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 April 2011 and April 2012, as well as those completed during the past six 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 requires the semiannual publication of an agenda of regulations that contains a listing of all the regulations the Department of Labor expects to have under active consideration for promulgation, proposal, or review during the coming one-year period. The entirety of the Department's semiannual agenda is available online at *http://www.reginfo.gov.*

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

Occupational Safety and Health Administration

Bloodborne Pathogens (RIN 1218–AC34)

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

Hilda L. Solis,

Secretary of Labor.

OFFICE OF LABOR-MANAGEMENT STANDARDS—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
228	Persuader Agreements: Employer and Labor Relations Consultant Reporting Under the LMRDA	1245–AA03
229	Persuader Agreements: Consultant Form LM–21 Receipts and Disbursements Report	1245–AA05

OFFICE OF WORKERS' COMPENSATION PROGRAMS—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
230	Regulations Implementing the Longshore and Harbor Workers' Compensation Act: Recreational Vessels	1240–AA02

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
231	Occupational Exposure to Beryllium	1218–AB76
232	Occupational Exposure to Food Flavorings Containing Diacetyl and Diacetyl Substitutes	1218–AC33
233	Bloodborne Pathogens (SECTION 610 REVIEW)	1218–AC34

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
234	Occupational Exposure to Crystalline Silica	1218–AB70

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
235	Confined Spaces in Construction	1218–AB47

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—FINAL RULE STAGE—Continued

Sequence No.	Title	Regulation Identifier No.
236	Electric Power Transmission and Distribution; Electrical Protective Equipment Protective Equipment	1218–AB67

DEPARTMENT OF LABOR (DOL)

Office of Labor—Management Standards (OLMS)

Proposed Rule Stage

228. Persuader Agreements: Employer and Labor Relations Consultant Reporting Under the LMRDA

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

Abstract: The Department intends to publish notice and comment rulemaking seeking consideration of a revised interpretation of section 203(c) of the Labor-Management Reporting and Disclosure Act (LMRDA). That statutory provision creates an ''advice'' exemption from reporting requirements that apply to employers and other persons in connection with persuading employees about the right to organize and bargain collectively. A proposed revised interpretation would narrow the scope of the advice exemption.

Timetable:

Action	Date	FR Cite
NPRM	06/00/11	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Andrew R. Davis, Chief, Division of Interpretations and Standards, Office of Labor–Management Standards, Department of Labor, Office of Labor–Management Standards, Room N–5609, FP Building, 200 Constitution Avenue NW., Washington, DC 20210, Phone: 202 693–1254, Fax: 202 693–1340, E-mail: *davis.andrew@dol.gov.*

RIN: 1245–AA03

229. Persuader Agreements: Consultant Form LM–21 Receipts and Disbursements Report

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

Abstract: The Department intends to publish a notice and comment rulemaking seeking consideration of the Form LM–21, Receipts and Disbursements Report, which is required pursuant to section 203(b) of the Labor-Management Reporting and Disclosure Act (LMRDA). The rulemaking will propose mandatory electronic filing for Form LM–21 filers, and it will review the layout of the Form LM–21 and its instructions, including the detail required to be reported.

Timetable:

Action	Date	FR Cite
NPRM	11/00/11	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Andrew R. Davis, Chief, Division of Interpretations and Standards, Office of Labor–Management Standards, Department of Labor, Office of Labor–Management Standards, Room N–5609, FP Building, 200 Constitution Avenue, NW., Washington, DC 20210, Phone: 202 693–1254, Fax: 202 693–1340, E-mail: *davis.andrew@dol.gov.*

RIN: 1245–AA05

DEPARTMENT OF LABOR (DOL)

Office of Workers' Compensation Programs (OWCP)

Final Rule Stage

230. Regulations Implementing the Longshore and Harbor Workers' Compensation Act: Recreational Vessels

Legal Authority: 33 U.S.C. 939

Abstract: The American Recovery and Reinvestment Act of 2009 amended the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 901 to 950, to exclude from the Act's coverage certain employees who repair recreational vessels and who dismantle them for repair, regardless of the vessel's length. On August 17, 2010, (republished on October 15, 2010), the Department issued a Notice of Proposed Rulemaking revising the definition of recreational vessel and addressing coverage of those employees who work in both qualifying maritime employment and employment excluded under the amendment. The comment period ended on November 17, 2010. The Department anticipates publishing a final rule by December 2011.

Timetable:

Action	Date	FR Cite
NPRM	08/17/10	75 FR 50718
NPRM Republished.	10/15/10	75 FR 63425
NPRM Comment Period End.	11/17/10	
Final Action	12/00/11	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brandon Miller, Chief, Branch of Financial Management, Insurance and Assessment, Department of Labor, Office of Workers' Compensation Programs, 200 Constitution Avenue, NW., Room C–4315, FP Building, Washington, DC 20210, Phone: 202 693–0925, Fax: 202 693–1380, E-mail: *miller.brandon@dol.gov.*

RIN: 1240–AA02

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Prerule Stage

231. Occupational Exposure to Beryllium

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

Abstract: In 1999 and 2001, OSHA was petitioned to issue an emergency temporary standard by the United Steel Workers (formerly the Paper Allied-Industrial, Chemical, and Energy Workers Union), Public Citizen Health Research Group, and others. The Agency denied the petitions but stated its intent to begin data gathering to collect needed information on beryllium's toxicity, risks, and patterns of usage.

On November 26, 2002, OSHA published a Request for Information (RFI) (67 FR 70707) to solicit information pertinent to occupational exposure to beryllium including: current exposures to beryllium; the relationship between exposure to beryllium and the development of adverse health effects; exposure assessment and monitoring methods; exposure control methods; and medical surveillance. In addition, the Agency conducted field surveys of selected work sites to assess current exposures and control methods being used to reduce employee exposures to beryllium. OSHA convened a Small Business Advocacy Review Panel under the Small Business Regulatory Enforcement Fairness Act (SBREFA) and completed the SBREFA Report in January 2008. OSHA completed a scientific peer review of its draft risk

assessment. The economic peer review is scheduled to be completed in May 2011.

Timetable:

Action	Date	FR Cite
Request for Information.	11/26/02	67 FR 70707
Request For Information Comment Period End.	02/24/03	
SBREFA Report Completed.	01/23/08	
Initiated Peer Review of Health Effects and Risk Assessment.	03/22/10	
Complete Peer Review.	11/19/10	
Economic Peer Review.	06/00/11	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dorothy Dougherty, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N–3718, FP Building, Washington, DC 20210, Phone: 202 693–1950, Fax: 202 693–1678, E-mail: *dougherty.dorothy@dol.gov*.

RIN: 1218–AB76

232. Occupational Exposure to Food Flavorings Containing Diacetyl and Diacetyl Substitutes

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

Abstract: On July 26, 2006, the United Food and Commercial Workers International Union (UFCW) and the International Brotherhood of Teamsters (IBT) petitioned DOL for an Emergency Temporary Standard (ETS) for all employees exposed to diacetyl, a major component in artificial butter flavoring. Diacetyl and a number of other volatile organic compounds are used to manufacture artificial butter food flavorings. These food flavorings are used by various food manufacturers in a multitude of food products including microwave popcorn, certain bakery goods, and some snack foods. Evidence indicates that exposure to flavorings containing diacetyl is associated with adverse effects on the respiratory system, including bronchiolitis obliterans, a debilitating and potentially fatal lung disease. OSHA denied the petition on September 25, 2007, but has initiated 6(b) rulemaking. OSHA published an Advanced Notice of Proposed Rulemaking (ANPRM) on January 21, 2009, but withdrew the ANPRM on March 17, 2009, in order to facilitate timely development of a standard. The Agency subsequently initiated review of the draft proposed standard in accordance with the Small Business Regulatory Enforcement Fairness Act (SBREFA). The SBREFA Panel Report was completed on July 2, 2009. NIOSH is currently developing a criteria document on occupational exposure to diacetyl. The criteria document will also address exposure to 2,3-pentanedione, a chemical that is structurally similar to diacetyl and has been used as a substitute for diacetyl in some applications. It will include an assessment of the effects of exposure as well as quantitative risk assessment. OSHA intends to rely on these portions of the criteria document for the health effects analysis and quantitative risk assessment for the Agency's diacetyl rulemaking. NIOSH will initiate public peer review of the criteria document in April, 2011.

Timetable:

Action	Date	FR Cite
Stakeholder Meeting.	10/17/07	72 FR 54619
ANPRM	01/21/09	74 FR 3937
ANPRM Withdrawn.	03/17/09	74 FR 11329
ANPRM Comment Period End.	04/21/09	
Completed SBREFA Report.	07/02/09	
Initiate Peer Review of Health Effects and Risk Assessment.	06/00/11	
End Peer Review	07/00/11	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dorothy Dougherty, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N–3718, FP Building, Washington, DC 20210, Phone: 202 693–1950, Fax: 202 693–1678, E-mail: *dougherty.dorothy@dol.gov*.

RIN: 1218–AC33

233. Bloodborne Pathogens (Section 610 Review)

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

Abstract: OSHA will undertake a review of the Bloodborne Pathogen Standard (29 CFR 1910.1030) in accordance with the requirements of the Regulatory Flexibility Act and section 5 of Executive Order 12866. The review will consider the continued need for the rule; whether the rule overlaps, duplicates, or conflicts with other Federal, State or local regulations; and the degree to which technology, economic conditions, or other factors may have changed since the rule was evaluated.

Timetable:

Action	Date	FR Cite
Begin Review	10/22/09	
Request for Comments Published.	05/14/10	75 FR 27237
Comment Period End.	08/12/10	
Analyze Comments.	06/00/11	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Keith Goddard, Director, Directorate of Evaluation and Analysis, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210, Phone: 202 693–2400, Fax: 202 693–1641, E-mail: *goddard.keith@dol.gov*.

RIN: 1218–AC34

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Proposed Rule Stage

234. Occupational Exposure to Crystalline Silica

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

Abstract: Crystalline silica is a significant component of the earth's crust, and many workers in a wide range of industries are exposed to it, usually in the form of respirable quartz or, less frequently, cristobalite. Chronic silicosis is a uniquely occupational disease resulting from exposure of employees over long periods of time (10 years or more). Exposure to high levels of respirable crystalline silica causes acute or accelerated forms of silicosis that are ultimately fatal. The current OSHA permissible exposure limit (PEL) for general industry is based on a formula proposed by the American Conference of Governmental Industrial Hygienists (ACGIH) in 1968 (PEL = 10 mg/cubic meter/(% silica + 2), as respirable dust). The current PEL for construction and shipyards (derived from ACGIH's 1970 Threshold Limit Value) is based on particle counting technology, which is considered obsolete. NIOSH and ACGIH recommend 50 $\mu g/m^3$ and 25 $\mu g/m^3$

exposure limits, respectively, for respirable crystalline silica. Both industry and worker groups have recognized that a comprehensive standard for crystalline silica is needed to provide for exposure monitoring, medical surveillance, and worker training. ASTM International has published recommended standards for addressing the hazards of crystalline silica. The Building Construction Trades Department of the AFL–CIO has also developed a recommended comprehensive program standard. These standards include provisions for methods of compliance, exposure monitoring, training, and medical surveillance.

Timetable:

Action	Date	FR Cite
Completed SBREFA Report.	12/19/03	
Initiated Peer Review of Health Effects and Risk Assessment.	05/22/09	
Completed Peer Review.	01/24/10	
NPRM	06/00/11	
Hearings	10/00/11	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dorothy Dougherty, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N–3718, FP Building, Washington, DC 20210, Phone: 202 693–1950, Fax: 202 693–1678, E-mail: *dougherty.dorothy@dol.gov.*

RIN: 1218–AB70

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Final Rule Stage

235. Confined Spaces in Construction

Legal Authority: 29 U.S.C. 655(b); 40 U.S.C. 333

Abstract: In 1993, OSHA issued a rule to protect employees who enter confined spaces while engaged in general industry work (29 CFR 1910.146). This standard has not been extended to cover employees entering confined spaces while engaged in construction work because of unique characteristics of construction worksites. Pursuant to discussions with the United Steel Workers of America that led to a settlement agreement regarding the general industry standard, OSHA agreed to issue a proposed rule to protect construction workers in confined spaces.

Timetable:

Action	Date	FR Cite
SBREFA Panel Report.	11/24/03	
NPRM	11/28/07	72 FR 67351
NPRM Comment Period End.	01/28/08	
NPRM Comment Period Extended.	02/28/08	73 FR 3893
Public Hearing	07/22/08	
Close Record	10/23/08	
Final Action	11/00/11	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jim Maddux, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Department of Labor, 200 Constitution Avenue NW., Room N–3468, Washington, DC 20210, Phone: 202 693–2020, Fax: 202 693–1689, E-mail: *maddux.jim@dol.gov.*

RIN: 1218–AB47

236. Electric Power Transmission and Distribution; Electrical Protective Equipment

Legal Authority: 29 U.S.C. 655(b); 40 U.S.C. 333

Abstract: Electrical hazards are a major cause of occupational death in the United States. The annual fatality rate for power line workers is about 50 deaths per 100,000 employees. The construction industry standard addressing the safety of these workers during the construction of electric power transmission and distribution lines is over 35 years old. OSHA has developed a revision of this standard that will prevent many of these fatalities, add flexibility to the standard, and update and streamline the standard. OSHA also intends to amend the corresponding standard for general industry so that requirements for work performed during the maintenance of electric power transmission and distribution installations are the same as those for similar work in construction. In addition, OSHA will be revising a few miscellaneous general industry requirements primarily affecting electric transmission and distribution work, including provisions on electrical protective equipment and foot protection. This rulemaking also addresses fall protection in aerial lifts for work on power generation, transmission, and distribution installations. OSHA published an NPRM on June 15, 2005. A public hearing was held from March 6 through March 14, 2006. OSHA reopened the record to gather additional information on minimum approach distances for specific ranges of voltages. The record was reopened a second time to allow more time for comment and to gather information on minimum approach distances for all voltages and on the newly revised Institute of Electrical and Electronics Engineers consensus standard. Additionally, a public hearing was held on October 28, 2009. The posthearing comment period ended in September 2010. OSHA anticipates publishing a final rule in July 2011.

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
Posthearing Comment Period End.	07/14/06	
Reopen Record	10/22/08	73 FR 62942
Comment Period End.	11/21/08	
Close Record	11/21/08	
Second Reopening Record.	09/14/09	74 FR 46958
Comment Period End.	10/15/09	
Public Hearings	10/28/09	
Posthearing Comment Period End.	02/10/10	
Final Rule	09/00/11	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dorothy Dougherty, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N–3718, FP Building, Washington, DC 20210, Phone: 202 693–1950, Fax: 202 693–1678, E-mail: *dougherty.dorothy@dol.gov.*

RIN: 1218–AB67

[FR Doc. 2011–15493 Filed 7–6–11; 8:45 am]

BILLING CODE 4510–04–P

FEDERAL REGISTER

Vol. 76 Thursday,

No. 130 July 7, 2011

Part XII

Department of Transportation

Semiannual Regulatory Agenda