures were implemented. Workers outside health care also provide services to patient or client populations that have an increased rate of TB disease. For example, occupational transmission of TB has been documented in correctional facilities, and the standard would cover such workers.

**Summary of 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 a 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 Cost 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 work-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 annual costs of 245 million dollars. Implementation of the standard is estimated to reduce the number of work-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 approximately 115 to 136 deaths resulting from these active cases.

**Risks:** From 1985 to 1992, the number of reported cases of TB in the United States 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. Fourteen states showed an increase or no change in the number of reported cases in 1998, and the factors that contributed to the resurgence continue to exist, along with exposure of certain workers to patient or client populations with an increased rate of TB. In addition, TB outbreaks continue to occur and multidrug-resistant strains of TB continue to

spread to new states. 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 of TB. OSHA estimates that the average lifetime occupational risk of TB infection ranges from 30-386 infections per 1000 workers exposed to TB on the job and that the average lifetime occupational risk of TB disease ranges from 3-39 cases of active TB disease per 1000 workers exposed to TB. 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 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	
Record Reopening Reopening Comment Period End	06/17/99	64 FR 32447
2nd Reopening Comment Period End	08/02/99	
Final Rule	06/28/99	64 FR 34625
	07/00/00	

**Regulatory Flexibility Analysis**

**Required:** Yes

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

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

**Additional Information:** During this 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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## DOL—OSHA

## Final Rule Stage

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RIN: 1218-AB46

**1955. 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 16 laboratories operating 40 sites in the U.S., Canada, and the Far East as NRTLs. OSHA has proposed 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. The proposal was published on August 18, 1999, and the Agency is now working on a final rule.

**Timetable:**

Action	Date	FR Cite
NPRM	08/18/99	64 FR 45098
NPRM Comment Period End	10/04/99	
Final	06/00/00	

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

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RIN: 1218-AB57

**1956. EMPLOYER PAYMENT FOR PERSONAL PROTECTIVE EQUIPMENT****Priority:** Other Significant**Legal Authority:** 29 USC 655(b); 29 USC 657; 33 USC 941; 40 USC 333**CFR Citation:** 29 CFR 1910.132; 29 CFR 1915.152; 29 CFR 1917.96; 29 CFR 1918.106; 29 CFR 1926.95**Legal Deadline:** None

**Abstract:** Generally, OSHA standards require that protective equipment (including personal protective equipment (PPE)) be provided and used when necessary to protect employees from hazards that can cause them injury, illness, or physical harm. In this discussion, OSHA uses the abbreviation "PPE" to cover both personal protective equipment and other protective equipment. The Agency has proposed 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:** 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 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.

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 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.

**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 Cost and Benefits:** It is estimated that this rule will shift, at most, annualized costs to employers of no more than \$62 million across all affected industries. It is also estimated that the proposed rule will prevent over 47,000 injuries and seven fatalities that occur annually as a result of the non-use or misuse of personal protective equipment by employees required to pay for their own PPE.

**Risks:** Substantive requirements for protective equipment are included in other OSHA 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.

**Timetable:**

Action	Date	FR Cite
NPRM	03/30/99	64 FR 15401
NPRM Comment Period End	06/14/99	
Informal Public Hearing End	08/13/99	
Final Rule	07/00/00	

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

## DOL—OSHA

## Final Rule Stage

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**RIN:** 1218-AB77

**1957. CONSULTATION AGREEMENTS**

**Priority:** Other Significant

**Legal Authority:** 29 USC 670

**CFR Citation:** 29 CFR 1908

**Legal Deadline:** None

**Abstract:** OSHA proposed an amendment to 29 CFR 1908, the Agency's regulations governing consultation agreements, to provide for full employee involvement in the consultative process in line with the President's directive to enhance worker participation in the consultation program (The New OSHA: Reinventing Worker Safety and Health, May 1995), and to implement the requirements of the Occupational Safety and Health Administration Compliance Assistance

Authorization Act of 1999(Section 21(d) of the OSH Act.

**Timetable:**

Action	Date	FR Cite
NPRM	07/02/99	64 FR 35972
Final Action	05/00/00	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Undetermined

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Phone: 202 693-2213

**RIN:** 1218-AB79

**1958. PLAIN LANGUAGE REVISIONS TO THE EXIT ROUTES STANDARD**

**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 353

**CFR Citation:** 29 CFR 1910.35; 29 CFR 1910.36; 29 CFR 1910.37; 29 CFR 1910.38

**Legal Deadline:** None

**Abstract:** This plain language effort will revise one of OSHA's most

complex and out-of-date standards, Means of Egress, codified at 29 CFR 190.38. This standard addresses exit routes in general industry workplaces, which are essential to guide employees to safety in an emergency. The plain language rule will be titled "Exit Routes." This rule was originally listed under RIN 1218-AB55.

**Timetable:**

Action	Date	FR Cite
NPRM	09/10/96	61 FR 47712
Public Hearing	04/29/97	62 FR 9402
Final Rule	08/00/00	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

**Agency Contact:** Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
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**RIN:** 1218-AB82

**DEPARTMENT OF LABOR (DOL)****Occupational Safety and Health Administration (OSHA)****Long-Term Actions****1959. 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 is developing an approach to devising APFs that involves analyzing available data

including data from workplace and chamber studies, where such data are available. OSHA will request further public comment on the analyses conducted using this approach. This will assure that OSHA receives and fully considers public input before issuing final APFs. OSHA expects to complete the rulemaking on APFs in 2001.

**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

## DOL—OSHA

## Long-Term Actions

Action	Date	FR Cite
Final Rule	01/08/98	63 FR 1152
Final Rule Effective	01/08/98	
Final Rule - Assigned Protection Factors	12/00/01	

**Regulatory Flexibility Analysis Required:** No

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

**Agency Contact:** Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
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**RIN:** 1218-AA05

### 1960. 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, in that rule, the Agency reserved provisions related to vertical tandem lifts. Vertical tandem lifts (VTLs) involve the lifting of two empty single 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. The Agency will make a decision about whether to proceed with rulemaking or to address this issue through a compliance directive in early 2000.

**Timetable:**

Action	Date	FR Cite
NPRM	06/06/94	59 FR 28594
NPRM Comment Period End	09/23/94	
Final Rule on Longshoring/Marine Terminals	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

**Agency Contact:** Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
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**RIN:** 1218-AA56

### 1961. SCAFFOLDS IN SHIPYARDS (PART 1915 — SUBPART N)

**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 are subject to both shipyard and general industry standards, and this project aimed at establishing a

vertical standard for shipyard employment by addressing 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). Final rules have been issued on two of these proposals: Personal Protective Equipment and Confined Spaces. The remaining subparts in part 1915 were categorized as Phase II of the consolidation project (including general working conditions and fire protection).

This standard will revise the existing shipyard employment standards covering scaffolds and will consolidate all related and applicable 29 CFR part 1910 provisions into 29 CFR part 1915. It will develop, in part, performance-oriented standards, address current gaps in coverage, and address new technologies. About 75,000 workers are potentially exposed to these hazards annually.

**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

Next Action Undetermined

**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, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
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**RIN:** 1218-AA68

### 1962. ACCESS AND EGRESS IN SHIPYARDS (PART 1915, SUBPART E) (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

## DOL—OSHA

## Long-Term Actions

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 are subject to both the shipyard and general industry standards and this project aimed at establishing a vertical standard for shipyard employment by addressing 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). Final rules have been issued on two of these proposals: Personal Protective Equipment and Confined Spaces. The remaining subparts in part 1915 were categorized as Phase II of the consolidation project (including General Working Conditions and Fire Protection).

This 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. About 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	

Next Action Undetermined

**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

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**RIN:** 1218-AA70

**1963. 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 could 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 on March 23, 1993 (58 FR 15526), that would reduce the permissible exposure limits for four glycol ethers and provide protection for approximately 46,000 workers exposed to these substances. OSHA is working toward promulgation of a final rule in 2001.

**Timetable:**

Action	Date	FR Cite
ANPRM	04/02/87	52 FR 10586
ANPRM Comment Period End	07/31/87	
NPRM	03/23/93	58 FR 15526

Action	Date	FR Cite
NPRM Comment Period End	06/07/93	
Final Action	04/00/01	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Undetermined

**Agency Contact:** Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
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**RIN:** 1218-AA84

**1964. 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 was to develop and promulgate the Hazardous Waste Operations and Emergency Response standard. OSHA issued an interim final standard on December 19, 1986 (51 FR 45654) to comply with the law's requirements. OSHA issued a permanent final rule 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

## DOL—OSHA

## Long-Term Actions

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	

Next Action Undetermined

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:**

Undetermined

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**RIN:** 1218-AB27

**1965. 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, and many cases of respiratory disease, Legionnaire's disease, asthma, and other ailments are estimated to be linked to this occupational hazard. EPA estimates that 20 to 35 percent of all workers in modern mechanically ventilated buildings may experience air-quality related signs and symptoms.

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	
Next Action Undetermined		

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:**

Undetermined

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

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**RIN:** 1218-AB37

**1966. 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 655; 29 USC 657

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

**Legal Deadline:** None

**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 Programs, and many proactive employers in all industries recognize the value of worksite-specific safety and health programs in preventing job-related injuries, illnesses, and fatalities. The reductions in job-related injuries and illnesses, workers' compensation costs, and absenteeism that occur after employers implement such programs dramatically demonstrate the effectiveness of these programs. In 1989, OSHA published nonmandatory guidelines to help employers establish safety and health programs (54 FR 3904). Those guidelines 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 has decided to expand on these guidelines by developing a safety and health programs rule because 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. This number does not include an estimated 137 daily deaths associated with job-related chronic illnesses.

The safety and health programs required by the proposed rule will include the following core elements: management leadership; active employee participation; hazard identification and assessment; hazard prevention and control; information and training; and program evaluation. In response to extensive stakeholder involvement, OSHA has, among other things, focused the rule on significant hazards and reduced burdens on small

## DOL—OSHA

## Long-Term Actions

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 Programs 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 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 their existing duty to control hazards under sections 5(a)(1) and 5(a)(2) of the OSH Act. The rule is also reasonably related to achieving the purposes of the Act, and would essentially require employers to conduct periodic inspections of the workplace and to inform employees about the hazards they find.

**Alternatives:** In the last few years, OSHA has considered both nonregulatory and regulatory alternatives in the area of safety and health program management. First, in 1989, OSHA published a set of voluntary management guidelines designed to help employers set up and maintain safety and health programs. 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 States have also recognized the value of these programs and have mandated that some or all 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 Cost and Benefits:** OSHA preliminarily estimated the overall program costs of the draft proposed standard provided to the SBREFA Panel for this rule for all covered employers to be about \$2.3 billion per year. The Agency also estimates that 580,000 to 1,300,000 injuries and illnesses and 416 to 918 fatalities will be avoided each year as a result of the rule. OSHA anticipates that employers will have direct cost savings associated with this reduction in the number of injuries and illnesses of approximately \$7.3 to \$16.5 billion per year.

**Risks:** Workers in all major industry sectors in the United States continue to experience an unacceptably high rate of occupational fatalities, injuries, and illnesses. For 1996, the Bureau of Labor Statistics reported that 6.2 million injuries and illnesses occurred within private industry. For 1997, BLS reported that 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: about \$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. Because the proposed rule addresses significant job-related hazards, the rule will be effective in ensuring a systematic approach to the control of long-recognized hazards, such as lead, which are covered by existing OSHA standards, and emerging hazards, such as lasers and violence in the workplace, where conditions in the workplace would require control under the General Duty Clause of the Act.

**Timetable:**

Action	Date	FR Cite
NPRM	To Be	Determined

**Regulatory Flexibility Analysis Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** State

**Federalism:** Undetermined

**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

## DOL—OSHA

## Long-Term Actions

**1967. 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 would represent a significant reduction in the current PEL. The current PEL in general industry is found in 29 CFR 1910.1000 Table Z and is a ceiling value of 100 ug/m3, measured as chromium (VI) and reported as chromic anhydride (CrO3). The amount of chromium (VI) in the compound equates to a PEL of 52 ug/m3. 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. After reviewing the petition, OSHA denied the request for an ETS and initiated a section 6(b) rulemaking.

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

**Timetable:**

Action	Date	FR Cite
NPRM	06/00/01	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Undetermined

**Agency Contact:** Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210  
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**RIN:** 1218-AB45

**1968. CONFINED SPACES IN CONSTRUCTION (PART 1926): PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES**

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

**Unfunded Mandates:** Undetermined

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

**CFR Citation:** 29 CFR 1926.36

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	07/00/01	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Undetermined

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

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**RIN:** 1218-AB47

**1969. GENERAL WORKING CONDITIONS FOR SHIPYARD EMPLOYMENT**

**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 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. Publication of a proposal addressing general working conditions in shipyards is part of this project. The operations addressed in this 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	04/00/01	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

**Agency Contact:** Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

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**RIN:** 1218-AB50

## DOL—OSHA

## Long-Term Actions

**1970. FIRE PROTECTION IN SHIPYARD EMPLOYMENT (PART 1915, SUBPART P) (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. With the assistance of the Agency's Maritime Advisory Committee on Occupational Safety and Health, OSHA formed a Negotiated Rulemaking Committee to develop draft regulatory text addressing fire protection in shipyards. The committee includes members representing employers, employees, and other affected parties. The committee has drafted a regulatory text and is now working with OSHA staff to refine and support it in preparation for publication as a proposed rule.

The operations that would be addressed in this rulemaking relate to fire brigades, fire extinguishers, sprinkler systems, detection systems, alarm systems, fire watches, and emergency plans. A total of 75,000 workers are potentially exposed to these hazards annually. This proposed standard is expected to be published next year.

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/01	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Undetermined

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**RIN:** 1218-AB51

**1971. METALWORKING FLUIDS: PROTECTING RESPIRATORY HEALTH**

**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. In response to the petition, OSHA established a 15-member Standards Advisory Committee to make recommendations to OSHA regarding the need for a standard, a guideline, or other appropriate response to the dangers of occupational exposures to metalworking fluids. The Committee recommended that OSHA proceed with a rulemaking on metalworking fluids under section 6(b)(5) of the Act. Workers exposed to these fluids are at risk of developing respiratory diseases, including hypersensitivity pneumonitis, occupational asthma, and lung cancer and dermatoses. The committee submitted its report to OSHA in July, 1999. OSHA plans to propose a standard in 2001.

**Timetable:**

Action	Date	FR Cite
NPRM	04/00/01	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Undetermined

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**RIN:** 1218-AB58

**1972. FALL PROTECTION IN THE CONSTRUCTION INDUSTRY**

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 29 CFR 1926

**Legal Deadline:** None

**Abstract:** OSHA issued an ANPRM to gather information on fall protection issues regarding certain construction processes such as residential home building, precast concrete operations and post frame construction. The issues relate to the fall protection rules as they now apply to roofing work, residential construction operations, climbing reinforcement steel and vendors delivering materials to construction projects. These issues have arisen since OSHA revised the fall protection standard in August 1994. The comment period closed January 24, 2000. OSHA is now evaluating comments to determine whether further action is required.

**Timetable:**

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

Next Action Undetermined

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

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**RIN:** 1218-AB62

**1973. 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.

DOL—OSHA

Long-Term Actions

**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:** Various OSHA standards require employers to prepare and maintain records to certify that they have tested or inspected certain types of equipment or machinery, or that they have provided training to employees. OSHA is considering whether to propose to revoke some of these certification provisions, in order to reduce paperwork burdens on employers. Such a proposal would not change the substantive requirements for employers to perform the testing, inspecting, and training.

**Timetable:** Next Action Undetermined

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

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**RIN:** 1218-AB65

**1974. 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 in response to the recommendation of OSHA's Advisory Committee on Construction Safety and

Health (ACCSH), 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.

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	To Be	Determined

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** None

**Federalism:** 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 (see entry for RIN 1218-AB41).

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**RIN:** 1218-AB69

**1975. 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. OSHA plans to publish a proposed rule on crystalline silica under section 6(b)(5) of the Act. The standard would protect silica-exposed workers in general industry, construction and maritime.

**Timetable:**

Action	Date	FR Cite
NPRM	06/00/01	

## DOL—OSHA

## Long-Term Actions

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

Undetermined

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**RIN:** 1218-AB70

**1976. 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.

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. OSHA intends to issue a proposal to address this hazard in this industry.

**Timetable:**

Action	Date	FR Cite
NPRM	To Be	Determined

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

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**RIN:** 1218-AB71

**1977. 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. OSHA's current permissible exposure limits for beryllium are: an 8-hour TWA of 2 ug/m<sup>3</sup>; a 5 ug/m<sup>3</sup> ceiling concentration not to be exceeded over a 30-minute period; and a 25 ug/m<sup>3</sup> maximum peak exposure never to be exceeded.

In 1977, OSHA proposed to reduce the 8-hour TWA exposure to beryllium from 2 ug/m<sup>3</sup> to 1 ug/m<sup>3</sup> 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/m<sup>3</sup>) may cause CBD. 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 the past year, OSHA was petitioned to issue an emergency temporary standard (ETS) by the Paper, Allied-Industrial, Chemical and Energy Workers Union(PACE) to protect workers from developing Chronic Beryllium Disease(CBD) and lung cancer as a result of occupational beryllium exposure. The petition was denied, but the Agency has initiated rulemaking under Section 6(b)(5) to protect beryllium-exposed workers from contracting these diseases.

**Timetable:**

Action	Date	FR Cite
NPRM	09/00/01	

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

Undetermined

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**RIN:** 1218-AB76

DOL—OSHA

Long-Term Actions

**1978. 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.

**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	To Be	Determined

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** Undetermined

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**RIN:** 1218-AB78

**1979. 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, subparts D and I

**Legal Deadline:** None

**Abstract:** In 1990, OSHA proposed (55 FR 13360) a rule addressing slip, trip, and fall hazards and establishing requirements for personal fall protection systems. OSHA is analyzing the record to determine if it is appropriate to repropose the standard or to 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:** Undetermined

**Government Levels Affected:** None

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**RIN:** 1218-AB80

**1980. OIL AND GAS WELL DRILLING AND SERVICING**

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

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

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

**CFR Citation:** 29 CFR 1910.270

**Legal Deadline:** None

**Abstract:** OSHA intends to propose a standard for the oil and gas well drilling and servicing industry. In 1982, OSHA proposed a standard for the industry. OSHA believed at that time that the OSHA general industry standard did not adequately address the hazards of oil and gas well drilling and servicing and that this lack of protection contributed to a high number of deaths and injuries in the industry. No final action was taken with respect to the proposed standard and, therefore, there is still no specific OSHA standard for the oil and gas well drilling and servicing industry. OSHA intends to repropose in the near future, because changes in technology, conditions in the industry, and workforce demographics necessitate the issuance of a new proposal.

The oil and gas well drilling and servicing industry is involved in extracting underground deposits of oil and gas and in maintaining the equipment used to bring the oil and gas to the surface. In 1997, there were 85 deaths resulting from accidents in the industry, caused by such events as falling from equipment/platforms to another level, being struck or crushed by equipment, and being asphyxiated. OSHA has begun collecting information and data with respect to the industry and will soon hold stakeholder meetings to provide an early opportunity to those who may be impacted by a standard to discuss their ideas on the rulemaking.

**Timetable:**

Action	Date	FR Cite
NPRM	To Be	Determined

**Regulatory Flexibility Analysis**

**Required:** No

## DOL—OSHA

## Long-Term Actions

**Government Levels Affected:** None  
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**RIN:** 1218-AB83

## DEPARTMENT OF LABOR (DOL)

## Completed Actions

## Occupational Safety and Health Administration (OSHA)

**1981. CONTROL OF HAZARDOUS  
 ENERGY SOURCES  
 (LOCKOUT/TAGOUT) (COMPLETION  
 OF A 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.  
 Data submitted to the docket in  
 connection with this Lookback Review  
 demonstrate that the rule has decreased  
 lockout-related fatalities in certain  
 industries by 20 percent or more each  
 year since promulgation of the  
 standard. To respond to comments  
 received during this review of the  
 standard, OSHA will revise the  
 compliance directive for this standard,

review the Agency's interpretive  
 guidance pertaining to this rule, and  
 develop and disseminate training and  
 other compliance assistance materials  
 to assist employers in complying with  
 the rule. The final report summarizing  
 the results of this Lookback Review has  
 been placed in Docket S-012-B.

**Timetable:**

Action	Date	FR Cite
Begin Review	10/01/96	
Publish Report	01/30/00	

**Regulatory Flexibility Analysis  
 Required:** No

**Government Levels Affected:** None

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**RIN:** 1218-AB59

## DEPARTMENT OF LABOR (DOL)

## Proposed Rule Stage

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

**1982. ANNUAL REPORT FOR  
 FEDERAL CONTRACTORS**

**Priority:** Other Significant

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

**CFR Citation:** 41 CFR 61

**Legal Deadline:** None

**Abstract:** The Veterans' Employment  
 and Training Service is proposing to  
 issue regulations implementing changes  
 in the reporting requirements as stated  
 in Veterans Employment Opportunity  
 Act of 1998. The Act requires all  
 Federal contractors and sub-contractors  
 with contracts in the amount of \$25,000

or more to report their efforts toward  
 the hiring of qualified veterans. The  
 Act also added an additional category  
 of veterans, "other veteran", to be  
 eligible for employment by Federal  
 contractors. This proposal will help  
 VETS assist in providing qualified  
 veterans to maximize employment and  
 training opportunities.

**Timetable:**

Action	Date	FR Cite
NPRM	06/00/00	

**Regulatory Flexibility Analysis  
 Required:** No

**Government Levels Affected:** None

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**RIN:** 1293-AA07

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