



Information

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."¹ 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.

¹ Exec. Order No. 13,777, 82 Fed. Reg. 12,285 (February 24, 2017) (Enforcing the Regulatory Reform Agenda). (<https://www.whitehouse.gov/the-press-office/2017/02/24/presidential-executive-order-enforcing-regulatory-reform-agenda>)

Appointment of a Regulatory Reform Officer

In March 2017, OASP proposed, and Acting Secretary Hugler approved, an initial path forward for implementing the EO.² 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;
- (9) Deputy Solicitor for National Operations;
- (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;

² 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.³ 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.⁴

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.⁵ Below are highlights of the member agency actions planned and to date:

³ Memorandum from Dominic J. Mancini, Acting Administrator, Office of Information and Regulatory Affairs, OMB, "Guidance on Regulatory Reform Accountability under Executive Order 13777, titled 'Enforcing the Regulatory Reform Agenda'" (April 28, 2017) (<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-23.pdf>).

⁴ The Department's Spring 2017 Unified Regulatory Agenda submission is attached to this memorandum.

⁵ The agency reports are attached to this memorandum. <-- 12 pages withheld pursuant to FOIA Exemption (b)(5) -

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.

Action	Date
RRTF Touch Base	Monthly – next one in June 2017
Attendance at SBA Roundtable	June 7-8, 2017
Retrospective Review Complete	July 2017
Fall Regulatory Plan and Unified Regulatory Agenda	Fall 2017
Second Report to the Secretary	Fall 2017

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 (b)(6) or Laura Dawkins (b)(6)

Attachments

cc:

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

⁶ Exec. Order No. 13,771, 82 Fed. Reg. 9,339 (January 30, 2017) (Reducing Regulation and Controlling Regulatory Costs). (<https://www.whitehouse.gov/the-press-office/2017/01/30/presidential-executive-order-reducing-regulation-and-controlling>)

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

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1	Administrative Review Board Rules of Practice and Procedure	1290-AA28

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
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2	Department of Labor Freedom of Information Act Regulations	1290-AA30
3	Department of Labor Federal Civil Penalties Inflation Adjustment Act Catch-Up Adjustments	1290-AA31

Office of Federal Contract Compliance Programs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4	Construction Contractors' Affirmative Action Requirements	1250-AA01
5	Requirement to Report Summary Data on Employee Compensation (Compensation Data Collection)	1250-AA03

Office of Labor-Management Standards—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
6	Interpretation of the Advice Exemption in Section 203(c) of the Labor-Management Reporting and Disclosure Act	1245-AA07
7	Labor Organization Annual Financial Reports; Coverage of Intermediate Bodies	1245-AA08
8	Trust Annual Reports	1245-AA09

Office of Labor-Management Standards—Completed Actions

Sequence Number	Title	Regulation Identifier
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		Number
9	Persuader Agreements: Consultant Form LM-21 Receipts and Disbursements Report	1245-AA05

Office of Workers' Compensation Programs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
10	Longshore and Harbor Workers' Compensation Act: Maximum and Minimum Compensation Rates	1240-AA06
11	Claims for Compensation Under the Energy Employees Occupational Illness Compensation Program Act of 2000, as Amended	1240-AA08
12	Black Lung Benefits Act: Medical Benefit Payments	1240-AA11

Wage and Hour Division—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
13	29 CFR part 541, Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees	1235-AA20

Wage and Hour Division—Long-Term Actions

Sequence	Title	Regulation
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Number		Identifier Number
14	Employment of Workers With Disabilities Under Special Certificates	1235-AA14

Wage and Hour Division—Completed Actions

Sequence Number	Title	Regulation Identifier Number
15	Right to Know Under the Fair Labor Standards Act	1235-AA04
16	Fair Labor Standards Act, Child Labor Hazardous Occupations Order No. 7	1235-AA07
17	Request for Information on the Impact of the Use of Electronic Devices by Nonexempt Employees on Hours Worked Issues	1235-AA12
18	Department of Homeland Security and Department of Labor Federal Civil Penalties Inflation Adjustment Act Catch-Up Adjustments	1235-AA16
19	Technical Updates to Regulations Issued Under Various Wage and Hour Division Statutes	1235-AA17
20	Updating Regulations Issued Under Various Wage and Hour Division Statutes Consistent with Rosa's Law	1235-AA18

Employment and Training Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier
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		Number
21	Unemployment Insurance - Maternity Leave for Working Mothers	1205-AB80
22	H-1B Program	1205-AB82

Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
23	Trade Adjustment Assistance for Workers	1205-AB78
24	Drug Testing by States for Purposes of Determining Unemployment Compensation Eligibility	1205-AB81

Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
25	Senior Community Service Employment Program (SCSEP), Performance Accountability	1205-AB79

Employment and Training Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
26	Temporary Non-Agricultural Employment of H-2B Aliens in the United States	1205-AB76

Employment and Training Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
27	Equal Employment Opportunity in Apprenticeship Amendment of Regulations	1205-AB59

Employee Benefits Security Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
28	Revision of the Form 5500 Series and Implementing Related Regulations Under the Employee Retirement Income Security Act of 1974 (ERISA)	1210-AB63
29	Savings Arrangements Established by States for Non-Governmental Employees	1210-AB80
30	Savings Arrangements Established by Political Subdivisions for Non-Governmental Employees	1210-AB81

Employee Benefits Security Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
31	Definition of the Term “Fiduciary” - Delay of Applicability Date	1210-AB79

Employee Benefits Security Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
32	Amendment of Abandoned Plan Program	1210-AB47
33	Electronic Filing of Apprenticeship & Training Notices, and Top Hat Plan Statements	1210-AB62
34	Adoption of Amended and Restated Voluntary Fiduciary Correction Program	1210-AB64

Employee Benefits Security Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
35	Pension Benefit Statements	1210-AB20
36	Improved Fee Disclosure for Welfare Plans	1210-AB37
37	Selection of Annuity Providers—Safe Harbor for Individual Account Plans	1210-AB58
38	Health Care Continuation Coverage—Revised Model Notices	1210-AB65
39	Fiduciary Relief for Investments in Qualified Default Investment Alternatives	1210-AB77

Employee Benefits Security Administration—Completed Actions

Sequence	Title	Regulation
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Number		Identifier Number
40	Target Date Disclosure	1210-AB38
41	Amendment to Claims Procedure Regulation	1210-AB39
42	Guide or Similar Requirement for Section 408(b)(2) Disclosures	1210-AB53
43	Standards for Brokerage Windows	1210-AB59
44	Savings Arrangements Established by Political Subdivisions for Non-Governmental Employees	1210-AB76
45	Interpretive Bulletin relating to the Exercise of Shareholder Rights and Written Statements of Investment Policy, including Proxy Voting Policies or Guidelines	1210-AB78

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
46	Exposure of Underground Miners to Diesel Exhaust	1219-AB86

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
47	Examination of Working Places in Metal and Nonmetal Mines	1219-AB87

Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
48	Refuge Alternatives for Underground Coal Mines; Limited Reopening of the Record	1219-AB84

Mine Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
49	Respirable Crystalline Silica	1219-AB36
50	Proximity Detection Systems for Mobile Machines in Underground Mines	1219-AB78

Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
51	Criteria and Procedures for Proposed Assessment of Civil Penalties	1219-AB72
52	Refuge Alternatives for Underground Coal Mines	1219-AB79
53	Request for Information to Improve the Health and Safety of Miners and to Prevent Accidents in Underground Coal Mines	1219-AB85

Office of the Assistant Secretary for Administration and Management—Completed

Actions

Sequence Number	Title	Regulation Identifier Number
54	Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act of 2014	1291-AA36

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
55	Communication Tower Safety	1218-AC90
56	Quantitative Fit Testing Protocol: Amendment to the Final Rule on Respiratory Protection	1218-AC94
57	Mechanical Power Presses Update	1218-AC98
58	Powered Industrial Trucks	1218-AC99
59	Lock-Out/Tag-Out Update	1218-AD00
60	Blood Lead Level for Medical Removal	1218-AD10
61	Clarification of Employer's Continuing Obligation to Make and Maintain Accurate Records of Each Recordable Injury and Illness	1218-AD14
62	Improve Tracking of Workplace Injuries and Illnesses	1218-AD16

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
63	Occupational Exposure to Beryllium	1218-AB76
64	Crane Operator Qualification in Construction	1218-AC96
65	Cranes and Derricks in Construction: Exemption Expansions for Railroad Roadway Work	1218-AD07
66	Technical Corrections to 16 OSHA Standards	1218-AD12
67	Puerto Rico State Plan	1218-AD13

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
68	Standards Improvement Project IV	1218-AC67

Occupational Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
69	Occupational Injury and Illness Recording and Reporting Requirements—Musculoskeletal Disorders (MSD) Column	1218-AC45
70	Infectious Diseases	1218-AC46
71	Amendments to the Cranes and Derricks in Construction Standard	1218-AC81

72	Process Safety Management and Prevention of Major Chemical Accidents	1218-AC82
73	Shipyards Fall Protection—Scaffolds, Ladders and Other Working Surfaces	1218-AC85
74	Emergency Response and Preparedness	1218-AC91
75	Update to the Hazard Communication Standard	1218-AC93
76	Rules of Agency Practice and Procedure Concerning OSHA Access to Employee Medical Records	1218-AC95
77	Tree Care Standard	1218-AD04
78	Prevention of Workplace Violence in Health Care and Social Assistance	1218-AD08

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
79	Walking Working Surfaces and Personal Fall Protection Systems (Slips, Trips, and Fall Prevention)	1218-AB80
80	Bloodborne Pathogens (Completion of a Section 610 Review)	1218-AC34
81	Combustible Dust	1218-AC41
82	Injury and Illness Prevention Program	1218-AC48
83	Preventing Backover Injuries and Fatalities	1218-AC51
84	Chemical Management and Permissible Exposure Limits (PELs)	1218-AC74
85	Clarification of Employer's Continuing Obligation to Make and Maintain Accurate Records of Each Recordable Injury and Illness	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	1218-AC88
87	Revocation of Obsolete Permissible Exposure Limits (PELs)	1218-AD01
88	Eliminating Requirements for Employee Social Security Numbers in OSHA Standards	1218-AD02
89	Subpart Q Update	1218-AD03
90	1-Bromopropane (1-BP) Standard	1218-AD05
91	Noise in Construction	1218-AD06
92	Occupational Exposure to Styrene	1218-AD09
93	Updating Requirements for the Selection, Fit Testing, and Use of Hearing Protection Devices	1218-AD11

Office of the Assistant Secretary for Veterans' Employment and Training—Completed
Actions

Sequence Number	Title	Regulation Identifier Number
94	Compliance With the VOW to Hire Heroes Act on the Requirements of DVOPs and LVERs	1293-AA19

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:

Action	Date	FR Cite
Next Action Undetermined	To Be	Determined

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

RIN: 1290-AA28

Department of Labor (DOL)	Completed Actions
Office of the Secretary (OS)	

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:

Action	Date	FR Cite
NPRM	08/17/16	81 FR 54770
NPRM Comment Period End	10/17/16	
Final Rule	01/23/17	82 FR 7666
Final Rule Effective	01/23/17	

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.ramona@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:

Action	Date	FR Cite
Interim Final Rule	07/01/16	81 FR 43429
Interim Final Rule Effective	07/01/16	
Interim Final Rule Comment Period End	07/15/16	
Final Rule Effective	01/13/17	

Final Rule	01/18/17	82 FR 5373
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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:

Action	Date	FR Cite
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-AB81

RIN: 1250-AA01

**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:

Action	Date	FR Cite
ANPRM	08/10/11	76 FR 49398

ANPRM Comment Period 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

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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:

Action	Date	FR Cite
NPRM	10/00/17	

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 bring the reporting requirements for labor organizations and section 3(l) trusts in line with contemporary expectations for the disclosure of financial information.

Timetable:

Action	Date	FR Cite
NPRM	10/00/17	

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

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Email: davis.andrew@dol.gov

RIN: 1245-AA09

Department of Labor (DOL)	Completed Actions
Office of Labor-Management Standards (OLMS)	

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:

Action	Date	FR Cite
Withdrawn	03/30/17	

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

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Email: olms-public@dol.gov

RIN: 1245-AA05

Department of Labor (DOL)	Final Rule Stage
Office of Workers' Compensation Programs (OWCP)	

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:

Action	Date	FR Cite

NPRM	08/26/16	81 FR 58878
NPRM Comment Period End	10/25/16	
Final Rule	04/00/18	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Douglas Fitzgerald, Director, Division of Federal Employees' Compensation, Office of Workers' Compensation Programs, Department of Labor, Office of Workers' Compensation Programs, 200 Constitution Avenue NW., FP Building, Room S-3229, Washington, DC 20210

Phone: 202 693-0040

Fax: 202 693-1497

Email: fitzgerald.douglas@dol.gov

RIN: 1240-AA06

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:

Action	Date	FR Cite
NPRM	11/18/15	80 FR 72296
NPRM Comment Period End	01/19/16	
NPRM Comment Period Extended	01/19/16	81 FR 2787
NPRM Comment Period Extended End	02/18/16	
NPRM Comment Period Reopened	04/05/16	81 FR 19518
NPRM Comment Period Reopened End	05/09/16	
Final Rule	01/00/18	

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

Phone: 202 693-0081

Fax: 202 693-1465

Email: leiton.rachel@dol.gov

RIN: 1240-AA08

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:

Action	Date	FR Cite
NPRM	01/04/17	82 FR 739
NPRM Comment Period End	03/06/17	
Final Rule	03/00/18	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Michael Chance, Director, Division of Coal Mine Workers' Compensation, Department of Labor, Office of Workers' Compensation Programs, 200 Constitution Avenue NW., FP Building, Room C-3520, Washington, DC 20210

Phone: 202 343-5904

Fax: 202 693-1380

Email: chance.michael@dol.gov

RIN: 1240-AA11

Department of Labor	Pre-Rule Stage
Wage and Hour Division	

TIP REGULATIONS UNDER THE FAIR LABOR STANDARDS ACT, ADVANCED NOTICE OF PROPOSED RULEMAKING

REGULATORY PLAN: () Yes
PRIORITY: Not Significant
UNFUNDED MANDATES: Undetermined
MAJOR: No

LEGAL AUTHORITY:
 29 U.S.C. 201 et seq.;

CFR CITATION:
 29 CFR 531

LEGAL DEADLINE: 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,

200 Constitution
Avenue, NW.,
Room S3502,
Washington, DC 20210
PHONE: 202 693-0406,
FAX: 202 693-1387

RIN: 1235-AA21

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:

Action	Date	FR Cite
Review of Existing Rule	00/00000	

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

RIN: 1235-AA20

Department of Labor (DOL)	Long-Term Actions
Wage and Hour Division (WHD)	

14. EMPLOYMENT OF WORKERS WITH DISABILITIES UNDER SPECIAL CERTIFICATES

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 29 U.S.C. 201 et seq.; 29 U.S.C. 214; Pub. L. 113-128

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:

Action	Date	FR Cite
Long term action	To Be	Determined

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

Department of Labor (DOL)	Completed Actions
Wage and Hour Division (WHD)	

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:

Action	Date	FR Cite
Withdrawn	03/30/17	

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

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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:

Action	Date	FR Cite
Withdrawn	03/30/17	

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

Legal Authority: 29 U.S.C. 201 et seq.; 29 U.S.C. 254

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:

Action	Date	FR Cite
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

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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:

Action	Date	FR Cite
Interim Final Rule (Note: RIN 1235-AA16 adopts RIN 1235-AA15)	07/01/16	81 FR 42983
Interim Final Rule Effective (1235-AA16 adopts 1235-AA15)	08/01/16	
Interim Final Rule Comment Period End (1235-AA16 adopts 1235-AA15)	08/15/16	
Final Rule	03/17/17	82 FR 14147

Final Rule Effective	03/17/17	
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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:

Action	Date	FR Cite
Final Rule; Technical Correction	01/09/17	82 FR 2221
Final Rule; Technical Correction Effective	01/09/17	

Regulatory Flexibility Analysis Required: Undetermined

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-AA17

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:

Action	Date	FR Cite
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

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

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:

Action	Date	FR Cite
Request for Information	10/00/17	

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

Department of Labor (DOL)	Proposed Rule Stage
Employment and Training Administration (ETA)	

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.

Timetable:

Action	Date	FR Cite
NPRM	04/00/18	

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..

Timetable:

Action	Date	FR Cite
NPRM	03/00/18	

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

Legal Deadline: Final, Statutory, December 31, 2017.

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.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/17	

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:

Action	Date	FR Cite
Interim Final Rule	04/29/15	80 FR 24041
Interim Final Rule Effective	04/29/15	
Interim Final Rule Comment	06/29/15	

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 NRPM.

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:

Action	Date	FR Cite
NPRM	11/06/15	80 FR 68908

NPRM Comment Period End	01/05/16	
NPRM Comment Period Extended	12/24/15	
NPRM Comment Period Extended End	01/20/16	
Final Rule	12/19/16	81 FR 92026
Final Rule Effective	01/18/17	

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

Department of Labor (DOL)	Proposed Rule Stage
Employee Benefits Security Administration (EBSA)	

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.

Legal Authority: 29 U.S.C. 1021 to 1025; 29 U.S.C. 1027; 29 U.S.C. 1029 and 1030; 29 U.S.C. 1134 and 1135; 29 U.S.C. 1059; 29 U.S.C. 1204

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:

Action	Date	FR Cite
NPRM	07/21/16	81 FR 47496
Notice of Proposed Forms Revision	07/21/16	81 FR 47534
NPRM Comment Period Extended	09/23/16	81 FR 65594
Notice of Proposed Forms Revision Comment Period End	10/04/16	
NPRM Comment Period Extended End	12/05/16	
Analyze Comments	01/00/18	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Mara S. Blumenthal, Employee Benefits Law Specialist, Department of Labor,
Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N5655,
Washington, DC 20210

Phone: 202 693-8500

Related RIN: Related to 1210-AB66

RIN: 1210-AB63

**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:

Action	Date	FR Cite
Review of Existing Rule	10/00/17	

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

Fax: 202 219-7291

Related RIN: Previously reported as 1210-AB71

RIN: 1210-AB80

Department of Labor (DOL)	Proposed Rule Stage
Employee Benefits Security Administration (EBSA)	

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:

Action	Date	FR Cite
Proposed Delay of Applicability Date	03/03/17	82 FR 12319
Delay of Applicability Date	04/07/17	82 FR 16902

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

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Related RIN: Related to 1210-AB32

RIN: 1210-AB79

Department of Labor (DOL)	Final Rule Stage
Employee Benefits Security Administration (EBSA)	

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:

Action	Date	FR Cite
NPRM	12/12/12	77 FR 74063
NPRM Comment Period End	02/11/13	
Interim Final Rule	08/00/17	

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

Legal Authority: 29 U.S.C. 1024; ERISA sec 104; 29 U.S.C. 1030; ERISA sec 110; 29 U.S.C. 1135;
ERISA sec 505

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.

Timetable:

Action	Date	FR Cite
NPRM	09/30/14	79 FR 58720
NPRM Comment Period End	12/29/14	
Final	11/00/17	

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-AB62

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:

Action	Date	FR Cite
Interim Final Rule	11/00/17	

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

Legal Authority: 29 U.S.C. 1025; ERISA sec 105; Pub. L. 109-280, sec 508, Pension Protection Act of 2006; 29 U.S.C. 1135; ERISA sec 505

CFR Citation: 29 CFR 2520

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

Abstract: Section 508 of the Pension Protection Act of 2006 (PPA) amended section 105 of 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:

Action	Date	FR Cite
ANPRM	05/08/13	78 FR 26727
ANPRM Comment Period End	07/08/13	
Extension of ANPRM	07/15/13	78 FR 42027
Extension of ANPRM Comment Period End	08/07/13	
Next Action Undetermined		

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

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:

Action	Date	FR Cite
Next Action Undetermined	To Be	Determined

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:

Action	Date	FR Cite
Next Action Undetermined	To Be	Determined

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:

Action	Date	FR Cite
NPRM	05/07/14	79 FR 26192
NPRM Comment Period End	07/07/14	
Next Action Undetermined	To Be	Determined

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:

Action	Date	FR Cite
Next Action Undetermined	To Be	Determined

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)	

40. TARGET DATE DISCLOSURE

Priority: Other Significant

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

CFR Citation: 29 CFR 2550.404(c)-5

Legal Deadline: None

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:

Action	Date	FR Cite
NPRM	11/30/10	75 FR 73987
NPRM Comment Period End	01/14/11	
NPRM Reopening Comment Period	05/24/12	77 FR 30928
NPRM Reopening Comment Period Ends	07/09/12	
Reopen Record (NPRM)	06/03/14	79 FR 31893
Reopen Record (NPRM) Comment Period End	07/03/14	
Withdrawn	03/30/17	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1210-AB38

41. AMENDMENT TO CLAIMS PROCEDURE REGULATION

Priority: Other Significant

Legal Authority: 29 U.S.C. 1135; ERISA sec 505; 29 U.S.C. 1133

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:

Action	Date	FR Cite
NPRM	11/18/15	80 FR 72014

NPRM Comment Period End	01/19/16	
Final Rule	12/19/16	81 FR 92316
Final Rule Effective	01/18/17	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1210-AB39

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.

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.

Timetable:

Action	Date	FR Cite
NPRM	03/12/14	79 FR 13949
NPRM Comment Period End	06/10/14	
Withdrawn	03/30/17	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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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.

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	08/21/14	79 FR 49469
RFI Comment Period End	11/19/14	
Withdrawn	03/30/17	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1210-AB59

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:

Action	Date	FR Cite
NPRM	08/30/16	81 FR 59581
NPRM Comment Period End	09/29/16	
Final Rule	12/20/16	81 FR 92639

Final Rule Effective	01/19/17	
Other/Final Rule; CRA	05/00/2017	
Revocation		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

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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:

Action	Date	FR Cite
Interpretive Bulletin	12/29/16	81 FR 95879
Interpretive Bulletin Effective	12/29/16	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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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

Legal Authority: 30 U.S.C. 811; 30 U.S.C. 813

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:

Action	Date	FR Cite
Request For Information (RFI)	06/08/16	81 FR 36826
Notice of Public Meeting	06/27/16	81 FR 41486
RFI Comment Period Extended	08/25/16	81 FR 58424
Public Meeting—Salt Lake City, UT	07/19/16	
Public Meeting—Pittsburgh, PA	07/21/16	
Public Meeting—Arlington, VA	07/26/16	
Public Meeting—Birmingham, AL	08/04/16	

RFI Comment Period	11/30/16	
Extended End		
Comment Period Reopened	01/09/17	82 FR 2284
Comment Period End	01/08/18	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1219-AB86

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

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:

Action	Date	FR Cite
NPRM	06/08/16	81 FR 36818
Notice of Public Hearings	06/08/16	81 FR 36818
Notice of Change of Start Time for Public Hearings	06/27/16	81 FR 41485
NPRM Comment Period End	09/01/16	
Public Hearing—Salt Lake City, UT	07/19/16	
Public Hearing—Pittsburgh, PA	07/21/16	
Public Hearing—Arlington, VA	07/26/16	
Public Hearing—Birmingham, AL	08/04/16	
Final Rule	01/23/17	82 FR 7680
Final Rule Effective	05/23/17	
Proposed Rule	03/27/17	82 FR 15173

Proposed Rule Comment	04/26/17	
Period End		
Analyze Proposed Rule	05/00/17	
Comments		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1219-AB87

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

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

Legal Authority: 30 U.S.C. 957; 30 U.S.C. 811

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.

Timetable:

Action	Date	FR Cite
Limited Reopening of the Record	08/08/13	78 FR 48591
Limited Reopening of the Record; Comment Period End	10/07/13	
Reopen the Record and Extend Comment Period	11/15/13	78 FR 68783
Reopen the Record and Extend Comment Period End	12/16/13	
Final Rule	04/00/18	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Federalism: Undetermined

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Related RIN: Related to 1219–AB58

RIN: 1219–AB84

Department of Labor (DOL)	Long-Term Actions
Mine Safety and Health Administration (MSHA)	

49. RESPIRABLE CRYSTALLINE SILICA

Priority: Other Significant

Legal Authority: 30 U.S.C. 811

CFR Citation: 30 CFR 58

Legal Deadline: None

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:

Action	Date	FR Cite
Long term action	To Be	Determined

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

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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:

Action	Date	FR Cite
Request for Information (RFI)	02/01/10	75 FR 5009
RFI Comment Period End	04/02/10	
NPRM	09/02/15	80 FR 53070
Scheduling of Public Hearing	09/28/15	80 FR 58229
Public Hearing – Denver, Colorado 10/06/2015	10/06/15	
Public Hearing – Birmingham, Alabama 10/08/2015	10/08/15	
Public Hearing – Beaver, West Virginia 10/19/2015	10/19/15	
Public Hearing – Indianapolis, Indiana 10/29/2015	10/29/15	
NPRM Comment Period Extended	11/30/15	80 FR 74740
NPRM Comment Period Extended End	12/15/15	

Reopening of Record	01/09/17	82 FR 2285
Comment Period End	004/02/17	
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

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Related RIN: Related to 1219-AB65

RIN: 1219-AB78

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

51. CRITERIA AND PROCEDURES FOR PROPOSED ASSESSMENT OF CIVIL PENALTIES

Priority: Other Significant

Legal Authority: 30 U.S.C. 815; 30 U.S.C. 820; 30 U.S.C. 957

CFR Citation: 30 CFR 100

Legal Deadline: None

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 consistency 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:

Action	Date	FR Cite
NPRM	07/31/14	79 FR 44494
NPRM Comment Period End	09/29/14	
NPRM Comment Period Extended	09/16/14	79 FR 55408
NPRM Comment Period Extended End	12/03/14	
NPRM Notice of Public Hearings, Close of Comment	11/07/14	79 FR 66345

Period		
NPRM Notice of Public Hearings, Close of Comment Period End	01/09/15	
NPRM Notice of Public Hearing; Extension of Comment Period; Close of Record	12/31/14	79 FR 78749
Extension of Comment Period End	03/12/15	
NPRM Comment Period Extended; Close of Record	02/10/15	80 FR 7393
NPRM Comment Period Extended End	03/31/15	
Withdrawn	03/30/17	

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

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RIN: 1219-AB72

52. REFUGE ALTERNATIVES FOR UNDERGROUND COAL MINES

Priority: Other Significant

Legal Authority: 30 U.S.C. 957; 30 U.S.C. 811

CFR Citation: 30 CFR 7; 30 CFR 75

Legal Deadline: None

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:

Action	Date	FR Cite
Request for Information (RFI)	08/08/13	78 FR 48593
RFI Comment Period End	10/07/13	
RFI Extension of Comment Period	09/23/13	78 FR 58264
RFI Extension of Comment Period End	12/06/13	
RFI 2nd Extension of Comment Period	12/06/13	78 FR 73471
RFI 2nd Extension of Comment Period End	06/02/14	
RFI 3rd Extension of Comment Period	06/03/14	79 FR 31895
RFI 3rd Extension of Comment Period End	10/02/14	
RFI 4th Extension of Comment Period	10/01/14	79 FR 59167
RFI 4th Extension of Comment Period End	04/02/15	
RFI Notice of Public Meeting Date 10/19/2015 and Reopening of Record	09/18/15	80 FR 56416
RFI Reopening of Record Comment Period End	11/16/15	

RFI 5th Extension of Comment Period	11/18/15	80 FR 72028
RFI 5th Extension of Comment Period End	01/15/16	
Withdrawn	03/30/17	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

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RIN: 1219-AB79

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:

Action	Date	FR Cite
Request for Information (RFI)	02/26/15	80 FR 10436
RFI Comment Period End	04/27/15	
RFI Comment Period Extended	04/22/15	80 FR 22465
RFI Comment Period Extended End	06/26/15	
Withdrawn	03/30/17	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1219-AB85

Department of Labor (DOL)	Completed Actions
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Office of the Assistant Secretary for Administration and Management (OASAM)	
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54. IMPLEMENTATION OF THE NONDISCRIMINATION AND EQUAL OPPORTUNITY PROVISIONS OF THE WORKFORCE INNOVATION AND OPPORTUNITY ACT OF 2014

Priority: Other Significant

Legal Authority: Workforce Innovation and Opportunity Act of 2014, 29 U.S.C. 2938(e)

CFR Citation: 29 CFR 38

Legal Deadline: None

Abstract: 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:

Action	Date	FR Cite
NPRM	01/26/16	81 FR 4494
NPRM Comment Period End	03/26/16	
Final Rule	12/02/16	81 FR 87130
Final Rule Effective	12/02/16	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

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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.)

Timetable:

Action	Date	FR Cite
Request For Information	04/15/15	80 FR 20185

(RFI)		
RFI Comment Period End	06/15/15	
Initiate SBREFA	01/04/17	
Complete SBREFA	08/00/2017	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1218-AC90

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.

Timetable:

Action	Date	FR Cite
NPRM	10/07/16	81 FR 69740
NPRM Comment Period End	12/06/16	
Analyze Comments	10/00/17	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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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:

Action	Date	FR Cite
Request for Information (RFI)	02/00/18	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

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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.

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	12/00/17	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 1218-AC99

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.

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	04/00/18	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

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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.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/18	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 1218-AD10

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.

Timetable:

Action	Date	FR Cite
NPRM	05/00/2017	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

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Related RIN: 1218-AC49

RIN: 1218-AD16

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

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 ($\mu\text{g}/\text{m}^3$) over an 8-hour time weighted average (TWA) and a short term exposure limit (STEL) of 2.0 $\mu\text{g}/\text{m}^3$ 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:

Action	Date	FR Cite
Request for Information (RFI)	11/26/02	67 FR 70707
RFI Comment Period End	02/24/03	
SBREFA Report Completed	01/23/08	
Initiated Peer Review of Health Effects and Risk Assessment	03/22/10	
Complete Peer Review	11/19/10	
NPRM	08/07/15	80 FR 47565
NPRM Comment Period End	11/05/15	
Notice of Public Hearing; Date 02/29/2016	12/30/15	80 FR 81475
Notice of Public Hearing; Date Change 03/21/2016	02/16/16	81 FR 7717
Final Rule	01/09/17	82 FR 2470
Delay of Effective Date	02/01/17	82 FR 8901
New Effective Date	03/21/17	
Delay of Effective Date	03/02/17	82 FR 12318
New Effective Date	05/20/17	
NPRM	05/00/2017	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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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 operator qualification. This rulemaking will also clarify issues surrounding operator 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 work site 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: O

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 savings 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:

Action	Date	FR Cite
Proposal to Advisory Committee on Construction Safety and Health (ACCSH)	03/31/15	
NPRM	07/00/17	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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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:

Action	Date	FR Cite
NPRM	10/00/17	
Direct Final Rule	10/00/17	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

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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:

Action	Date	FR Cite
NPRM	07/00/17	
Direct Final Rule	07/00/17	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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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:

Action	Date	FR Cite
NPRM	10/00/17	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

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RIN: 1218-AD13

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.

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	12/06/12	77 FR 72781
RFI Comment Period End	02/04/13	
NPRM	10/04/16	81 FR 68504
NPRM Comment Period End	12/05/16	
Comment Period Extended	12/02/16	81 FR 86987
Comment Period End	01/04/17	
Final Rule	09/00/17	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

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RIN: 1218-AC67

Department of Labor (DOL)	Long-Term Actions
Occupational Safety and Health Administration (OSHA)	

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

Priority: Other Significant

Legal Authority: 5 U.S.C. 533; 29 U.S.C. 657 and 658; 29 U.S.C. 660; 29 U.S.C. 666; 29 U.S.C. 669

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:

Action	Date	FR Cite
NPRM	01/29/10	75 FR 4728
NPRM Comment Period End	03/09/10	
Public Meeting	03/09/10	
NPRM Comment Period Extended	03/09/10	75 FR 10738
NPRM Comment Period Extended End	03/30/10	
Small Business Stakeholder Meeting	04/11/11	
Small Business Stakeholder Meeting	04/12/11	
Notice of Limited Reopening of Rulemaking Record	05/17/11	76 FR 28383
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

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RIN: 1218-AC45

70. INFECTIOUS DISEASES

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

Legal Authority: 5 U.S.C. 533; 29 U.S.C. 657 and 658; 29 U.S.C. 660; 29 U.S.C. 666; 29 U.S.C. 669; 29 U.S.C. 673

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.

Summary of Legal Basis: 5 U.S.C. 533; 29 U.S.C. 657 and 658; 29 U.S.C. 666; 29 U.S.C. 669; 29 U.S.C. 673

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 infectious agents. The peer-reviewed literature suggests that HCWs are especially at risk of occupationally-acquired infections (OAI) 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 OAI 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:

Action	Date	FR Cite
Request for Information (RFI)	05/06/10	75 FR 24835
RFI Comment Period End	08/04/10	
Analyze Comments	12/30/10	
Stakeholder Meetings	07/05/11	76 FR 39041
Initiate SBREFA	06/04/14	
Complete SBREFA	12/22/14	
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Federalism: Undetermined

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RIN: 1218-AC46

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:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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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.

Legal Authority: 29 U.S.C. 655; 29 U.S.C. 657

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:

Action	Date	FR Cite
Request for Information (RFI)	12/09/13	78 FR 73756
RFI Comment Period End	03/10/14	
RFI Comment Period Extended	03/07/14	79 FR 13006

RFI Comment Period	03/31/14	
Extended End		
Initiate SBREFA	06/08/15	
SBREFA Report Completed	08/01/16	
Next Action Undetermined	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 1218-AC82

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:

Action	Date	FR Cite
Request for Information (RFI) (Published as RIN 1218-AA68)	09/08/16	81 FR 62052
RFI Comment Period End	12/07/16	
Next Action Undetermined	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

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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:

Action	Date	FR Cite
Stakeholder Meetings	07/30/14	
NACOSH Workgroup	11/00/16	
NACOSH Review of Workgroup Report	12/00/16	
Initiate SBREFA	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

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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:

Action	Date	FR Cite
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NPRM	To Be	Determined
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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

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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:

Action	Date	FR Cite
Final Rule	06/00/18	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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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 requirements, 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:

Action	Date	FR Cite
Stakeholder Meeting	07/13/16	
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 1218–AD04

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:

Action	Date	FR Cite
Request For Information (RFI)	12/07/16	81 FR 88147
Comment Period End	04/06/17	
Next Action Undetermined	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218-AD08

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

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:

Action	Date	FR Cite
NPRM	04/10/90	55 FR 13360
NPRM Comment Period End	08/22/90	
Hearing	09/11/90	55 FR 29224
Reopen Record	05/02/03	68 FR 23527
Reopen Record Comment Period End	07/31/03	
Second NPRM	05/24/10	75 FR 28861
Second NPRM Comment Period End	08/23/10	
Notice of Informal Hearing	11/12/10	75 FR 69369
Public Hearing	01/18/11	
Analyze Comments	08/26/11	
Final Rule	11/18/16	81 FR 82494
Final Rule Effective	01/17/17	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1218–AB80

80. BLOODBORNE PATHOGENS (COMPLETION OF A SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 5 U.S.C. 533; 5 U.S.C. 610; 29 U.S.C. 655(b)

CFR Citation: 29 CFR 1910.1030

Legal Deadline: None

Abstract: OSHA will undertake a review of the Bloodborne Pathogen Standard (29 CFR 1910.1030) in accordance with the requirements of the Regulatory Flexibility Act and section 5 of Executive Order 12866. The review will consider the continued need for 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:

Action	Date	FR Cite
Begin Review	10/22/09	
Notice of Request for Comment	05/14/10	75 FR 27237
Notice of Request for Comment Period End	08/12/10	
Withdrawn	03/30/17	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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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:

Action	Date	FR Cite
ANPRM	10/21/09	74 FR 54333
Notice of Stakeholder Meetings	12/14/09	
ANPRM Comment Period	01/19/10	
End		

Notice of Stakeholder Meetings	03/09/10	75 FR 10739
Withdrawn	03/30/17	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1218-AC41

82. INJURY AND ILLNESS PREVENTION PROGRAM

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 29 U.S.C. 653; 29 U.S.C. 655(b); 29 U.S.C. 657

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.

Timetable:

Action	Date	FR Cite
Notice of Stakeholder Meetings	05/04/10	75 FR 23637
Notice of Additional Stakeholder Meetings	06/22/10	75 FR 35360
Withdrawn	03/30/17	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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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. While

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:

Action	Date	FR Cite
Request for Information (RFI)	03/29/12	77 FR 18973
RFI Comment Period End	07/27/12	
Withdrawn	03/30/17	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1218-AC51

84. CHEMICAL MANAGEMENT AND PERMISSIBLE EXPOSURE LIMITS (PELS)

Priority: Other Significant

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

CFR Citation: None

Legal Deadline: None

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:

Action	Date	FR Cite
Request for Information (RFI)	10/10/14	79 FR 61383
RFI Comment Period End	04/08/15	
RFI Comment Period	03/25/15	80 FR 15702

Extended		
RFI Comment Period	10/09/15	
Extended End		
Withdrawn	03/30/17	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1218-AC74

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)

CFR Citation: 29 CFR 1904.0; 29 CFR 1904.4; 29 CFR 1904.29; 29 CFR 1904.32; 29 CFR 1904.33; 29 CFR 1904.35; 29 CFR 1904.40; ...

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:

Action	Date	FR Cite
NPRM	07/29/15	80 FR 45116
NPRM Comment Period Extended	09/25/15	80 FR 55765
NPRM Comment Period Extended End	10/28/15	
Final Rule	12/19/16	81 FR 91792
Final Rule Effective	01/18/2017	
Other/Final Rule; CRA Revocation	05/00/2017	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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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:

Action	Date	FR Cite
Interim Final Rule	03/16/16	81 FR 13976
Interim Final Rule Effective	03/16/16	
Interim Final Rule Comment Period End	05/16/16	
Final Rule	12/14/16	81 FR 90196

Final Rule Effective	12/14/16	
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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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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:

Action	Date	FR Cite
Withdrawn	03/30/17	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1218-AD01

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:

Action	Date	FR Cite
Withdrawn	03/30/17	

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.

Timetable:

Action	Date	FR Cite
Withdrawn	03/30/17	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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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.

Timetable:

Action	Date	FR Cite
Withdrawn	03/30/17	

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-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.

Timetable:

Action	Date	FR Cite
Withdrawn	03/30/17	

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

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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.

Timetable:

Action	Date	FR Cite
Withdrawn	03/30/17	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

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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.

Timetable:

Action	Date	FR Cite
Withdrawn	03/30/17	

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-AD11

Department of Labor (DOL)	Completed Actions
Office of the Assistant Secretary for Veterans' Employment and Training (ASVET)	

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:

Action	Date	FR Cite
Withdrawn	03/30/17	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

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RIN: 1293-AA19

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

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