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Part XII

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:** Laura M. Dawkins, Director, Office of Regulatory and Programmatic 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](http://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. The Department’s Regulatory Flexibility Agenda does not include section 610 items at this time.

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.

**R. Alexander Acosta,**  
*Secretary of Labor.*

**EMPLOYEE BENEFITS SECURITY ADMINISTRATION—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
145 .....	Definition of an ‘Employer’ Under Section 3(5) of ERISA—Association Health Plans .....	1210-AB85

**OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PRERULE STAGE**

Sequence No.	Title	Regulation Identifier No.
146 .....	Communication Tower Safety .....	1218-AC90
147 .....	Tree Care Standard .....	1218-AD04

**OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
148 .....	Infectious Diseases .....	1218-AC46
149 .....	Process Safety Management and Prevention of Major Chemical Accidents .....	1218-AC82

**DEPARTMENT OF LABOR (DOL)**

*Employee Benefits Security Administration (EBSA)*

Final Rule Stage

**145. Definition of an ‘Employer’ Under Section 3(5) of ERISA—Association Health Plans**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 29 U.S.C. 3(1), 3(5), and 505

*Abstract:* This regulatory action would establish criteria for an employer group or association to act as an “employer” within the meaning of

section 3(5) of ERISA and sponsor an association health plan that is an employee welfare benefit plan and a group health plan under title I of ERISA.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/05/18	83 FR 614
NPRM Comment Period End.	03/06/18	
Analyze Comments.	05/00/18	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Amy J. Turner, Director, Office of Health Plan Standards and Compliance Assistance, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW, FP Building, Room N-5653, Washington, DC 20210, *Phone:* 202 693-8335, *Fax:* 202 219-1942.

*RIN:* 1210-AB85.

**DEPARTMENT OF LABOR (DOL)**

*Occupational Safety and Health Administration (OSHA)*

Prerule Stage

**146. Communication Tower Safety**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 29 U.S.C. 655  
*Abstract:* While the number of employees engaged in the communication tower industry remains small, the fatality rate is very high. Over the past 20 years, this industry has experienced an average fatality rate that greatly exceeds that of the construction industry, for example. Falls are the leading cause of death in tower work and OSHA has evidence that fall protection is used either improperly or inconsistently. Based on information collected from an April 2016 Request for Information, OSHA understands that employees are often hoisted to working levels on small base-mounted drum hoists that have been mounted to a truck chassis, and these may not be rated to hoist personnel. Communication tower construction and maintenance activities are not adequately covered by current OSHA fall protection and personnel hoisting standards, and OSHA plans to use information it will collect from a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel to identify effective work practices and advances in engineering technology that would best address industry safety and health concerns. While this panel will be focused on communication towers, OSHA plans to consider inclusion of structures that have telecommunications equipment on or attached to them (e.g., buildings, rooftops, water towers, billboards, etc.).

*Timetable:*

Action	Date	FR Cite
Request For Information (RFI).	04/15/15	80 FR 20185
RFI Comment Period End.	06/15/15	
Initiate SBREFA ..	01/04/17	
Initiate SBREFA ..	05/00/18	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Dean McKenzie, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3468, Washington, DC 20210, *Phone:* 202 693-2020, *Fax:* 202 693-1689, *Email:* mckenzie.dean@dol.gov.  
*RIN:* 1218-AC90

**147. Tree Care Standard**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* Not Yet Determined  
*Abstract:* There is no OSHA standard for tree care operations; the agency currently applies a patchwork of standards to address the serious hazards in this industry. The tree care industry previously petitioned the agency for rulemaking and OSHA issued an ANPRM (September 2008). Tree care continues to be a high-hazard industry.  
*Timetable:*

Action	Date	FR Cite
Stakeholder Meeting.	07/13/16	
Initiate SBREFA ..	04/00/19	

*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, FP Building, Room N-3718, Washington, DC 20210, *Phone:* 202 693-1950, *Fax:* 202 693-1678, *Email:* perry.bill@dol.gov.  
*RIN:* 1218-AD04

**DEPARTMENT OF LABOR (DOL)**

*Occupational Safety and Health Administration (OSHA)*

Long-Term Actions

**148. Infectious Diseases**

*E.O. 13771 Designation:* Regulatory.  
*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 examining regulatory alternatives for 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	
Analyze Comments.	12/30/10	
Stakeholder Meetings.	07/05/11	76 FR 39041
Initiate SBREFA ..	06/04/14	
Complete SBREFA.	12/22/14	
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, FP Building, Room N-3718, Washington, DC 20210, *Phone:* 202 693-1950, *Fax:* 202 693-1678, *Email:* perry.bill@dol.gov.  
*RIN:* 1218-AC46

**149. Process Safety Management and Prevention of Major Chemical Accidents**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 29 U.S.C. 655; 29 U.S.C. 657

*Abstract:* In accordance with the Executive Order 13650, Improving Chemical Facility Safety and Security, Occupational Safety and Health Administration (OSHA) issued a Request for Information (RFI) on December 9, 2013 (78 FR 73756). The RFI identified issues related to modernization of the Process Safety Management standard and related standards necessary to meet the goal of preventing major chemical accidents.

*Timetable:*

Action	Date	FR Cite
Request for Information (RFI).	12/09/13	78 FR 73756
RFI Comment Period Extended.	03/07/14	79 FR 13006
RFI Comment Period Extended End.	03/31/14	
Initiate SBREFA ..	06/08/15	
SBREFA Report Completed.	08/01/16	

Action	Date	FR Cite
Next Action Undetermined.		

*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, FP Building, Room

N-3718, Washington, DC 20210, *Phone:*  
202 693-1950, *Fax:* 202 693-1678,  
*Email:* [perry.bill@dol.gov](mailto:perry.bill@dol.gov).

*RIN:* 1218-AC82

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