



# Federal Register

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**Monday,  
December 7, 2009**

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**Part IV**

**Department of Labor**

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**Semiannual Regulatory Agenda**

**DEPARTMENT OF LABOR (DOL)**

**DEPARTMENT OF LABOR**

**Office of the Secretary**

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

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

**30 CFR Ch. I**

**41 CFR Ch. 60**

**48 CFR Ch. 29**

**Semiannual Agenda of Regulations**

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

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** 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. In addition, the Department’s Regulatory Plan, 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.

**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](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 next 12-month review list for the Department of Labor is provided below, and public comment is invited on the listing. A brief description of each rule, the legal basis for the rule, and the agency contact are provided with each agenda item.

**Occupational Safety and Health Administration**

Methylene Chloride (RIN 1218-AC23)

Bloodborne Pathogens (RIN 1218-AC34)

**Employee Benefits Security Administration**

Plan Assets-Participant Contributions Regulations (RIN 1210-AB11)

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 agenda.

**HILDA L. SOLIS,**  
*Secretary of Labor.*

**Office of the Secretary—Completed Actions**

Sequence Number	Title	Regulation Identifier Number
554	Requirements for DOL Agencies’ Assessment of Occupational Health Risks .....	1290-AA23

**Employment Standards Administration—Prerule Stage**

Sequence Number	Title	Regulation Identifier Number
555	Child Labor Regulations, Orders, and Statements of Interpretation .....	1215-AB44
556	Internet Balloting in Union Officer Elections Pursuant to Title IV of the Labor-Management Reporting and Disclosure Act .....	1215-AB84

**Employment Standards Administration—Proposed Rule Stage**

Sequence Number	Title	Regulation Identifier Number
557	Nondisplacement of Qualified Workers Under Service Contracts .....	1215-AB69

## DOL

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

Sequence Number	Title	Regulation Identifier Number
558	Defense Base Act Waivers .....	1215-AB72
559	Regulations Implementing the Longshore and Harbor Workers' Compensation Act: Recreational Vessels .....	1215-AB73
560	Labor Organization Officer and Employee Report (Form LM-30) .....	1215-AB74
561	Proposal to Rescind the Form T-1; Require Subsidiary Organization Reporting; Revise Interpretation Regarding LMRDA Coverage of Public Sector Intermediate Unions .....	1215-AB75
562	The Family and Medical Leave Act of 1993, as Amended ( <b>Reg Plan Seq No. 45</b> ) .....	1215-AB76
563	Records To Be Kept by Employers Under the Fair Labor Standards Act ( <b>Reg Plan Seq No. 46</b> ) .....	1215-AB78
564	Interpretation of the "Advice" Exemption of Section 203(c) of the Labor-Management Reporting and Disclosure Act ( <b>Reg Plan Seq No. 47</b> ) .....	1215-AB79
565	Claims for Compensation Under the Federal Employees' Compensation Act .....	1215-AB83

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

## Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
566	Amendments to the Fair Labor Standards Act .....	1215-AB13
567	Child Labor Regulations, Orders, and Statements of Interpretation ( <b>Reg Plan Seq No. 48</b> ) .....	1215-AB57
568	Death Gratuity Authorized for Federal Employees .....	1215-AB66
569	Notification of Employee Rights Under Federal Labor Laws .....	1215-AB70

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

## Employment Standards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
570	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors: Evaluation of Recruitment and Placement Results Under Section 503 .....	1215-AB77
571	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors; Evaluation of Recruitment and Placement Results Under the VEVRAA of 1974, as amended .....	1215-AB80
572	Construction Contractor Affirmative Action Requirements .....	1215-AB81

## Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
573	Service Contract Act, Health and Welfare Benefits .....	1215-AB56
574	Labor Organization Annual Financial Reports .....	1215-AB62
575	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors; Contractor Notice-Posting by Electronic Means .....	1215-AB68

## Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
576	YouthBuild Program Regulation ( <b>Reg Plan Seq No. 49</b> ) .....	1205-AB49
577	Trade Adjustment Assistance for Workers Program; Regulations ( <b>Reg Plan Seq No. 50</b> ) .....	1205-AB57
578	Labor Certification Process and Enforcement for Temporary Employment in Occupations Other Than Agriculture or Registered Nursing in the United States (H-2B Workers) .....	1205-AB58

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Employment and Training Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
579	Equal Employment Opportunity in Apprenticeship and Training, Amendment of Regulations ( <b>Reg Plan Seq No. 51</b> ) .....	1205-AB59

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

Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
580	Senior Community Service Employment Program; Performance Accountability .....	1205-AB47
581	Senior Community Service Employment Program .....	1205-AB48
582	Attestations by Facilities Temporarily Employing H-1C Nonimmigrant Aliens as Registered Nurses .....	1205-AB52
583	Federal-State Unemployment Compensation Program; Funding Goals for Interest-Free Advances .....	1205-AB53
584	Temporary Agricultural Employment of H-2A Aliens in the United States ( <b>Reg Plan Seq No. 52</b> ) .....	1205-AB55
585	Trade Adjustment Assistance Program; Merit Staffing of State Administration and Allocation of Training Funds to the States .....	1205-AB56

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 Number	Title	Regulation Identifier Number
586	Revision to the Department of Labor Benefit Regulations for Trade Adjustment Assistance for Workers Under the Trade Act of 1974, as Amended .....	1205-AB32
587	Alternative Trade Adjustment Assistance Benefits; Amendment of Regulations .....	1205-AB40
588	Workforce Investment Act Amendments .....	1205-AB46

Employee Benefits Security Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
589	Plan Assets—Participant Contributions Regulation ( <b>Section 610 Review</b> ) .....	1210-AB11
590	Lifetime Income Options for Participants and Beneficiaries in Retirement Plans ( <b>Reg Plan Seq No. 53</b> ) .....	1210-AB33

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

Employee Benefits Security Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
591	Annual Funding Notice for Defined Benefit Plans .....	1210-AB18
592	Periodic Pension Benefit Statements .....	1210-AB20
593	Definition of “Fiduciary” — Investment Advice ( <b>Reg Plan Seq No. 54</b> ) .....	1210-AB32
594	Health Care Arrangements Established by State and Local Governments for Non-Governmental Employees ( <b>Reg Plan Seq No. 55</b> ) .....	1210-AB34
595	Prohibited Transaction Exemption for Provision of Investment Advice to Participants in Individual Account Plans ...	1210-AB35

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

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## Employee Benefits Security Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
596	Regulations Implementing the Health Care Access, Portability, and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996 .....	1210-AA54
597	Amendment of Regulation Relating to Definition of Plan Assets—Participant Contributions .....	1210-AB02
598	Fiduciary Requirements for Disclosure in Participant-Directed Individual Account Plans .....	1210-AB07
599	Amendment of Standards Applicable to General Statutory Exemption for Services .....	1210-AB08
600	Prohibited Transaction Exemption for Provision of Investment Advice to Participants in Individual Account Plans ...	1210-AB13
601	Time and Order of Issuance of Domestic Relations Orders .....	1210-AB15
602	Multiemployer Plan Information Made Available on Request .....	1210-AB21
603	Genetic Information Nondiscrimination ( <b>Reg Plan Seq No. 56</b> ) .....	1210-AB27
604	Mental Health Parity and Addiction Equity Act ( <b>Reg Plan Seq No. 57</b> ) .....	1210-AB30
605	Amendments to Civil Penalties Under ERISA Section 502(c)(8) .....	1210-AB31

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

## Employee Benefits Security Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
606	Adequate Consideration .....	1210-AA15
607	Proposed Amendments to Rules Relating To Use of Electronic Communication by Employee Pension and Welfare Benefit Plans .....	1210-AB25

## Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
608	Coal Mine Respirable Dust; Continuous Personal Dust Monitor (CPDMs) .....	1219-AB48
609	Proximity Detection Systems for Underground Mines .....	1219-AB65
610	Metal and Nonmetal Impoundments ( <b>Reg Plan Seq No. 58</b> ) .....	1219-AB70

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

## Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
611	Respirable Crystalline Silica Standard ( <b>Reg Plan Seq No. 59</b> ) .....	1219-AB36
612	Revising Electrical Product Approval Regulations .....	1219-AB37
613	Occupational Exposure to Coal Mine Dust (Lowering Exposure) ( <b>Reg Plan Seq No. 60</b> ) .....	1219-AB64

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

## Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
614	High-Voltage Continuous Mining Machine Standard for Underground Coal Mines .....	1219-AB34
615	Coal Mine Dust Personal Monitors .....	1219-AB61
616	Criteria and Procedures for Proposed Assessment of Civil Penalties/Recordkeeping and Reporting: Immediate Notification .....	1219-AB63

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Mine Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
617	Smoke Density and Toxicity .....	1219-AB60
618	Notification of Legal Identity .....	1219-AB67

Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
619	Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust .....	1219-AB14
620	Determination of Concentration of Respirable Coal Mine Dust .....	1219-AB18
621	Field Modifications of Permissible Mobile Diesel-Powered Equipment .....	1219-AB39
622	Use of or Impairment From Alcohol and Other Drugs on Mine Property .....	1219-AB41
623	Equivalency Evaluation of the U.S. Environmental Protection Agency's Non-Road Diesel Engine Standards .....	1219-AB43
624	Explosives and Blasting ( <b>Section 610 Review</b> ) .....	1219-AB62
625	Mine Rescue Teams .....	1219-AB66

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
626	Occupational Exposure to Crystalline Silica ( <b>Reg Plan Seq No. 61</b> ) .....	1218-AB70
627	Occupational Exposure to Beryllium .....	1218-AB76
628	Emergency Response and Preparedness .....	1218-AC17
629	Methylene Chloride ( <b>Section 610 Review</b> ) .....	1218-AC23
630	Occupational Exposure to Diacetyl and Food Flavorings Containing Diacetyl .....	1218-AC33
631	Bloodborne Pathogens (610 Review) ( <b>Section 610 Review</b> ) .....	1218-AC34
632	Tree Care Operations .....	1218-AC40
633	Combustible Dust .....	1218-AC41
634	Airborne Infectious Diseases .....	1218-AC46

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

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
635	Confined Spaces in Construction .....	1218-AB47
636	Walking Working Surfaces and Personal Fall Protection Systems (Slips, Trips, and Fall Prevention) .....	1218-AB80
637	Standards Improvement .....	1218-AC19
638	Hazard Communication ( <b>Reg Plan Seq No. 62</b> ) .....	1218-AC20
639	Nationally Recognized Testing Laboratories Fee Schedule—Revised Approach .....	1218-AC27
640	Cooperative Agreements .....	1218-AC32
641	Occupational Exposure to Hexavalent Chromium; Final Rule Remand .....	1218-AC43
642	Occupational Injury and Illness Recording and Reporting Requirements .....	1218-AC45

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

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
643	General Working Conditions for Shipyard Employment .....	1218-AB50
644	Electric Power Transmission and Distribution; Electrical Protective Equipment .....	1218-AB67

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Occupational Safety and Health Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
645	Cranes and Derricks in Construction ( <b>Reg Plan Seq No. 63</b> ) .....	1218-AC01
646	Explosives .....	1218-AC09
647	Procedures for Handling Discrimination Complaints Under Federal Employee Protection Statutes .....	1218-AC25
648	Procedures for Handling Employee Retaliation Complaints Under the National Transit Systems Security Act of 2007; Surface Transportation Assistance Act of 1982, as Amended; and Federal Rail Safety Act .....	1218-AC36
649	Abbreviated Portacount Quantitative Fit-Testing Protocol .....	1218-AC39
650	Procedures for the Handling of Retaliation Complaints Under the Employee Protection Provisions of the Consumer Product Safety Improvement Act (CPSIA) of 2008 .....	1218-AC47

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 Number	Title	Regulation Identifier Number
651	Hearing Conservation Program for Construction Workers .....	1218-AB89
652	Revision and Update of Standards for Power Presses .....	1218-AC22

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
653	Updating OSHA Standards Based on National Consensus Standards .....	1218-AC08
654	Abbreviated Bitrix Qualitative Fit-Testing Protocol .....	1218-AC29
655	Illinois State Plan for Public Employees Only—Initial State Plan Approval .....	1218-AC44

Office of the Assistant Secretary for Veterans' Employment and Training—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
656	Revised Funding Formula for Jobs for Veterans State Grants .....	1293-AA17

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

Sequence Number	Title	Regulation Identifier Number
657	Establishment of a Uniform National Threshold Entered Employment Rate Under the Jobs for Veterans State Grants .....	1293-AA18

**Department of Labor (DOL)  
Office of the Secretary (OS)**

**Completed Actions**

**554. REQUIREMENTS FOR DOL AGENCIES' ASSESSMENT OF OCCUPATIONAL HEALTH RISKS**

**Priority:** Other Significant

**Legal Authority:** 5 USC 301

**CFR Citation:** Not Yet Determined

**Legal Deadline:** None

**Abstract:** The Department of Labor is proposing requirements for its Agencies to follow when preparing risk assessments in conjunction with the development of health standards governing occupational exposure to

toxic substances and hazardous chemicals. The proposed rule requires DOL agencies to follow a consistent, reliable, and transparent set of procedures when conducting risk assessments, outlines the components that should be included in a risk

DOL—OS

Completed Actions

assessment, and provides for improved public access to rulemaking information.

**Timetable:**

Action	Date	FR Cite
NPRM	08/29/08	73 FR 50909

Action	Date	FR Cite
NPRM Comment Period End	09/29/08	
Withdrawn	08/31/09	74 FR 44795

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None  
**Agency Contact:** Kathleen Franks, Director, Office of Regulatory and Programmatic Policy, Department of Labor, 200 Constitution Avenue NW., FP Building, Washington, DC 20210  
 Phone: 202 693-5959  
**RIN:** 1290-AA23

**Department of Labor (DOL)  
 Employment Standards Administration (ESA)**

**Prerule Stage**

**555. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION**

**Priority:** Other Significant

**Legal Authority:** 29 USC 203(1)

**CFR Citation:** 29 CFR 570

**Legal Deadline:** None

**Abstract:** The Department of Labor is considering possible revisions to the hazardous occupations orders that may be undertaken to address recommendations of the National Institute for Occupational Safety and Health (NIOSH) in its May 2002 report to the Department on the Fair Labor Standards Act child labor regulations (available at <http://www.youthrules.dol.gov/resources.htm>). This ANPRM sought additional data and public input to supplement the conclusions and recommendations on certain of the Hazardous Orders contained in the NIOSH report for consideration in subsequent rulemaking actions that may be undertaken. This ANPRM is related to a separate NPRM (see Related RIN: 1215-AB57). The Department is reviewing the submitted comments.

**Timetable:**

Action	Date	FR Cite
ANPRM	04/17/07	72 FR 19328

Action	Date	FR Cite
ANPRM Comment Period End	07/16/07	
Reviewing of Comments	04/00/10	

**Regulatory Flexibility Analysis Required:** Undetermined

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

**Government Levels Affected:** Local, State

**URL For Public Comments:** [www.regulations.gov](http://www.regulations.gov)

**Agency Contact:** Richard M. Brennan, Director, Division of Interpretations and Regulatory Analysis, Wage and Hour Division, Department of Labor, 200 Constitution Avenue NW., FP Building, Room S-3502, Washington, DC 20210  
 Phone: 202 693-0051  
 Fax: 202 693-1387

**Related RIN:** Related to 1215-AB57

**RIN:** 1215-AB44

**556. • INTERNET BALLOTING IN UNION OFFICER ELECTIONS PURSUANT TO TITLE IV OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT**

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

**Legal Authority:** 29 USC 481 and 482

**CFR Citation:** Not Yet Determined

**Legal Deadline:** None

**Abstract:** The Department intends to publish a Request for Information regarding the application of title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) in the context of Internet balloting in union officer elections.

**Timetable:**

Action	Date	FR Cite
RFI	11/00/10	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

**URL For More Information:** [www.olms.dol.gov](http://www.olms.dol.gov)

**URL For Public Comments:** [www.regulations.gov](http://www.regulations.gov)

**Agency Contact:** Andrew R. Davis, Chief, Division of Interpretations and Standards, Office of Labor-Management Standards, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, Room N-5609, Washington, DC 20210  
 Phone: 202 693-0123  
 Fax: 202 693-1340  
 Email: [davis.andrew@dol.gov](mailto:davis.andrew@dol.gov)

**RIN:** 1215-AB84

**Department of Labor (DOL)  
 Employment Standards Administration (ESA)**

**Proposed Rule Stage**

**557. NONDISPLACEMENT OF QUALIFIED WORKERS UNDER SERVICE CONTRACTS**

**Priority:** Other Significant

**Legal Authority:** EO 13495, sec 4 to 6; 5 USC 301

**CFR Citation:** 29 CFR 9

**Legal Deadline:** None

**Abstract:** Executive Order 13495 of January 30, 2009, Nondisplacement of Qualified Workers Under Service Contracts, establishes the policy that Federal service contracts generally include a clause requiring the contractor and its subcontractors, under

a contract that succeeds a contract for the same or similar service at the same location, to offer qualified employees (except managerial and supervisory personnel) employed on the predecessor contract a right of first refusal to employment under the successor contract. The order assigns



## DOL—ESA

## Proposed Rule Stage

enforcement responsibility to the Secretary of Labor and directs the Secretary, in consultation with the Federal Acquisition Regulatory Council, to issue regulations, within 180 days of the order to the extent permitted by law, to implement the order.

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/09	

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

**Agency Contact:** Richard M. Brennan, Director, Division of Interpretations and Regulatory Analysis, Wage and Hour Division, Department of Labor, 200 Constitution Avenue NW., FP Building, Room S-3502, Washington, DC 20210  
Phone: 202 693-0051  
Fax: 202 693-1387

**RIN:** 1215-AB69**558. DEFENSE BASE ACT WAIVERS****Priority:** Substantive, Nonsignificant**Legal Authority:** 42 USC 1651(e)**CFR Citation:** 20 CFR 704**Legal Deadline:** None

**Abstract:** The Defense Base Act (DBA), 42 U.S.C. section 1651 et seq., provides workers' compensation benefits for civilian employees of U.S. Government contractors injured or killed while working overseas. The DBA authorizes the Secretary of Labor to waive application of the DBA in any contract, subcontract, location, or class of employees upon the recommendation of the head of any department or agency of the U.S. Government. 42 U.S.C. section 1651(e). Over the years, DOL has granted a variety of waivers without any published rules. This proposed regulation would clarify the procedures for agencies to request waivers, including who may request a waiver, the format of a waiver request, and the supporting information required. The regulation would also explain DOL's procedures for reviewing and granting a waiver, including the factors DOL considers in granting a waiver and the conditions and limitations of any waiver granted.

**Timetable:**

Action	Date	FR Cite
NPRM	02/00/11	

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

**Agency Contact:** Michael Niss, Director, Division of Longshore and Harbor Workers' Compensation, OWCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, Room C-4315, Washington, DC 20210  
Phone: 202 693-0038

Fax: 202 693-1380

Email: niss.michael@dol.gov

**RIN:** 1215-AB72**559. REGULATIONS IMPLEMENTING THE LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT: RECREATIONAL VESSELS****Priority:** Substantive, Nonsignificant**Legal Authority:** 33 USC 939**CFR Citation:** 20 CFR 701**Legal Deadline:** None

**Abstract:** The American Recovery and Reinvestment Act of 2009 amended the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 901 to 950, to exclude from the Act's coverage certain employees who repair recreational vessels and who dismantle them for repair, regardless of the vessel's length. To implement this amendment, the Department anticipates proposing a rule that addresses the definition of recreational vessel, coverage of those employees who work in both covered employment and employment excluded under the amendment, and the interplay between State workers' compensation coverage and Longshore Act coverage for those who repair recreational vessels and who dismantle them for repair.

**Timetable:**

Action	Date	FR Cite
NPRM	08/00/10	

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

**Agency Contact:** Michael Niss, Director, Division of Longshore and Harbor Workers' Compensation, OWCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, Room C-4315, Washington, DC 20210  
Phone: 202 693-0038

Fax: 202 693-1380

Email: niss.michael@dol.gov

**RIN:** 1215-AB73**560. LABOR ORGANIZATION OFFICER AND EMPLOYEE REPORT (FORM LM-30)****Priority:** Other Significant**Legal Authority:** 29 USC 432 and 438**CFR Citation:** 29 CFR 404**Legal Deadline:** None

**Abstract:** The Department intends to review questions of law and policy within the recently published changes to the Form LM-30. The Form LM-30 (Labor Organization Officer and Employee Report) is required by the LMRDA. The purpose of the Form, among others, is to identify potential conflicts of interest between the labor organization officials and their labor organization.

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/10	

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

**Agency Contact:** Andrew R. Davis, Chief, Division of Interpretations and Standards, Office of Labor-Management Standards, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, Room N-5609, Washington, DC 20210

Phone: 202 693-0123

Fax: 202 693-1340

Email: davis.andrew@dol.gov

**RIN:** 1215-AB74**561. PROPOSAL TO RESCIND THE FORM T-1; REQUIRE SUBSIDIARY ORGANIZATION REPORTING; REVISE INTERPRETATION REGARDING LMRDA COVERAGE OF PUBLIC SECTOR INTERMEDIATE UNIONS****Priority:** Other Significant**Legal Authority:** 29 USC 438**CFR Citation:** 29 CFR 403**Legal Deadline:** None

**Abstract:** On October 2, 2008, the Department published a final rule establishing a Form T-1, Trust Annual Report, which certain labor organizations must file to disclose

financial information regarding trusts in which they are interested pursuant to the Labor-Management Reporting and Disclosure Act (LMRDA). This rulemaking would propose to rescind the Form T-1. It would instead propose that filers of Form LM-2, Labor Organization Annual Report, report on their wholly owned, wholly controlled and wholly financed organizations (“subsidiary organizations”) on their Form LM-2 report. Additionally, the rulemaking would propose to change an interpretation of the LMRDA regarding intermediate bodies. The proposed revised interpretation would state that intermediate bodies are covered only if they are themselves composed, in whole or part, of private sector affiliates.

**Timetable:**

Action	Date	FR Cite
NPRM	01/00/10	

**Regulatory Flexibility Analysis Required:** Yes

**Small Entities Affected:** Organizations

**Government Levels Affected:** None

**Agency Contact:** Andrew R. Davis, Chief, Division of Interpretations and Standards, Office of Labor-Management Standards, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, Room N-5609, Washington, DC 20210  
 Phone: 202 693-0123  
 Fax: 202 693-1340  
 Email: davis.andrew@dol.gov

**RIN:** 1215-AB75

**562. • THE FAMILY AND MEDICAL LEAVE ACT OF 1993, AS AMENDED**

**Regulatory Plan:** This entry is Seq. No. 45 in part II of this issue of the **Federal Register**.

**RIN:** 1215-AB76

**563. • RECORDS TO BE KEPT BY EMPLOYERS UNDER THE FAIR LABOR STANDARDS ACT**

**Regulatory Plan:** This entry is Seq. No. 46 in part II of this issue of the **Federal Register**.

**RIN:** 1215-AB78

**564. • INTERPRETATION OF THE “ADVICE” EXEMPTION OF SECTION 203(C) OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT**

**Regulatory Plan:** This entry is Seq. No. 47 in part II of this issue of the **Federal Register**.

**RIN:** 1215-AB79

**565. • CLAIMS FOR COMPENSATION UNDER THE FEDERAL EMPLOYEES’ COMPENSATION ACT**

**Priority:** Other Significant

**Legal Authority:** 5 USC 8149

**CFR Citation:** 20 CFR 1; 20 CFR 10; 20 CFR 25

**Legal Deadline:** None

**Abstract:** ESA’s Office of Workers’ Compensation Programs (OWCP) plans to issue new regulations to update its organizational description to reflect the reorganization that will transform OWCP into a stand-alone organization reporting directly to the Office of the Secretary of Labor. OWCP administers four major disability compensation programs that provide wage replacement benefits, medical treatment, vocational rehabilitation and other benefits (such as survivors benefits) to certain workers who experience work-related injury or occupational disease.

The Federal Employees’ Compensation Act (FECA) provides workers’ compensation benefits to federal workers for employment-related injuries and occupational diseases as well as survivor benefits for a covered employee’s employment-related death. OWCP plans to update its regulations governing administration of claims under the FECA. The last comprehensive update of the FECA

regulations was undertaken more than ten years ago; since that time a number of improvements have been made to OWCP’s processing of claims. The regulations will be revised to reflect those changes and to incorporate new procedures that will enhance OWCP’s ability to administer FECA. Changes to the regulations will facilitate the return to work of injured workers who are able to work by such measures as increasing the opportunity for vocational rehabilitation. Revisions to the regulations will also enhance OWCP’s ability to efficiently provide sufficient income and medical care for those who are unable to work. The planned regulatory changes will better explain the increased automation of the medical billing process; reflect changes in procedure, such as FECA’s centralized mail processing; and also codify changes in case law affecting FECA claims administration. OWCP also plans to modernize the provision of compensation for employees situated overseas who are neither citizens nor residents of the United States to reflect current realities in regard to such employees. The regulations will also be revised to reflect a recent statutory change to the FECA moving the three-day waiting period before qualifying for wage-loss compensation for employees of the Postal Service.

**Timetable:**

Action	Date	FR Cite
NPRM	08/00/10	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Douglas Fitzgerald, Director, Division of Federal Employees’ Compensation, Office of Workers’ Compensation Programs, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, Room S-3229, Washington, DC 20210  
 Phone: 202 693-0040  
 Fax: 202 693-1497  
 Email: fitzgerald.douglas@dol.gov

**RIN:** 1215-AB83

**Department of Labor (DOL)**  
**Employment Standards Administration (ESA)**

**Final Rule Stage**

**566. AMENDMENTS TO THE FAIR LABOR STANDARDS ACT**

**Priority:** Other Significant

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

**CFR Citation:** 29 CFR 4; 29 CFR 531; 29 CFR 778 to 780; 29 CFR 785 to 786; 29 CFR 790

**Legal Deadline:** None

**Abstract:** Small Business Job Protection Act of 1996 (H.R. 3448) enacted on August 20, 1996 (Pub. L. 104-188, title II) amended the Portal-to-Portal Act (PA) and the Fair Labor Standards Act (FLSA). The U.S. Troop Readiness, Veteran's Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Pub. L. 110-28) also amended the FLSA by increasing the minimum wage in three steps: to \$5.85 per hour effective July 24, 2007; to \$6.55 per hour effective July 24, 2008; and to \$7.25 per hour effective July 24, 2009. Changes will be required in the regulations to reflect these amendments. Other updates will address needed clarifications to additional sections of the regulations, including sections affected by Public Law 106-151, section 1 (December 9, 1999), 113 stat. 1731, and Public Law 106-202 (May 18, 2000), 114 Stat. 308.

**Timetable:**

Action	Date	FR Cite
NPRM	07/28/08	73 FR 43654
NPRM Comment Period End	09/11/08	
NPRM Comment Period Extended	08/22/08	73 FR 49621
Final Action	06/00/10	

**Regulatory Flexibility Analysis**

**Required:** No

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

**URL For Public Comments:**

[www.regulations.gov](http://www.regulations.gov)

**Agency Contact:** Richard M. Brennan, Director, Division of Interpretations and Regulatory Analysis, Wage and Hour Division, Department of Labor, 200 Constitution Avenue NW., FP Building, Room S-3502, Washington, DC 20210

Phone: 202 693-0051

Fax: 202 693-1387

**RIN:** 1215-AB13

**567. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION**

**Regulatory Plan:** This entry is Seq. No. 48 in part II of this issue of the **Federal Register**.

**RIN:** 1215-AB57

**568. DEATH GRATUITY AUTHORIZED FOR FEDERAL EMPLOYEES**

**Priority:** Other Significant

**Legal Authority:** PL 110-181 National Defense Authorization Act for FY 2008

**CFR Citation:** 20 CFR 10.900 et al

**Legal Deadline:** None

**Abstract:** The National Defense Authorization Act for FY 2008, which was signed in to law on January 28, 2008, resulted in the creation of a new section of the Federal Employees' Compensation Act. This section establishes a death gratuity payment of up to \$100,000 for federal employees who die of injuries incurred in connection with the employee's service with an armed force in a contingency operation. This bill also contains a provision for retroactivity for employees who died on or after October 7, 2001.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	08/18/09	74 FR 41617
Interim Final Rule Effective	08/18/09	
Interim Final Rule Comment Period End	10/19/09	
Final Action	04/00/10	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Jennifer Valdivieso, Acting Chief, Branch of Regulations and Procedures, Division of Federal

Employees Compensation, Department of Labor, Employment Standards Administration, 400 West Bay Street, Room 826, Jacksonville, FL 32202

Phone: 904 357-4754

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Email: [valdivieso.jennifer@dol.gov](mailto:valdivieso.jennifer@dol.gov)

**RIN:** 1215-AB66

**569. NOTIFICATION OF EMPLOYEE RIGHTS UNDER FEDERAL LABOR LAWS**

**Priority:** Other Significant

**Legal Authority:** EO 13496

**CFR Citation:** 29 CFR 471

**Legal Deadline:** None

**Abstract:** Pursuant to Executive Order 13496 of January 30, 2009, the Department of Labor's Employment Standards Administration, proposes to prescribe the size, form, and content of the notice to be posted by a contractor under paragraph 1 of the contract clause described in section 2 of the order. Such notice shall describe the rights of employees under Federal labor laws, consistent with the policy set forth in section 1 of the order.

**Timetable:**

Action	Date	FR Cite
NPRM	08/03/09	74 FR 38488
NPRM Comment Period End	09/02/09	
Final Action	06/00/10	

**Regulatory Flexibility Analysis**

**Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** Federal

**Agency Contact:** Andrew R. Davis, Chief, Division of Interpretations and Standards, Office of Labor-Management Standards, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, Room N-5609, Washington, DC 20210

Phone: 202 693-0123

Fax: 202 693-1340

Email: [davis.andrew@dol.gov](mailto:davis.andrew@dol.gov)

**RIN:** 1215-AB70

**Department of Labor (DOL)  
Employment Standards Administration (ESA)**

**Long-Term Actions**

**570. • AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS: EVALUATION OF RECRUITMENT AND PLACEMENT RESULTS UNDER SECTION 503**

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 29 USC 706 and 793; EO 11758 (3 CFR 1971–1975 Comp., p., 841)  
**CFR Citation:** 41 CFR 60–741  
**Legal Deadline:** None

**Abstract:** This Advance Notice of Proposed Rulemaking (ANPRM) will revise the regulations in 41 CFR parts 60-741 to implement the nondiscrimination and affirmative action provisions of section 503 of the Rehabilitation Act of 1973, as amended. In particular, the ANPRM would strengthen affirmative action requirements by requiring Federal contractors and subcontractors to conduct more substantive analyses and fully monitor their recruitment and placement efforts on behalf of individuals with disabilities.

**Timetable:**

Action	Date	FR Cite
ANPRM	12/00/10	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

**Federalism:** Undetermined

**Agency Contact:** Lorenzo D. Harrison, Director, Division of Policy, Planning and Program Development, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N–3422, FP Building, Washington, DC 20210  
 Phone: 202 693–0102  
 TDD Phone: 202 693–1337  
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 Email: ofccp-public@dol.gov

Bruce Bohanon, Director, Division of Policy, Planning and Program Development, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room

N–3422, FP Building, Washington, DC 20210  
 Phone: 202 693–0102  
 Email: ofccp-public@dol.gov  
**RIN:** 1215–AB77

**571. • AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS; EVALUATION OF RECRUITMENT AND PLACEMENT RESULTS UNDER THE VEVRAA OF 1974, AS AMENDED**

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 29 USC 793; 38 USC 4211 (2001) (amended 2002); 38 USC 4212 (2001) (amended 2002); EO 11758 (3 CFR 1971 to 1975 Comp, p 841)  
**CFR Citation:** 41 CFR 60–250; 41 CFR 60–300  
**Legal Deadline:** None

**Abstract:** This Notice of Proposed Rulemaking (NPRM) would revise the regulations in 41 CFR parts 60-250 and 60-300, implementing the nondiscrimination and affirmative action provisions of VEVRAA. This NPRM would strengthen the affirmative action requirements for federal contractors and subcontractors. The NPRM would amend the regulations to require that federal contractors and subcontractors conduct more substantive analyses of recruitment and placement actions taken under VEVRAA and would require the use of numerical targets to measure the effectiveness of affirmative action efforts. The NPRM would also make revisions to recordkeeping requirements.

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/10	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

**Federalism:** Undetermined

**Agency Contact:** Bruce Bohanon, Director, Division of Policy, Planning and Program Development, Department

of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N–3422, FP Building, Washington, DC 20210  
 Phone: 202 693–0102  
 Email: ofccp-public@dol.gov  
**RIN:** 1215–AB80

**572. • CONSTRUCTION CONTRACTOR AFFIRMATIVE ACTION REQUIREMENTS**

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** sec 201, 202, 205, 211, 301, 302, and 303 of EO 11246, as amended; 30 FR 12319; 32 FR 14303, as amended by EO 12086  
**CFR Citation:** 41 CFR 60–1 and 60–4  
**Legal Deadline:** None

**Abstract:** This Notice of Proposed Rulemaking (NPRM) would revise the regulations in 41 CFR part 60-4 implementing the affirmative action requirements of Executive Order 11246 that are applicable to Federal and federally assisted construction contractors. This NPRM would remove outdated regulatory provisions and update the provisions in the regulations that set forth the actions construction contractors are required to take to implement their affirmative action obligations.

**Timetable:**

Action	Date	FR Cite
NPRM	01/00/11	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Federalism:** Undetermined

**Agency Contact:** Bruce Bohanon, Director, Division of Policy, Planning and Program Development, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N–3422, FP Building, Washington, DC 20210  
 Phone: 202 693–0102  
 Email: ofccp-public@dol.gov

**RIN:** 1215–AB81

## Department of Labor (DOL)

## Completed Actions

## Employment Standards Administration (ESA)

**573. SERVICE CONTRACT ACT, HEALTH AND WELFARE BENEFITS**

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

**Unfunded Mandates:** Undetermined

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

**CFR Citation:** 29 CFR 4

**Legal Deadline:** None

**Abstract:** Due to resource limitations and prioritization of regulatory priorities, the Department is temporarily withdrawing this item from the current regulatory agenda and intends to address it at a later date.

**Timetable:**

Action	Date	FR Cite
Withdrawn	09/03/09	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Small Entities Affected:** Businesses

**Government Levels Affected:** Federal

**Agency Contact:** Richard M. Brennan, Director, Division of Interpretations and Regulatory Analysis, Wage and Hour Division, Department of Labor, 200 Constitution Avenue NW., FP Building, Room S-3502, Washington, DC 20210  
Phone: 202 693-0051  
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**RIN:** 1215-AB56

**574. LABOR ORGANIZATION ANNUAL FINANCIAL REPORTS**

**Priority:** Other Significant

**Legal Authority:** 29 USC 431(b); 29 USC 438

**CFR Citation:** 29 CFR 403; 29 CFR 408

**Legal Deadline:** None

**Abstract:** The Department of Labor's Employment Standards Administration published a final rule on January 21, 2009, which modified the annual financial disclosure report Form LM-2 and established standards and procedures by which the Office of Labor-Management Standards, pursuant to section 208 of the Labor Management Reporting and Disclosure Act (LMRDA), 29 U.S.C. 438, may revoke the authorization of a labor organization to file a simplified annual financial disclosure report, Form LM-3, and instead require it to file the more detailed Form LM-2.

Through notice and comment rulemaking the Department extended the effective date of the January 21, 2009 Final Rule to April 21, 2009. The effective date and applicability date of the January 21, 2009 Final Rule were further extended through notice and comment rulemaking to October 19, 2009 and January 1, 2010, respectively. The Department has proposed withdrawing the January 21, 2009, Final Rule. The final rule was withdrawn on October 13, 2009.

**Timetable:**

Action	Date	FR Cite
NPRM	05/12/08	73 FR 27346
NPRM Extension of Comment Period End	06/19/08	73 FR 34913
NPRM Comment Period End	06/26/08	
NPRM Comment Period Extended	07/11/08	73 FR 3491
Final Rule	01/21/09	74 FR 3678
NPRM Effective Date Extension (60 Days); Request Comment on Legal & Policy Questions of Final Rule	02/03/09	74 FR 5899
NPRM Extension Comment Period End	02/13/09	
Final Action Effective	02/20/09	74 FR 3678
Final Rule; Delaying Effective Date for 60 Days	02/20/09	74 FR 7814
Legal and Policy Questions Relating to January 2009 Final Rule Comment Period End	03/05/09	
NPRM Effective and Applicability Date Extension (180 Days)	03/19/09	74 FR 11700
NPRM Comment Period Extended	05/21/09	74 FR 23811
Final Rule; Delaying Effective Date and Applicability Date for 180 Days	04/21/09	74 FR 18132
Proposed Withdrawal of January 2009 Final Rule	04/21/09	74 FR 18172
Final Rule Withdrawn	10/13/09	74 FR 52401

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

**Agency Contact:** Denise Boucher, Director, Office of Policy, Reports and Disclosure, Department of Labor, Employment Standards Administration,

200 Constitution Avenue NW., FP Building, Room N-5609, Washington, DC 20210  
Phone: 202 693-1185  
TDD Phone: 800 877-8399  
Fax: 202 693-1340  
Email: boucher.denise@dol.gov

**RIN:** 1215-AB62

**575. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS; CONTRACTOR NOTICE-POSTING BY ELECTRONIC MEANS**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** sec 201, 202, 205, 211, 301, 302, and 303 of EO 11246, as amended; 30 FR 12319; 3 CFR 1964 to 1965 Comp, p 339, as amended by EO 11375; 32 FR 14303; 3 CFR 1966 to 1970 Comp, p 684, as amended by EO 12086, 43 FR 46501; 3 CFR 1978 Comp, p 230 and EO 13279, 67 FR 77141; 3 CFR 2002 Comp, p 258; 29 USC 706, 29 USC 793; 38 USC 4211 and 4212 (2001 and 2002); EO 11758, 3 CFR 1971 to 1975 Comp, p 841

**CFR Citation:** 41 CFR 60-1; 41 CFR 60-4; 41 CFR 60-250; 41 CFR 60-300; 41 CFR 60-741; . . .

**Legal Deadline:** None

**Abstract:** The Office of Federal Contract Compliance Programs requests the withdrawal of this proposed rule. The agency realigned their limited resources to update Construction regulations in support of the American Recovery Reinvestment Act of 2009.

**Timetable:**

Action	Date	FR Cite
Withdrawn	07/28/09	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

**Agency Contact:** Bruce Bohanon, Director, Division of Policy, Planning and Program Development, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room N-3422, FP Building, Washington, DC 20210  
Phone: 202 693-0102  
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**RIN:** 1215-AB68

Department of Labor (DOL)
Employment and Training Administration (ETA)

Proposed Rule Stage

576. YOUTHBUILD PROGRAM REGULATION

Regulatory Plan: This entry is Seq. No. 49 in part II of this issue of the Federal Register.

RIN: 1205-AB49

CFR Citation: 20 CFR 655

Legal Deadline: None

Abstract: The Immigration and Nationality Act of 1952, as amended, requires the Department of Homeland Security, prior to the admission of H-2B workers, to seek advice from the Department of Labor regarding the importation of such workers. Specifically, DOL certifies that there is not sufficient U.S. worker(s) able, available, willing and qualified at the time of an application for a visa, and that the employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers. The Department currently administers such certification through an attestation-based program. As a result of the Department's program experience, this regulation shall propose to re-engineer the H-2B program in order to satisfy the Secretary of Labor's statutory responsibilities and to strengthen the program's integrity and protections of U.S. workers.

Timetable:

Table with 3 columns: Action, Date, FR Cite. Row 1: NPRM, 11/00/10

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Dr. William L. Carlson, Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training Administration, FP Building, Room C-4312, 200 Constitution Avenue NW., Washington, DC 20210 Phone: 202 693-3010 Email: carlson.william@dol.gov

RIN: 1205-AB58

577. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS PROGRAM; REGULATIONS

Regulatory Plan: This entry is Seq. No. 50 in part II of this issue of the Federal Register.

RIN: 1205-AB57

578. LABOR CERTIFICATION PROCESS AND ENFORCEMENT FOR TEMPORARY EMPLOYMENT IN OCCUPATIONS OTHER THAN AGRICULTURE OR REGISTERED NURSING IN THE UNITED STATES (H-2B WORKERS)

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

Legal Authority: 8 USC 1101(a)(15)(H)(ii)(B)); 8 USC 1184(e)

579. EQUAL EMPLOYMENT OPPORTUNITY IN APPRENTICESHIP AND TRAINING, AMENDMENT OF REGULATIONS

Regulatory Plan: This entry is Seq. No. 51 in part II of this issue of the Federal Register.

RIN: 1205-AB59

Department of Labor (DOL)
Employment and Training Administration (ETA)

Final Rule Stage

580. SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM; PERFORMANCE ACCOUNTABILITY

Priority: Other Significant

Legal Authority: 42 USC 3056 et seq

CFR Citation: 20 CFR 641

Legal Deadline: Other, Statutory, June 30, 2007, Interim Final Rule.

Abstract: The Older Americans Act Amendments of 2006, Public Law 109-365, enacted on October 17, 2006, contains provisions amending title V of that Act, which authorizes the Senior Community Service Employment Program (SCSEP). The Amendments, effective July 1, 2007, make substantial changes to the current SCSEP provisions in the Older Americans Act relating to performance accountability. Section 513(2) of title V requires that the Agency establish and implement new measures of performance by July 1, 2007. Section 513(b)(3) required that the Secretary issue definitions of indicators of performance through regulation after consultation with stakeholders. Therefore, the Interim Final Rule (IFR) implemented changes

to the SCSEP program performance accountability regulations found at 20 CFR 641 in subpart G. Changes to other subparts of part 641 were implemented through a separate Notice of Proposed Rulemaking, published Aug. 14, 2008 (73 FR 47770).

Timetable:

Table with 3 columns: Action, Date, FR Cite. Rows: Interim Final Rule (06/29/07, 72 FR 35832), Interim Final Rule Comment Period End (08/28/07), Final Action (07/00/10)

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Tribal

Agency Contact: Grace A. Kilbane, Administrator, Office of Workforce Investment, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., FP Building, Room S-4231, Washington, DC 20210 Phone: 202 693-3980

Email: kilbane.grace@dol.gov

Related RIN: Related to 1205-AB48

RIN: 1205-AB47

581. SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 3056 et seq

CFR Citation: 20 CFR 641

Legal Deadline: None

Abstract: The Older Americans Act Amendments of 2006, Public Law 109-365, enacted on October 17, 2006, contain provisions amending title V of that Act, which authorizes the Senior Community Service Employment program (SCSEP). The Amendments, effective July 1, 2007, made substantial changes to the SCSEP provisions in the Older Americans Act, including new requirements relating to performance accountability, income eligibility for program participation, competition of national grants, and services to participants.

## DOL—ETA

## Final Rule Stage

The Notice of Proposed Rulemaking (NPRM) consists of 8 subparts: subpart A—Purpose and Definitions; subpart B—Coordination with the Workforce Investment Act; subpart C—the State Plan; subpart D—Grant Application and Responsibility Review Requirements for State and National Grants; subpart E—Services to Participants; subpart F—Pilots, Demonstration, and Evaluation Projects; subpart H—Administrative Requirements; and subpart I—Grievance Procedures and Appeals Process. The performance accountability requirements (subpart G) were implemented through a separate Interim Final Rule (IFR).

**Timetable:**

Action	Date	FR Cite
NPRM	08/14/08	73 FR 47770
NPRM Comment Period End	10/14/08	
Final Action	07/00/10	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

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

**Agency Contact:** Gay Gilbert, Administrator, Office of Workforce Investment, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., FP Building, Room S-4231, Washington, DC 20210  
Phone: 202 693-3428  
Email: gilbert.gay@dol.gov

Grace A. Kilbane, Administrator, Office of Workforce Investment, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., FP Building, Room S-4231, Washington, DC 20210  
Phone: 202 693-3980  
Email: kilbane.grace@dol.gov

**Related RIN:** Related to 1205-AB47

**RIN:** 1205-AB48

### 582. ATTESTATIONS BY FACILITIES TEMPORARILY EMPLOYING H-1C NONIMMIGRANT ALIENS AS REGISTERED NURSES

**Priority:** Other Significant

**Legal Authority:** PL 109-423; 120 Stat 2900; 8 USC 1101 (a)(15)(H)(i)(c); 8 USC 1182 (m)(2)

**CFR Citation:** 22 CFR 655

**Legal Deadline:** None

**Abstract:** This Final Rule reflects the extension of the H-1C visa program, which was extended by the Nursing Relief for Disadvantaged Areas Reauthorization Act of 2005 (NRDARA), Public Law 109-423, 120 Stat. 2900 (2006). In 2000, the Nursing Relief for Disadvantaged Areas Act of 1999 (NRDAA), Public Law 106-95, 113 Stat. 1312 (1999), amended the Immigration and Nationality Act to create a temporary visa program for nonimmigrant aliens to work as registered nurses for up to 3 years in facilities serving health professional shortage areas, subject to certain conditions. The NRDAA specified that the H-1C visas were available only during the 4-year period beginning on the date that interim or final regulations were promulgated. Under this Act, the Department published an interim rule, on August 22, 2000 (65 FR 51137), which was open for public comment through September 21, 2000. Before the NRDARA was enacted on December 20, 2006, the Department determined on April 24, 2006, that continued rulemaking was neither necessary nor appropriate at that time, because health care facilities could not sponsor new H-1C visas and no new H-1C visa could be issued. Therefore, the Department discontinued this rulemaking (71 FR 22912). However, given the new statutory authorization for the program, the Department has determined that it is appropriate to finalize the rule. Section 3 of Public Law 109-423 has exempted this rulemaking from the Administrative Procedure Act, so additional notice and comment are unnecessary.

**Timetable:**

Action	Date	FR Cite
Final Action	12/00/09	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** Federal, State

**Federalism:** Undetermined

**Agency Contact:** Dr. William L. Carlson, Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training Administration, FP Building, Room C-4312, 200 Constitution Avenue NW., Washington, DC 20210  
Phone: 202 693-3010

Email: carlson.william@dol.gov

**RIN:** 1205-AB52

### 583. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; FUNDING GOALS FOR INTEREST-FREE ADVANCES

**Priority:** Other Significant

**Legal Authority:** 42 USC 1322(b)(2)(C); 26 USC 7805(a); Secretary Order No 3-2007, April 3, 2007 (72 FR 15907)

**CFR Citation:** 20 CFR 606

**Legal Deadline:** None

**Abstract:** Under title XII of the Social Security Act (42 U.S.C. 1321 et seq.), States may, when needed, obtain repayable advances from the Federal unemployment account in the Unemployment Trust Fund to pay State unemployment compensation benefits. States may be exempted from the requirement to pay interest on these advances under certain conditions, including the condition that the “State meets funding goals” established by the Secretary of Labor in regulations. The regulation would establish these funding goals.

**Timetable:**

Action	Date	FR Cite
NPRM	06/25/09	74 FR 30402
NPRM Comment Period End	08/24/09	
Final Action	07/00/10	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** State

**URL For More Information:**

[www.regulations.gov](http://www.regulations.gov)

**URL For Public Comments:**

[www.regulations.gov](http://www.regulations.gov)

**Agency Contact:** Ronald Wilus, Chief, Division of Fiscal and Actuarial Services, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., FP Building, Room S-4231, Washington, DC 20210  
Phone: 202 693-2931  
Email: wilus.ronald@dol.gov

**RIN:** 1205-AB53

DOL—ETA

Final Rule Stage

584. TEMPORARY AGRICULTURAL EMPLOYMENT OF H-2A ALIENS IN THE UNITED STATES

Regulatory Plan: This entry is Seq. No. 52 in part II of this issue of the Federal Register.

RIN: 1205-AB55

585. TRADE ADJUSTMENT ASSISTANCE PROGRAM; MERIT STAFFING OF STATE ADMINISTRATION AND ALLOCATION OF TRAINING FUNDS TO THE STATES

Priority: Other Significant

Legal Authority: 19 USC 2320; Secretary Order No. 3-2007, 72 FR 15907

CFR Citation: 20 CFR 618

Legal Deadline: Final, Statutory, February 17, 2010.

Abstract: The Trade and Globalization Assistance Act of 2009 (Act), Div. B,

title I, subtitle I of the American Recovery and Reinvestment Act of 2009, reforms and reauthorizes the Trade Adjustment Assistance (TAA) for Workers program. The Act amended section 236(a)(2) of the Trade Act of 1974 (19 U.S.C. 2296) setting new guidelines and criteria for distributing funds to the States for the purpose of training TAA-certified workers, and added section 236(g) requiring that the Secretary issue regulations to implement the new funding procedures within not later than one year of enactment. This rulemaking would meet that statutory requirement and also proposes that personnel engaged in TAA-funded functions be State employees covered by the merit system of personnel administration applicable to personnel employed in employment security functions.

Timetable:

Action	Date	FR Cite
NPRM	08/05/09	74 FR 39198
NPRM Comment Period End	10/05/09	
Final Action	02/00/10	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Agency Contact: Erin Fitzgerald, Office of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C-5311, FP Building, Washington, DC 20210  
Phone: 202 693-3500  
Fax: 202 693-3149  
Email: fitzgerald.erin@dol.gov

RIN: 1205-AB56

Department of Labor (DOL)

Completed Actions

Employment and Training Administration (ETA)

586. REVISION TO THE DEPARTMENT OF LABOR BENEFIT REGULATIONS FOR TRADE ADJUSTMENT ASSISTANCE FOR WORKERS UNDER THE TRADE ACT OF 1974, AS AMENDED

Priority: Other Significant

Legal Authority: 19 USC 2320; Secretary's Order No. 3-2007, 72 FR 15907

CFR Citation: 29 CFR 90; 20 CFR 617 to 618; 20 CFR 665; 20 CFR 671

Legal Deadline: None

Abstract: The rule has been withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	08/25/06	71 FR 50760
NPRM Comment Period End	10/24/06	
Withdrawn	06/09/09	74 FR 27262

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Agency Contact: Erica Cantor, Administrator, Office of National Response, Department of Labor, Employment and Training

Administration, 200 Constitution Avenue NW., Room C-5311, Washington, DC 20210  
Phone: 202 693-3500  
Fax: 202 693-3149  
Email: cantor.eric@dol.gov

Related RIN: Related to 1205-AB40, Related to 1205-AB44

RIN: 1205-AB32

587. ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE BENEFITS; AMENDMENT OF REGULATIONS

Priority: Other Significant

Legal Authority: 19 USC 2320; Secretary's Order No. 3-2007, 72 FR 15907

CFR Citation: 29 CFR 90; 20 CFR 618; 20 CFR 665; 20 CFR 671

Legal Deadline: None

Abstract: The rule has been withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	10/18/06	71 FR 61618
NPRM Comment Period End	12/18/06	
Withdrawn	06/09/09	74 FR 27262

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Agency Contact: Erica Cantor, Administrator, Office of National Response, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C-5311, Washington, DC 20210  
Phone: 202 693-3500  
Fax: 202 693-3149  
Email: cantor.eric@dol.gov

Related RIN: Related to 1205-AB32, Related to 1205-AB44

RIN: 1205-AB40

588. WORKFORCE INVESTMENT ACT AMENDMENTS

Priority: Other Significant

Legal Authority: 29 USC 49k; Sec 189(a) of PL 105-220; 29 USC 2939(a)

CFR Citation: 20 CFR 661; 20 CFR 662 to 664; 20 CFR 652; 20 CFR 667

Legal Deadline: None

Abstract: The rule has been withdrawn.



## DOL—ETA

## Completed Actions

## Timetable:

Action	Date	FR Cite
NPRM	12/20/06	71 FR 76558
NPRM Comment Period End	02/20/07	
Withdrawn	08/19/09	74 FR 41815

Regulatory Flexibility Analysis  
Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Adele Gagliardi,  
Division Chief, Department of Labor,

Employment and Training  
Administration, 200 Constitution  
Avenue NW., Room N-5641,  
Washington, DC 20210  
Phone: 202 693-3700  
Email: gagliardi.adele@dol.gov  
RIN: 1205-AB46

## Department of Labor (DOL)

## Prerule Stage

## Employee Benefits Security Administration (EBSA)

589. PLAN ASSETS—PARTICIPANT  
CONTRIBUTIONS REGULATION  
(SECTION 610 REVIEW)Priority: Other Significant. Major status  
under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135

CFR Citation: 29 CFR 2510.3-102

Legal Deadline: None

**Abstract:** EBSA is conducting a review of the plan assets-participant contributions regulation in accordance with the requirements of section 610 of the Regulatory Flexibility Act. 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 extent to which technology, economic conditions, or other factors have changed in industries affected by the rule.

## Timetable:

Action	Date	FR Cite
Begin Review	03/01/06	
End Review	02/00/10	

Regulatory Flexibility Analysis  
Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

**Agency Contact:** Melissa R. Dennis,  
Pension Law Specialist, Department of  
Labor, Employee Benefits Security  
Administration, 200 Constitution  
Avenue NW., FP Building, Room  
N-5655, Washington, DC 20210  
Phone: 202 693-8500  
Fax: 202 219-7291

RIN: 1210-AB11

590. • LIFETIME INCOME OPTIONS  
FOR PARTICIPANTS AND  
BENEFICIARIES IN RETIREMENT  
PLANS

**Regulatory Plan:** This entry is Seq. No. 53 in part II of this issue of the **Federal Register**.

RIN: 1210-AB33

## Department of Labor (DOL)

## Proposed Rule Stage

## Employee Benefits Security Administration (EBSA)

591. ANNUAL FUNDING NOTICE FOR  
DEFINED BENEFIT PLANSPriority: Other Significant. Major status  
under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

**Legal Authority:** 29 USC 1021(f); ERISA sec 101(f); PL 109-280, sec 501, Pension Protection Act of 2006; 29 USC 1021(b); ERISA sec 104(b)(3); PL 109-280, sec 503, Pension Protection Act of 2006; 29 USC 1135; ERISA sec 505

**CFR Citation:** 29 CFR 2520; 29 CFR 2520.104-46; 29 CFR 2520.104b-10

**Legal Deadline:** Final, Statutory, August 18, 2007.

**Abstract:** This rulemaking implements the requirement of section 501 of the Pension Protection Act of 2006 (PPA), which amended section 101(f) of ERISA to require the administrator of a defined benefit pension plan to provide participants, beneficiaries, and other

parties with an annual funding notice, and also implements the requirements of section 503(c) of the PPA that amended section 104(b)(3) of ERISA regarding summary annual reports for defined benefit plans.

## Timetable:

Action	Date	FR Cite
NPRM	08/00/10	

Regulatory Flexibility Analysis  
Required: Undetermined

Government Levels Affected: Undetermined

**Agency Contact:** Stephanie Ward,  
Senior Pension Law Specialist,  
Department of Labor, Employee  
Benefits Security Administration, 200  
Constitution Avenue NW., FP Building,  
Room N-5655, Washington, DC 20210  
Phone: 202 693-8500  
Fax: 202 219-7921

RIN: 1210-AB18

592. PERIODIC PENSION BENEFIT  
STATEMENTSPriority: Other Significant. Major status  
under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

**Legal Authority:** 29 USC 1025; ERISA sec 105; PL 109-280, sec 508, Pension Protection Act of 2006; 29 USC 1135; ERISA sec 505

CFR Citation: 29 CFR 2520

**Legal Deadline:** Final, Statutory, August 18, 2007.

**Abstract:** Section 508 of the Pension Protection Act of 2006 (PPA) amended section 105 of ERISA to require plans that are subject to ERISA to automatically provide participants and certain beneficiaries with individual pension benefit statements. Generally, defined benefit plans must provide the statement every 3 years, with an annual alternative. Individual account plans that permit participant direction must

DOL—EBSA

Proposed Rule Stage

provide the statement quarterly and individual account plans that do not permit participant direction must provide the statement annually. The PPA directed the Department of Labor to provide a model statement within 1 year of enactment of the statute and the Department has been given interim final rulemaking authority.

Timetable:

Action	Date	FR Cite
NPRM	09/00/10	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Undetermined

**Agency Contact:** Suzanne Adelman, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N-5655, Washington, DC 20210  
Phone: 202 693-8500  
Fax: 202 219-7291

**RIN:** 1210-AB20

**593. • DEFINITION OF “FIDUCIARY” — INVESTMENT ADVICE**

**Regulatory Plan:** This entry is Seq. No. 54 in part II of this issue of the **Federal Register**.

**RIN:** 1210-AB32

**594. • HEALTH CARE ARRANGEMENTS ESTABLISHED BY STATE AND LOCAL GOVERNMENTS FOR NON-GOVERNMENTAL EMPLOYEES**

**Regulatory Plan:** This entry is Seq. No. 55 in part II of this issue of the **Federal Register**.

**RIN:** 1210-AB34

**595. • PROHIBITED TRANSACTION EXEMPTION FOR PROVISION OF INVESTMENT ADVICE TO PARTICIPANTS IN INDIVIDUAL ACCOUNT PLANS**

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

**Unfunded Mandates:** Undetermined

**Legal Authority:** 29 USC 1108(g); 29 USC 1135; PL 109-280, sec 601(a); Pension Protection Act of 2006; ERISA sec 408(g); ERISA sec 505

**CFR Citation:** 29 CFR 2550

**Legal Deadline:** None

**Abstract:** Section 601 of the Pension Protection Act (PL 109-280) amended ERISA by adding new section 408(b)(14) and 408(g). Section 408(b)(14) is a prohibited transaction exemption that permits the provision of investment advice to participants or beneficiaries of certain individual account plans if the investment advice is provided under an “eligible investment advice arrangement,” as defined in section 408(g). In order to qualify as an “eligible investment advice arrangement,” the arrangement must either provide that any fees

received by the adviser do not vary depending on the basis of any investment options selected, or use a computer model under an investment advice program that meets the criteria set forth in section 408(g) in connection with the provision of investment advice. Further, with respect to both types of advice arrangements, the investment adviser must disclose to advice recipients all fees that the adviser or any affiliate is to receive in connection with the advice. Section 408(g) requires that the computer model which serves as the basis for an eligible investment advice arrangement be certified by an “eligible investment expert” in accordance with rules prescribed by the Secretary of Labor. Section 408(g) also directs the Secretary of Labor to issue a model form for the required disclosure of fees.

Timetable:

Action	Date	FR Cite
NPRM	02/00/10	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

**Agency Contact:** Fred Wong, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N-5655, Washington, DC 20210  
Phone: 202 693-8500  
Fax: 202 219-7291

**Related RIN:** Related to 1210-AB13

**RIN:** 1210-AB35

Department of Labor (DOL)

Final Rule Stage

Employee Benefits Security Administration (EBSA)

**596. REGULATIONS IMPLEMENTING THE HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY PROVISIONS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996**

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

**Legal Authority:** 29 USC 1027; 29 USC 1059; 29 USC 1135; 29 USC 1171 to 1172; 29 USC 1191c

**CFR Citation:** 29 CFR 2590

**Legal Deadline:** None

**Abstract:** The Health Insurance Portability and Accountability Act of

1996 (HIPAA) amended title I of ERISA, the Internal Revenue Code, and the Public Health Service Act with parallel provisions designed to improve health care access, portability, and renewability. The Departments of Labor, the Treasury, and the Health and Human Services are mutually dependent due to shared interpretive jurisdiction and are proceeding concurrently to provide additional regulatory guidance regarding these provisions, including the amendments made by the Children’s Health Insurance Program Reauthorization Act of 2009.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16894
Interim Final Rule Effective	06/07/97	
Interim Final Rule Comment Period End	07/07/97	
Request for Information	10/25/99	64 FR 57520
Comment Period End	01/25/00	
NPRM	12/30/04	69 FR 78800
Request for Information	12/30/04	69 FR 78825
Final Rule	12/30/04	69 FR 78720
Final Action Effective	02/28/05	

## DOL—EBSA

## Final Rule Stage

Request for Information/  
Comment Period End 03/30/05  
NPRM Comment Period End 03/30/05  
Final Action 09/00/10

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Agency Contact:** Amy J. Turner, Senior Advisor, 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-AA54

**597. AMENDMENT OF REGULATION RELATING TO DEFINITION OF PLAN ASSETS—PARTICIPANT CONTRIBUTIONS**

**Priority:** Other Significant

**Legal Authority:** 29 USC 1135

**CFR Citation:** 29 CFR 2510.3-102

**Legal Deadline:** None

**Abstract:** This rulemaking will amend the regulation that defines when participant moneys paid to or withheld by an employer for contribution to an employee benefit plan constitute “plan assets” for purposes of title I of ERISA and the related prohibited transaction provisions of the Internal Revenue Code. The regulation contains an amendment to the current regulation that will establish a safe harbor period of a specified number of business days during which certain moneys that a participant pays to, or has withheld by, an employer for contribution to a plan would not constitute “plan assets.”

**Timetable:**

Action	Date	FR Cite
NPRM	02/29/08	73 FR 11072
NPRM Comment Period End	04/29/08	
Final Action	01/00/10	

**Regulatory Flexibility Analysis Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

**Agency Contact:** Louis J. Campagna, Chief, Division of Fiduciary Interpretations, Department of Labor, Employee Benefits Security

Administration, 200 Constitution Avenue NW., FP Building, Room N-5655, Washington, DC 20210  
Phone: 202 693-8510  
Fax: 202 219-7291

**RIN:** 1210-AB02

**598. FIDUCIARY REQUIREMENTS FOR DISCLOSURE IN PARTICIPANT-DIRECTED INDIVIDUAL ACCOUNT PLANS**

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

**Legal Authority:** 29 USC 1104; 29 USC 1135

**CFR Citation:** 29 CFR 2550

**Legal Deadline:** None

**Abstract:** This rulemaking will ensure that the participants and beneficiaries in participant-directed individual account plans are provided the information they need, including information about fees and expenses, to make informed investment decisions. The rulemaking may include amendments to the regulation governing ERISA section 404(c) plans (29 CFR 2550.404c-1). The rulemaking is needed to clarify and improve the information currently required to be furnished to participants and beneficiaries.

**Timetable:**

Action	Date	FR Cite
Request for Information	04/25/07	72 FR 20457
Comment Period End	07/24/07	
NPRM	07/23/08	73 FR 43014
NPRM Comment Period End	09/08/08	
Final Action	09/00/10	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

**Agency Contact:** Katherine D. Lewis, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N-5655, Washington, DC 20210  
Phone: 202 693-8500

**RIN:** 1210-AB07

**599. AMENDMENT OF STANDARDS APPLICABLE TO GENERAL STATUTORY EXEMPTION FOR SERVICES**

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

**Legal Authority:** 29 USC 1108(b)(2); 29 USC 1135

**CFR Citation:** 29 CFR 2550

**Legal Deadline:** None

**Abstract:** This rulemaking will amend the regulation setting forth the standards applicable to the exemption under ERISA section 408(b)(2) for contracting or making reasonable arrangements with a party in interest for office space or services (29 CFR 2550.408b-2). This amendment will ensure that plan fiduciaries are provided or have access to that information necessary to a determination of whether an arrangement for services is “reasonable” within the meaning of the statutory exemption.

**Timetable:**

Action	Date	FR Cite
NPRM	12/13/07	72 FR 70988
NPRM Comment Period End	02/11/08	
Final Action	05/00/10	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

**Agency Contact:** Kristen Zarenko, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N-5655, Washington, DC 20210  
Phone: 202 693-8500

**RIN:** 1210-AB08

**600. PROHIBITED TRANSACTION EXEMPTION FOR PROVISION OF INVESTMENT ADVICE TO PARTICIPANTS IN INDIVIDUAL ACCOUNT PLANS**

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

**Legal Authority:** 29 USC 1108(g); 29 USC 1135; PL 109-280, sec 601(a), Pension Protection Act of 2006; ERISA sec 408(g); ERISA sec 505

**CFR Citation:** 29 CFR 2550

**Legal Deadline:** None

**Abstract:** Section 601 of the Pension Protection Act (Pub. L. 109-280)

DOL—EBSA

Final Rule Stage

amended ERISA by adding new sections 408(b)(14) and 408(g). Section 408(b)(14) is a prohibited transaction exemption that permits the provision of investment advice to participants or beneficiaries of certain individual account plans if the investment advice is provided under an “eligible investment advice arrangement,” as defined in section 408(g). In order to qualify as an “eligible investment advice arrangement,” the arrangement must either provide that any fees received by the adviser do not vary depending on the basis of any investment options selected, or use a computer model under an investment advice program that meets the criteria set forth in section 408(g) in connection with the provision of investment advice. Further, with respect to both types of advice arrangements, the investment adviser must disclose to advice recipients all fees that the adviser or any affiliate is to receive in connection with the advice. Section 408(g) requires that the computer model which serves as the basis for an eligible investment advice arrangement be certified by an “eligible investment expert” in accordance with rules prescribed by the Secretary of Labor. Section 408(g) also directs the Secretary of Labor to issue a model form for the required disclosure of fees. EBSA published a Request for Information that invited interested persons to submit written comments and suggestions concerning the expertise and procedures that may be needed to certify that a computer model meets the statutory criteria, and the content, types, and designs of fee disclosure materials currently used and their usefulness to plan participants.

**Timetable:**

Action	Date	FR Cite
Request for Information	12/04/06	71 FR 70429
Request for Information Comment Period End	01/30/07	
NPRM	08/22/08	73 FR 49896
NPRM Comment Period End	10/06/08	
Notice of Hearing To Be Held—October 21, 2008	10/14/08	73 FR 60657
Final Action	01/21/09	74 FR 3822
Final Action Effective	03/29/09	
Notice of Proposed Extension of Effective Date	02/04/09	74 FR 6007

Action	Date	FR Cite
Final Rule; Delay of Effective Date and Applicability Date	03/20/09	74 FR 11847
Final Rule; Delay of Effective Date and Applicability Date	05/22/09	74 FR 23951
Final Action	12/00/09	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Agency Contact:** Fred Wong, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N-5655, Washington, DC 20210  
Phone: 202 693-8500  
Fax: 202 219-7291

**RIN:** 1210-AB13

**601. TIME AND ORDER OF ISSUANCE OF DOMESTIC RELATIONS ORDERS**

**Priority:** Other Significant

**Legal Authority:** 29 USC 1056; ERISA sec 206(d)(3); PL 109-280, sec 1001, Pension Protection Act of 2006; 29 USC 1135; ERISA sec 505

**CFR Citation:** 29 CFR 2530.206

**Legal Deadline:** Final, Statutory, August 18, 2007.

**Abstract:** Section 1001 of the Pension Protection Act of 2006, requires the Secretary of Labor to issue, not later than 1 year after the date of enactment, regulations clarifying certain issues relating to the timing and order of domestic relations orders under section 206(d)(3) of the Employee Retirement Income Security Act (ERISA). This rule will provide guidance to plan administrators, service providers, participants, and alternate payees on the qualified domestic relations order requirements under ERISA.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	03/07/07	72 FR 10070
Interim Final Rule Effective	04/06/07	
Interim Final Rule Comment Period End	05/07/07	
Final Action	04/00/10	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Susan Elizabeth Rees, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N-5655, Washington, DC 20210  
Phone: 202 693-8500  
Fax: 202 219-1791

**RIN:** 1210-AB15

**602. MULTIEMPLOYER PLAN INFORMATION MADE AVAILABLE ON REQUEST**

**Priority:** Other Significant

**Legal Authority:** 29 USC 1021(k); ERISA, sec 101(k); PL 109-280, sec 502, Pension Protection Act of 2006; 29 USC 1135; ERISA, sec 505

**CFR Citation:** 29 CFR 2520

**Legal Deadline:** Final, Statutory, August 18, 2007.

**Abstract:** This rulemaking implements the requirements of section 502(a)(1) of the Pension Protection Act of 2006 (PPA), which added a new subsection (k) to section 101 of ERISA, under which the plan administrator of a multiemployer plan shall, upon written request, furnish within 30 days to any plan participant or beneficiary, employee representative, or any employer that has an obligation to contribute to the plan a copy of certain actuarial, financial and funding-related documents.

**Timetable:**

Action	Date	FR Cite
NPRM	09/14/07	72 FR 52527
NPRM Comment Period End	10/15/07	
Final Action	04/00/10	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Undetermined

**Agency Contact:** Stephanie Ward, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N-5655, Washington, DC 20210  
Phone: 202 693-8500  
Fax: 202 219-7921

**RIN:** 1210-AB21

## DOL—EBSA

## Final Rule Stage

**603. GENETIC INFORMATION  
NONDISCRIMINATION**

**Regulatory Plan:** This entry is Seq. No. 56 in part II of this issue of the **Federal Register**.

**RIN:** 1210—AB27

Act of 2006; 29 USC 2560; PL 110—458, sec 102, Worker, Retiree and Employer Act of 2008,

**CFR Citation:** 29 CFR 2560.502c—8

**Legal Deadline:** None

Action	Date	FR Cite
NPRM Comment Period End	11/03/09	
Final Action	05/00/10	

**Regulatory Flexibility Analysis  
Required:** No

**Government Levels Affected:** None

**Federalism:** Undetermined

**Agency Contact:** Michael Del Conte, Benefits Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., Room N—5655, Washington, DC 20210  
Phone: 202 693—8500  
Fax: 202 219—7291

**RIN:** 1210—AB31

**604. MENTAL HEALTH PARITY AND  
ADDICTION EQUITY ACT**

**Regulatory Plan:** This entry is Seq. No. 57 in part II of this issue of the **Federal Register**.

**RIN:** 1210—AB30

**Abstract:** This proposed regulation, upon adoption, would implement the civil penalty provision under section 502(c)(8) of the Employee Retirement Income Security Act of 1974 (ERISA), under which the Secretary of Labor is granted authority to assess civil penalties not to exceed \$1,100 per day against any plan sponsor of a multiemployer plan for certain violations of section 305 of ERISA.

**Timetable:**

Action	Date	FR Cite
NPRM	09/04/09	74 FR 45791

**605. • AMENDMENTS TO CIVIL  
PENALTIES UNDER ERISA SECTION  
502(C)(8)**

**Priority:** Other Significant

**Legal Authority:** 29 USC 1132; PL 109—280, sec 305, Pension Protection

**Department of Labor (DOL)****Completed Actions****Employee Benefits Security Administration (EBSA)****606. ADEQUATE CONSIDERATION**

**Priority:** Other Significant

**Legal Authority:** 29 USC 1002(18); 29 USC 1135

**CFR Citation:** 29 CFR 2510

**Legal Deadline:** None

**Abstract:** The Department is removing this initiative from the current regulatory agenda because it does not intend to take any action on the initiative during the next 12 months. This removal from the agenda has no effect on the status of the proposed regulation.

**Timetable:**

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17632
NPRM Comment Period End	07/17/88	
Withdrawn	08/03/09	

**Regulatory Flexibility Analysis  
Required:** No

**Government Levels Affected:** None

**Agency Contact:** Jeffrey Turner, Chief, Division of Regulations, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N—5655, Washington, DC 20210  
Phone: 202 693—8500  
Fax: 202 219—7219

**RIN:** 1210—AA15

**607. PROPOSED AMENDMENTS TO  
RULES RELATING TO USE OF  
ELECTRONIC COMMUNICATION BY  
EMPLOYEE PENSION AND WELFARE  
BENEFIT PLANS**

**Priority:** Other Significant

**Legal Authority:** 29 USC 1135; ERISA sec 505

**CFR Citation:** 29 CFR 2520.104b—1

**Legal Deadline:** None

**Abstract:** The Department is removing this initiative from the agenda because

it does not intend to take any action on the initiative during the next 12 months. The Department, however, will continue to consider means by which to improve the effectiveness and efficiency of disclosures to participants and beneficiaries.

**Timetable:**

Action	Date	FR Cite
Withdrawn	08/03/09	

**Regulatory Flexibility Analysis  
Required:** No

**Government Levels Affected:** None

**Agency Contact:** Melissa R. Dennis, Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N—5655, Washington, DC 20210  
Phone: 202 693—8500  
Fax: 202 219—7291

**RIN:** 1210—AB25

**Department of Labor (DOL)**  
**Mine Safety and Health Administration (MSHA)**

**Prerule Stage**

**608. COAL MINE RESPIRABLE DUST; CONTINUOUS PERSONAL DUST MONITOR (CPDMS)**

**Priority:** Other Significant  
**Legal Authority:** 30 USC 811  
**CFR Citation:** Not Yet Determined  
**Legal Deadline:** None

**Abstract:** On June 24, 2003, MSHA announced that all work on its Plan Verification and Single-Sample Respirable Coal Mine Dust final rules would cease and the rulemaking record would remain open in order to obtain information concerning Continuous Personal Dust Monitors (CPDMs) being tested by NIOSH. A Federal Register notice was published on July 3, 2003, extending the comment periods indefinitely. NIOSH issued a report on the CPDM in September 2006, and another report concerning test results in June 2007. MSHA will solicit public input on potential applications of this new monitoring technology in coal mines.

**Timetable:**

Action	Date	FR Cite
Request for Information	10/14/09	74 FR 52708
Request for Information Comment Period End	12/14/09	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** Businesses  
**Government Levels Affected:** None  
**URL For More Information:** www.msha.gov/regsinfo.htm  
**URL For Public Comments:** www.regulations.gov  
**Agency Contact:** Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209-3939  
Phone: 202 693-9440  
Fax: 202 693-9441  
Email: silvey.patricia@dol.gov  
**Related RIN:** Related to 1219-AB14, Related to 1219-AB18  
**RIN:** 1219-AB48

**609. PROXIMITY DETECTION SYSTEMS FOR UNDERGROUND MINES**

**Priority:** Substantive, Nonsignificant  
**Unfunded Mandates:** Undetermined  
**Legal Authority:** 30 USC 811  
**CFR Citation:** Not Yet Determined

**Legal Deadline:** None

**Abstract:** The request for information would seek information relative to the use of a proximity detection system to address crushing and pinning hazards associated with the operation of

machinery underground. Currently there are no existing 30 CFR regulations that mandate the use of a proximity detection system to address crushing and pinning hazards underground.

**Timetable:**

Action	Date	FR Cite
Request for Information	01/00/10	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

**Agency Contact:** Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209-3939  
Phone: 202 693-9440  
Fax: 202 693-9441  
Email: silvey.patricia@dol.gov

**RIN:** 1219-AB65

**610. METAL AND NONMETAL IMPOUNDMENTS**

**Regulatory Plan:** This entry is Seq. No. 58 in part II of this issue of the **Federal Register**.

**RIN:** 1219-AB70

**Department of Labor (DOL)**  
**Mine Safety and Health Administration (MSHA)**

**Proposed Rule Stage**

**611. RESPIRABLE CRYSTALLINE SILICA STANDARD**

**Regulatory Plan:** This entry is Seq. No. 59 in part II of this issue of the **Federal Register**.  
**RIN:** 1219-AB36

**612. REVISING ELECTRICAL PRODUCT APPROVAL REGULATIONS**

**Priority:** Other Significant  
**Legal Authority:** 30 USC 957  
**CFR Citation:** 30 CFR 7; 30 CFR 17 to 18; 30 CFR 22 to 23; 30 CFR 27  
**Legal Deadline:** None

**Abstract:** 30 CFR part 18 (Electric Motor-Driven Mine Equipment and Accessories) describes the approval requirements for electrically operated

machines and accessories intended for use in underground gassy mines, and for related matters, such as approval procedures, certification of flame-resistant hoses and conveyor belts. Aside from minor modifications, part 18 has been largely unchanged since it was promulgated in 1968. MSHA is proposing revisions to improve the efficiency of the approval process, recognize new technology, add quality assurance provisions, address existing policies through the rulemaking process, and reorganize portions of the approval regulations. MSHA will be addressing the requirements in this NPRM in phases. The first phase, Flame-Resistance Testing of Mining Materials, was completed with the final rule published on December 31, 2008

(73 FR 80580). The second phase will be Intrinsic Safety Requirements. This action will be published second because the MINER Act requires underground coal mine operators to submit an Emergency Response Plan (ERP) that sets forth a means of providing post-accident communication and electronic tracking by June 15, 2009.

**Timetable:**

Action	Date	FR Cite
NPRM (Phase 1)	06/19/08	73 FR 35026
NPRM Comment Period End	09/08/08	
Final Action—Phase 1	12/31/08	73 FR 80580
NPRM—Phase 2 Intrinsic Safety Requirements	09/00/10	

## DOL—MSHA

## Proposed Rule Stage

**Regulatory Flexibility Analysis**

Required: No

**Government Levels Affected:** None**URL For More Information:**

www.msha.gov/reginfo.htm

**URL For Public Comments:**

www.regulations.gov

**Agency Contact:** Patricia W. Silvey,  
Director, Office of Standards,Regulations, and Variances, Department  
of Labor, Mine Safety and Health  
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Boulevard, Room 2350, Arlington, VA  
22209-3939  
Phone: 202 693-9440  
Fax: 202 693-9441  
Email: silvey.patricia@dol.gov**RIN:** 1219-AB37**613. OCCUPATIONAL EXPOSURE TO  
COAL MINE DUST (LOWERING  
EXPOSURE)****Regulatory Plan:** This entry is Seq. No.  
60 in part II of this issue of the **Federal  
Register**.**RIN:** 1219-AB64**Department of Labor (DOL)****Final Rule Stage****Mine Safety and Health Administration (MSHA)****614. HIGH-VOLTAGE CONTINUOUS  
MINING MACHINE STANDARD FOR  
UNDERGROUND COAL MINES****Priority:** Other Significant**Legal Authority:** 30 USC 811; 30 USC  
957; 30 USC 961**CFR Citation:** 30 CFR 18; 30 CFR 75**Legal Deadline:** None**Abstract:** MSHA's July 16, 2004, NPRM  
(69 FR 42812) proposed to establish  
design requirements for approval of  
high-voltage continuous mining  
machines operating where miners work  
in underground mines. The rule also  
proposed to establish new mandatory  
electrical safety standards for the  
installation, use, and maintenance of  
the high-voltage continuous mining  
machines used in underground coal  
mines.MSHA published a supplemental  
NPRM on March 28, 2006 (71 FR  
15359). The supplemental NPRM  
proposed and requested comments on  
two issues arising from oral and written  
comments that MSHA received during  
the hearing and post-hearing comment  
period on the NPRM. These issues  
involved: (1) The types of trailing  
cables that can be used with high-  
voltage continuous mining machines;  
and (2) a requirement to use high-  
voltage insulating gloves or other  
personal protective equipment when  
handling energized high-voltage trailing  
cables.MSHA regularly receives petitions for  
modifications from coal mine operators  
seeking permission to use high-voltage  
continuous mining machines. MSHA  
believes that, with appropriate  
safeguards, such machines are safe for  
use and routinely grants these petitions.**Timetable:**

Action	Date	FR Cite
NPRM	07/16/04	69 FR 42812
NPRM Comment Period End	08/23/04	
Second NPRM	03/28/06	71 FR 15359
Second NPRM Comment Period End	05/30/06	
Final Action	04/00/10	

**Regulatory Flexibility Analysis  
Required:** No**Government Levels Affected:** None**URL For More Information:**

www.msha.gov/reginfo.htm

**URL For Public Comments:**

www.regulations.gov

**Agency Contact:** Patricia W. Silvey,  
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Email: silvey.patricia@dol.gov**RIN:** 1219-AB34**615. COAL MINE DUST PERSONAL  
MONITORS****Priority:** Other Significant**Legal Authority:** 30 USC 957; 30 USC  
961**CFR Citation:** 30 CFR 74**Legal Deadline:** None**Abstract:** Existing 30 CFR part 74,  
specifies requirements for approval of  
coal mine dust personal sampler units  
designed to determine the  
concentrations of respirable coal dust  
in coal mine atmospheres; procedures  
for applying for such approval; tests  
procedures; and labeling.This rulemaking established new  
requirements that both the National  
Institute for Occupational Safety and  
Health (NIOSH) and Mine Safety and  
Health Administration (MSHA) would  
use to approve coal mine dust personal  
samplers. The requirements would  
permit the approval of a new type of  
device, the "continuous personal dust  
monitor." It would also update design  
specifications for the coal mine dust  
personal sampler units to include  
improvements made to this device in  
the past 15 years. This rulemaking does  
not address the requirements in 30 CFR  
parts 70, 71, and 90 on the use of dust  
samplers.**Timetable:**

Action	Date	FR Cite
NPRM	01/16/09	74 FR 2915
NPRM Comment Period End	03/17/09	
Notice of Hearing; Reopening of Comment Period	06/09/09	74 FR 27263
NPRM Comment Period Extended	08/14/09	
Final Action	04/00/10	

**Regulatory Flexibility Analysis  
Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** None**Agency Contact:** Patricia W. Silvey,  
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Fax: 202 693-9441  
Email: silvey.patricia@dol.gov**RIN:** 1219-AB61

DOL—MSHA

Final Rule Stage

616. CRITERIA AND PROCEDURES FOR PROPOSED ASSESSMENT OF CIVIL PENALTIES/RECORDKEEPING AND REPORTING: IMMEDIATE NOTIFICATION

Priority: Other Significant

Legal Authority: 30 USC 815; 30 USC 820; 30 USC 957

CFR Citation: 30 CFR 100; 30 CFR 50

Legal Deadline: None

Abstract: Consistent with MINER Act, MSHA's civil penalty regulations require a specified penalty for failure to report certain types of accidents.

Under the existing regulations, MSHA must review all violations of 50.10 and 100.5(f) for special assessment. MSHA will publish a final rule to make nonsubstantive organizational changes to improve the efficiency and effectiveness of the Agency's procedures for processing civil penalties.

Timetable:

Action	Date	FR Cite
Final Action	01/00/10	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219-AB63

Department of Labor (DOL)

Long-Term Actions

Mine Safety and Health Administration (MSHA)

617. SMOKE DENSITY AND TOXICITY

Priority: Other Significant

Legal Authority: Section 101 of the Federal Mine Safety and Health Act (PL 95-164)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: MSHA will gather information on the criteria for testing density and toxicity of smoke from burning conveyor belts or similar materials.

Timetable:

Action	Date	FR Cite
Request for Information	06/19/08	73 FR 35057
Comment Period End	08/18/08	
Comment Period Extended to	08/21/08	73 FR 49373
	9/8/2008	
Next Action	Undetermined	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 1219-AB60

information required to be submitted to MSHA and allow the Agency to better target the most egregious and persistent violators and more effectively deter future violations by imposing penalties and other remedies on those violators.

Timetable:

Action	Date	FR Cite
NPRM	01/00/11	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219-AB67

618. • NOTIFICATION OF LEGAL IDENTITY

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Currently required information does not provide sufficient information for MSHA to identify all of the mine "operators" responsible for operator safety and health obligations under the Federal Mine Safety and Health Act of 1977, as amended. This new regulation would expand the



## Department of Labor (DOL)

## Completed Actions

## Mine Safety and Health Administration (MSHA)

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

**Priority:** Other Significant

**Legal Authority:** 30 USC 811; 30 USC 813; 30 USC 961; 30 USC 957

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

**Legal Deadline:** None

**Abstract:** MSHA's current standards require that all underground coal mine operators develop and follow a mine ventilation plan for each mechanized mining unit 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.

In response to comments received on the July 2000 proposed rule for MSHA to withdraw the rule, MSHA published a new proposed rule on March 6, 2003. The proposed rule would have required mine operators to verify, through sampling, the effectiveness of the dust control parameters for each mechanized mining unit specified in the approved mine ventilation plan.

The use of approved powered air-purifying respirators and/or verifiable administrative controls would have been allowed as a supplemental means of compliance when MSHA had determined that all feasible engineering or environmental controls were exhausted.

Public hearings were held in May 2003, and the comment period, originally scheduled to close on June 4, 2003, was extended until July 3, 2003. On June 24, 2003, MSHA announced that all work on the final rule would cease and the rulemaking record would remain open in order to obtain information concerning Continuous Personal Dust Monitors being tested by NIOSH. A Federal Register notice was published on July 3, 2003, extending the comment period indefinitely. NIOSH issued a report on the continuous personal dust monitor in September 2006 and another report concerning test results in June of 2007. MSHA plans to incorporate aspects of this rulemaking into the rulemaking on occupational exposure to coal mine dust (Lowering 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
Close of Record	08/11/00	
Extension of Comment Period; Close of Record	08/11/00	65 FR 49215
NPRM	03/06/03	68 FR 10784
Notice of Public Hearing; Close of Record	03/17/03	68 FR 12641
Extension of Comment Period	05/29/03	68 FR 32005
NPRM Comment Period End	06/04/03	
Extension of Comment Period	07/03/03	68 FR 39881
Incorporated Into	08/11/09	1219-AB64

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Additional Information:** This rulemaking is related to RIN 1219-AB18 (Determination of Concentration of Respirable Coal Mine Dust) and RIN 1219-AB48 (Continuous Personal Dust Monitors), and RIN 1219-AB64 (Occupational Exposure to Coal Mine Dust Lowering Exposure).

**URL For More Information:**  
www.msha.gov/regsinfo.htm  
www.regulations.gov

**URL For Public Comments:**  
www.regulations.gov

**Agency Contact:** Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209-3939  
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**Related RIN:** Related to 1219-AB18, Related to 1219-AB48

**RIN:** 1219-AB14

**620. 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

(NIOSH) and the Mine Safety and Health Administration (MSHA) jointly proposed that a single, full-shift measurement (single sample) would accurately represent the atmospheric condition to which a miner is exposed. The proposed rule addresses the U.S. Court of Appeals' concerns raised in National Mining Association v. Secretary of Labor, 153 F.3d 1264 (11th Cir. 1998). MSHA and NIOSH reopened the rulemaking record on March 6, 2003, to obtain comments on documents added to the rulemaking record since the proposed rule was published July 7, 2000. MSHA held hearings in May 2003 and the comment period, originally scheduled to close on June 4, 2003, was extended until July 3, 2003. However, on June 24, 2003, MSHA announced that all work on the final rule would cease. On August 12, 2003, the Agencies reopened the rulemaking record and extended the comment period indefinitely. MSHA collaborated with NIOSH, miners' representatives, industry, and the manufacturer to test the production prototype Continuous Personal Dust Monitor (CPDM) unit. NIOSH issued a report on the CPDM in September 2006 and another report concerning test results in June 8, 2007. MSHA plans to incorporate aspects of this rulemaking into the rulemaking on Occupational Exposure to Coal Mine Dust (Lowering Exposure Limit).

**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	08/11/00	65 FR 49215
Reopen Record for Comments	03/06/03	68 FR 10940
Notice of Public Hearings; Close of Record	03/17/03	68 FR 12641
Extension of Comment Period	05/29/03	68 FR 32005
Reopen Record Comment Period End	06/04/03	
Extension of Comment Period; Reopening of Record	08/12/03	68 FR 47886
Reopening of Record; Correction	04/01/03	68 FR 15691
Incorporated Into	08/11/09	1219-AB64

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

DOL—MSHA

Completed Actions

**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), RIN 1219-AB48 (Continuous Personal Dust Monitor), and RIN 1219-AB64 (Occupational Exposure to Coal Mine Dust) (Lowering Exposure).

**URL For More Information:** www.msha.gov/regsinfo.htm  
www.regulations.gov

**URL For Public Comments:** www.regulations.gov

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**Related RIN:** Related to 1219-AB14, Related to 1219-AB48

**RIN:** 1219-AB18

**621. FIELD MODIFICATIONS OF PERMISSIBLE MOBILE DIESEL-POWERED EQUIPMENT**

**Priority:** Other Significant  
**Legal Authority:** 30 USC 957  
**CFR Citation:** 30 CFR 36  
**Legal Deadline:** None

**Abstract:** The agency does not anticipate doing further work on this rule at this time.

**Timetable:**

Action	Date	FR Cite
Withdrawn	07/27/09	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

**URL For More Information:** www.msha.gov/regsinfo.htm

**URL For Public Comments:** www.regulations.gov

**Agency Contact:** Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209-3939

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Email: silvey.patricia@dol.gov  
**RIN:** 1219-AB39

**622. USE OF OR IMPAIRMENT FROM ALCOHOL AND OTHER DRUGS ON MINE PROPERTY**

**Priority:** Other Significant  
**Legal Authority:** Not Yet Determined  
**CFR Citation:** Not Yet Determined  
**Legal Deadline:** None

**Abstract:** MSHA published a proposed rule to address the risks and hazards to miner safety from the use of or impairment from alcohol and drugs on mine property. At this time MSHA is withdrawing action on this rulemaking.

**Reason for Withdrawal:**

Due to comments, and limited data on the effects of alcohol and drug use related to mine accidents, MSHA is withdrawing the proposed rule. Many commenters raised concerns that the proposed rule would negatively impact existing alcohol and drug programs at mining operations, thereby possibly resulting in a diminution of safety. Although MSHA is withdrawing the proposed rule, the Agency will continue to enforce the existing metal and nonmetal standard. In addition, MSHA will collect data to determine the extent to which the use of alcohol or drugs contributes to mine accidents, and will continue to consider options available to the Agency to address alcohol and drugs at all mines.

**Timetable:**

Action	Date	FR Cite
ANPRM	10/04/05	70 FR 57808
ANPRM Comment Period End	11/27/05	
NPRM	09/08/08	73 FR 52135
NPRM Comment Period End	10/08/08	
Notice of Public Hearing To Be Held—October 14, 2008	09/26/08	73 FR 55800
Notice of Public Hearing To Be Held—October 28, 2008	10/23/08	73 FR 63110
Extension of Comment Period End—November 10, 2008	10/23/08	73 FR 63110
Withdrawn	11/09/09	

**Regulatory Flexibility Analysis Required:** No

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

**Government Levels Affected:** Local

**URL For More Information:** www.msha.gov/regsinfo.htm

**URL For Public Comments:** www.regulations.gov

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**RIN:** 1219-AB41

**623. EQUIVALENCY EVALUATION OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S NON-ROAD DIESEL ENGINE STANDARDS**

**Priority:** Other Significant  
**Legal Authority:** 30 USC 957  
**CFR Citation:** 30 CFR 7  
**Legal Deadline:** None

**Abstract:** The agency does not anticipate doing further work on this rule at this time.

**Timetable:**

Action	Date	FR Cite
Notice of Intent to Review the U.S. Environmental Protection Agency Title	03/28/06	71 FR 15358
End of Comment Period	05/30/06	
Withdrawn	07/27/09	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**URL For More Information:** www.msha.gov/regsinfo.htm

**URL For Public Comments:** www.regulations.gov

**Agency Contact:** Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209-3939  
Phone: 202 693-9440  
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Email: silvey.patricia@dol.gov  
**RIN:** 1219-AB43

## DOL—MSHA

## Completed Actions

**624. EXPLOSIVES AND BLASTING (SECTION 610 REVIEW)****Priority:** Substantive, Nonsignificant**Legal Authority:** 30 USC 811**CFR Citation:** 30 CFR 56; 30 CFR 57; 30 CFR 75; 30 CFR 77**Legal Deadline:** None**Abstract:** MSHA is reviewing the existing coal and metal and nonmetal standards for explosives and blasting in view of advances in technology and for consistency. The next action will be an advance notice of proposed rulemaking.**Timetable:**

Action	Date	FR Cite
Withdrawn	09/03/09	

**Regulatory Flexibility Analysis Required:** Undetermined**Government Levels Affected:** Undetermined**Federalism:** Undetermined**Agency Contact:** Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Departmentof Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209-3939  
Phone: 202 693-9440  
Fax: 202 693-9441  
Email: silvey.patricia@dol.gov**RIN:** 1219-AB62**625. MINE RESCUE TEAMS****Priority:** Other Significant**Legal Authority:** 30 USC 957; 30 USC 811; 30 USC 825**CFR Citation:** 30 CFR 49**Legal Deadline:** None**Abstract:** The United States Court of Appeals for the District of Columbia Circuit invalidated a portion of MSHA's Mine Rescue Teams final rule, applicable to underground coal mines. The Court's ruling requires state employees on state-sponsored mine rescue teams to train at small mines semi-annually instead of annually and to participate in two mine rescue contests annually instead of one. In

addition, mine-site teams at small mines will have to train semi-annually instead of annually. MSHA published a final rule to conform the existing rule to the Court's decision on June 17, 2009 (74 FR 28606).

**Timetable:**

Action	Date	FR Cite
Final Action	06/17/09	74 FR 28606
Final Action Effective	06/17/09	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** State**Agency Contact:** Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209-3939  
Phone: 202 693-9440  
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Email: silvey.patricia@dol.gov**RIN:** 1219-AB66

## Department of Labor (DOL)

## Prerule Stage

## Occupational Safety and Health Administration (OSHA)

**626. OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA****Regulatory Plan:** This entry is Seq. No. 61 in part II of this issue of the **Federal Register**.**RIN:** 1218-AB70

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 work sites 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.

**Timetable:**

Action	Date	FR Cite
Request for Information	11/26/02	67 FR 70707
SBREFA Report Completed	01/23/08	

Action	Date	FR Cite
Initiate Peer Review of Health Effects and Risk Assessment	03/00/10	

**Regulatory Flexibility Analysis Required:** Yes**Small Entities Affected:** Businesses**Government Levels Affected:** None**Agency Contact:** Dorothy Dougherty, 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: dougherty.dorothy@dol.gov**RIN:** 1218-AB76**627. OCCUPATIONAL EXPOSURE TO BERYLLIUM****Priority:** Economically Significant. Major under 5 USC 801.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 655(b); 29 USC 657**CFR Citation:** 29 CFR 1910**Legal Deadline:** None**Abstract:** In 1999 and 2001, OSHA was petitioned to issue an emergency temporary standard by 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.**628. EMERGENCY RESPONSE AND PREPAREDNESS****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined

DOL—OSHA

Prerule Stage

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

**CFR Citation:** 29 CFR 1910

**Legal Deadline:** None

**Abstract:** Emergency responder health and safety is currently regulated primarily under the following standards: The fire brigade standard (29 CFR 1910.156); hazardous waste operations and emergency response (29 CFR 1910.120); the respiratory protection standard (29 CFR 1910.134); the permit-required confined space standard (29 CFR 1910.146); and the bloodborne pathogens standard (29 CFR 1910.1030). 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. Many do not reflect major changes in performance specifications for protective clothing and equipment. 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 National Fire Protection Association (NFPA) and American National Standards Institute consensus standards. OSHA will be collecting information to evaluate what action the agency should take. The Request for Information was published on September 11, 2007.

**Timetable:**

Action	Date	FR Cite
Request for Information	09/11/07	72 FR 51735
Comment Period End	12/10/07	
Stakeholder's Meeting	06/00/10	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** Local, State

**Federalism:** Undetermined

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**RIN:** 1218-AC17

**629. METHYLENE CHLORIDE (SECTION 610 REVIEW)**

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 29 CFR 1910.1052

**Legal Deadline:** None

**Abstract:** OSHA will undertake a review of the Methylene Chloride Standard (29 CFR 1910.1052) 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	12/01/06	
Request for Comments	07/10/07	72 FR 37501
Comment Period End	10/09/07	
Reopen Comment Period	01/08/08	73 FR 1299
Comment Period End	03/10/08	
End Review	04/00/10	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** John Smith, Directorate of Evaluation and Analysis, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N-3641, Washington, DC 20210  
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Fax: 202 693-1641  
Email: smith.john@dol.gov

**RIN:** 1218-AC23

**630. OCCUPATIONAL EXPOSURE TO DIACETYL AND FOOD FLAVORINGS CONTAINING DIACETYL**

**Priority:** Other Significant

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

**CFR Citation:** 29 CFR 1910

**Legal Deadline:** None

**Abstract:** On July 26, 2006, the United Food and Commercial Workers International Union (UFCW) and the

International Brotherhood of Teamsters (IBT) petitioned DOL for an Emergency Temporary Standard (ETS) for all employees exposed to diacetyl, a major component in artificial butter flavoring. Diacetyl and a number of other volatile organic compounds are used to manufacture artificial butter food flavorings. These food flavorings are used by various food manufacturers in a multitude of food products including microwave popcorn, certain bakery goods, and some snack foods. OSHA denied the petition on September 25, 2007, but has initiated 6(b) rulemaking.

Evidence from NIOSH and other sources indicated that employee exposure to diacetyl and food flavorings containing diacetyl is associated with bronchiolitis obliterans, a debilitating and potentially fatal disease of the small airways in the lung. Severe obstructive airway disease has been observed in the microwave popcorn industry and in food flavoring manufacturing plants. Experimental evidence has shown that inhalation exposure to artificial butter flavoring vapors and diacetyl damaged tissue lining, the nose, and airways of rats and mice. OSHA published an Advanced Notice of Proposed Rulemaking (ANPRM) on January 21, 2009, but withdrew the ANPRM on March 17, 2009, in order to facilitate timely development of a standard. The Agency subsequently initiated review of the draft proposed standard in accordance with the Small Business Regulatory Enforcement Fairness Act (SBREFA). The SBREFA Panel Report was completed on July 2, 2009.

**Timetable:**

Action	Date	FR Cite
Stakeholder Meeting	10/17/07	72 FR 54619
ANPRM	01/21/09	74 FR 3937
ANPRM Withdrawn	03/17/09	74 FR 11329
ANPRM Comment Period End	04/21/09	
Completed SBREFA Report	07/02/09	
Initiate Peer Review of Health Effects and Risk Assessment	10/00/10	

**Regulatory Flexibility Analysis**

**Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

**Agency Contact:** Dorothy Dougherty, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health

## DOL—OSHA

## Prerule Stage

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**RIN:** 1218-AC33

**631. BLOODBORNE PATHOGENS (610 REVIEW) (SECTION 610 REVIEW)****Priority:** Substantive, Nonsignificant**Legal Authority:** 5 USC 533; 5 USC 610; 29 USC 655(b)**CFR Citation:** 29 CFR 1910.1030**Legal Deadline:** None

**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 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	04/00/10	

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

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**RIN:** 1218-AC34**632. TREE CARE OPERATIONS****Priority:** Other Significant**Legal Authority:** 23 USC 655(b); 29 USC 657**CFR Citation:** 29 CFR 1910**Legal Deadline:** None

**Abstract:** In the 11-year period from 1992 through 2002 for which

ornamental shrub and tree services fatality data are available from BLS, there were 637 fatalities in the industry, an average of about 58 fatalities per year or a rate of about 93 fatalities per 100,000 employees.

To prevent many of these fatalities, OSHA will develop a standard on tree-trimming work, including maintaining and removing trees and brush. OSHA has standards on logging and line-clearance tree trimming that have been applied to activities performed by tree-care workers. Although there is an existing national consensus standard on tree-trimming work, American National Standards Institute Standard ANSI Z133.1-2006, Safety Requirements for Arboricultural Operations, OSHA has no comprehensive standard to address this type of work. The ANPRM requested information on such hazards as electrocution, falls, and struck by falling objects, as well as hazards associated with equipment used in tree-trimming work, including chippers, chain saws, and stump cutters.

**Timetable:**

Action	Date	FR Cite
ANPRM	09/18/08	73 FR 54118
ANPRM Comment	12/17/08	
Period End		
Analyze Record	03/00/10	

**Regulatory Flexibility Analysis****Required:** Undetermined**Small Entities Affected:** Businesses**Government Levels Affected:** Local

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**RIN:** 1218-AC40**633. COMBUSTIBLE DUST****Priority:** Other Significant**Legal Authority:** 29 USC 6559(b); 29 USC 657**CFR Citation:** 29 CFR 1910, subpart H**Legal Deadline:** None

**Abstract:** The Occupational Safety and Health Administration (OSHA) is considering rulemaking to develop a combustible dust standard for general

industry. The U.S. Chemical Safety and Hazard Investigation 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 718. The CSB also recommended the Agency pursue rulemaking on this issue. While a number of OSHA standards address aspects of this risk among these are: 1910.22 Housekeeping, 1910.38 Emergency Action Plans, 1910.94 Ventilation, 1910.107 Spray Finishing, 1910.146 Permit Required Confined Spaces, 1910.269 Electric Power Generation, Transmission and Distribution (coal handling), 1910.272 Grain Handling Facilities, 1910.307 Hazard Communication), the Agency does not have a comprehensive standard that addresses combustible dust hazards. The Agency has published a Safety and Health Information Bulletin, Combustible Dust in Industry: Preventing and Mitigating the Effects of Fire and Explosions, and has implemented a Combustible Dust National Emphasis Program (NEP). OSHA will also use information gathered from the NEP as the agency considers future rulemaking.

**Timetable:**

Action	Date	FR Cite
ANPRM	10/21/09	74 FR 54333
ANPRM Comment	01/19/10	
Period End		
Stakeholder Meetings	12/00/09	

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

**Additional Information:** OSHA published an Advanced Notice of Proposed Rulemaking (ANPRM) on October 21, 2009, and plans to hold stakeholder meetings in December 2009.

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**RIN:** 1218-AC41

DOL—OSHA

Prerule Stage

634. • AIRBORNE INFECTIOUS DISEASES

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

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 533; 29 USC 657 and 658; 29 USC 660; 29 USC 666; 29 USC 669; 29 USC 673; ...

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: Employees in health care and other high-risk environments face long-standing respiratory 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 tuberculosis, SARS, and other airborne

infectious diseases which are spread through respiratory secretions which are exhaled or expelled though coughing, sneezing, etc. and 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 airborne infectious disease exposures to pathogens that can cause significant disease. Workplaces where such control measures might be necessary include: health care, emergency responses, 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	03/00/10	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 1218-AC46

Department of Labor (DOL) Occupational Safety and Health Administration (OSHA)

Proposed Rule Stage

635. CONFINED SPACES IN CONSTRUCTION

Priority: Other Significant

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.

Timetable:

Action	Date	FR Cite
SBREFA Panel Report	11/24/03	
NPRM	11/28/07	72 FR 67351
NPRM Comment Period End	01/28/08	

Action Date FR Cite

NPRM Comment Period Extended	02/28/08	73 FR 3893
Public Hearing	07/22/08	
Close Record	10/23/08	
Analyze Comments	03/00/10	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Noah Connell, Deputy 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

RIN: 1218-AB47

636. WALKING WORKING SURFACES AND PERSONAL FALL PROTECTION SYSTEMS (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 a rule (55 FR 13360) addressing slip, trip, and fall hazards and establishing requirements for personal fall protection systems. Since that time, new technologies and procedures have become available to protect employees from these hazards. The Agency has been working to update these rules to reflect current technology. OSHA published a notice to re-open the rulemaking for comment on a number of issues raised in the record for the NPRM. As a result of the comments received on that notice, OSHA has determined that the rule proposed in 1990 is out-of-date and does not reflect current industry practice or technology. The Agency will develop a new proposal, modified to reflect current information, as well as re-assess the impact.

Timetable:

Action	Date	FR Cite
NPRM	04/10/90	55 FR 13360

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Action	Date	FR Cite
NPRM Comment Period End	08/22/90	
Hearing	09/11/90	55 FR 29224
Reopen Record	05/02/03	68 FR 23527
Comment Period End	07/31/03	
Second NPRM	03/00/10	

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

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**RIN:** 1218-AB80**637. STANDARDS IMPROVEMENT****Priority:** Other Significant**Legal Authority:** 29 USC 655(b)**CFR Citation:** Not Yet Determined**Legal Deadline:** None

**Abstract:** OSHA is continuing its efforts to remove or revise duplicative, unnecessary, and inconsistent safety and health standards. This effort builds upon the success of the Standards Improvement Project (SIP) Phase I published on June 18, 1998 (63 FR 33450), and Phase II published on January 5, 2005 (70 FR 1111). The Agency believes that such changes can reduce compliance costs and reduce the paperwork burden associated with a number of its standards. The Agency will only consider such changes if they do not diminish employee protections. To initiate the project, OSHA published an advance notice of proposed rulemaking (ANPRM) on December 21, 2006, to solicit input from the public on rules that may be addressed in Phase III of SIP. The Agency plans to include both safety and health topics in Phase III.

**Timetable:**

Action	Date	FR Cite
ANPRM	12/21/06	71 FR 76623
Analyze Record	04/30/07	
NPRM	02/00/10	

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

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**RIN:** 1218-AC19**638. HAZARD COMMUNICATION**

**Regulatory Plan:** This entry is Seq. No. 62 in part II of this issue of the **Federal Register**.

**RIN:** 1218-AC20**639. NATIONALLY RECOGNIZED TESTING LABORATORIES FEE SCHEDULE—REVISED APPROACH****Priority:** Info./Admin./Other**Legal Authority:** 29 USC 653; 29 USC 655; 29 USC 657; 31 USC 9701**CFR Citation:** 29 CFR 1910.7(f)**Legal Deadline:** None

**Abstract:** The Occupational Safety and Health Administration is proposing to adjust the methodology it uses to establish the fees that the Agency charges for the services it provides to Nationally Recognized Testing Laboratories (NRTLs). A number of OSHA standards require that certain products and equipment used in the workplace be tested and certified by an organization that has been recognized by OSHA. OSHA requires NRTL applicants to provide detailed and comprehensive information about their programs, processes, and procedures in writing when they apply. OSHA reviews the written information and conducts an on-site assessment to determine whether the organization meets the requirements of 29 CFR 1910.7. OSHA uses a similar process when an NRTL applies for expansion or renewal of its recognition. In addition, the Agency conducts annual audits to ensure that the recognized laboratories maintain their programs and continue to meet the recognition requirements.

In 2000, OSHA began charging NRTLs for the services it provides them. The services are processing of NRTL

applications and audits of NRTL operations, and they define the fundamental functions of the NRTL Program. OSHA has determined that its current NRTL fee schedule does not recoup the full costs of the services performed because it does not recover certain indirect costs of those services. These indirect costs stem from attendant activities and accrue to the benefit of those services. OSHA's proposed fee schedule would account for these indirect costs. In determining the revised fee structure, OSHA will follow the guidelines established by the Office of Management and Budget in Circular Number A-25. The proposed schedule will require prepayment of all the fees, which complies with the circular and changes the timing of the payment of many of the fees.

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/09	
NPRM Comment Period End	02/00/10	

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

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**RIN:** 1218-AC27**640. COOPERATIVE AGREEMENTS****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 656 and 657; 29 USC 670**CFR Citation:** 29 CFR 1908**Legal Deadline:** None

**Abstract:** OSHA proposes to revise its regulations for the federally funded On-site Consultation Program to: a) clarify the ability of the Assistant Secretary to define sites which would receive inspections regardless of Safety and Health Achievement Recognition Program (SHARP) exemption status; b) allow Compliance Safety and Health Officers to proceed with enforcement

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visits resulting from referrals at sites undergoing Consultation visits and at sites that have been awarded SHARP status and c) limit the deletion period from OSHA's programmed inspection schedule for those employers participating in the SHARP program.

Note: SHARP is a recognition program that OSHA administers to provide incentives and support for small employers to develop, implement, and continuously improve effective safety and health programs at their worksites.

**Timetable:**

Action	Date	FR Cite
NPRM	02/00/10	
NPRM Comment Period End	04/00/10	
Final Rule	08/00/10	
Final Rule Effective	10/00/10	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** Undetermined

**Federalism:** Undetermined

**URL For Public Comments:** [ecomments.osha.gov](http://ecomments.osha.gov)

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**RIN:** 1218-AC32

**641. OCCUPATIONAL EXPOSURE TO HEXAVALENT CHROMIUM; FINAL RULE REMAND**

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 29 CFR 1910.1026(d)(4); 29 CFR 1915.1026(d)(4); 29 CFR 1926.1126(d)(4)

**Legal Deadline:** None

**Abstract:** On February 28, 2006, OSHA published a final rule for Occupational Exposure to Hexavalent Chromium (Cr(VI)) (29 CFR 1910.1026, 29 CFR 1915.1026, 29 CFR 1926.1126). Public Citizen Health Research Group (Public Citizen) and other parties petitioned for review of the standard in the United States Court of Appeals for the Third Circuit. The court denied the petitions

for review on all but one issue. The Third Circuit remanded the employee notification requirements in the standard's exposure determination provisions for further consideration. More specifically, the court directed the Agency to provide an explanation for its decision to limit employee notice requirements to circumstances in which Cr(VI) exposures exceed the permissible exposure limit (PEL) or to take other appropriate action with respect to that paragraph of the standard. After carefully reviewing the rulemaking record on this issue, OSHA has decided to revise the notification requirements, by means of this direct final rule, to require employers to notify employees of the results of all exposure determinations, regardless of exposure level.

**Timetable:**

Action	Date	FR Cite
Respond to Remand	09/30/09	
NPRM	02/00/10	
Direct Final Rule	02/00/10	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** Local, State

**Additional Information:** This regulation was previously report as 1218-AB45. A NPRM was published 10/4/2004 (69 FR 53905), and a final was published 2/28/2006 (71 FR 10100).

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**Related RIN:** Previously reported as 1218-AB45

**RIN:** 1218-AC43

**642. • OCCUPATIONAL INJURY AND ILLNESS RECORDING AND REPORTING REQUIREMENTS**

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

**Legal Authority:** 5 USC 533; 29 USC 657 and 658; 29 USC 660; 29 USC 666; 29 USC 669

**CFR Citation:** 29 CFR 1904

**Legal Deadline:** None

**Abstract:** The Occupational Safety and Health Administration (OSHA) issued a final rule on Occupational Injury and Illness Recording and Reporting Requirements (66 FR 5916, January 19, 2001), that became effective January 1, 2002. After a regulatory review, the Agency determined that two provisions of the final rule would be delayed and reconsidered; the recording of occupational hearing loss (1904.10) and the recording of work-related musculoskeletal disorders (WMSDs) (1904.12) (66 FR 35113, July 3, 2001). Subsequently, OSHA issued a final 1904.10 regulation setting recording criteria for occupational hearing loss (67 FR 44037, July 1, 2002). Following notice and comment, OSHA published another final rule to remove the WMSD recording provisions from the regulation and remove a separate column for identifying WMSDs from the OSHA 300 Log of Work-Related Injuries and Illness (68 FR 38601, June 30, 2003).

OSHA has reconsidered the need or a 300 Log column for WMSD, and for defining "musculoskeletal disorders" for recordkeeping purposes. The Agency believes that additional data on WMSDs may help employers and workers track these injuries at individual workplaces, and that the Nation's occupational injury and illness information may benefit from improved statistics on WMSD. Improved WMSD information might also assist the Agency in its day-to-day activities and overall safety and health policymaking. Therefore, OSHA is developing a proposed rule to add a definition of WMSD to 29 CFR part 1904 and a separate column on the 300 Log to track this class of injury/illness.

**Timetable:**

Action	Date	FR Cite
NPRM	01/00/10	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** State

**Agency Contact:** Dorothy Dougherty, 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  
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## DOL—OSHA

## Proposed Rule Stage

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**Department of Labor (DOL)**  
**Occupational Safety and Health Administration (OSHA)**

## Final Rule Stage

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

**Priority:** Other Significant

**Legal Authority:** 29 USC 655(b); 33 USC 941

**CFR Citation:** 29 CFR 1915, subpart F

**Legal Deadline:** None

**Abstract:** During the 1980s, OSHA initiated a project to update and consolidate the various OSHA shipyard standards that were applied in the shipbuilding, ship repair, and shipbreaking industries. Publication of a proposal addressing general working conditions in shipyards is part of this project. The operations addressed in this rulemaking relate to general working conditions such as housekeeping, illumination, sanitation, first aid, and lockout/tagout. About 100,000 workers are potentially exposed to these hazards annually. The proposed rule was published December 20, 2007.

**Timetable:**

Action	Date	FR Cite
NPRM	12/20/07	72 FR 72451
NPRM Comment Period End	03/19/08	
Public Hearings Held—September 9–10, 2008	06/30/08	73 FR 36823
Public Hearings Held—October 21–22, 2008	09/19/08	73 FR 54340
Public Hearing Comment Period End	02/20/09	
Analyze Record	07/31/09	
Final Action	09/00/10	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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**RIN:** 1218-AB50

**644. ELECTRIC POWER  
 TRANSMISSION AND DISTRIBUTION;  
 ELECTRICAL PROTECTIVE  
 EQUIPMENT**

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

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

**CFR Citation:** 29 CFR 1910.136 to 1910.137; 29 CFR 1910.269; 29 CFR 1926, subpart V; 29 CFR 1926.97

**Legal Deadline:** None

**Abstract:** Electrical hazards are a major cause of occupational death in the United States. The annual fatality rate for power line workers is about 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 35 years old. OSHA has developed a revision of this standard that will prevent many of these fatalities, add flexibility to the standard, and update and streamline the standard. OSHA also intends to amend the corresponding standard for general industry so that requirements for work performed during the maintenance of electric power transmission and distribution installations are the same as those for similar work in construction. In addition, OSHA will be revising a few miscellaneous general industry requirements primarily affecting electric transmission and distribution work, including provisions on electrical protective equipment and foot protection. This rulemaking also addresses fall protection in aerial lifts for work on power generation, transmission, and distribution installations. OSHA published an NPRM on June 15, 2005. A public hearing was held March 6 to 14, 2006. OSHA reopened the record to gather

additional information on minimum approach distances for specific range of voltages. The record was reopened a second time to allow more time for comment and to gather information on minimum approach distances for all voltages and on the newly revised Institute of Electrical and Electronics Engineers consensus standard.

**Timetable:**

Action	Date	FR Cite
SBREFA Report	06/30/03	
NPRM	06/15/05	70 FR 34821
NPRM Comment Period End	10/13/05	
Comment Period Extended to 01/11/2006	10/12/05	70 FR 59290
Public Hearing To Be Held 03/06/2006	10/12/05	70 FR 59290
Post-Hearing Comment Period End	07/14/06	
Reopen Record	10/22/08	73 FR 62942
Comment Period End	11/21/08	
Close Record	11/21/08	
Second Reopening Record	09/14/09	74 FR 46958
Comment Period End	10/15/09	
Public Hearings	10/28/09	
Post-Hearing Comment Period End	02/00/10	
Final Action	09/00/10	

**Regulatory Flexibility Analysis**

**Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** Local

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**RIN:** 1218-AB67

**645. CRANES AND DERRICKS IN CONSTRUCTION**

**Regulatory Plan:** This entry is Seq. No. 63 in part II of this issue of the **Federal Register**.

**RIN:** 1218-AC01

**646. EXPLOSIVES**

**Priority:** Other Significant

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

**CFR Citation:** 29 CFR 1910.109

**Legal Deadline:** None

**Abstract:** The OSHA regulations for explosives and blasting agents were published in 1974. Two trade associations representing many of the employers subject to this rule have petitioned the Agency to consider revising it, and have recommended changes they believe address the concerns they are raising. OSHA published a proposed rule on April 13, 2007, and ended the comment period on July 17, 2007. The Agency has since decided to withdraw the proposed rule.

**Timetable:**

Action	Date	FR Cite
NPRM	04/13/07	72 FR 18791
NPRM Comment Period End	07/12/07	
NPRM Comment Period Extended to September 10, 2007	07/09/07	72 FR 37155
NPRM Comment Period End	07/17/07	72 FR 39041
Withdraw	12/00/09	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Undetermined

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**RIN:** 1218-AC09

**647. PROCEDURES FOR HANDLING DISCRIMINATION COMPLAINTS UNDER FEDERAL EMPLOYEE PROTECTION STATUTES**

**Priority:** Other Significant

**Legal Authority:** 15 USC 2622; 33 USC 1367; 42 USC 300J-9(i); 42 USC 5851; 42 USC 6971; 42 USC 7622; 42 USC 9610

**CFR Citation:** 29 CFR 24

**Legal Deadline:** None

**Abstract:** Section 629, the employee protection provision of the Energy Policy Act of 2005, amended the Energy Reorganization Act of 1978, 42 U.S.C. section 5851. The amendments add Department of Energy and Nuclear Regulatory Commission employees to the employees covered under the Act, as are contractors and subcontractors of the Commission. In addition, Congress added a “kick-out” provision allowing the complainant to remove the complaint to District Court if the Secretary of Labor has not issued a final decision within a year of the filing of the complaint. These are significant changes to the ERA, necessitating immediate revision of the regulations, 29 CFR part 24, Procedures for the Handling of Discrimination Complaints under Federal Employee Protection Statutes, which governs whistleblower investigations under the Energy Reorganization Act of 1978 as well as under the six EPA statutes.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	08/10/07	72 FR 44956
Interim Final Rule Comment Period End	10/09/07	
Final Action	02/00/10	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Nilgun Tolek, Director, Office of the Whistleblower Protection Program, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N-3610, Washington, DC 20210  
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**RIN:** 1218-AC25

**648. PROCEDURES FOR HANDLING EMPLOYEE RETALIATION COMPLAINTS UNDER THE NATIONAL TRANSIT SYSTEMS SECURITY ACT OF 2007; SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982, AS AMENDED; AND FEDERAL RAIL SAFETY ACT**

**Priority:** Other Significant

**Legal Authority:** PL 110-53, sec 1521, The Implementing Recommendations of the 9/11 Commission Act of 2007; 49 USC 20109; PL 110-53, sec 1413, The Implementing Recommendations of the 9/11 Commission Act of 2007; PL 110-53, sec 1536, The Implementing Recommendations of the 9/11 Commission Act of 2007; 49 USC 31105; ...

**CFR Citation:** 29 CFR 1978

**Legal Deadline:** None

**Abstract:** OSHA will implement procedures for the handling and investigation of retaliation complaints pursuant to section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007. This Act amended the Federal Rail Safety Act (FRSA), to establish a new whistleblower protection provision to be administered by OSHA that provides protections from retaliation to employees working for railroad carriers and their contractors and subcontractors who report potential violations or engage in certain activities related to safety and security.

OSHA will implement procedures for the handling and investigation of retaliation complaints pursuant to section 1413 of the Implementing Recommendations of the 9/11 Commission Act of 2007. Section 1413, known as the National Transit Systems Security Act (NTSSA), included a new whistleblower protection provision to be administered by OSHA that provides protection from retaliation to employees of public transportation agencies and their contractors and subcontractors who report potential violations or engage in certain activities related to safety and security.

OSHA will amend 29 CFR 1978, the procedures applicable to the handling and investigation of whistleblower complaints under the Surface Transportation Assistance Act (STAA), 49 U.S.C. 31105, to implement statutory changes enacted by Congress under section 1536 of the Implementing Recommendations of the 9/11

## DOL—OSHA

## Final Rule Stage

Commission Act of 2007, and to provide other procedural updates as needed. The statute provides retaliation protection to employees working for commercial motor carriers who report potential violations or engage in certain activities related to safety and security.

Pursuant to these statutes, the rules will set forth the procedures for handling and investigating retaliation complaints, including a statutory “kick-out” provision allowing the complainant to file the complaint in District Court if the Secretary of Labor has not issued a final decision within 210 days of the filing of the complaint. Immediate implementation of these regulations is necessitated to govern whistleblower investigations conducted under the new and revised statutes.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	03/00/10	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Local, State

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**RIN:** 1218-AC36

#### 649. ABBREVIATED PORTACOUNT QUANTITATIVE FIT-TESTING PROTOCOL

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 29 CFR 1910.134

**Legal Deadline:** None

**Abstract:** Appendix A of OSHA’s Respiratory Protection Standard (29 CFR 1910.134) specifies the procedure for adding new test protocols to this standard. OSHA proposes to include two additional protocols for the PortaCount quantitative fit testing

methodology in its Respiratory Protection Standard; the proposed protocols would apply to employers in general industry, shipyard employment, and the construction industry. The revised PortaCount quantitative fit testing protocols are referred to as the Revised PortaCount Quantitative Fit Test Protocol 1 and Protocol 2. The only difference between the proposed revised PortaCount Protocol 1 and the approved PortaCount protocol is that the revised Protocol 1 requires that the seven test exercises be performed for 30 seconds instead of the 60 seconds per test currently required. The revised Protocol 2 would reduce exercise time to 40 seconds instead of the currently required 60 seconds, eliminate two of the eight fit testing exercises, and would raise the pass/fail criterion from 100 to 200 for half-masks and 500 to 1,000 for full facepieces.

**Timetable:**

Action	Date	FR Cite
NPRM	01/21/09	74 FR 3526
NPRM Comment Period End	03/23/09	
Analyze Record	06/30/09	
Final Action	01/00/10	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** Undetermined

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**RIN:** 1218-AC39

#### 650. PROCEDURES FOR THE HANDLING OF RETALIATION COMPLAINTS UNDER THE EMPLOYEE PROTECTION PROVISIONS OF THE CONSUMER PRODUCT SAFETY IMPROVEMENT ACT (CPSIA) OF 2008

**Priority:** Info./Admin./Other

**Legal Authority:** PL 110-314, sec 219, the Consumer Product Safety Improvement Act of 2008; 15 USC 2087

**CFR Citation:** 29 CFR 1983

**Legal Deadline:** None

**Abstract:** OSHA is proposing to promulgate procedures for the handling and investigation of retaliation complaints pursuant to Section 219 of the Consumer Product Safety Improvement Act of 2008. This section established a new whistleblower protection statute to be administered by OSHA that provides protection from retaliation to employees in the consumer product industry, including employees of manufacturers, importers, private labelers, distributors and retailers, who report reasonably believed violations of the Consumer Product Safety Act or

any other Act enforced by the Consumer Product Safety Commission, or any order, rule, regulation, standard or ban under those Acts. Pursuant to the statute, the procedures will include remedies and legal burdens of proof provisions, and a “kick-out” provision allowing the complainant to file the complaint in District Court if within 210 days of the filing of the complaint the Secretary has not issued a final determination, or within 90 days after receiving a written determination. Promulgation of a regulation is necessary to govern whistleblower investigations conducted under the new statute.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	06/00/10	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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**RIN:** 1218-AC47

Department of Labor (DOL)
Occupational Safety and Health Administration (OSHA)

Long-Term Actions

651. HEARING CONSERVATION PROGRAM FOR 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, no rule was promulgated to cover workers in the construction industry. A number of recent studies have shown that many construction workers experience work-related hearing loss. In addition, the use of engineering, administrative, and personal protective equipment to reduce exposures to noise is not extensive in this industry. OSHA published an advance notice of proposed rulemaking 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. Work continues on collecting and analyzing information to determine technological and economic feasibility of possible approaches.

Timetable:

Table with 3 columns: Action, Date, FR Cite. Rows include ANPRM (08/05/02), ANPRM Comment (11/04/02), Stakeholder Meetings (03/24/04), and Additional Stakeholder Meeting (07/21/04).

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Local, State

Agency Contact: Dorothy Dougherty, 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

RIN: 1218-AB89

652. REVISION AND UPDATE OF STANDARDS FOR POWER PRESSES

Priority: Other Significant

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

CFR Citation: 29 CFR 1910.217

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration's (OSHA) mechanical power press standard (29 CFR 1910.217) protects employees from injuries that result from working with or around mechanical power presses through the use of machine guards (prevents hands in danger zone) and through limitations on initiation of a press cycle (either two-hand or foot-operated). A presence-sensing device (PSD), typically a light curtain, initiates a press cycle only when the system indicates that no objects, such as a hand, are within the hazard zone. OSHA adopted the use of presence-sensing device initiation (PSDI) on mechanical power presses believing that the provision would substantially protect workers and improve productivity. However, OSHA requires PSDI systems to be validated by an OSHA-certified third party, and no organization has agreed to validate PSDI installations. OSHA performed a look-back review of PSDI and determined that the current ANSI

standard permits PSDI without independent validation but includes other provisions to maintain PSDI safety.

Based on the look-back review of PSDI (69 FR 31927), OSHA is planning to revise and update the standard on power presses, which currently covers only mechanical power presses. OSHA is currently planning to base the revision of the Mechanical Power Presses standard on the most recent version of the American National Standards Institute standard on Mechanical Power Presses, ANSI B11.1. Further, OSHA is considering expanding the standard to cover other presses such as hydraulic and pneumatic power presses and to include the latest guarding techniques. This revision will provide the first major update of the Mechanical Power Presses Standard since it was originally published in 1971.

Timetable:

Table with 3 columns: Action, Date, FR Cite. Rows include ANPRM (06/04/07), ANPRM Comment (08/03/07), and Next Action Undetermined.

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Dorothy Dougherty, 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

RIN: 1218-AC22

Department of Labor (DOL)
Occupational Safety and Health Administration (OSHA)

Completed Actions

653. UPDATING OSHA STANDARDS BASED ON NATIONAL CONSENSUS STANDARDS

Priority: Other Significant

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910; 29 CFR 1915; 29 CFR 1917 and 1918; 29 CFR 1926

Legal Deadline: None

Abstract: Under section 6(a) of the OSH Act, during the first two years of the Act, the Agency was directed to

adopt national consensus standards as OSHA standards. Some of these standards were adopted as regulatory text, while others were incorporated by reference. In the more than 30 years since these standards were adopted by OSHA, the organizations responsible

## DOL—OSHA

## Completed Actions

for these consensus standards have issued updated versions of these standards. However, in most cases, OSHA has not revised its regulations to reflect later editions of the consensus standards. OSHA standards also continue to incorporate by reference various consensus standards that are now outdated and, in some cases, out of print.

The Agency is undertaking a multi-year project to update these standards. A notice describing the project was published in the Federal Register on November 24, 2004 (69 FR 68283). The first final rule was published on September 13, 2005. Several additional sets of standards are in preparation. An NPRM on Personal Protective (PPE) consensus standards was published on August 31, 2007, with a hearing on December 4, 2007. A direct final rule (DFR) on Miscellaneous Changes and Welding Definitions was published on December 14, 2007. In the next phase of the project, OSHA intends to publish a DFR to update consensus standards referenced for acetylene, and issue a final rule on the PPE consensus standards.

**Timetable:**

Action	Date	FR Cite
NPRM	11/24/04	69 FR 68706
Direct Final Rule	11/24/04	69 FR 68712
NPRM Comment Period End	12/27/04	69 FR 68706
Withdraw Direct Final Rule	02/18/05	70 FR 8290
Direct Final Rule Effective Date	02/22/05	
Final Rule	09/13/05	70 FR 53925
Final Rule Effective	11/14/05	
NPRM	05/17/07	72 FR 27771
NPRM Comment Period End	06/16/07	
Public Hearing PPE Held—December 4, 2007	08/31/07	72 FR 50302
NPRM (Acetylene)	08/11/09	74 FR 40450
NPRM Comment Period End (Acetylene)	09/10/09	
Direct Final Rule (Acetylene)	08/11/09	74 FR 40442
Direct Final Rule Effective (Acetylene)	11/09/09	
Final Rule (PPE)	09/09/09	74 FR 46350
Final Rule Effective (PPE)	10/09/09	

**Regulatory Flexibility Analysis  
Required:** No

**Government Levels Affected:** None

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**RIN:** 1218-AC08

#### 654. ABBREVIATED BITRIX QUALITATIVE FIT-TESTING PROTOCOL

**Priority:** Other Significant

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

**CFR Citation:** 29 CFR 1910.134

**Legal Deadline:** None

**Abstract:** The Occupational Safety and Health Administration (OSHA) published the revised standard for respiratory protection on January 8, 1998. Appendix A of this standard currently lists four challenge agents permitted for use in qualitative fit testing protocols; these include isoamyl acetate, saccharin aerosol solution, irritant smoke, and Bitrix (denatonium benzoate). The standard also includes procedures that allow parties to submit new fit testing protocols for notice-and-comment rulemaking under section 6(b)(7) of the Occupational Safety and Health Act. OSHA has been requested to consider adding a new fit testing protocol that modifies the existing Bitrix protocol, and is undergoing rulemaking to seek public comment and determine whether to amend the fit testing provisions of the standard to include the proposed protocol. The NPRM was published on December 26, 2007. OSHA withdraw the proposed rule on June 25, 2009 (74 FR 30250).

**Timetable:**

Action	Date	FR Cite
NPRM	12/26/07	72 FR 72971
NPRM Comment Period End	02/25/08	
Withdrawal of NPRM	06/25/09	74 FR 30250

**Regulatory Flexibility Analysis  
Required:** No

**Government Levels Affected:** None

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**RIN:** 1218-AC29

#### 655. ILLINOIS STATE PLAN FOR PUBLIC EMPLOYEES ONLY—INITIAL STATE PLAN APPROVAL

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 26 USC 667

**CFR Citation:** 29 CFR 1956

**Legal Deadline:** None

**Abstract:** OSHA will propose to grant initial State Plan approval, under section 18 of the Occupational Safety and Health Act and 29 CFR 1956, to the Illinois State Plan for Public Employees Only as submitted by the Illinois Department of Labor. The plan proposes to establish a program for the adoption and enforcement of standards applicable only to the employees of the State of Illinois and its political subdivisions (local government employees) within a 3-year developmental period, which will be at least as effective as Federal OSHA's private sector protection program. Written public comment has been sought on whether initial State plan approval should be granted and an opportunity to interested persons to request an informal public hearing, prior to final action granting initial approval of a developmental State Plan.

Initial approval of the Illinois Public Employee Only State plan is based upon a determination that the plan meets, or will meet within three years, OSHA's initial plan approval criteria and the availability of Federal (50%) and State (50%) matching funds.

**Timetable:**

Action	Date	FR Cite
NPRM	07/10/09	74 FR 33189
NPRM Comment Period End	08/10/09	
Final Action	09/01/09	74 FR 45107
Final Action Effective	09/01/09	

**Regulatory Flexibility Analysis  
Required:** No

**Government Levels Affected:** Local, State

**Agency Contact:** Barbara E. Bryant, Director, Office of State Programs, Department of Labor, Occupational

DOL—OSHA

Completed Actions

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Department of Labor (DOL)

Prerule Stage

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

656. • REVISED FUNDING FORMULA FOR JOBS FOR VETERANS STATE GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 4102(c)(2)(B)(i)

CFR Citation: 20 CFR 1001

Legal Deadline: None

Abstract: Amend regulations at 20 CFR part 1001 which established a funding

formula for the Jobs for Veterans State Grants, and establish a cap on administrative costs that may be charged to the grants.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/10	
ANPRM Comment	06/00/10	
Period End		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Gordon Burke, Director of Grants and Transition Programs, Department of Labor, Office of the Assistant Secretary for Veterans' Employment and Training, 200 Constitution Avenue NW., FP Building, Room S-1325, Washington, DC 20210 Phone: 202 693-4700

RIN: 1293-AA17

Department of Labor (DOL)

Proposed Rule Stage

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

657. • ESTABLISHMENT OF A UNIFORM NATIONAL THRESHOLD ENTERED EMPLOYMENT RATE UNDER THE JOBS FOR VETERANS STATE GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 4102(c)(3)(B)

CFR Citation: None

Legal Deadline: None

Abstract: Rule will establish a uniform national threshold entered employment

rate for veterans under the Jobs for Veterans State Grants, as required by 38 U.S.C. 4102(c)(3)(B).

Timetable:

Action	Date	FR Cite
NPRM	04/00/10	
NPRM Comment	06/00/10	
Period End		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Gordon Burke, Director of Grants and Transition Programs, Department of Labor, Office of the Assistant Secretary for Veterans' Employment and Training, 200 Constitution Avenue NW., FP Building, Room S-1325, Washington, DC 20210 Phone: 202 693-4700

RIN: 1293-AA18

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