MEMORANDUM FOR THE SECRETARY

FROM: Stephanie Swirsky
Deputy Assistant Secretary for Policy
Laura Dawkins
Director, Office of Regulatory and Programmatic Policy

DATE: May 23, 2017

Subject: Progress Report on Implementation of Executive Order 13777, "Enforcing the Regulatory Reform Agenda"

Summary

On February 24, 2017, President Trump signed Executive Order (EO) 13777, entitled "Enforcing the Regulatory Reform Agenda." The EO directs agencies to appoint a Regulatory Reform Officer (RRO) and to establish a Regulatory Reform Task Force (RRTF). It also requires the task force to provide a report to the agency head within ninety (90) days (May 25, 2017), and on a schedule determined by the agency head thereafter, detailing the agency's progress toward improving the implementation of regulatory reform initiatives and policies pursuant to the EO and identifying regulations for repeal, replacement, or modification. This memo serves as the initial report.

Initial Plan

The Office of the Assistant Secretary for Policy (OASP) is responsible for overseeing the Department's regulatory activities. OASP also manages the Department's regulatory interaction with the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA), and the Office of the Federal Register. In addition, OASP develops initiatives and manages cross and intra-departmental activities to advance the mission of the Department. It is because of these roles that OASP is uniquely situated to manage the Department's efforts under this EO.

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Appointment of a Regulatory Reform Officer

In March 2017, OASP proposed, and Acting Secretary Hugler approved, an initial path forward for implementing the EO. The EO mandated the appointment of an RRO within sixty (60) days of the date of the order (April 25, 2017). Each RRO is tasked with overseeing the implementation of regulatory reform initiatives and policies, and keeping agency leadership apprised of such activities. The Department appointed the Director of the Office of Regulatory and Programmatic Policy (ORPP) within OASP to serve as the RRO.

Creation of a Regulatory Reform Task Force

The EO also directed agencies to establish an RRTF that is composed of: (1) the agency RRO (who chairs the task force); (2) the agency Regulatory Policy Officer designated under Executive Order 12866; (3) a representative from the agency’s central policy office or equivalent central office; and (4) at least three additional senior agency officials as determined by the agency head.

It was determined that there would not be sub-agency specific task forces but, rather, the RRTF would be managed at the department level and would be comprised of career leadership from the DOL agencies responsible for the majority of the Department’s regulations. The membership includes the following (or their designee):

1. RRO (Director, ORPP);
2. Deputy Secretary or designee;
3. Regulatory Policy Officer (Assistant Secretary for Policy);
4. Deputy Assistant Secretary for Policy;
5. Assistant Administrator of Policy, WHD;
6. Deputy Assistant Secretary for Program Operations, EBSA;
7. Director of Standards and Guidance, OSHA;
8. Deputy Assistant Secretary for Operations, MSHA;
10. Director, Performance Management Center, OASAM; and
11. Departmental Clearance Officer for Information Collections, Office of the Chief Information Officer, OASAM

Other agencies, such as ETA, OLMS, and OFCCP, are participants but not official members of the RRTF. In addition, OASP staff worked with those agencies that are not members or participants of the RRTF to secure their contributions to this effort.

The RRTF is tasked with evaluating existing regulations and making recommendations regarding the repeal, replacement, or modification of regulations that:

1. Eliminate jobs or inhibit job creation;
2. Are outdated, unnecessary, or ineffective;

Memorandum from Stephanie Swirsky, Deputy Assistant Secretary of Policy and Laura Dawkins, Director, Office of Regulatory and Programmatic Policy, OASP, “Implementation of Executive Order, ‘Enforcing the Regulatory Reform Agenda’” (March 9, 2017).
(3) Impose costs that exceed benefits;
(4) Create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;
(5) Rely in whole or in part on data, information, or methods that are not publicly available or that are not transparent enough to be reproduced; or
(6) Derive from executive orders or other Presidential directives that have been rescinded or modified.

The EO further directs the RRTF to seek input and other assistance from entities significantly affected by Federal regulations, including State, local, and tribal governments, small businesses, consumers, non-governmental organizations, and trade associations.

Implementation

The RRTF convened two meetings with discussions centering on the EO-mandated deliverables, with agencies agreeing on guiding principles for: (1) reviewing regulatory actions; (2) conducting stakeholder outreach; (3) developing performance metrics; and (4) reporting its progress. Based upon those principles, agencies have taken significant action to begin identifying regulations for repeal, replacement, and modification.

Guiding Principles

Qualifying Regulatory Actions

The RRTF agreed on the range of agency regulatory actions that should be considered for review. Those actions include:

- Informal, formal, and negotiated rulemaking;
- Guidance and interpretive documents;
- Some actions related to international regulatory cooperation; and
- Information collection requests that repeal or streamline recordkeeping, reporting, or disclosure requirements. OASAM OCIO agreed to provide a monthly report to OASP identifying information collection requests that reduce burden for inclusion in the effort.

Stakeholder Engagement

The RRTF also examined the requirement to conduct stakeholder outreach as part of the Regulatory Reform process, options to perform the outreach, and concerns that broad outreach may result in unfocused feedback that was not actionable. The RRTF concluded that it will solicit stakeholder input through ongoing agency-specific engagements as it will be the most effective process for obtaining specific, actionable stakeholder input since each agency’s stakeholder community is unique. Options for broader or more formal outreach will be considered based on future OIRA guidance around outreach expectations.
Annual Performance Plan

The EO directs agencies to incorporate into their annual performance plans (APP), performance indicators that measure progress toward implementing regulatory reform initiatives and identifying regulations for repeal, replacement, or modification. On April 28, 2017, OIRA issued guidance regarding measures to include in APPs. This guidance specified the following to be included in those plans beginning with the FY 2019 APP:

1. Five performance indicators for use in assessing progress toward identifying regulations for repeal, replacement, or modification;
2. Other meaningful performance indicators and goals for the purpose of evaluating and improving the net benefits of regulatory programs; and
3. Performance in terminating any programs or activities that derive from or implement EOs, guidance documents, policy memoranda, rule interpretations, and similar documents, or relevant portions thereof, that have been rescinded or that were terminated during the fiscal year.

The RRTF agreed that because this effort is being managed at the Department level, these performance measures would be included in OASP’s Operating Plan. OASAM’s Performance Management Center will work with OASP to develop the specific performance metrics to include in its FY 2018 Operating Plan (and first reported in the Department’s FY 2019 APP).

Report to Agency Head

The RRTF determined it is most efficient to provide Agency leadership with its progress semi-annually to coincide with the development and issuance of the Unified Regulatory Agenda.

Agency Actions

The Department incorporated the work of the RRTF into the development of its submission to the Spring 2017 Unified Regulatory Agenda. As part of the agenda development, agencies were asked to consider inclusion of deregulatory actions repealing, replacing, or modifying outdated, inefficient, unnecessary, or overly burdensome regulations. As a result of this review, the Department included 11 deregulatory actions on the Spring Agenda.

In addition, each RRTF member agency submitted a brief report on the initial actions they have taken in response to the EO, stakeholder outreach activities, and regulations that they have identified as possible candidates for modification, repeal, or replacement. Below are highlights of the member agency actions planned and to date:

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4 The Department’s Spring 2017 Unified Regulatory Agenda submission is attached to this memorandum.
5 The agency reports are attached to this memorandum.
**EBSA**

- Explore the establishment of a new internal committee to undertake a long-term, comprehensive review of all regulations under EBSA's jurisdiction.
- Conduct Direct Public Engagement, including maintaining a rigorous practice of soliciting informal public input through speeches, meetings, and public outreach events, and seriously considering publishing a Request for Information (RFI) on the new definition of "fiduciary."
- Requested that the ERISA Advisory Council initiate a focused examination of the pension and welfare plan (including health plan) disclosure requirements under Title 29 of the CFR and to make a written report with recommendations for improvement. EBSA will use the Council's report as a basis for internal consideration of possible deregulatory actions in the future.
- Identify up to five deregulatory actions for inclusion on the Spring Unified Regulatory Agenda.

**MSHA**

- Establish an internal Working Group comprised of staff from several agency program offices to evaluate and identify deregulatory actions.
- Conduct robust stakeholder outreach by:
  - Informing participants during its quarterly training and stakeholder calls, walks and talks, conferences, and alliance meetings that it is seeking input on its regulatory reform initiative.
  - (b)(5)

**OSHA**

- Form a Working Group to systematically review existing standards and identify opportunities to eliminate or modify unnecessary or outdated requirements.
- Work with the SBA Office of Advocacy to begin stakeholder outreach through its Small Business Roundtables.
- Identify four deregulatory actions for inclusion on the Spring Unified Regulatory Agenda.

**WHD**

- Continue to meet with stakeholders and conducting stakeholder outreach to keep the cycle of feedback on regulatory and guidance issues in the forefront.
- Identify three deregulatory actions.
- Develop a plan to review all 16 of its information collections as they come up for renewal over the next three years to search for efficiencies and opportunities to streamline processes.
As part of this effort, OASP analysts worked with agencies that are not part of the RRTF to begin to identify regulatory actions that could be repealed, replaced, or modified. Combined, ETA and VETS identified approximately seven broad regulations that could potentially be repealed and two information collections that could be phased out. Several other agencies responded that they had determined they had no regulations to repeal because they implement statutory or executive order requirements. OASP will continue to work with these agencies to identify other potential deregulatory actions.

Next Steps

The RRTF will continue its work in identifying regulations for repeal, replacement, or modification with an eye toward maintaining a “bank” from which to draw deregulatory actions to satisfy the requirement of EO 13771 (which requires agencies to offset the number and cost of new regulations) 6 and 13777. In addition, the RRTF will participate in the update of the Department’s Retrospective Review Plan. It will also develop an approach and structure for public outreach, including leveraging the robust stakeholder meetings each of the RRTF agencies conduct with their stakeholders. As part of that stakeholder outreach, members of the RRTF will participate in the regulatory roundtables the SBA’s Office of Advocacy will conduct across the country. These roundtables are an SBA effort to hear directly from small businesses about what regulations concern them most. Below is a list and timetable of these activities.

<table>
<thead>
<tr>
<th>Action</th>
<th>Date</th>
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<tbody>
<tr>
<td>RRTF Touch Base</td>
<td>Monthly – next one in June 2017</td>
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<tr>
<td>Attendance at SBA Roundtable</td>
<td>June 7-8, 2017</td>
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<tr>
<td>Retrospective Review Complete</td>
<td>July 2017</td>
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<tr>
<td>Fall Regulator Plan and Unified Regulatory Agenda</td>
<td>Fall 2017</td>
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<tr>
<td>Second Report to the Secretary</td>
<td>Fall 2017</td>
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For additional information regarding the Executive Order or this memorandum or if you would like a briefing on the Executive Order or this memorandum, please contact Stephanie Swirsky or Laura Dawkins.

Attachments

cc:
Tim Hauser
Mary Ziegler
Sheila McConnell
Susan Harthill
Dennis Johnson
Michel Smyth

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DEPARTMENT OF LABOR
Office of the Secretary
20 CFR Chs. I, IV, V, VI, VII, and IX
29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV
30 CFR Ch. I
41 CFR Ch. 60
48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor

ACTION: Semiannual Regulatory Agenda

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

FOR FURTHER INFORMATION CONTACT: Laura M. Dawkins, Director, Office of Regulatory and Programmatic Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW, Room S-2312, Washington, DC 20210; (202) 693-5959.

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

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

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

**Occupational Safety and Health Administration**

Bloodborne Pathogens (RIN 1218-AC34)

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

EDWARD C. HUGLER,

*Acting Secretary of Labor*

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**Office of the Secretary—Long-Term Actions**

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<tr>
<td>1</td>
<td>Administrative Review Board Rules of Practice and Procedure</td>
<td>1290-AA28</td>
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**Office of the Secretary—Completed Actions**

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<td>2</td>
<td>Department of Labor Freedom of Information Act Regulations</td>
<td>1290-AA30</td>
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<td>3</td>
<td>Department of Labor Federal Civil Penalties Inflation Adjustment Act Catch-Up Adjustments</td>
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<td>Interpretation of the Advice Exemption in Section 203(c) of the Labor-Management Reporting and Disclosure Act</td>
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<td>7</td>
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<td>Request for Information on the Impact of the Use of Electronic Devices by Nonexempt Employees on Hours Worked Issues</td>
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<td>Savings Arrangements Established by States for Non-Governmental Employees</td>
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<td>Savings Arrangements Established by Political Subdivisions for Non-Governmental Employees</td>
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<td>1210–AB76</td>
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<td>Non-Governmental Employees</td>
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<td>45</td>
<td>Interpretive Bulletin relating to the Exercise of Shareholder Rights</td>
<td>1210–AB78</td>
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<td></td>
<td>and Written Statements of Investment Policy, including Proxy</td>
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<td>Voting Policies or Guidelines</td>
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**Mine Safety and Health Administration—Prerule Stage**

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<td>Exposure of Underground Miners to Diesel Exhaust</td>
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<td>47</td>
<td>Examination of Working Places in Metal and Nonmetal Mines</td>
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**Mine Safety and Health Administration—Final Rule Stage**
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<td>48</td>
<td>Refuge Alternatives for Underground Coal Mines; Limited Reopening of the Record</td>
<td>1219–AB84</td>
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Mine Safety and Health Administration—Long-Term Actions

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<tr>
<td>49</td>
<td>Respirable Crystalline Silica</td>
<td>1219–AB36</td>
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<td>50</td>
<td>Proximity Detection Systems for Mobile Machines in Underground Mines</td>
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Mine Safety and Health Administration—Completed Actions

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<tr>
<td>51</td>
<td>Criteria and Procedures for Proposed Assessment of Civil Penalties</td>
<td>1219–AB72</td>
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<tr>
<td>52</td>
<td>Refuge Alternatives for Underground Coal Mines</td>
<td>1219–AB79</td>
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<tr>
<td>53</td>
<td>Request for Information to Improve the Health and Safety of Miners and to Prevent Accidents in Underground Coal Mines</td>
<td>1219–AB85</td>
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Office of the Assistant Secretary for Administration and Management—Completed
Actions

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Occupational Safety and Health Administration—Prerule Stage

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<td>55</td>
<td>Communication Tower Safety</td>
<td>1218–AC90</td>
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<td>56</td>
<td>Quantitative Fit Testing Protocol: Amendment to the Final Rule on Respiratory Protection</td>
<td>1218–AC94</td>
</tr>
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<td>57</td>
<td>Mechanical Power Presses Update</td>
<td>1218–AC98</td>
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<td>58</td>
<td>Powered Industrial Trucks</td>
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<td>59</td>
<td>Lock-Out/Tag-Out Update</td>
<td>1218–AD00</td>
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<td>60</td>
<td>Blood Lead Level for Medical Removal</td>
<td>1218–AD10</td>
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<td>61</td>
<td>Clarification of Employer's Continuing Obligation to Make and Maintain Accurate Records of Each Recordable Injury and Illness</td>
<td>1218–AD14</td>
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<td>62</td>
<td>Improve Tracking of Workplace Injuries and Illness</td>
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<td>63</td>
<td>Occupational Exposure to Beryllium</td>
<td>1218–AB76</td>
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<td>64</td>
<td>Crane Operator Qualification in Construction</td>
<td>1218–AC96</td>
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<td>65</td>
<td>Cranes and Derricks in Construction: Exemption Expansions for Railroad Roadway Work</td>
<td>1218–AD07</td>
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<td>66</td>
<td>Technical Corrections to 16 OSHA Standards</td>
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<td>67</td>
<td>Puerto Rico State Plan</td>
<td>1218–AD13</td>
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**Occupational Safety and Health Administration—Final Rule Stage**

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<td>68</td>
<td>Standards Improvement Project IV</td>
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**Occupational Safety and Health Administration—Long-Term Actions**

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<td>Occupational Injury and Illness Recording and Reporting Requirements—Musculoskeletal Disorders (MSD) Column</td>
<td>1218–AC45</td>
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<td>70</td>
<td>Infectious Diseases</td>
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<td>71</td>
<td>Amendments to the Cranes and Derricks in Construction Standard</td>
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<td>72</td>
<td>Process Safety Management and Prevention of Major Chemical Accidents</td>
<td>1218–AC82</td>
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<td>73</td>
<td>Shipyard Fall Protection—Scaffolds, Ladders and Other Working Surfaces</td>
<td>1218–AC85</td>
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<td>74</td>
<td>Emergency Response and Preparedness</td>
<td>1218–AC91</td>
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<td>75</td>
<td>Update to the Hazard Communication Standard</td>
<td>1218–AC93</td>
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<td>Rules of Agency Practice and Procedure Concerning OSHA Access to Employee Medical Records</td>
<td>1218–AC95</td>
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<td>77</td>
<td>Tree Care Standard</td>
<td>1218–AD04</td>
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<td>78</td>
<td>Prevention of Workplace Violence in Health Care and Social Assistance</td>
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**Occupational Safety and Health Administration—Completed Actions**

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<td>79</td>
<td>Walking Working Surfaces and Personal Fall Protection Systems (Slips, Trips, and Fall Prevention)</td>
<td>1218–AB80</td>
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<td>80</td>
<td>Bloodborne Pathogens <em>(Completion of a Section 610 Review)</em></td>
<td>1218–AC34</td>
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<td>81</td>
<td>Combustible Dust</td>
<td>1218–AC41</td>
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<td>82</td>
<td>Injury and Illness Prevention Program</td>
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<td>83</td>
<td>Preventing Backover Injuries and Fatalities</td>
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<td>84</td>
<td>Chemical Management and Permissible Exposure Limits (PELs)</td>
<td>1218–AC74</td>
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<tr>
<td>85</td>
<td>Clarification of Employer's Continuing Obligation to Make and Maintain Accurate Records of Each Recordable Injury and Illness</td>
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<td>87</td>
<td>Revocation of Obsolete Permissible Exposure Limits (PELs)</td>
<td>1218–AD01</td>
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<td>88</td>
<td>Eliminating Requirements for Employee Social Security Numbers in OSHA Standards</td>
<td>1218–AD02</td>
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<td>89</td>
<td>Subpart Q Update</td>
<td>1218–AD03</td>
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<td>90</td>
<td>1-Bromopropane (1-BP) Standard</td>
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<td>91</td>
<td>Noise in Construction</td>
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<td>92</td>
<td>Occupational Exposure to Styrene</td>
<td>1218–AD09</td>
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<td>93</td>
<td>Updating Requirements for the Selection, Fit Testing, and Use of Hearing Protection Devices</td>
<td>1218–AD11</td>
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Office of the Assistant Secretary for Veterans' Employment and Training—Completed Actions

<table>
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<tr>
<td>94</td>
<td>Compliance With the VOW to Hire Heroes Act on the Requirements of DVOPs and LVERs</td>
<td>1293–AA19</td>
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</table>

Department of Labor (DOL) | Long-Term Actions
Office of the Secretary (OS) | 1. ADMINISTRATIVE REVIEW BOARD RULES OF PRACTICE AND PROCEDURE
Priority: Substantive, Nonsignificant

Legal Authority: Secretary of Labor Order 02-2012, 75 FR 69378 (Nov. 16, 2012)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The proposed regulations establish procedures for appeals before the Administrative Review Board. The Board has jurisdiction, pursuant to a delegation of authority by the Secretary of Labor, over appeals of decisions and orders issued by Department of Labor Administrative Law Judges and the Administrator of the Wage and Hour Division arising under those laws and implementing regulations identified in Secretary's Order 02-2012, 75 Fed. Reg. 69378 (Nov. 16, 2012). The Board currently has agency appellate review authority over more than 50 worker protections laws. Since the Board's formation in 1996, it has operated without prescribed rules of practice and procedure. The proposed regulations incorporate and codify current Board operating procedures to provide more thorough and accurate rules, and guidance to parties who come before the Board. The regulations establish rules of practice and procedure for the Board that would apply where a governing statute, regulation, or Executive order does not establish contrary rules of practice or procedure and where rules of practice and procedure currently do not exist. They are intended to govern all appeals and proceedings before the Board when not in conflict with a governing statute, regulation or Executive order.

Timetable:

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<th>Action</th>
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Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Edward Cooper Brown, Deputy Chief Administrative Appeals Judge, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., FP Building, Washington, DC 20210

Phone: 202 693–5030

Email: brown.e.cooper@dol.gov
2. DEPARTMENT OF LABOR FREEDOM OF INFORMATION ACT REGULATIONS

Priority: Other Significant

Legal Authority: 5 U.S.C. 552 (as amended)

CFR Citation: 29 CFR 70

Legal Deadline: None

Abstract: This proposed rule would implement the provisions of the Freedom of Information Act, 5 U.S.C. 552, as amended. The rule would supersede the Department's current FOIA regulations, located at 29 CFR part 70, by incorporating substantive and administrative changes mandated by the Openness Promotes Effectiveness in our National Government Act of 2007 (OPEN Government Act), reflect changes in DOL's administrative structure, and organize the regulations to more closely match those of other executive branch agencies for ease of reference. The rule will also reflect the disclosure principles established in the FOIA Policy Memoranda issued on January 12, 2009, and March 19, 2009, respectively.

Timetable:

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<th>Action</th>
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Regulatory Flexibility Analysis Required: No
Government Levels Affected: None

Agency Contact: Ramona Oliver, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW, Washington, DC 20210

Phone: 202 693–5391

Email: oliver.ramon a@dol.gov

RIN: 1290–AA30

3. DEPARTMENT OF LABOR FEDERAL CIVIL PENALTIES INFLATION ADJUSTMENT ACT CATCH-UP ADJUSTMENTS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: Other, Statutory, July 1, 2016, Interim Final Rule.

Abstract: The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, enacted November 2, 2015, as section 701 of the Bipartisan Budget Act, updates the process by which agencies adjust applicable civil monetary penalties for inflation to retain the deterrent effect of those penalties. Agencies were required to make a catch-up adjustment for civil monetary penalties with the new penalty levels by publishing an Interim Final Rule by July 1, 2016, to take effect no later than August 1, 2016.

Timetable:

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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Pamela Peters, Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210
Phone: 202 693–6468
Email: peters.pamela@dol.gov
RIN: 1290–AA31

Department of Labor (DOL) | Completed Actions
---|---
Office of Federal Contract Compliance Programs (OFCCP) |  

4. CONSTRUCTION CONTRACTORS’ AFFIRMATIVE ACTION REQUIREMENTS

Priority: Other Significant

Legal Authority: sec 201, 202, 205, 211, 301, 302 and 303 of E.O. 11246, as amended; 30 FR 12319; 32 FR 14303, as amended by E.O. 12086

CFR Citation: 41 CFR 60–1; 41 CFR 60–4

Legal Deadline: None

Abstract: The Office of Federal Contract Compliance Programs (OFCCP) is responsible for enforcing Executive Order (E.O.) 11246, as amended, which prohibits Federal Government contractors and subcontractors from discriminating against individuals in employment based on race, color, sex, sexual orientation, gender identity, religion, or national origin. It also prohibits discrimination based on an employee discussing his or her pay or pay of a coworker. E.O. 11246 also requires these employers to take affirmative action to provide equal employment opportunity. This item is being withdrawn as the agency considers alternatives other than rulemaking.
Statement of Need: These construction regulations, 41 CFR part 60-1 and 60-4, were last revised in 1980. They have generally proven ineffective at making meaningful progress in the employment of women and certain minorities in the construction industry. As originally proposed, the rulemaking would remove outdated regulatory provisions, propose a new method for establishing affirmative action goals, and propose other revisions to the affirmative action requirements that reflect the realities of the labor market and employment practices in the construction industry today.

Summary of Legal Basis: This action is not required by statute or court order. Legal Authority: sections 201, 202, 205, 211, 301, 302, and 303 of E.O. 11246, as amended; 30 FR 12319; 32 FR 14303, as amended by E.O. 12086.

Alternatives: Issuance of nonregulatory guidance that focuses on providing intensive contractor compliance assistance, including tools and resources, that support voluntary compliance by construction contractors and increase their access to a diverse pool of skilled talent in the construction trades.

Anticipated Cost and Benefits: No new costs are anticipated.

Risks: No change in the employment practices of covered federal contractors and no quantifiable change in the representation of women and minorities in the construction trades. Failure to provide updated regulations may impede the equal opportunity rights of some workers in protected classes.

Timetable:

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Debra A. Carr, Director, Division of Policy and Program Development, Department of Labor, Office of Federal Contract Compliance Programs, 200 Constitution Avenue NW., FP Building, Room C-3325, Washington, DC 20210
5. REQUIREMENT TO REPORT SUMMARY DATA ON EMPLOYEE COMPENSATION

(COMPENSATION DATA COLLECTION)

Priority: Other Significant

Legal Authority: Presidential Memorandum, Advancing Pay Equality Through Compensation Data Collection (issued April 8, 2014); E. O. 11246, September 24, 1965, 30 FR 12319, as amended

CFR Citation: 41 CFR 60-1

Legal Deadline: None

Abstract: The Office of Federal Contract Compliance Programs (OFCCP) is responsible for enforcing Executive Order 11246, as amended, which prohibits Federal Government contractors and subcontractors from discriminating against individuals in employment based on race, color, sex, sexual orientation, gender identity, religion, or national origin. It also prohibits discrimination based on an employee discussing his or her pay or the pay of a coworker. Executive Order 11246 also requires these employers to take affirmative action to provide equal employment opportunity. In anticipation of Equal Employment Opportunity Commission's collection of compensation data using the EEO-1 Report, this item is being withdrawn.

Timetable:

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<td>76 FR 49398</td>
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End
10/11/11

NPRM
08/08/14 79 FR 46562

NPRM Comment Period End
11/06/14

NPRM Comment Period
Extended
11/05/14 79 FR 65613

NPRM Comment Period
Extended End
01/05/15

Withdrawn
03/30/17

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Debra A. Carr, Director, Division of Policy and Program Development, Department of Labor, Office of Federal Contract Compliance Programs, 200 Constitution Avenue NW., FP Building, Room C–3325, Washington, DC 20210

Phone: 202 693–0103
TDD Phone: 202 693–1337
Fax: 202 693–1304
Email: ofccp-public@dol.gov

Related RIN: Previously reported as 1215–AB80

RIN: 1250–AA03

Department of Labor (DOL) Proposed Rule Stage
Office of Labor-Management Standards (OLMS)
7. • LABOR ORGANIZATION ANNUAL FINANCIAL REPORTS; COVERAGE OF INTERMEDIATE BODIES

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

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Department of Labor's Office of Labor-Management Standards proposes to return to its 2003 interpretation that intermediate bodies that are subordinate to a national or international labor organization that includes a labor organization are covered by the Labor-Management Reporting and Disclosure Act (LMRDA).

Timetable:

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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Andrew R. Davis, Chief, Division of Interpretations and Standards, Office of Labor–Management Standards, Department of Labor, Office of Labor–Management Standards, 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: 1245–AA08

8. • TRUST ANNUAL REPORTS
Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Department of Labor's Office of Labor-Management Standards proposes to re-establish a Form T-1 to capture financial information pertinent to "trusts in which a labor organization is interested" ("section 3(l) trusts"), information that historically has largely gone unreported. The LMRDA's various reporting provisions are designed to empower labor organization members by providing them the means to maintain democratic control over their labor organizations and ensure a proper accounting of labor organization funds. The proposed rule helps brings the reporting requirements for labor organizations and section 3(l) trusts in line with contemporary expectations for the disclosure of financial information.

Timetable:

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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Andrew R. Davis, Chief, Division of Interpretations and Standards, Office of Labor–Management Standards, Department of Labor, Office of Labor–Management Standards, 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: 1245-AA09
9. PERSUADER AGREEMENTS: CONSULTANT FORM LM-21 RECEIPTS AND DISBURSEMENTS REPORT

Priority: Other Significant

Legal Authority: 29 U.S.C. 433 and 438

CFR Citation: 29 CFR 406

Legal Deadline: None

Abstract: The Department of Labor previously announced intent to publish a notice and comment rulemaking seeking consideration of the Form LM-21, Receipts and Disbursements report, which is required pursuant to section 203(b) of the Labor-Management Reporting and Disclosure Act (LMRDA). The rulemaking would have proposed mandatory electronic filing for Form LM-21 filers and reviewed the layout of the Form LM-21 and its instructions, including the detail required to be reported. The Department now withdraws this rulemaking.

Timetable:

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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, Office of Labor-Management Standards, 200 Constitution Avenue NW., Room N-5609, FP Building, Washington, DC 20210

Phone: 202 693-0123

Fax: 202 693-1340

Email: olms-public@dol.gov

RIN: 1245-AA05
10. LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT: MAXIMUM AND MINIMUM COMPENSATION RATES

Priority: Substantive, Nonsignificant

Legal Authority: 33 U.S.C. 939

CFR Citation: 20 CFR 702

Legal Deadline: None

Abstract: Under the Longshore and Harbor Workers' Compensation Act and its extensions, disabled workers are paid compensation based on their average weekly wage at the time of their disabling injury. Section 6 of the Act, 33 U.S.C. 906 caps this compensation at a maximum of twice the "applicable" fiscal year's national average weekly wage. The Secretary of Labor determines the national average wage for each fiscal year, and that determination applies to employees or survivors "newly awarded" any type of compensation as well as to those "currently receiving" permanent disability compensation or death benefits. Litigation over which year's national average wage applies in various situations led to a Supreme Court decision construing the "newly awarded" phrase. The rule will implement the Supreme Court's decision and clarify how the maximum compensation rate provisions apply, including the "currently receiving" phrase and other portions the Court did not address. The rule will also implement the Act's related minimum compensation provisions and annual compensation-adjustment mechanism in Section 10(f), 33 U.S.C. 910(f).

Timetable:

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<tr>
<th>Department of Labor (DOL)</th>
<th>Final Rule Stage</th>
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<tbody>
<tr>
<td>Office of Workers' Compensation Programs (OWCP)</td>
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</table>
11. CLAIMS FOR COMPENSATION UNDER THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT OF 2000, AS AMENDED

Priority: Other Significant

Legal Authority: 42 U.S.C. 7384d(a); 42 U.S.C. 7385(s)-10(e); E.O. 13179

CFR Citation: 20 CFR 30

Legal Deadline: None

Abstract: The regulations govern how the Office of Workers’ Compensation Programs (OWCP) administers the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (EEOICPA). 42 U.S.C. 7384 et seq. Since July 31, 2001, OWCP has administered the provisions of part B of EEOICPA that were not assigned to the Secretary of Health and Human Services, to the Secretary of Energy, or to the Attorney General by Executive Order 13179. Part B of EEOICPA provides for the payment of lump-sum compensation and medical benefits to Department of Energy (DOE) employees and certain of its contractors and subcontractors (or their survivors) who sustained an
occupational illness due to exposure to radiation, beryllium, or silica. Part B also provides for medical benefits and a supplemental lump-sum payment to awardees under section 5 of the Radiation Exposure Compensation Act (RECA), 42 U.S.C. 2210 (note). Since October 28, 2004, OWCP has also administered part E of EEOICPA, which provides for the payment of additional monetary compensation (based on permanent impairment and/or wage loss) and medical benefits for DOE contractor employees (or their survivors) and uranium miners, millers and ore transporters covered by section 5 of the RECA (or their survivors) who sustained a covered illness due to exposure to a toxic substance while working at a DOE facility, or a uranium mine or mill covered under section 5 of RECA.

Timetable:

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rachel P. Leiton, Director, Division of Energy Employees Occupational Illness Compensation, Department of Labor, Office of Workers' Compensation Programs, 200 Constitution Avenue NW., FP Building, Room C-321, Washington, DC 20210
12. BLACK LUNG BENEFITS ACT: MEDICAL BENEFIT PAYMENTS

Priority: Other Significant

Legal Authority: 30 U.S.C. 932(a); 30 U.S.C. 936

CFR Citation: 20 CFR 725

Legal Deadline: None

Abstract: Coal miners who are totally disabled by pneumoconiosis and found entitled to monetary compensation under the Black Lung Benefits Act are also entitled to medical benefits for treatment of their disease and associated disability. The current program regulations generally provide that payment for medical treatment and services is capped at the rate prevailing in the community where the service provider is located but provide no method for determining that rate. To fill this gap for medical benefit payments made from the Black Lung Disability Trust Fund, OWCP proposed rules to address how medical providers are reimbursed for covered services.

Timetable:

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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None
OVERALL DESCRIPTION OF DEADLINE:
Section 3(m) of the FLSA, 29 U.S.C. 203(m), provides in part that an employer may take a partial credit ("tip credit") against its minimum wage payment obligation to a tipped employee based on tips received and retained by the employee. This section further limits the required pooling of tips to employees who customarily and regularly receive tips. The Department's regulations apply this restriction on tip pooling both to employers who take a tip credit against their minimum wage obligations and to employers who pay tipped employees a direct cash wage of at least the full FLSA minimum wage. In this Advance Notice of Proposed Rulemaking, the Department seeks information about tip pooling practices where an employer pays tipped employees a direct cash wage of at least the full FLSA minimum wage in order to inform its consideration of possible revisions to the regulations limiting tip pooling in such circumstances.

STATEMENT OF NEED:
WHD is reviewing regulations in 29 CFR part 531 that provide, among other things, that an employer is limited in requiring employees to pool tips to employees who customarily and regularly receive tips, even when the employer has paid a direct cash wage of at least the full FLSA minimum wage. This advance
notice of proposed rulemaking seeks the views of the public on possible revisions to the regulations.

SUMMARY OF LEGAL BASIS:
These regulations are authorized by section 3(m) of the Fair Labor Standards Act, 29 U.S.C. 203(m).

ALTERNATIVES:
Alternatives will be developed in considering any proposed revisions to the current regulations. The public will be invited to provide comments on any proposed revisions and possible alternatives.

ANTICIPATED COSTS AND BENEFITS:
The Department will prepare estimates of the anticipated costs and benefits associated with the ANPRM.

RISKS:
This action does not affect public health, safety, or the environment.

REGULATORY FLEXIBILITY ANALYSIS REQUIRED: No

# SMALL ENTITIES AFFECTED: Undetermined
GOVERNMENT LEVELS AFFECTED: Undetermined
# FEDERALISM AFFECTED: No
# ENERGY AFFECTED: No
INTERNATIONAL IMPACTS: No
USER SORT CODES:

ADDITIONAL INFORMATION:

URL FOR MORE INFORMATION: URL

FOR PUBLIC COMMENTS:

RELATED RIN: 1235-AA00

RELATED

AGENCY:

AGENCY CONTACT:
Melissa Smith, Director, Regulations, Legislation and Interpretations, Department of Labor, Wage and Hour Division,
Department of Labor (DOL) | Long-Term Action Stage
--- | ---
Wage and Hour Division (WHD) | 13. • 29 CFR PART 541, DEFINING AND DELIMITING THE EXEMPTIONS FOR EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL, OUTSIDE SALES AND COMPUTER EMPLOYEES

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

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Department will review questions of policy and application related to this final rule, which is currently the subject of litigation.

Timetable:

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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Melissa Smith, Director, Regulations, Legislation and Interpretations, Department of Labor, Wage and Hour Division, 200 Constitution Avenue, NW., Room S3502, Washington, DC 20210

Phone: 202 693–0406

Fax: 202 693–1387
14. EMPLOYMENT OF WORKERS WITH DISABILITIES UNDER SPECIAL CERTIFICATES

Priority: Other Significant

Unfunded Mandates: Undetermined


CFR Citation: 29 CFR 525

Legal Deadline: None

Abstract: Section 14(c) of the FLSA, 29 U.S.C. 214(c), provides that the Secretary of Labor may, to the extent necessary to prevent the curtailment of opportunities for employment, issue certificates to permit the payment of subminimum wages to individuals with disabilities whose earning or productive capacities are affected by their disability. The Department is proposing to revise the regulations implementing section 14(c) to reflect changes in employment laws affecting workers with disabilities enacted since the Department's last update to the regulations.

Statement of Need: For some time, WHD has been conducting a comprehensive review of the section 14(c) program. This review was designed to develop strategies to better protect workers in the program, to promote WHD's vision of supporting competitive and integrated employment of individuals with disabilities, and to assist with efforts to make section 14(c) employment an option of last resort for workers where feasible. The Workforce Innovation and Opportunity Act (WIOA) created a new section 511 of the Rehabilitation Act, which imposes certain new conditions on the payment of subminimum wages by section 14(c) certificate holders. The current section 14(c) regulations are in need of improvement. The regulations have not been updated since 1989 and lack comprehensive, detailed
information regarding the issuance, renewal, and revocation of 14(c) certificates as well as WHD's enforcement of the program. The regulations will be updated as the Department considers the new requirements of WIOA, and suggestions from workers with disabilities and their advocates.

**Summary of Legal Basis:** These regulations are authorized by section 14(c) of the Fair Labor Standards Act, 29 U.S.C. 214.

**Alternatives:** Alternatives will be developed in considering proposed revisions to the current regulations. The public will be invited to provide comments on the proposed revisions and possible alternatives.

**Anticipated Cost and Benefits:** The Department will prepare estimates of the anticipated costs and benefits associated with the proposed rule.

**Risks:** This action does not affect public health, safety, or the environment.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** Undetermined

**Agency Contact:** Melissa Smith, Director, Regulations, Legislation and Interpretations, Department of Labor, Wage and Hour Division, 200 Constitution Avenue, NW., Room S3502, Washington, DC 20210

Phone: 202 693–0406

Fax: 202 693–1387

RIN: 1235–AA14

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15. RIGHT TO KNOW UNDER THE FAIR LABOR STANDARDS ACT

Priority: Other Significant

Legal Authority: 29 U.S.C. 211(c)

CFR Citation: 29 CFR 516

Legal Deadline: None

Abstract: The Department of Labor proposes to update the recordkeeping regulations under the Fair Labor Standards Act in order to enhance the transparency and disclosure to workers of their status as the employer's employee or some other status, such as an independent contractor, and if an employee, how their pay is computed. The Department also proposes to clarify that the mandatory manual preparation of "homeworker" handbooks applies only to employers of employees performing homework in the restricted industries. The title of this proposed rule has changed to better reflect the purpose of this action. The WHD is withdrawing this entry from the agenda at this time due to agency priorities.

Statement of Need: The recordkeeping regulation issued under the Fair Labor Standards Act (FLSA), 29 CFR part 516, specifies the scope and manner of records covered employers must keep that demonstrate compliance with minimum wage, overtime, and child labor requirements under the FLSA, or the records to be kept that confirm particular exemptions from some of the Act's requirements may apply. This proposal intends to update the recordkeeping requirements to foster more openness and transparency in demonstrating employers' compliance with applicable requirements to their workers, to better ensure compliance by regulated entities, and to assist in enforcement. In addition, the proposal intends to clarify that the mandatory manual preparation of "homeworker" handbooks applies only to employers of employees performing homework in the restricted industries.

Summary of Legal Basis: These regulations are authorized by section 11 of the Fair Labor Standards Act, 29 U.S.C. 211.

Alternatives: Alternatives will be developed in considering proposed revisions to the current recordkeeping requirements. The public will be invited to provide comments on the proposed revisions.
and possible alternatives.

Anticipated Cost and Benefits: The Department will prepare estimates of the anticipated costs and
benefits associated with the proposed rule.

Risks: This action does not affect public health, safety, or the environment.

Timetable:

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Melissa Smith, Director, Regulations, Legislation and Interpretations, Department of
Labor, Wage and Hour Division, 200 Constitution Avenue, NW., Room S3502, Washington, DC 20210
Phone: 202 693–0406
Fax: 202 693–1387

Related RIN: Previously reported as 1215–AB78

RIN: 1235–AA04

16. FAIR LABOR STANDARDS ACT, CHILD LABOR HAZARDOUS OCCUPATIONS ORDER NO. 7

Priority: Substantive, Nonsignificant

Legal Authority: 29 U.S.C. 201 et seq.

CFR Citation: 29 CFR 570

Legal Deadline: None

Abstract: The child labor provisions of the Fair Labor Standards Act (FLSA) were enacted to ensure that
when children work, the work is safe and does not jeopardize their health, well-being, or education. To
protect children from hazardous employment, the FLSA provides for a minimum age of 18 years in
occupations found and declared by the Secretary of Labor to be particularly hazardous or detrimental to
the health or well-being of children 16 and 17 years of age. Hazardous Occupations Orders (HOs) are the
means by which the Secretary declares certain occupations to be particularly hazardous for children.
Child Labor Hazardous Occupations Order No. 7 (occupations involved in the operation of power-driven
hoisting apparatus) (HO7) has for many years prohibited children under 18 years of age from operating or
assisting in the operation of several types of hoisting apparatus. The Department seeks information to
ensure that its current nonenforcement position regarding the application of HO7 to the operation of
patient/resident lifts provides adequate protections to working youth while not unduly denying them job
opportunities they can safely perform. The WHD is withdrawing this item at this time due to agency
priorities.

Timetable:

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Melissa Smith, Director, Regulations, Legislation and Interpretations, Department of
Labor, Wage and Hour Division, 200 Constitution Avenue, NW., Room S3502, Washington, DC 20210
Phone: 202 693–0406
Fax: 202 693–1387
RIN: 1235–AA07

17. REQUEST FOR INFORMATION ON THE IMPACT OF THE USE OF ELECTRONIC DEVICES BY
NONEXEMPT EMPLOYEES ON HOURS WORKED ISSUES

Priority: Other Significant

CFR Citation: None
Legal Deadline: None

Abstract: Building on a 2016 study by Chief Evaluation Officer, the Department is publishing a Request for Information ("RFI") to gather information about employees' use of electronic devices to perform work outside of regularly scheduled work hours and away from the workplace, as well as information regarding "last minute" scheduling practices being utilized by some employers that are made possible in large part by employees' use of these devices. The WHD is withdrawing this entry from the agenda at this time due to agency priorities.

Timetable:

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Melissa Smith, Director, Regulations, Legislation and Interpretations, Department of Labor, Wage and Hour Division, 200 Constitution Avenue, NW., Room S3502, Washington, DC 20210
Phone: 202 693–0406
Fax: 202 693–1387
RIN: 1235–AA12

18. DEPARTMENT OF HOMELAND SECURITY AND DEPARTMENT OF LABOR FEDERAL CIVIL PENALTIES INFLATION ADJUSTMENT ACT CATCH-UP ADJUSTMENTS

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

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: Other, Statutory, July 1, 2016, Interim Final Rule.
**Abstract:** The U.S. Department of Labor and the U.S. Department of Homeland Security (the Departments) jointly issued this Interim Final Rule to adjust the amounts of civil penalties assessed or enforced in their regulations related to employment of temporary nonimmigrant workers under the H-2B program. The Federal Civil Penalties Adjustment Improvements Act of 2015 (Inflation Adjustment Act) requires agencies to adjust the levels of civil monetary penalties with an initial catch-up adjustment, followed by annual adjustments for inflation. The Departments are required to calculate the catch-up and subsequent annual adjustments based on the Consumer Price Index for all Urban Consumers. The increased penalty levels as set forth in this IFR apply to all penalties assessed after the effective date, August 1, 2016, for associated violations that occurred after November 1, 2015. Consistent with DOL’s delegated authority under 8 U.S.C. 1184 (c)(14), INA section 214(c)(14) and the Federal Civil Penalties Inflation Adjustment Act, DOL will make future adjustments to this civil monetary penalty. RIN 1235-AA15 Interim Final Rule as published in the Federal Register on July 1, 2016 (81 FR 42983) adopts duplicate RIN 1235-AA16 in the Unified Agenda.

**Timetable:**

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Final Rule Effective: 03/17/17

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Erin Fitzgerald, Office of the Assistant Secretary for Policy, Department of Labor, 200 Constitution Avenue NW., Room S-2312, FP Building, Washington, DC 20210

Phone: 202 693-5076

Fax: 202 693-5960

Email: fitzgerald.erin@dol.gov

Related RIN: Related to 1290-AA31

RIN: 1235-AA16

19. TECHNICAL UPDATES TO REGULATIONS ISSUED UNDER VARIOUS WAGE AND HOUR DIVISION STATUTES

Priority: Other Significant

Legal Authority: 29 U.S.C. 201 et seq.

CFR Citation: 29 CFR 1, 3, 4, 5, 6, 500, 505 and 516; 29 CFR 519, 520, 525, 530 and 531; 29 CFR 547, 549, 553, 570 and 575; 29 CFR 578(m), 580, 697, 779, 801 and 825

Legal Deadline: None

Abstract: This technical correction will delete references throughout the Wage and Hour Division’s (WHD) regulations to the Employment Standards Administration (ESA), which was eliminated as part of the agency reorganization in 2009; update Office of Management and Budget (OMB) control numbers associated with information collections in the appropriate regulations; and fix cross-references to the Family and Medical Leave Act (FMLA) to reflect the renumbering of the definitions section in the 2015 FMLA final rule (80 FR 9989).

Timetable:
20. UPDATING REGULATIONS ISSUED UNDER VARIOUS WAGE AND HOUR DIVISION STATUTES CONSISTENT WITH ROSA'S LAW

Priority: Other Significant

Legal Authority: 29 U.S.C. 201 et seq.

CFR Citation: 29 CFR 516, 525, 697 and 779

Legal Deadline: None

Abstract: This proposed rule intends to carry out the spirit of Rosa's Law (Pub. L. 112-256) by removing all references to "mental retardation" and "mentally retarded individual" and replacing them with "intellectual disability" and "individual with an intellectual disability" in all programs administered by the Wage and Hour Division (WHD). The WHD is withdrawing this entry from the agenda at this time due to agency priorities.

Timetable:
Department of Labor (DOL) | Prerule Stage
---|---
Employment and Training Administration (ETA) | 

22. • H-1B PROGRAM

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

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Department of Labor's (Department) Employment and Training Administration (ETA) and Wage and Hour Division (WHD) are considering revising its regulations regarding the H-1B visa program at 20 CFR 655, Subpart H. For this reason, the Department is issuing this Request for Information (RFI) so that the public may provide input on how the Department may increase transparency about employers' use of the program, and ways to enhance enforcement of the laws against program violators. Information obtained may also advance the Department's goal to improve the program under existing authorities to

Department of Labor (DOL) 

Withdrawn 03/30/17

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Melissa Smith, Director, Regulations, Legislation and Interpretations, Department of Labor, Wage and Hour Division, 200 Constitution Avenue, NW., Room S3502, Washington, DC 20210

Phone: 202 693–0406

Fax: 202 693–1387

RIN: 1235–AA18
provide better protections for U.S. workers and ensure U.S. Workers are not displaced or their wages undercut. Information received from the public will help inform this process.

Timetable:

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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: William W. Thompson II, Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 375 E Street SW., Patriot Plaza II, Room 12-200, Washington, DC 20024

Phone: 202 513–7350

RIN: 1205–AB82

23. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

Priority: Other Significant

Legal Authority: sec 248(a) of the Trade Act of 1974, as amended; 19 U.S.C. 2320(a)

CFR Citation: 20 CFR 617; 20 CFR 618; 29 CFR 90

Legal Deadline: None

Abstract: On July 29, 2015, the Trade Preferences Extension Act to 2015 (Pub. L. 114-27) was signed into law. Title IV reauthorizes the Trade Adjustment Assistance (TAA) for Workers program
through 2021; and it is known as the Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015). The regulations governing the TAA program have not been updated since 1994. Since that time, five major reauthorizations have occurred. In addition, a recent reauthorization and reform of the workforce development system, the Workforce Innovation and Opportunity Act (WIOA) (Pub. L. 113-128), reaffirms the TAA program as a mandatory partner program in the one-stop delivery system. All five major TAA reauthorizations were implemented through the use of Operating Instructions issued via Training and Employment Guidance Letters (TEGLs). As a result, the cooperating state agencies must use a combination of outdated regulations and a patchwork of administrative guidance to operate the program. Issuing updated regulations will simplify and provide clarity for state operation of the TAA program. Unlike TEGLs, an update to the TAA regulations will provide a legally binding set of rules to guide the worker group certification process at the federal level, the individual benefit and training authorization process at the state level, and also provide federal and state courts with the Department's authoritative interpretation of the TAARA 2015. Through the NPRM, the Department seeks to modernize the TAA program and consolidate all applicable program regulations into a single section of the Code of Federal Regulations. The Department will undertake both regulatory and deregulatory actions, eliminating 20 CFR 617 and 29 CFR 90 and including all program regulations in 20 CFR 618. In addition, the Department will review questions of policy and application to determine whether one aspect of the mandated use of state employees to administer adjustment assistance provisions, specifically the delivery of TAA employment and case management services, is appropriate.

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, Local, State, Tribal
International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Agency Contact: Norris T. Tyler III, Administrator, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, FP Building, Rm–N–5428, Washington, DC 20210
Phone: 202 693–3651
Email: tyler.norris@dol.gov
RIN: 1205–AB78

24. DRUG TESTING BY STATES FOR PURPOSES OF DETERMINING UNEMPLOYMENT COMPENSATION ELIGIBILITY

Priority: Other Significant

Legal Authority: Pub.L. 112–96 title III, Social Security Act (42 USC 301 et seq); Secretary’s Order No. 6–10

CFR Citation: 20 CFR 620

Legal Deadline: None

Abstract: On August 1, 2016, ETA, as authorized by Section 2105 of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96), issued a final rule to establish, for State Unemployment Compensation (UC) program purposes, occupations that regularly conduct drug testing, at 20 CFR Part 620. Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq), Congress passed a joint resolution disapproving the rule, and President Trump signed the resolution into law on March 31, 2017 (P.L. 115-17). As a result of the rescission of 20 CFR 620, states no longer have authority to drug test applicants for UC for whom suitable work is only available in occupation that regularly conduct drug testing for unlawful use of controlled substances. The Department proposes to issue a Notice of Proposed Rulemaking that will identify the occupations that regularly conduct drug testing for purposes of Section 2105. In addition, the Department will review questions of policy and application related to the final rule.
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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Gay Gilbert, Administrator, Office of Unemployment Insurance, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., FP Building, Room S-4524, Washington, DC 20210

Phone: 202 693–3029

Email: gilbert.gay@dol.gov

RIN: 1205–AB81

Department of Labor (DOL) Final Rule Stage

Employment and Training Administration (ETA)

25. • SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM (SCSEP), PERFORMANCE ACCOUNTABILITY

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

Legal Authority: Pub. L. 114–114, sec 500

CFR Citation: 20 CFR part 641


The Older Americans Act Reauthorization Act of 2016 (2016 OAA) calls for several specific changes to the existing SCSEP performance accountability system, and requires that the Department of Labor implement the new SCSEP core measures of performance after consultation with stakeholders. The 2016
OAA amended section 513(d)(4) to require the Department to implement the core measures of performance identified in the 2016 OAA amendments “not later than December 31, 2017.”

Abstract: The 2016 OAA amended the statutory provisions authorizing SCSEP and required changes to SCSEP regulations by December 31, 2017. This interim final rule make substantive revisions to 20 CFR part 641, subpart G (Performance Accountability) to implement the amended SCSEP performance measures in OAA sec. 513, which in large part align the SCSEP performance measures with those mandated for the Workforce Innovation and Opportunity Act (WIOA) core programs under WIOA sec. 116. The WIOA performance implemented in joint final rule issued by the Department of Labor and Education on August 19, 2016 (81 FR 55792) and codified in 20 CFR part 677. In addition, this interim final rule makes technical amendments to other subparts of part 641 to reflect 2016 OAA amendments that aligned the SCSEP program statutory language with WIOA, such as updating outdated terminology and references to the Workforce Investment Act, which WIOA superseded.

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<td>Interim Final Rule</td>
<td>12/00/17</td>
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</table>

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations

Government Levels Affected: State

Agency Contact: Amanda Ahlstrand, Department of Labor, Employment and Training Administration, FP Building, Room C–4526, 200 Constitution Avenue NW, Washington, DC 20210

Phone: 202 693–3980

RIN: 1205–AB79
Department of Labor (DOL)  Long-Term Actions
Employment and Training Administration (ETA)

26. TEMPORARY NON–AGRICULTURAL EMPLOYMENT OF H–2B ALIENS IN THE UNITED STATES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: sec 655.0 issued under 8 U.S.C. 1101(a)(15)(E)(iii), 1101(a)(15)(H)(i) and (ii); 8 U.S.C. 1103(a)(6), 1182(m), (n) and (t), 1184(c), (g), and (j), 1188, and 1288(c) and (d); sec 3(c)(1), Pub. L. 101–238; 103 stat 2099, 2102 (8 U.S.C. 1182 note); sec 221(a), Pub. L. 101 649, 104 stat 4978, 5027 (8 U.S.C. 1184 note); sec 303(a)(8), Pub. L. 102–232, 105 stat 733, 1748 (8 U.S.C. 1101 note); sec 323(c), Pub. L. 103–206, 107 stat 2428; sec 412(e), Pub. L. 105–277, 112 stat 2681 (8 U.S.C. 1182 note); sec 2(d), Pub. L. 106–95, 113 stat 1312, 1316 (8 U.S.C. 1182 note); 29 U.S.C. 49k; Pub. L. 107–296, 116 stat 2135, as amended; Pub. L. 109–423, 120 stat. 2900

CFR Citation: 8 CFR 214; 20 CFR 655

Legal Deadline: None

Abstract: The Department of Homeland Security (DHS) and the Department of Labor (DOL) are jointly issuing regulations governing the certification of the employment of nonimmigrant workers in temporary or seasonal non-agricultural employment and the enforcement of the obligations applicable to employers of such nonimmigrant workers. This interim final rule establishes the process by which employers obtain a temporary labor certification from DOL for use in petitioning DHS to employ a nonimmigrant worker in H-2B status. These regulations also will provide for increased worker protections for both United States and foreign workers.

Timetable:

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<th>Action</th>
<th>Date</th>
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<td>80 FR 24041</td>
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<td>04/29/15</td>
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<td>Interim Final Rule Comment</td>
<td>06/29/15</td>
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</table>
Period End

Next Action Undetermined To Be Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William W. Thompson II, Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 375 E Street SW., Patriot Plaza II, Room 12–200, Washington, DC 20024
Phone: 202 513–7350
RIN: 1205–AB76

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

27. EQUAL EMPLOYMENT OPPORTUNITY IN APPRENTICESHIP AMENDMENT OF REGULATIONS

Priority: Other Significant

Legal Authority: sec 1, 50 stat 664, as amended (29 U.S.C. 50; 40 U.S.C. 276c; 5 U.S.C. 301);
Reorganization Plan No 14 of 1950, 64 stat 1267 (5 U.S.C. app p 534)

CFR Citation: 29 CFR 30 (revision)

Legal Deadline: None

Abstract: Revisions to the equal opportunity regulatory framework for the National Apprenticeship Act are a critical element in the Department’s vision to promote and expand Registered Apprenticeship opportunities in the 21st century while continuing to safeguard the welfare and safety of apprentices. In October 2008, the Agency issued a Final Rule updating regulations for Apprenticeship Programs and Labor Standards for Registration. These regulations, codified at title 29 CFR 29, had not been updated since 1977. The companion regulations, 29 CFR 30, Equal Employment Opportunity (EEO) in Apprenticeship and Training, had not been amended since 1978. The Agency updated 29 CFR 30 to
ensure that the National Registered Apprenticeship System is consistent and in alignment with EEO law, as developed since 1978, and recent revisions to 29 CFR 29. This second phase of regulatory updates ensured that Registered Apprenticeship is positioned to continue to provide economic opportunity for millions of Americans while keeping pace with these new requirements.

**Statement of Need:** Federal regulations for Equal Employment Opportunity (EEO) in Apprenticeship had not been updated since 1978. Updates to these regulations were necessary to ensure that DOL regulatory requirements governing the National Registered Apprenticeship System were consistent with the current state of EEO law and recent revisions to 29 CFR 29.

**Summary of Legal Basis:** These regulations are authorized by the National Apprenticeship Act of 1937 (29 U.S.C. 50) and the Copeland Act (40 U.S.C. 276(c). These regulations set forth policies and procedures to promote equality of opportunity in apprenticeship programs registered with the U.S. Department of Labor or in State Apprenticeship Agencies recognized by the U.S. Department of Labor.

**Alternatives:** The public was afforded an opportunity to provide comments on the proposed amendment to Apprenticeship EEO regulations when the Department published a Notice of Proposed Rulemaking (NPRM) in the Federal Register. A Final Rule was issued after analysis and incorporation of public comments to the NPRM.

**Anticipated Cost and Benefits:** The changes were thought to raise "novel legal or policy issues" but are not economically significant within the context of Executive Order 12866 and are not a "major rule" under section 804 of the Small Business Regulatory Enforcement Fairness Act.

**Risks:** This action does not affect the public health, safety, or the environment.

**Timetable:**

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<th>Action</th>
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<td>11/06/15</td>
<td>80 FR 68908</td>
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</table>
Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Tribal

Federalism: This action may have federalism implications as defined in EO 13132.

Agency Contact: John V. Ladd, Office of Apprenticeship, Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., FP Building, Room C–5311, Washington, DC 20210
Phone: 202 693–2796
Fax: 202 693–3799
Email: ladd.john@dol.gov
RIN: 1205–AB59

<table>
<thead>
<tr>
<th>Department of Labor (DOL)</th>
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<tbody>
<tr>
<td>Employee Benefits Security Administration (EBSA)</td>
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</table>

28. REVISION OF THE FORM 5500 SERIES AND IMPLEMENTING RELATED REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)

Priority: Economically Significant. Major under 5 USC 801.
Unfunded Mandates: This action may affect the private sector under PL 104-4.


CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: This regulatory action is part of a long-term strategic project with the Internal Revenue Service and the Pension Benefit Guaranty Corporation to modernize and improve the Form 5500 Annual Return/Report of Employee Benefit Plan. Modernizing the financial and other annual reporting requirements on the Form 5500 and making the investment and other information on the Form 5500 more data mineable are part of that evaluation. The project is also focused on enhancing the agencies' ability to collect employee benefit plan data that best meets the needs of changing compliance projects, programs, and activities.

Timetable:

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<td>07/21/16</td>
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<td>Analyze Comments</td>
<td>01/00/18</td>
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29. • SAVINGS ARRANGEMENTS ESTABLISHED BY STATES FOR NON-GOVERNMENTAL EMPLOYEES

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

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Department will review questions of policy and application related to 29 CFR 2510.3-2(h) which describes how states may design and operate payroll deduction savings programs, using automatic enrollment, for private-sector employees without causing the states or private-sector employers to establish employee pension benefit plans under the Employee Retirement Income Security Act of 1974.

Timetable:

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<th>Action</th>
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<td>Review of Existing Rule</td>
<td>10/00/17</td>
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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined
31. • DEFINITION OF THE TERM “FIDUCIARY” — DELAY OF APPLICABILITY DATE

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 29 U.S.C. 1002 (ERISA sec 3(21); 29 U.S.C. 1135 (ERISA sec 505)

CFR Citation: 29 CFR 2510.3–21

Legal Deadline: None

Abstract:

This rulemaking extends for 60 days the applicability date of the final regulation, published on April 8, 2016, defining who is a “fiduciary” under the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986. It also extends for 60 days the applicability dates of the Best Interest Contract Exemption and the Class Exemption for Principal Transactions in Certain Assets Between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs. It requires that fiduciaries relying on these exemptions for covered transactions adhere only to the Impartial Conduct Standards (including the “best interest” standard), as conditions of the exemptions during the transition period from June 9,
2017, through January 1, 2018. Thus, the fiduciary definition in the rule (Fiduciary Rule or Rule) published on April 8, 2016, and Impartial Conduct Standards in these exemptions, are applicable on June 9, 2017, while compliance with the remaining conditions in these exemptions, such as requirements to make specific written disclosures and representations of fiduciary compliance in communications with investors, is not required until January 1, 2018. This rulemaking also delays the applicability of amendments to Prohibited Transaction Exemption 84-24 until January 1, 2018, other than the Impartial Conduct Standards, which will become applicable on June 9, 2017. Finally, this rulemaking extends for 60 days the applicability dates of amendments to other previously granted exemptions. The President, by Memorandum to the Secretary of Labor dated February 3, 2017, directed the Department of Labor to examine whether the Fiduciary Rule may adversely affect the ability of Americans to gain access to retirement information and financial advice, and to prepare an updated economic and legal analysis concerning the likely impact of the Fiduciary Rule as part of that examination. The extensions announced in this rulemaking are necessary to enable the Department to perform this examination and to consider possible changes with respect to the Fiduciary Rule and PTEs based on new evidence or analysis developed pursuant to the examination.

Timetable:

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<td>82 FR 16902</td>
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**Regulatory Flexibility Analysis Required:** Undetermined

**Small Entities Affected:** Businesses

**Government Levels Affected:** None
Agency Contact: Jeffrey J. Turner, Deputy Director, Office of Regulations and Interpretations, 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–AB32
RIN: 1210–AB79

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<tr>
<td>Employee Benefits Security Administration (EBSA)</td>
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</table>

32. AMENDMENT OF ABANDONED PLAN PROGRAM

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

Unfunded Mandates: Undetermined

Legal Authority: 29 U.S.C. 1135; ERISA sec 505

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: On April 21, 2006, the Department published a package of regulations, collectively titled Termination of Abandoned Individual Account Plans, which facilitates the termination of, and distribution of benefits from, individual account pension plans that have been abandoned by their sponsoring employers. See 71 FR 20820. This rulemaking will examine whether, and how, to amend those regulations by expanding the scope of individuals entitled to be a "qualified termination administrator" (QTA). Under the Termination of Abandoned Individual Account Plans regulations, only a QTA is authorized to determine whether an individual account plan is abandoned, and to carry out related activities necessary to the termination and winding up of the plan's affairs.
Timetable:

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<th>Action</th>
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<td>77 FR 74063</td>
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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Jeffrey J. Turner, Deputy Director, Office of Regulations and Interpretations, 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-AB47

33. ELECTRONIC FILING OF APPRENTICESHIP & TRAINING NOTICES, AND TOP HAT PLAN STATEMENTS

Priority: Other Significant


CFR Citation: 29 CFR 2520.104-22; 29 CFR 2520.104-23

Legal Deadline: None

Abstract: Regulation 29 CFR 2520.104-22 contains an exemption from the reporting and disclosure requirements for apprenticeship and training plans. Regulation 29 CFR 2520.104-23 contains an alternative method of compliance with the reporting and disclosure requirements for pension plans for certain selected employees. Both regulations contain a filing obligation. This rulemaking would amend those regulations to substitute electronic filing for regular mail or hand delivery.
34. ADOPTION OF AMENDED AND RESTATED VOLUNTARY FIDUCIARY CORRECTION PROGRAM

Priority: Other Significant

Legal Authority: ERISA sec 502(a)(2), (a)(5), and 506(b); ERISA sec 408(a); IRC sec 4975(c)(2)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Employee Benefits Security Administration (EBSA) is amending and restating its Voluntary Fiduciary Correction Program (VFCP) under the Employee Retirement Income Security Act of 1974 (ERISA), which originally was adopted in 2002 and revised in 2005 and 2006. The VFCP is designed to encourage the voluntary correction of fiduciary violations by permitting persons to avoid potential civil actions and civil penalties if they take steps to correct identified violations in a manner consistent with the VFCP. The amendments will expand the scope of some transactions currently eligible for correction and streamline correction procedures for certain others. EBSA will issue a restatement of the VFCP in its
entirety and request public comments.

Timetable:

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<tr>
<th>Action</th>
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<td>Interim Final Rule</td>
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</table>

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeffrey J. Turner, Deputy Director, Office of Regulations and Interpretations,
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–AB64

Department of Labor (DOL) | Long-Term Actions
--------------------------|----------------------
Employee Benefits Security Administration (EBSA) |

35. PENSION BENEFIT STATEMENTS

Priority: Other Significant


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 the Employee Retirement Income Security Act (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 three years, with an annual alternative. Individual account plans that permit participant direction must provide the statement quarterly, and individual account plans that do not permit participant direction must provide the statement annually. The proposal will focus on one aspect of individual pension benefit statements, i.e., the addition of a lifetime income illustration on individual pension statements, in addition to presenting the benefits as an account balance.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Undetermined

**Agency Contact:** Jeffrey J. Turner, Deputy Director, Office of Regulations and Interpretations, 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

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**36. IMPROVED FEE DISCLOSURE FOR WELFARE PLANS**

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

Legal Authority: 29 U.S.C. 1135; ERISA sec 505; 29 U.S.C. 1108

CFR Citation: 29 CFR 2550.408(b)(2)

Legal Deadline: None

Abstract: This rulemaking will amend the regulation setting forth the standards applicable to the exemption under the Employee Retirement Income Security Act (ERISA) section 408(b)(2) for contracting or making reasonable arrangements with a party in interest for office space or services (29 CFR 2550.408(b)(2)). This amendment will ensure that plan fiduciaries of welfare plans are provided or have access to that information necessary to make a determination of whether an arrangement for services is "reasonable" within the meaning of the statutory exemption. This amendment is being promulgated separately from another amendment to section 408(b)(2) that applies to pension plans.

Timetable:

<table>
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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey J. Turner, Deputy Director, Office of Regulations and Interpretations, 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–AB37

37. SELECTION OF ANNUITY PROVIDERS—SAFE HARBOR FOR INDIVIDUAL ACCOUNT PLANS

Priority: Other Significant

Legal Authority: 29 U.S.C. 1104; ERISA sec 404; 29 U.S.C. 1135; ERISA sec 505

CFR Citation: Not Yet Determined
Legal Deadline: None

Abstract: The Department in 2008 issued a regulation pursuant to section 404 of the Employee Retirement Income Security Act that establishes a safe harbor for satisfaction of fiduciary responsibilities in selecting an annuity provider and contract for benefit distributions from an individual account retirement plan. See 29 CFR 2550.404(a)-4. More recently, the Department and the Department of the Treasury published a Request for Information Regarding Lifetime Income Options for Participants and Beneficiaries in Retirement Plans (RFI), seeking comments on what measures the Departments could take to encourage such plans to offer annuities or other arrangements that provide a lifetime stream of income after retirement. See 75 FR 5253 (February 2, 2010). Based on the RFI comments, the Department may develop proposed amendments to the annuity selection safe harbor primarily focused on the condition in the safe harbor relating to the ability of the annuity provider to make all future payments under the annuity contract.

Timetable:

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<tr>
<th>Action</th>
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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Janet Walters, Senior Advisor, 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–AB58

38. HEALTH CARE CONTINUATION COVERAGE—REVISED MODEL NOTICES

Priority: Other Significant

Legal Authority: Not Yet Determined
CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The amendment will eliminate the current version of the model general notice contained in the appendix of section 2590.6061 and the model election notice contained in the appendix of section 2590.6061 as these model notices are outdated. Additionally, these regulations would make technical changes to the instruction language pointing to the model notices in the appendices in paragraph (g) of section 2590.6061 and paragraph (g) of section 2590.6064. These changes will permit the Department to amend the model notices as necessary and provide the most current versions of the model notices on the Department's Web site. These changes will also eliminate confusion that may result from multiple versions of the model notices being available in different locations.

Timetable:

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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Amy J. Turner, Director, Office of Health Plan Standards, 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–AB65

39. FIDUCIARY RELIEF FOR INVESTMENTS IN QUALIFIED DEFAULT INVESTMENT ALTERNATIVES
Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 U.S.C. 1104(C)(5) (ERISA sec 404(c)(5)); 29 U.S.C. 1135 (ERISA sec 505)

CFR Citation: 29 CFR 2550.404c-5

Legal Deadline: None

Abstract: To enhance the retirement security of America's workers, this action will explore whether, and to what extent, regulatory amendments to 29 CFR 2550.404(c)-5 would be appropriate to facilitate the use of lifetime income products and features as, or as part of, qualified default investment alternatives. EBSA may begin this review by issuing a Request for Information.

Timetable:

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<tr>
<th>Action</th>
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<tr>
<td>Next Action Undetermined</td>
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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Jeffrey J. Turner, Deputy Director, Office of Regulations and Interpretations, 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-AB77

Department of Labor (DOL) | Completed Actions
--------------------------|---------------------
Employee Benefits Security Administration (EBSA) |
Abstract: This rulemaking will amend the Department’s qualified default investment alternative regulation (29 CFR 2550.404(c)-5), which provides relief from certain fiduciary responsibilities for fiduciaries of participant-directed individual account plans who, in the absence of directions from a participant, invest the participant’s account in a qualified default investment alternative. This amendment will provide more specificity to fiduciaries as to the investment information that must be disclosed in the required notice to participants and beneficiaries. This amendment also will enhance the information that must be disclosed concerning target date, or similar age-based, qualified default investment alternatives. The Department published in the Federal Register, at section 2550.404(a)-5 (75 FR 64910, Oct. 20, 2010), a final regulation that requires the disclosure of certain plan and investment-related information, including fee and expense information, to participants and beneficiaries in participant-directed individual account plans (the participant-level disclosure regulation). The proposed rulemaking also will amend the participant-level disclosure regulation to require the disclosure of the same information concerning target date, or similar investments, to all participants and beneficiaries in participant-directed individual account plans.

EBSA is withdrawing this entry from the agenda at this time. Withdrawal does not necessarily mean that EBSA will not proceed with the rulemaking in the future. Withdrawal allows EBSA to assess the subject matter further and determine whether rulemaking in this area is appropriate. Following such an assessment, EBSA may determine that rulemaking is appropriate. If that determination is made, this or a similar matter will be included in a succeeding semiannual agenda.
Timetable:

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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey J. Turner, Deputy Director, Office of Regulations and Interpretations, 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–AB38

41. AMENDMENT TO CLAIMS PROCEDURE REGULATION

Priority: Other Significant


CFR Citation: 29 CFR 2550.503–1
Legal Deadline: None

Abstract: Section 503 of the Employee Retirement Income Security Act (ERISA), 29 U.S.C. 1133, provides that, in accordance with regulations promulgated by the Secretary of Labor, each employee benefit plan must provide “adequate notice in writing to any participant or beneficiary whose claim for benefits under the plan has been denied.” The notice must set forth the specific reasons for the denial and must be written in a manner calculated to be understood by the claimant. Each plan must also afford “a reasonable opportunity” for any participant or beneficiary whose claim has been denied to obtain “full and fair review” of the denial by the “appropriate named fiduciary of the plan.” The Department has issued a regulation pursuant to the above authority that establishes the minimum requirements for benefit claims procedures of employee benefit plans covered by title 1 of ERISA. See 29 CFR 2560.503-1. This rulemaking is intended to strengthen, improve, and update the current disability benefit claims and appeals process under the section 503 regulations.

Statement of Need: Because of the volume and constancy of disability benefits litigation, the Department recognizes a need to revisit, reexamine, and revise the current regulations to ensure that disability claimants receive a fair review of denied claims as provided by section 503 of ERISA. The rulemaking would revise and strengthen the current claims procedure rules primarily by adopting certain procedural protections and safeguards for disability benefit claims that are currently applicable to claims for group health benefits pursuant to the Affordable Care Act (ACA).

Summary of Legal Basis: Section 503 of ERISA, 29 USC 1133, requires every employee benefit plan to provide adequate notice in writing to any participant or beneficiary whose claim for benefits under the plan has been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood by the participant and to afford a reasonable opportunity to any participant whose claim for benefits has been denied for a full and fair review by the appropriate named fiduciary of the decision denying the claim. Section 503 also provides the Secretary of Labor with broad authority to prescribe regulations governing a plan’s claims procedure.
Alternatives: On November 18, 2015, the Department published in the Federal Register a proposed rule revising the claims procedure regulations for plans providing disability benefits under ERISA. The Department received 145 public comments in response to the proposed rule from plan participants, consumer groups representing disability benefit claimants, employer groups, individual insurers and trade groups representing disability insurance providers. In addition to the approach set forth in the proposal, the Department will consider all meaningful alternative rules and standards presented in these comment letters.

Anticipated Cost and Benefits: The Department expects that these final regulations will improve the procedural protections for workers who become disabled and make claims for disability benefits from ERISA-covered employee benefit plans. This would result in some participants receiving benefits they might otherwise have been denied absent the fuller protections provided by the final regulations. In other circumstances, expenditures by plans may be reduced as a fuller and fairer disability claims processing helps facilitate participant acceptance of cost management efforts. Greater certainty and consistency in the handling of disability benefit claims and appeals and improved access to information about the manner in which claims and appeals are adjudicated may lead to efficiency gains in the system, both in terms of the allocation of spending at a macro-economic level as well as operational efficiencies among individual plans.

The Department believes that these requirements have modest costs associated with them, since many chiefly clarify provisions of the current claims procedure regulations or require provision of notices to plan participants.

Risks: Undetermined.

Timetable:

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<tr>
<td>NPRM</td>
<td>11/18/15</td>
<td>80 FR 72014</td>
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</table>
42. GUIDE OR SIMILAR REQUIREMENT FOR SECTION 408(B)(2) DISCLOSURES

Priority: Other Significant

Legal Authority: 29 U.S.C. 1108(b)(2); 29 U.S.C. 1135

CFR Citation: 29 CFR 2550.408(b)-2(c)

Legal Deadline: None

Abstract: Paragraph (c) of 29 CFR 2550.408(b)-2 requires covered service providers to make certain disclosures to responsible plan fiduciaries in order for contracts or arrangements between the parties to be considered reasonable under section 408(b)(2) of the Employee Retirement Income Security Act (ERISA). This rulemaking would amend the disclosure provisions in paragraph (c) so that covered service providers may be required to furnish a guide or similar tool along with such disclosures. A guide or similar requirement may assist fiduciaries, especially fiduciaries to small and medium-sized plans, in identifying and understanding the potentially complex disclosure documents that are provided to them, or if disclosures are located in multiple documents.
ESSA is withdrawing this entry from the agenda at this time. Withdrawal of an entry does not necessarily mean that ESSA will not proceed with the rulemaking in the future. Withdrawal allows ESSA to assess the subject matter further and determine whether rulemaking in this area is appropriate. Following such an assessment, ESSA may determine that rulemaking is appropriate. If that determination is made, this or a similar matter will be included in succeeding semiannual agenda.

Timetable:

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*Regulatory Flexibility Analysis Required:* Undetermined

*Government Levels Affected:* None

*Agency Contact:* Jeffrey J. Turner, Deputy Director, Office of Regulations and Interpretations,
Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N–5655, Washington, DC 20210
Phone: 202 693–8500

*Related RIN:* Split from 1210–AB08

*RIN:* 1210–AB53

### 43. STANDARDS FOR BROKERAGE WINDOWS

*Priority:* Other Significant

*Legal Authority:* 29 U.S.C. 1135; ERISA sec 505; 29 U.S.C. 1104; ERISA sec 404

*CFR Citation:* None
Legal Deadline: None

Abstract: The Employee Benefits Security Administration (EBSA) will review the use of brokerage windows in participant-directed individual account retirement plans covered by the Employee Retirement Income Security Act of 1974 (ERISA). Instead of offering a limited number of investment options chosen by a plan fiduciary, a brokerage window may give plan participants access to a broad range of diverse investment alternatives available on the market. This rulemaking project will explore whether, and to what extent, regulatory guidance on fiduciary requirements and regulatory safeguards for such arrangements are appropriate for plans that allow participants to direct investments through brokerage windows. EBSA expects to begin this review by issuing a Request for Information.

EBSA is withdrawing this entry from the agenda at this time. Withdrawal of an entry does not necessarily mean that EBSA will not proceed with the rulemaking in the future. Withdrawal allows EBSA to assess the subject matter further and determine whether rulemaking in this area is appropriate. Following such an assessment, EBSA may determine that rulemaking is appropriate. If that determination is made, this or a similar matter will be included in succeeding semiannual agenda.

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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey J. Turner, Deputy Director, Office of Regulations and Interpretations, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N-5655, Washington, DC 20210
44. SAVINGS ARRANGEMENTS ESTABLISHED BY POLITICAL SUBDIVISIONS FOR NON-GOVERNMENTAL EMPLOYEES

Priority: Other Significant

Legal Authority: 29 U.S.C. 1135 (ERISA sec 505) ; 29 U.S.C. 1002 (ERISA sec 3(2))

CFR Citation: 29 CFR 2510.3-2

Legal Deadline: None

Abstract: On December 20, 2016, the Department amended a regulation (29 CFR 2510.3-2(h)) that describes how states may design and operate payroll deduction savings programs, using automatic enrollment, for private-sector employees without causing the states or private-sector employers to establish employee pension benefit plans under the Employee Retirement Income Security Act of 1974. The amendments expanded the current regulation to cover programs of political subdivisions of states that otherwise comply with the current regulation. These amendments were made to have no force or effect by an enacted joint resolution of disapproval under the Congressional Review Act. H.J. Res. 67, Pub. L. No. 115-24 (April 13, 2017).

Risks: Undetermined.

Timetable:

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<td>09/29/16</td>
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<td>12/20/16</td>
<td>81 FR 92639</td>
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Final Rule Effective 01/19/17
Other/Final Rule; CRA Revocation 05/00/2017

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Jeffrey J. Turner, Deputy Director, Office of Regulations and Interpretations, 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-AB76

45. INTERPRETIVE BULLETIN RELATING TO THE EXERCISE OF SHAREHOLDER RIGHTS AND WRITTEN STATEMENTS OF INVESTMENT POLICY, INCLUDING PROXY VOTING POLICIES OR GUIDELINES

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

Unfunded Mandates: Undetermined

Legal Authority: 29 U.S.C. §§ 1102, 1103, 1104 & 1135

CFR Citation: 29 CFR 2509

Legal Deadline: None

Abstract: This interpretive bulletin sets forth supplemental views of the Department of Labor concerning the legal standard imposed by sections 402, 403, and 404 of Part 4 of Title I of the Employee Retirement Income Security Act of 1974 with respect to voting of proxies on securities held in employee benefit plan portfolios, the maintenance of and compliance with statements of investment policy, including proxy voting policy, and the exercise of other legal rights of a
shareholder. In this action, the Department withdraws Interpretive Bulletin 2008-2 and replaces it with Interpretive Bulletin 2016-1, which reinstates the language of Interpretive Bulletin 94-2 with certain modifications.

Timetable:

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<td>12/29/16</td>
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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey J. Turner, Deputy Director, Office of Regulations and Interpretations, 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–AB78

Department of Labor (DOL) Prerule Stage

Mine Safety and Health Administration (MSHA)

46. EXPOSURE OF UNDERGROUND MINERS TO DIESEL EXHAUST

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

Unfunded Mandates: Undetermined


CFR Citation: 30 CFR 57.5060 to 57.5075; 30 CFR 70.1900; 30 CFR 72.500 to 75.520; 30 CFR 75.1900 to 75.1916

Legal Deadline: None

Abstract: Epidemiological studies have found that diesel exhaust presents health risks to workers. These
possible health effects range from headaches and nausea to respiratory disease and cancer. MSHA's existing regulations address the health hazards to underground metal and nonmetal miners (66 FR 5706) and coal miners (66 FR 5526) from exposure to diesel particulate matter (DPM). DPM is a component of diesel exhaust. MSHA also has limits for miners' occupational exposure to selected components of the gaseous fraction of diesel exhaust. In June 2012, the International Agency for Research on Cancer classified diesel exhaust as a known human carcinogen. The National Institute for Occupational Safety and Health and the National Cancer Institute also have stated that diesel exhaust exposure has important public health implications, including increasing the risk of death from lung cancer. Because of the carcinogenic health risk to miners from exposure to diesel exhaust, MSHA is requesting information on approaches that would improve control of DPM and diesel exhaust.

**Timetable:**

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<td>81 FR 36826</td>
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<td>Notice of Public Meeting</td>
<td>06/27/16</td>
<td>81 FR 41486</td>
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<td>81 FR 58424</td>
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<td>Public Meeting—Arlington, VA</td>
<td>07/26/16</td>
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<tr>
<td>Public Meeting—Birmingham, AL</td>
<td>08/04/16</td>
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47. EXAMINATION OF WORKING PLACES IN METAL AND NONMETAL MINES

Priority: Other Significant

Legal Authority: 30 U.S.C. 811

CFR Citation: 30 CFR 56; 30 CFR 57.18002

Legal Deadline: None

Abstract: The purpose of workplace examinations is to identify and correct conditions that may adversely affect miners' safety or health before miners are hurt. This final rule requires that an examination of the working place be conducted before miners begin working in that place, that operators notify miners in the affected areas of any conditions found that may adversely affect their safety or health, that operators promptly initiate corrective action, and that a record be made of the examination. The final rule also
requires that the examination record include: the name of the person conducting the examination, the
date of the examination, the location of all areas examined, a description of each condition found that
may adversely affect the safety or health of miners, and the dates of the corrective action. In addition, the
final rule requires that mine operators make the examination record available for inspection by authorized
representatives of the Secretary and miners' representatives and provide a copy upon request. The
Agency is reviewing appropriate implementation timeframes and has solicited public comment on that
issue.

Timetable:

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<td>06/27/16</td>
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Proposed Rule Comment 04/26/17
Period End
Analyze Proposed Rule 05/00/17

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sheila McConnell, Director, Office of Standards and Variances, Department of Labor, Mine Safety and Health Administration, 201 12th Street South, Room 4E401, Arlington, VA 22202-5452
Phone: 202 693–9440
Fax: 202 693–9441
Email: mcconnell.sheila.a@dol.gov
RIN: 1219–AB87

<table>
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<th>Department of Labor (DOL)</th>
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48. REFUGE ALTERNATIVES FOR UNDERGROUND COAL MINES; LIMITED REOPENING OF THE RECORD

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

Unfunded Mandates: Undetermined


CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: The U.S. Court of Appeals for the District of Columbia Circuit remanded a training provision in the Refuge Alternatives Final Rule, directing the Mine Safety and Health Administration (MSHA) to explain the basis for requiring motor task (hands-on), decision-making, and expectations training annually
rather than quarterly, or to reopen the record, and allow public comment. MSHA reopened the rulemaking record for its Refuge Alternatives Final Rule for the limited purpose of obtaining comments on the frequency for motor task (also known as "hands-on" training), decision-making, and expectations training for miners to deploy and use refuge alternatives in underground coal mines. MSHA has reviewed and addressed the comments and will publish its course of action in the Federal Register.

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<td>11/15/13</td>
<td>78 FR 68783</td>
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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Federalism: Undetermined

Agency Contact: Sheila McConnell, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 201 12th Street South, Room 4E401, Arlington, VA 22202-5452

Phone: 202 693-9440

Fax: 202 693-9441

Email: mcconnell.sheila.a@dol.gov
Abstract: Current MSHA standards limit exposures to quartz (crystalline silica) in respirable dust. Overexposure to crystalline silica can result in some miners developing silicosis, an irreversible but preventable lung disease, which ultimately may be fatal. 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. 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.

Statement of Need: MSHA standards have not been updated since 1985; 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 of silica, adapting it as necessary.
for the mining industry.

**Summary of 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.

**Anticipated Cost 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:**

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**Regulatory Flexibility Analysis Required:** Undetermined

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

**Government Levels Affected:** Local, State

**URL For More Information:**

www.msha.gov/regsinfo.htm

**URL For Public Comments:**

www.regulations.gov
Agency Contact: Sheila McConnell, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 201 12th Street South, Room 4E401, Arlington, VA 22202-5452
Phone: 202 693–9440
Fax: 202 693–9441
Email: mcconnell.sheila.a@dol.gov
RIN: 1219-AB36

50. PROXIMITY DETECTION SYSTEMS FOR MOBILE MACHINES IN UNDERGROUND MINES

Priority: Other Significant
Legal Authority: 30 U.S.C. 811
CFR Citation: 30 CFR 75
Legal Deadline: None

Abstract: This final rule addresses hazards 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.

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

Summary of 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.

Anticipated Cost and Benefits: MSHA’s proposed rule included an estimate of the anticipated cost and benefits.

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:

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Reopening of Record 01/09/17 82 FR 2285

Comment Period End 04/03/17

Long Term Action To Be Determined

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: Sheila McConnell, Director, Office of Standards, Regulations, and Variances,
Department of Labor, Mine Safety and Health Administration, 201 12th Street South, Room 4E401,
Arlington, VA 22202-5452
Phone: 202 693-9440
Fax: 202 693-9441
Email: mcconnell.sheila.a@dol.gov

Related RIN: Related to 1219-AB65
RIN: 1219-AB78

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51. CRITERIA AND PROCEDURES FOR PROPOSED ASSESSMENT OF CIVIL PENALTIES

Priority: Other Significant


CFR Citation: 30 CFR 100
Abstract: 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. The assessment of civil penalties is a key component in MSHA's strategy to enforce safety and health standards. MSHA published a proposed rule that would revise the process for proposing civil penalties. The proposed rule also included three alternatives on the scope of the Federal Mine Safety and Health Review Commission's review of proposed penalties to improve the consistence and predictability of civil penalty assessments. MSHA is withdrawing the proposed rule in response to comments recommending that MSHA retain the existing process for proposing civil penalties. Although MSHA is withdrawing the proposed rule, the Agency will continue to focus on inspector training to improve the efficiency of the Agency's efforts and to facilitate the resolution of enforcement issues.

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).
Summary of 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.

Anticipated Cost 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:

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**Regulatory Flexibility Analysis Required:** Undetermined

**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:** Sheila McConnell, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 201 12th Street South, Room 4E401, Arlington, VA 22202–5452

Phone: 202 693–9440
Abstract: On December 31, 2008, Mine Safety and Health Administration (MSHA) issued a final rule establishing requirements for refuge alternatives (RA) for underground coal mines. In 2013, MSHA published a Federal Register Notice requesting data, comments, and information, based on industry experience, on issues relevant to miners' escape and refuge during an emergency. During the public comment period and its extensions, MSHA received 17 comments from industry, RA equipment manufacturers, state and international mining agencies, academia, and NIOSH on various issues. NIOSH had also developed the Refuge Alternatives Partnership to provide a forum for presentation and discussion of NIOSH RA research findings to date; provide a forum for industry, manufacturers, academia and others who are working on improving currently employed RAs and/or the design and testing of novel RA concepts to present their findings; provide a forum for discussion of industry experience with currently employed mobile and built-in-place (BIP) RAs; and provide stakeholder with an opportunity to provide input to NIOSH on research gaps. NIOSH recently held the second Partnership meeting in October 2016, at which MSHA also hosted a Refuge Alternatives Forum.

MSHA is withdrawing this RA rulemaking. MSHA continues to work with NIOSH and stakeholders to resolve any RA equipment and technology issues, enhance the effectiveness of escape and refuge through the RA Partnership.
Timetable:

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53. REQUEST FOR INFORMATION TO IMPROVE THE HEALTH AND SAFETY OF MINERS AND TO PREVENT ACCIDENTS IN UNDERGROUND COAL MINES

Priority: Other Significant

Legal Authority: 30 U.S.C. 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: In response to recommendations resulting from Mine Safety and Health Administration's (MSHA) investigation of the Upper Big Branch (UBB) mine explosion and MSHA's internal review of its actions at UBB, MSHA considered regulatory action that would address issues related to the explosion. The Request for Information (RFI) requested data, comments, and information on issues related to rock dusting, ventilation, mine examinations, certified persons, and MSHA-approved instructors. The National...
Institute for Occupational Safety and Health (NIOSH) is currently conducting research on relevant issues associated with explosion-related conditions in coal mines, such as use of Atmospheric Monitoring Systems, float coal dust characterization, and alternative rock dust applications. MSHA is withdrawing this item and plans to evaluate NIOSH research results and nonregulatory alternatives.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** None

**Agency Contact:** Sheila McConnell, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 201 12th Street South, Room 4E401, Arlington, VA 22202–5452

Phone: 202 693–9440
Fax: 202 693–9441
Email: mcconnell.sheila.a@dol.gov

**RIN:** 1219–AB85
The U.S. Department of Labor (Department) is proposing to issue nondiscrimination and equal opportunity regulations replacing its part 38 final rule, issued on July 23, 2015 (80 FR 43871), which implemented Section 188 of the Workforce Innovation and Opportunity Act of 2014 (WIOA). Signed by President Obama on July 22, 2014, WIOA supersedes the Workforce Investment Act of 1998 (WIA) as the Department's primary mechanism for providing financial assistance for a comprehensive system of job training and placement services for adults and eligible youth. Section 188 of WIOA prohibits the exclusion of an individual from participation in, denial of the benefits of, discrimination in, or denial of employment in the administration of or in connection with, any programs and activities funded or otherwise financially assisted in whole or in part under title I of WIOA because of race, color, religion, sex, national origin, age, disability, political affiliation, or belief, and for beneficiaries only, citizenship status, or participation in a program or activity that receives financial assistance under title I of WIOA. These proposed regulations would update part 38 consistent with current law and address its application to current workforce development and workplace practices and issues.

WIOA became fully effective on July 22, 2015, and contains the identical provisions of section 188 as appeared in WIA. To ensure no gap in coverage while this rulemaking progresses toward a final rule, the Department is issuing simultaneously with publication of this NPRM a final rule as 29 CFR part 38 implementing section 188 of WIOA, which would apply during the interim period between July 22, 2015,
and issuance of the final rule based on this NPRM. The final rule issued separately today retains the provisions in part 37 but substitutes all references to WIA with WIOA to reflect the proper statutory authority. This NPRM revises the part 38 rule. This proposed rule generally carries over the policies and procedures found in 29 CFR parts 37 and 38, which implement the equal opportunity and nondiscrimination provisions of WIA and WIOA, respectively. Like the part 38 final rule issued today, this rule is organized by the same subparts A through E, and refers to changes or revisions made to the part 38 language. Each subpart has significant revisions.

Timetable:

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Naomi Barry-Perez, Director, Civil Rights Center, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., FP Building, Room N-4123, Washington, DC 20210

Phone: 202 693–6500
TDD Phone: 800 877–8339
Fax: 202 693–6505
Email: barry-perry.naomi@dol.gov

RIN: 1291–AA36
Department of Labor (DOL) | Prerule Stage
---|---
Occupational Safety and Health Administration (OSHA) | 

55. COMMUNICATION TOWER SAFETY

Priority: Other Significant

Legal Authority: 29 U.S.C. 655

CFR Citation: 29 CFR 1926; 29 CFR 1910

Legal Deadline: Other, Statutory, June 30, 2014, Request for information.

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

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<td>80 FR 20185</td>
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56. QUANTITATIVE FIT TESTING PROTOCOL: AMENDMENT TO THE FINAL RULE ON RESPIRATORY PROTECTION

Priority: Substantive, Nonsignificant

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

CFR Citation: 29 CFR 1910.134

Legal Deadline: None

Abstract: In January 1998, OSHA published the final Respiratory Protection standard (29 CFR 1910.134). In the final revised respirator standard, OSHA set up a mechanism for OSHA's acceptance of new fit test protocols under Mandatory Appendix A. Any person may submit to OSHA an application for approval of a new fit test protocol, and if the application meets certain criteria, OSHA will initiate a
rulemaking proceeding under 6(b)(7) of the OSH Act to determine whether to list the new protocol as an approved fit test protocol in Appendix A. OSHA has received a submission to consider three new quantitative fit test protocols that reduce the time required to complete the fit test while maintaining acceptable test sensitivity, specificity, and predictive value. Employers, employees, and safety and health professionals use fit testing to select respirators. Currently OSHA relies on fit testing methods specified in Appendix A of the final revised Respiratory Protection standard. When OSHA published the final Respiratory Protection standard in 1998, it allowed for later rulemaking on new fit test protocols. This rulemaking action will allow for the incorporation of new fit test protocols into 1910.134.

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Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N-3718, Washington, DC 20210

Phone: 202 693-1950

Fax: 202 693-1678

Email: perry.bill@dol.gov

RIN: 1218-AC94

57. MECHANICAL POWER PRESSES UPDATE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.
Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The current OSHA standard on mechanical power presses does not address the use of hydraulic or pneumatic power presses. Additionally, the existing standard is approximately 40 years old and does not address technological changes. OSHA previously published an ANPRM on Mechanical Power Presses (June, 2007) in which it proposed several options for updating of this standard, but there were insufficient resources and no further action was taken. The Agency would like to update the public record to determine how best to proceed. This project is in accordance with Executive Order 13563, which is intended to facilitate the review of existing regulations that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them.

Timetable:

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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210

Phone: 202 693–1950

Fax: 202 693–1678

Email: perry.bill@dol.gov

RIN: 1218–AC98
58. POWERED INDUSTRIAL TRUCKS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: 29 CFR 1010.178

Legal Deadline: None

Abstract: Powered Industrial Trucks (e.g., fork trucks, tractors, lift trucks, motorized hand trucks) are ubiquitous in industrial (and many retail) worksites. The agency's standard still relies upon ANSI standards from 1969. The Industrial Truck Association has been encouraging OSHA to update and expand the OSHA standard to account for the substantial revisions to ANSI standards on powered industrial trucks over the last 45 years. The current standard covers 11 types of trucks, and there are now 19 types. In addition, the standard itself incorporates an out-of-date consensus standard. This project is in accordance with Executive Order 13563, which is intended to facilitate the review of existing regulations that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them.

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Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N-3718, Washington, DC 20210

Phone: 202 693–1950
59. LOCK-OUT/TAG-OUT UPDATE

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

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: 29 CFR 1910.147

Legal Deadline: None

Abstract: Recent technological advancements that employ computer-based controls of hazardous energy (e.g., mechanical, electrical, pneumatic, chemical, radiation) conflict with OSHA's existing lock-out / tag-out standard. The use of these computer-based controls has become more prevalent as equipment manufactures modernize their designs. Additionally, there are international standards harmonization concerns since this method of lockout/tag-out is more accepted in other nations. The Agency has recently seen an increase in requests for variances for these devices. An RFI would be useful in understanding the strengths and limitations of this new technology, as well as potential hazards to workers. Alternatively, the agency may hold a stakeholder meeting and open a public docket to explore the issue.

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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined
Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210
Phone: 202 693–1950
Fax: 202 693–1678
Email: perry.bill@dol.gov
RIN: 1218–AD00

60. BLOOD LEAD LEVEL FOR MEDICAL REMOVAL

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

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

CFR Citation: 29 CFR 1910.1025; 29 CFR 1926.62

Legal Deadline: None

Abstract: Recent medical findings indicate that lower blood lead levels (BLLs) in adults can result in adverse health effects including hypertension, cognitive dysfunction, and effects on renal function. These and other health effects (adverse female reproductive outcomes) are being identified in individuals with BLLs under 40 µg/dL. The lead standards for general industry and construction are based on lead toxicity information that is over 35 years old. OSHA lead standards allow for the return of the employee to former job status at a BLL < 40 µg/dL. The U.S. Department of Health and Human Services, Council of State and Territorial Epidemiologists (CSTE), and California’s Medical Management recommends that BLLs among all adults be reduced to <10 µg/dL.

OSHA is exploring regulatory options to lower blood leads in affected workers. An Advanced Notice of Proposed Rulemaking would seek input from the public to help the Agency identify possible areas of the lead standards for revision to improve protection of workers in industries and occupations where preventable exposure to lead continues to occur.
62. • IMPROVE TRACKING OF WORKPLACE INJURIES AND ILLNESSES

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

Legal Authority: Not Yet Determined

CFR Citation: 29 CFR 1904.41(c)(1)

Legal Deadline: None

Abstract: The Department will propose to delay the initial reporting date related to this final rule which changed regulations related to employer reporting of workplace injuries and illnesses.

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Regulatory Flexibility Analysis Required: Undetermined
Government Levels Affected: Undetermined
Federalism: Undetermined
Agency Contact: Amanda Edens, Director, Directorate of Technical Support and Emergency Management, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N-3653, Washington, DC 20210
Phone: 202 693–2300
Fax: 202 693–1644
Email: edens.mandy@dol.gov
Related RIN: 1218-AC49
RIN: 1218-AD16

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63. OCCUPATIONAL EXPOSURE TO BERYLLIUM

Priority: Economically Significant. Major under 5 USC 801.
Legal Authority: 29 U.S.C. 655(b); 29 U.S.C. 657
CFR Citation: 29 CFR 1910
Legal Deadline: None

Abstract: In 1999 and 2001, OSHA was petitioned to issue an emergency temporary standard for permissible exposure limit (PEL) to beryllium by the United Steel Workers (formerly the Paper Allied-Industrial, Chemical, and Energy Workers Union), Public Citizen Health Research Group, and others. The Agency denied the petitions but stated its intent to begin data gathering to collect needed information on beryllium's toxicity, risks, and patterns of usage. On November 26, 2002, OSHA published a Request for
Information (RFI) (67 FR 70707) to solicit information pertinent to occupational exposure to beryllium, including: current exposures to beryllium; the relationship between exposure to beryllium and the development of adverse health effects; exposure assessment and monitoring methods; exposure control methods; and medical surveillance. In addition, the Agency conducted field surveys of selected worksites to assess current exposures and control methods being used to reduce employee exposures to beryllium. OSHA convened a Small Business Advocacy Review Panel under the Small Business Regulatory Enforcement Fairness Act (SBREFA) and completed the SBREFA Report in January 2008. OSHA also completed a scientific peer review of its draft risk assessment. OSHA published a NPRM for a comprehensive beryllium standard for general industry on August 7, 2016 (80 FR 47565) and convened an informal public hearing on the proposed hearings in Washington, D.C., on March 21 and 22, 2016. Following the Agency’s review and consideration of comments and testimony received on the proposed standard, OSHA published final comprehensive standards for general industry, construction and shipyards on January 9, 2017 (82 FR 2470). In accordance with the Presidential directive as expressed in the memorandum of January 20, 2017 from the Assistant to the President and Chief of Staff entitled “Regulatory Freeze Pending Review,” OSHA delayed the effective date of the standard to May 20, 2017, to allow OSHA officials the opportunity for further review and consideration of the new regulations. Based on this review and the comments received in response to extending the effective date, OSHA will propose changes to the standards that apply to construction and shipyard operations.

**Statement of Need:** Exposure to beryllium causes a disabling and potentially fatal chronic lung disease called Chronic Beryllium Disease (CBD). Exposure to beryllium has also been linked to lung cancer. OSHA reduced the permissible exposure limit (PEL) by 10 times to 0.2 micrograms of beryllium per cubic meter of air (µg/m³) over an 8-hour time weighted average (TWA) and a short term exposure limit (STEL) of 2.0 µg/m³ over 15 minutes. OSHA also included requirements such as medical surveillance, medical removal protection, regulated areas, training, and engineering controls.

**Summary of Legal Basis:** 29 U.S.C. 655(b); 29 U.S.C. 657
Alternatives:

**Anticipated Cost and Benefits:** Not yet estimated.

**Risks:** Not yet estimated.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** Yes
Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210

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RIN: 1218–AB76

64. CRANE OPERATOR QUALIFICATION IN CONSTRUCTION

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

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

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: The rulemaking will identify criteria for employers to follow to ensure their crane operators are completely qualified to operate cranes safely on construction work sites. In the 2010 final cranes standard, the Agency established crane operator certifications as the sole criterion for operator safety. Certification is virtually always provided by third party testing entities. Following publication of the final crane standard, stakeholders informed the Agency that certification did not by itself establish a safe enough level of experience and competence--employers must be responsible to ensure that crane operators are qualified. The Agency responded by publishing a final rule postponing the deadline for operator certification and extending the employer duty to permit the Agency to conduct rulemaking, if necessary, on operatory qualification. This rulemaking will also clarify issues surrounding operatory certification, including the “type and capacity” requirement from the 2010 final construction cranes standard. Establishing clear benchmarks for employers to follow to ensure crane operator competence is
essential for construction worksite safety. OSHA will issue an extension of the effective date for one year to allow adequate time for the proposed rule to be published and finalized. Employers will continue to benefit from the protections of the current requirements during the delay.

**Statement of Need**: OSHA extended the operator certification requirements for three years to November 2017, to allow the agency time to re-evaluate the requirement originally promulgated in negotiated rulemaking. Many employers have been waiting for this proposed rule as their notice that OSHA will continue to require crane operator certification and to clarify what kind of information must be on the certifications (i.e., type or type and capacity). On November 10, 2017, employers will be required to rely on certifications alone to ensure crane operator competency. This also will make the two largest certification providers certifications invalid by the existing regulation. All four testing organizations who issue these certifications and most employers have urged OSHA to conduct this rulemaking to prevent this work practice of relying on certification alone. Further the requirement for employers to evaluate crane operators for the specific equipment they are assigned to operate expires November 2017.

**Summary of Legal Basis:**

**Alternatives:**

**Anticipated Cost and Benefits**: 0

This regulation has both regulatory and deregulatory effects, and, as a result, both costs savings and costs to employers. OSHA has not yet determined whether the costs savings outweigh the costs. The proposed rule has estimated costs of $2.9 million per year. The cost saving are still being determined but may be up to $4 million per year. To the extent the rule does not have net cost savings, OSHA proposes to offset these costs by reducing employer burdens and compliance costs through technical corrections and elimination of outdated or ineffective requirements identified in proposed rulemaking 1218-AD12.
(Technical Amendments to 19 OSHA Standards), 1218-AC67 (Standards Improvement Project IV (SIPs IV)), and 1218-AC81 (Amendments to the Cranes and Derricks in Construction Standard). For SIPs IV, for example, OSHA estimates that one revision (updating the method of identifying and calling emergency medical services) may increase construction employers costs by about $28,000 per year while two provision (reduction in the number of employee x-rays and elimination of posting requirements for residential construction employers) provide estimated costs savings of $3.2 million annually.

Risks:

Timetable:

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dean McKenzie, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N–3468, FP Building, 200 Constitution Avenue NW., Washington, DC 20210

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RIN: 1218–AC96

65. CRANES AND DERRICKS IN CONSTRUCTION: EXEMPTION EXPANSIONS FOR RAILROAD ROADWAY WORK
Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: None

Legal Deadline: None

Abstract: After the final rule for Cranes and Derricks in Construction was published on August 9, 2010, the Association of American Railroads (AAR) filed a petition for review on October 7, 2010, challenging certain exemptions affecting railroad roadway work. OSHA and AAR reached a September 9, 2014, settlement agreement filed with the court. The settlement agreement requires OSHA to undertake rulemaking to expand exemptions affecting railroad roadway work. This proposed rule will make the crane rule for construction more applicable to railroad cranes.

Statement of Need:

Summary of Legal Basis:

Alternatives:

Anticipated Cost and Benefits: Since this proposed rule will clarify requirements that are particular to railroad cranes and it is anticipated will not add any new employer burdens or costs, it is anticipated that better comprehension of the requirements as revised will reduce compliance costs of employers who use railroad cranes.

Risks:

Timetable:

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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Dean McKenzie, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N–3468, FP Building, 200 Constitution Avenue NW, Washington, DC 20210

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RIN: 1218–AD07

66. TECHNICAL CORRECTIONS TO 16 OSHA STANDARDS

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: OSHA is correcting typographical errors, including extraneous or omitted materials, and inaccurate graphics in 46 OSHA of 29 CFR parts 1904, 1915, 1917, 1918, and 1926. The purpose of these corrections is to reduce regulatory burdens of employers by revising inaccurate text and graphics to improve comprehension of the requirements.

Statement of Need: This proposed rule will reduce employer compliance burdens and increase comprehension of requirements that will reduce compliance costs of employers.

Summary of Legal Basis:

Alternatives:
Anticipated Cost and Benefits:

Risks:

Timetable:

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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Dean McKenzie, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N–3468, FP Building, 200 Constitution Avenue NW, Washington, DC 20210
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RIN: 1218–AD12

67. PUERTO RICO STATE PLAN

Priority: Substantive, Nonsignificant

Legal Authority: sec 18 of OSH Act

CFR Citation: 29 CFR 1952.22

Legal Deadline: None

Abstract: Puerto Rico has initiated the process to receive final approval of the State Plan pursuant to section 18(e) of the OSH Act. Final approval is an official finding by the Secretary of Labor that the State Plan meets the eligibility criteria set forth in section 18(c) of the OSH Act, and, in actual operation, meets the statutory and regulatory criteria set forth in 29 CFR 1902. With final approval, OSHA formally
relinquishes its concurrent authority for safety and health issues covered by the State Plan.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal, State

**Agency Contact:**
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**RIN:** 1218–AD13

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**Department of Labor (DOL) | Final Rule Stage**

| Occupational Safety and Health Administration (OSHA) |       |

**68. STANDARDS IMPROVEMENT PROJECT IV**

**Priority:** Other Significant

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

**CFR Citation:** 29 CFR 1926

**Legal Deadline:** None

**Abstract:** OSHA's Standards Improvement Projects (SIPs) are intended to remove or revise duplicative, unnecessary, and inconsistent safety and health standards. The Agency has published three earlier final
Standards to remove unnecessary provisions (63 FR 33450, 70 FR 1111, 76 FR 33590), thus reducing costs or paperwork burden on affected employers.

**Statement of Need:** The Agency has proposed a fourth rule that identified unnecessary or duplicative provisions or paperwork requirements.

**Summary of Legal Basis:** OSHA is conducting Phase IV of the Standards Improvement Project (SIP-IV) in response to the President's Executive Order 13563, Improving Regulations and Regulatory Review (76 FR 38210). SIP-IV will update three standards to align with current medical practice, including a reduction to the number of necessary employee x-rays, updates to requirements for pulmonary function testing, and updates to the table used for decompression of employees during underground construction. Additionally, the proposed revisions include an update to the consensus standard incorporated by reference for signs and devices used to protect workers near automobile traffic, a revision to the requirements for roll-over protective structures to comply with current consensus standards, updates for storage of digital x-rays and the method of calling emergency services to allow for use of current technology, and a revision to lockout/tagout requirements in response to a court decision, among others. OSHA is also proposing to remove from its standards the requirements that employers include an employee's social security number (SSN) on exposure monitoring, medical surveillance, and other records in order to protect employee privacy and prevent identity fraud.

**Alternatives:** The main alternative OSHA considered for all of the proposed changes contained in the SIP-IV rulemaking was retaining the existing regulatory language, i.e., retaining the status quo. In each instance, OSHA has concluded that the benefits of the proposed regulatory change outweigh the costs of those changes. In a few of the items, such as the proposed changes to the decompression requirements applicable to employees working in compressed air environments, OSHA has requested public comment on feasible alternatives to the Agency's proposal.

**Anticipated Cost and Benefits:** The Agency has estimated that one revision (updating the method of
identifying and calling emergency medical services) may increase construction employers costs by about $28,000 per year while two provisions (reduction in the number of necessary employee x-rays and elimination of posting requirements for residential construction employers) provide estimated costs savings of $3.2 million annually. The Agency has not estimated or quantified benefits to employees from reduced exposure to x-ray radiation or to employers for the reduced cost of storing digital x-rays rather than x-ray films, among others. The Agency has preliminarily concluded that the proposed revisions are economically feasible and do not have any significant economic impact on small businesses. The Preliminary Economic Analysis in this preamble provides an explanation of the economic effects of the proposed revisions. The cost savings from these revisions and eliminations of several OSHA requirements may be used to offset any costs incurred by employers from new rulemakings that are necessary to update employee protections.

Risks: SIP rulemakings do not address new significant risks or estimate benefits and economic impacts of reducing such risks. Overall, SIP rulemakings are reasonably necessary under the OSH Act because they provide cost savings, or eliminate unnecessary requirements.

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No
**Government Levels Affected:** Undetermined

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RIN: 1218–AC67

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**69. OCCUPATIONAL INJURY AND ILLNESS RECORDING AND REPORTING REQUIREMENTS—MUSCULOSKELETAL DISORDERS (MSD) COLUMN**

**Priority:** Other Significant


**CFR Citation:** 29 CFR 1904

**Legal Deadline:** None

**Abstract:** The Occupational Safety and Health Administration (OSHA) proposed to restore a column to the OSHA 300 Log that employers must check if a case they are already required to record under OSHA’s existing recordkeeping rule (29 CFR 1904) is a "musculoskeletal disorder" (MSD). This rulemaking does not change the existing requirements about when and under what circumstances employers must record work-related injuries and illnesses. The Agency believes that having aggregate data on MSDs may help employers and workers track these injuries at individual workplaces. MSD information will also improve the utility, accuracy, and completeness of the national occupational injury
and illness statistics, and may assist the Agency in its day-to-day activities and overall safety and health policy making. This rulemaking was temporarily withdrawn from OMB on January 26, 2011, so that the Agency could gather more information from stakeholders in the small business community.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** State

**Agency Contact:** William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210

Phone: 202 693–1950
70. INFECTIOUS DISEASES

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


CFR Citation: 29 CFR 1910

Legal Deadline: None

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 developing 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.
Statement of Need: 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.


Alternatives: OSHA offered several alternatives to the SBREFA panel when presenting the proposed Infectious Disease (ID) rule. OSHA considered a specification oriented rule rather than a performance oriented rule, but this type of rule would provide less flexibility and would likely fail to anticipate all of the potential hazards and necessary controls for every type and every size of facility and would under-protect workers. Exempting small entities from the rule was considered, but approximately 1.5 million of the estimated 9 million workers affected by the rule as outlined in the regulatory framework work in very small entities, leaving these workers under-protected. OSHA also considered changing the scope of the rule restricting the ID rule to workers who have occupational exposure during the provision of direct patient care in institutional settings but based on the evidence thus far analyzed, those workers performing other covered tasks in both institutional and non-institutional settings face a risk of infection because of their occupational exposure. Per the proposed rule, employers would be required to provide medical removal protection (MRP) benefits. If OSHA eliminated the requirement for MRP benefits, workers might be deterred from reporting signs and symptoms that could be indicative of infection and might work while sick (due to concerns about loss of pay or other such punitive consequences), potentially resulting in further infections to co-workers and/or patients. OSHA also considered the option of not requiring employers to make vaccinations available to workers. Vaccination is generally considered an important component of an effective infection control program, as it protects inoculated workers from infections,
lessens chances of outbreaks by minimizing transmission of infections from workers to other workers and patients, and may also lessen the duration and severity of infections, depending on the efficacy of the vaccine.

**Anticipated Cost and Benefits:** Undetermined.

**Risks:** During provision of direct patient care and the performance of other covered tasks as outlined in the scope of the SBREFA alternatives, workers are at risk for exposure to infections agents. The peer-reviewed literature suggests that HCWs are especially at risk of occupationally-acquired infections (OAl's) during the early stages of the emergence of novel infectious agents or during unexpected outbreaks of known infectious agents. While the patients who are the most ill with infectious diseases are most likely being treated in hospitals, many patients with infectious diseases are treated in ambulatory care settings during the early stages of the disease while they are asymptomatic or have mild symptoms. An increasing number of patients who are ill and symptomatic with an infectious disease are getting initial treatment at clinics that have urgent care or immediate care services, rather than being treated at hospital emergency rooms. Many patients with childhood illnesses such as measles, mumps and pertussis are being treated at clinics, not hospitals, unless they have severe cases. Currently, outbreaks of measles, mumps and pertussis are occurring in various countries, including the U.S. Elderly patients who are among the most susceptible to severe disease are increasingly receiving home healthcare rather than at institutionalized settings. Workers in laboratories are tasked with the identification of infectious agents causing outbreaks and are similarly at greater risks of OAl's as a result of frequent exposures. OSHA believes that the 1998 and 2007 CDC/HICPAC guidelines, along with other authoritative guidance documents (e.g., CDC/NIH, 2009), and hundreds of peer-reviewed publications, demonstrate a well-recognized risk of occupational exposure to infectious agents for workers providing direct patient care and/or performing other covered tasks.

**Timetable:**
71. AMENDMENTS TO THE CRANES AND DERRICKS IN CONSTRUCTION STANDARD

Priority: Other Significant

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

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: Occupational Safety and Health Administration (OSHA) is proposing corrections and
amendments to the final standard for cranes and derricks published in August 2010. The standard has a large number of provisions designed to improve crane safety and reduce worker injury and fatality. The proposed amendments: correct references to power line voltage for direct current (DC) voltages as well as alternating current (AC) voltages; broadens the exclusion for forklifts carrying loads under the forks from "winch or hook" to with a "winch and boom"; clarifies an exclusion for work activities by articulating cranes; provides four definitions inadvertently omitted in the final standard; replaces "minimum approach distance" with "minimum clearance distance" throughout to remove ambiguity; clarifies the use of demarcated boundaries for work near power lines; corrects an error permitting body belts to be used as a personal fall arrest system rather than a personal fall restraint system; replaces the verb "must" with "may" used in error in several provisions; corrects an error in a caption on standard hand signals; and resolves an issue of "NRTL-approved" safety equipment (e.g., proximity alarms and insulating devices) that is required by the final standard, but is not yet available.

Statement of Need: This proposed rule will reduce employer compliance burdens and increase comprehension of requirements that will reduce compliance costs of employers. A cost benefit analysis is being calculated and will be provided as support for the proposed rulemaking.

Summary of Legal Basis:

Alternatives:

Anticipated Cost and Benefits: No new costs expected.

Risks:

Timetable:

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses
Government Levels Affected: None

Agency Contact: Dean McKenzie, Director, Directorate of Construction, Department of Labor,
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RIN: 1218–AC81

72. PROCESS SAFETY MANAGEMENT AND PREVENTION OF MAJOR CHEMICAL ACCIDENTS

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


CFR Citation: 29 CFR 1910.119

Legal Deadline: None

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

Timetable:

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73. SHIPYARD FALL PROTECTION—SCAFFOLDS, LADDERS AND OTHER WORKING SURFACES

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

Unfunded Mandates: Undetermined

Legal Authority: sec 41, Longshore and Harbor Workers Compensation Act (33 U.S.C. 941); sec 4, 6, and 8 Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR 8754); 8-76 (41 FR 25059), or 9-83 (48 FR 35736) as applicable

CFR Citation: 29 CFR 1915.71 to 1915.77; subpart E; Scaffolds, Ladders & Other Working Surfaces; 29 CFR 1911

Legal Deadline: None

Abstract: Existing 29 CFR part 1915, subpart E; Scaffolds Ladders and Other Working Surfaces includes
scaffolds or staging, ladders, guarding of deck openings and edges, access to vessels, access to and guarding of dry docks and marine railways, access to cargo spaces and confined spaces, and working surfaces. These requirements are not comprehensive in their coverage of fall hazards in shipyards. In addition, provisions will be updated to reflect technological advances, while other provisions will be revised to be consistent with national consensus standards. Since this would result in a large, cumbersome subpart, Occupational Safety and Health Administration (OSHA) will request information in dividing this rulemaking into three subparts: subpart E, Stairways, Ladders and Other Access and Egress; subpart M, Fall Protection; and subpart N, Scaffolds. The estimated number of annualized fatalities associated with each subpart are: subpart E, Stairways, Ladders and Other Access and Egress - approximately 1 to 2 fatalities are occurring each year; subpart M, Fall Protection - approximately 3 to 4 fatalities in shipyards, associated with falls from elevations, are occurring each year; and subpart N, Scaffolds - approximately 1 fatality is occurring each year.

**Statement of Need:** The Standards in subpart E are outdated and do not reflect advances in technology or industry best practices developed since OSHA adopted subpart E to include requirements for systems that are no longer in use; the use of outdated terminology; and there are no requirements for systems in use (e.g., Marine Hanging and Staging/Interior hung scaffolds). Further, the standards in subpart E are not comprehensive in coverage of fall and falling object protection, scaffolding, and access to and egress from vessels, buildings, and other structures in shipyard employment. OSHA has received comments regarding the need for revision and update by industry stakeholders.

**Summary of Legal Basis:**

**Alternatives:**

**Anticipated Cost and Benefits:**

**Risks:**

**Timetable:**
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<td>09/08/16</td>
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**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Undetermined

**Federalism:** Undetermined

**Agency Contact:** William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N-3718, Washington, DC 20210

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**RIN:** 1218-AC85

### 74. EMERGENCY RESPONSE AND PREPAREDNESS

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

**Unfunded Mandates:** Undetermined

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

**CFR Citation:** 29 CFR 1910

**Legal Deadline:** None

**Abstract:** OSHA currently regulates aspects of emergency response and preparedness, and that some of these standards were promulgated decades ago, and none were designed as comprehensive emergency response standards. Consequently, they do not address the full range of hazards or concerns
currently facing emergency responders, nor do they reflect major changes in performance specifications for protective clothing and equipment. The Agency acknowledged that current OSHA standards also do not reflect all the major developments in safety and health practices that have already been accepted by the emergency response community and incorporated into industry consensus standards. OSHA plans to update these standards with information gathered through an RFI and public meetings. The Emergency response and Preparedness subcommittee completed its work in September 2016 and forwarded draft regulatory language to NACOSH for their review and consideration. In their December 14, 2016 meeting, NACOSH extensively discussed the draft language document, and unanimously approved a recommendation to the Secretary that OSHA move forward to rulemaking using the draft document as a basis for a proposed rule.

**Timetable:**

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<tr>
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<td>NACOSH Workgroup</td>
<td>11/00/16</td>
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<td>12/00/16</td>
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**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Undetermined

**Federalism:** Undetermined

**Agency Contact:** William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210

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Email: perry.bill@dol.gov
RIN: 1218–AC91

75. UPDATE TO THE HAZARD COMMUNICATION STANDARD

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.
Legal Authority: 29 U.S.C. 655(b); 29 U.S.C. 657
CFR Citation: 29 CFR 1910.1200
Legal Deadline: None

Abstract: OSHA and other U.S. agencies have been involved in a long-term project to negotiate a globally harmonized approach to defining hazards, and providing labels and safety data sheets for hazardous chemicals. The result is the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). The GHS was adopted by the United Nations, with an international goal of as many countries as possible adopting it by 2008.

OSHA incorporated the GHS into the Hazard Communication Standard (HCS) in March 2012. The result was more specific requirements for hazard classification, as well as standardized label components and a standard approach to conveying information on safety data sheets. The adoption has the potential to address some issues regarding accuracy and comprehensibility in the U.S., which will improve employee protection and facilitate international trade.

However, the GHS is a living document and has been updated several times since OSHA’s rulemaking. OSHA’s rulemaking was based on the third edition of the GHS and the UN recently completed the sixth. The latest edition contains additional hazard categories that OSHA may add, desensitized explosives and pyrophoric gases, in order to maintain alignment with the GHS and other countries that have adopted the GHS. OSHA would implement such changes via rulemaking.

Timetable:

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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210

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Email: perry.bill@dol.gov

RIN: 1218–AC93

76. RULES OF AGENCY PRACTICE AND PROCEDURE CONCERNING OSHA ACCESS TO
EMPLOYEE MEDICAL RECORDS

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 U.S.C. 657, sec 8, Occupational Safety and Health Act of 1970

CFR Citation: 29 CFR 1913.10

Legal Deadline: None

Abstract: OSHA's regulation at 29 CFR 1913.10 includes internal procedures to be followed by OSHA personnel when obtaining and using personally-identifiable employee medical information. After careful review, OSHA has identified several provisions in need of revision. The Agency plans to amend the regulation to improve its efficiency in implementing these internal procedures. To improve efficiency, OSHA is considering placing responsibility and management of the program to OSHA's Chief Medical Officer (e.g. namely authority to sign Medical Access Orders) and to remove requirements for redacting records since this is duplicative of current privacy requirements that are already strictly enforced.
Timetable:

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<th>Action</th>
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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Swain, Counsel for Legal Advice, Occupational Safety and Health Division, Office of the Solicitor, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693–5476
Email: swain.robert@dol.gov
RIN: 1218–AC95

77. TREE CARE STANDARD

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

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: None

Legal Deadline: None

Abstract: There is no OSHA standard for tree care operations; the agency currently applies a patchwork of standards to address the serious hazards in this industry. The tree care industry previously petitioned the agency for rulemaking and OSHA issued an ANPRM (September, 2008); but the rulemaking was later removed from the Regulatory Agenda due to insufficient resources. Tree care continues to be a high-hazard industry. Stakeholder meetings will allow the agency to update the record and proceed to a future rulemaking.
Statement of Need: Current OSHA standards do not directly address the full range of hazards facing tree care workers. The hazards of the tree care industry can be great, and in many cases resulted in injuries and deaths. Also, the provisions of the ANSI Z133.1 national consensus standards vary from some OHS rules. The hazards include falling from trees; being hit by falling trees and branches, flying objects or vehicular traffic; being cut by high-speed saws; being pulled into chippers; and coming into contact with energized power lines. OSHA currently has three different standards that address hazards that can be found in tree-care operations. There are two sets of line-clearance tree-trimming requirement, one in section 1910.268 on telecommunications and one in section 1910.269 on electric power. Lastly, on May 10, 2006, the Tree Care Industry Association petitioned OSHA to develop a standard for tree-care operations.

Summary of Legal Basis:

Alternatives:

Anticipated Cost and Benefits:

Risks:

Timetable:

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<th>Action</th>
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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210

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78. PREVENTION OF WORKPLACE VIOLENCE IN HEALTH CARE AND SOCIAL ASSISTANCE

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The RFI (published on December 7, 2016) provides OSHA’s history with the issue of workplace violence in healthcare, including a discussion of the Guidelines that were initially published in 1996, a 2014 update to the Guidelines, and the recently published tools and strategies that were shared with OSHA by healthcare facilities with effective violence prevention programs. It will also discuss the Agency’s use of 5(a)(1) in enforcement cases in healthcare. The RFI solicits information primarily from health care employers, workers and other subject matter experts on impacts of violence, prevention strategies, and other information that will be useful to the Agency if it decides to move forward in rulemaking. OSHA will also solicit information from stakeholders, including state officials, employers and workers, in the nine states that require certain health healthcare facilities to have some type of workplace violence prevention program. The agency has been petitioned for a standard preventing workplace violence in healthcare by a broad coalition of labor unions, and in a separate petition by the National Nurses United. On January 10, 2017, OSHA granted the petition.

Statement of Need: Workplace violence is a widespread problem, and there is growing recognition that workers in healthcare occupations face unique risks and challenges. In 2013, the rate of serious workplace violence incidents (those requiring days off for an injured worker to recuperate) was more than
four times greater in healthcare than in private industry on average. Healthcare accounts for nearly as many serious violent injuries as all other industries combined. Workplace violence comes at a high cost. It harms workers often both physically and emotionally and makes it more difficult for them to do their jobs.

In 2013, 80 percent of serious violent incidents reported in healthcare settings were caused by interactions with patients. Other incidents were caused by visitors, coworkers, or other people. Some medical professions and settings are more at risk than others. According to the Bureau of Labor Statistics, in 2013 psychiatric aides experienced the highest rate of violent injuries that resulted in days away from work, at approximately 590 injuries per 10,000 full-time employees (FTEs). This rate is more than 10 times higher than the next group, nursing assistants (about 55 violent injuries per 10,000 FTEs, and registered nurses (about 14 violent injuries per 10,000 FTEs), compared with a rate of 4.2 violent injuries per 10,000 FTEs in U.S. private industry as a whole. High-risk areas include emergency departments, geriatrics, and behavioral health, among others.

Summary of Legal Basis:

Alternatives:

Anticipated Cost and Benefits:

Risks:

Timetable:

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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined
Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210
Phone: 202 693–1950
Fax: 202 693–1678
Email: perry.bill@dol.gov
RIN: 1218–AD08

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### 79. WALKING WORKING SURFACES AND PERSONAL FALL PROTECTION SYSTEMS (SLIPS, TRIPS, AND FALL PREVENTION)

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

**Unfunded Mandates**: This action may affect the private sector under PL 104-4.

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

**CFR Citation**: 29 CFR 1910, subparts D and I

**Legal Deadline**: None

**Abstract**: In 1990, OSHA published a proposed rule (55 FR 13360) addressing slip, trip, and fall hazards and establishing requirements for personal fall protection systems. Slips, trips, and falls are among the leading causes of work-related injuries and fatalities. 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. As a result of issues raised in comments to the 1990 NPRM, OSHA published a notice to reopen the rulemaking for comment on May 2, 2003. Based on comments received on the 2003 notice, OSHA determined that the rule proposed in 1990 was out of date.
and did not reflect current industry practice or technology. The Agency published a second proposed rule on May 24, 2010, which reflected current information and increased consistency with other OSHA standards. Hearings were held on January 18 through 21, 2011. OSHA's final rule was published on November 18, 2016.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Agency Contact:** William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N-3718, Washington, DC 20210

Phone: 202 693–1950
80. BLOODBORNE PATHOGENS (COMPLETION OF A SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant


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 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. OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

Timetable:

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: None
Agency Contact: Amanda Edens, Director, Directorate of Technical Support and Emergency Management, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N-3653, Washington, DC 20210
Phone: 202 693–2300
Fax: 202 693–1644
Email: edens.mandy@dol.gov
RIN: 1218–AC34

81. COMBUSTIBLE DUST
Priority: Economically Significant. Major under 5 USC 801.
Legal Authority: 29 U.S.C. 655(b); 29 U.S.C. 657
CFR Citation: 29 CFR 1910, subpart H
Legal Deadline: None

Abstract: Occupational Safety and Health Administration (OSHA) has initiated rulemaking to develop a combustible dust standard for general industry. OSHA will use information gathered, including from an upcoming SBREFA panel, to develop a comprehensive standard that addresses combustible dust hazards. OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

Timetable:

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<td>74 FR 54333</td>
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82. INJURY AND ILLNESS PREVENTION PROGRAM

Priority: Economically Significant. Major under 5 USC 801.


CFR Citation: None

Legal Deadline: None

Abstract: OSHA is developing a rule requiring employers to implement an Injury and Illness Prevention Program. It involves planning, implementing, evaluating, and improving processes and activities that protect employee safety and health. OSHA has substantial data on reductions in injuries and illnesses from employers who have implemented similar effective processes. The Agency recently issued Recommended Practices for Safety and Health Programs for both general industry and construction, which updates OSHA’s 1989 Safety and Health Program Management Guidelines. An injury and illness prevention program rule would build on these guidelines as well as lessons learned from successful
approaches and best practices under OSHA's Voluntary Protection Program, Safety and Health Achievement Recognition Program, and similar industry and international initiatives such as American National Standards Institute/American Industrial Hygiene Association Z10, and Occupational Health and Safety Assessment Series 18001. OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

**Statement of Need:** There are over 4,500 workplace fatalities and approximately 4.1 million serious workplace injuries every year. There are also many workplace illnesses caused by exposure to common chemical, physical, and biological agents. OSHA believes that an injury and illness prevention program is a universal intervention that can be used in a wide spectrum of workplaces to dramatically reduce the number and severity of workplace injuries. Such programs have been shown to be effective in many workplaces in the United States and internationally.

**Summary of 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 alternatives to this rulemaking would be to issue guidance, recognition programs, or allow for the States to develop individual regulations. OSHA has used voluntary approaches to address the need, including publishing Recommended Practices for Safety and Health Programs in 2016. In addition, OSHA has two recognition programs, the Voluntary Protection Program (known as VPP), and the Safety and Health Achievement Recognition Program (known as SHARP). These programs recognize workplaces with effective safety and health programs. Several States have issued regulations that require employers to establish effective safety and health programs.

**Anticipated Cost and Benefits:** The scope of the proposed rulemaking and the costs and benefits are still under development for this regulatory action.

**Risks:** A detailed risk analysis is underway.
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<td>75 FR 23637</td>
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Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210

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RIN: 1218–AC48

83. PREVENTING BACKOVER INJURIES AND FATALITIES

Priority: Economically Significant. Major under 5 USC 801.

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

CFR Citation: None

Legal Deadline: None

Abstract: Backing vehicles and equipment are common causes of struck-by injuries and can also cause caught-between injuries when backing vehicles and equipment pin a worker against an object. Struck-by injuries and caught-between injuries are two of the four leading causes of workplace fatalities. The Bureau of Labor Statistics reports that in 2013, 67 workers were fatally backed over while working.
many backing incidents can prove to be fatal, workers can suffer severe, non-fatal injuries as well. A review of OSHA's Integrated Management Information System (IMIS) database found that backing incidents can result in serious injury to the back and pelvis, fractured bones, concussions, amputations, and other injuries. Emerging technologies in the field of backing operations may prevent incidents. The technologies include cameras and proximity detection systems. The use of spotters and internal traffic control plans can also make backing operations safer. The Agency has held stakeholder meetings on backovers, and is conducting site visits to employers, and is developing a standard to address these hazards. OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

**Timetable:**

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<td>77 FR 18973</td>
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**Regulatory Flexibility Analysis Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

**Agency Contact:** Dean McKenzie, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N–3468, FP Building, 200 Constitution Avenue NW, Washington, DC 20210

Phone: 202 693–2020

Fax: 202 693–1689

Email: mckenzie.dean@dol.gov

**RIN:** 1218–AC51

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**84. CHEMICAL MANAGEMENT AND PERMISSIBLE EXPOSURE LIMITS (PELS)**
Abstract: The majority of the Occupational Safety and Health Administration's (OSHA) Permissible Exposure Limits (PELs) were adopted in 1971, under section 6(a) of the OSH Act and only a few have been successfully updated since that time. There is widespread agreement among industry, labor, and professional occupational safety and health organizations that OSHA's PELs are outdated and need revising in order to take into account newer scientific data that indicates that significant occupational health risks exist at levels below OSHA's current PELs. In 1989, OSHA issued a final standard that lowered PELs for over 200 chemicals and added PELs for 164. However, the final rule was challenged and ultimately vacated by the 11th Circuit Court of Appeals in 1991 citing deficiencies in OSHA's analyses. Since that time OSHA has made attempts to examine its outdated PELs in light of the court's 1991 decisions. On October 10, 2014, OSHA published a Request for Information (RFI) to solicit comment from the public on approaches it may take to reduce the risk of developing illness caused by exposure to hazardous chemicals. On October 10, 2014, OSHA published a Request for Information (RFI) to broadly solicit comment from the public on regulatory and non-regulatory approaches it may take to reduce the risk of developing illness caused by exposure to hazardous chemicals. The public record closed on October 19, 2015. At this time. OSHA is withdrawing this entry from the agenda while it considers appropriate strategies to address management of chemical hazards in the workplace.

Timetable:

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<td>79 FR 61383</td>
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<td>04/08/15</td>
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<td>RFI Comment Period</td>
<td>03/25/15</td>
<td>80 FR 15702</td>
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85. CLARIFICATION OF EMPLOYER’S CONTINUING OBLIGATION TO MAKE AND MAINTAIN ACCURATE RECORDS OF EACH RECORDABLE INJURY AND ILLNESS

Priority: Other Significant

Legal Authority: 29 U.S.C. 857(c), (g); 29 U.S.C. 673(a), (e); 29 U.S.C. 651(b)(12)


Legal Deadline: None

Abstract: OSHA is proposing to amend its recordkeeping regulations to clarify that the duty to make and maintain accurate records of work-related injuries and illnesses is an ongoing obligation. The duty to make and maintain an accurate record of an injury or illness continues for as long as the employer must keep and make available records for the year in which the injury or illness occurred. The duty does not expire if the employer fails to create the necessary records when first required to do so. OSHA issued this
final rule because of the decision of the U.S. Court of Appeals for the D.C. Circuit in AKM LLC v. Secretary of Labor, 675 F.3d 752 (D.C. Cir. 2012). This action was made to have no force or effect by an enacted joint resolution of disapproval under the Congressional Review Act, Publ. L. No. 115-21 (April 3, 2017).

Timetable:

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<td>81 FR 91792</td>
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Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210

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RIN: 1218–AC84
86. PROCEDURES FOR THE HANDLING OF RETALIATION COMPLAINTS UNDER THE EMPLOYEE PROTECTION PROVISION OF THE MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT

Priority: Other Significant

Legal Authority: 49 U.S.C. 30170 (Pub. L. 112-141)

CFR Citation: 29 CFR 1988

Legal Deadline: None

Abstract: Occupational Safety and Health Administration (OSHA) is promulgating procedures for the handling and investigation of retaliation complaints pursuant to section 31307 of the Moving Ahead for Progress in the 21st Century Act (MAP-21). This section protects employees from retaliation by motor vehicle manufacturers, part suppliers, and dealerships for providing information to the employer of the U.S. Department of Transportation about motor vehicle defects, noncompliance, or violations of the notification or reporting requirements enforced by the National Highway Traffic Safety Administration or for engaging in related protected activities as set forth in the provision. Pursuant to this statute, the rules 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. Promulgation of a regulation is necessary to govern whistleblower investigations conducted under this new statute.

Timetable:

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<td>12/14/16</td>
<td>81 FR 90196</td>
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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary Ann Garrahan, Director, Directorate of Whistleblower Protection Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N-4618, Washington, DC 20210

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RIN: 1218–AC88

87. REVOCATION OF OBSOLETE PERMISSIBLE EXPOSURE LIMITS (PELS)

Priority: Other Significant

Legal Authority: EO 13563

CFR Citation: 29 CFR 1910.1000 table Z–1

Legal Deadline: None

Abstract: OSHA is initiating a new regulatory project to revoke a small number of obsolete permissible exposure limits (PELs) for chemicals contained in the 29 CFR 1910.1000 Table Z-1. This project is in accordance with Executive Order 13563, which is intended to facilitate the review of existing regulations that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them. In particular, the Agency will propose revocation of a small number of chemical PELs for which the OSHA PEL substantially exceeds other recommended occupational exposure limits and for which the agency has evidence that workers are not generally being exposed at a level approaching the OSHA PEL (e.g., employers have not been cited for violation of the PEL for some time). The agency is particularly concerned that the continued existence of these obsolete PELs imparts a false
level sense of security to workers and employers who mistakenly believe that the PEL represents the level at which there are no adverse health effects. The agency expects that upon revocation of these outdated PELs, it may use other enforcement tools (e.g., the General Duty clause) in limited circumstances should worker health and safety be jeopardized. OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

**Timetable:**

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*Regulatory Flexibility Analysis Required: No*

*Government Levels Affected: None*

*Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210*

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*RIN: 1218–AD01*

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**88. ELIMINATING REQUIREMENTS FOR EMPLOYEE SOCIAL SECURITY NUMBERS IN OSHA STANDARDS**

*Priority: Substantive, Nonsignificant*

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

*CFR Citation: None*

*Legal Deadline: None*

*Abstract: OSHA substance-specific health standards currently require that employee social security numbers be included on medical and exposure records. Concerns have been raised about employee*
privacy and the potential for identity theft associated with these requirements. OSHA is considering alternatives available to the Agency to address these concerns, including the potential elimination of requirements for social security numbers on medical and exposure records. OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities, and elimination of requirements for social security numbers is part of the Standards Improvement Project IV described in RIN: 1218-AC67.

Timetable:

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210

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RIN: 1218–AD02

89. SUBPART Q UPDATE

Priority: Substantive, Nonsignificant

Legal Authority: OSH Act

CFR Citation: None

Legal Deadline: None

Abstract: The existing OSHA regulations in Subpart Q (Welding, Cutting and Brazing) address both physical (safety) and chemical (health) hazards that are associated with welding. Examples of safety and
health risks in such operations include exposure to welding fumes (chromium, cadmium, manganese), fire hazards, arc flash, eye injury, etc. OSHA is concerned that the current approach to chemical exposures, which relies upon several individual PELs, may be inadequate to address the true health risk associated with this complex chemical mixture. Additionally, the OSHA standards relies upon, and incorporates by reference, outdated ANSI standards issued in the 1960s, which are likely inadequate to address safety issues. This project is in accordance with Executive Order 13563, which is intended to facilitate the review of existing regulations that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them. OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210

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RIN: 1218–AD03

90. 1–BROMOPROPANE (1–BP) STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: OSH Act

CFR Citation: None
Legal Deadline: None

Abstract: 1-bromopropane (1-BP, also known as n-propyl bromide (nPB)) is an organic solvent used within adhesive formulations, metal surface cleaning operations, and as a solvent in the dry cleaning industry. In 2014, OSHA issued a hazard alert because occupational exposure to 1-BP has been linked to neurological illnesses. Animal studies have also shown effects on the male and female reproductive systems, liver, and hematopoietic systems. In October 2014, the National Toxicology Program classified 1-BP as reasonably anticipated to be a human carcinogen. There is no OSHA PEL for 1-BP. An RFI would allow the agency to explore the need for a PEL or comprehensive rule. OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210
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Email: perry.bill@dol.gov
RIN: 1218–AD05

91. NOISE IN CONSTRUCTION

Priority: Other Significant

Legal Authority: OSH Act

CFR Citation: None
Legal Deadline: None

Abstract: Two recent studies of occupational hearing loss conducted by Department of Energy and National Institute for Occupational Safety and Health concluded that a significant percentage of construction workers have suffered from hearing loss over the duration of their careers. It has been noted that construction work is excluded from the OSHA Hearing Conservation Amendment that is required for general industry work. Also existing construction noise requirements lack the specificity of a general hearing conservation program that must be implemented for general industry work. Discussions within the industry and new information, such as the two referenced hearing loss studies, have prompted OSHA to consider that it may be necessary to revisit whether requirements are effective for protecting construction workers from noise hazards. This Request for information will solicit public comments and information about the effectiveness and feasibility of adopting more protective noise-hazard requirements, for example, such as those similar to the ANSI Standard A10.46- Hearing Loss Prevention in Construction and Demolition Workers. OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Garvin Branch, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Washington, DC 20210

Phone: 202 693–2346

RIN: 1218–AD06

92. OCCUPATIONAL EXPOSURE TO STYRENE

Priority: Economically Significant. Major under 5 USC 801.
Legal Authority: OSH Act
CFR Citation: None
Legal Deadline: None

Abstract: Styrene is an industrial chemical used to manufacture a wide variety of plastic, rubber and other products. Styrene resins are used extensively in the manufacture of polystyrene packaging, thermal insulation, and disposable cups and containers, rubber used in tires and many other products. Because of their ubiquitous use in industry, hundreds of thousands of employees are potentially exposed to styrene.

Documented health effects of occupational exposure to styrene include respiratory tract and eye irritation and effects to the nervous system. The National Toxicology Program (NTP) has classified styrene as reasonably anticipated to be a human carcinogen and the International Agency for Research on Cancer (IARC) categorized styrene as possibly carcinogenic to humans.

The current OSHA PEL of 100 ppm is two to five times higher than the limits issued by CAL-OSHA, NIOSH, ACGIH, and the European Union. Styrene received considerable interest from stakeholders in a 2010 web forum on Permissible Exposure Limits (PELs). OSHA is requesting information about occupational exposures to styrene including uses, administrative and engineering controls for managing exposures, health effects, risk assessment, potential substitutes, and more, in order to determine the need for a revised PEL. OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None
Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N–3718, Washington, DC 20210
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RIN: 1218–AD09

93. UPDATING REQUIREMENTS FOR THE SELECTION, FIT TESTING, AND USE OF HEARING PROTECTION DEVICES

Priority: Other Significant
Legal Authority: OSH Act
CFR Citation: None
Legal Deadline: None

Abstract: The requirements to use hearing protection devices (HPD) in general industry and construction are inconsistent and outdated. This project would harmonize the two regulations to provide more consistency, improve the construction requirements so adequate hearing protectors are selected, and allow the use of newer technologies that make it possible to fit test hearing protectors so each worker has personalized HPD to assure adequate protection. OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

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Regulatory Flexibility Analysis Required: No
Government Levels Affected: None

Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210
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Fax: 202 693–1678
Email: perry.bill@dol.gov
RIN: 1218–AD11

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<td>Office of the Assistant Secretary for Veterans' Employment and Training (ASVET)</td>
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94. COMPLIANCE WITH THE VOW TO HIRE HEROES ACT ON THE REQUIREMENTS OF DVOPS AND LVERS

Priority: Other Significant

Legal Authority: Pub. L. 112–56, sec 241

CFR Citation: 20 CFR 1001

Legal Deadline: None

Abstract: Section 241 of the Veterans Opportunity to Work (VOW) to Hire Heroes Act of 2011 ("VOW Act," title II of Pub. L. 112-56) requires the Secretary to conduct audits to ensure compliance with the mandated duties of Disabled Veterans Outreach Program (DVOP) specialists and Local Veterans Employment Representative (LVER) staff. Further, the Act allows the Secretary to reduce funding to a State based on audit findings of non-compliance. In implementing the VOW Act, the Veterans' Employment and Training Service intended to undertake a Notice of Proposed Rulemaking (NPRM) to promulgate the standards that will be used in making compliance determinations. This item is being
withdrawn because VETS currently audits states to ensure compliance with mandated duties of DVOPs and LVERs. VETS also has other tools to address state compliance and performance issues associated with DVOPs and LVERs, including provisions in 2 CFR part 200.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** 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-AA19

[FR Doc. Filed 01-01-01; 0:00 AM]

BILLING CODE 4510–HL–P
Withheld pursuant to FOIA exemption (b)(5)
Withheld pursuant to FOIA exemption (b)(5)