

U.S. DEPARTMENT OF LABOR

Fall 2014 Statement of Regulatory Priorities

Introduction

For over 100 years, the U.S. Department of Labor has been central to safeguarding and expanding the American Dream for America's working families. The Department's Fall 2014 Regulatory Agenda is driven by a commitment to the basic bargain of America – if you work hard and play by the rules and take responsibility for yourself and your family, you can succeed in and climb the rungs of the middle class. There are many components to Secretary Thomas E. Perez's opportunity agenda that are reflected in the Department's regulatory agenda:

- training more people, including veterans and people with disabilities, to have the skills they need for the in-demand jobs of the 21st century;
- ensuring that people have the peace of mind that comes with access to health care, retirement, and Federal workers' compensation benefits when they need them;
- safeguarding a fair day's pay for a fair day's work for all hardworking Americans, regardless of race, gender, religion, sexual orientation, or gender identity;
- giving workers a voice in their workplaces; and
- protecting the safety and health of workers so they do not have to risk their lives for a paycheck.

The values embodied in the Department's regulatory agenda are America's values. In developing the Department's regulatory agenda, with a focus on strengthening our economy, the Department has sought input and expertise from a broad cross section of American society, including business leaders, workers, labor organizations, academics and state and local officials. Expanding opportunity benefits all of us. When the middle class is strong, our nation is strong.

The Fall 2014 Regulatory Agenda reflects the Department's commitment to rebuilding this strength through expanding opportunity.

The Department's Regulatory Priorities

The Department of Labor 2014 Regulatory Plan highlights the most noteworthy and significant regulatory projects that will be undertaken by its regulatory agencies: the Employee Benefits Security Administration (EBSA), Employment and Training Administration (ETA), Mine Safety and Health Administration (MSHA), Office of Federal Contract Compliance Programs (OFCCP), Occupational Safety and Health Administration (OSHA), Office of Labor-Management Standards (OLMS), Office of Workers' Compensation Programs (OWCP), Veterans' Employment Service (VETS), and Wage and Hour Division (WHD). The initiatives and priorities listed in the regulatory plan exemplify the five components of the Secretary's opportunity agenda.

Training More People for Twenty-First Century Jobs

The Department's regulatory priorities reflect the Secretary's vision for a demand-driven workforce investment system that serves the needs of businesses and workers alike. For example:

- ETA seeks to develop and issue a Notice of Proposed Rulemaking (NPRM) that implements the important changes made to the public workforce system by the Workforce Innovation and Opportunity Act (WIOA) (Pub. L. 113-128), which was signed by the President on July 22, 2014, replacing the Workforce Investment Act of 1998 (WIA). This NPRM will help the Department implement WIOA, empowering the public workforce system and its partners to increase employment, retention, and earnings of participants, meet the skill requirements of employers, and enhance the productivity and competitiveness of the nation.¹
- ETA also proposes to update the National Apprenticeship Act of 1937's equal opportunity regulations, which prohibit discrimination in registered apprenticeship on the basis of race, color, religion, national origin, and sex, and which require that program sponsors take affirmative action to provide equal opportunity. Most notably, the proposed rule would update equal opportunity standards to include age (40 and older) and disability among the list of protected bases. It would also strengthen the affirmative action provisions by detailing mandatory actions that sponsors must take, and by requiring affirmative action for individuals with disabilities.²

¹ Workforce Innovation and Opportunity Act (RIN: 1205-AB73)

² Equal Employment Opportunity in Apprenticeship Amendment of Regulations (RIN: 1205-AB59)

Ensuring Access to Health Care, Retirement, and Workers' Compensation Benefits

The Department is pursuing a regulatory program that is designed to safeguard the retirement security of participants and beneficiaries by protecting their rights and benefits under pension plans and by encouraging, fostering, and promoting openness, transparency, and communication with respect to the management and operations of such plans. Examples include:

- EBSA's rulemaking to help assure workers' retirement security by reducing harmful conflicts of interest in the retirement savings marketplace so that the millions of plan sponsors, workers, and retirees get the impartial advice they have a right to expect when they rely on an adviser to help them invest their retirement savings. The regulation would clarify the circumstances under which a person will be considered a "fiduciary" when providing investment advice related to retirement plans, individual retirement accounts, and other employee benefit plans, and to participants, beneficiaries, and owners of such plans and accounts.³
- EBSA continues to pursue initiatives to encourage the offering of lifetime annuities or similar lifetime benefit distribution options for participants and beneficiaries of defined contribution plans. EBSA is developing a proposal relating to the presentation of a participant's accrued benefits (account balance) as a lifetime income stream of payments.⁴ EBSA is also developing proposed amendments to a safe harbor regulation that will provide plan fiduciaries with more certainty that they have discharged their obligations under section 404(a)(1)(B) of ERISA in selecting an annuity plan provider and contract for benefit distributions from an individual account retirement plan.⁵

EBSA's regulatory program also includes initiatives involving Annual Funding Notices⁶ and Standards for Brokerage Windows.⁷

In addition, EBSA will continue to issue guidance implementing the health reform provisions of the Affordable Care Act to help provide better quality health care for America's workers and their families. EBSA's regulations reduce discrimination in health coverage, promote better access to quality coverage,

³ Conflict of Interest Rule: Investment Advice (RIN: 1210-AB32)

⁴ Pension Benefit Statement (RIN 1210-AB20)

⁵ Selection of Annuity Providers – Safe Harbor for Individual Account Plans (RIN: 1201-AB58)

⁶ (RIN: 1210-AB18)

⁷ (RIN: 1210-AB59)

and protect the ability of individuals and businesses to keep their current health coverage. Many regulations are joint rulemakings with the Departments of Health and Human Services and the Treasury.

The Department also pursues regulations to ensure that Federal workers' compensation benefits programs are fairly administered:

- OWCP plans to propose several modifications and clarifications to the regulations implementing the Black Lung Benefits Act, including a rule that addresses claimants' and coal mine operators' responsibility to disclose medical evidence developed in connection with a claim for benefits. In addition, the proposed regulation would make several clarifications regarding reimbursement rates for medical treatment, the modification procedure, evidence-submission limits, and compensation payments.⁸

Safeguarding Fair Pay for All Americans

The Department's regulatory agenda prioritizes ensuring that all Americans receive a fair day's pay for a fair day's work, and are not discriminated against with respect to hiring, employment, or benefits on the basis of race, gender, sexual orientation, or gender identity. For example, WHD recently published a Final Rule to implement Executive Order 13658, which the President signed in February 2014 to ensure that certain Federal contractors pay a minimum wage of at least \$10.10 per hour beginning on January 1, 2015. Other notable proposals include:

- WHD plans to publish an NPRM proposing revisions to the Fair Labor Standards Act's (FLSA's) overtime exemptions as directed by a March 2014 Presidential Memorandum. The FLSA generally requires covered employers to pay their employees at least the Federal minimum wage for all hours worked, and one-and-one-half times their regular rate of pay for hours worked in excess of 40 in a workweek ("overtime"). However, there are a number of exemptions from the FLSA's minimum wage and overtime requirements, including an exemption for bona fide executive, administrative, or professional employees. The President's Memorandum directed the Secretary to modernize and

⁸ Black Lung Benefits Act: Medical Evidence and Benefit Payments (RIN: 1240-AA10)

streamline the existing overtime regulations for these “white collar” employees to ensure that hardworking middle-class workers are not denied overtime protections that Congress intended.⁹

- WHD also plans to publish a Final Rule revising the definition of “spouse” in the Family and Medical Leave Act (FMLA) in light of the United States Supreme Court’s decision in *United States v. Windsor*. This Department previously issued an NPRM proposing that eligible employees in legal same-sex marriages may take unpaid, job-protected leave to care for their spouse or family member, regardless of whether their state of residence recognizes their same-sex marriage.¹⁰
- OFCCP’s rulemaking implementing Executive Order 13672, signed by the President in July 2014 to amend Executive Order 11246, ensures that Federal contractors do not engage in hiring or employment discrimination based on sexual orientation or gender identity. The Executive Order required the Department to prepare regulations within 90 days of the date of the Order to insert “sexual orientation, gender identity” into identified paragraphs of section 2 of Executive Order 11246.¹¹
- OFCCP plans to issue a Final Rule pursuant to a Presidential Memorandum directing the Department to require Federal contractors and subcontractors to submit summary data on the compensation paid to their employees. The use of this sort of “Equal Pay Report” is one component of a larger strategy to address the reality that, despite five decades of extraordinary legal and social progress, working women still earn only 78 cents for every dollar that working men earn, and the amount is even less for African American women and Latinas. The new rule will enable OFCCP to direct its enforcement resources toward Federal contractors whose summary data indicate potential pay disparities, while reducing the likelihood of reviewing companies that are in compliance with anti-discrimination laws.¹²

OFCCP also continues to pursue an initiative on Construction Contractor Affirmative Action Requirements.¹³

⁹ Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees (RIN: 1235-AA11)

¹⁰ Family and Medical Leave Act of 1993, as amended (RIN: 1235-AA09)

¹¹ Implementation of Executive Order 13672 Prohibiting Discrimination Based on Sexual Orientation and Gender Identity by Contractors and Subcontractors (RIN: 1250-AA07)

¹² Requirement to Report Summary Data on Employee Compensation (RIN: 1250-AA03)

¹³ (RIN: 1250-AA01)

Giving Workers a Voice in Their Workplaces

The Department's regulatory program also promotes policies that give workers a voice in their workplaces, including by ensuring that workers have information that is critical to their effective participation in the workplace. Two key examples include:

- OFCCP plans to issue a Final Rule implementing Executive Order 13665, which the President signed on April 8, 2014, prohibiting discrimination by Federal contractors and subcontractors against certain of their employees for disclosing compensation information. This Executive Order was intended to address policies inhibiting workers' ability to advocate for themselves about their pay and prohibiting employee conversations about compensation. Such policies can serve as a significant barrier to Federal enforcement of the laws against compensation discrimination.¹⁴
- OLMS plans to publish a Final Rule following an NPRM that proposed regulations to better implement the public disclosure objectives of the Labor-Management Reporting and Disclosure Act (LMRDA) in situations where an employer engages a consultant in order to persuade employees concerning their rights to organize and bargain collectively. Workers are better able to make an informed choice about representation when they have the necessary information about arrangements that have been made by their employer to persuade them whether or not to form, join, or assist a union. While the LMRDA requires employers to file reports of any agreement or arrangement with a consultant to persuade employees concerning their rights to organize and collectively bargain, the statute provides an exception for consultants giving or agreeing to give "advice" to the employer. The Department's NPRM reconsidered the current policy concerning the scope of the "advice" exception.¹⁵

Protecting the Safety and Health of Workers

The Department's regulatory agenda prioritizes efforts to protect the safety and health of workers so they do not have to risk their lives for a paycheck. These efforts encompass protecting workers in all workplaces, including above- and below-ground coal and metal/nonmetal mines, in addition to efforts to

¹⁴ Prohibitions Against Pay Secrecy Policies and Actions (RIN: 1250-AA06)

¹⁵ Persuader Agreements: Employer and Labor Relations Consultant Reporting Under the LMRDA (RIN: 1245-AA03)

ensure that benefits programs are available to workers and their families when they are injured on the job.

Notable examples of these efforts include:

- OSHA continues to pursue regulations aimed at curbing lung cancer, silicosis, chronic obstructive pulmonary disease and kidney disease in America's workers by lowering worker exposure to crystalline silica, which kills hundreds and sickens thousands more each year. OSHA estimates that the proposed rule would ultimately save nearly 700 lives and prevent 1,600 new cases of silicosis annually. After publishing a proposed rule in September 2013, OSHA received over 1,700 comments from the public on the proposed rule, and over 200 stakeholders provided testimony during public hearings on the proposal. In the coming months, the agency will review and consider the evidence in the rulemaking record. Based upon this review, OSHA will determine an appropriate course of action with regard to workplace exposure to respirable crystalline silica.¹⁶ As a part of the Secretary's strategy for securing safe and healthy work environments, MSHA will utilize information provided by OSHA to undertake regulatory action related to silica exposure in mines.¹⁷
- OSHA is considering the need for regulatory action to address the risk to workers exposed to infectious diseases in healthcare and other related high-risk environments. Especially given recent events necessitating the careful treatment of individuals with life-threatening infectious diseases, OSHA is concerned about the risk posed to healthcare workers with the movement of healthcare delivery from the traditional hospital setting into more diverse and smaller workplace settings. The Agency initiated the Small Business Regulatory Enforcement Fairness Act (SBREFA) Panel process in the spring of 2014.¹⁸
- OSHA is developing a Final Rule exploring a requirement for employers to electronically submit data required by agency regulations governing the Recording and Reporting of Occupational Injuries. An updated and modernized reporting system would enable a more efficient and timely collection of data and would improve the accuracy and availability of relevant records and

¹⁶ Occupational Exposure to Crystalline Silica (RIN: 1218-AB70)

¹⁷ Respirable Crystalline Silica Standard (RIN: 1219-AB36)

¹⁸ Infectious Diseases (RIN: 1218-AC46)

statistics, in addition to leveraging data already maintained electronically by many large employers.¹⁹

- MSHA plans to issue a Final Rule that would build upon a proposed rule to address the danger that miners face when working near continuous mining machines in underground coal mines. From 1984 through 2014, there have been 35 fatalities resulting from pinning, crushing or striking accidents involving continuous mining machines – the types of accidents that proximity detection technology can prevent. The proposed rule would reduce the potential for such hazards.²⁰ MSHA also plans to publish a proposed rule that would require underground mine operators to equip certain mobile machines with proximity detection systems.²¹

OSHA's regulatory program also includes initiatives involving Injury and Illness Prevention Programs,²² Occupational Exposure to Beryllium,²³ Preventing Backover Injuries and Fatalities,²⁴ and various Whistleblower regulations.

Regulatory Review and Burden Reduction

On January 18, 2011, the President issued Executive Order (E.O.) 13563 entitled "Improving Regulation and Regulatory Review." The E.O. aims to strike the right balance between protecting the health, welfare, safety, and the environment for all Americans – a goal at the core of the Labor Department's mission – while fostering economic growth, job creation, and competitiveness. The Department's Fall 2014 Regulatory Agenda also aims to achieve more efficient and less burdensome regulations through a retrospective review of the Labor Department regulations.

In August 2011, as part of a governmentwide response to E.O. 13563, the Department published its "Plan for Retrospective Analysis of Existing Rules." This plan, and each subsequent update, can be found at www.dol.gov/regulations/. The Department's Fall 2014 Agenda includes 12 retrospective review

¹⁹ Improve Tracking of Workplace Injuries and Illnesses (RIN: 1218-AC49)

²⁰ Proximity Detection Systems for Continuous Mining Machines in Underground Coal Mines (RIN: 1219-AB65)

²¹ Proximity Detection Systems for Mobile Machines in Underground Mines (RIN: 1219-AB78)

²² (RIN: 1218-AC48)

²³ (RIN: 1218-AB76)

²⁴ (RIN: 1218-AC51)

projects, which are listed below pursuant to section 6 of E.O. 13563. More information about completed rulemakings no longer included in the plan can be found on Reginfo.gov.

Agency	Regulatory Identifier Number	Title of Rulemaking	Whether it is Expected to Significantly Reduce Burdens on Small Businesses
EBSA	1210-AB47	Amendment of Abandoned Plan Program	Yes
EBSA	1210-AB63	21st Century Initiative to Modernize the Form 5500 Series and Implementing and Related Regulations	No
ETA	1205-AB59	Equal Employment Opportunity in Apprenticeship and Training, Amendment of Regulations	To Be Determined
ETA	1205-AB62	Implementation of Total Unemployment Rate Extended Benefits Trigger and Rounding Rule	No
MSHA	1219-AB72	Criteria and Procedures for Proposed Assessment of Civil Penalties (Part 100)	To Be Determined
OFCCP	1250-AA05	Sex Discrimination Guidelines	To Be Determined
OSHA	1218-AC34	Bloodborne Pathogens	No
OSHA	1218-AC67	Standard Improvement Project – Phase IV (SIP IV)	Yes
OSHA	1218-AC74	Review/Lookback of OSHA Chemical Standards	To Be Determined
OSHA	1218-AC81	Cranes and Derricks in Construction: Amendments	To Be Determined
OSHA	1218-AC82	Process Safety Management and Flammable Liquids	To Be Determined
OSHA	1218-AC49	Improve Tracking of Workplace Injuries and Illnesses	To Be Determined

The 8 Actions Described in the Regulatory Plan

Title	Regulation Identifier Number	Rulemaking Stage
Workforce Innovation and Opportunity Act	1205-AB73	Proposed Rule Stage
Infectious Diseases	1218-AC46	PreRule Stage
Occupational Exposure to Crystalline Silica	1218-AB70	Proposed Rule Stage
Improve Tracking of Workplace Injuries and Illnesses	1218-AC49	Final Rule Stage
Respirable Crystalline Silica	1219-AB36	Proposed Rule Stage
Criteria and Procedures for Proposed Assessment of Civil Penalties	1219-AB72	Proposed Rule Stage
Proximity Detection Systems for Mobile Machines in Underground Mines	1219-AB78	Proposed Rule Stage
Proximity Detection Systems for Continuous Mining Machines in Underground Coal Mines	1219-AB65	Final Rule Stage

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

RIN: 1205-AB73

 [View Related Documents](#)
Title: Workforce Innovation and Opportunity Act

Abstract: On July 22, 2014, the President signed the Workforce Innovation Opportunity Act (WIOA) (Pub. L. 113-128). WIOA repeals the Workforce Investment Act of 1998 (WIA). (29 U.S.C. 2801 et seq.) The Department of Labor must develop and issue a Notice of Proposed Rulemaking (NPRM) that proposes to implement the changes WIOA makes to the public workforce system in regulations. Through the NPRM, the Department will propose ways to carry out the purposes of WIOA to provide workforce investment activities, through State and local workforce development systems, that increase employment, retention, and earnings of participants, meet the skill requirements of employers, and enhance the productivity and competitiveness of the Nation.

Priority: Other Significant**Agenda Stage of Rulemaking:** Proposed Rule**Major:** Undetermined**Unfunded Mandates:** Undetermined**CFR Citation:** Not Yet Determined (To search for a specific CFR, visit the [Code of Federal Regulations](#).)**Legal Authority:** sec 503(f) of the Workforce Innovation and Opportunity Act (PL 113-128)**Legal Deadline:**

Action	Source	Description	Date
NPRM	Statutory	Public Law 113-128	01/18/2015
Other	Statutory		01/18/2016

Regulatory Plan:

Statement of Need: On July 22, 2014, the President signed the Workforce Innovation Opportunity Act (WIOA) (Pub. L. 113-128) into law. WIOA repeals the Workforce Investment Act of 1998 (WIA) (29 U.S.C. 2801 et seq.) As a result, the WIA regulations no longer reflect current law and we must change. Therefore, the Department of Labor seeks to develop and issue a Notice of Proposed Rulemaking (NPRM) that proposes to implement the WIOA.

Legal Basis: The Workforce Innovation Opportunity Act (WIOA) (Pub. L. 113-128), signed by the President on July 22, 2014. Section 503(f) of WIOA requires that the Department issue a Notice of Proposed Rulemaking (NPRM) and then Final Rule that implements the changes WIOA makes to the public workforce system in regulations.

Alternatives: Since Congress statutorily directed the Department of Labor to issue a Notice of Proposed Rulemaking (NPRM) and Final Rule that implements the changes WIOA makes to the public workforce system there is no alternative.

Costs and Benefits: Undetermined**Risks:** Undetermined**Timetable:**

Action	Date	FR Cite
NPRM	01/00/2015	

Regulatory Flexibility Analysis Required: Business;
Governmental Jurisdictions; Organizations

Government Levels Affected: Federal; Local; State; Tribal

Federalism: Yes**Energy Affected:** No**Agency Contact:** Portia Wu

Assistant Secretary for Employment and Training

Department of Labor

Employment and Training Administration

200 Constitution Avenue NW., FP Building, Washington, DC 20210

Washington, DC 20210

Phone: 202 639-2700

**Department of Labor (DOL)
Occupational Safety and Health Administration (OSHA)****RIN:** 1218-AC46 [View Related Documents](#)**Title:** Infectious Diseases

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

Priority: Economically Significant**Agenda Stage of Rulemaking:** PreRule**Major:** Undetermined**Unfunded Mandates:** No**CFR Citation:** 29 CFR 1910 (To search for a specific CFR, visit the [Code of Federal Regulations](#).)**Legal Authority:** 5 USC 533; 29 USC 657 and 658; 29 USC 660; 29 USC 666; 29 USC 669; 29 USC 673; ...**Legal Deadline:** None**Regulatory Plan:**

Statement of Need: In 2007, the healthcare and social assistance sector as a whole had 16.5 million employees. Healthcare workplaces can range from small private practices of physicians to hospitals that employ thousands of workers. In addition, healthcare is increasingly being provided in other settings such as nursing homes, free-standing surgical and outpatient centers, emergency care clinics, patients' homes, and prehospitalization emergency care settings. The Agency is particularly concerned by studies that indicate that transmission of infectious diseases to both patients and healthcare workers may be occurring as a result of incomplete adherence to recognized, but voluntary, infection control measures. Another concern is the movement of healthcare delivery from the traditional hospital setting, with its greater infrastructure and resources to effectively implement infection control measures, into more diverse and smaller workplace settings with less infrastructure and fewer resources, but with an expanding worker population.

Legal Basis: The Occupational Safety and Health Act of 1970 authorizes the Secretary of Labor to set mandatory occupational safety and health standards to assure safe and healthful working conditions for working men and women (29 U.S.C. 651).

Alternatives: The alternative to the proposed rulemaking would be to take no regulatory action.

Costs and Benefits: The estimates of the costs and benefits are still under development.

Risks: Analysis of risks is still under development.

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	05/06/2010	75 FR 24835
RFI Comment Period End	08/04/2010	
Analyze Comments	12/30/2010	
Stakeholder Meetings	07/29/2011	
Initiate SBREFA	06/04/2014	
Complete SBREFA	12/00/2014	

Regulatory Flexibility Analysis Required: Business;
Governmental Jurisdictions

Government Levels Affected: Local; State

Federalism: Undetermined

Energy Affected: No

Agency Contact: William Perry

Director, Directorate of Standards and Guidance

Department of Labor

Occupational Safety and Health Administration

200 Constitution Avenue NW., Room N-3718, Washington, DC 20210

Washington, DC 20210

Phone: 202 693-1950

FAX: 202 693-1678

E-Mail: perry.bill@dol.gov

Department of Labor (DOL)

Occupational Safety and Health Administration (OSHA)

RIN: 1218-AB70

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Title: Occupational Exposure to Crystalline Silica

Abstract: Crystalline silica is a significant component of the earth's crust, and many workers in a wide range of industries are exposed to it, usually in the form of respirable quartz or, less frequently, cristobalite. Chronic silicosis is a uniquely occupational disease resulting from exposure of employees over long periods of time (10 years or more). Exposure to high levels of respirable crystalline silica causes acute or accelerated forms of silicosis that are ultimately fatal. The current OSHA permissible exposure limit (PEL) for general industry is based on a formula proposed by the American Conference of Governmental Industrial Hygienists (ACGIH) in 1968 (PEL=10mg/cubic meter/(% silica + 2), as respirable dust). The current PEL for construction and shipyards (derived from ACGIH's 1970 Threshold Limit Value) is based on particle counting technology, which is considered obsolete. NIOSH and ACGIH recommend 50µg/m³ and 25µg/m³ exposure limits, respectively, for respirable crystalline silica. Both industry and worker groups have recognized that a comprehensive standard for crystalline silica is needed to provide for exposure monitoring, medical surveillance, and worker training. ASTM International has published recommended standards for addressing the hazards of crystalline silica. The Building Construction Trades Department of the AFL-CIO has also developed a recommended comprehensive program standard. These standards include provisions for methods of compliance, exposure monitoring, training, and medical surveillance. The NPRM was published on September 12, 2013. OSHA received over 1,700 comments from the public on the proposed rule, and over 200 stakeholders provided testimony during public hearings on the proposal. In the coming months, the agency will review and consider the evidence in the rulemaking record. Based upon this review, OSHA will determine an appropriate course of action with regard to workplace exposure to respirable crystalline silica.

Priority: Economically Significant

Agenda Stage of Rulemaking: Proposed Rule

Major: Yes

Unfunded Mandates: Private Sector

CFR Citation: 29 CFR 1910; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918; 29 CFR 1926 (To search for a specific CFR, visit the [Code of Federal Regulations](#).)

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

Legal Deadline: None

Regulatory Plan:

Statement of Need: Workers are exposed to crystalline silica dust in general industry, construction, and maritime industries. Industries that could be particularly affected by a standard for crystalline silica include: foundries, industries that have abrasive blasting operations, paint manufacture, glass and concrete product manufacture, brick making, china and pottery manufacture, manufacture of plumbing fixtures, and many construction activities including highway repair, masonry, concrete work, rock drilling, and tuckpointing. The seriousness of the health hazards associated with silica exposure is demonstrated by the fatalities and disabling illnesses that continue to occur. From 2006 to 2010 silicosis was identified on 617 death certificates as an underlying or contributing cause of death. It is likely that many more cases have occurred where silicosis went undetected. In addition, the International Agency for Research on Cancer has designated crystalline silica as carcinogenic to humans, and the National Toxicology Program has concluded that respirable crystalline silica is a known human carcinogen. Exposure to crystalline silica has also been associated with an increased risk of developing tuberculosis and other nonmalignant respiratory diseases, as well as renal and autoimmune diseases. Exposure studies and OSHA enforcement data indicate that some workers continue to be exposed to levels of crystalline silica far in excess of current exposure limits. Congress has included compensation of silicosis victims on Federal nuclear testing sites in the Energy Employees' Occupational Illness Compensation Program Act of 2000. There is a particular need for the Agency to modernize its exposure limits for construction and shipyard workers.

Legal Basis: The legal basis for the proposed rule is a preliminary determination that workers are exposed to a significant risk of silicosis and other serious disease, and that rulemaking is needed to substantially reduce the risk. In addition, the proposed rule will recognize that the PELs for construction and maritime are outdated, and need to be revised to reflect current sampling and analytical technologies.

Alternatives: Over the past several years, the Agency has attempted to address this problem through a variety of non-regulatory approaches, including initiation of a Special Emphasis Program on silica in October 1997, sponsorship with NIOSH and MSHA of the National Conference to Eliminate Silicosis, and dissemination of guidance information on its website.

Costs and Benefits: The scope of the proposed rulemaking and estimates of the costs and benefits are still under development.

Risks: A detailed risk analysis is under way.

Timetable:

Action	Date	FR Cite
Completed SBREFA Report	12/19/2003	
Initiated Peer Review of Health Effects and Risk Assessment	05/22/2009	
Completed Peer Review	01/24/2010	
NPRM	09/12/2013	78 FR 56274
NPRM Comment Period Extended; Notice of Intention to Appear at Pub Hearing; Scheduling Pub Hearing	10/31/2013	78 FR 65242
NPRM Comment Period Extended	01/29/2014	79 FR 4641
Informal Public Hearing	03/18/2014	
Post Hearing Briefs Ends	08/18/2014	
Analyze Comments	06/00/2015	

Regulatory Flexibility Analysis Required: Business

Government Levels Affected: Federal; Local; State; Tribal

Federalism: Yes

Energy Affected: No

Agency Contact: William Perry

Director, Directorate of Standards and Guidance

Department of Labor

Occupational Safety and Health Administration

200 Constitution Avenue NW., Room N-3718, Washington, DC 20210

Washington, DC 20210

Phone: 202 693-1950

FAX: 202 693-1678

E-Mail: perry.bill@dol.gov

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

RIN: 1218-AC49

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Title: Improve Tracking of Workplace Injuries and Illnesses

Abstract: Occupational Safety and Health Administration (OSHA) is making changes to its reporting system for occupational injuries and illnesses. An updated and modernized reporting system would enable a more efficient and timely collection of data, and would improve the accuracy and availability of the relevant records and statistics. This rulemaking involves modification to 29 CFR part 1904.41 to expand OSHA's legal authority to collect and make available injury and illness information required under part 1904.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 29 CFR 1904 (To search for a specific CFR, visit the [Code of Federal Regulations](#).)

Legal Authority: 29 USC 657

Legal Deadline: None

Regulatory Plan:

Statement of Need: The collection of establishment specific injury and illness data in electronic format on a timely basis is needed to help OSHA, employers, employees, researchers, and the public more effectively prevent workplace injuries and illnesses, as well as support President Obama's Open Government Initiative to increase the ability of the public to easily find, download, and use the resulting dataset generated and held by the Federal Government.

Legal Basis: The Occupational Safety and Health Act of 1970 authorizes the Secretary of Labor to develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics (29 U.S.C. 673).

Alternatives: The alternative to the proposed rulemaking would be to take no regulatory action.

Costs and Benefits: The estimates of the costs and benefits are still under development.

Risks: Analysis of risks is still under development.

Timetable:

Action	Date	FR Cite
Stakeholder Meetings	05/25/2010	75 FR 24505
Comment Period End	06/18/2010	
Public Meeting	01/09/2013	
NPRM	11/08/2013	78 FR 67253
Notice of Public Meeting	11/15/2013	78 FR 68782
NPRM Comment Period Reopened	08/14/2014	79 FR 47605
NPRM Comment Period End	10/14/2014	
Final Rule	08/00/2015	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Federalism: No

Agency Contact: Francis Yebesi

Acting Director, Directorate of Evaluation and Analysis

Department of Labor

Occupational Safety and Health Administration

200 Constitution Avenue NW., FP Bld, Rm N-3641, Washington, DC 20210

Washington, DC 20210

Phone: 202 693-2400

FAX: 202 693-1641

E-Mail: yebesi.francis@dol.gov

Department of Labor (DOL)

Mine Safety and Health Administration (MSHA)

RIN: 1219-AB36

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Title: Respirable Crystalline Silica

Abstract: Current standards limit exposures to quartz (crystalline silica) in respirable dust. The metal and nonmetal mining industry standard is based on the 1973 American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Values formula: 10 mg/m³ divided by the percentage of quartz plus 2. Overexposure to crystalline silica can result in some miners developing silicosis, an irreversible but preventable lung disease, which ultimately may be fatal. The formula is designed to limit exposures to 0.1 mg/m³ (100 ug/m³) of silica. The National Institute for Occupational Safety and Health (NIOSH) recommends a 50 ug/m³ exposure limit for respirable crystalline silica. MSHA will publish a proposed rule to address miners' exposure to respirable crystalline silica.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Major: No

Unfunded Mandates: No

CFR Citation: 30 CFR 58 (To search for a specific CFR, visit the [Code of Federal Regulations](#).)

Legal Authority: 30 USC 811

Legal Deadline: None

Regulatory Plan:

Statement of Need: MSHA standards are outdated; current regulations may not protect workers from developing silicosis. Evidence indicates that miners continue to develop silicosis. MSHA's proposed regulatory action exemplifies the Agency's commitment to protecting the most vulnerable populations while assuring broad-based compliance. MSHA will regulate based on sound science to eliminate or reduce the hazards with the broadest and most serious consequences. MSHA intends to use OSHA's work on the health effects and risk assessment, adapting it as necessary for the mining industry.

Legal Basis: Promulgation of this standard is authorized by section 101 of the Federal Mine Safety and Health Act of 1977.

Alternatives: This rulemaking would improve health protection from that afforded by the existing standards. MSHA will consider alternative methods of addressing miners' exposures based on the capabilities of the sampling and analytical methods.

Costs and Benefits: MSHA will prepare estimates of the anticipated costs and benefits associated with the proposed rule.

Risks: For over 70 years, toxicology information and epidemiological studies have shown that exposure to respirable crystalline silica presents potential health risks to miners. These potential adverse health effects include simple silicosis and progressive massive fibrosis (lung scarring). Evidence indicates that exposure to silica may cause cancer. MSHA believes that the health evidence forms a reasonable basis for reducing miners' exposures to respirable crystalline silica.

Timetable:

Action	Date	FR Cite
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NPRM

10/00/2015

Regulatory Flexibility Analysis Required: Undetermined **Government Levels Affected:** Local; State
Small Entities Affected: Business; Governmental Jurisdictions **Federalism:** No
Energy Affected: Undetermined
RIN Information URL: www.msha.gov/regsinfo.htm **Public Comment URL:** www.regulations.gov
Agency Contact: Sheila McConnell
Acting Director, Office of Standards, Regulations, and Variances
Department of Labor
Mine Safety and Health Administration
1100 Wilson Boulevard, Room 2350, Arlington, VA 22209
Arlington, VA 22209
Phone: 202 693-9440
FAX: 202 693-9441
E-Mail: mcconnell.sheila.a@dol.gov

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

RIN: 1219-AB72

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Title: Criteria and Procedures for Proposed Assessment of Civil Penalties

Abstract: Mine Safety and Health Administration (MSHA) revise the process for proposing civil penalties. The assessment of civil penalties is a key component in MSHA's strategy to enforce safety and health standards. The Congress intended that the imposition of civil penalties would induce mine operators to be proactive in their approach to mine safety and health, and take necessary action to prevent safety and health hazards before they occur. MSHA believes that the procedures for assessing civil penalties can be revised to improve the efficiency of the Agency's efforts and to facilitate the resolution of enforcement issues.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Major: No

Unfunded Mandates: No

CFR Citation: 30 CFR 100 (To search for a specific CFR, visit the [Code of Federal Regulations](#).)

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

Legal Deadline: None

Regulatory Plan:

Statement of Need: Section 110(a) of the Federal Mine Safety and Health Act of 1977 (Mine Act) requires MSHA to assess a civil penalty for a violation of a mandatory health or safety standard or violation of any provision of the Mine Act. The mine operator has 30 days from receipt of the proposed assessment to contest it before the Federal Mine Safety and Health Review Commission (Commission), an independent adjudicatory agency established under the Mine Act. A proposed assessment that is not contested within 30 days becomes a final order of the Commission. A proposed assessment that is contested within 30 days proceeds to the Commission for adjudication. The proposed rule would promote consistency, objectivity, and efficiency in the proposed assessment of civil penalties. When issuing citations or orders, inspectors are required to evaluate safety and health conditions, and make decisions about the statutory criteria related to assessing penalties. The proposed changes in the measures of the evaluation criteria would result in fewer areas of disagreement and earlier resolution of enforcement issues. The proposal would require conforming changes to the Mine Citation/Order form (MSHA Form 7000-3).

Legal Basis: Section 104 of the Mine Act requires MSHA to issue citations or orders to mine operators for any violations of a mandatory health or safety standard, rule, order, or regulation promulgated under the Mine Act. Sections 105 and 110 of the Mine Act provide for assessment of these penalties.

Alternatives: The proposal would include several alternatives in the preamble and requests comments on them.

Costs and Benefits: MSHA's proposed rule includes an estimate of the anticipated costs and benefits.

Risks: MSHA's existing procedures for assessing civil penalties can be revised to improve the efficiency of the Agency's efforts and to facilitate the resolution of enforcement issues. In the overwhelming majority of contested cases before the Commission, the issue is not whether a violation occurred. Rather, the parties disagree on the gravity of the violation, the degree of mine operator negligence, and other criterion. The proposed changes should result in fewer areas of disagreement and earlier resolution of enforcement issues, which should result in fewer contests of violations or proposed assessments.

Timetable:

Action	Date	FR Cite
NPRM	07/31/2014	79 FR 44494
NPRM Comment Period Extended	09/16/2014	79 FR 55408
NPRM Comment Period End	09/29/2014	
NPRM Notice of Public Hearings, Close of Comment Period	11/07/2014	79 FR 66345

NPRM Comment Period Extended End	12/03/2014	
NPRM Notice of Public Hearings, Close of Comment Period End	01/09/2015	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: No

Small Entities Affected: Business

Federalism: No

Energy Affected: No

RIN Information URL: www.msha.gov/regsinfo.htm

Public Comment URL: www.regulations.gov

Agency Contact: Sheila McConnell

Acting Director, Office of Standards, Regulations, and Variances

Department of Labor

Mine Safety and Health Administration

1100 Wilson Boulevard, Room 2350, Arlington, VA 22209

Arlington, VA 22209

Phone: 202 693-9440

FAX: 202 693-9441

E-Mail: mcconnell.sheila.a@dol.gov

Department of Labor (DOL)

Mine Safety and Health Administration (MSHA)

RIN: 1219-AB78

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Title: Proximity Detection Systems for Mobile Machines in Underground Mines

Abstract: Mine Safety and Health Administration (MSHA) will develop a proposed rule to address the hazards that miners face when working near mobile equipment in underground mines. MSHA has concluded, from investigations of accidents involving mobile equipment and other reports, that action is needed to protect miner safety. Mobile equipment can pin, crush, or strike a miner working near the equipment. Proximity detection technology can prevent these types of accidents. The proposed rule would strengthen the protection for underground miners by reducing the potential of pinning, crushing, or striking hazards associated with working close to mobile equipment.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Major: No

Unfunded Mandates: No

CFR Citation: Not Yet Determined (To search for a specific CFR, visit the [Code of Federal Regulations](#).)

Legal Authority: 30 USC 811

Legal Deadline: None

Regulatory Plan:

Statement of Need: Mining is one of the most hazardous industries in this country. Miners continue to be injured or killed resulting from pinning, crushing, or striking accidents involving mobile equipment. Equipment is available to help prevent accidents that cause debilitating injuries and accidental death.

Legal Basis: Promulgation of this standard is authorized by section 101(a) of the Federal Mine Safety and Health Act of 1977, as amended by the Mine Improvement and New Emergency Response Act of 2006.

Alternatives: No reasonable alternatives to this regulation would be as comprehensive or as effective in eliminating hazards and preventing injuries.

Costs and Benefits: MSHA will develop a preliminary regulatory economic analysis to accompany the proposed rule.

Risks: The lack of proximity detection systems on mobile equipment in underground mines contributes to a higher incidence of debilitating injuries and accidental deaths.

Timetable:

Action	Date	FR Cite
Request for Information	02/01/2010	75 FR 5009
RFI Comment Period Ended	04/02/2010	
NPRM	01/00/2015	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Small Entities Affected: Business

Federalism: No

Energy Affected: No

RIN Information URL: www.msha.gov/regsinfo.htm

Public Comment URL: www.regulations.gov

Related RINs: Related to 1219-AB65

Agency Contact: Sheila McConnell

Acting Director, Office of Standards, Regulations, and Variances

Department of Labor
 Mine Safety and Health Administration
 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209
 Arlington, VA 22209
 Phone: 202 693-9440
 FAX: 202 693-9441
 E-Mail: mcconnell.sheila.a@dol.gov

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

RIN: 1219-AB65

 [View Related Documents](#)

Title: Proximity Detection Systems for Continuous Mining Machines in Underground Coal Mines

Abstract: This final rule addresses hazards that miners face when working near continuous mining machines in underground coal mines. Mine Safety and Health Administration (MSHA) has concluded, from investigations of accidents involving continuous mining machines and other reports, that action is necessary to protect miners. Continuous mining machines can pin, crush, or strike a miner working near the equipment. Proximity detection technology can prevent these types of accidents. The final rule would strengthen the protection for underground coal miners by reducing the potential of pinning, crushing, or striking hazards associated with working close to continuous mining machines.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 30 CFR 75.1732 (To search for a specific CFR, visit the [Code of Federal Regulations](#).)

Legal Authority: 30 USC 811

Legal Deadline: None

Regulatory Plan:

Statement of Need: Mining is one of the most hazardous industries in this country. Miners continue to be injured or killed resulting from pinning, crushing, or striking accidents involving mobile equipment. Equipment is available to help prevent accidents that cause debilitating injuries and accidental death.

Legal Basis: Promulgation of this standard is authorized by section 101(a) of the Federal Mine Safety and Health Act of 1977, as amended by the Mine Improvement and New Emergency Response Act of 2006.

Alternatives: No reasonable alternatives to this regulation would be as comprehensive or as effective in eliminating hazards and preventing injuries.

Costs and Benefits: MSHA will develop a regulatory economic analysis to accompany the final rule.

Risks: The lack of proximity detection systems on continuous mining machines in underground coal mines contributes to a higher incidence of debilitating injuries and accidental deaths.

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	02/01/2010	75 FR 5009
RFI Comment Period Ended	04/02/2010	
NPRM	08/31/2011	76 FR 54163
Notice of Public Hearing	10/12/2011	76 FR 63238
NPRM Comment Period End	11/14/2011	
Final Action	12/00/2014	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Small Entities Affected: Business

Federalism: No

RIN Information URL: www.msha.gov/reginfo.htm

Public Comment URL: www.regulations.gov

Related RINs: Related to 1219-AB78

Agency Contact: Sheila McConnell

Acting Director, Office of Standards and Variances

Department of Labor

Mine Safety and Health Administration

1100 Wilson Boulevard, Room 2350, Arlington, VA 22209

Arlington, VA 22209

Phone: 202 693-9440

FAX: 202 693-9441

E-Mail: mcconnell.sheila.a@dol.gov

