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Part XIII

Department of Labor

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Semiannual Regulatory Agenda

**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:** The Internet has become the means for disseminating the entirety of the Department of Labor’s semiannual regulatory agenda. However, the Regulatory Flexibility Act requires publication of a regulatory flexibility agenda in the **Federal Register**. This **Federal Register** Notice contains the regulatory flexibility agenda.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Franks, Director, Office of Regulatory Policy, Office of the

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

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

**SUPPLEMENTARY INFORMATION:** Executive Order 12866 requires the semiannual publication of an agenda of regulations that contains a listing of all the regulations the Department of Labor expects to have under active consideration for promulgation, proposal, or review during the coming one-year period. The entirety of the Department’s semiannual agenda is available online at *www.reginfo.gov*.

The Regulatory Flexibility Act (5 U.S.C. 602) requires DOL to publish in the **Federal Register** a regulatory flexibility agenda. The Department’s Regulatory Flexibility Agenda published with this notice, includes only those rules on its semiannual agenda that are likely to have a significant economic impact on a substantial number of small entities; and those rules identified for periodic review in keeping with the requirements of section 610 of the Regulatory Flexibility Act. Thus, the

regulatory flexibility agenda is a subset of the Department’s semiannual regulatory agenda. There is only one item on the Department of Labor’s Regulatory Flexibility Agenda:

**Occupational Safety and Health Administration**

*Bloodborne Pathogens (RIN 1218-AC34)*

In addition, the Department’s Regulatory Plan, also a subset of the Department’s regulatory agenda, is being published in the **Federal Register**. The Regulatory Plan contains a statement of the Department’s regulatory priorities and the regulatory actions the Department wants to highlight as its most important and significant.

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

**Thomas E. Perez,**  
*Secretary of Labor.*

**WAGE AND HOUR DIVISION—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
323 .....	Establishing Paid Sick Leave for Contractors, Executive Order 13706 ( <b>Reg Plan Seq No. 77</b> ) .....	1235-AA13

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

**WAGE AND HOUR DIVISION—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
324 .....	Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees ( <b>Reg Plan Seq No. 78</b> ).	1235-AA11

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

**EMPLOYMENT AND TRAINING ADMINISTRATION—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
325 .....	Workforce Innovation and Opportunity Act ( <b>Reg Plan Seq No. 79</b> ) .....	1205-AB73
326 .....	Workforce Innovation and Opportunity Act; Joint Rule with U.S. Department of Education for Combined and Unified State Plans, Performance Accountability, and the One-Stop System Joint Provisions.	1205-AB74
327 .....	Modernizing the Permanent Labor Certification Program (PERM) .....	1205-AB75

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

**EMPLOYMENT AND TRAINING ADMINISTRATION—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
328 .....	Temporary Agricultural Employment of H-2A Foreign Workers in the Herding or Production of Livestock on the Range in the United States.	1205-AB70

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
329 .....	Bloodborne Pathogens ( <b>Section 610 Review</b> ) .....	1218-AC34
330 .....	Combustible Dust .....	1218-AC41
331 .....	Preventing Backover Injuries and Fatalities .....	1218-AC51

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
332 .....	Occupational Exposure to Beryllium .....	1218-AB76

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
333 .....	Occupational Exposure to Crystalline Silica ( <b>Reg Plan Seq No. 84</b> ) .....	1218-AB70

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

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
334 .....	Infectious Diseases .....	1218-AC46
335 .....	Injury and Illness Prevention Program .....	1218-AC48

**DEPARTMENT OF LABOR (DOL)**

Wage and Hour Division (WHD)

Proposed Rule Stage

**323. • Establishing Paid Sick Leave for Contractors, Executive Order 13706**

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

RIN: 1235-AA13

**DEPARTMENT OF LABOR (DOL)**

Wage and Hour Division (WHD)

Final Rule Stage

**324. Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees**

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

RIN: 1235-AA11

**DEPARTMENT OF LABOR (DOL)**

Employment and Training Administration (ETA)

Proposed Rule Stage

**325. Workforce Innovation and Opportunity Act**

Regulatory Plan: This entry is Seq. No. 79 in part II of this issue of the **Federal Register**.

RIN: 1205-AB73

**326. Workforce Innovation and Opportunity Act; Joint Rule With U.S. Department of Education for Combined and Unified State Plans, Performance Accountability, and the One-Stop System Joint Provisions**

*Legal Authority:* Section 503(f) of the Workforce Innovation and Opportunity Act (Pub. L. 113-128)

*Abstract:* On July 22, 2014, the President signed the Workforce Innovation and Opportunity Act (WIOA) (Pub. L. 113-128) which repeals the Workforce Investment Act of 1998 (WIA). (29 U.S.C. 2801 *et seq.*) As directed by WIOA, the Departments of Education and Labor issued a Notice of Proposed Rulemaking (NPRM) on April 16, 2015 to implement the changes in regulations that WIOA makes to the public workforce system regarding Combined and Unified State Plans, performance accountability for WIOA

title I, title II, title III, and title IV programs, and the one-stop delivery system.

All of the other regulations implementing WIOA were published by the Departments of Labor and Education in separate NPRMs. The Departments are analyzing the comments received and developing a final rule.

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/16/15	80 FR 20574
NPRM Comment Period End.	06/15/15	
Analyze Comments.	11/00/15	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Portia Wu, Assistant Secretary for Employment and Training, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210, *Phone:* 202 639-2700.

RIN: 1205-AB74

**327. Modernizing the Permanent Labor Certification Program (PERM)**

*Legal Authority:* 8 U.S.C. 1152(a)(5)(A)

*Abstract:* The PERM regulations govern the labor certification process for employers seeking to employ foreign

workers permanently in the United States. The Department of Labor (Department) has not comprehensively examined and modified the permanent labor certification requirements and process since 2004. Over the last ten years, much has changed in our country's economy, affecting employers' demand for workers and the availability of a qualified domestic labor force. Advances in technology and information dissemination have dramatically altered common industry recruitment practices, and the Department has received ongoing feedback that the existing regulatory requirements governing the PERM process frequently do not align with worker or industry needs and practices. Therefore, the Department is engaging in rulemaking that will consider options to modernize the PERM program to be more responsive to changes in the national workforce, to further align the program design with the objectives of the U.S. immigration system and needs of workers and employers, and to enhance the integrity of the labor certification process.

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/00/16	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* William W. Thompson II, Acting Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., FP Building, Rm. C-4312, Washington, DC 20210, *Phone:* 202 693-3010. *RIN:* 1205-AB75

**DEPARTMENT OF LABOR (DOL)**

*Employment and Training Administration (ETA)*

Completed Actions

**328. Temporary Agricultural Employment of H-2A Foreign Workers in the Herding or Production of Livestock on the Range in the United States**

*Legal Authority:* 8 U.S.C. 1188  
*Abstract:* Office of Foreign Labor Certification of the Employment and Training Administration (ETA) has established special procedures for certain occupations, including long-established variances for sheepherding, goat herding, and occupations involving the open range production of livestock. The wage-setting methodology and

other employment standards for these occupations have been set in the past by sub-regulatory guidance. ETA is engaging in this regulatory action to establish standards for wages and working conditions in these occupations based on input from the regulated community.

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/15/15	80 FR 20300
NPRM Comment Period End.	05/15/15	
NPRM Comment Period Extended.	05/05/15	80 FR 25633
NPRM Comment Period Extended End.	06/01/15	
Final Rule .....	10/15/15	80 FR 62957
Final Rule Effective.	11/16/15	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Janet Banos, Department of Labor, Employment and Training Administration, Division of Policy, Office of Foreign Labor Certification, 200 Constitution Avenue NW., Room C-4312, FP Building, Washington, DC 20210, *Phone:* 202 693-3010, *Email:* banos.janet@dol.gov. *RIN:* 1205-AB70

**DEPARTMENT OF LABOR (DOL)**

*Occupational Safety and Health Administration (OSHA)*

Prerule Stage

**329. Bloodborne Pathogens (Section 610 Review)**

*Legal Authority:* 5 U.S.C. 533; 5 U.S.C. 610; 29 U.S.C. 655(b)

*Abstract:* OSHA will undertake a review of the Bloodborne Pathogen Standard (29 CFR 1910.1030) in accordance with the requirements of the Regulatory Flexibility Act and section 5 of Executive Order 12866. The review will consider the continued need for the rule; 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 evaluated.

*Timetable:*

Action	Date	FR Cite
Begin Review .....	10/22/09	
Request for Comments Published.	05/14/10	75 FR 27237

Action	Date	FR Cite
Comment Period End.	08/12/10	
End Review and Issue Findings.	12/00/15	

*Regulatory Flexibility Analysis Required: No.*

*Agency Contact:* Amanda Edens, Director, Directorate of Technical Support and Emergency Management, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N-3653, Washington, DC 20210, *Phone:* 202 693-2300, *Fax:* 202 693-1644, *Email:* edens.mandy@dol.gov. *RIN:* 1218-AC34

**330. Combustible Dust**

*Legal Authority:* 29 U.S.C. 655(b); 29 U.S.C. 657

*Abstract:* Occupational Safety and Health Administration (OSHA) has commenced rulemaking to develop a combustible dust standard for general industry. The U.S. Chemical Safety Board (CSB) completed a study of combustible dust hazards in late 2006, which identified 281 combustible dust incidents between 1980 and 2005 that killed 119 workers and injured another 718. Based on these findings, the CSB recommended the Agency pursue a rulemaking on this issue. OSHA has previously addressed aspects of this risk. For example, on July 31, 2005, OSHA published the Safety and Health Information Bulletin, "Combustible Dust in Industry: Preventing and Mitigating the Effects of Fire and Explosions." Additionally, OSHA implemented a Combustible Dust National Emphasis Program (NEP) on March 11, 2008, launched a new Web page, and issued several other guidance documents. However, the Agency does not have a comprehensive standard that addresses combustible dust hazards. OSHA will use the information gathered from the NEP to assist in the development of this rule. OSHA published an ANPRM October 21, 2009. Additionally, stakeholder meetings were held in Washington, DC, on December 14, 2009, in Atlanta, GA, on February 17, 2010, and in Chicago, IL, on April 21, 2010. A webchat for combustible dust was also held on June 28, 2010, and an expert forum was convened on May 13, 2011.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	10/21/09	74 FR 54333
Stakeholder Meetings.	12/14/09	

Action	Date	FR Cite
ANPRM Comment Period End.	01/19/10	
Stakeholder Meetings.	02/17/10	
Stakeholders Meetings.	03/09/10	75 FR 10739
Initiate SBREFA ..	08/00/16	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3718, FP Building, Washington, DC 20210, *Phone:* 202 693-1950, *Fax:* 202 693-1678, *Email:* perry.bill@dol.gov. *RIN:* 1218-AC41

**331. Preventing Backover Injuries and Fatalities**

*Legal Authority:* 29 U.S.C. 655(b)  
*Abstract:* OSHA published a Request for Information (RFI) (77 FR 18973; March 29, 2012) that sought information on two subjects: (1) Preventing backover injuries; and (2) the hazards and risks of reinforcing concrete operations in construction, including post-tensioning. Backing vehicles and equipment are common causes of struck-by injuries and can also cause caught-between injuries when backing vehicles and equipment pin a worker against an object. Struck-by injuries and caught-between injuries are two of the four leading causes of workplace fatalities. The Bureau of Labor Statistics reports that in 2011, 75 workers were fatally backed over while working. While many backing incidents can prove to be fatal, workers can suffer severe, non-fatal injuries as well. A review of OSHA's Integrated Management Information System (IMIS) database found that backing incidents can result in serious injury to the back and pelvis, fractured bones, concussions, amputations, and other injuries. Emerging technologies in the field of backing operations may prevent incidents. The technologies include cameras and proximity detection systems. The use of spotters and internal traffic control plans can also make backing operations safer. The Agency has held stakeholder meetings on backovers, and is conducting site visits to employers.

*Timetable:*

Action	Date	FR Cite
Request for Information (RFI).	03/29/12	77 FR 18973
RFI Comment Period End.	07/27/12	

Action	Date	FR Cite
Initiate SBREFA ..	09/00/16	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Jim Maddux, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N-3468, FP Building, 200 Constitution Avenue NW., Washington, DC 20210, *Phone:* 202 693-2020, *Fax:* 202 693-1689, *Email:* maddux.jim@dol.gov.

*RIN:* 1218-AC51

**DEPARTMENT OF LABOR (DOL)**

*Occupational Safety and Health Administration (OSHA)*

Proposed Rule Stage

**332. Occupational Exposure to Beryllium**

*Legal Authority:* 29 U.S.C. 655(b); 29 U.S.C. 657

*Abstract:* In 1999 and 2001, OSHA was petitioned to issue an emergency temporary standard for permissible exposure limit (PEL) to beryllium by the United Steel Workers (formerly the Paper Allied-Industrial, Chemical, and Energy Workers Union), Public Citizen Health Research Group, and others. The Agency denied the petitions but stated its intent to begin data gathering to collect needed information on beryllium's toxicity, risks, and patterns of usage. On November 26, 2002, OSHA published a Request for Information (RFI) (67 FR 70707) to solicit information pertinent to occupational exposure to beryllium, including: Current exposures to beryllium; the relationship between exposure to beryllium and the development of adverse health effects; exposure assessment and monitoring methods; exposure control methods; and medical surveillance. In addition, the Agency conducted field surveys of selected worksites to assess current exposures and control methods being used to reduce employee exposures to beryllium. OSHA convened a Small Business Advocacy Review Panel under the Small Business Regulatory Enforcement Fairness Act (SBREFA) and completed the SBREFA Report in January 2008. OSHA also completed a scientific peer review of its draft risk assessment.

*Timetable:*

Action	Date	FR Cite
Request for Information.	11/26/02	67 FR 70707
Request for Information Comment Period End.	02/24/03	
SBREFA Report Completed.	01/23/08	
Initiated Peer Review of Health Effects and Risk Assessment.	03/22/10	
Complete Peer Review.	11/19/10	
NPRM .....	08/07/15	80 FR 47565
NPRM Comment Period End.	11/05/15	
Analyze Comments.	12/00/15	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3718, FP Building, Washington, DC 20210, *Phone:* 202 693-1950, *Fax:* 202 693-1678, *Email:* perry.bill@dol.gov. *RIN:* 1218-AB76

**DEPARTMENT OF LABOR (DOL)**

*Occupational Safety and Health Administration (OSHA)*

Final Rule Stage

**333. Occupational Exposure to Crystalline Silica**

*Regulatory Plan:* This entry is Seq. No. 84 in part II of this issue of the **Federal Register**. *RIN:* 1218-AB70

**DEPARTMENT OF LABOR (DOL)**

*Occupational Safety and Health Administration (OSHA)*

Long-Term Actions

**334. Infectious Diseases**

*Legal Authority:* 5 U.S.C. 533; 29 U.S.C. 657 and 658; 29 U.S.C. 660; 29 U.S.C. 666; 29 U.S.C. 669; 29 U.S.C. 673  
*Abstract:* Employees in health care and other high-risk environments face long-standing infectious disease hazards such as tuberculosis (TB), varicella disease (chickenpox, shingles), and measles (rubeola), as well as new and emerging infectious disease threats, such as Severe Acute Respiratory Syndrome (SARS) and pandemic

influenza. Health care workers and workers in related occupations, or who are exposed in other high-risk environments, are at increased risk of contracting TB, SARS, Methicillin-resistant Staphylococcus aureus (MRSA), and other infectious diseases that can be transmitted through a variety of exposure routes. OSHA is concerned about the ability of employees to continue to provide health care and other critical services without unreasonably jeopardizing their health. OSHA is considering the need for a standard to ensure that employers establish a comprehensive infection control program and control measures to protect employees from infectious disease exposures to pathogens that can cause significant disease. Workplaces where such control measures might be necessary include: Health care, emergency response, correctional facilities, homeless shelters, drug treatment programs, and other occupational settings where employees can be at increased risk of exposure to potentially infectious people. A standard could also apply to laboratories, which handle materials that may be a source of pathogens, and to pathologists, coroners' offices, medical examiners, and mortuaries.

*Timetable:*

Action	Date	FR Cite
Request for Information (RFI).	05/06/10	75 FR 24835
RFI Comment Period End.	08/04/10	

Action	Date	FR Cite
Analyze Comments.	12/30/10	
Stakeholder Meetings.	07/05/11	76 FR 39041
Initiate SBREFA .. Complete SBREFA.	06/04/14 12/22/14	
NPRM .....	12/00/16	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3718, FP Building, Washington, DC 20210, *Phone:* 202 693-1950, *Fax:* 202 693-1678, *Email:* perry.bill@dol.gov. *RIN:* 1218-AC46

**335. Injury and Illness Prevention Program**

*Legal Authority:* 29 U.S.C. 653; 29 U.S.C. 655(b); 29 U.S.C. 657

*Abstract:* OSHA is developing a rule requiring employers to implement an Injury and Illness Prevention Program. It involves planning, implementing, evaluating, and improving processes and activities that protect employee safety and health. OSHA has substantial data on reductions in injuries and illnesses from employers who have implemented similar effective processes. The Agency currently has voluntary Safety and Health Program Management Guidelines (54 FR 3904 to

3916), published in 1989. An injury and illness prevention program rule would build on these guidelines as well as lessons learned from successful approaches and best practices under OSHA's Voluntary Protection Program, Safety and Health Achievement Recognition Program, and similar industry and international initiatives such as American National Standards Institute/American Industrial Hygiene Association Z10, and Occupational Health and Safety Assessment Series 18001.

*Timetable:*

Action	Date	FR Cite
Notice of Stakeholder Meetings.	05/04/10	75 FR 23637
Notice of Additional Stakeholder Meetings.	06/22/10	75 FR 35360
Initiate SBREFA ..	01/06/12	
NPRM .....	To Be Determined	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3718, FP Building, Washington, DC 20210, *Phone:* 202 693-1950, *Fax:* 202 693-1678, *Email:* perry.bill@dol.gov. *RIN:* 1218-AC48

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