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Part X

Department of Labor

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.

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.

EMPLOYMENT AND TRAINING ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
319	Temporary Employment of H–2B Foreign Workers in Certain Itinerant Occupations in the United States ...	1205–AB93

EMPLOYEE BENEFITS SECURITY ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
320	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.
321	Communication Tower Safety	1218–AC90
322	Emergency Response and Preparedness	1218–AC91
323	Tree Care Standard	1218–AD04
324	Prevention of Workplace Violence in Health Care and Social Assistance	1218–AD08

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
325	Infectious Diseases	1218–AC46
326	Process Safety Management and Prevention of Major Chemical Accidents	1218–AC82

DEPARTMENT OF LABOR (DOL)

Employment and Training Administration (ETA)

Proposed Rule Stage

319. • Temporary Employment of H-2B Foreign Workers in Certain Itinerant Occupations in the United States

E.O. 13771 Designation: Regulatory.
Legal Authority: 8 U.S.C. 1184; 8 U.S.C. 1103

Abstract: The United States Department of Labor’s (DOL), Employment and Training Administration and Wage and Hour Division, and the United States Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services, are jointly amending regulations regarding the H-2B non-immigrant visa program at 20 CFR part 655, subpart A. The Notice of Proposed Rulemaking (NPRM) will establish standards and procedures for employers seeking to hire foreign temporary nonagricultural workers for certain itinerant job opportunities, including entertainers and carnivals and utility vegetation management.

Timetable:

Action	Date	FR Cite
NPRM	09/00/19	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: William W. Thompson, II, Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, Box #12-200, Washington, DC 20210, *Phone:* 202 513-7350.

RIN: 1205-AB93

DEPARTMENT OF LABOR (DOL)

Employee Benefits Security Administration (EBSA)

Completed Actions

320. 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 establishes 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	
Final Rule	06/21/18	83 FR 28912
Final Rule Effective.	08/20/18	

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

321. Communication Tower Safety

E.O. 13771 Designation: Regulatory.
Legal Authority: 29 U.S.C. 655(b); 5 U.S.C. 609

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. Due to recent FCC spectrum auctions and innovations in cellular technology, there will be a very high level of construction activity taking place on communication towers over the next few years. A similar increase in the number of construction projects needed to support cellular phone coverage triggered a spike in fatality and injury rates years ago. Based on information collected from an April 2016 Request for Information, OSHA concluded that current OSHA requirements such as those for fall protection and personnel hoisting, may not adequately cover all hazards of communication tower construction and maintenance activities. OSHA will use information collected 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 focus on communication towers, OSHA will consider also covering 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 ..	05/31/18	
Complete SBREFA.	10/00/18	

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

322. Emergency Response and Preparedness

E.O. 13771 Designation: Regulatory.
Legal Authority: 29 U.S.C. 655(b); 29 U.S.C. 657; 5 U.S.C. 609

Abstract: OSHA currently regulates aspects of emergency response and preparedness; some of these standards were promulgated decades ago, and none were designed as comprehensive emergency response standards. Consequently, they do not address the full range of hazards or concerns currently facing emergency responders, nor do they reflect major changes in performance specifications for protective clothing and equipment. The Agency acknowledged that current OSHA standards also do not reflect all the major developments in safety and health practices that have already been accepted by the emergency response community and incorporated into industry consensus standards. OSHA is considering updating these standards with information gathered through an RFI and public meetings.

Timetable:

Action	Date	FR Cite
Stakeholder Meetings.	07/30/14	
Convene NACOSH Workgroup.	09/09/15	
NACOSH Review of Workgroup Report.	12/14/16	
Initiate SBREFA ..	10/00/18	

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-AC91

323. 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 ..	06/00/19	

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

324. Prevention of Workplace Violence in Health Care and Social Assistance

E.O. 13771 Designation: Regulatory.
Legal Authority: 29 U.S.C. 655(b); 5 U.S.C. 609
Abstract: The Request for Information (RFI) (published on December 7, 2016) provides OSHA’s history with the issue of workplace violence in healthcare and social assistance, including a discussion of the Guidelines that were initially published in 1996, a 2014 update to the Guidelines, the Agency’s use of 5(a)(1) in enforcement cases in healthcare. The RFI solicited information primarily from health care employers, workers and other subject matter experts on impacts of violence, prevention strategies, and other information that will be useful to the Agency. OSHA was petitioned for a standard preventing workplace violence in healthcare by a broad coalition of labor unions, and in a separate petition by the National Nurses United. On January 10, 2017, OSHA granted the petitions.

Timetable:

Action	Date	FR Cite
Request For Information (RFI).	12/07/16	81 FR 88147
RFI Comment Period End.	04/06/17	
Initiate SBREFA ..	03/00/19	

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-AD08

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Long-Term Actions

325. 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

326. 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	
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,
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RIN: 1218-AC82
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