



Federal Register

**Monday,
December 11, 2006**

Part XIII

Department of Labor

Semiannual Regulatory Agenda

DEPARTMENT OF LABOR (DOL)

DEPARTMENT OF LABOR

Office of the Secretary

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

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

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Department's semiannual agenda of regulations that have been selected for review or development during the coming year. The Department's agencies have carefully assessed their available resources and what they can accomplish in the next 12 months and have adjusted their agendas accordingly.

The agenda complies with the requirements of both Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists all regulations that are expected to be under review or development between October 2006 and October 2007, as well as those completed during the past 6 months.

FOR FURTHER INFORMATION CONTACT: Kathleen Franks, Director, Office of Regulatory Policy, Office of the Assistant Secretary for Policy, U.S.

Department of Labor, 200 Constitution Avenue NW., Room S-2312, Washington, DC 20210; (202) 693-5959.

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

SUPPLEMENTARY INFORMATION: Executive Order 12866 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations. As permitted by law, the Department of Labor is combining the publication of its agendas under the Regulatory Flexibility Act and Executive Order 12866.

Executive Order 12866 became effective September 30, 1993, and, in substance, requires the Department of Labor to publish an agenda listing all the regulations it expects to have under active consideration for promulgation, proposal, or review during the coming 1-year period. The focus of all departmental regulatory activity will be on the development of effective rules that advance the Department's goals and that are understandable and usable to the employers and employees in all affected workplaces.

The Regulatory Flexibility Act, which became effective on January 1, 1981, requires the Department of Labor to publish an agenda, listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities" (5 U.S.C. 602).

The Regulatory Flexibility Act (under section 610) also requires agencies to periodically review rules "which have or will have a significant economic impact upon a substantial number of small entities" and to annually publish a list of the rules that will be reviewed during the succeeding 12 months. The purpose of the review is to determine whether the rule should be continued without change, amended, or rescinded.

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

Occupational Safety and Health Administration

- Excavations (RIN 1218-AC02)
- Lead in Construction (RIN 1218-AC18)
- Methylene Chloride (RIN 1218-AC23)

Employee Benefits Security Administration

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

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

Dated: August 16, 2006.

Elaine L. Chao,
Secretary of Labor.

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2058	Production or Disclosure of Information or Materials	1290-AA17

Employment Standards Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2059	Family and Medical Leave Act of 1993; Conform to the Supreme Court's Ragsdale Decision (Reg Plan Seq No. 66)	1215-AB35
2060	Child Labor Regulations, Orders, and Statements of Interpretation	1215-AB44

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

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Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2061	Amendments to the Fair Labor Standards Act	1215-AB13
2062	Service Contract Act Health and Welfare Benefits	1215-AB56
2063	Child Labor Regulations, Orders, and Statements of Interpretation	1215-AB57
2064	Amendment to the Interpretive Guidelines Governing the Employee Protective Provisions of the Federal Transit Act	1215-AB58
2065	Government Contractors, Affirmative Action Requirements, Revision of the Employer Information Report (EEO-1)	1215-AB59

Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2066	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Disabled Veterans, Recently Separated Veterans, Other Protected Veterans, and Armed Forces Service Meda	1215-AB46
2067	Labor Organization Officer and Employee Reports	1215-AB49
2068	Claims for Compensation Under the Energy Employees Occupational Illness Compensation Program Act of 2000, as Amended	1215-AB51

Employment Standards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2069	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models	1215-AB09

Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2070	Standards of Conduct for Federal Sector Labor Organizations	1215-AB48
2071	Union Organization and Voting Rights: Criteria for Characterizing a Labor Organization as a Local, Intermediate, or National or International Labor Organization	1215-AB50
2072	Union Officials: Guidelines for Fiduciary Responsibilities Under Section 501(a) of the Labor-Management Reporting and Disclosure Act	1215-AB52
2073	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors; Equal Opportunity Survey	1215-AB53
2074	Labor Organization Annual Financial Trust Reports: Form T-1	1215-AB54
2075	Airline Employee Protection Program	1215-AB55

Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2076	Alternative Trade Adjustment Assistance Benefits; Amendment of Regulations (Reg Plan Seq No. 67)	1205-AB40
2077	Revision of the Department of Labor Regulations for Petitions and Determinations of Eligibility to Apply for Trade Adjustment Assistance for Workers (Reg Plan Seq No. 68)	1205-AB44
2078	Disclosure of State Unemployment Compensation Wage Record Information	1205-AB45

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

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Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2079	Revision to the Department of Labor Benefit Regulations for Trade Adjustment Assistance for Workers Under the Trade Act of 1974, as Amended (Reg Plan Seq No. 69)	1205-AB32
2080	Federal-State Unemployment Compensation Program; Eligibility	1205-AB41
2081	Labor Certification for the Permanent Employment of Aliens in the United States; Reducing the Incentives and Opportunities for Fraud and Abuse and Enhancing Program Integrity (Reg Plan Seq No. 70)	1205-AB42
2082	Labor Conditions Applications for E-3 Visas in Specialty Occupations for Australian Non-immigrants	1205-AB43

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

Employment and Training Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2083	Post-Adjudication Audits of H-2B Petitions Other Than Logging in the United States	1205-AB36

Employment and Training Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2084	Federal-State Unemployment Compensation (UC) Program; Confidentiality and Disclosure of Information in State UC Records	1205-AB18
2085	Labor Certification for the Permanent Employment of Aliens in the United States; Backlog Reduction	1205-AB37
2086	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models; Labor Attestations Re H-1B1 Visas for Chile and Singapore (Completion of a Section 610 Review)	1205-AB38

Employee Benefits Security Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2087	Independence of Accountant	1210-AB09
2088	Plan Assets-Participant Contributions Regulation (610 Review) (Section 610 Review)	1210-AB11

Employee Benefits Security Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2089	Amendment of Regulation Relating to Definition of Plan Assets—Participant Contributions (Reg Plan Seq No. 71)	1210-AB02
2090	Amendment of Section 404(c) Regulation—Disclosure	1210-AB07
2091	Amendment of Standards Applicable to General Statutory Exemption for Services	1210-AB08

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

Employee Benefits Security Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2092	Regulations Implementing the Health Care Access, Portability, and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996 (Reg Plan Seq No. 72)	1210-AA54
2093	Health Care Standards for Mothers and Newborns	1210-AA63
2094	Prohibiting Discrimination Against Participants and Beneficiaries Based on Health Status (Reg Plan Seq No. 73)	1210-AA77

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Employee Benefits Security Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2095	Revision of the Form 5500 Series and Implementing Regulations	1210-AB06
2096	Section 404 Regulation—Default Investment Alternatives Under Participant Directed Individual Account Plans (Reg Plan Seq No. 74)	1210-AB10

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

Employee Benefits Security Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2097	Adequate Consideration	1210-AA15

Employee Benefits Security Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2098	Rulemaking Relating to Termination of Abandoned Individual Account Plans	1210-AA97
2099	Voluntary Fiduciary Correction Program	1210-AB03
2100	Electronic Filing of Annual Reports	1210-AB04

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2101	Personal Continuous Dust Monitors (Reg Plan Seq No. 75)	1219-AB48

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

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2102	Field Modifications of Permissible Mobile Diesel-Powered Equipment	1219-AB39
2103	Fire Extinguishers in Underground Coal Mines	1219-AB40
2104	Use of or Impairment From Alcohol and Other Drugs on Mine Property	1219-AB41
2105	Sealing of Abandoned Areas (Reg Plan Seq No. 76)	1219-AB52
2106	Mine Rescue Teams (Reg Plan Seq No. 77)	1219-AB53
2107	Diesel Particulate Matter: Conversion Factor from Total Carbon to Elemental Carbon (Reg Plan Seq No. 78)	1219-AB55

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

Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2108	Asbestos Exposure Limit (Reg Plan Seq No. 79)	1219-AB24
2109	High-Voltage Continuous Mining Machine Standard for Underground Coal Mines	1219-AB34
2110	Equivalency Evaluation of the U.S. Environmental Protection Agency's Nonroad Diesel Engine Standards	1219-AB43
2111	Emergency Mine Evacuation (Reg Plan Seq No. 80)	1219-AB46
2112	Criteria and Procedures for Proposed Assessment of Civil Penalties (Reg Plan Seq No. 81)	1219-AB51

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Mine Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2113	Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust	1219-AB14
2114	Determination of Concentration of Respirable Coal Mine Dust	1219-AB18
2115	Respirable Crystalline Silica Standard	1219-AB36
2116	Revising Electrical Product Approval Regulations	1219-AB37

Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2117	Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners	1219-AB29
2118	Evaluation of International Electrotechnical Commission's Standards for Explosion-Proof Enclosures	1219-AB42
2119	Underground Mine Rescue Equipment and Technology	1219-AB44
2120	Proximity Detection System for Continuous Mining Machines	1219-AB49

Office of the Assistant Secretary for Administration and Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2121	Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Investment Act of 1998	1291-AA29
2122	Grants and Agreements	1291-AA30

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2123	Occupational Exposure to Crystalline Silica (Reg Plan Seq No. 82)	1218-AB70
2124	Occupational Exposure to Beryllium	1218-AB76
2125	Excavations (Section 610 Review)	1218-AC02
2126	Ionizing Radiation	1218-AC11
2127	Emergency Response and Preparedness	1218-AC17
2128	Lead in Construction (Section 610 Review)	1218-AC18
2129	Standards Improvement	1218-AC19
2130	Hazard Communication (Reg Plan Seq No. 83)	1218-AC20
2131	Notice on Supplier's Declaration of Conformity (SDoC)	1218-AC21
2132	Revision and Update of Standards for Power Presses	1218-AC22
2133	Methylene Chloride (Section 610 Review)	1218-AC23

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

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2134	Confined Spaces in Construction (Part 1926): Preventing Suffocation/ Explosions in Confined Spaces	1218-AB47
2135	General Working Conditions for Shipyard Employment	1218-AB50
2136	Walking Working Surfaces and Personal Fall Protection Systems (1910) (Slips, Trips, and Fall Prevention)	1218-AB80
2137	Cranes and Derricks (Reg Plan Seq No. 84)	1218-AC01
2138	Updating OSHA Standards Based on National Consensus Standards	1218-AC08
2139	Explosives	1218-AC09
2140	NFPA Standards in Shipyard Fire Protection	1218-AC16

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

Sequence Number	Title	Regulation Identifier Number
2141	Nationally Recognized Testing Laboratories Fee Schedule - Revised Approach	1218-AC27

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

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2142	Longshoring and Marine Terminals (Parts 1917 and 1918)—Reopening of the Record (Vertical Tandem Lifts (VTLs))	1218-AA56
2143	Electric Power Transmission and Distribution; Electrical Protective Equipment	1218-AB67
2144	Employer Payment for Personal Protective Equipment	1218-AB77
2145	Revision and Update of Subpart S—Electrical Standards	1218-AB95
2146	Procedures for Handling Discrimination Complaints Under Federal Employee Protection Statutes	1218-AC25

Occupational Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2147	Hearing Conservation Program for Construction Workers	1218-AB89

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2148	Assigned Protection Factors: Amendments to the Final Rule on Respiratory Protection	1218-AA05
2149	New York State Plan—Certification	1218-AC24

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

Sequence Number	Title	Regulation Identifier Number
2150	Jobs for Veterans Act of 2002: Contract Threshold and Eligibility Groups for Federal Contractor Program	1293-AA12

Department of Labor (DOL)

Completed Actions

Office of the Secretary (OS)

2058. PRODUCTION OR DISCLOSURE OF INFORMATION OR MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 552 as amended; 5 USC Reorganization Plan No. 6 of 1950; EO 12600, 52 FR 23781 (June 25, 1987)

CFR Citation: 29 CFR 70

Legal Deadline: None

Abstract: The regulation will incorporate the provisions of the 1996 FOIA amendments. These include extending DOL processing time from 10 to 20 days for most FOIA requests and requiring that all reading room materials created since November 1, 1996, be made available by electronic means such as the Internet.

Timetable:

Action	Date	FR Cite
NPRM	03/30/04	69 FR 16740
NPRM Comment Period End	05/14/04	
Final Action	05/30/06	71 FR 30762
Final Action Effective	06/29/06	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

DOL—OS

Completed Actions

Agency Contact: Joseph Plick, FOIA Counsel, Department of Labor, 200

Constitution Avenue NW., Room N2428 – FP Building, Washington, DC 20210
Phone: 202 693–5527

Email: plick.joseph@dol.gov

RIN: 1290–AA17

Department of Labor (DOL)

Prerule Stage

Employment Standards Administration (ESA)

2059. FAMILY AND MEDICAL LEAVE ACT OF 1993; CONFORM TO THE SUPREME COURT'S RAGSDALE DECISION

Regulatory Plan: This entry is Seq. No. 66 in part II of this issue of the **Federal Register**.

RIN: 1215–AB35

2060. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 203(1)

CFR Citation: 29 CFR 570

Legal Deadline: None

Abstract: The Department of Labor is considering possible revisions to the hazardous occupations orders that may

be undertaken to address recommendations of the National Institute for Occupational Safety and Health (NIOSH) in its May 2002 report to the Department on the Fair Labor Standards Act child labor regulations (available at <http://www.youthrules.dol.gov/resources.htm>). This Advance Notice of Proposed Rulemaking seeks additional data and public input to supplement the conclusions and recommendations contained in the NIOSH report for consideration in subsequent rulemaking actions that may be undertaken. This Advance Notice of Proposed Rulemaking is related to a separate Notice of Proposed Rulemaking (see Related RIN: 1215-AB57).

Timetable:

Action	Date	FR Cite
ANPRM	12/00/06	

Regulatory Flexibility Analysis

Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Federalism: Undetermined

URL For Public Comments:

www.regulations.gov

Agency Contact: Paul DeCamp, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, S3502, Washington, DC 20210
Phone: 202 693–0051
Fax: 202 693–1302

Related RIN: Related to 1215–AB57

RIN: 1215–AB44

Department of Labor (DOL)

Proposed Rule Stage

Employment Standards Administration (ESA)

2061. AMENDMENTS TO THE FAIR LABOR STANDARDS ACT

Priority: Other Significant

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

CFR Citation: 29 CFR 4; 29 CFR 531; 29 CFR 541; 29 CFR 778; 29 CFR 785; 29 CFR 790; 29 CFR 870; 41 CFR 50–202

Legal Deadline: None

Abstract: Small Business Job Protection Act of 1996 (H.R. 3448) enacted on August 20, 1996 (Pub. L. 104-188, title II) amended the Portal-to-Portal Act (PA) and the Fair Labor Standards Act (FLSA). The PA amendment excludes (under certain circumstances) from compensable “hours worked” the time spent by an employee in home-to-work travel in an employer-provided vehicle. The FLSA amendments: (1) Increased the \$4.25 Federal minimum hourly wage in two steps to \$5.15 on September 1, 1997; (2) provided a \$4.25

subminimum wage for youth under age 20 in their first 90 calendar days of employment with an employer; (3) set the employer’s direct wage payment obligation for tipped employees at \$2.13 per hour (provided such employees receive the balance of the full minimum wage in tips); and (4) set the hourly compensation requirements at no less than \$27.63 per hour for certain exempt professional employees in computer-related occupations. Changes will be required in the regulations to reflect these amendments. Other updates will address needed clarifications to additional sections of the regulations, including sections affected by Public Law 106-151, section 1 (Dec. 9, 1999), 113 Stat. 1731, and Public Law 106-202 (May 18, 2000), 114 Stat. 308.

Timetable:

Action	Date	FR Cite
NPRM	04/00/07	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: Federal, Local, State

URL For Public Comments:

<http://www.regulations.gov>

Agency Contact: Paul DeCamp, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, S3502, Washington, DC 20210
Phone: 202 693–0051
Fax: 202 693–1302

RIN: 1215–AB13

2062. • SERVICE CONTRACT ACT HEALTH AND WELFARE BENEFITS

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

Unfunded Mandates: Undetermined

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

DOL—ESA

Proposed Rule Stage

CFR Citation: 29 CFR 4

Legal Deadline: None

Abstract: The Department of Labor will seek public input on methods for federal service contractors to meet the health and welfare fringe benefit component required under prevailing wage determinations issued pursuant to the McNamara-O'Hara Service Contract Act.

Timetable:

Action	Date	FR Cite
NPRM	02/00/07	

Regulatory Flexibility Analysis

Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Paul DeCamp, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, S3502, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1302

RIN: 1215-AB56

2063. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 203(l); 29 USC 212; 29 USC 213(c)

CFR Citation: 29 CFR 570

Legal Deadline: None

Abstract: The Department of Labor continues to review the Fair Labor Standards Act child labor provisions to ensure that the implementing regulations provide job opportunities for working youth that are healthy and safe and not detrimental to their education, as required by the statute (29 U.S.C. Sections 203(l), 212(c), 213(c), and 216(e)). This proposed rule will update the regulations to reflect statutory amendments enacted in 2004, and will propose, among other updates, revisions to address several recommendations of the National Institute for Occupational Safety and Health (NIOSH) in its 2002 report to the Department of Labor on the child labor Hazardous Occupations Orders (HOs) (available at <http://www.youthrules.dol.gov/>

resources.htm). This Notice of Proposed Rulemaking is related to a separate Advance Notice of Proposed Rulemaking (see Related RIN: 1215-AB44) that requests additional data and public input to supplement the conclusions and recommendations on certain of the HOs contained in the NIOSH report for consideration in additional possible revisions that may be undertaken in subsequent rulemaking actions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/06	

Regulatory Flexibility Analysis

Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Federalism: Undetermined

Agency Contact: Paul DeCamp, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, S3502, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1302

RIN: 1215-AB57

2064. • AMENDMENT TO THE INTERPRETIVE GUIDELINES GOVERNING THE EMPLOYEE PROTECTIVE PROVISIONS OF THE FEDERAL TRANSIT ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 109-59; 119 Stat 1144; 49 USC 5333(b)

CFR Citation: 29 CFR 215

Legal Deadline: None

Abstract: Pursuant to Section 5333(b) of the Federal Transit law, the Department of Labor (Department) must certify, as a condition of certain grants of Federal financial assistance, fair and equitable labor protective provisions to protect the interests of employees affected by such Federal assistance. The Department administers this program through guidelines set forth at 29 CFR part 215. The Department's proposed changes conform the guidelines to recently enacted Federal legislation, in particular, sections 3013(h) and 3031 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act —

A Legacy for Users (Pub. L. No. 109-59, 119 Stat. 1144 (2005)) (SAFETEA-LU). In addition to changes mandated by statute, the Department also proposes revisions to the guidelines that will enhance the speed and efficiency of the Department's processing of grant certifications. The proposed revisions to existing procedures for processing grant application under Federal transit law will ensure timely certification in a predictable manner, and will remain consistent with the transit laws statutory objectives.

Timetable:

Action	Date	FR Cite
NPRM	01/00/07	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ann Comer, Acting Chief, Division of Statutory Programs, Department of Labor, Employment Standards Administration, Room N5112, 200 Constitution Avenue NW., Washington, DC 20210
Phone: 202 693-1193
Email: comer.ann@dol.gov

RIN: 1215-AB58

2065. • GOVERNMENT CONTRACTORS, AFFIRMATIVE ACTION REQUIREMENTS, REVISION OF THE EMPLOYER INFORMATION REPORT (EEO-1)

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

Legal Authority: EO 11246, as amended

CFR Citation: 41 CFR 60-2; 41 CFR 60-4; 41 CFR 60-50

Legal Deadline: None

Abstract: This proposed rule would amend certain sections of the OFCCP regulations to correspond to the new Employer Information Report (EEO-1), as published in the Federal Register on November 28, 2005 (70 FR 71294) (EEO-1 Notice). The new EEO-1 report revised its racial and ethnic definitions as well as its EEO-1 job categories.

Timetable:

Action	Date	FR Cite
NPRM	03/00/07	
NPRM Comment Period End	05/00/07	

DOL—ESA

Proposed Rule Stage

Action	Date	FR Cite
Final Action	07/00/07	
Final Action Effective	09/00/07	
Regulatory Flexibility Analysis Required: No		
Small Entities Affected: No		

Government Levels Affected: None

Agency Contact: Lynn Clements, Acting Director, Division of Policy, Planning and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Rm.

N3422, FP Building, Washington, DC 20210
 Phone: 202 693-0102
 TDD Phone: 202 693-1337
 Fax: 202 693-1304
 Email: ofccp-public@dol.gov
RIN: 1215-AB59

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

Final Rule Stage

2066. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS REGARDING DISABLED VETERANS, RECENTLY SEPARATED VETERANS, OTHER PROTECTED VETERANS, AND ARMED FORCES SERVICE MEDA

Priority: Other Significant

Legal Authority: 38 USC 4211 to 4212; 29 USC 793; EO 11758

CFR Citation: 41 CFR 60-300

Legal Deadline: None

Abstract: The Office of Federal Contract Compliance Programs (OFCCP) proposes to create a new regulation implementing the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) 38 USC 4212, to conform to the Jobs for Veterans Act (JVA). JVA amended VEVRAA in four ways. First, JVA raised contract coverage from \$25,000 to \$100,000. Second, JVA granted VEVRAA protection to a new group of veterans: those who, while serving on active duty in the Armed Forces, participated in a United States military operation for which an Armed Forces Service Medal was awarded pursuant to Executive Order 12985. Third, JVA changed the definition of "recently separated veteran" to include "any veteran during the three-year period beginning on the date of such veteran's discharge or release from active duty." Fourth, JVA changed "Special Disabled Veterans" to "Disabled Veterans," expanding the coverage to conform to 38 USC section 4211(3). This proposal will also increase the AAP threshold from \$50,000 to \$100,000 and will make other changes to the regulations. The VEVRAA Final Rule implementing the Veterans Employment Opportunities Act of 1998 and Veterans Benefits Health Care Improvement Act of 2000 at 41 CFR 60-250 is RIN 1215-AB24.

Timetable:

Action	Date	FR Cite
NPRM	01/20/06	71 FR 3351
NPRM Comment Period End	03/28/06	
Final Action	04/00/07	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Lynn Clements, Acting Director, Division of Policy, Planning and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Rm. N3422, FP Building, Washington, DC 20210
 Phone: 202 693-0102
 TDD Phone: 202 693-1337
 Fax: 202 693-1304
 Email: ofccp-public@dol.gov

Related RIN: Related to 1215-AB24

RIN: 1215-AB46

2067. LABOR ORGANIZATION OFFICER AND EMPLOYEE REPORTS

Priority: Other Significant

Legal Authority: 29 USC 432 ; 29 USC 438

CFR Citation: 29 CFR 404.3

Legal Deadline: None

Abstract: This rulemaking action will revise Form LM-30, the report filed by labor organization officers and employees who have engaged in certain transactions or received certain payments from employers and businesses. The proposed revision would clarify a number of ambiguities in the current instructions.

Timetable:

Action	Date	FR Cite
NPRM	08/29/05	70 FR 51166
NPRM Comment Period End	10/28/05	

Action	Date	FR Cite
NPRM Comment Period Extended to 01/26/2006	10/24/05	70 FR 61400
Final Action	12/00/06	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For More Information: www.olms.dol.gov

Agency Contact: Kay H. Oshel, Director, Office of Policy, Reports and Disclosure, Office of Labor-Management Standards, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, Room N-5605, Washington, DC 20210
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RIN: 1215-AB49

2068. CLAIMS FOR COMPENSATION UNDER THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT OF 2000, AS AMENDED

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 7384d(a); 42 USC 7385s-10(e); EO 13179

CFR Citation: 20 CFR 1; 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 the EEOICPA that were not assigned to the Secretary of Health and Human

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Final Rule Stage

Services, to the Secretary of Energy, or to the Attorney General by E.O. 13179. Part B of the EEOICPA provides for the payment of lump-sum compensation and medical benefits to Department of Energy 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).

On October 28, 2004, the President signed legislation repealing former part D of the EEOICPA that had been administered by the Secretary of Energy and creating a new Part E, 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. Responsibility for administration of part E of the EEOICPA was assigned to the Secretary of Labor.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/08/05	70 FR 33590
Interim Final Rule	08/08/05	
Comment Period		
End		

Action	Date	FR Cite
Interim Final Rule	06/08/05	
Effective		
Final Action	12/00/06	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Peter Turcic, Director, Division of Energy Employees Occupational Illness Compensation, OWCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, Room C-3321, Washington, DC 20210

Phone: 202 693-0081

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Email: turcic.peter@dol.gov

RIN: 1215-AB51

Department of Labor (DOL)

Long-Term Actions

Employment Standards Administration (ESA)

2069. LABOR CONDITION APPLICATIONS AND REQUIREMENTS FOR EMPLOYERS USING NONIMMIGRANTS ON H-1B VISAS IN SPECIALTY OCCUPATIONS AND AS FASHION MODELS

Priority: Other Significant

Legal Authority: 29 USC 49 et seq; 8 USC 1101(a)(15)(H)(i)(b); 8 USC 1182(n); 8 USC 1184; PL 102-232; PL 105-277

CFR Citation: 20 CFR 655, subparts H and I

Legal Deadline: None

Abstract: The H-1B visa program of the Immigration and Nationality Act allows employers to temporarily employ nonimmigrants admitted into the United States under the H-1B visa category in specialty occupations and as fashion models, under specified labor conditions. An employer must file a labor condition application with the Department of Labor before the U. S. Citizenship and Immigration Services may approve a petition to employ a foreign worker on an H-1B visa. The Department's Employment and Training Administration administers the labor condition application process; the Wage and Hour Division of the Department's Employment Standards Administration handles complaints and investigations regarding labor condition applications.

The Department published a proposed rule on January 5, 1999, in response to statutory changes in the H-1B program made by the American Competitiveness and Workforce Improvement Act of 1998 (title IV, Pub. L. 105-277; Oct. 21, 1998). Those changes placed additional obligations on "H-1B-dependent" employers (generally, those with work forces comprised of more than 15 percent H-1B workers) and on willful violators. These employers must recruit for U.S. workers, hire U.S. workers who are at least as qualified as H-1B workers, and not displace U.S. workers by hiring H-1B workers or placing them at another employer's job site. The 1998 amendments also imposed additional obligations on all H-1B employers, such as offering benefits to H-1B workers on the same basis and according to the same criteria as offered to U.S. workers, and payment to H-1B workers during periods they are not working for an employment-related reason. The 1999 proposed rule also requested further public comment on earlier proposed provisions published in October 1995, and on particular interpretations of the statute and of the existing regulations which the Department proposed to incorporate into the regulations. Since publishing the proposed rule, Congress enacted further amendments to the H-1B provisions under the American

Competitiveness in the Twenty-First Century Act of 2000 (Pub. L. 106-313; Oct. 17, 2000), the Immigration and Nationality Act—Amendments (Pub. L. 106-311; Oct. 17, 2000), and section 401 of the Visa Waiver Permanent Program Act (Pub. L. 106-396; Oct. 30, 2000).

Timetable:

Action	Date	FR Cite
NPRM	10/31/95	60 FR 55339
NPRM Comment	11/30/95	
Period End		
NPRM	01/05/99	64 FR 628
NPRM Comment	02/04/99	
Period End		
Interim Final Rule	12/20/00	65 FR 80110
Interim Final Rule	01/19/01	
Effective		
Interim Final Rule	04/23/01	66 FR 10865
Comment Period		
End		
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: On December 20, 2000, the Department published an interim final rule to implement the recent amendments and clarify the existing rules, and requested further public comment on those provisions. On December 8, 2004, Congress enacted the H-1B Visa Reform Act of 2004 as

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Long-Term Actions

part of the Consolidated Appropriations Act of 2005 (Pub. L. 108-447, 188 Stat. 2809, Division J, Title IV, Subtitle B (Dec. 8, 2004)), which reinstated (effective March 8, 2005) certain attestation requirements for H-1B dependent employers and employers

found to have committed willful violations or misrepresentations of material facts during the five-year period prior to filing the H-1B Labor Condition Application.

Agency Contact: Paul DeCamp, Administrator, Wage and Hour

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Phone: 202 693-0051
Fax: 202 693-1302
RIN: 1215-AB09

Department of Labor (DOL)

Completed Actions

Employment Standards Administration (ESA)

2070. STANDARDS OF CONDUCT FOR FEDERAL SECTOR LABOR ORGANIZATIONS

Priority: Other Significant

Legal Authority: 5 USC 7120

CFR Citation: 29 CFR 458.4 (New)

Legal Deadline: None

Abstract: This rulemaking action will revise the regulations implementing the standards of conduct for Federal sector unions under the Civil Service Reform Act of 1978 (CSRA). Under the CSRA standards of conduct provisions, the implementing regulations are to conform to the principles applied to private sector unions. Accordingly, the implementing regulations generally follow the provisions of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA). However, the standards of conduct regulations do not include one important provision of the LMRDA which requires unions to inform their members of the provisions of the statute. The proposed rule would amend the standards of conduct regulations to include this important provision.

Timetable:

Action	Date	FR Cite
NPRM	11/03/04	69 FR 64221
NPRM Comment Period End	01/03/05	
Final Action	06/02/06	71 FR 31929
Final Action Effective	07/03/06	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Kay H. Oshel, Director, Office of Policy, Reports and Disclosure, Office of Labor-Management Standards, Department of Labor, Employment Standards Administration, 200

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RIN: 1215-AB48

2071. UNION ORGANIZATION AND VOTING RIGHTS: CRITERIA FOR CHARACTERIZING A LABOR ORGANIZATION AS A LOCAL, INTERMEDIATE, OR NATIONAL OR INTERNATIONAL LABOR ORGANIZATION

Priority: Other Significant

Legal Authority: 29 USC 481 to 482

CFR Citation: 29 CFR 452.11

Legal Deadline: None

Abstract: The Request for Information sought comments from the public as to whether and how to revise the current tests for determining whether a labor organization is a local union, intermediate union, or national or international union.

Timetable:

Action	Date	FR Cite
Request for Information	11/03/04	69 FR 64234
Comment Period Extended	12/03/04	69 FR 70288
Comment Period End	01/03/05	
Withdrawn	07/19/06	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

URL For More Information: www.olms.dol.gov

Agency Contact: Kay H. Oshel, Director, Office of Policy, Reports and Disclosure, Office of Labor-Management Standards, Department of Labor, Employment Standards Administration, 200

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RIN: 1215-AB50

2072. UNION OFFICIALS: GUIDELINES FOR FIDUCIARY RESPONSIBILITIES UNDER SECTION 501(A) OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT

Priority: Other Significant

Legal Authority: 29 USC 501(a); 29 USC 521

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This request provided information from the public to assist the Department of Labor in determining whether to issue guidelines concerning the fiduciary obligations of union officers and other representative under section 501(a) of the LMRDA, 29 U.S.C. section 501. Section 501 states in general terms that officers and other representatives of a labor organization occupy "positions of trust" within their labor organizations and must act in the best interest of their union. The LMRDA does not, however, describe in any detail the nature and scope of these fiduciary duties. After reviewing all of the information that was received and carefully considering all of the issues, OLMS has decided not to take further action, and withdraws this entry from the agenda.

Timetable:

Action	Date	FR Cite
Request for Information	08/29/05	70 FR 51227
Comment Period End	10/28/05	

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Completed Actions

Action	Date	FR Cite
Request for Information Comment Period Extended to 01/26/2006	10/24/05	70 FR 61472
Withdrawn	07/12/06	

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

Agency Contact: Kay H. Oshel, Director, Office of Policy, Reports and Disclosure, Office of Labor-Management Standards, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, Room N-5605, Washington, DC 20210
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RIN: 1215-AB52**2073. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS; EQUAL OPPORTUNITY SURVEY****Priority:** Other Significant**Legal Authority:** EO 11246, as amended**CFR Citation:** 41 CFR 60-2.18**Legal Deadline:** None

Abstract: On November 13, 2000, the Office of Federal Contract Compliance Programs (OFCCP) published a Final Rule which established an Equal Opportunity (EO) Survey. The EO Survey requires that nonconstruction contractor establishments designated by OFCCP prepare and file an Equal Opportunity (EO) Survey. The EO Survey contains information about personnel activities, compensation and tenure data and specific information about the contractor's affirmative action programs.

Timetable:

Action	Date	FR Cite
NPRM	01/20/06	71 FR 3373
NPRM Comment Period End	03/28/06	
Final Action	09/08/06	71 FR 53032

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

Agency Contact: Lynn Clements, Acting Director, Division of Policy, Planning and Program Development, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Rm. N3422, FP Building, Washington, DC 20210
Phone: 202 693-0102
TDD Phone: 202 693-1337
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RIN: 1215-AB53**2074. LABOR ORGANIZATION ANNUAL FINANCIAL TRUST REPORTS: FORM T-1****Priority:** Other Significant**Legal Authority:** 29 USC 431; 29 USC 438**CFR Citation:** 29 CFR 403.2; 29 CFR 403.5; 29 CFR 403.8; 29 CFR 408.5**Legal Deadline:** None

Abstract: This rule will implement revisions to reporting requirements under the Labor-Management Reporting and Disclosure Act of 1959, as Amended (LMRDA), for trusts in which labor organizations are interested. Such trusts include a "trust of other fund or organization (1) which was created or established by a labor organization, or one or more of the trustees or one or more members of the governing body or which is selected or appointed by a labor organization and (2) a primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries." 29 U.S.C. 402 (i). This rule will revise existing reporting requirements for such trusts imposed by final rule in 2003 (RIN 1215-AB34). These requirements were found invalid by the U.S. Court of Appeals of the District of Columbia circuit. In a 2005 decision, the appeals court upheld the Department of Labor's authority to require labor organizations to report on the activities of trusts in which they hold an interest, but found that the Department had exceeded its authority by imposing a rule that failed to differentiate between trusts over which a union or unions exercised dominant control and those in which the apparent authority was significantly diluted.

Timetable:

Action	Date	FR Cite
Final Action	09/29/06	71 FR 57716
Final Action Effective	01/01/07	

Regulatory Flexibility Analysis Required: Yes**Small Entities Affected:** Organizations**Government Levels Affected:** None

Agency Contact: Kay H. Oshel, Director, Office of Policy, Reports and Disclosure, Office of Labor-Management Standards, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., FP Building, Room N-5605, Washington, DC 20210
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RIN: 1215-AB54**2075. AIRLINE EMPLOYEE PROTECTION PROGRAM****Priority:** Info./Admin./Other**Legal Authority:** PL 105-220-199(a)(6); 112 Stat 936, 1058 to 1059 (1998)**CFR Citation:** 29 CFR 220**Legal Deadline:** None

Abstract: This final rule will rescind the Airline Employee Protection Program regulations at 29 CFR 220 that were issued to implement the Rehire Program established by section 43 of the Airline Deregulation Act of 1978. The program was intended to assist airline workers who were laid off as a result of airline deregulation by providing a first right of hire for designated employees covered by air carriers. Because of administrative and judicial delays, the Department's final rule implementing the program was not issued until 1985, 7 years after enactment of the Act. The regulation became effective January 27, 1986. In 1998, Congress repealed section 43 of the Airline Deregulation Act in section 199(a)(6) of the Workforce Investment Act (Pub. L. 105-220). Consequently, the regulations implementing the Airline Employee Protection Program are now without force or effect.

Timetable:

Action	Date	FR Cite
Regulation Rescinded Effective Date	05/22/06	71 FR 29250
	05/22/06	

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

DOL—ESA

Completed Actions

Agency Contact: Patrick Alan Hyde,
Division Chief, Division of Statutory
Programs, Department of Labor,
Employment Standards Administration,

200 Constitution Avenue NW., Rm
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20210
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RIN: 1215-AB55

Department of Labor (DOL)

Proposed Rule Stage

Employment and Training Administration (ETA)

**2076. ALTERNATIVE TRADE
ADJUSTMENT ASSISTANCE
BENEFITS; AMENDMENT OF
REGULATIONS**

Regulatory Plan: This entry is Seq. No. 67 in part II of this issue of the **Federal Register**.

RIN: 1205-AB40

**2077. • REVISION OF THE
DEPARTMENT OF LABOR
REGULATIONS FOR PETITIONS AND
DETERMINATIONS OF ELIGIBILITY TO
APPLY FOR TRADE ADJUSTMENT
ASSISTANCE FOR WORKERS**

Regulatory Plan: This entry is Seq. No. 68 in part II of this issue of the **Federal Register**.

RIN: 1205-AB44

**2078. • DISCLOSURE OF STATE
UNEMPLOYMENT COMPENSATION
WAGE RECORD INFORMATION**

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

Legal Authority: 42 USC 1302(a) ; Secretary Order No. 4.-75(40 FR 1885)

CFR Citation: 29 CFR 603 subpart D

Legal Deadline: None

Abstract: The Employment and Training Administration of the Department of Labor (Department) proposes a Notice of Proposed Rulemaking (NPRM) to amend 20 CFR part 603 to implement section 303 (a)(6) of the Social Security Act (SSA). That section of the SSA requires that a state's UC law provide for the "making of such reports, in such form and containing such information, as the Secretary of Labor may from time to time require." The NPRM would interpret this language to require that in addition to information already reported for its purposes the state UC

agencies must provide confidential information instate wage reports for purposes of measuring the performance of programs and initiatives administered by the Department, its grantees, or subgrantees.

Timetable:

Action	Date	FR Cite
NPRM	12/00/06	

**Regulatory Flexibility Analysis
Required:** No

Government Levels Affected: State

Federalism: Undetermined

Agency Contact: Gerard Hildebrand,
Chief, Division of Legislation,
Department of Labor, Employment and
Training Administration, Office of
Workforce Security, 200 Constitution
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RIN: 1205-AB45

Department of Labor (DOL)

Final Rule Stage

Employment and Training Administration (ETA)

**2079. REVISION TO THE
DEPARTMENT OF LABOR BENEFIT
REGULATIONS FOR TRADE
ADJUSTMENT ASSISTANCE FOR
WORKERS UNDER THE TRADE ACT
OF 1974, AS AMENDED**

Regulatory Plan: This entry is Seq. No. 69 in part II of this issue of the **Federal Register**.

RIN: 1205-AB32

**2080. FEDERAL-STATE
UNEMPLOYMENT COMPENSATION
PROGRAM; ELIGIBILITY**

Priority: Other Significant

Legal Authority: 42 USC 503(a)(5); 26 USC 3304(a)(4); 26 USC 3306(h); 26 USC 3304(a)(1); 42 USC 503(a)(2); 42 USC 1302(a)

CFR Citation: 20 CFR 604 (New)

Legal Deadline: None

Abstract: Federal Unemployment Compensation (UC) law is inherently based on wage insurance principles. The regulation would interpret and apply these principles, thereby establishing minimum standards that states will be required to meet if their employers are to continue to receive credit against the Federal unemployment tax and if the state is to continue to receive UC administrative grants.

Timetable:

Action	Date	FR Cite
NPRM	07/22/05	70 FR 42474
NPRM Comment Period End	09/20/05	
Final Action	02/00/07	

**Regulatory Flexibility Analysis
Required:** No

Small Entities Affected: No

Government Levels Affected: State

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

Agency Contact: Gerard Hildebrand,
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RIN: 1205-AB41

DOL—ETA

Final Rule Stage

2081. LABOR CERTIFICATION FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES; REDUCING THE INCENTIVES AND OPPORTUNITIES FOR FRAUD AND ABUSE AND ENHANCING PROGRAM INTEGRITY

Regulatory Plan: This entry is Seq. No. 70 in part II of this issue of the **Federal Register**.

RIN: 1205–AB42

2082. LABOR CONDITIONS APPLICATIONS FOR E–3 VISAS IN SPECIALTY OCCUPATIONS FOR AUSTRALIAN NON–IMMIGRANTS

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, Public Law 109-13, 119 Stat. 231 was signed into law May 11, 2005. The Act adds a new treaty visa classification for Australian nonimmigrants coming to the U.S. solely to perform services in a specialty occupation. The Department amends the current H-1B regulation to incorporate references and provisions for the new E-3 program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/06	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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

RIN: 1205–AB43

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

Long-Term Actions

2083. POST–ADJUDICATION AUDITS OF H–2B PETITIONS OTHER THAN LOGGING IN THE UNITED STATES

Priority: Other Significant

Legal Authority: 8 USC 1101(a)(15)(H)(ii)(b); 8 USC 1184; 29 USC 49 et seq

CFR Citation: 8 CFR 214.2(h)(5); 20 CFR 655.1 to 655.4

Legal Deadline: None

Abstract: Under the redesigned H-2B temporary nonagricultural program employers seeking to use H-2B workers, except for applications filed for employment in Guam or in logging, will file directly with the Department of Homeland Security (DHS) instead of first filing an application for labor certification with the Department of Labor (DOL), as required under the current regulation. Under the regulations simultaneously proposed by DOL and DHS, the employer will be required to conduct recruitment before filing its petition. The petition will include a number of attestations

concerning labor market and related issues identified in the DOL regulation. DHS will administer the petition adjudication process. After adjudication, DOL will audit selected approved petitions. In such audits, DOL will exclusively examine whether the employer has complied with those aspects of the approved petition related to the labor market and other related attestations. Employers will be expected to have documentation available supporting their attestations as specified in the regulation and will be required to provide this supporting documentation to DOL within 30 days from notice of audit. If, after completion of the audit, DOL determines that the employer has failed to comply with the terms of the attestations contained in the DHS petition or made material misrepresentations in its attestation, DOL will, after notice to the employer and opportunity for a hearing, recommend to DHS that the employer be debarred, for a period up to 3 years.

Timetable:

Action	Date	FR Cite
NPRM	01/27/05	70 FR 3993
NPRM Comment Period End	02/28/05	
NPRM Comment Period Reopened	03/09/05	70 FR 11592
NPRM Comment Period Extended to April 8, 2005	03/09/05	
Final Action	12/00/07	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: William Carlson, Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C– 4312, FP Building, Washington, DC 20210
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RIN: 1205–AB36

Department of Labor (DOL)

Completed Actions

Employment and Training Administration (ETA)

2084. FEDERAL-STATE UNEMPLOYMENT COMPENSATION (UC) PROGRAM; CONFIDENTIALITY AND DISCLOSURE OF INFORMATION IN STATE UC RECORDS**Priority:** Other Significant**Legal Authority:** 26 USC ch 23; 42 USC 1302(a); 42 USC 1320b-7; 42 USC 503; Secretary's Orders 4-75 and 14-75**CFR Citation:** 20 CFR 603**Legal Deadline:** None

Abstract: The Employment and Training Administration of the Department of Labor prepared a final rule on confidentiality and disclosure of State UC information. The final rule modifies and expands the regulations implementing the Income and Eligibility Verification System (IEVS) to include statutory requirements in title III of the Social Security Act and the Federal Unemployment Tax Act concerning confidentiality and disclosure of State UC information. The use of UC wage records and other information under these and other statutes has increased in recent years while privacy and confidentiality issues have not yet been fully addressed.

Timetable:

Action	Date	FR Cite
NPRM	08/12/04	69 FR 50022
NPRM Comment Period End	10/12/04	
Final Action	09/27/06	71 FR 56830
Final Action Effective	10/27/06	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** State**Federalism:** This action may have federalism implications as defined in EO 13132.**Additional Information:** Formerly RIN 1205-AA74; was taken off regulatory agenda in 1994 due to inactivity. An earlier NPRM was published on 3/23/92 at 57 FR 10063 with comment period ending 5/22/92.

Agency Contact: Gerard Hildebrand, Chief, Division of Legislation, Department of Labor, Employment and Training Administration, Office of Workforce Security, 200 Constitution Avenue NW., Room C-4518, Washington, DC 20210
Phone: 202 693-3038
Email: hildebrand.gerard@dol.gov

RIN: 1205-AB18**2085. LABOR CERTIFICATION FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES; BACKLOG REDUCTION****Priority:** Other Significant**Legal Authority:** 8 USC 1182(a)(5)(A)**CFR Citation:** 20 CFR 656**Legal Deadline:** None

Abstract: This interim final rule provided the Division of Foreign Labor Certification the discretion to transfer permanent labor certification applications pending in state workforce agencies and ETA regional offices to centralized processing centers for completion of processing, as a proactive backlog-reduction measure, under regulations in effect prior to March 28, 2005. The interim final rule took effect 30 days after publication or on August 20, 2004. ETA opened the backlog elimination centers in October 2004. As a result, ETA anticipates the backlog will ideally be eliminated by September 2007. However, ETA's Spring 2006 Agenda submission provided an August 2006 date to finalize the interim final rule. That date would have been extended in this Agenda submission to February 2007. Therefore, ETA reviewed the interim final rule and the progress of the backlog centers to determine that a final rule is not necessary given the close proximity of the elimination date and the completion date of the final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/21/04	69 FR 43716
Interim Final Rule Comment Period End	08/20/04	
Interim Final Rule Effective	08/20/04	
Withdrawn	07/24/06	

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

Agency Contact: William Carlson, Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C-4312, FP Building, Washington, DC 20210
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RIN: 1205-AB37**2086. LABOR CONDITION APPLICATIONS AND REQUIREMENTS FOR EMPLOYERS USING NONIMMIGRANTS ON H-1B VISAS IN SPECIALTY OCCUPATIONS AND AS FASHION MODELS; LABOR ATTESTATIONS RE H-1B1 VISAS FOR CHILE AND SINGAPORE (COMPLETION OF A SECTION 610 REVIEW)****Priority:** Other Significant**Legal Authority:** 8 USC 1101(a)(15)(H)(1)(b1) and 1184 (g)(8)(A); PL 108-77 sec 402; PL 108-78 sec 402**CFR Citation:** 20 CFR 655**Legal Deadline:** None

Abstract: The Department of Labor has amended its regulations relating to the temporary employment of foreign professionals to implement procedural requirements applicable to a new visa category - the H-1B1 visa. Congress created the new visa category as part of its approval of the Chile-United States Free Trade Agreement and the Singapore-United States Free Trade Agreement. Under the implementing legislation, DOL's responsibilities regarding H-1B1 visas are to be implemented in a manner similar to the existing H-1B program for temporary employment in specialty occupations and as fashion models. Under the regulatory procedures established by the Interim Final Rule, employers in the United States seeking to temporarily employ foreign professionals in specialty occupations through H-1B1 visas must file a labor condition application with the Department of Labor making the same attestations regarding payment of prevailing wages, working conditions, absence of strikes or lockouts, and notice to other employees that employers currently make when seeking entry of a foreign worker under the H-1B program. This Final Rule addresses the comments submitted through the Interim Final Rule process and makes one technical amendment to be consistent with the Final Rule amending H-1B and H-1B1 at 70 FR 72556.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/23/04	69 FR 68222
Interim Final Rule Effective	11/23/04	
Interim Final Rule Comment Period End	01/24/05	

DOL—ETA

Completed Actions

Action	Date	FR Cite
Final Rule	06/30/06	71 FR 37802
Final Action Effective	07/31/06	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No
Government Levels Affected: None
Agency Contact: William Carlson, Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training

Administration, 200 Constitution Avenue NW., Room C- 4312, FP Building, Washington, DC 20210
 Phone: 202 693-3010
 Email: carlson.william@dol.gov
RIN: 1205-AB38

Department of Labor (DOL)

Prerule Stage

Employee Benefits Security Administration (EBSA)

2087. INDEPENDENCE OF ACCOUNTANT

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1023(a)(3)(A); 29 USC 1135

CFR Citation: 29 CFR 2509

Legal Deadline: None

Abstract: EBSA is conducting a review of the guidelines applicable to determining when a qualified public accountant is independent for purposes of auditing and rendering an opinion on the financial information required to be included in the annual report of an employee benefit plan for purposes of section 103(a)(3)(A) of ERISA. The current guidelines, set forth as an Interpretive Bulletin at 29 CFR section 2509.75-9, were adopted in 1975. Given the changes that have taken place with respect to employee benefit plans and auditing practices and standards, as well as changes in the industry, since the issuance of those guidelines, EBSA is preparing a Request for Information that will invite interested persons to submit written comments and suggestions concerning whether and to what extent the current guidelines should be modified.

Timetable:

Action	Date	FR Cite
Request For Information	09/11/06	71 FR 53348
Request For Information—Comment Period End	12/11/06	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John J. Canary, Deputy Director, Office of Regulations and Interpretations, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
 Phone: 202 693-8500
RIN: 1210-AB09

2088. PLAN ASSETS—PARTICIPANT CONTRIBUTIONS REGULATION (610 REVIEW) (SECTION 610 REVIEW)

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135

CFR Citation: 29 CFR 2510.3-102

Legal Deadline: None

Abstract: EBSA is conducting a review of the plan assets - participant

contributions regulation in accordance with the requirements of section 610 of the Regulatory Flexibility Act. The review will cover the continued need for the rule; the nature of complaints or comments received from the public concerning the rule; the complexity of the rule; the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules and, to the extent feasible, with State and local rules; and the extent to which technology, economic conditions, or other factors have changed in industries affected by the rule.

Timetable:

Action	Date	FR Cite
Begin Review	03/01/06	
End Review	06/00/07	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Rudolph F. Nuisel, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
 Phone: 202 693-8500

RIN: 1210-AB11

Department of Labor (DOL)

Proposed Rule Stage

Employee Benefits Security Administration (EBSA)

2089. AMENDMENT OF REGULATION RELATING TO DEFINITION OF PLAN ASSETS—PARTICIPANT CONTRIBUTIONS

Regulatory Plan: This entry is Seq. No. 71 in part II of this issue of the Federal Register.

RIN: 1210-AB02

2090. AMENDMENT OF SECTION 404(C) REGULATION—DISCLOSURE

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

Legal Authority: 29 USC 1104(c); 29 USC 1135

CFR Citation: 29 CFR 2550

Legal Deadline: None

Abstract: This rulemaking will amend the regulations governing ERISA section 404(c) plans (29 CFR section 2550.404c-1) to ensure that the participants and beneficiaries in such plans are provided the information they need, including information about fees and expenses, to make informed investment decisions. The section 404(c) regulation sets forth the

DOL—EBSA

Proposed Rule Stage

conditions under which participants and beneficiaries are considered to be exercising control over the assets in their account, thereby relieving plan fiduciaries from liability for the results of the investment decisions of the participant or beneficiary. The regulation conditions relief on participants and beneficiaries being furnished or having access to certain information about their plan and the investment options offered thereunder. This amendment is needed to clarify and improve the information currently required to be furnished to participants and beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	03/00/07	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

Agency Contact: Katherine D. Lewis, Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N-5669, Washington, DC 20210

Phone: 202 693-8500

RIN: 1210-AB07

2091. AMENDMENT OF STANDARDS APPLICABLE TO GENERAL STATUTORY EXEMPTION FOR SERVICES

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

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

CFR Citation: 29 CFR 2550

Legal Deadline: None

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

statutory exemption, as well as the prudence requirements of ERISA section 404(a)(1)(B). This regulation is needed to eliminate the current uncertainty as to what information relating to services and fees plan fiduciaries must obtain and service providers must furnish for purposes of determining whether a contract for services to be rendered to a plan is reasonable.

Timetable:

Action	Date	FR Cite
NPRM	02/00/07	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

Agency Contact: Kristen Zarenko, Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N-5669, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210-AB08

Department of Labor (DOL)

Final Rule Stage

Employee Benefits Security Administration (EBSA)

2092. REGULATIONS IMPLEMENTING THE HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY PROVISIONS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Regulatory Plan: This entry is Seq. No. 72 in part II of this issue of the **Federal Register**.

RIN: 1210-AA54

2093. HEALTH CARE STANDARDS FOR MOTHERS AND NEWBORNS

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1027; 29 USC 1059; 29 USC 1135; 29 USC 1185; 29 USC 1191 to 1191c

CFR Citation: 29 CFR 2590.711

Legal Deadline: None

Abstract: The Newborns' and Mothers' Health Protection Act of 1996 (NMHPA) amended title I of ERISA and the Public Health Service Act with

parallel provisions that protect mothers and their newborn children with regard to the length of hospital stays following the birth of a child. The Departments of Labor and Health and Human Services are mutually dependent due to shared interpretive jurisdiction and are proceeding concurrently to provide final regulatory guidance with regard to the provisions of the NMHPA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/27/98	63 FR 57546
Final Action	06/00/07	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: Amy Turner, Senior Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210

Phone: 202 693-8335

RIN: 1210-AA63

2094. PROHIBITING DISCRIMINATION AGAINST PARTICIPANTS AND BENEFICIARIES BASED ON HEALTH STATUS

Regulatory Plan: This entry is Seq. No. 73 in part II of this issue of the **Federal Register**.

RIN: 1210-AA77

2095. REVISION OF THE FORM 5500 SERIES AND IMPLEMENTING REGULATIONS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 29 USC 1135; 29 USC 1021; 29 USC 1023 to 1024

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: This rulemaking would amend and update the regulatory and related requirements for annual reporting by employer benefit plans in conjunction with EBSA's proposal to amend the regulations under section 104 to require that such reports be filed electronically.

DOL—EBSA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/21/06	71 FR 41392
NPRM Comment Period End	09/19/06	
Final Action	02/00/07	

Regulatory Flexibility Analysis**Required:** Undetermined**Government Levels Affected:** None

Agency Contact: June Solonsky, Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N-5669, Washington, DC 20210
Phone: 202 693-8500
Fax: 202 219-7291

RIN: 1210-AB06**2096. SECTION 404 REGULATION—DEFAULT INVESTMENT ALTERNATIVES UNDER PARTICIPANT DIRECTED INDIVIDUAL ACCOUNT PLANS**

Regulatory Plan: This entry is Seq. No. 74 in part II of this issue of the **Federal Register**.

RIN: 1210-AB10

Department of Labor (DOL)

Long-Term Actions

Employee Benefits Security Administration (EBSA)

2097. ADEQUATE CONSIDERATION

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

Unfunded Mandates: Undetermined**Legal Authority:** 29 USC 1002(18); 29 USC 1135**CFR Citation:** 29 CFR 2510**Legal Deadline:** None**Abstract:** The regulation would set forth standards for determining

“adequate consideration” under section 3(18) of ERISA for assets other than securities for which there is a generally recognized market.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17632
NPRM Comment Period End	07/17/88	
Next Action	Undetermined	

Regulatory Flexibility Analysis**Required:** Undetermined**Government Levels Affected:** None

Agency Contact: Morton Klevan, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210-AA15

Department of Labor (DOL)

Completed Actions

Employee Benefits Security Administration (EBSA)

2098. RULEMAKING RELATING TO TERMINATION OF ABANDONED INDIVIDUAL ACCOUNT PLANS**Priority:** Other Significant**Legal Authority:** 29 USC 1135; 29 USC 1002(16)(A)**CFR Citation:** 29 CFR 2591**Legal Deadline:** None

Abstract: This rulemaking establishes a procedure and standards for distributing the benefits of individual account plans that have been abandoned by their sponsoring employers or plan administrators.

Timetable:

Action	Date	FR Cite
NPRM	03/10/05	70 FR 12046
NPRM Comment Period End	05/09/05	
Final Action	04/21/06	71 FR 20820
Technical Amendment	05/19/06	71 FR 29073
Correction	05/19/06	71 FR 29219
Final Action Effective	05/22/06	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses, Organizations**Government Levels Affected:** None

Agency Contact: Jeffrey Turner, Chief, Division of Regulations, Office of Regulations and Interpretations, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-8500

RIN: 1210-AA97**2099. VOLUNTARY FIDUCIARY CORRECTION PROGRAM****Priority:** Other Significant**Legal Authority:** 29 USC 1132; 29 USC 1134**CFR Citation:** 29 CFR 2560**Legal Deadline:** None

Abstract: To encourage and facilitate voluntary correction of certain breaches by employee benefit plan fiduciaries of their obligations under title I of ERISA, EBSA previously implemented a Voluntary Fiduciary Correction Program (the Program). The Program relieves certain plan officials of the possibility of investigation and civil

action by the Department and the imposition of civil penalties to the extent that plan officials satisfy the conditions for correcting breaches described in the Program. EBSA has amended the Program by covering additional transactions and by clarifying certain other operational requirements. EBSA believes that the restated Program will benefit workers by further encouraging the voluntary and timely correction of possible fiduciary breaches of part 4 of title I of ERISA. EBSA also anticipates that the restated Program will better assist plan officials in understanding the requirements of part 4 of title I of ERISA and their legal responsibilities in correcting fiduciary breaches.

Timetable:

Action	Date	FR Cite
Final Action	04/19/06	71 FR 20262
Final Action Effective	05/19/06	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** None

DOL—EBSA

Completed Actions

Public Compliance Cost: Yearly Recurring Cost: \$210,000; Base Year for Dollar Estimates: 2006

Agency Contact: Louis J. Campagna, Chief, Division of Fiduciary Interpretations, Office of Regulations and Interpretations, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 693-8512
Fax: 202 219-7291

RIN: 1210-AB03

2100. ELECTRONIC FILING OF ANNUAL REPORTS

Priority: Other Significant

Legal Authority: 29 USC 1135; 29 USC 1024(a)

CFR Citation: 29 CFR 2520.104a-2

Legal Deadline: None

Abstract: This rulemaking will amend the regulations under section 104(a) of ERISA setting forth the annual reporting requirements for employee benefit plans to require that such reports be filed electronically.

Timetable:

Action	Date	FR Cite
NPRM	08/30/05	70 FR 51542
NPRM Comment Period End	10/03/05	
Final Action	07/21/06	71 FR 41359
Final Action Effective	09/19/06	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Public Compliance Cost: Initial Cost: \$22,000,000; Yearly Recurring Cost: \$10,000,000; Base Year for Dollar Estimates: 2007

Agency Contact: John J Canary, Deputy Director, Office of Regulations and Interpretations, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
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RIN: 1210-AB04

Department of Labor (DOL)

Mine Safety and Health Administration (MSHA)

Prerule Stage

2101. • PERSONAL CONTINUOUS DUST MONITORS

Regulatory Plan: This entry is Seq. No. 75 in part II of this issue of the **Federal Register**.

RIN: 1219-AB48

Department of Labor (DOL)

Mine Safety and Health Administration (MSHA)

Proposed Rule Stage

2102. FIELD MODIFICATIONS OF PERMISSIBLE MOBILE DIESEL-POWERED EQUIPMENT

Priority: Other Significant

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 36

Legal Deadline: None

Abstract: The Mine Safety and Health Administration is proposing to add field modification provisions to 30 CFR part 36 - Approval requirements for permissible mobile diesel-powered transportation equipment. Field modifications allow permissible equipment to be modified for mine-specific use or to comply with new diesel standards. The implementation of diesel regulations in 30 CFR parts 7, 36, 57, 72, and 75 has resulted "in an increase in requests from owners of approved equipment, typically underground mine operators, to field modify permissible diesel-powered

equipment. This proposed rule would codify the field modification process for part 36 field modification acceptances", expand the field modification process to allow mine operators as defined in the Federal Mine Safety and Health Act 1977 to apply for field modifications, and continue to ensure that field-modified equipment operates safely in gassy underground mines.

The proposed rule would implement existing policy which dates from 1985 to reflect current procedures for processing field modifications related to mobile diesel-powered transportation equipment. Also, the proposed rule would require that labeling provisions be applied to all new field modifications accepted under part 36. These new provisions would enhance miner safety.

Timetable:

Action	Date	FR Cite
NPRM	10/00/07	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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

RIN: 1219-AB39

DOL—MSHA

Proposed Rule Stage

2103. FIRE EXTINGUISHERS IN UNDERGROUND COAL MINES**Priority:** Other Significant**Legal Authority:** 30 USC 811**CFR Citation:** 30 CFR 75.1100–2**Legal Deadline:** None

Abstract: The fire protection requirement in 30 CFR 75.1100-2(e)(2) requires rock dust and water at the underground workings at anthracite coal mines, and (e)(2) requires a fire extinguisher and rock dust at temporary electrical installations. MSHA has granted 101(c) petitions for modification allowing operators to use only fire extinguishers in lieu of rock dust and other requirements at these two locations. This direct final rule would eliminate the need to file petitions to use this alternative method of compliance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/06	
Direct Final Rule	12/00/06	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health

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RIN: 1219–AB40**2104. USE OF OR IMPAIRMENT FROM ALCOHOL AND OTHER DRUGS ON MINE PROPERTY****Priority:** Other Significant**Unfunded Mandates:** Undetermined**Legal Authority:** Not Yet Determined**CFR Citation:** Not Yet Determined**Legal Deadline:** None

Abstract: MSHA is considering rulemaking to address the risks and hazards to miner safety from the use of or impairment from alcohol and drugs on mine property.

Timetable:

Action	Date	FR Cite
ANPRM	10/04/05	70 FR 57808
ANPRM Comment Period End	11/27/05	
NPRM	06/00/07	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses, Governmental Jurisdictions**Government Levels Affected:** Local

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RIN: 1219–AB41**2105. ● SEALING OF ABANDONED AREAS**

Regulatory Plan: This entry is Seq. No. 76 in part II of this issue of the **Federal Register**.

RIN: 1219–AB52**2106. ● MINE RESCUE TEAMS**

Regulatory Plan: This entry is Seq. No. 77 in part II of this issue of the **Federal Register**.

RIN: 1219–AB53**2107. ● DIESEL PARTICULATE MATTER: CONVERSION FACTOR FROM TOTAL CARBON TO ELEMENTAL CARBON**

Regulatory Plan: This entry is Seq. No. 78 in part II of this issue of the **Federal Register**.

RIN: 1219–AB55

Department of Labor (DOL)

Mine Safety and Health Administration (MSHA)

Final Rule Stage

2108. ASBESTOS EXPOSURE LIMIT

Regulatory Plan: This entry is Seq. No. 79 in part II of this issue of the **Federal Register**.

RIN: 1219–AB24**2109. HIGH-VOLTAGE CONTINUOUS MINING MACHINE STANDARD FOR UNDERGROUND COAL MINES****Priority:** Other Significant**Legal Authority:** 30 USC 811; 30 USC 957; 30 USC 961**CFR Citation:** 30 CFR 18; 30 CFR 75**Legal Deadline:** None

Abstract: Our July 16, 2004, NPRM (69 FR 42812) proposed to establish design requirements for approval of high-voltage continuous mining machines

operating where miners work in underground coal mines. The rule also proposed to establish new mandatory electrical safety standards for the installation, use, and maintenance of the high-voltage continuous mining machines. MSHA published a supplemental NPRM on March 28, 2006 (71 FR 15359).

This supplemental NPRM proposed and requested the comments on two issues that arose from oral and written comments that MSHA received during the hearing and post-hearing comment period on the NPRM.

These issues involved: (1) Types of trailing cables that can be used with high-voltage continuous mining machines; and (2) a requirement to use high-voltage insulating gloves or other

personal protective equipment when handling energized high-voltage trailing cables.

Timetable:

Action	Date	FR Cite
NPRM	07/16/04	69 FR 42812
NPRM Comment Period End	08/23/04	69 FR 51784
Second NPRM	03/28/06	71 FR 15359
Second NPRM Comment Period End	05/30/06	
Final Action	06/00/07	

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

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department

DOL—MSHA

Final Rule Stage

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RIN: 1219-AB34

2110. EQUIVALENCY EVALUATION OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S NONROAD DIESEL ENGINE STANDARDS

Priority: Other Significant

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 7

Legal Deadline: None

Abstract: MSHA is reviewing the U.S. Environmental Protection Agency's (EPA) standards for nonroad diesel engines. The review will determine if certain EPA requirements in 40 CFR part 89, Control of Emissions From New and In-Use Nonroad Compression-

Ignition Engines, provide, or can be modified to provide, at least the same degree of protection as existing requirements in 30 CFR part 7, subpart E-Diesel Engines Intended for Use in Underground Coal Mines. This review is limited to the testing of Category B diesel engines as defined in 30 CFR 7.82, Definitions.

Timetable:

Action	Date	FR Cite
Notice of Intent to review the U.S. Environmental Protection Agency Title	03/28/06	71 FR 15358
End of Comment Period	05/30/06	
Final Action	10/00/07	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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RIN: 1219-AB43

2111. EMERGENCY MINE EVACUATION

Regulatory Plan: This entry is Seq. No. 80 in part II of this issue of the **Federal Register**.

RIN: 1219-AB46

2112. CRITERIA AND PROCEDURES FOR PROPOSED ASSESSMENT OF CIVIL PENALTIES

Regulatory Plan: This entry is Seq. No. 81 in part II of this issue of the **Federal Register**.

RIN: 1219-AB51

Department of Labor (DOL)

Mine Safety and Health Administration (MSHA)

Long-Term Actions

2113. VERIFICATION OF UNDERGROUND COAL MINE OPERATORS' DUST CONTROL PLANS AND COMPLIANCE SAMPLING FOR RESPIRABLE DUST

Priority: Other Significant

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

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

Legal Deadline: None

Abstract: Our current standards require that all underground coal mine operators develop and follow a mine ventilation plan for each mechanized mining unit that we approve. However, we do not have a requirement that provides for verification of each plan's effectiveness under typical mining conditions. Consequently, plans may be implemented by mine operators that could be inadequate to control respirable dust.

In response to comments received on the July 2000 proposed rule for MSHA to withdraw the rule, MSHA published a new proposed rule on March 6, 2003. The proposed rule would have required mine operators to verify, through sampling, the effectiveness of the dust

control parameters for each mechanized mining unit specified in the approved mine ventilation plan.

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

Public hearings were held in May 2003, and the comment period, originally scheduled to close on June 4, 2003, was extended until July 3, 2003. On June 24, 2003, MSHA announced that all work on the final rule would cease and the rulemaking record would remain open in order to obtain information concerning Personal Dust Monitors being tested by NIOSH. A Federal Register notice was published on July 3, 2003, extending the comment period indefinitely.

Timetable:

Action	Date	FR Cite
NPRM	07/07/00	65 FR 42122
Notice of Hearings; Close of Record	07/07/00	65 FR 42186
Close of Record	08/11/00	

Action	Date	FR Cite
Extension of Comment Period; Close of Record	08/11/00	65 FR 49215
NPRM	03/06/03	68 FR 10784
Notice of Public Hearing; Close of Record	03/17/03	68 FR 12641
Extension of Comment Period	05/29/03	68 FR 32005
NPRM Comment Period End	06/04/03	
Extension of Comment Period	07/03/03	68 FR 39881
NPRM	To Be Determined	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

Additional Information: This rulemaking is related to RIN 1219-AB18 (Determination of Concentration of Respirable Coal Mine Dust).

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DOL—MSHA

Long-Term Actions

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Related RIN: Related to 1219–AB18

RIN: 1219–AB14

2114. DETERMINATION OF CONCENTRATION OF RESPIRABLE COAL MINE DUST

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 72

Legal Deadline: None

Abstract: The National Institute for Occupational Safety and Health and the Mine Safety and Health Administration jointly proposed that a single, full-shift measurement (single sample) will accurately represent the atmospheric condition to which a miner is exposed. The proposed rule addresses the U.S. Court of Appeals' concerns raised in *National Mining Association v. Secretary of Labor*, 153 F.3d 1264 (11th Cir. 1998). MSHA and NIOSH reopened the rulemaking record on March 6, 2003, to obtain comments on documents added to the rulemaking record since the proposed rule was published July 7, 2000. Public hearings were held in May 2003 and the comment period, originally scheduled to close on June 4, 2003, was extended until July 3, 2003. However, on June 24, 2003, MSHA announced that all work on the final rule would cease. On August 12, 2003, the Agencies reopened the rulemaking record and extended the comment period indefinitely. MSHA will be collaborating with NIOSH, miners' representatives, industry and the manufacturer in the in-mine testing of production prototype Personal Dust Monitors (PDMs) units. The results of the collaborative effort will guide the Agency in determining the functionality of these real-time dust monitoring devices and need for revisions to the coal respirable dust monitoring requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/07/00	65 FR 42068
Notice of Hearings; Close of Record	07/07/00	65 FR 42185
Extension of Comment Period	08/11/00	65 FR 49215
Reopen Record for Comments	03/06/03	68 FR 10940
Notice of Public Hearings; Close of Record	03/17/03	68 FR 12641

Action	Date	FR Cite
Extension of Comment Period	05/29/03	68 FR 32005
Reopen Record Comment Period End	06/04/03	
Extension of Comment Period; Reopening of Record	08/12/03	68 FR 47886
Reopening of Record; Correction	04/01/03	68 FR 15691
NPRM	To Be Determined	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

Additional Information: This rulemaking is related to RIN 1219-AB14 (Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust).

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Related RIN: Related to 1219–AB14

RIN: 1219–AB18

2115. RESPIRABLE CRYSTALLINE SILICA STANDARD

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813

CFR Citation: 30 CFR 56 to 58; 30 CFR 70 to 72; 30 CFR 90

Legal Deadline: None

Abstract: Current standards limit exposures to quartz (crystalline silica) in respirable dust. The coal mining industry standard is based on the formula 10mg/m³ divided by the percentage of quartz where the quartz percent is greater than 5.0 percent calculated as an MRE equivalent concentration. The metal and nonmetal mining industry standard is based on the 1973 American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Values formula: 10 mg/m³ divided by the percentage of quartz plus 2. Overexposure to crystalline silica can result in some miners developing silicosis which may ultimately be fatal.

Both formulas are designed to maintain exposures to 0.1 mg/m³ (100 ug) of silica. The Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers made several recommendations related to reducing exposure to silica. NIOSH and ACGIH recommend a 50ug/ m³ exposure limit for respirable crystalline silica. MSHA is considering several options to reduce miners' exposure to crystalline silica.

Timetable:

Action	Date	FR Cite
Request for Information	To Be Determined	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

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RIN: 1219–AB36

2116. REVISING ELECTRICAL PRODUCT APPROVAL REGULATIONS

Priority: Other Significant

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 7; 30 CFR 17 to 18; 30 CFR 22 ; 30 CFR 23; 30 CFR 27

Legal Deadline: None

Abstract: 30 CFR part 18, entitled "Electric Motor-Driven Mine Equipment and Accessories," describes the requirements to obtain MSHA approval of electrically operated machines and accessories intended for use in underground gassy mines, as well as other related matters, such as approval procedures, certification of components, and acceptance of flame-resistant hoses and conveyor belts. Aside from minor modifications, part 18 has been largely unchanged since it was promulgated in 1968. This update of part 18 was intended to improve the efficiency of the approval process, recognize new technology, add quality assurance provisions, address existing policies through the rulemaking process, and reorganize

DOL—MSHA

Long-Term Actions

portions of the approval regulations. We will be addressing the requirements in this NPRM in phases. The first phase will be Flame-Resistance Testing of Mining Materials.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

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

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RIN: 1219-AB37

Department of Labor (DOL)

Mine Safety and Health Administration (MSHA)

Completed Actions

2117. DIESEL PARTICULATE MATTER EXPOSURE OF UNDERGROUND METAL AND NONMETAL MINERS**Priority:** Other Significant**Legal Authority:** 30 USC 811; 30 USC 813**CFR Citation:** 30 CFR 57**Legal Deadline:** None

Abstract: On January 19, 2001 MSHA published a final rule addressing diesel particulate matter (DPM) exposure of underground metal and nonmetal miners (66 FR 5706). The final rule established new health standards for underground metal and nonmetal mines that use equipment powered by diesel engines. The rule established an interim concentration limit of 400 micrograms of total carbon per cubic meter of air that became applicable July 20, 2002, and a final concentration limit of 160 micrograms to become applicable after January 19, 2006. Industry challenged the rule and organized labor intervened in the litigation. Settlement negotiations with the litigants have resulted in further regulatory actions on several requirements of the rule. One final rule was published on February 27, 2002, (67 FR 9180). MSHA issued an advance notice of proposed rulemaking (ANPRM) on September 25, 2002, (67 FR 60199) to obtain additional information and published a notice of proposed rulemaking (NPRM) in August 2003 (68 FR 48668). MSHA issued a final rule on June 6, 2005 (70 FR 32868) that revised MSHA's existing standards addressing diesel particulate matter (DPM) exposure in underground metal and nonmetal (M/NM) mines. The rule, among other things, changed the interim concentration limit measured by total carbon (TC) to a comparable permissible exposure limit (PEL) measured by elemental carbon (EC). MSHA proposed a rule (70 FR

53280) on September 7, 2005, to phase in the final DPM limit because the agency was concerned that there may be feasibility issues for some mines to meet the final limit of 160 micrograms by January 20, 2006. Accordingly, MSHA proposed a five-year phase-in period and noted our intent to initiate a separate rulemaking to convert the final DPM limit from a total carbon limit to an elemental carbon limit. We also proposed to delete the existing provision that restricts newer mines from applying for an extension of time for meeting the final concentration limit. In addition, we requested comments and data on an appropriate conversion factor for the final DPM limit, technological implementation issues, and the costs and benefits of the proposed rule. We also requested comments on the appropriateness of including in a final rule a provision for medical evaluation of miners required to wear respiratory protection and transfer of miners who have been determined by a medical professional to be unable to wear a respirator. Public hearings were held in January 2006.

On May 18, 2006 (71 FR 28924), MSHA published a final rule that phases in the DPM final limit of 160TC ug/m³ over a two-year period, based on feasibility. On May 20, 2006, the first phase of the final limit of 308 EC ug/m³ became effective. On January 20, 2007, the DPM final limit will be reduced to 350TC ug/m³. The final limit of 160TC ug/m³ will become effective on May 20, 2008. Mine operators must continue to use engineering and administrative controls, supplemented by respiratory protection when needed, to reduce miners' exposures to the prescribed limits. As with the interim DPM limit, MSHA will enforce the final limits as permissible exposure limits (PEL).

The final rule also establishes new requirements for medical evaluation of miners required to wear respiratory protection, and transfer of miners who are medically unable to wear a respirator. It deletes the existing provision that restricts newer mines from applying for an extension of time in which to meet the final limit.

MSHA is committed to initiating a separate rulemaking to determine the correct TC to EC conversion factor for the phased-in final limits.

Timetable:

Action	Date	FR Cite
Final Action	02/27/02	67 FR 9180
ANPRM	09/25/02	67 FR 60199
ANPRM Comment Period End	11/25/02	
NPRM	08/14/03	68 FR 48668
NPRM Comment Period End	10/14/03	
Limited Reopening of the Comment Period	02/20/04	69 FR 7881
Limited Reopening of the Comment Period End	04/05/04	69 FR 7881
Final Action	06/06/05	70 FR 32868
Final Action Effective	07/06/05	
Second NPRM	09/07/05	70 FR 53280
Notice of Public Hearing	09/07/05	70 FR 53280
Close of Comment Period	09/07/05	70 FR 53280
Request for Data Comment Period Extended	09/07/05	70 FR 53280
Change of Public Hearings Dates	09/19/05	70 FR 55018
Extension Of Comment Period	01/26/06	71 FR 4331
NPRM Comment Period End	02/17/06	
Final Action	05/18/06	71 FR 28924
Final Action Effective	05/18/06	
Final rule; corrections	06/27/06	71 FR 36483

Regulatory Flexibility Analysis Required: No

DOL—MSHA

Completed Actions

Government Levels Affected: None

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RIN: 1219-AB29

2118. EVALUATION OF INTERNATIONAL ELECTROTECHNICAL COMMISSION'S STANDARDS FOR EXPLOSION-PROOF ENCLOSURES

Priority: Other Significant

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 6 to 7; 30 CFR 18

Legal Deadline: None

Abstract: MSHA reviewed the requirements of the International Electrotechnical Commission's (IEC) standards for Electrical Apparatus for Explosive Gas Atmospheres to determine if they are equivalent to MSHA's applicable product approval requirements or can be modified to provide at least the same degree of protection as MSHA's requirements. This final rule promulgates MSHA's equivalency determination for two of the IEC's Standards for Electrical Apparatus. These two standards, with modifications, provide the same degree of protection as MSHA's applicable approval requirements for explosion-proof enclosures in 30 CFR parts 7 and 18.

Timetable:

Action	Date	FR Cite
Final Action	05/17/06	71 FR 28581
Final Action Effective	05/17/06	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 1219-AB42

2119. UNDERGROUND MINE RESCUE EQUIPMENT AND TECHNOLOGY

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 952(b)

CFR Citation: None

Legal Deadline: None

Abstract: The Mine Safety and Health Administration requested data, comments, and other information on issues relevant to underground mine rescue equipment and technology. Over the last several years, improvements have been made to communication devices, sensors, and other forms of technology in general industry. As such, continuous development and deployment of mine rescue equipment and technology are crucial to enhancing the effectiveness of mine rescue operations and improving miners' survivability in the event of a mine emergency. Responses to this request for information assisting the Agency in determining an appropriate course of action to improve mine rescue capabilities.

The contents of this rule are merged into the new MINER Act requirements. Many of the issues in the Request for Information will be addressed either in rulemakings required by the MINER Act or in actions in response to studies and reports required by the MINER Act. This regulatory agenda item is therefore no longer necessary.

Timetable:

Action	Date	FR Cite
RFI	01/25/06	71 FR 4224
RFI Comment Period End	03/27/06	
Public Meeting on 3/13/06	02/23/06	71 FR 9299
Merged Into MINER Act	07/24/06	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219-AB44

2120. PROXIMITY DETECTION SYSTEM FOR CONTINUOUS MINING MACHINES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: None

Legal Deadline: None

Abstract: The Mine Safety and Health Administration listed as a Regulatory Agenda item a request for information relative to the use of a proximity detection system to address crushing and pinning hazards associated with the operation of remote control continuous mining machines. Currently, there are no existing 30 CFR regulations that mandate the use of a proximity detection system on these machines. The Agency is withdrawing this Regulatory Agenda item at this time to work on issues raised by the MINER Act but will continue to work on and seek information on issues related to proximity detection systems.

Timetable:

Action	Date	FR Cite
Withdrawn	07/24/06	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219-AB49

Department of Labor (DOL)

Completed Actions

Office of the Assistant Secretary for Administration and Management (OASAM)

2121. IMPLEMENTATION OF THE NONDISCRIMINATION AND EQUAL OPPORTUNITY REQUIREMENTS OF THE WORKFORCE INVESTMENT ACT OF 1998**Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 2938
Workforce Investment Act**CFR Citation:** 29 CFR 37**Legal Deadline:** Final, Statutory,
August 7, 1999.

Abstract: The Workforce Investment Act of 1998 (WIA) was signed into law by President Clinton on August 7, 1998. Section 188 of the Act prohibits discrimination by recipients of financial assistance under title I on the grounds of race, color, national origin, sex, age, disability, religion, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIA title I-financial assisted program or activity. Section 188(e) requires that the Secretary of Labor issue regulations necessary to implement section 188 not later than one year after the date of the enactment of WIA. Such regulations are to include standards for determining compliance and procedures for enforcement that are consistent with the acts referenced in section 188(a)(1), as well as procedures to ensure that complaints filed under section 188 and such acts are processed in a manner that avoids duplication of effort. The reauthorization of WIA is currently under consideration by the Congress. It may include amendments to the nondiscrimination provisions contained in section 188 that would directly impact these regulations. This final rule will be issued after

congressional action on the reauthorization of WIA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/12/99	64 FR 61692
Interim Final Rule Comment Period	12/13/99	
NPRM	09/30/03	68 FR 56386
NPRM Comment Period End	12/01/03	
Withdrawn	07/21/06	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** Local,
State, Tribal

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RIN: 1291-AA29**2122. GRANTS AND AGREEMENTS****Priority:** Other Significant**Legal Authority:** PL 105-277**CFR Citation:** 29 CFR 95**Legal Deadline:** None

Abstract: This regulation amends 29 CFR 95.36, to ensure that all data produced under an award will be available to the public through the procedures established in the Freedom of Information Act. Public Law 105-

277, mandated this change. The regulation was published as "interim final" on May 16, 2000, and is in effect. This is a regulation developed and published as a common rule (Governmentwide). Since its publication, the lead agency (HHS) has not approached other Federal agencies to finalize the regulation. In light of the uncertainty of when steps will be taken to finalize the rule, the Department is removing this item from the Agenda until such time as the lead agency signals its intention to proceed with the common rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/16/00	65 FR 14405
Interim Final Rule Effective	04/17/00	
Interim Final Rule Comment Period End	05/15/00	
Withdrawn	07/11/06	

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

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RIN: 1291-AA30

Department of Labor (DOL)

Prerule Stage

Occupational Safety and Health Administration (OSHA)

2123. OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA**Regulatory Plan:** This entry is Seq. No. 82 in part II of this issue of the **Federal Register**.**RIN:** 1218-AB70**2124. OCCUPATIONAL EXPOSURE TO BERYLLIUM****Priority:** Economically Significant.
Major under 5 USC 801.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 655(b); 29 USC 657**CFR Citation:** 29 CFR 1910**Legal Deadline:** None

Abstract: In 1999 and 2001, OSHA was petitioned to issue an emergency temporary standard by the Paper Allied-Industrial, Chemical, and Energy Workers Union, Public Citizen Health Research Group and others. The Agency denied the petitions but stated its intent to begin data gathering to collect needed information on

beryllium's toxicity, risks, and patterns of usage.

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

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Prerule Stage

work sites to assess current exposures and control methods being used to reduce employee exposures to beryllium. OSHA is using this information to develop a proposed rule addressing occupational exposure to beryllium.

Timetable:

Action	Date	FR Cite
Request for Information	11/26/02	67 FR 70707
Complete SBREFA Report	03/00/07	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1218-AB76

2125. EXCAVATIONS (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 651 et seq; 5 USC 610

CFR Citation: 29 CFR 1926.650 to 1926.652

Legal Deadline: None

Abstract: OSHA has undertaken a review of the Agency's Excavations Standard (29 CFR 1926.650 to 1926.652) in accordance with the requirements of the Regulatory Flexibility Act and section 5 of Executive Order 12866. The review is considering the continued need for the rule, the impacts of the rule, public comments on the rule, the complexity of the rule, and whether the rule overlaps, duplicates, or conflicts with other regulations.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/01	
Request for Comments	08/21/02	67 FR 54103
Comment Period End	11/19/02	
End Review	12/00/06	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: John Smith, Directorate of Evaluation and Analysis, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
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Email: smith.john@dol.gov

RIN: 1218-AC02

2126. IONIZING RADIATION

Priority: Other Significant

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.109

Legal Deadline: None

Abstract: OSHA is considering amending 29 CFR 1910.1096 that addresses exposure to ionizing radiation. The OSHA regulations were published in 1974, with only minor revisions since that time. The Department of Energy and the Nuclear Regulatory Commission both have more extensive radiation standards that reflect new technological and safety advances. In addition, radiation is now used for a broader variety of purposes, including health care, food safety, mail processing, and baggage screening. OSHA is in the process of reviewing information about the issue, and will determine the appropriate course of action regarding this standard when the review is completed. A request for information was published on May 3, 2005. Subsequently, the National Academy of Science released the latest version of a significant report on the biological effects of ionizing radiation. OSHA extended the comment period on the request for information to ensure commenters had the opportunity to consider this new report. The next step for the ionizing radiation project is to hold discussions with key stakeholders. OSHA plans to hold a series of meetings targeted to specific stakeholder groups including state organizations with responsibility for worker exposure to ionizing radiation, professional associations and specific industry groups such as dental, medical and veterinary professionals. OSHA believes that these targeted meetings will be detailed technical discussions that will inform the Agency on current practices, the use radiation devices and

approaches to protecting employees from exposure to ionizing radiation.

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	05/03/05	70 FR 22828
Request for Information Comment Period End	08/01/05	70 FR 22828
Request for Information Comment Period Extended	11/28/05	70 FR 44074
Stakeholder Meetings	04/00/07	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218-AC11

2127. EMERGENCY RESPONSE AND PREPAREDNESS

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: Emergency responder health and safety is currently regulated primarily under the following standards: the fire brigade standard (29 CFR 1910.156); hazardous waste operations and emergency response (29 CFR 1910.120); the respiratory protection standard (29 CFR 1910.134); the permit-required confined space standard (29 CFR 1910.146); and the bloodborne pathogens standard (29 CFR 1910.1030). Some of these standards were promulgated decades ago and none were designed as comprehensive emergency response standards. Consequently, they do not address the full range of hazards or concerns currently facing emergency responders. Many do not reflect major changes in performance specifications for

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Prerule Stage

protective clothing and equipment. Current OSHA standards also do not reflect all the major developments in safety and health practices that have already been accepted by the emergency response community and incorporated into National Fire Protection Association (NFPA) and American National Standards Institute consensus standards. OSHA will be collecting information to evaluate what action the agency should take.

Timetable:

Action	Date	FR Cite
Request for Information	05/00/07	

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

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RIN: 1218-AC17

2128. LEAD IN CONSTRUCTION (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

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

CFR Citation: 29 CFR 1926.62

Legal Deadline: None

Abstract: OSHA will undertake a review of the Lead in Construction Standard (29 CFR 1926.62) 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, impacts of the rule comments on the rule received from the public, the complexity of 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 last evaluated.

Timetable:

Action	Date	FR Cite
Begin Review	06/06/05	70 FR 32739
End Review Comment Period Extended	09/06/05	70 FR 32739
	11/00/2005	
End Review	03/00/07	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1218-AC18

2129. STANDARDS IMPROVEMENT

Priority: Other Significant

Legal Authority: 29 USC 655(b)

CFR Citation: Not Yet Determined

Legal Deadline: None

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

Timetable:

Action	Date	FR Cite
ANPRM	12/00/06	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218-AC19

2130. HAZARD COMMUNICATION

Regulatory Plan: This entry is Seq. No. 83 in part II of this issue of the **Federal Register**.

RIN: 1218-AC20

2131. NOTICE ON SUPPLIER'S DECLARATION OF CONFORMITY (SDOC)

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: OSHA requests information and comments on a specific proposal submitted to OSHA to permit the use of a Supplier's Declaration of Conformity (SDoC) as part of, or as an alternative to, the Nationally Recognized Testing Laboratories (NRTLs) product approval process. NRTLs are third-party (i.e., independent) organizations, and many of OSHA's workplace standards require that certain types of equipment be approved (i.e., tested and certified) by an NRTL. Under SDoC, manufacturers self-approve their products.

Timetable:

Action	Date	FR Cite
Request for Information	11/15/05	70 FR 69355
RFI Comment Period End	02/13/06	
Review Comments	12/00/06	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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DOL—OSHA

Prerule Stage

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RIN: 1218-AC21

2132. REVISION AND UPDATE OF STANDARDS FOR POWER PRESSES

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR Part 1910.217

Legal Deadline: None

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

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

Based on its completion of the lookback review of PSDI (69 FR 31927), OSHA is planning to revise and update the standard on power presses, which currently covers only mechanical power presses. OSHA will base the revision of the 2001 or later edition of the American National Standards Institute (ANSI) standard on Mechanical Power Presses, ANSI B11.1. Further, OSHA is considering expanding the standard to cover other presses such as hydraulic and pneumatic power presses and to include the latest guarding techniques. This revision will provide the first major update of the Mechanical Power Presses Standard since it was originally published in 1971.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/06	

Regulatory Flexibility Analysis

Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 1218-AC22

2133. • METHYLENE CHLORIDE (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

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

CFR Citation: 29 CFR 1910.1052

Legal Deadline: None

Abstract: OSHA will undertake a review of the Methylene Chloride Standard (29 CFR 1910.1052) in accordance with the requirements of the Regulatory Flexibility Act and section 5 of Executive Order 12866. The review will consider the continued need for the rule, whether the rule overlaps, duplicates or conflicts with other Federal, State, or local regulations, and the degree to which technology, economic conditions or other factors may have changed since the rule was evaluated.

Timetable:

Action	Date	FR Cite
Begin Review	12/00/06	
End Review	06/00/08	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 1218-AC23

Department of Labor (DOL)

Proposed Rule Stage

Occupational Safety and Health Administration (OSHA)

2134. CONFINED SPACES IN CONSTRUCTION (PART 1926): PREVENTING SUFFOCATION/ EXPLOSIONS IN CONFINED SPACES

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 1926.36

Legal Deadline: None

Abstract: In January 1993, OSHA issued a general industry rule to protect employees who enter confined spaces (29 CFR 1910.146). This standard does not apply to the construction industry because of differences in the nature of the worksite in the construction industry. In discussions with the United Steel Workers of America on a settlement agreement for the general

industry standard, OSHA agreed to issue a proposed rule to extend confined-space protection to construction workers appropriate to their work environment.

Timetable:

Action	Date	FR Cite
SBREFA Panel Report	11/24/03	
NPRM	02/00/07	

DOL—OSHA

Proposed Rule Stage

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

Undetermined

Agency Contact: Noah Connell, Acting Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
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RIN: 1218-AB47**2135. GENERAL WORKING CONDITIONS FOR SHIPYARD EMPLOYMENT****Priority:** Substantive, Nonsignificant**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 655(b); 33 USC 941**CFR Citation:** 29 CFR 1915 subpart F**Legal Deadline:** None

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

Timetable:

Action	Date	FR Cite
NPRM	01/00/07	

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

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RIN: 1218-AB50**2136. WALKING WORKING SURFACES AND PERSONAL FALL PROTECTION SYSTEMS (1910) (SLIPS, TRIPS, AND FALL PREVENTION)****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 655(b)**CFR Citation:** 29 CFR 1910 subparts D and I**Legal Deadline:** None

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

Timetable:

Action	Date	FR Cite
NPRM	04/10/90	55 FR 13360
NPRM Comment Period End	08/22/90	
Hearing	09/11/90	55 FR 29224
Reopen Record	05/02/03	68 FR 23527
Comment Period End	07/31/03	
NPRM	10/00/07	

Regulatory Flexibility Analysis**Required:** Undetermined**Government Levels Affected:** None

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RIN: 1218-AB80**2137. CRANES AND DERRICKS****Regulatory Plan:** This entry is Seq. No. 84 in part II of this issue of the **Federal Register**.**RIN:** 1218-AC01**2138. UPDATING OSHA STANDARDS BASED ON NATIONAL CONSENSUS STANDARDS****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 29 USC 655(b)**CFR Citation:** 29 CFR 1910; 29 CFR 1915; 29 CFR 1917 to 1918; 29 CFR 1926**Legal Deadline:** None

Abstract: Under section 6(a) of the OSH Act, during the first 2 years of the Act, the Agency was directed to adopt national consensus standards as OSHA standards. Some of these standards were adopted as regulatory text, while others were incorporated by reference. In the more than 30 years since these standards were adopted by OSHA, the organizations responsible for these consensus standards have issued updated versions of these standards. However, in most cases, OSHA has not revised its regulations to reflect later editions of the consensus standards. OSHA standards also continue to incorporate by reference various consensus standards that are now outdated and, in some cases, out of print.

The Agency is undertaking a multi-year project to update these standards. A notice describing the project was published in the Federal Register on November 24, 2004 (69 FR 68283). The first final rule was published on September 13, 2005. Several additional sets of standards are in preparation.

Timetable:

Action	Date	FR Cite
NPRM	11/24/04	69 FR 68706
Direct Final Rule	11/24/04	69 FR 68712
NPRM Comment Period End	12/27/04	69 FR 68706
Withdraw Direct Final Rule	02/18/05	70 FR 8290
Direct Final Rule Effective Date	02/22/05	
Final Rule	09/13/05	70 FR 53925
Final Rule Effective	11/14/05	
NPRM	12/00/06	
Direct Final Rule	12/00/06	

Regulatory Flexibility Analysis**Required:** No

DOL—OSHA

Proposed Rule Stage

Government Levels Affected:

Undetermined

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RIN: 1218-AC08

2139. EXPLOSIVES**Priority:** Other Significant**Legal Authority:** 29 USC 655(b)**CFR Citation:** 29 CFR 1910.109**Legal Deadline:** None

Abstract: OSHA is amending 29 CFR 1910.109 that addresses explosives and blasting agents. These OSHA regulations were published in 1974, and many of the provisions do not reflect technological and safety advances made by the industry since that time. Additionally, the standard contains outdated references and classifications. Two trade associations representing many of the employers subject to this rule have petitioned the Agency to consider revising it, and have recommended changes they believe address the concerns they are raising. Initially, OSHA planned to revise the pyrotechnics requirements in this NPRM. However, based on our work to date, it appears appropriate to reserve action on these requirements for a second phase of rulemaking. The agency therefore plans to propose revisions to 29 CFR 1910.109 without any changes to the existing pyrotechnics requirements, and at a future date will develop a proposed rule for pyrotechnics revision.

Timetable:

Action	Date	FR Cite
NPRM	03/00/07	

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

Undetermined

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RIN: 1218-AC09

2140. NFPA STANDARDS IN SHIPYARD FIRE PROTECTION**Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 655(b); 29 USC 657**CFR Citation:** 29 CFR 1915.4; 29 CFR 1915.505; 29 CFR 1915.507**Legal Deadline:** None

Abstract: In this rulemaking, OSHA is updating National Fire Protection Association (NFPA) standards incorporated by reference in the OSHA 29 CFR part 1915 subpart P fire protection standards. OSHA published a final rule for subpart P in 2004 that included nine NFPA standards that have been updated since the rule was proposed. OSHA plans to issue a direct final rulemaking, along with a notice of proposed rulemaking, to update the NFPA standards.

Timetable:

Action	Date	FR Cite
Direct Final Rule	10/17/06	71 FR 60843
Direct Final Rule Effective	01/16/07	
NPRM	10/17/06	71 FR 60932
NPRM Comment Period End	11/16/06	
Review Comments	12/00/06	

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

Additional Information: Direct final rule will become effective 01/16/2007 unless significant adverse comment is received by 11/16/2006. If significant adverse comment is received, OSHA will publish a timely withdrawal of this rule.

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RIN: 1218-AC16

2141. • NATIONALLY RECOGNIZED TESTING LABORATORIES FEE SCHEDULE – REVISED APPROACH**Priority:** Info./Admin./Other. Major status under 5 USC 801 is undetermined.**Legal Authority:** 31 USC 9701; 29 USC 653; 29 USC 655; 29 USC 657**CFR Citation:** Not Yet Determined**Legal Deadline:** None

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

In 2000, OSHA began charging NRTLs for the services it provides them. The services are processing of NRTL applications and audits of NRTL operations, and they define the fundamental functions of the NRTL Program. OSHA has determined that its current NRTL fee schedule does not recoup the full costs of the services performed because it does not recover certain indirect costs of those services. These indirect costs stem from attendant activities and accrue to the benefit of those services. OSHA's proposed fee schedule would account for these indirect costs. In determining the revised fee structure, OSHA will follow the guidelines established by the Office of Management and Budget in Circular Number A-25.

Timetable:

Action	Date	FR Cite
NPRM	04/00/07	

DOL—OSHA

Proposed Rule Stage

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None**Agency Contact:** Ruth McCully,
Director, Directorate of Science,Technology, and Medicine, Department
of Labor, Occupational Safety and
Health Administration, 200
Constitution Avenue NW., Room
N3653, FP Building, Washington, DC
20210Phone: 202 693–2300
Fax: 202 693–1644
Email: mccully.ruth@dol.gov**RIN:** 1218–AC27**Department of Labor (DOL)****Final Rule Stage****Occupational Safety and Health Administration (OSHA)****2142. LONGSHORING AND MARINE
TERMINALS (PARTS 1917 AND
1918)—REOPENING OF THE RECORD
(VERTICAL TANDEM LIFTS (VTLs))****Priority:** Substantive, Nonsignificant.
Major status under 5 USC 801 is
undetermined.**Legal Authority:** 29 USC 655(b); 33
USC 941**CFR Citation:** 29 CFR 1918.11; 29 CFR
1918.85**Legal Deadline:** None

Abstract: OSHA issued a final rule on Longshoring on July 25, 1997 (62 FR 40142). However, in that rule, the Agency reserved provisions related to vertical tandem lifts. Vertical tandem lifts (VTLs) involve the lifting of two or more empty intermodal containers, secured together with twist locks, at the same time. OSHA has continued to work with national and international organizations to gather additional information on the safety of VTLs. The Agency has published an NPRM to address safety issues related to VTLs. The extended comment period concluded February 13, 2004, and an informal public hearing was held on July 29-30, 2004. The rulemaking record was open through November 30, 2004. Subsequently, new information was submitted to the docket. The Administrative Law Judge gave hearing participants 45 days to review this information and comment on it. Comments were due June 27, 2005. The Agency is analyzing the information and comments received to prepare the final action.

Timetable:

Action	Date	FR Cite
NPRM	06/06/94	59 FR 28594
NPRM Comment Period End	09/23/94	
Final Rule on Longshoring/Marine	07/25/97	62 FR 40142
Public Meeting on VTLs – 1/27/1998	10/09/97	62 FR 52671
Second NPRM	09/16/03	68 FR 54298

Action	Date	FR Cite
NPRM Comment Period End 2/13/04	12/10/03	68 FR 68804
Public Hearing	07/29/04	69 FR 19361
Final Action	06/00/07	

**Regulatory Flexibility Analysis
Required:** No**Government Levels Affected:** None**Agency Contact:** Dorothy Dougherty,
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Standards and Guidance, Department of
Labor, Occupational Safety and Health
Administration, 200 Constitution
Avenue NW., FP Building, Room 3718,
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Email: dougherty.dorothy@dol.gov**RIN:** 1218–AA56**2143. ELECTRIC POWER
TRANSMISSION AND DISTRIBUTION;
ELECTRICAL PROTECTIVE
EQUIPMENT****Priority:** Economically Significant.
Major under 5 USC 801.**Legal Authority:** 29 USC 655(b); 40
USC 333**CFR Citation:** 29 CFR 1910.136; 29 CFR
1910.137; 29 CFR 1910.269; 29 CFR
1926 subpart V; 29 CFR 1926.97**Legal Deadline:** None

Abstract: Electrical hazards are a major cause of occupational death in the United States. The annual fatality rate for power line workers is about 50 deaths per 100,000 employees. The construction industry standard addressing the safety of these workers during the construction of electric power transmission and distribution lines is over 30 years old. OSHA has developed a revision of this standard that will prevent many of these fatalities, add flexibility to the standard, and update and streamline the standard. OSHA also intends to amend the corresponding standard for

general industry so that requirements for work performed during the maintenance of electric power transmission and distribution installations are the same as those for similar work in construction. In addition, OSHA will be revising a few miscellaneous general industry requirements primarily affecting electric transmission and distribution work, including provisions on electrical protective equipment and foot protection. This rulemaking also addresses fall protection in aerial lifts for power generation, transmission and distribution work. OSHA published an NPRM on June 15, 2005. A public hearing was held March 6-14, 2006.

Timetable:

Action	Date	FR Cite
SBREFA Report	06/30/03	
NPRM	06/15/05	70 FR 34821
NPRM Comment Period End	10/13/05	
Comment Period Extended to 01/11/2006	10/12/05	70 FR 59290
Public Hearing to be held 03/06/2006	10/12/05	70 FR 59290
Post-Hearing Comment Period End	07/14/06	
Final Action	07/00/07	

**Regulatory Flexibility Analysis
Required:** Yes**Small Entities Affected:** Businesses**Government Levels Affected:**
Undetermined**Agency Contact:** Dorothy Dougherty,
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Email: dougherty.dorothy@dol.gov**RIN:** 1218–AB67

DOL—OSHA

Final Rule Stage

2144. EMPLOYER PAYMENT FOR PERSONAL PROTECTIVE EQUIPMENT**Priority:** Other Significant**Legal Authority:** 29 USC 655(b); 29 USC 657; 33 USC 941; 40 USC 333**CFR Citation:** 29 CFR 1910.132; 29 CFR 1915.152; 29 CFR 1917.96; 29 CFR 1918.106; 29 CFR 1926.95**Legal Deadline:** None

Abstract: Generally, OSHA standards require that protective equipment (including personal protective equipment (PPE)) be provided and used when necessary to protect employees from hazards that can cause them injury, illness, or physical harm. In this discussion, OSHA uses the abbreviation PPE to cover both personal protective equipment and other protective equipment. In 1999, OSHA proposed to require employers to pay for PPE, with a few exceptions. The Agency continues to consider how to address this issue, and re-opened the record on July 8, 2004 to get input on issues related to PPE considered to be a “tool of the trade”. The comment period ended August 23, 2004.

Timetable:

Action	Date	FR Cite
NPRM	03/30/99	64 FR 15401
NPRM Comment Period End	06/14/99	
Informal Public Hearing End	08/13/99	
Limited Reopening of Record	07/08/04	69 FR 41221
Comment Period End	08/23/04	
Final Action	05/00/07	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** Federal, Local, State

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RIN: 1218-AB77**2145. REVISION AND UPDATE OF SUBPART S—ELECTRICAL STANDARDS****Priority:** Other Significant**Legal Authority:** 29 USC 655(b)**CFR Citation:** 29 CFR 1910 subpart S**Legal Deadline:** None

Abstract: The Occupational Safety and Health Administration (OSHA) proposed to revise and update its 29 CFR 1910 subpart S-Electrical Standards. OSHA relied heavily on the National Fire Protection Association's (NFPA's) 70 E standard for Electrical Safety Requirements for Employee Workplaces. This revision will provide the first update of the General Industry-Electrical Standard since it was originally published in 1981. OSHA intends to complete this project in several stages. An NPRM was published on April 5, 2004. The first stage covers design safety standards for electrical systems, while the second stage will cover safety-related maintenance and work practice requirements and safety requirements for special equipment. It will thus allow the latest technological developments to be considered. Several of these state-of-the-art safety developments will be addressed by OSHA for the first time. OSHA has evaluated public comment received in response to the NPRM, and a final action is being prepared.

Timetable:

Action	Date	FR Cite
NPRM	04/05/04	69 FR 17773
NPRM Comment Period End	06/04/04	
Final Action	01/00/07	

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

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RIN: 1218-AB95**2146. PROCEDURES FOR HANDLING DISCRIMINATION COMPLAINTS UNDER FEDERAL EMPLOYEE PROTECTION STATUTES****Priority:** Info./Admin./Other. Major status under 5 USC 801 is undetermined.**Legal Authority:** 42 USC 300j-9(i); 33 USC 1367; 15 USC 2622; 42 USC 6971; 42 USC 7622; 42 USC 9610; 42 USC 5851; ...**CFR Citation:** 29 CFR 24**Legal Deadline:** None

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

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/07	
Interim Final Rule Comment Period End	03/00/07	

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

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RIN: 1218-AC25

Department of Labor (DOL)

Long-Term Actions

Occupational Safety and Health Administration (OSHA)

2147. HEARING CONSERVATION PROGRAM FOR CONSTRUCTION WORKERS

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 1926.52

Legal Deadline: None

Abstract: OSHA issued a section 6(b)(5) health standard mandating a comprehensive hearing conservation program for noise-exposed workers in general industry in 1983. However, no rule was promulgated to cover workers in the construction industry. A number of recent studies have shown that many construction workers experience work-related hearing loss. In addition, the

use of engineering, administrative and personal protective equipment to reduce exposures to noise is not extensive in this industry. OSHA published an advance notice of proposed rulemaking to gather information on the extent of noise-induced hearing loss among workers in different trades in this industry, current practices to reduce this loss, and additional approaches and protections that could be used to prevent such loss in the future. Work continues on collecting and analyzing information to determine technological and economic feasibility of possible approaches.

Timetable:

Action	Date	FR Cite
ANPRM	08/05/02	67 FR 50610
ANPRM Comment Period End	11/04/02	
Stakeholder Meetings	03/24/04	

Action	Date	FR Cite
Additional Stakeholder Meeting	07/21/04	
Next Action Undetermined	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1218-AB89

Department of Labor (DOL)

Completed Actions

Occupational Safety and Health Administration (OSHA)

2148. ASSIGNED PROTECTION FACTORS: AMENDMENTS TO THE FINAL RULE ON RESPIRATORY PROTECTION

Priority: Other Significant

Legal Authority: 29 USC 655(b); 29 USC 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), except for reserved provisions on assigned protection factors (APFs) and maximum use concentrations (MUCs). APFs are numbers that describe the effectiveness of the various classes of respirators in reducing employee exposure to airborne contaminants (including particulates, gases, vapors, biological agents, etc.). Employers, employees, and safety and health professionals use APFs to determine the type of respirator to protect the health of employees in various hazardous environments. Maximum use concentrations establish the maximum airborne concentration of a contaminant in which a respirator with a given APF may be used.

Currently, OSHA relies on the APFs developed by NIOSH in the 1980s unless OSHA has assigned a different APF in a substance-specific health

standard. However, many employers follow the more recent APFs published in an industry consensus standard, ANSI Z88.2-1992. For some classes of respirators, the NIOSH and ANSI APFs vary greatly.

This rulemaking action will complete the 1998 standard, reduce compliance confusion among employers, and provide employees with consistent and appropriate respiratory protection. On June 6, 2003, OSHA published an NPRM on Assigned Protection Factors in the Federal Register at 68 FR 34036 containing a proposed APF table, and requesting public comment. The extended comment period ended October 2, 2003, and an informal public hearing was held January 28-30, 2004.

Timetable:

Action	Date	FR Cite
ANPRM	05/14/82	47 FR 20803
ANPRM Comment Period End	09/13/82	
NPRM	11/15/94	59 FR 58884
Final Rule	01/08/98	63 FR 1152
Final Rule Effective	04/08/98	
NPRM	06/06/03	68 FR 34036
NPRM Comment Period End	09/04/03	
NPRM Comment Period Extended	10/02/03	68 FR 53311
Public Hearing on	11/12/03	68 FR 64036
	01/28/2004	

Action	Date	FR Cite
Final Rule: Revocation of Respiratory Protection M. TB	12/31/03	68 FR 75767
Public Hearing	01/28/04	
Post-Hearing Comment and Brief Period Extended	03/30/04	69 FR 16510
Post-Hearing Comment Period End	04/29/04	
Post-Hearing Briefs End	05/29/04	
Final Action	08/24/06	71 FR 50122
Final Action Effective	11/22/06	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, Local, State, Tribal

Agency Contact: Dorothy Dougherty, Acting Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room 3718, Washington, DC 20210
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RIN: 1218-AA05

DOL—OSHA

Completed Actions

**2149. NEW YORK STATE PLAN—
CERTIFICATION****Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 667**CFR Citation:** 29 CFR 1956**Legal Deadline:** None

Abstract: OSHA has certified under section 18(c) of the OSH Act that the New York State occupational safety and health plan for public employees only, which is administered by the New York Department of Labor, Public Employee Safety and Health Program (PESH), has

completed and submitted all the documentation (statutes, regulations, procedures, et al.) necessary for a structurally complete State Plan and that the components of its plan have been determined to be “at least as effective” as the Federal program.

Timetable:

Action	Date	FR Cite
Final Action	08/16/06	71 FR 47081
Final Action Effective	08/16/06	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, State

Agency Contact: Paula O. White, Director, Cooperative and State Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210

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RIN: 1218–AC24

Department of Labor (DOL)

Final Rule Stage

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

**2150. JOBS FOR VETERANS ACT OF
2002: CONTRACT THRESHOLD AND
ELIGIBILITY GROUPS FOR FEDERAL
CONTRACTOR PROGRAM****Priority:** Other Significant**Legal Authority:** 38 USC 4212(d) as amended by PL 107–288**CFR Citation:** 41 CFR 61–300**Legal Deadline:** None

Abstract: The Veterans' Employment and Training Service (VETS) is proposing to issue a notice of proposed rulemaking (NPRM) to implement changes required by the Jobs for Veterans Act (JVA) of 2002. This Act amended the Vietnam Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA), by revising the reporting threshold from \$25,000 to \$100,000. JVA also eliminated the collection categories of special disabled veterans and veterans of the Vietnam era and added the new collection

categories of disabled veterans and armed forces expeditionary medal veterans. JVA continues the collection for the recently separated veterans category, but changed the definition for that category to include any veteran who served on active duty in the U.S. military ground, naval, or air service during the 3-year period beginning on the date of such veteran's discharge or release from active duty. Additionally, Federal contractors and subcontractors will be required to report the total number of all current employees in 9 job categories for each hiring location. This proposal will assist VETS in meeting the statutory requirement of annually collecting the VETS-100 Report.

Timetable:

Action	Date	FR Cite
NPRM	08/08/06	71 FR 44945

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

Final Action	12/00/06	
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Regulatory Flexibility Analysis**Required:** No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Robert Wilson, Chief, Investigations and Compliance Division, Department of Labor, Office of the Assistant Secretary for Veterans' Employment and Training, 200 Constitution Avenue NW., Room S–1312, Washington, DC 20210

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RIN: 1293–AA12

[FR Doc. 06–7777 Filed 12–08–06; 8:45 am]

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