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**Monday,
May 14, 2001**

Part XII

Department of Labor

Semiannual Regulatory Agenda

DEPARTMENT OF LABOR (DOL)

DEPARTMENT OF LABOR

Office of the Secretary

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

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

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Department's semiannual agenda of regulations that have been selected for review or development during the coming year. The agenda complies with the requirements of both Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists all regulations that are expected to be under review or development between April 2001 and April 2002 as well as those completed during the past six months.

FOR FURTHER INFORMATION CONTACT: Barbara Bingham, Acting Director for

the Office of Regulatory Economics, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-2312, Washington, DC 20210, (202) 693-5959.

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

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

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).

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 Department is committed to carrying out its responsibilities under the many statutes and Executive order programs it administers. However, in order to allow me and my staff to have sufficient opportunity to review the regulatory plans of the Department, many of the dates for next action are not specified or the nature of next action to be taken is listed as undetermined. The regulatory priorities of the Department will be reflected in the fall semiannual agenda.

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

Elaine L. Chao,
Secretary of Labor.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1848	Production or Disclosure of Information or Materials	1290-AA17

Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1849	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H)	1215-AA14
1850	Application of the Fair Labor Standards Act to Domestic Service	1215-AA82
1851	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
1852	Records To Be Kept by Employers Under the Fair Labor Standards Act	1215-AB03
1853	Implementation of the 1996 Amendments to the Fair Labor Standards Act	1215-AB13
1854	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era	1215-AB24
1855	Stock Options, Stock Appreciation Rights, and Bona Fide Employee Stock Purchase Programs Under the Fair Labor Standards Act	1215-AB31

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Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1856	Child Labor Regulations, Orders, and Statements of Interpretation (ESA/W-H)	1215-AA09
1857	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models	1215-AB09
1858	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
1859	Claims for Compensation Under the Energy Employees Occupational Illness Compensation Program Act	1215-AB32
1860	Obligation of Federal Contractors and Subcontractors, Notice of Employee Rights Concerning Payment of Union Dues or Fees	1215-AB33

Employment Standards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1861	Government Contractors: Nondiscrimination and Affirmative Action Obligations, Executive Order 11246 (ESA/OFCCP) (Revised)	1215-AB28

Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1862	Government Contractors: Nondiscrimination and Affirmative Action Obligations, Executive Order 11246 (ESA/OFCCP)	1215-AA01
1863	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
1864	Black Lung Benefits Under the Federal Coal Mine Safety and Health Act of 1969, as Amended	1215-AA99
1865	Assessment and Collection of User Fees	1215-AB06
1866	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
1867	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals With Disabilities	1215-AB23
1868	Service Contract Act Exemption for Certain Commercial Service Contracts	1215-AB26
1869	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Special Disabled Veterans and Veterans of the Vietnam Era (Revised)	1215-AB27
1870	Longshore Act Medical Fee Schedule	1215-AB30

Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1871	Labor Certification Process for the Permanent Employment of Aliens in the United States	1205-AA66
1872	Disaster Unemployment Assistance Program, Amendment to Regulations	1205-AB02
1873	Federal-State Unemployment Compensation Program; Unemployment Insurance Performance System	1205-AB10
1874	Labor Certification and Petition Process for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the United States; Modification of Fee Structure	1205-AB24

Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1875	Trade Adjustment Assistance for Workers—Implementation of 1988 Amendments	1205-AB05
1876	Trade Adjustment Assistance for Workers—Transitional Adjustment Assistance NAFTA-TAA	1205-AB07

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Employment and Training Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1877	Welfare-to-Work (WTW) Grants	1205-AB15
1878	Indian and Native American Welfare-to-Work Program	1205-AB16
1879	Federal-State Unemployment Compensation (UC) Program; Confidentiality and Disclosure of Information in State UC Records	1205-AB18
1880	Labor Certification Process for the Permanent Employment of Aliens in the United States; Refiling of Applications	1205-AB25
1881	Attestations by Facilities Temporarily Employing H-1C Nonimmigrant Aliens as Registered Nurses	1205-AB27
1882	Senior Community Service Employment Program	1205-AB28

Employment and Training Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1883	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring, and Enforcement	1205-AA37
1884	Establishment of Fees for Immigration Programs Administered by the Employment and Training Administration	1205-AB14

Pension and Welfare Benefits Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1885	Bonding Rules Under the Employee Retirement Income Security Act of 1974 (Section 610 Review)	1210-AA82
1886	Requests for Enforcement Pursuant to Section 502(b)(2) (Section 610 Review)	1210-AA83
1887	Civil Penalties Under ERISA Section 502(c)(2) (Section 610 Review)	1210-AA84
1888	Procedures for the Assessment of Civil Penalties Under ERISA Section 502(c)(2) (Section 610 Review)	1210-AA85

Pension and Welfare Benefits Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1889	Rulemaking Relating to Notice Requirements for Continuation of Health Care Coverage	1210-AA60
1890	Prohibiting Discrimination Against Participants and Beneficiaries Based on Health Status	1210-AA77
1891	Regulation Exempting Certain Broker-Dealers and Investment Advisers From Bonding Requirements	1210-AA80

Pension and Welfare Benefits Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1892	Definition of Collective Bargaining Agreement (ERISA Section 3(40))	1210-AA48
1893	Regulations Implementing the Health Care Access, Portability and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996	1210-AA54
1894	Health Care Standards for Mothers and Newborns	1210-AA63
1895	Reporting Requirements for MEWAs Providing Medical Care Benefits	1210-AA64
1896	Elimination of Filing Requirements for Summary Plan Descriptions	1210-AA66
1897	Requirement To Furnish Plan Documents Upon Request by the Secretary of Labor	1210-AA67
1898	Civil Penalty for Failure To Furnish Certain Plan Documents	1210-AA68
1899	Electronic Disclosure of Employee Benefit Plan Information	1210-AA71
1900	Rulemaking Relating to the Women's Health and Cancer Rights Act of 1998	1210-AA75
1901	Voluntary Fiduciary Correction Program	1210-AA76

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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	Mental Health Benefits Parity	1210-AA62
1905	Individual Benefits Reporting Requirements for Defined Contribution Plans	1210-AA65
1906	Soft Dollar (Interpretive Bulletin)	1210-AA74

Pension and Welfare Benefits Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1907	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
1908	Amendments to Employee Benefit Plan Claims Procedures Regulation	1210-AA61
1909	Amendments to Summary Plan Description Regulations	1210-AA69
1910	National Medical Support Notice	1210-AA72

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1911	Electrical Grounding Standards for Metal and Nonmetal Mines	1219-AB01
1912	Escapeways and Refuges	1219-AB23

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1913	Belt Entry Use as Intake Aircourse To Ventilate Working Sections	1219-AA76
1914	Metal/Nonmetal Impoundments	1219-AA83
1915	Independent Laboratory Testing	1219-AA87
1916	Surface Haulage	1219-AA93
1917	Improving and Eliminating Regulations	1219-AA98
1918	Respirable Crystalline Silica Standard	1219-AB12
1919	Safety Standards for Self-Contained Self-Rescue Devices in Coal and Metal/Nonmetal Underground Mines	1219-AB19
1920	Mine Rescue Teams	1219-AB20
1921	Surge and Storage Piles	1219-AB22
1922	Accident Investigation Hearing Procedures	1219-AB26

Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1923	Hazard Communication	1219-AA47
1924	Longwall Equipment (Including High-Voltage)	1219-AA75
1925	Requirements for Approval of Flame-Resistant Conveyor Belts	1219-AA92

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Mine Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1926	Air Quality, Chemical Substances, and Respiratory Protection Standards	1219-AA48
1927	Confined Spaces	1219-AA54
1928	Safety Standard Revisions for Underground Anthracite Mines	1219-AA96
1929	Training and Retraining of Miners	1219-AB02
1930	Occupational Exposure to Coal Mine Dust (Lowering Concentration Limit)	1219-AB08
1931	Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust	1219-AB14
1932	Determination of Concentration of Respirable Coal Mine Dust	1219-AB18
1933	Verification of Surface Coal Mine Dust Control Plans	1219-AB21
1934	Asbestos Exposure Limit	1219-AB24
1935	Continuous Monitoring of Respirable Coal Mine Dust in Underground Coal Mines	1219-AB27

Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1936	Diesel Particulate Matter (Exposure of Underground Coal Miners)	1219-AA74
1937	Diesel Particulate Matter (Exposure of Underground Metal and Nonmetal Miners)	1219-AB11

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

Sequence Number	Title	Regulation Identification Number
1938	Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance From the Department of Labor	1291-AA21
1939	Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Investment Act of 1998	1291-AA29

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

Sequence Number	Title	Regulation Identification Number
1940	Department of Labor Acquisition Regulation	1291-AA20
1941	Audits of States, Local Governments, and Nonprofit Organizations	1291-AA26
1942	Audit Requirements for Grants, Contracts, and Other Agreements	1291-AA27
1943	Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting From Federal Financial Assistance	1291-AA28
1944	Grants and Agreements	1291-AA30
1945	Effectuation of Title VI of the Civil Rights Act of 1964 and Implementation of Section 504 of the Rehabilitation Act of 1973	1291-AA31
1946	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug Free Workplace (Grants) 29 CFR 98	1291-AA33

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1947	Occupational Exposure to Ethylene Oxide (Section 610 Review)	1218-AB60
1948	Process Safety Management of Highly Hazardous Chemicals	1218-AB63
1949	Grain Handling Facilities (Section 610 Review)	1218-AB73
1950	Occupational Exposure to Perchloroethylene	1218-AB86

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Occupational Safety and Health Administration—Prerule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1951	Sanitation in the Construction Industry	1218-AB87
1952	Hearing Loss Prevention in Construction Workers	1218-AB89

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1953	Occupational Exposure to Hexavalent Chromium (Preventing Occupational Illness: Chromium)	1218-AB45
1954	Confined Spaces in Construction (Part 1926): Preventing Suffocation/Explosions in Confined Spaces	1218-AB47
1955	Fire Protection in Shipyard Employment (Part 1915, Subpart P) (Shipyards: Fire Safety)	1218-AB51
1956	Permissible Exposure Limits (PELs) for Air Contaminants	1218-AB54
1957	Metalworking Fluids: Protecting Respiratory Health	1218-AB58
1958	Plain Language Revision of the Flammable and Combustible Liquids Standard	1218-AB61
1959	Plain Language Revision of the Mechanical Power-Transmission Apparatus Standard	1218-AB66
1960	Electric Power Transmission and Distribution; Electrical Protective Equipment in the Construction Industry	1218-AB67
1961	Occupational Exposure to Crystalline Silica	1218-AB70
1962	Occupational Exposure to Beryllium	1218-AB76
1963	Standards Improvement (Miscellaneous Changes) for General Industry, Marine Terminals, and Construction Standards (Phase II)	1218-AB81
1964	Plain Language Revisions to Spray Applications	1218-AB84
1965	Changes to State Plans	1218-AB91

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1966	Respiratory Protection (Proper Use of Modern Respirators)	1218-AA05
1967	Glycol Ethers: 2-Methoxyethanol, 2-Ethoxyethanol, and Their Acetates: Protecting Reproductive Health	1218-AA84
1968	Walking Working Surfaces and Personal Fall Protection Systems (1910) (Slips, Trips and Fall Prevention)	1218-AB80
1969	Plain Language Revisions to the Exit Route Standard	1218-AB82
1970	Signs, Signals, and Barricades	1218-AB88

Occupational Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1971	Longshoring and Marine Terminals (Parts 1917 and 1918) — Reopening of the Record (Vertical Tandem Lifts (VTLs))	1218-AA56
1972	Scaffolds in Shipyards (Part 1915 — Subpart N)	1218-AA68
1973	Access and Egress in Shipyards (Part 1915, Subpart E) (Shipyards: Emergency Exits and Aisles)	1218-AA70
1974	Accreditation of Training Programs for Hazardous Waste Operations (Part 1910)	1218-AB27
1975	Indoor Air Quality in the Workplace	1218-AB37
1976	Safety and Health Programs (for General Industry and the Maritime Industries)	1218-AB41
1977	Occupational Exposure to Tuberculosis	1218-AB46
1978	General Working Conditions for Shipyard Employment	1218-AB50
1979	Fall Protection in the Construction Industry	1218-AB62
1980	Safety Standards for Scaffolds Used in the Construction Industry—Part II	1218-AB68
1981	Safety and Health Programs for Construction	1218-AB69
1982	Control of Hazardous Energy (Lockout) in Construction (Part 1926) (Preventing Construction Injuries/Fatalities: Lockout)	1218-AB71
1983	Employer Payment for Personal Protective Equipment	1218-AB77
1984	Consolidation of Records Maintenance Requirements in OSHA Standards	1218-AB78
1985	Oil and Gas Well Drilling and Servicing	1218-AB83

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

Sequence Number	Title	Regulation Identification Number
1986	Woodworking Machinery	1218-AB92
1987	Ergonomics Programs in Construction (Part 1926): Preventing Work-Related Musculoskeletal Disorders among Construction Workers	1218-AB94
1988	Subpart S—Electrical Standards	1218-AB95
1989	Occupational Health Risks in the Manufacture and Assembly of Semiconductors	1218-AB96
1990	Commercial Diving Operations: Technical Amendment	1218-AB97
1991	Procedures for Handling of Discrimination Complaints Under the Aviation Investment and Reform Act	1218-AB99

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1992	Steel Erection (Part 1926) (Safety Protection for Ironworkers)	1218-AA65
1993	Recording and Reporting Occupational Injuries and Illnesses (Simplified Injury/Illness Recordkeeping Requirements)	1218-AB24
1994	Ergonomics Programs: Preventing Musculoskeletal Disorders	1218-AB36
1995	Consultation Agreements	1218-AB79
1996	Occupational Exposure to Bloodborne Pathogens; Needlestick and Other Sharps Injuries	1218-AB85
1997	Cotton Dust: Washed Cotton Exemption	1218-AB90
1998	New Jersey State Plan	1218-AB98

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

Sequence Number	Title	Regulation Identification Number
1999	Annual Report for Federal Contractors	1293-AA07

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

Proposed Rule Stage

1848. 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	05/00/01	

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

Phone: 202 693-5500
Email: miller-miriam@dol.gov

RIN: 1290-AA17

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

Proposed Rule Stage

1849. 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 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

modified the exemption's requirement for payment on a "salary basis" for otherwise exempt public sector employees.

Statement of Need: These regulations contain the criteria used to determine if an employee is exempt from the FLSA as an "executive," "administrative," "professional," or "outside sales" employee. The existing salary test levels used in determining which employees qualify as exempt were adopted in 1975 on an interim basis. These salary level tests are outdated and offer little practical guidance in applying the exemption. In addition, numerous comments and petitions have been received from industry groups regarding the duties and responsibilities tests in the regulations, requesting a review of these regulations.

These regulations have been revised 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. Because of the limited nature of these revisions, the regulations are still in need of updating and clarification.

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 Congress to address certain aspects of these regulations, the Department continues to believe revisions to the regulations are the appropriate response to the concerns raised. Alternatives likely to be considered range from 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 32 million employees are estimated to be within the scope of these regulations. Legal developments in court cases are changing the guiding interpretations under this exemption and creating law without considering a comprehensive analytical approach to current compensation concepts and workplace practices. Clear, comprehensive, and up-to-date regulations would provide for central, uniform control over the application of these regulations and ameliorate many concerns. In the public sector, State and local government employers contend that the rules are based on production workplace environments from the 1940s and 1950s that 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

DOL—ESA

Proposed Rule Stage

Action	Date	FR Cite
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	12/00/01	

Regulatory Flexibility Analysis**Required:** Yes**Small Entities Affected:** Businesses, Governmental Jurisdictions, Organizations**Government Levels Affected:** State, Local, Federal**Federalism:** Undetermined**Agency Contact:** Thomas M. Markey, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

Phone: 202 693-0051

Fax: 202 693-1432

RIN: 1215-AA14**1850. APPLICATION OF THE FAIR LABOR STANDARDS ACT TO DOMESTIC SERVICE****Priority:** Other Significant**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 the applicability of these exemptions to third-party employers (58 FR 69310). After reviewing the public comments, the Department adopted technical changes to update the regulations, including a revision necessitated by 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). After further review of the history and background to this exemption, a new proposed rule was published for public comment on 1/19/2001 (66 FR 5481).

Timetable:

Action	Date	FR Cite
NPRM	12/30/93	58 FR 69310
NPRM Comment Period End	02/28/94	
Second NPRM	09/08/95	60 FR 46797
Final Rule	09/08/95	60 FR 46766
Third NPRM	01/19/01	66 FR 5481
NPRM Comment Period End	03/20/01	
Third NPRM Comment Period End Extended to 07/23/2001	04/23/01	66 FR 20411
Final Action	12/00/01	

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** State, Local, Federal**Agency Contact:** Thomas M. Markey, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

Phone: 202 693-0051

Fax: 202 693-1432

RIN: 1215-AA82**1851. 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**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, amended several Acts administered by the Department of Labor: (1) the Contract Work Hours and Safety Standards Act (CWHSSA) to

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

Timetable:

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

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** State, Local, Federal**Agency Contact:** Thomas M. Markey, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

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RIN: 1215-AA96**1852. RECORDS TO BE KEPT BY EMPLOYERS UNDER THE FAIR LABOR STANDARDS ACT****Priority:** Substantive, Nonsignificant**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

DOL—ESA

Proposed Rule Stage

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 regulatory initiative contemplates 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	10/00/01	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: State, Local, Federal

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RIN: 1215-AB03

1853. IMPLEMENTATION OF THE 1996 AMENDMENTS TO THE FAIR LABOR STANDARDS ACT

Priority: Other Significant

Legal Authority: PL 104-188, sec 2101 to 2105; 29 USC 201 et seq

CFR Citation: 29 CFR 4; 29 CFR 531; 29 CFR 541; 29 CFR 778; 29 CFR 785; 29 CFR 790; 29 CFR 870; 41 CFR 50-202

Legal Deadline: None

Abstract: The "Small Business Job Protection Act of 1996" (H.R. 3448) was enacted on August 20, 1996, as Public Law 104-188. Title II of this enactment amended the Portal-to-Portal Act (PA) and the Fair Labor Standards Act (FLSA). The PA amendment excludes (under certain circumstances) from compensable "hours worked" the time spent by an employee in home-to-work travel in an employer-provided vehicle. The FLSA amendments: (1) increase the \$4.25 Federal minimum hourly wage by \$.90 in two steps over two years (i.e., to \$4.75 on October 1, 1996, and to

\$5.15 on September 1, 1997); (2) provide a \$4.25 subminimum wage for youth under age 20 in their first 90 calendar days of employment with an employer; (3) set the employer's direct wage payment obligation for tipped employees at \$2.13 per hour (provided such employees receive the balance of the full minimum wage in tips); and (4) set the hourly compensation requirements at not less than \$27.63 per hour for certain exempt professional employees in computer-related occupations. Changes will be required in the regulations to reflect these amendments.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: State, Local, Federal

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RIN: 1215-AB13

1854. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 4211; 38 USC 4212; PL 102-16; PL 102-127; PL 102-484; PL 95-520; PL 93-508, amended; PL 94-502; PL 96-466; PL 101-237; PL 97-306; PL 98-223; PL 105-339

CFR Citation: 41 CFR 60-250

Legal Deadline: None

Abstract: OFCCP proposes to amend the regulations implementing the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) 38 USC 4212, to conform with the Veterans Employment Opportunities Act (the Act) of 1998 and the Veterans Benefits and Health Care Improvement Act of 2000 (VBHCIA). The Act and VBHCIA of 2000 increase the current threshold for coverage from \$10,000 to \$25,000.

The Act and VBHCIA of 2000 expand the existing definition of Veterans, i.e., special disabled veterans and veterans of the Vietnam Era, to include recently separated veterans and 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. Recently separated veterans means any veteran during the one-year period beginning on the date of such veteran's discharge or release from active duty.

Timetable:

Action	Date	FR Cite
NPRM	07/00/01	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

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RIN: 1215-AB24

1855. STOCK OPTIONS, STOCK APPRECIATION RIGHTS, AND BONA FIDE EMPLOYEE STOCK PURCHASE PROGRAMS UNDER THE FAIR LABOR STANDARDS ACT

Priority: Other Significant

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

CFR Citation: 29 CFR 546; 29 CFR 778

Legal Deadline: None

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

DOL—ESA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

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RIN: 1215-AB31

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Employment Standards Administration (ESA)

1856. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Priority: Other Significant

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. Congress also passed the Drive for Teen Employment Act, Public Law 105-334 (October 31, 1998), which prohibits minors under age 17 from driving automobiles and trucks on public roads on the job and sets criteria for 17-year-olds to drive such vehicles on public roads on the job.

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 issuing the regulatory proposals (after review of public comments 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, 12, and 13 of the Fair Labor Standards Act, 29 USC sections 203(1), 211, 212, and 213 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-

DOL—ESA

Final Rule Stage

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 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 the 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 Action 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	10/00/01	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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RIN: 1215-AA09

1857. 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 102-322

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. 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	12/20/00	65 FR 80110
Interim Final Rule Effective	01/19/01	
Interim Final Rule Comment Period End	04/23/01	66 FR 10865
Final Action	10/00/01	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: Federal

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RIN: 1215-AB09

1858. MINIMUM WAGE AND OVERTIME VIOLATIONS—CIVIL MONEY PENALTIES (29 CFR 578); CHILD LABOR VIOLATIONS—CIVIL MONEY PENALTIES (29 CFR 579); ADJUSTMENT OF CIVIL MONEY PENALTIES FOR INFLATION

Priority: Substantive, Nonsignificant

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

CFR Citation: 29 CFR 578; 29 CFR 579

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

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

Timetable:

Action	Date	FR Cite
NPRM	12/28/98	63 FR 71405
NPRM Comment Period End	01/27/99	
Final Action	06/00/01	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 1215-AB20

1859. • CLAIMS FOR COMPENSATION UNDER THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-398; EO 13179

CFR Citation: 20 CFR 30

DOL—ESA

Final Rule Stage

Legal Deadline: Other, Statutory, May 31, 2001, Interim Final Rule. By executive order, regulations for administration of program to be promulgated by 5/31/2001.

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

Timetable:

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

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Shelby S. Hallmark, Acting Director, Office of Workers' Compensation Programs, Department of Labor, Employment Standards Administration, Room S3524, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

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RIN: 1215-AB32

1860. • OBLIGATION OF FEDERAL CONTRACTORS AND SUBCONTRACTORS, NOTICE OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES

Priority: Other Significant

Legal Authority: EO 13201

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This regulation will implement E.O. 13201 which requires government contractors and subcontractors to post notices informing their employees that (1) under federal law they cannot be required to join a union or maintain membership in a union to retain their jobs, and (2) employees who choose not to be union members may object to the use of their compulsory union dues and fees for activities other than collective bargaining, contract administration, and grievance adjustment, and may be entitled to a refund and an appropriate reduction in the future payments. The

proposed regulation, in accordance with E.O. 13201, will also, require that, where applicable, each government contracting agency include certain provisions of the Order in its government contracts, and that government contractors and subcontractors include these provisions in their nonexempt subcontracts and purchase orders.

Timetable:

Action	Date	FR Cite
Interim Procedural Rule	04/18/01	66 FR 19988
Interim Final Rule	08/00/01	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

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RIN: 1215-AB33

DEPARTMENT OF LABOR (DOL)

Long-Term Actions

Employment Standards Administration (ESA)

1861. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS, EXECUTIVE ORDER 11246 (ESA/OFCCP) (REVISED)

Priority: Substantive, Nonsignificant

Legal Authority: EO 11246, as amended; 38 USC 4211; PL 94-502; PL 97-306; PL 102-484; 38 USC 4212; PL 93-508, amended; PL 96-466; PL 101-237; EO 11758; PL 98-223; PL 102-16; PL 102-127; PL 95-520; PL 105-339; 29 USC 706; 29 USC 793; EO 11758

CFR Citation: 41 CFR 60-1 (Revision); 41 CFR 60-250 (Revision); 41 CFR 60-741 (Revision)

Legal Deadline: None

Abstract: The 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 proposes also to make the same revision in Section 60-250(a)(3) of the regulations implementing the affirmative action provisions of the Vietnam Era Veteran's Readjustment Assistance Act (VEVRAA). Lastly, OFCCP proposes to conform regulations implementing Section 503 to the compliance evaluation procedures contained in the regulations implementing Executive Order 11246, as amended, and the affirmative action provisions of VEVRAA, both of which expressly authorize OFCCP to use additional investigative procedures to determine a contractor's compliance with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/12/00	65 FR 60815
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

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RIN: 1215-AB28

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)
Completed Actions
1862. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS, EXECUTIVE ORDER 11246 (ESA/OFCCP)

Priority: Other Significant

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 (E.O.) 11246 as amended. The part 60-1 final rule, published 8/19/97, revised portions of the regulations implementing E.O. 11246. OFCCP's review of regulatory options continued with emphasis on streamlining and clarifying the regulatory language and reducing paperwork requirements associated with compliance. OFCCP issued 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: Portions of the regulations implementing E.O. 11246 needed to be revised to reflect changes in the law that have occurred over time, and other portions needed to be streamlined and clarified. E.O. 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 E.O. 11246 regulations to the recent changes made in the Department's regulations implementing section 503 of the Rehabilitation Act.

A second phase of revision changed 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 E.O. 11246 provisions and reduce burdens on contractors was to revise these regulations. Administrative actions alone could not produce the desired results.

Anticipated Cost and Benefits: It is anticipated that the net effect of the 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 could cause the continuation of outdated methods of evaluating contractor compliance and impede effective enforcement of E.O. 11246.

Timetable:

Action	Date	FR Cite
NPRM Affirmative Action Plans (60-2)	05/04/00	65 FR 26087
NPRM Comment Period End	07/03/00	
Final Rule	11/13/00	65 FR 68021
Final Rule Effective	12/13/00	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Additional Information: OFCCP's emphasis has been on regulatory reform, e.g., to revise the E.O. 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.

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RIN: 1215-AA01

1863. 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: Economically Significant. Major under 5 USC 801.

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. Given the uncertainty of continuation of such moratoriums, the Department 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). A notice of proposed rulemaking was published April 9, 1999 (64 FR 17442).

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

DOL—ESA

Completed Actions

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 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: The new final rule regarding the helper criteria seeks to make administration of the Davis-Bacon Act more efficient by establishing reasonable "helper" criteria and methodology—thus resolving the controversy and uncertainty currently experienced by interested parties. Changes in the helper regulations may affect prior estimates of potential construction procurement cost savings anticipated from the earlier rulemaking. Estimates of the financial impacts of revised "helper" regulations 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 Action - Continue Suspension	12/30/96	61 FR 68641
NPRM	04/09/99	64 FR 17442
NPRM Comment Period End	06/08/99	
Final Action	11/20/00	65 FR 69674
Final Action Effective	01/19/01	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 1215-AA94

1864. BLACK LUNG BENEFITS UNDER THE FEDERAL COAL MINE SAFETY AND HEALTH ACT OF 1969, AS AMENDED

Priority: Other Significant

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 final rule that revises existing rules to facilitate the resolution of claims; streamlines the litigation process by encouraging the early development and submission of evidence; raises the dollar limit for prior approval for medical equipment; and rewrites 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

Action	Date	FR Cite
NPRM Comment Period Extended to 5/23/97	02/24/97	62 FR 8201
NPRM Comment Period End	03/24/97	
NPRM Comment Period End Extended to 8/22/97	05/16/97	62 FR 27000
Second NPRM	10/08/99	64 FR 54966
Second NPRM Comment Period Extended	11/18/99	64 FR 62997
Second NPRM Comment Period End	01/06/00	
Final Action	12/20/00	65 FR 79920
Final Action Effective	01/19/01	

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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RIN: 1215-AA99

1865. ASSESSMENT AND COLLECTION OF USER FEES

Priority: Substantive, Nonsignificant

Legal Authority: PL 97-470; 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; 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

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: 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), authorize the Department to establish and collect user fees to recover the costs of providing certain services that are required by law and

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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 being considered 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
Withdrawn	02/01/01	

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

Agency Contact: Thomas M. Markey, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

Phone: 202 693-0051

Fax: 202 693-1432

RIN: 1215-AB06

1866. 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 a result of these court decisions and to address some situations not contemplated when the existing regulations were issued.

Timetable:

Action	Date	FR Cite
NPRM	09/21/00	65 FR 57270
NPRM Comment Period End	10/23/00	
Final Rule	12/20/00	65 FR 80268
Final Rule Effective	01/19/01	

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

Agency Contact: Thomas M. Markey, Deputy Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

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RIN: 1215-AB21

1867. 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 regulations implementing section 503 of the Rehabilitation Act of 1973, as amended, to conform to the recently revised section 60-1.20(a) of the regulations 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 regulations implementing the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA)).

Timetable:

Action	Date	FR Cite
NPRM	10/12/00	65 FR 60815
Combined With RIN 1215-AB28	02/02/01	

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

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, Room N3424, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1215-AB23

1868. 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 a now withdrawn final rule issued in the Federal Acquisition Regulation (FAR) that previously exempted all subcontracts for commercial services from the SCA based on the Federal Acquisition Streamlining Act.

Timetable:

Action	Date	FR Cite
NPRM	07/26/00	65 FR 45943
Interim Final Rule	07/26/00	65 FR 45943

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Action	Date	FR Cite
Interim Final Rule Effective	08/25/00	
Final Rule	01/18/01	66 FR 5328
Final Rule Effective	03/19/01	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: Federal

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RIN: 1215-AB26

1869. 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; PL 94-502; PL 97-306; PL 102-484; 38 USC 4212; PL 93-508, amended; PL 96-466; PL 101-237; EO 11758; PL 98-223; PL 102-16; PL 102-127; PL 95-520; PL 105-339

CFR Citation: 41 CFR 60-250 (Revision)

Legal Deadline: None

Abstract: The Office of Federal Contract Compliance Programs 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	10/12/00	65 FR 60815
Withdrawn - Combined With RIN 1215-AB28	02/02/01	

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

1870. 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
Withdrawn	02/02/01	

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

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RIN: 1215-AB30

DEPARTMENT OF LABOR (DOL)

Employment and Training Administration (ETA)

Proposed Rule Stage

1871. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Priority: Other Significant

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 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	05/00/01	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: State, Federal

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DOL—ETA

Proposed Rule Stage

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RIN: 1205-AA66

1872. 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 December 8, 1994, 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 to 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	09/00/01	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: 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: 202 693-3207

RIN: 1205-AB02

1873. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; UNEMPLOYMENT INSURANCE PERFORMANCE SYSTEM

Priority: Other Significant

Legal Authority: 42 USC 501-504; 42 USC 1302(a); 26 USC 3301-3311; 5 USC 8501-8508; 5 USC 8521-8525; ...

CFR Citation: 20 CFR 602; 20 CFR 640; 20 CFR 650; 20 CFR 609.6(f); 20 CFR 614.6(f); 20 CFR 614.7(c)

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.

Timetable:

Action	Date	FR Cite
ANPRM	01/16/97	62 FR 2543
ANPRM Comment Period End	03/17/97	
NPRM	09/00/01	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: State

Agency Contact: Sandra T. King, Chief, Division of Performance Review, Department of Labor, Employment and Training Administration, C4321, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1205-AB10

1874. 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 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 published 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	07/13/00	65 FR 43545
NPRM Comment Period End	09/18/00	
Interim Final Rule	11/13/00	65 FR 67628
Reopen NPRM and Interim Final Rule Comment Period	06/00/01	
Final Action	12/00/01	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dale Ziegler, Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
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RIN: 1205-AB24

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

Final Rule Stage

1875. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—IMPLEMENTATION OF 1988 AMENDMENTS

Priority: Other Significant

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	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Edward A. Tomchick, Director, Division of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, Room C5311, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
 Phone: 202 693-3577

RIN: 1205-AB05

1876. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—TRANSITIONAL ADJUSTMENT ASSISTANCE NAFTA-TAA

Priority: Other Significant

Legal Authority: 19 USC 2320; 19 USC 2331

CFR Citation: 20 CFR 617

Legal Deadline: None

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

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

Timetable:

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

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Edward A. Tomchick, Director, Division of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, Room C5311, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
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RIN: 1205-AB07

1877. WELFARE-TO-WORK (WTW) GRANTS

Priority: Other Significant

Legal Authority: 42 USC 603(a)(5)(c)(ix); PL 106-113, Division B, sec 1000(a)(4)

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. 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; and 0.8 percent for evaluation.

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. Leveraging of non-Federal resources at the State and local level is encouraged.

These funds have allowed 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; short-term vocational educational training and 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: 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 issued combined Final and Interim Final regulations to finalize the earlier rulemaking and to implement the 1999 Amendments. The passage of the Welfare-to-Work and Child Support Amendments of 1999 necessitated the publication of a new interim final rule to reflect the changes in eligibility and certain other areas.

Summary of Legal Basis: Promulgation of these regulations is authorized by SSA section 403 (a)(1)(5)(C)(ix). Section 801(f) of HR 3424, the Welfare-to-Work

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Final Rule Stage

and Child Support Amendments of 1999, enacted by section 1000(a)(4) of Division B of the Consolidated Appropriations Act for August 2000 (PL 106-113) authorizes interim final regulations to implement the changes made by those amendments.

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	01/11/01	66 FR 2690
Interim Final Rule Comment Period End	03/12/01	
Interim Final Rule Comment Period Extended to 04/11/01	02/12/01	66 FR 9763
Final Rule	01/11/01	66 FR 2689
Final Rule Effective	02/12/01	
Effective Date of Final Rule Delayed Until 04/13/01	02/12/01	66 FR 9763
Final Rule	07/00/01	

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, N4671, FP Building, Washington, DC 20210
Phone: 202 693-3375

RIN: 1205-AB15

1878. 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; PL 106-113, Division B, section 1000(a)(4)

CFR Citation: 20 CFR 646

Legal Deadline: Final, Statutory, November 4, 1997, 90 days from enactment Citation mandates Secretary to prescribe regulations within 90 days of enactment to publish Interim Final rule by 10/31/98.
Other, Statutory, January 1, 2000, For 1999 amendments.

Abstract: These are program regulations needed to implement the Indian and Native American set-aside under the Welfare-to-Work program authorized by section 412(a)(3) of the Social Security Act. New interim final regulations are being issued to implement changes made by the Welfare-to-Work and Child Support Amendments of 1999 and other legislation.

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	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Additional Information: Congress has changed eligibility criteria. A final rule will be published in conjunction with the State programs.

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RIN: 1205-AB16

1879. FEDERAL-STATE UNEMPLOYMENT COMPENSATION (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 ch 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 an interim 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 interim 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
Interim Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

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 10063 with comment period ending 5/22/92.

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RIN: 1205-AB18

DOL—ETA

Final Rule Stage

1880. 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	07/26/00	65 FR 46082
NPRM Comment Period End	08/25/00	
Final Action	05/00/01	

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

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RIN: 1205-AB25**1881. 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	08/22/00	65 FR 51137
Interim Final Rule Comment Period End	09/21/00	
Interim Final Rule Effective	09/21/00	
Final Action	10/00/01	

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**1882. • SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM**

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

Legal Authority: PL 106-501 "Older American Act Amendments of 2000"; 42 USC 3056(b)(2)

CFR Citation: 20 CFR 641**Legal Deadline:** None

Abstract: The Employment and Training Administration will implement new regulations to govern the Senior Community Service Employment program under Title V of the Older Americans Act Amendments of 2000. New interim final regulation will be issued June 2001 implementing these amendments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/01	
Final Action	12/00/01	

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

Agency Contact: Eric Larisch, Chief, Division of Older Worker Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Washington, DC 20210

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RIN: 1205-AB28

DEPARTMENT OF LABOR (DOL)

Long-Term Actions

Employment and Training Administration (ETA)

1883. 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, and title III of the Workforce Investment Act of 1998.**Timetable:** Next Action Undetermined**Regulatory Flexibility Analysis****Required:** Undetermined**Government Levels Affected:** State, Local, Federal**Federalism:** Undetermined**Agency Contact:** Gay Gilbert, Chief, Division of Employment Service and ALMIS, Department of Labor, Employment and Training Administration, Room S4231, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-3428

Email: ggilbert@doleta.gov

RIN: 1205-AA37

1884. 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:** Assuming Congress provides the required authorization, the regulation would establish a new fee charged to employers for processing of alien labor certification applications. The user fee would be a government receipt and would be applied to Federal and State expenditures for Federal and State program administration in the State Unemployment Insurance and Employment Service account and the Program Operations Account in DOL's Employment and Training Administration (ETA).**Timetable:** Next Action Undetermined**Regulatory Flexibility Analysis****Required:** No**Government Levels Affected:** State, Local**Additional Information:** Funding of ETA immigration programs has been reduced by 30 percent since FY 1995. The fee proceeds would be used to offset the costs of administering the alien labor certification program at the State and Regional levels. ETA has worked with the States and Regional Offices and reduced the number of queued cases from 92,000 to 73,000 at the State level. The number of cases on the Regional level is 21,000. However, there will be another one time reinstatement of section 245(i) as part of the LIFE legislation and this is expected to increase the queued permanent cases by at least 40,000 applications over the 60,000 permanent applications received in FY 2001. The regular appropriation, plus the user fees, will be necessary to work off the cases in the pipeline and become current.**Agency Contact:** Dale Ziegler, Chief, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210

Phone: 202 693-2942

Fax: 202 693-2769

Email: dziegler@doleta.gov

RIN: 1205-AB14

DEPARTMENT OF LABOR (DOL)

Prerule Stage

Pension and Welfare Benefits Administration (PWBA)

1885. BONDING RULES UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (SECTION 610 REVIEW)**Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 29 USC 1135; 29 USC 1112**CFR Citation:** 29 CFR 2580**Legal Deadline:** None**Abstract:** PWBA is conducting a review of the temporary bonding rules under section 412 of ERISA (29 CFR Part 2580) in accordance with the requirements of section 610 of the Regulatory Flexibility Act. The review will cover the continued need for the rules; the nature of complaints or comments received from the public concerning the rules; the complexity of the rules; the extent to which the rules

overlap, duplicate or conflict with other federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in industries affected by the rules.

Timetable:

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

Regulatory Flexibility Analysis**Required:** Undetermined**Government Levels Affected:** None**Federalism:** Undetermined**Agency Contact:** Rudy Nuissl, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, N-5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

Phone: 202 219-7461

RIN: 1210-AA82

1886. REQUESTS FOR ENFORCEMENT PURSUANT TO SECTION 502(B)(2) (SECTION 610 REVIEW)**Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 1135; 29 USC 1132(b)(2)**CFR Citation:** 29 CFR 2560.502-1**Legal Deadline:** None**Abstract:** PWBA is conducting a review of its regulation relating to requests for enforcement pursuant to section 502(b)(2) of ERISA (29 CFR 2560.502-1) in accordance with the requirements of section 610 of the Regulatory

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Prerule Stage

Flexibility Act. The review will cover the continued need for the rules; the nature of complaints or comments received from the public concerning the rules; the complexity of the rule; the extent to which the rules overlap, duplicate or conflict with other federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in industries affected by the rules.

Timetable:

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

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Rudy Nuissl, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, N-5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-7461

RIN: 1210-AA83

1887. CIVIL PENALTIES UNDER ERISA SECTION 502(C)(2) (SECTION 610 REVIEW)

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 2570.60 to 2570.71

Legal Deadline: None

Abstract: PWBA is conducting a review of its regulations on civil penalties under section 502(c)(2) of ERISA (29 CFR 2560.502(c)(2) in accordance with the requirements of section 610 of the Regulatory Flexibility Act. The review will cover the continued need for the rules; the nature of complaints or comments received from the public concerning the rules; the complexity of the rules; the extent to which the rules overlap, duplicate or conflict with other Federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in industries affected by the rules.

Timetable:

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

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Rudy Nuissl, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, N-5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-7461

RIN: 1210-AA84

1888. PROCEDURES FOR THE ASSESSMENT OF CIVIL PENALTIES UNDER ERISA SECTION 502(C)(2) (SECTION 610 REVIEW)

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

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

CFR Citation: 29 CFR 2570.1 et seq.

Legal Deadline: None

Abstract: PWBA is conducting a review of its regulations relating to the procedures for the assessment of civil penalties under section 502(c)(2) of ERISA (29 CFR 2570.60 et seq.) in accordance with the requirements of section 610 of the Regulatory Flexibility Act. The review will cover the continued need for the rules; the nature of complaints or comments received from the public concerning the rules; the complexity of the rules; the extent to which the rules overlap, duplicate or conflict with other Federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in industries affected by the rules.

Timetable:

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

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Rudy Nuissl, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, N-5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-7461

RIN: 1210-AA85

DEPARTMENT OF LABOR (DOL)

Proposed Rule Stage

Pension and Welfare Benefits Administration (PWBA)

1889. 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	03/00/02	

DOL—PWBA

Proposed Rule Stage

Regulatory Flexibility Analysis**Required:** Yes**Small Entities Affected:** Businesses, Organizations**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: 202 219-7461**RIN:** 1210-AA60**1890. 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; 52 FR 13139, April 21, 1987; 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**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 under 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 contains additional regulatory interim guidance under HIPAA's nondiscrimination provisions. In addition, the rulemaking contains proposed guidance on bona fide wellness programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16894
Interim Final Rule Comment Period End	07/07/97	
NPRM: Wellness	01/08/01	66 FR 1421
Second Interim Final Rule	01/08/01	66 FR 1378
NPRM Comment Period End	04/09/01	
Interim Final Rule Comment Period End	04/09/01	
Final Rule	05/00/02	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** Undetermined**Additional Information:** This item is being split off from RIN 1210-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 C5331, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-7006**RIN:** 1210-AA77**1891. REGULATION EXEMPTING CERTAIN BROKER-DEALERS AND INVESTMENT ADVISERS FROM BONDING REQUIREMENTS****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 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	12/00/01	

Regulatory Flexibility Analysis**Required:** Undetermined**Government Levels Affected:** None**Agency Contact:** Stacey L. DeWalt, 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)

1892. 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

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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.

Timetable:

Action	Date	FR Cite
NPRM	08/01/95	60 FR 39208
NPRM Comment	09/29/95	60 FR 50508
Period Extended to 11/16/95		
NPRM Comment	11/16/95	60 FR 39208
Period End		
Notice Establishing Negotiated Rulemaking Advisory Committee	09/22/98	63 FR 50542
Second NPRM	10/27/00	65 FR 64498
Comment Period End	12/26/00	
Final Action	03/00/02	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State

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

Agency Contact: Elizabeth A. Goodman, Pension Law Specialist, 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

1893. 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.

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

Action	Date	FR Cite
Comment Period End	01/25/00	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel J. Maguire, Director, Office of Health Plan Standards, 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

1894. 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.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/27/98	63 FR 57546
Final Action	03/00/02	

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.

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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 C5331, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-7006

RIN: 1210-AA63

1895. 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 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	12/00/01	

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 C5331, 200

Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-7006

RIN: 1210-AA64

1896. ELIMINATION OF FILING REQUIREMENTS FOR SUMMARY PLAN DESCRIPTIONS

Priority: Substantive, Nonsignificant

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	09/00/01	

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

1897. 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, sec 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	09/00/01	

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-AA67

1898. 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

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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	09/00/01	

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

1899. ELECTRONIC DISCLOSURE OF EMPLOYEE BENEFIT PLAN INFORMATION

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

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

CFR Citation: 29 CFR 2520.104b

Legal Deadline: NPRM, Statutory, December 31, 1998.

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

Timetable:

Action	Date	FR Cite
NPRM	01/28/99	64 FR 4506
NPRM Comment Period End	03/29/99	
Final Action	12/00/01	

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

1900. 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	12/00/01	

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 C5331, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-7006

RIN: 1210-AA75

1901. 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	10/00/01	

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

DOL—PWBA

Final Rule Stage

Phone: 202 219-8671

RIN: 1210-AA76

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

knowingly participates in such breach or violation. The Department has published an interim rule setting forth the procedures for the assessment of penalties under ERISA section 502(l) and for petitioning the Secretary to exercise his or her discretion to waive or reduce the mandated assessment, as well as a proposed rule that defines the following pivotal terms contained in section 502(l): "applicable recovery amount," "breach of fiduciary responsibility or violation," "settlement agreement," and "court order." The Department intends to finalize these two regulations.

Timetable:

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

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

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 PHS Act, and part 7 of subtitle B of title I of ERISA. This rulemaking provides guidance with regard to the provisions of the MHPA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/22/97	62 FR 66932
Next Action	Undetermined	

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 C5331, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-7006

RIN: 1210-AA62

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

1904. 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

1905. 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

DOL—PWBA

Long-Term Actions

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

1906. 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.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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

DEPARTMENT OF LABOR (DOL)

Completed Actions

Pension and Welfare Benefits Administration (PWBA)

1907. 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 were considered after determinations were 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, which implements requirements under HIPAA, 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	11/21/00	65 FR 70226
Final Action Effective	01/20/01	

DOL—PWBA

Completed Actions

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**1908. 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 amended 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 establishes 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 were developed after determinations were 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: In publishing the proposed regulations, the Department estimated that the projected benefits of the proposal 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 have deprived 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	11/21/00	65 FR 70246
Final Action Effective	01/20/01	

Regulatory Flexibility Analysis**Required:** Yes**Small Entities Affected:** Businesses, Organizations**Government Levels Affected:** None**Federalism:** This action may have federalism implications as defined in EO 13132.

Agency Contact: Susan M. 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**1909. AMENDMENTS TO SUMMARY PLAN DESCRIPTION REGULATIONS****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 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 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 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 were developed after determinations were made with regard to the scope and nature of the amendments which are necessary to improve the disclosure of benefit information to participants

DOL—PWBA

Completed Actions

and beneficiaries of group health plans under the applicable ERISA regulations.

Anticipated Cost and Benefits: The Department estimates that the regulation's benefits will exceed its costs. The regulation will 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 have deprived 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	11/21/00	65 FR 70226
Final Action Effective	01/20/01	

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

1910. 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 provide 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.

Timetable:

Action	Date	FR Cite
NPRM	11/15/99	64 FR 62054
NPRM Comment Period End	02/14/00	
Final Action	12/27/00	65 FR 82128
Final Action Effective	01/26/01	
Final Action Effective Date Extended to	03/27/01	66 FR 8076

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

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

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RIN: 1210-AA72

DEPARTMENT OF LABOR (DOL)

Prerule Stage

Mine Safety and Health Administration (MSHA)

1911. ELECTRICAL GROUNDING 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, to 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 specify the proper equipment grounding.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/01	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
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Email: meyer-david@msha.gov

RIN: 1219-AB01

1912. ESCAPEWAYS AND REFUGES

Priority: Other Significant

Legal Authority: 5 USC 811

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: This standard would revise and clarify an existing standard that requires underground metal and nonmetal mines to have at least two separate exits to the surface. Because of the physical limits in underground mines, fire, massive ground fall, methane ignition, inundation, for

example, could result in multiple entrapment deaths. A second escapeway increases the likelihood that miners will not be trapped underground during an emergency if one escape route is cut off.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/02	

Regulatory Flexibility Analysis

Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David L. Meyer, 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-AB23

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

Proposed Rule Stage

1913. BELT ENTRY USE AS INTAKE AIRCOURSE TO VENTILATE WORKING SECTIONS
Priority: Other Significant**Legal Authority:** 30 USC 811**CFR Citation:** 30 CFR 75**Legal Deadline:** None

Abstract: This rulemaking will revise text in the CFR to reduce burden or duplication, and streamline requirements. 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 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 currently 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	01/00/02	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: Businesses**Government Levels Affected:** None
Additional Information: A public hearing was held in April 1990.

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
 Phone: 703 235-1910
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RIN: 1219-AA76
1914. METAL/NONMETAL IMPOUNDMENTS
Priority: Other Significant**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	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined
Government Levels Affected: None
Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
 Phone: 703 235-1910
 Fax: 703 235-5551
 Email: meyer-david@msha.gov
RIN: 1219-AA83
1915. INDEPENDENT LABORATORY TESTING
Priority: Substantive, Nonsignificant**Legal Authority:** 30 USC 957
CFR Citation: 30 CFR 6; 30 CFR 29; 30 CFR 33; 30 CFR 35; 30 CFR 18; 30 CFR 19; 30 CFR 20; 30 CFR 22; 30 CFR 23; 30 CFR 26; 30 CFR 27; 30 CFR 28
Legal Deadline: None

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

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	
Reproposal	12/00/01	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: Businesses**Government Levels Affected:** Federal
Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
 Phone: 703 235-1910
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RIN: 1219-AA87
1916. 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 coal and metal/nonmetal fatal surface mining 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 would set safety requirements for restraint systems, lighting, and blind areas for this equipment for both coal and metal and nonmetal surface mines and surface areas of underground coal and metal/nonmetal mines.

Timetable:

Action	Date	FR Cite
ANPRM	07/30/98	63 FR 40800
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: Businesses**Government Levels Affected:** None
Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203

DOL—MSHA

Proposed Rule Stage

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 RIN: 1219-AA93

1917. IMPROVING AND ELIMINATING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 1 to 199

Legal Deadline: None

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

Timetable:

Action	Date	FR Cite
NPRM - Phase 5 Miscellaneous Technology Improvements	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David L. Meyer, 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-AA98

1918. RESPIRABLE CRYSTALLINE SILICA STANDARD

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813

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	08/00/01	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

Agency Contact: David L. Meyer, 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

1919. 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 57; 30 CFR 75

Legal Deadline: None

Abstract: Self-contained self-rescuers (SCSR) are closed circuit breathing devices 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 address the service life of the devices, the appropriate inspection of SCSRs, and the adequacy of training. In addition,

we may propose to apply SCSR standards to metal and nonmetal mines.

Timetable:

Action	Date	FR Cite
ANPRM	07/07/99	64 FR 36632
NPRM	09/00/01	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected:

Undetermined

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

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RIN: 1219-AB19

1920. MINE RESCUE TEAMS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 49

Legal Deadline: None

Abstract: We are assessing our current regulations to identify areas where we might increase flexibility and encourage underground mine operators to provide mine rescue and recovery capability at their mines. We hope to increase the number of mine rescue teams available to assist miners in life threatening emergencies.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
 Phone: 703 235-1910

DOL—MSHA

Proposed Rule Stage

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 RIN: 1219-AB20

1921. SURGE AND STORAGE PILES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 77.209

Legal Deadline: None

Abstract: MSHA has documented a number of fatalities and injuries involving miners operating vehicles and equipment on surface coal surge piles. The current standard only prohibits persons from walking or standing on or around surge or storage piles where a hazard may exist. We are considering rulemaking to expand the existing standard to address vehicles and equipment.

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David L. Meyer, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
 Phone: 703 235-1910
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RIN: 1219-AB22

1922. ACCIDENT INVESTIGATION HEARING PROCEDURES

Priority: Info./Admin./Other

Legal Authority: 30 USC 957

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The rule is designed to clarify and codify accident investigation hearing procedures. The rule addresses all public hearings

convened by the Secretary of Labor for the purpose of investigating any accident or other occurrence relating to the health or safety of miners pursuant to section 103(b) of the Federal Mine Safety and Health Act of 1977.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: David L. Meyer, 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-AB26

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Mine Safety and Health Administration (MSHA)

1923. 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 chemical hazards, some created during the mining and milling process and some brought onto mine property. The Hazard Communication rule will provide miners with the means to receive necessary information on the hazards of chemicals to which they may be exposed and the actions necessary to protect themselves from such hazards. The interim Final Rule is to be consistent with OSHA's hazard communication standard rule to the extent practical.

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

Action	Date	FR Cite
Interim Final Rule	10/03/00	65 FR 59048
Interim Final Rule Comment Period End	11/17/00	
Public Hearing and Extension of Comment Period to	12/11/00	65 FR 77292
Interim Final Rule Effective	12/19/00	
Interim Final Rule Effective	10/03/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 1219-AA47

1924. LONGWALL EQUIPMENT (INCLUDING HIGH-VOLTAGE)

Priority: Other Significant

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 final rule would eliminate the need for a modification to use this equipment and would establish safety requirements for the design, construction, installation, use, and

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Final Rule Stage

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	10/23/92	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	09/00/01	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219-AA75

1925. 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 evaluate their resistance to fire ignition and propagation. The proposal would also require purchase of the improved belts after one year.

Timetable:

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

Action	Date	FR Cite
Extension of Comment Period to 3/26/93	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
Record Reopened	10/31/95	60 FR 55353
Extension of Comment Period to 2/5/1996	12/20/95	60 FR 65509
Record Reopened	12/28/99	64 FR 72617
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219-AA92

DEPARTMENT OF LABOR (DOL)

Long-Term Actions

Mine Safety and Health Administration (MSHA)

1926. 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

Action	Date	FR Cite
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 2 - Respiratory Protection - Reproposal	To Be Determined	
NPRM Phase 3 - PELs	To Be Determined	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: State, Local, Tribal, Federal

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RIN: 1219-AA48

1927. CONFINED SPACES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

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

Legal Deadline: None

Abstract: Storage bins, hoppers, tanks, stock piles, 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

Small Entities Affected: Businesses

Government Levels Affected: None

DOL—MSHA

Long-Term Actions

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RIN: 1219-AA54

1928. SAFETY STANDARD REVISIONS FOR UNDERGROUND ANTHRACITE MINES

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: This rulemaking will revise text in the CFR to reduce burden or duplication, and streamline requirements. Our current regulations for underground coal mines do not recognize some of the significant differences in mining methods used in underground anthracite 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 would 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: Undetermined

Government Levels Affected: None

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RIN: 1219-AA96

1929. TRAINING AND RETRAINING OF MINERS (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

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

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 48

Legal Deadline: None

Abstract: Our current regulations require all mine operators to have approved plans for training their miners. We reviewed these requirements as part of our Regulatory Flexibility Review to determine if changes were appropriate. 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	10/01/98	
NPRM	To Be Determined	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: State, Local, Tribal

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

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RIN: 1219-AB02

1930. OCCUPATIONAL EXPOSURE TO COAL MINE DUST (LOWERING CONCENTRATION LIMIT)

Priority: Other Significant

Legal Authority: 30 USC 811

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

Legal Deadline: None

Abstract: In 1996, the Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Miners recommended that we consider lowering the respirable coal mine dust standard. In 1995, the National Institute for Occupational Safety and Health issued a Criteria Document in which they recommended that the respirable coal mine dust concentration limit be cut in half. We are considering rulemaking to lower the respirable coal mine dust concentration limit because miners continue to be at risk of developing dust-induced occupational lung disease.

Timetable:

Action	Date	FR Cite
ANPRM	To Be Determined	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

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RIN: 1219-AB08

1931. VERIFICATION OF UNDERGROUND COAL MINE OPERATORS' DUST CONTROL PLANS AND COMPLIANCE SAMPLING FOR RESPIRABLE DUST

Priority: Other Significant

Legal Authority: 30 USC 811

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 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 provides for MSHA to verify the effectiveness of mine ventilation plans to control respirable dust under typical mining conditions. For longwall mine operators, we proposed to permit the

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Long-Term Actions

limited use of either approved loose-fitting powered, air purifying respirators (PAPRS) or verifiable administrative controls as a supplemental means of compliance with the respirable coal mine dust concentration limit, if we have determined that further reduction in respirable dust levels cannot be achieved using all feasible engineering controls. Furthermore, MSHA proposed to assume responsibility for all compliance sampling for respirable dust in underground coal mines as required under CFR parts 70 and 90.

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 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 implemented that may be inadequate to control respirable dust.

Therefore, we proposed to revoke existing operator respirable dust sampling and to implement new regulations that would require each underground coal mine operator to have a verified ventilation plan. MSHA would verify the effectiveness of the mine ventilation plan for each mechanical mining unit in controlling respirable dust under typical mining conditions.

Summary of Legal Basis: Promulgation of these regulations is authorized by section 101 of the Federal Mine Safety and Health Act of 1977.

Alternatives: In developing the proposed rule, we considered 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

powered air purifying respirators (PAPRS) in underground coal mines.

Anticipated Cost and Benefits:

Benefits sought are eliminating coal workers' pneumoconiosis by reducing over-exposures to respirable coal dust on each and every production shift. Additional benefits include: reduced health care costs, disability and black lung benefit payments. On average there would be a cost savings for most mine operators when MSHA completely takes over compliance and abatement sampling for respirable dust once this rule is promulgated. We developed estimates and made 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	07/07/00	65 FR 42122
Notice of Hearings; Close of Record	07/07/00	65 FR 42186
Extension of Comment Period; Close of Record	09/08/00	65 FR 49215
Final Action	To Be	Determined

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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

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RIN: 1219-AB14

1932. DETERMINATION OF CONCENTRATION OF RESPIRABLE COAL MINE DUST

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 72

Legal Deadline: None

Abstract: The National Institute for Occupational Safety and Health and the Mine Safety and Health Administration jointly determined that a single, full-shift measurement ("single, full-shift sample") would accurately represent the atmospheric conditions to which a miner is exposed during a single shift. The proposed rule addresses the U.S. Court of Appeals' concerns raised in *National Mining Association v. Secretary of Labor*, 153 F3d 1264 (11th Cir. 1998).

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 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 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 miners' 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.

Summary of Legal Basis: Promulgation of these regulations is authorized by section 101 of the Federal Mine Safety and Health Act of 1977.

Alternatives: The requirements of this rule ("single, full-shift sample rule") will work in tandem with those of the proposed rule (RIN 1219-AB14) in which MSHA would verify the effectiveness of ventilation plans as well as conduct all compliance sampling in underground coal mines.

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Anticipated Cost and Benefits:

Benefits sought are eliminating coal workers pneumoconiosis by over-exposures to respirable coal dust on each and every production shift. Additional benefits include: reduced health care costs, disability and black lung benefit payments. There would be a cost savings for mine operators when MSHA completely takes over compliance and abatement sampling for respirable dust once this rule is promulgated. We have developed cost estimates and have made 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. 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	07/07/00	65 FR 42068
Notice of Hearings; Close of Record	07/07/00	65 FR 42185
Extension of Comment Period; Close of Record	09/08/00	65 FR 49215
Final Action	To Be	Determined

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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

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RIN: 1219-AB18

1933. VERIFICATION OF SURFACE COAL MINE DUST CONTROL PLANS

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: 30 CFR 71

Legal Deadline: None

Abstract: The Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Workers made several recommendations that impact surface coal mine workers.

These surface coal mine issues will be addressed by the agency in a separate rulemaking which is currently underway. The scope of that rulemaking will include many issues that are addressed in the proposed underground rule (1219-AB14) Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust. These issues include requirements for dust control plans, verification of dust control plans prior to approval, on shift examination of dust control measures, and the elimination of operator sampling for compliance purposes.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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RIN: 1219-AB21

1934. ASBESTOS EXPOSURE LIMIT

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813

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

Legal Deadline: None

Abstract: Overexposure to asbestos causes mesothelioma and other forms of cancers such as cancers of the digestive system. MSHA's asbestos standard is 20 years old. Recent scientific data indicate that the existing permissible exposure limit (PEL) is not protective of miners' health. MSHA is

considering rulemaking to lower the asbestos PEL because miners are at risk of developing asbestos-induced occupational lung disease.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis

Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219-AB24

1935. • CONTINUOUS MONITORING OF RESPIRABLE COAL MINE DUST IN UNDERGROUND COAL MINES

Priority: Other Significant

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

CFR Citation: 30 CFR 70; 30 CFR 72; 30 CFR 75; 30 CFR 90

Legal Deadline: None

Abstract: Based on available technology, MSHA's current regulations to control underground coal miners' exposure to respirable coal mine dust employ periodic inspector and operator sampling for overexposures. MSHA recognizes that continuous respirable dust monitors, under development, would allow mine operators and miners to be aware of the actual dust conditions at all times, thereby enabling immediate action to avert overexposures. The ability to monitor dust exposures continuously during each workshift, predict end-of-workshift cumulative exposures, and to display the actual end-of-workshift exposures would be far more effective in controlling exposures to respirable coal mine dust than the current system. Continuous monitors when used effectively could greatly reduce coal miners' occupational lifetime exposures to respirable coal mine dust and the associated risks for developing occupational lung disease. For operators who would use continuous monitoring, we would solicit comments on proposed modifications to the current dust control regulations. Moreover, for operators who would not use continuous monitors, we would

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Long-Term Actions

identify how the current periodic dust monitoring sampling program could be improved, to increase protection of miners from occupational exposure to respirable coal mine dust.

Timetable: Next Action Undetermined
Regulatory Flexibility Analysis Required: Undetermined
Government Levels Affected: Undetermined
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RIN: 1219—AB27

DEPARTMENT OF LABOR (DOL)

Completed Actions

Mine Safety and Health Administration (MSHA)

1936. DIESEL PARTICULATE MATTER (EXPOSURE OF UNDERGROUND COAL MINERS)

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813

CFR Citation: 30 CFR 72

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 final rule for underground coal mines requires that the diesel particulate matter (dpm) emissions from certain pieces of equipment be restricted to prescribed levels, and requires operators to train miners about the hazards of dpm exposure.

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

Summary of Legal Basis: Promulgation of these regulations is authorized by sections 101, 103, and 508 of the Federal Mine Safety and Health Act of 1977.

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 there was no method suitable for such compliance, as in underground metal and nonmetal mines, due to the inability of the available methods to distinguish between coal dust and dpm.

Anticipated Cost and Benefits: Total compliance costs for underground coal mines that use diesel powered equipment are about \$7 million a year. Benefits of the rule include reductions in lung cancer. MSHA estimates that a minimum of 1.8 lung cancer deaths will be avoided per year. The rule will also reduce the risk of death from cardiovascular, cardiopulmonary, and respiratory causes and reduction in sensory irritation and respiratory

symptoms. MSHA does not believe that the available data can support reliable or precise quantitative estimates of these benefits. Nevertheless, the expected reductions in the risk of death from cardiovascular, cardiopulmonary, and respiratory causes appear to be significant, and the expected reductions in sensory irritation and respiratory symptoms appear to be rather large.

Risks: Several epidemiological studies have found that exposure to diesel exhaust presents potential health risks to workers. 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

DOL—MSHA

Completed Actions

Action	Date	FR Cite
Availability of Documents; Request for Comments	06/30/00	65 FR 40557
Final Action	01/19/01	66 FR 5526
Final Action Effective	03/20/01	
Delay of Final Action Effective Date to	03/15/01	66 FR 15033
	05/21/01	

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

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RIN: 1219-AA74**1937. 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 final rule for underground metal and nonmetal mines establishes a concentration limit for diesel particulate matter and requires the use of engineering and best work practices 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. We are concerned about the potential health risk to miners.

Summary of Legal Basis: Promulgation of these regulations is authorized by sections 101 and 103 of the Federal Mine Safety and Health Act of 1977.

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: The costs per year to the underground metal and nonmetal industry are about \$25.1 million. The cost for an average underground metal and nonmetal mine is expected to be about \$128,000 annually.

Benefits of the rule include reductions in lung cancer. MSHA estimates that a minimum of 1.8 lung cancer deaths will be avoided per year. The rule will also reduce the risk of death from cardiovascular, cardiopulmonary, and respiratory causes and reduction in sensory irritation and respiratory symptoms. MSHA does not believe that the available data can support reliable or precise quantitative estimates of

these benefits. Nevertheless, the expected reductions in the risk of death from cardiovascular, cardiopulmonary, and respiratory causes appear to be significant, and the expected reductions in sensory irritation and respiratory symptoms appear to be rather large.

Risks: Several epidemiological studies have found that exposure to diesel exhaust presents potential health risks to workers. 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
Availability of Documents; Request for Comments	06/30/00	65 FR 40557
Final Action	01/19/01	66 FR 5706
Final Action Effective	03/20/01	
Delay of Final Action Effective Date to	03/15/01	66 FR 15032
	05/21/01	

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

Agency Contact: David L. Meyer, 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-AB11

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

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

1938. 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, Deadline 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, Government-wide 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 Government-wide 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 Period End	03/01/99	
Final Action	12/00/01	

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-AA21

political affiliation or belief, and 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
Interim Final Rule Comment Period End	12/13/99	
Final Rule	10/00/01	

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

DEPARTMENT OF LABOR (DOL)

Long-Term Actions

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

1940. 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 Regulation and organizational changes within DOL.

Timetable:

Action	Date	FR Cite
Internal Review and Drafting	To Be Determined	

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.

Agency Contact: Phyllis McMeekin, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N5425, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
 Phone: 202 219-9174
 Fax: 202 219-9440

DOL—OASAM

Long-Term Actions

Email: mcmeekin-phyllis@dol.gov

RIN: 1291-AA20

1941. AUDITS OF STATES, LOCAL GOVERNMENTS, AND NONPROFIT ORGANIZATIONS

Priority: Info./Admin./Other

Legal Authority: 31 USC 7501 Single Audit Act Amendments of 1996; OMB Circular A-110; OMB Circular A-133

CFR Citation: 29 CFR 99

Legal Deadline: None

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

Timetable:

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

Agency Contact: Phyllis McMeekin, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N5425, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1291-AA26

1942. AUDIT REQUIREMENTS FOR GRANTS, CONTRACTS, AND OTHER AGREEMENTS

Priority: Info./Admin./Other

Legal Authority: 31 USC 7500 et seq; OMB Circular A-133

CFR Citation: 29 CFR 96

Legal Deadline: None

Abstract: This Interim Final Rule revises title 29 of the Code of Federal Regulations (CFR) part 96 "Audit Requirements for Grants, Contracts, and Other Agreements" to 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 Rule	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.

Agency Contact: Phyllis McMeekin, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N5425, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1291-AA27

1943. 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	To Be Determined	

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-AA28

1944. GRANTS AND AGREEMENTS

Priority: Other Significant

Legal Authority: PL 105-277

CFR Citation: 29 CFR 95

Legal Deadline: None

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

DOL—OASAM

Long-Term Actions

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

Timetable:

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

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phyllis McMeekin, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N5425, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1291-AA30

1945. EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 AND IMPLEMENTATION OF SECTION 504 OF THE REHABILITATION ACT OF 1973

Priority: Substantive, Nonsignificant

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

CFR Citation: 29 CFR 31; 29 CFR 32

Legal Deadline: None

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

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

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RIN: 1291-AA31

1946. ● GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG FREE WORKPLACE (GRANTS) 29 CFR 98

Priority: Substantive, Nonsignificant

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

CFR Citation: 29 CFR 94; 29 CFR 98

Legal Deadline: None

Abstract: OMB established a Committee to update these regulations on debarment of grantees and enforcement of the Drug Free Workplace for grantees.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis

Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: Regulation will be redrafted and submitted by the interagency committee.

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RIN: 1291-AA33

DEPARTMENT OF LABOR (DOL)

Prerule Stage

Occupational Safety and Health Administration (OSHA)

1947. 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

DOL—OSHA

Prerule Stage

published in a report available to the public in 2001.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/96	
Publish Report	11/00/01	

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-AB60

1948. 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 is to publish, in November 2001, 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	11/00/01	
NPRM Process Safety Management	To Be Determined	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected:

Undetermined

Agency Contact: Marthe B. Kent, Director, Directorate of Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3609, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218-AB63

1949. GRAIN HANDLING FACILITIES (SECTION 610 REVIEW)

Priority: Other Significant

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

CFR Citation: 29 CFR 1910.272

Legal Deadline: None

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

Timetable:

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

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

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RIN: 1218-AB73

1950. 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 (ANPRM) 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 ANPRM 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. It will also request information on the health risks posed to workers by alternative processes and solvents, including new detergent formulations.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/01	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200

DOL—OSHA

Prerule Stage

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RIN: 1218–AB86

1951. SANITATION IN THE CONSTRUCTION INDUSTRY

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	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

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–AB87

1952. 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 section 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) in November 2001, and to initiate stakeholder meetings 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	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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–AB89

DEPARTMENT OF LABOR (DOL)

Proposed Rule Stage

Occupational Safety and Health Administration (OSHA)

1953. 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

DOL—OSHA

Proposed Rule Stage

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	11/00/01	

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

1954. 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	11/00/01	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected:

Undetermined

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RIN: 1218-AB47

1955. 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

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

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-AB51

1956. 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.

OSHA believes 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. OSHA published (61 FR 1947) the name of the 20 substances from which the proposed new PELs for the first update were chosen: carbon

DOL—OSHA

Proposed Rule Stage

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. 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.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

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
Phone: 202 693-1950
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RIN: 1218-AB54

1957. 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	12/00/01	

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-AB58

1958. PLAIN LANGUAGE REVISION OF THE FLAMMABLE AND COMBUSTIBLE LIQUIDS STANDARD

Priority: Substantive, Nonsignificant

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

CFR Citation: 29 CFR 1910.106

Legal Deadline: None

Abstract: OSHA has identified this standard for revision as part of an initiative on federal regulations discussed in the U.S. Department of Labor report of June 15, 1995 and to respond to the June 1998 executive memo on plain language. OSHA intends to propose a plain language revision of the regulations contained in 29 CFR 1910.106 addressing flammable and combustible liquids storage.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

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

1959. PLAIN LANGUAGE REVISION OF THE MECHANICAL POWER-TRANSMISSION APPARATUS STANDARD

Priority: Substantive, Nonsignificant

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 29 CFR part 1910 for revision as part of an initiative on Federal regulations discussed in the U.S. Department of Labor Report of June 15, 1995 and to respond to the June 1998 Executive Memo on Plain

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Language. OSHA intends to propose a plain language revision of the rule.

Timetable:

Action	Date	FR Cite
NPRM - Mechanical Power-Transmission Apparatus	11/00/01	

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-AB66

1960. 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

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	11/00/01	

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-AB67

1961. 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 (10 mg/m³ divided by the percent of silica in the dust (respirable + 2)), 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.

Statement of Need: The current OSHA permissible exposure limit for silica is 10 mg/m³ divided by the percent of silica in the dust + 2 (respirable) and 30 mg/m³ divided by the percent of silica in the dust + 2 (total dust). In the interval since this limit was promulgated there have been a number of studies of workers that have estimated that close to 50 percent of workers exposed to silica at the current limit for a 45-year working lifetime would develop silicosis, a disabling, progressive and sometimes fatal disease involving scarring of the lung, coughing, and shortness of breath. There are currently about 300 deaths reported per year from silicosis. However, the actual number of cases and the true risk is unknown due to inadequate case identification, which means that the number of deaths is probably underreported. Also, since the promulgation of OSHA's permissible exposure limit, studies have demonstrated a statistically significant, dose-related increase in lung cancer in several occupational groups.

Because of these recent findings, OSHA believes that it will be necessary to conduct a risk assessment to determine whether the current permissible exposure limit is protective of worker health. OSHA also believes that, in addition to the permissible exposure limit, the ancillary provisions, such as engineering controls, provided by a comprehensive standard will be necessary to reduce worker exposure to crystalline silica.

Summary of Legal Basis: The legal basis for the proposed rule is a preliminary determination by the Secretary of Labor that exposure to silica at the Agency's current permissible exposure limits poses a significant risk of material impairment of health and that a standard will substantially reduce that risk.

Alternatives: OSHA has considered or conducted several programs designed to reduce worker exposure to crystalline silica. The OSHA Special Emphasis Program for Silicosis provides inspection targeting to reduce or eliminate workplace exposures to

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Proposed Rule Stage

crystalline silica. The National Campaign to Eliminate Silicosis being conducted by OSHA (in conjunction with the National Institute for Occupational Safety and Health, the Mine Safety and Health Administration, and the American Lung Association) is an ongoing program involving outreach and education and the dissemination of materials on methods to reduce worker exposure to crystalline silica. Other nonregulatory approaches might include the issuance of nonmandatory guidelines, enforcing lower limits through the "general duty" clause of the OSH Act in cases where substantial evidence exists that exposure presents a recognized hazard of death or serious physical harm, and the issuance of hazard alerts. Although these approaches may be partially effective in reducing worker exposure to crystalline silica and reducing disease risk, OSHA believes that progress in the prevention of silica-related diseases demands the issuance of a comprehensive silica standard.

Anticipated 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.

Risks: OSHA has not yet completed an assessment of the risks of exposure to crystalline silica. Other studies have shown risks ranging from 35 to 47 percent among workers exposed over a working lifetime and have additionally identified silica as a potential occupational carcinogen.

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

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-AB70

1962. 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, wheelchairs, 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/m³; a 5 ug/m³ ceiling concentration not to be exceeded over a 30-minute period; and a 25 ug/m³ maximum peak exposure never to be exceeded.

In 1977, OSHA proposed to reduce the 8-hour TWA exposure to beryllium from 2 ug/m³ to 1 ug/m³ based on evidence that beryllium caused lung cancer in exposed workers. A hearing followed the proposal, but a final standard was never published. Since the previous OSHA hearing, NIOSH has updated its studies on beryllium exposed workers. The study results again demonstrated a significant excess of lung cancer among exposed workers. The International Agency for Research on Cancer (IARC) has concluded that beryllium is a carcinogen in humans (Category I).

In addition to lung cancer, a new OSHA beryllium standard would address chronic beryllium disease (CBD), a fatal disease involving lung fibrosis and other organ toxicity. Based on several recent studies involving workers employed in the beryllium ceramics industry, in beryllium production, and in Department of Energy facilities, there is now evidence that very low level beryllium exposure (less than 0.5 ug/m³) may cause CBD. A 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	12/00/01	

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-AB76

1963. STANDARDS IMPROVEMENT (MISCELLANEOUS CHANGES) FOR GENERAL INDUSTRY, MARINE TERMINALS, AND CONSTRUCTION STANDARDS (PHASE II)

Priority: Substantive, Nonsignificant

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 to 1910.1052; 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

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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	11/00/01	

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

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RIN: 1218-AB81**1964. PLAIN LANGUAGE REVISIONS TO SPRAY APPLICATIONS**

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

Unfunded Mandates: Undetermined**Legal Authority:** 29 USC 655(b); 29 USC 657**CFR Citation:** 29 CFR 1910.107; 29 CFR 1910.94(c) and 1910.94(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	11/00/01	

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-AB84**1965. CHANGES TO STATE PLANS****Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 667**CFR Citation:** 29 CFR 1953**Legal Deadline:** None

Abstract: Section 18 of the Occupational Safety and Health Act of 1970 (the Act), 29 U.S.C. 667, provides that States that wish to assume responsibility for developing and enforcing their own occupational safety and health standards relating to any occupational safety or health issue may do so by submitting and obtaining Federal approval of a State plan. A State plan consists of the laws, standards and other regulations, and procedures under which the State operates its occupational safety and health program. From time to time after

initial plan approval, States may make changes to their plans as a result of legislative, regulatory or administrative actions. If the State makes a change to its plan which differs from the Federal program, the State must notify OSHA of the change to its plan which differs from the Federal program (referred to as a plan supplement). OSHA then reviews the changes; if they meet the approval criteria OSHA publishes a notice announcing the approval of the change; if the change does not meet the criteria OSHA initiates procedures to reject the change.

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

Timetable:

Action	Date	FR Cite
NPRM	11/00/01	

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

Agency Contact: Paula O. White, Director, Federal-State Operations, Department of Labor, Occupational Safety and Health Administration, Room N3700, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
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RIN: 1218-AB91

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Occupational Safety and Health Administration (OSHA)

1966. 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.

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
Final Rule	01/08/98	63 FR 1152
Final Rule Effective	04/08/98	
Final Rule - Assigned Protection Factors	12/00/01	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: State, Local, Tribal, Federal

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-AA05

1967. 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: 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
NPRM Comment Period End	06/07/93	
Final Action	12/00/01	

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

1968. WALKING WORKING SURFACES AND PERSONAL FALL PROTECTION SYSTEMS (1910) (SLIPS, TRIPS AND FALL PREVENTION)

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655 (b)

CFR Citation: 29 CFR 1910, subparts D and I

Legal Deadline: None

Abstract: In 1990, OSHA proposed (55 FR 13360) a rule addressing slip, trip, and fall hazards and establishing requirements for personal fall protection systems. OSHA has analyzed the record and determined that it is appropriate to move forward with a final rule addressing personal fall protection requirements (subpart I of 29 CFR 1910) and re-proposing certain sections of the walking and working surfaces rule.

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
Final Rule (Subpart I)	11/00/01	

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-AB80

1969. PLAIN LANGUAGE REVISIONS TO THE EXIT ROUTE STANDARD

Priority: Substantive, Nonsignificant

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.

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Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/10/96	61 FR 47712
Public Hearing	04/29/97	62 FR 9402
Final Rule	11/00/01	

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
Phone: 202 693-2222
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RIN: 1218-AB82**1970. 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 issue a Direct Final Rule to update subpart G to reflect the requirements of the Department of Transportation's MUTCD.

Timetable:

Action	Date	FR Cite
Direct Final Rule	11/00/01	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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RIN: 1218-AB88

DEPARTMENT OF LABOR (DOL)

Long-Term Actions

Occupational Safety and Health Administration (OSHA)

1971. 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**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 2001.

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 on VTLs - 1/27/1998	10/09/97	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**1972. SCAFFOLDS IN SHIPYARDS (PART 1915 — SUBPART N)****Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**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

DOL—OSHA

Long-Term Actions

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	04/12/94	59 FR 17290
Comment Period End	06/13/94	
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

1973. 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

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

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RIN: 1218-AA70

1974. 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 (SARA) of 1986 (Public Law 99-499) established the criteria under which OSHA was to develop and promulgate the Hazardous Waste Operations and Emergency Response standard. OSHA issued an interim final standard on December 19, 1986 (51 FR 45654) to comply with the law's requirements. OSHA issued a permanent final rule for provisions on training to replace this interim rule on March 9, 1989 (29 CFR 1910.120).

On December 22, 1987, as part of an omnibus budget reconciliation bill (PL 100-202), Congress amended section 126(d)(3) of SARA to include accreditation of training programs for hazardous waste operations. OSHA issued a proposal on January 26, 1990 (55 FR 2776), addressing this issue. OSHA received public comments following the issuance of the proposal. OSHA also reopened the record in June 1992 to allow additional public comment on an effectiveness of training study that the Agency had conducted. OSHA has also developed nonmandatory guidelines to further address minimum training criteria. OSHA has not yet determined what further steps, if any, are necessary in this rulemaking.

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

DOL—OSHA

Long-Term Actions

1975. 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: 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. The proposed ETS provisions would apply to all 6 million industrial and nonindustrial work environments under OSHA's jurisdiction. OSHA preliminarily estimated that the proposed standard would 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

Action	Date	FR Cite
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

1976. 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.

Safety and health programs 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 proposed rule on significant hazards and reduced burdens on small business to the extent consistent with the goals of the OSH Act.

Statement of Need: Worksite-specific safety and health programs are increasingly being recognized as the most effective way of reducing job-related accidents, injuries, and illnesses. Many States have to date passed legislation and/or regulations mandating such programs for some or all employers, and insurance companies have also been encouraging their client companies to implement these programs, because the results they have achieved have been dramatic. In addition, all of the companies in OSHA's Voluntary Protection 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

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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 rule provided to the SBREFA Panel for this rule for all covered employers to be about \$2.3 billion per year. The Agency also preliminarily estimated that 580,000 to 1,300,000 injuries and illnesses and 416 to 918 fatalities would be avoided each year as a result of the rule. OSHA preliminarily anticipates that employers will have direct cost savings associated with this reduction in the number of injuries and illnesses of approximately \$7.3 billion 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

1977. 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

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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 reopened 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 reopening of the rulemaking record, OSHA also requested interested parties to submit comments and data on the Agency's preliminary risk assessment in order to obtain the best, most recent data for providing the most accurate estimates of the occupational risk of tuberculosis.

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 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. Implementation of the standard is estimated to reduce the number of work-related cases of TB by 70 to 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

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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 to 386 infections per 1000 workers exposed to TB on the job and that the average lifetime occupational risk of TB disease ranges from 3 to 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	06/17/99	64 FR 32447
Second Reopening Comment Period End	06/28/99	64 FR 34625
Reopening Comment Period End	08/02/99	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis**Required:** Yes**Small Entities Affected:** Businesses, Governmental Jurisdictions, Organizations**Government Levels Affected:** State, Local, Tribal, Federal

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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RIN: 1218-AB46**1978. GENERAL WORKING CONDITIONS FOR SHIPYARD EMPLOYMENT**

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

Unfunded Mandates: Undetermined**Legal Authority:** 29 USC 655(b); 33 USC 941**CFR Citation:** 29 CFR 1915, subpart F**Legal Deadline:** None

Abstract: During the 1980s, OSHA 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: Next Action Undetermined**Regulatory Flexibility Analysis****Required:** Undetermined**Government Levels Affected:** None

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RIN: 1218-AB50**1979. 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 on the ANPRM 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**1980. 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

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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: Next Action Undetermined

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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RIN: 1218-AB68

1981. 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 nonprofit 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

1982. CONTROL OF HAZARDOUS ENERGY (LOCKOUT) IN CONSTRUCTION (PART 1926) (PREVENTING CONSTRUCTION INJURIES/FATALITIES: LOCKOUT)

Priority: Economically Significant

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

1983. 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

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(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.

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 standards.

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 the proposed 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	To Be Determined	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

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RIN: 1218-AB77

1984. CONSOLIDATION OF RECORDS MAINTENANCE REQUIREMENTS IN OSHA STANDARDS

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

Unfunded Mandates: Undetermined

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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Phone: 202 693-2222
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RIN: 1218-AB78

DOL—OSHA

Long-Term Actions

1985. 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: 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-AB83

1986. WOODWORKING MACHINERY

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

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.213

Legal Deadline: None

Abstract: OSHA's standards for woodworking machinery (29 CFR 1910.213) have not been updated since their adoption in 1971. The corresponding industry consensus standards have been updated several times in the intervening years. OSHA intends to work with affected stakeholders to develop an updated woodworking machinery standard that reflects the technological advances and changes in occupational safety and health practices that have taken place since then. The revised standard will take account of approaches included in the most recent voluntary consensus standard.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

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-AB92

1987. ERGONOMICS PROGRAMS IN CONSTRUCTION (PART 1926): PREVENTING WORK-RELATED MUSCULOSKELETAL DISORDERS AMONG CONSTRUCTION WORKERS

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

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

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: Based on evidence that employers in the construction industry report to the Bureau of Labor Statistics, more than 40,000 lost-time musculoskeletal disorders (MSDs) occur among their workers every year. Accordingly, OSHA has decided to begin to gather information for future rulemaking to address these disorders. When the number of non-lost worktime MSDs in this workforce is added to the total, the annual number of MSDs experienced by construction workers is likely to exceed 200,000. Approximately one-third of the costs construction employers incur for workers' compensation every year goes to pay for these costly injuries. However, many work-related MSDs are preventable, and many low-cost methods of reducing worker exposure to ergonomic risk factors are now available for the construction industry. OSHA intends to publish an ANPR to gather information on the construction workers most at risk, feasible methods of reducing this risk, and successful ergonomics programs in construction.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis

Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 1218-AB94

DOL—OSHA

Long-Term Actions

1988. SUBPART S—ELECTRICAL STANDARDS

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

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910. subpart S

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA) is planning to update the Subpart S-Electrical Standard and will rely heavily on the materials involved in the development of the 2000 Edition of the National Fire Protection Association's (NFPA's) 70 E standard for Electrical Safety Requirements for Employee Workplaces. This revision will provide the first update of Subpart S-Electrical since the standard was originally published in 1981. It will thus allow the latest technological developments to be considered; several of these state-of-the-art safety developments will be addressed by OSHA for the first time. The update of Subpart S-Electrical will also permit the completion of standards covering safety-related maintenance requirements and safety requirements for special equipment.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis

Required: Undetermined

Small Entities Affected: 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-AB95

1989. OCCUPATIONAL HEALTH RISKS IN THE MANUFACTURE AND ASSEMBLY OF SEMICONDUCTORS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The manufacture and assembly of semiconductors requires

the use of a variety of complex mixtures of chemicals. For most of these chemicals, adequate data on toxicity are not available, although chemical structure suggests that they may present potential health risks. The types of mixtures used and their components change rapidly in this industry. OSHA is aware of case reports and epidemiologic studies suggesting excesses of certain cancers and reproductive damage among employees in this industry. Although these effects may be associated with processes and mixtures no longer in common use, the 1995 Priority Planning Process emphasized reproductive hazards as an item of special concern.

Accordingly, OSHA is planning to request information on the chemical content of "photoresist" and other mixtures currently used in semiconductor manufacture and assembly, on employee exposures in this sector, on toxicological information available about the components or mixtures, and about feasible means of reducing vapor-phase exposures in industry "clean rooms."

Timetable:

Action	Date	FR Cite
ANPRM	To Be	Determined

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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-AB96

1990. COMMERCIAL DIVING OPERATIONS: TECHNICAL AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655

CFR Citation: 29 CFR 1910.423

Legal Deadline: None

Abstract: OSHA's Commercial Diving Operations standard (29 CFR 1910.401 to 1910.441) was published in 1977. In the intervening years, major changes in the technology of diving systems and

equipment have occurred. In December 1999, OSHA granted a permanent variance to Dixie Divers, Inc. permitting recreational diving instructors employed by that company to comply with the provisions of the variance rather than with paragraphs (b)(2) and (c)(3)(iii) of 1910.423 and paragraph (b)(1) of 1910.426. Since OSHA granted the variance, other employers of recreational diving instructors have asked OSHA to clarify the applicability of the variance to their operations. OSHA intends to issue a Request for Information to obtain data on the appropriateness of amending the commercial diving operations standard to reflect the alternative specified in the permanent variance granted to Dixie Divers, Inc.

Timetable:

Action	Date	FR Cite
Request for Information	To Be	Determined

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: 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-AB97

1991. • PROCEDURES FOR HANDLING OF DISCRIMINATION COMPLAINTS UNDER THE AVIATION INVESTMENT AND REFORM ACT

Priority: Info./Admin./Other

Legal Authority: PL 106-181, Wendell H. Ford Aviation Investment and Reform Act, sec 519; 49 USC 42121

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: On March 8, 2000, Congress enacted the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, commonly known as the Air Act. Section 519 of the Act (49 USC 42121) prohibits air carriers or air carrier contractors or subcontractors from discharging or otherwise discriminating against employees for exercising specified rights under the

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Act. The Act further provides that the Secretary of Labor investigate employee claims of discrimination and ultimately issue a determination and order after an opportunity for either party to request a hearing on the record. Procedural rules are needed for filing, investigating, litigating, and

adjudicating complaints filed pursuant to the Act.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1218-AB99

DEPARTMENT OF LABOR (DOL)

Completed Actions

Occupational Safety and Health Administration (OSHA)

1992. STEEL ERECTION (PART 1926) (SAFETY PROTECTION FOR IRONWORKERS)

Priority: Economically Significant. Major under 5 USC 801.

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. An advisory committee for this rule was formed in 1994. Its work resulted in the publication of a proposed rule on August 13, 1998. A public hearing was held in Washington, DC, on December 1-11, 1998. The post-hearing comment period closed April 12, 1999. OSHA published the final rule on January 18, 2001.

Statement of Need: 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 former rule needed to be revised.

Summary of Legal Basis: The legal basis for the steel erection rule is a finding that workers engaged in steel erection work are at significant risk of serious injury or death as a result of that work.

Anticipated Cost and Benefits: The annualized costs of compliance are \$78.4 million dollars. Benefits are expected to include the prevention of about 22 fatalities and 838 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	01/18/01	66 FR 5195
Final Rule Effective	09/16/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1218-AA65

1993. RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES (SIMPLIFIED INJURY/ILLNESS RECORDKEEPING REQUIREMENTS)

Priority: Other Significant

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 1980s, 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 issued a final rule that incorporates changes based on an analysis of the public comments and testimony on January 19, 2001.

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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, the final rule provides clear regulatory guidance to employers and simplifies 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.

Anticipated Cost and Benefits: The annual costs of the rule are \$38.6 million. The potential benefits of the rule are the avoidance of 29,000 to 58,000 injuries and illnesses per year.

Risks: Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	02/02/96	61 FR 4030
NPRM Comment Period End	07/02/96	
Final Action	01/19/01	66 FR 5916
Final Action Effective	01/01/02	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

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RIN: 1218-AB24

1994. 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: On November 14, 2000, OSHA published a final rule addressing ergonomic programs in general industry (65 FR 68262). The rule became effective on January 16, 2001. However, under the Congressional Review Act, Congress has passed and the President has signed, Public Law 107-5, a resolution of disapproval of OSHA's final Ergonomics Program standard. Because Public Law 107-5 invalidates the standard, OSHA has removed it from the Code of Federal Regulations. Removal of the final standard was effective April 23, 2001.

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	11/14/00	65 FR 68261
Final Action Effective	01/16/01	
Final Rule Withdrawal	04/23/01	
Final Rule Withdrawal Effective	04/23/01	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Bonnie Friedman, Director, Office of Public Affairs, Department of Labor, Office of the Secretary, Room N3649, 200

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RIN: 1218-AB36

1995. 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). A final rule was issued in October 2000.

Timetable:

Action	Date	FR Cite
NPRM	07/02/99	64 FR 35972
Final Rule	10/26/00	65 FR 64281
Final Action Effective	12/26/00	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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RIN: 1218-AB79

1996. OCCUPATIONAL EXPOSURE TO BLOODBORNE PATHOGENS; NEEDLESTICK AND OTHER SHARPS INJURIES

Priority: Other Significant

Legal Authority: 29 USC 655(b); 29 USC 657; PL 106-430, Needlestick Safety and Prevention Act

CFR Citation: 29 CFR 1910.1030

Legal Deadline: None

DOL—OSHA

Completed Actions

Abstract: The Occupational Safety and Health Administration has revised the Bloodborne Pathogens (BBP) standard in conformance with the requirements of the Needlestick Safety and Prevention Act. This Act directed OSHA to revise the Bloodborne Pathogens standard to include new examples in the definition of engineering controls along with two new definitions; to require that Exposure Control Plans reflect how employers implement new developments in control technology; to require employers to solicit input from employees responsible for direct patient care in the identification, evaluation, and selection of engineering and work practice controls; and to require certain employers to establish and maintain a log of percutaneous injuries from contaminated sharps.

Blood and other potential infectious materials have long been recognized as a potential threat to the health of employees who are exposed to these materials by percutaneous contact (penetration of the skin). Injuries from contaminated needles and other sharps have been associated with an increased risk of disease from more than 20 infectious agents. The primary agents of concern in current occupational settings are the human immunodeficiency virus (HIV), hepatitis B virus, and hepatitis C virus (HCV).

Needlesticks and other percutaneous injuries resulting in exposure to blood or other potentially infectious materials continue to be of concern due to the high frequency of their occurrence and the severity of the health effects associated with exposure. The Centers for Disease Control and Prevention has estimated that healthcare workers in hospital settings sustain 384,325 percutaneous injuries involving contaminated sharps annually. When non-hospital healthcare workers are included, the best estimate of the number of percutaneous injuries involving contaminated sharps is 590,164 per year.

Since publication of the BBP standard, a wide variety of medical devices have been developed to reduce the risk of needlesticks and other sharps injuries. These "safer medical devices" replace sharps with non-needle devices or incorporate safety features designed to reduce the likelihood of injury.

Congress was prompted to take action in response to growing concern over bloodborne pathogen exposures from sharps injuries and in response to recent technological developments that increase employee protection. On November 6, 2000, the Needlestick Safety and Prevention Act (PL 106-430) was signed into law. The Act directed OSHA to revise the BBP standard in accordance with specific language included in the Act. On January 18, 2001, OSHA published the final rule (66 FR 5318).

Timetable:

Action	Date	FR Cite
Final Rule	01/18/01	66 FR 5317
Final Rule Effective	04/18/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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-AB85

1997. COTTON DUST: WASHED COTTON EXEMPTION (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1043(n)

Legal Deadline: None

Abstract: OSHA has completed a Lookback Review of the Cotton Dust Standard pursuant to Section 610 of the Regulatory Flexibility Act and Section 5 of Executive Order 12866. As part of that review OSHA requested public comments (63 FR 32140, June 22, 1998) and held two public meetings. During that review commenters representing the National Institute for Occupational Safety and Health (NIOSH), the Washed Cotton Task Force, and industry and union representatives on the task force recommended that OSHA expand the washed cotton partial exemption that appears in the cotton dust standard.

Raw cotton washed according to certain protocols creates a much lower risk of byssinosis, and the current cotton dust

standard at 29 CFR 1910.1043(n) provides a partial exemption from the standard for such washed cotton. The Washed Cotton Task Force, made up of representatives of government, industry and unions, has sponsored research which demonstrates that cotton washed pursuant to an additional process, batch kier washing following a specific protocol, also creates a much lower risk of byssinosis.

One of the purposes of a Lookback Review is to streamline regulation when that is appropriate based on experience or new science. Expanding the washed cotton partial exemption is supported by new science and is supported by the affected community. Accordingly, OSHA has issued a direct final rule to expand the partial exemption from the cotton dust standard to batch kier washed in accordance with the protocol recommended by the Task Force. OSHA received no negative comments during the 60-day comment period. The agency has issued a notice to that effect and the rule was effective on April 6, 2001.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/07/00	65 FR 76598
Confirmation of Direct Final Rule Effective Date	04/06/01	66 FR 18191
Direct Final Rule Effective	04/06/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Will permit cotton textile mills, many of which are small businesses pursuant to the SBA definition, to choose an option which will reduce their costs to comply with OSHA's cotton dust standard.

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RIN: 1218-AB90

DOL—OSHA

Completed Actions

1998. • NEW JERSEY STATE PLAN**Priority:** Routine and Frequent**Legal Authority:** 29 USC 667**CFR Citation:** 29 CFR 1956**Legal Deadline:** None

Abstract: The New Jersey Public Employee Only State plan, a State occupational safety and health plan applicable only to public sector employees (employees of the State and its political subdivisions), is approved as a developmental plan under section 18 of the Occupational Safety and Health Act of 1970 and 29 CFR part

1956. Under the approved plan, the New Jersey Department of Labor is designated as the State agency responsible for the development and enforcement of occupational safety and health standards applicable to public employment throughout the State. The Occupational Safety and Health Administration (OSHA) retains full authority for coverage of private sector employees in the State of New Jersey.

Timetable:

Action	Date	FR Cite
Final Rule	01/11/01	66 FR 2265
Final Rule Effective	01/11/01	

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

Agency Contact: Paula O. White, Director, Federal-State Operations, Department of Labor, Occupational Safety and Health Administration, Room N3700, 200 Constitution Avenue NW, FP Building, Washington, DC 20210

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RIN: 1218-AB98

DEPARTMENT OF LABOR (DOL)

Long-Term Actions

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

1999. ANNUAL REPORT FOR FEDERAL CONTRACTORS**Priority:** Other Significant**Legal Authority:** PL 105-339 Veterans Employment Opportunities Act of 1998**CFR Citation:** 41 CFR 61-250**Legal Deadline:** None

Abstract: The Veterans' Employment and Training Service 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 subcontractors 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 assist VETS in meeting the statutory requirement of annually collecting the VETS-100 Report.

Timetable:

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

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

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RIN: 1293-AA07

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