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Part XII

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 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 1996 and April 1997, as well as

those completed during the past 6 months.

In accordance with the President's 1995 directive, this agenda for the Department of Labor includes a significant number of items that will streamline existing regulations or eliminate unnecessary pages.

FOR FURTHER INFORMATION CONTACT: Roland Droitsch, Deputy Assistant Secretary for Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-2312, Washington, DC 20210, (202) 219-6197.

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.

The Regulatory Flexibility Act became effective on January 1, 1981, and applies only to regulations for which a notice of proposed rulemaking was issued on or after that date. It 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). 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 are understandable and usable to the employers and employees in all affected workplaces.

As permitted by law, the Department of Labor is combining the publication of its agendas under the Regulatory Flexibility Act and Executive Order 12866.

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.

Robert B. Reich,
Secretary of Labor.

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1877	Coordinated Enforcement of Farm Labor Protective Statutes	1290-AA11

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1878	Administrative Claims Under the Federal Torts Claims Act and Related Statutes	1290-AA13

Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1879	Government Contractors: Nondiscrimination and Affirmative Action Obligations (ESA/OFCCP)	1215-AA01
1880	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H)	1215-AA14
1881	Labor Standards for Federal Service Contracts	1215-AA78
1882	Standards for Waivers Under Section 503 of the Rehabilitation Act	1215-AA84
1883	Migrant and Seasonal Agricultural Worker Protection (29 CFR Part 500)	1215-AA93
1884	Regulations to Implement the Federal Acquisition Streamlining Act of 1994, 29 CFR Parts 4 and 5, 41 CFR Parts 50-201 and 50-206	1215-AA96

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Employment Standards Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1885	Benefits Under the Federal Coal Mine Safety and Health Act of 1977, as Amended Affecting the Black Lung Benefits Act	1215-AA99
1886	Records To Be Kept by Employers Under the Fair Labor Standards Act	1215-AB03
1887	Assessment and Collection of User Fees	1215-AB06
1888	Federal Employees' Compensation Act; Claims for Compensation for Work-Related Injury/Death	1215-AB07
1889	Minimum Wages in American Samoa	1215-AB08
1890	Employment of Student-Learners, Apprentices, Learners, Messengers, and Student Workers Under Section 14 of the Fair Labor Standards Act	1215-AB10

Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1891	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era	1215-AA62
1892	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Individuals With Disabilities	1215-AA76
1893	Application of the Fair Labor Standards Act to Domestic Service	1215-AA82
1894	Procedures for Handling Discrimination Complaints Under Federal "Whistleblower" Protection Statutes	1215-AA83
1895	Attestations by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports	1215-AA90
1896	Executive Order 12933 of October 20, 1994, "Nondisplacement of Qualified Workers Under Certain Conditions" ...	1215-AA95
1897	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—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1898	Child Labor Regulations, Orders, and Statements of Interpretation (ESA/W-H)	1215-AA09
1899	Enforcement of Contractual Obligations for Temporary Alien Agricultural Workers Admitted Under Section 216 of the Immigration and Nationality Act	1215-AA43
1900	Procedures for Predetermination of Wage Rates (29 CFR Part 1) and Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5)	1215-AA94

Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1901	Attestations by Employers for Off-Campus Work Authorization for Alien Students (F-1 Nonimmigrants)	1215-AA68
1902	Training Wage and Seasonal Industry Provisions of the Fair Labor Standards Act	1215-AB04
1903	Workers Employed in Seasonal Agricultural Services Under Section 210A of the Immigration and Nationality Act ...	1215-AB05

Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1904	Job Training Partnership Act: Indian and Native American Programs	1205-AA96
1905	Job Training Partnership Act: Migrant and Seasonal Farmworker Programs	1205-AA99
1906	Disaster Unemployment Assistance Program, Amendment to Regulations	1205-AB02
1907	Amendments to the Labor Certification Process for Temporary Agricultural Employment in the United States (H-2A)	1205-AB09

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Employment and Training Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1908	Federal-State Unemployment Compensation Program; Unemployment Insurance Performance System	1205-AB10
1909	Labor Certification Process for the Permanent Employment of Aliens; Researchers Employed by Colleges and Universities	1205-AB11

Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1910	Attestations by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports, the Alaska Exception	1205-AB03
1911	Trade Adjustment Assistance for Workers—Implementation of 1988 Amendments	1205-AB05
1912	Trade Adjustment Assistance for Workers—Transitional Adjustment Assistance NAFTA-TAA	1205-AB07

Employment and Training Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1913	Airline Deregulation: Employee Benefit Program	1205-AA07
1914	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring, and Enforcement	1205-AA37
1915	Labor Certification Process for the Permanent Employment of Aliens in the United States	1205-AA66

Pension and Welfare Benefits Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1916	Qualified Domestic Relations Orders	1210-AA19
1917	Removal of Obsolete Regulations and Interpretive Bulletins	1210-AA51
1918	Revision of the Form 5500 Series and Implementing and Related Regulations Under the Employee Retirement Income Security Act of 1974 (ERISA)	1210-AA52

Pension and Welfare Benefits Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1919	Definition of Collective Bargaining Agreement (ERISA Section 3(40))	1210-AA48
1920	Interpretive Bulletin on Participant Education	1210-AA50
1921	Regulations Relating to Definition of Plan Assets: Participant Contributions	1210-AA53

Pension and Welfare Benefits Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1922	Adequate Consideration	1210-AA15
1923	Civil Penalties Under ERISA Section 502(l)	1210-AA37
1924	Reporting and Disclosure Under the Employee Retirement Income Security Act of 1974	1210-AA44

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Office of the American Workplace—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1925	Reporting by Labor Relations Consultants and Other Persons	1294-AA12

Office of the American Workplace—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1926	Eligibility Requirements for Candidacy for Union Office	1294-AA09
1927	Guidelines, Section 5333(b), Federal Transit Law	1294-AA14

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1928	Advisory Committee on the Elimination of Pneumoconiosis Among Coal Miners	1219-AA81
1929	Surface Haulage	1219-AA93
1930	Safety Standards for the Use of Roof Bolting Machines in Underground Coal Mines	1219-AA94

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1931	Noise Standard	1219-AA53
1932	Diesel Particulate	1219-AA74
1933	Belt Entry Use as Intake Aircourses to Ventilate Working Sections	1219-AA76
1934	Safety Standard Revisions for Underground Anthracite Mines	1219-AA96

Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1935	Diesel-Powered Equipment for Underground Coal Mines	1219-AA27
1936	Hazard Communication	1219-AA47
1937	Air Quality, Chemical Substances, and Respiratory Protection Standards	1219-AA48
1938	Longwall Equipment (Including High-Voltage)	1219-AA75
1939	Single-Shift Sampling Notice	1219-AA82
1940	Safety Standards for Explosives at Metal and Nonmetal Mines	1219-AA84
1941	First-Aid at Metal and Nonmetal Mines	1219-AA97

Mine Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1942	Confined Spaces	1219-AA54
1943	Carbon Monoxide Monitor Approval	1219-AA72
1944	Decertification of Certified and Qualified Persons	1219-AA79
1945	Metal/Nonmetal Impoundments	1219-AA83
1946	Independent Laboratory Testing	1219-AA87
1947	Safety Standards for Methane in Metal and Nonmetal Mines	1219-AA90
1948	Requirements for Approval of Flame-Resistant Conveyor Belts	1219-AA92

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Mine Safety and Health Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1949	Improving and Eliminating Regulations	1219-AA98
1950	Respirable Dust Standard for Underground and Surface Coal Mines; NIOSH Criteria Document	1219-AA99
1951	Safety Standards for Roof Bolts in Metal and Nonmetal Mines and Underground Coal Mines	1219-AB00

Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1952	Underground Coal Mine Ventilation	1219-AA11

Office of the Assistant Secretary for Administration and Management—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1953	Department of Labor Acquisition Regulations	1291-AA20
1954	Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance From the Department of Labor	1291-AA21

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1955	Steel Erection (Part 1926) (Safety Protection for Ironworking)	1218-AA65
1956	Recording and Reporting Occupational Injuries and Illnesses (Simplified Injury/Illness Recordkeeping Requirements)	1218-AB24
1957	Comprehensive Occupational Safety and Health Programs	1218-AB41
1958	Occupational Exposure to Tuberculosis	1218-AB46
1959	Confined Spaces for Construction (Part 1926) (Construction: Preventing Suffocation/Explosions in Confined Spaces)	1218-AB47
1960	General Working Conditions in Shipyards (Part 1915, Subpart F) (Phase II) (Shipyards: General Working Conditions)	1218-AB50
1961	Permissible Exposure Limits (PELS) for Air Contaminants	1218-AB54
1962	Revision of Certain Standards Promulgated Under Section 6(a) of the Williams-Steiger Occupational Safety and Health Act of 1970	1218-AB55

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1963	Respiratory Protection (Proper Use of Modern Respirators)	1218-AA05
1964	Scaffolds (Part 1926) (Construction: Safer Scaffolds)	1218-AA40
1965	Safety and Health Regulations for Longshoring (Part 1918) and Marine Terminals (Part 1917) (Shipyards: Protecting Longshoring Workers)	1218-AA56
1966	Scaffolds in Shipyards (Part 1915—Subpart N) (Phase I) (Shipyards: Safer Scaffolds)	1218-AA68
1967	Access and Egress in Shipyards (Part 1915, Subpart E) (Phase I) (Shipyards: Emergency Exits and Aisles)	1218-AA70
1968	Personal Protective Equipment in Shipyards (Part 1915) (Shipyards: Goggles, Gloves, and Other PPE)	1218-AA74
1969	1,3-Butadiene (Preventing Occupational Illness: Butadiene)	1218-AA83
1970	Methylene Chloride (Preventing Occupational Illnesses: Methylene Chloride)	1218-AA98
1971	Walking Working Surfaces and Personal Fall Protection Systems (Part 1910) (Slips, Trips, and Fall Prevention)	1218-AB04
1972	Abatement Verification (Hazard Correction)	1218-AB40
1973	Permit Required Confined Spaces (General Industry: Preventing Suffocation/Explosions in Confined Spaces)	1218-AB52

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

Sequence Number	Title	Regulation Identifier Number
1974	Eliminating and Improving Regulations	1218-AB53

Occupational Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1975	Glycol Ethers: 2-Methoxyethanol, 2-Ethoxyethanol, and Their Acetates Protecting Reproductive Health	1218-AA84
1976	Accreditation of Training Programs for Hazardous Waste Operations (Part 1910)	1218-AB27
1977	Control of Hazardous Energy (Lockout)—Construction (Part 1926) (Preventing Construction Injuries/Fatalities: Lockout)	1218-AB30
1978	Powered Industrial Truck Operator Training (Industrial Truck Safety Training)	1218-AB33
1979	Prevention of Work-Related Musculoskeletal Disorders	1218-AB36
1980	Indoor Air Quality in the Workplace	1218-AB37
1981	Occupational Exposure to Hexavalent Chromium (Preventing Occupational Illness: Chromium)	1218-AB45
1982	Fire Protection in Shipyard Employment (Part 1915, Subpart P) (Phase II) (Shipyards: Fire Safety)	1218-AB51

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1983	Grain Handling Facilities	1218-AB56

**DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)****Long-Term Actions****1877. COORDINATED ENFORCEMENT OF FARM LABOR PROTECTIVE STATUTES****Priority:** Other**Legal Authority:** 29 USC 49 et seq; 29 USC 201 et seq; 29 USC 651 et seq; 29 USC 1801 et seq; 8 USC 1188(g)(2); 5 USC 301**CFR Citation:** 29 CFR 42**Legal Deadline:** None

Abstract: The Department intends to revise its regulations for coordinated enforcement of farm protective statutes. The rule will clarify existing regulatory language and update the regulations by making nomenclature and other technical amendments. The sections also will be reorganized for clarification. These regulations were first promulgated in 1980 to coordinate the farm labor enforcement activities of the Department's Employment and Training Administration, the Employment Standards Administration, the Occupational Safety and Health Administration, and the Office of the

Solicitor of Labor (45 FR 39489). The regulations establish a National Farm Labor Coordinated Enforcement Committee, which meets quarterly, consisting of the heads of the above DOL agencies, to oversee that coordination. A Regional Farm Labor Coordinated Enforcement Committee, which meets quarterly, is established in each DOL regional office. The Regional Committee is made up of the head of each of the above Agencies' regional offices. Each Regional Committee holds at least one annual public meeting to discuss farm labor issues.

Timetable:

Action	Date	FR Cite
ANPRM	07/24/92	57 FR 32939
ANPRM Comment Period End	08/24/92	
NPRM	01/19/93	58 FR 5158
NPRM Comment Period End	02/18/93	
Final Action	00/00/00	

Small Entities Affected: None**Government Levels Affected:** None

Additional Information: Since 1980, a number of changes have taken place in DOL's farm labor activities, such as: The Farm Labor Contractor Registration Act has been replaced by the Migrant and Seasonal Agricultural Worker Protection Act; the title of the head of the National Committee has been changed from Under Secretary to Deputy Secretary; the Immigration Reform and Control Act of 1986 has amended the Immigration and Nationality Act, authorizing DOL to enforce work contracts executed by employers of alien (H-2A) farmworkers; the role of States in operating the Employment Service under the Wagner-Peyser Act was enhanced in 1982; regional offices of the Employment Standards Administration no longer exist and the regional farm labor enforcement role is now coordinated by the Regional Administrator for Wage and Hour; and the Assistant Secretary for Policy has assumed a role in farm labor programs at the national level. These and other changes necessitate

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Long-Term Actions

updating the coordinated enforcement regulations.

Agency Contact: Ruth Samardick, Chairman, National Farm Labor

Coordinated Enforcement Committee Working Group, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room

S2114, FP Building, Washington, DC 20210
Phone: 202 219-6026
RIN: 1290-AA11

DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)

Completed Actions

1878. ADMINISTRATIVE CLAIMS UNDER THE FEDERAL TORTS CLAIMS ACT AND RELATED STATUTES

Priority: Other

Legal Authority: 28 USC 2672; 31 USC 3721; 29 USC 1706(b)

CFR Citation: 29 CFR 15

Legal Deadline: None

Abstract: This regulation will revise existing regulations issued pursuant to the Federal Tort Claims Act (FTCA) and the Military Personnel and Civilian Employees' Claims Act (MPCECA) to conform to previously issued delegations of authority. The regulation will revise the existing regulation to reflect delegations of authority to regional offices of the Office of the

Solicitor to process and decide FTCA claims which seek damages up to \$25,000 and which delegated authority to process and decide claims in excess of \$25,000 to the Counsel for Claims. It will clarify procedures for submitting and processing claims and revise outdated addresses and telephone numbers. A number of changes are also necessary to clarify the manner in which claims are submitted and the manner in which an award is calculated. The existing regulation will be amended to reflect a change in underlying statutory authority for payment of claims arising out of the operation of Job Corps Centers, to reflect an increase in maximum amount payable on such claims and to clarify the manner in which such claims are submitted.

Timetable:

Action	Date	FR Cite
NPRM	07/22/94	59 FR 37540
NPRM Comment Period End	09/20/94	
Final Action	04/19/95	60 FR 19658
Final Action Effective	05/19/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey L. Nesvet, Counsel for Claims, Employee Benefits Division, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room S4325, FP Building, Washington, DC 20210
Phone: 202 219-4405

RIN: 1290-AA13

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Proposed Rule Stage

1879. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS (ESA/OFCCP)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: EO 11246, as amended; 38 USC 4212; 29 USC 793

CFR Citation: 41 CFR 60-1; 41 CFR 60-2; 41 CFR 60-20; 41 CFR 60-30; 41 CFR 60-50; 41 CFR 60-60; 41 CFR 60-250; 41 CFR 60-741; 41 CFR 60-742; 41 CFR 60-4

Legal Deadline: None

Abstract: These regulations cover nondiscrimination and affirmative action obligations of Federal contractors under Executive Order 11246, as amended; the Vietnam Era Veterans' Readjustment Assistance Act of 1974

(38 USC 4212), as amended; and Section 503 of the Rehabilitation Act of 1973, as amended. The NPRM published 08/25/81 and supplemented on 04/23/82 extended the effective date of a final rule published 12/30/80 and proposed amendments to that rule. OFCCP's review of regulatory options continues with emphasis on streamlining and clarifying the regulatory language and reducing paperwork requirements associated with compliance.

Statement of Need: Parts of the regulations implementing Executive Order 11246 need to be revised to reflect changes in the law that have occurred over time, streamlined, and clarified. Executive Order 11246 requires all Federal contractors and subcontractors and federally assisted construction contractors and subcontractors to apply a policy of nondiscrimination and affirmative action in employment with respect to race, color, religion, sex, and national origin. The regulatory revisions are

necessary in order to allow the Department of Labor (DOL) to effectively and efficiently enforce the provisions of the Order. As a first step in updating its Executive Order 11246 regulations, the Department intends to propose changes to the provisions that govern the pre-award review requirements; recordkeeping and record retention requirements; certification requirements; and related provisions. In addition, revisions will be made that will conform Executive Order 11246 regulations to the recent changes made in the Department's regulations implementing Section 503 of the Rehabilitation Act.

A second phase of revision will contain proposals to change provisions that govern requirements for written affirmative action plans and the provisions concerning contractor evaluation procedures.

Alternatives: After careful review, it was decided that the most effective way to improve compliance with the Executive Order 11246 provisions, and

DOL—ESA

Proposed Rule Stage

reduce burdens on compliant contractors, was to propose revisions to these regulations. Administrative actions alone could not produce the desired results. A determination was also made to publish revisions to the remaining regulatory provisions of the Executive Order at a later date so that careful consideration can be given to what changes are needed in each of the parts of the regulations.

Anticipated Costs and Benefits: It is anticipated that the net effect of the proposed changes will be an increase in the rate of compliance with the nondiscrimination and affirmative action requirements of Executive Order 11246 and a reduction in compliance costs to Federal contractors. The Department will also be able to employ its resources more efficiently and more effectively.

Risks: An assessment of the magnitude of the risk addressed by this action and how it relates to other risks within the jurisdiction of DOL will be prepared once decisions are reached on specific proposed changes in the Executive Order 11246 regulations.

Timetable:

Action	Date	FR Cite
ANPRM	07/14/81	46 FR 36213
NPRM Compliance Reviews (60-1)	05/00/96	
NPRM Compliance Reviews (60-60)	05/00/96	
NPRM Affirmative Action Plans (60-2)	07/00/96	
FINAL Affirmative Action Plans (60-2)	12/00/96	
FINAL Compliance Reviews (60-1)	12/00/96	
FINAL Compliance Reviews (60-60)	12/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: Joe N. Kennedy, Deputy Director, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, Room C3325, FP Bldg., Washington, DC 20210
Phone: 202 219-9475

RIN: 1215-AA01

1880. DEFINING AND DELIMITING THE TERM "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY" (ESA/W-H)

Priority: Economically Significant

Legal Authority: 29 USC 213(a)(1)

CFR Citation: 29 CFR 541

Legal Deadline: None

Abstract: These regulations set forth the criteria for exemption from the Fair Labor Standards Act's minimum wage and overtime requirements for "executive," "administrative," "professional" and "outside sales employees." To be exempt, employees must meet certain tests relating to duties and responsibilities and be paid on a salary basis at specified levels. A final rule increasing the salary test levels was published on January 13, 1981 (46 FR 3010), to become effective on February 13, 1981, but was indefinitely stayed on February 12, 1981 (46 FR 11972). On March 27, 1981, a proposal to suspend the final rule indefinitely was published (46 FR 18998), with comments due by April 28, 1981. As a result of numerous comments and petitions from industry groups on the duties and responsibilities tests, and as a result of recent case law developments, the Department concluded that a more comprehensive review of these regulations was needed. An ANPRM reopening the comment period and broadening the scope of review to include all aspects of the regulations was published on November 19, 1985, with the comment period subsequently extended to March 22, 1986.

The Department has revised these regulations since the ANPRM to address specific issues. In 1991, as the result of an amendment to the Fair Labor Standards Act (FLSA), the regulations were revised to permit certain computer systems analysts, computer programmers, software engineers, and other similarly skilled professional employees to qualify for the exemption, including those paid on an hourly basis if their rates of pay exceed 6-1/2 times the applicable minimum wage. Also, in 1992 the Department issued a final rule which provided, in part, that an otherwise exempt public sector employee would not be disqualified from the exemption's requirement for payment

on a "salary basis" solely because the employee is paid according to a public pay and leave system that, absent the use of paid leave, requires the employee's pay to be reduced for absences of less than one workday. These revisions were limited in nature and the regulations are still in need of updating and clarification. In addition, recent court rulings have caused confusion as to what constitutes compliance with the regulation's "salary basis" criteria in both the public and private sectors. All of these factors have led the Department to conclude that a review of these regulations is both necessary and appropriate.

Statement of Need: These regulations set forth the criteria used in the determination of the application of the FLSA exemption for "executive," "administrative," "professional," and "outside sales employees." The existing salary test levels used in determining which employees qualify as exempt from the minimum wage and overtime rules were adopted in 1975 on an interim basis. These salary level tests are outdated and offer little practical guidance in the application of the exemption. In addition, numerous comments and petitions have been received in recent years from industry groups regarding the duties and responsibilities tests in the regulations. These factors, as well as recent case law developments, have led the Department to conclude that a review of these regulations is needed.

These regulations have been revised in recent years to deal with specific issues. In 1991, as the result of an amendment to the FLSA, the regulations were revised to permit certain computer systems analysts, computer programmers, software engineers, and other similarly skilled professional employees to qualify for the exemption, including those paid on an hourly basis if their rates of pay exceed 6 1/2 times the applicable minimum wage. Also in 1991, the Department undertook separate rulemaking on another aspect of the regulations, the definition of "salary basis" for public-sector employers. This interim final rule provided, in part, that an otherwise exempt public-sector employee would not be disqualified from the exemption's requirement for payment on a "salary basis" solely because the employee is paid according to a public pay and leave system that,

absent the use of paid leave, requires the employee's pay to be reduced for absences of less than one workday. In 1992, the Department issued its final rule on this matter.

Because of the limited nature of these revisions, the regulations are still in need of updating and clarification. In addition, recent court rulings have caused confusion as to what constitutes compliance with the regulation's "salary basis" criteria in both the public and private sectors.

Alternatives: The Department has met with affected interest groups in developing regulatory alternatives. Following completion of these outreach and consultation activities, full regulatory alternatives will be developed.

Although legislative proposals have been introduced in the Congress to address certain aspects of these regulations, the Department will continue to pursue revisions to the regulations as the appropriate response to the concerns raised. Alternatives likely to be considered include particular changes to address "salary basis" and salary level issues to a comprehensive overhaul of the regulations that also addresses the duties and responsibilities tests.

Anticipated Costs and Benefits: Some 23 million employees are estimated to be within the scope of these regulations. Legal developments in court cases are causing progressive loss of control of the guiding interpretations under this exemption and are creating law without considering a comprehensive analytical approach to current compensation concepts and workplace practices. These court rulings are creating apprehension in both the private and public sectors. Clear, comprehensive, and up-to-date regulations would provide for central, uniform control over the application of these regulations and ameliorate this apprehension. In the public sector, State and local government employers contend that the rules are based on production workplace environments from the 1940s and 1950s, and that they do not readily adapt to contemporary government functions. The Federal government also has concerns regarding the manner in which the courts and arbitration decisions are applying the exemption to the Federal workforce. Resolution of confusion over how the regulations are

to be applied in the public sector will ensure that employees are protected, that employers are able to comply with their responsibilities under the law, and that the regulations are enforceable. Preliminary estimates of the specific costs and benefits of this regulatory action will be developed once the various regulatory alternatives are identified.

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

Timetable:

Action	Date	FR Cite
Indefinite Stay of Final Rule	02/12/81	46 FR 11972
Proposal To Suspend Rule Indefinitely	03/27/81	46 FR 18998
ANPRM	11/19/85	50 FR 47696
Extension of ANPRM Comment Period From 01/21/86 to 03/22/86	01/17/86	51 FR 2525
ANPRM Comment Period End	03/22/86	51 FR 2525
NPRM	01/00/97	
NPRM Comment Period End	03/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Bldg., Washington, DC 20210 Phone: 202 219-8305

RIN: 1215-AA14

1881. LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS

Priority: Economically Significant

Legal Authority: 41 USC 351 et seq; 79 Stat 1034, as amended in 86 Stat 789; 90 Stat 2358; 41 USC 38; 41 USC 39; 5 USC 301

CFR Citation: 29 CFR 4

Legal Deadline: Final, Judicial, July 31, 1996.

Abstract: The Service Contract Act (SCA) applies to Federal contracts principally for the furnishing of services through the use of service employees and, on contracts over \$2,500 where the predecessor contract was not subject to a collective

bargaining agreement, requires the Department of Labor to determine prevailing wages and fringe benefits in the locality to be paid to various classifications of workers on the contract. Prevailing wage determinations issued by the Department, which become part of the Federal contract, establish the minimum compensation for employees performing on that contract. The Service Employees International Union (SEIU) sued DOL in March 1991 over DOL's methodology for determining health and welfare fringe benefits, and for not periodically updating fringe benefit levels. The District Court remanded the case to DOL for exhaustion of administrative remedies, which led to the DOL's Board of Service Contract Appeals decision that remanded the case to the Wage Hour Division to consider alternative methods of implementing the statute. DOL is developing information on the occupational mix of service contract employees utilizing procurement data in the Federal Procurement Data System, and a survey of SCA-covered contracts is expected to be completed in early 1996. This study is expected to provide information necessary to more fully develop proposed fringe benefit methodologies and will also provide data for purposes of economic impact analyses. A notice of proposed rulemaking will invite comment on alternatives for developing an appropriate SCA fringe benefit determination procedure.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210 Phone: 202 219-8305 Fax: 202 219-5122

RIN: 1215-AA78

DOL—ESA

Proposed Rule Stage

1882. STANDARDS FOR WAIVERS UNDER SECTION 503 OF THE REHABILITATION ACT**Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 706; 29 USC 793, as amended by PL 99-506; PL 100-630; PL 100-259; PL 101-336; PL 102-569; EO 11758**CFR Citation:** 41 CFR 60-741**Legal Deadline:** None

Abstract: OFCCP is planning to issue regulations that will set forth standards for waivers (from provisions of Section 503 of the Rehabilitation Act) sought by federal contractors for facilities that they deem totally separate from and not involved in government contract work. OFCCP is required to issue these regulations by the 1992 Rehabilitation Act amendments.

Timetable:

Action	Date	FR Cite
NPRM	02/14/96	61 FR 5902
NPRM Comment Period End	04/15/96	
Final Action	12/00/96	

Small Entities Affected: Undetermined**Government Levels Affected:** Undetermined

Agency Contact: Joe N. Kennedy, Deputy Director, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3325, FP Building, Washington, DC 20210
Phone: 202 219-9475

RIN: 1215-AA84**1883. MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION (29 CFR PART 500)****Priority:** Other Significant**Legal Authority:** 29 USC 1801 to 1872, as amended**CFR Citation:** 29 CFR 500**Legal Deadline:** Final, Statutory, May 13, 1996.

Abstract: The legislative history of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) indicates that the principles found in *Hodgson v. Griffin and Brand*, 471 F.2d 235, are to be followed in determining whether a joint employment relationship exists in the employment of migrant and seasonal farm workers in a given fact situation. The

Department intends to publish an NPRM to solicit comments on a clarification of the regulations to more closely comport with the legislative history of MSPA and the principles found in *Hodgson v. Griffin and Brand* and also possible modifications to the procedures for MSPA hearings, seeking more timely decisions. In addition, Public Law 104-49 (November 15, 1995) amended MSPA's private right of action, transportation insurance requirements, and disclosure obligations to agricultural workers. This enactment requires implementing rules under the transportation insurance requirements within 180 days of enactment (i.e., by 5/13/96).

Statement of Need: These regulations need to be revised in order to provide needed clarifications and to make the hearing process more efficient. In the legislative history to the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), Congress stated that the term "joint employment" in MSPA was to have the same meaning as is found in the Fair Labor Standards Act (FLSA). Further remarks in the legislative history indicate that the principles found in *Hodgson v. Griffin and Brand*, 471 F.2d 235, were to be determinative. However, subsequent legal developments have created confusion as to appropriate criteria for determining the existence of a joint employment relationship. In its rulemaking, the Department will solicit comments to clarify the regulatory criteria for determining when a joint employment relationship exists between two or more employers. The Department will also consider modifying the rules relating to procedures for hearings, seeking more timely decisions.

Alternatives: Regulatory alternatives will be developed as part of this review.

Anticipated Costs and Benefits: There is no identifiable cost impact to the contemplated clarifying change in the regulations. Employers in the agricultural community will benefit from the clearer, more definitive criteria provided regarding joint employment relationships. An expedited hearing process will also be beneficial to all parties.

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

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Joint Employment

NPRM 03/29/96 (61 FR 14035)

NPRM Comment Period End 06/12/96

Worker's Compensation

NPRM 03/18/96 (61 FR 10911)

NPRM Comment Period End 04/17/96

Small Entities Affected: None**Government Levels Affected:** None

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210

Phone: 202 219-8305

RIN: 1215-AA93**1884. REGULATIONS TO IMPLEMENT THE FEDERAL ACQUISITION STREAMLINING ACT OF 1994, 29 CFR PARTS 4 AND 5, 41 CFR PARTS 50-201 AND 50-206****Priority:** Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355, 108 Stat. 3243**CFR Citation:** 29 CFR 4; 29 CFR 5; 41 CFR 50 to 201; 41 CFR 50 to 206**Legal Deadline:** NPRM, Statutory, May 11, 1995. Final, Statutory, October 1, 1995.

Abstract: The Federal Acquisition Streamlining Act of 1994, signed on October 13, 1994, amends several Acts administered by the Department of Labor: (1) It amends the Contract Work Hours and Safety Standards Act (CWHSSA) to limit its applicability to contracts in an amount of \$100,000 or greater. (2) It amends the Davis-Bacon Act (DB) to provide waivers from the Act's prevailing wage requirements under selected laws for volunteers performing services to a State or local government or agency and for volunteers performing services to a public or private nonprofit recipient of Federal assistance. (3) It also amends the PCA to eliminate the requirements that contractors on covered contracts be either manufacturers or regular dealers

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in the items to be supplied under the contract but retains the Secretary of Labor's authority to define the terms "regular dealer" and "manufacturer." Two separate regulatory actions are planned: (1) a notice of proposed rulemaking to implement the changes to CWHSSA and PCA (see 60 FR 46553; 9/7/95); and (2) proposed regulations governing the use of volunteers on certain federally-assisted construction projects subject to DB.

Timetable:

Action	Date	FR Cite
NPRM	09/07/95	60 FR 46553
NPRM Comment Period End	10/10/95	
NPRM Second	04/00/96	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: These legislative amendments will require revisions to Regulations, 29 CFR Parts 4 and 5 with respect to CWHSSA and DB, and Regulations, 41 CFR Part 50-201 and Part 50-206 with respect to PCA.

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RIN: 1215-AA96

1885. BENEFITS UNDER THE FEDERAL COAL MINE SAFETY AND HEALTH ACT OF 1977, AS AMENDED AFFECTING THE BLACK LUNG BENEFITS ACT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 901 et seq

CFR Citation: 20 CFR 718; 20 CFR 722; 20 CFR 725; 20 CFR 726; 20 CFR 727

Legal Deadline: None

Abstract: The Division of Coal Mine Workers' Compensation reviewed its existing regulations, pursuant to

Executive Order 12866, with a goal of eliminating outdated and unnecessary rules and streamlining the processes. The result is a proposal to revise existing rules to facilitate alternative dispute resolution, including the informal conference process; streamline the litigation process by encouraging the early development and submission of evidence and decentralizing control; reduce the costs of copying and mailing; raise the dollar limit for prior approval for medical equipment; and rewrite existing rules to make them more customer-oriented.

There will be no additional costs associated with these changes, but savings can be expected through streamlining.

Statement of Need: The regulations implementing the Black Lung Benefits Act were last significantly revised in 1983. In the spirit of reinvention, the program proposes to update the rules to help improve services, streamline the adjudication process, and simplify the language.

Alternatives: Regulatory alternatives will be developed based on the public comments responding to the notice of proposed rulemaking.

Anticipated Costs and Benefits: Preliminary estimates of the anticipated costs and benefits of this regulatory action will be developed once decisions are reached on specific changes. Benefits will include a streamlined, more accessible process.

Risks: Groups with a vested interest in a lengthy and expensive adjudication process will complain.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James L. DeMarce, Director, Coal Mine Workers' Compensation, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3520, FP Building, Washington, DC 20210
 Phone: 202 219-6692

RIN: 1215-AA99

1886. RECORDS TO BE KEPT BY EMPLOYERS UNDER THE FAIR LABOR STANDARDS ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 211; 29 USC 201 et seq; 29 USC 207(g); 52 Stat 1066, sec 11; 52 Stat 1060, sec 11; 103 Stat 944, sec 7

CFR Citation: 29 CFR 516 et seq

Legal Deadline: None

Abstract: This regulation gives guidance to employers on the information they must keep in records deemed essential for determining compliance with the monetary requirements of the Fair Labor Standards Act (FLSA) regarding payment of minimum wages and overtime compensation to covered and nonexempt employees, or for determining that certain statutory exemptions to FLSA's requirements for payment of the minimum wage or overtime (or both) may apply. This regulation was included in the Department's regulatory reinvention initiative as a candidate for possible simplification of regulatory language and streamlining of regulatory requirements to ensure that applicable standards are easily understandable and reasonable.

Timetable:

Action	Date	FR Cite
NPRM	02/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

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RIN: 1215-AB03

DOL—ESA

Proposed Rule Stage

1887. ASSESSMENT AND COLLECTION OF USER FEES**Priority:** Other**Legal Authority:** PL 97-470; 96 Stat 2583; 29 USC 1801 to 1872; Secretary's Order No. 1-93 (58 FR 21190); PL 99-603, sec 210A(f); 100 Stat 3359; 8 USC 1161(f); 52 Stat 1068, sec 11 and 14; 75 Stat 74, sec 11; 29 USC 211; 29 USC 214; 52 Stat 1066, sec 11; 63 Stat 910, sec 9; 29 USC 211(d); 80 Stat 843 to 844, sec 501 and 602**CFR Citation:** 29 CFR 500.45; 29 CFR 500.52; 29 CFR 519.3; 29 CFR 519.13; 29 CFR 530.4; 29 CFR 530.102**Legal Deadline:** None**Abstract:** In accordance with the authority provided by title V of the Independent Offices Appropriations Act of 1952, often referred to as the "user fee statute," and the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act of 1995 (PL 103-333), the Department is proposing to establish and collect user fees to recover the costs of providing certain services that are required by law and, without which, the recipients of the services would not legally be allowed to engage in particular employment practices. The services for which user fees are to be collected include processing applications and issuing farm labor contractor certificates of registrations under the Migrant and Seasonal Agricultural Workers Protection Act; processing applications and issuing certificates authorizing employers to employ certain students at special minimum wages under section 14(b) of the Fair Labor Standards Act; and processing applications and issuing certificates authorizing employers to employ homeworkers under section 11(d) of the Fair Labor Standards Act.**Timetable:**

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None**Government Levels Affected:** None**Agency Contact:** Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305

Fax: 202 219-5122

RIN: 1215-AB06

1888. • FEDERAL EMPLOYEES' COMPENSATION ACT; CLAIMS FOR COMPENSATION FOR WORK-RELATED INJURY/DEATH**Priority:** Substantive, Nonsignificant**Reinventing Government:** This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.**Legal Authority:** 5 USC 8101 et seq**CFR Citation:** 20 CFR 1; 20 CFR 10**Legal Deadline:** None**Abstract:** The Office of Workers' Compensation Programs will carry out a comprehensive review of and revision to the regulations implementing the Federal Employees' Compensation Act (FECA) to eliminate outdated or unnecessary rules reflecting a streamlining of the claims process, updates to reflect legislative changes, modify the medical fee schedule to include hospital and pharmacy charges and simplify language.**Timetable:**

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	
Final Action	02/00/97	

Small Entities Affected: None**Government Levels Affected:** Federal**Agency Contact:** Thomas M. Markey, Director for Federal Employees' Compensation, OWCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3229, FP Building, Washington, DC 20210
Phone: 202 219-7552
Fax: 202 219-7250

RIN: 1215-AB07

1889. • MINIMUM WAGES IN AMERICAN SAMOA**Priority:** Other**Reinventing Government:** This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.**Legal Authority:** 29 USC 205; 29 USC 206; 29 USC 208**CFR Citation:** 29 CFR 511; 29 CFR 697**Legal Deadline:** None**Abstract:** The Fair Labor Standards Act minimum wage for American Samoa is determined industry-by-industry according to recommendations of special industry committees that examine economic and competitive conditions and propose minimum wage levels which will not substantially curtail employment. Part 511 contains procedures for convening industry committees; Part 697 defines industry classifications and prescribes the minimum wage rates to be paid. These separate regulations may be combined and consolidated to reduce unnecessary regulatory text as part of the regulatory reinvention initiative.**Timetable:**

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined**Government Levels Affected:** Undetermined**Agency Contact:** Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
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Fax: 202 219-5122

RIN: 1215-AB08

1890. • EMPLOYMENT OF STUDENT-LEARNERS, APPRENTICES, LEARNERS, MESSENGERS, AND STUDENT WORKERS UNDER SECTION 14 OF THE FAIR LABOR STANDARDS ACT**Priority:** Other**Reinventing Government:** This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.**Legal Authority:** 29 USC 214**CFR Citation:** 29 CFR 520; 29 CFR 521; 29 CFR 522; 29 CFR 523; 29 CFR 527**Legal Deadline:** None**Abstract:** Section 14(a) of the Fair Labor Standards Act provides that the Secretary of Labor shall by regulations

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or orders provide for the employment of learners, apprentices and messengers under special certificates at wages lower than the applicable minimum wage, as needed to prevent curtailment of employment opportunities. Five separate parts of the CFR implement these statutory provisions, which can be consolidated and streamlined to

reduce duplicative text as part of the regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
 Phone: 202 219-8305
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RIN: 1215-AB10

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Employment Standards Administration (ESA)

1891. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 4211; 38 USC 4212; PL 93-508 Amended; PL 94-502; PL 95-520; PL 96-466; PL 101-237; EO 11758; PL 97-306; PL 98-223; PL 102-16; PL 102-127; PL 102-484

CFR Citation: 41 CFR 60-250

Legal Deadline: None

Abstract: OFCCP is planning to revise its regulations implementing 38 USC 4212 (formerly 2012) the affirmative action provision of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 to: (1) make its provisions for special disabled veterans consistent with section 503 of the Rehabilitation Act of 1973 (2) incorporate some legislative and other changes that have occurred, and (3) generally clarify 38 USC 4212 Affirmative Action Program (AAP) requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule Invitation to Self-Identify (41 CFR 60-250 5(d))	04/00/96	
NPRM	06/00/96	
Final Action	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joe N. Kennedy, Deputy Director, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3325, FP Building, Washington, DC 20210
 Phone: 202 219-9475

RIN: 1215-AA62

1892. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR INDIVIDUALS WITH DISABILITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 706; 29 USC 793; PL 99-506 Amended; PL 100-630; PL 100-259; PL 101-336; EO 11758; PL 102-569

CFR Citation: 41 CFR 60-741

Legal Deadline: None

Abstract: OFCCP is planning to revise its regulations implementing Section 503 of the Rehabilitation Act of 1973: (1) to make them consistent with the Americans with Disabilities Act, (2) to incorporate legislative and other changes that have occurred, and (3) to generally clarify Section 503 Affirmative Action Program requirements. These revisions should greatly assist the public, and employers in particular, by providing a comprehensive set of up-to-date regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/21/92	57 FR 48084

Action	Date	FR Cite
NPRM Comment Period End	11/20/92	
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joe N. Kennedy, Deputy Director, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3325, FP Building, Washington, DC 20210
 Phone: 202 219-9475

RIN: 1215-AA76

1893. APPLICATION OF THE FAIR LABOR STANDARDS ACT TO DOMESTIC SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: Sec 13(a)(15), Fair Labor Standards Act (FLSA), as amended; Sec 13(b)(21), FLSA, as amended; 29 USC 213(a)(15); 29 USC 213(b)(21) 88 Stat 62; Sec 29(b), FLSA of 1974; PL 93-259 88 Stat 76

CFR Citation: 29 CFR 552

Legal Deadline: None

Abstract: Section 13(a)(15) of the Fair Labor Standards Act (FLSA) provides an exemption from minimum wage and overtime compensation for domestic service employees engaged in providing companionship services. Section 13(b)(21) of the FLSA provides an exemption from overtime compensation for live-in domestic service employees. DOL proposed certain technical amendments to update the regulations, 29 CFR Part 552, Application of the Fair Labor Standards Act to Domestic Service, and to clarify that these exemptions are applicable to third-party employers or temporary help

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agencies only where the domestic service worker is jointly employed by the third-party employer or temporary help agency and the family or household using their services. (58 FR 69310) After reviewing the public comments, the Department intends to adopt the technical changes to update the regulations, including a revision necessitated by recently-enacted amendments to Title II of the Social Security Act under Public Law 103-387 (Social Security Domestic Employment Reform Act; 10/22/94, (see 60 FR 46766) and to reopen and extend the period for filing written comments on proposed revisions affecting third-party employers (Section 552.109).

Timetable:

Action	Date	FR Cite
NPRM	12/30/93	58 FR 69310
NPRM Comment Period End	02/28/94	
NPRM Second	09/08/95	60 FR 46797
NPRM Comment Period Second	09/08/95	60 FR 46797
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 1215-AA82

1894. PROCEDURES FOR HANDLING DISCRIMINATION COMPLAINTS UNDER FEDERAL "WHISTLEBLOWER" PROTECTION STATUTES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5851; PL 102-486 sec 2902, 106 Stat 2776

CFR Citation: 29 CFR 24

Legal Deadline: None

Abstract: The Energy Policy Act of 1992, Public Law 102-486, was enacted on October 24, 1992. Among other provisions, this law amended the employee protection provisions for nuclear whistleblowers under former Section 210 of the ERA. The amendments affect only ERA whistleblower complaints and do not

extend to the procedures established in 29 CFR Part 24 for handling employee whistleblower complaints under the Federal statutory employee protection provisions other than the ERA. The legislative amendments to ERA apply to whistleblower claims filed under section 211(b)(1) of the ERA as amended (42 USC section 5851(b)(1)) on or after October 24, 1992, the date of enactment of section 2902 of the Energy Policy Act of 1992 (section 2902, Public Law 102-486; 106 Stat. 2776). The Department proposes to establish modified procedures and time frames for handling ERA complaints under 29 CFR Part 24 to implement the statutory amendments.

Timetable:

Action	Date	FR Cite
NPRM	03/16/94	59 FR 12506
NPRM Comment Period End	05/16/94	
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
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RIN: 1215-AA83

1895. ATTESTATIONS BY EMPLOYERS USING ALIEN CREWMEMBERS FOR LONGSHORE ACTIVITIES IN U.S. PORTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1288(c); PL 103-198, Sec 8; PL 103-206, Sec 323

CFR Citation: 29 CFR 506

Legal Deadline: None

Abstract: Under the 1990 Amendments to the Immigration and Nationality Act (INA), DOL is responsible for implementing Section 258 of INA, which establishes certain requirements for, and places certain limitations on, foreign crewmembers performing longshore work in U.S. ports. These regulations govern the filing and enforcement of attestations by employers seeking to use foreign crewmembers, which are filed with

DOL in order to be allowed by the Immigration and Naturalization Service to use these crewmembers to perform specified longshore activities. ETA administers the attestation process, while complaints and investigations regarding the attestations are handled by ESA. In two separate enactments (PL 103-198 (107 Stat. 2304) and PL 103-206 (107 Stat. 2419)), Congress recently enacted exceptions to the limitations on performance of longshore work by foreign crewmembers in the State of Alaska. The Department intends to promulgate rules as necessary to implement the statutory exception.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/95	60 FR 3950
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305

RIN: 1215-AA90

1896. EXECUTIVE ORDER 12933 OF OCTOBER 20, 1994, "NONDISPLACEMENT OF QUALIFIED WORKERS UNDER CERTAIN CONDITIONS"

Priority: Other Significant

Legal Authority: EO 12933

CFR Citation: 29 CFR 9

Legal Deadline: None
EO 12933 requires that regulations be issued within 180 days of the date the order was issued, or by April 17, 1995.

Abstract: Executive Order 12933 of October 20, 1994, requires a new clause be inserted in service contracts for maintenance of public buildings which imposes an obligation on successor contractors to offer the employees of predecessor contractors (other than managerial or supervisory personnel) a right of first refusal to employment under the follow-on contract.

Timetable:

Action	Date	FR Cite
NPRM	07/18/95	60 FR 36756

DOL—ESA

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	09/01/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

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RIN: 1215-AA95

1897. • LABOR CONDITION APPLICATIONS AND REQUIREMENTS FOR EMPLOYERS USING NONIMMIGRANTS ON H-1B VISAS IN SPECIALTY OCCUPATIONS AND AS FASHION MODELS

Priority: Substantive, Nonsignificant

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

CFR Citation: 29 CFR 507

Legal Deadline: None

Abstract: This proposed rule is a republication for notice and public comment of various provisions of the Department's final rule implementing provisions of the Immigration and Nationality Act as it relates to the temporary employment in the United

States of nonimmigrants admitted under H-1B visas.

Timetable:

Action	Date	FR Cite
NPRM	10/31/95	60 FR 55339
NPRM Comment Period End	11/30/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

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RIN: 1215-AB09

DEPARTMENT OF LABOR (DOL)

Long-Term Actions

Employment Standards Administration (ESA)

1898. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 203(1)

CFR Citation: 29 CFR 570

Legal Deadline: None

Abstract: Section 3(l) of the Fair Labor Standards Act requires the Secretary of Labor to issue regulations with respect to minors between 14 and 16 years of age ensuring that the periods and conditions of their employment do not interfere with their schooling, health, or well-being. The Secretary is also directed to designate occupations that may be particularly hazardous for minors 16 and 17 years of age. Child Labor Regulation No. 3 sets forth the permissible industries and occupations in which 14- and 15-year-olds may be employed, and specifies the number of hours in a day and in a week, and time periods within a day, that such minors may be employed. The Department has invited public comment in considering whether changes in technology in the workplace and job content over the

years require new hazardous occupations orders, and review of some of the applicable hazardous occupation orders and the method of their promulgation. Comment has also been solicited on whether revisions should be considered in the permissible hours and time of day standards for 14- and 15-year-olds. Comment has been sought on appropriate changes required to implement school-to-work transition programs.

Statement of Need: Because of changes in the workplace and the introduction of new processes and technologies, the Department is undertaking a comprehensive review of the regulatory criteria applicable to child labor. Other factors necessitating a review of the child labor regulations are changes in places where young workers find employment opportunities, the existence of differing Federal and State standards, and the divergent views on how best to correlate school and work experiences.

Under the Fair Labor Standards Act, the Secretary of Labor is directed to provide by regulation or by order for the employment of youth between 14 and 16 years of age under periods and conditions which will not interfere with their schooling, health and well-being. The Secretary is also directed to designate occupations that may be

particularly hazardous for youth between the ages of 16 and 18 years or detrimental to their health or well-being. The Secretary has done so by specifying, in regulations, the permissible industries and occupations in which 14- and 15-year-olds may be employed, and the number of hours per day and week and the time periods within a day in which they may be employed. In addition, these regulations designate the occupations declared particularly hazardous for minors between 16 and 18 years of age or detrimental to their health or well-being.

Public comment has been invited in considering whether changes in technology in the workplace and job content over the years require new hazardous occupation orders or necessitate revision to some of the existing hazardous orders. Comment has also been invited on whether revisions should be considered in the permissible hours and time-of-day standards for the employment of 14- and 15-year-olds, and whether revisions should be considered to facilitate school-to-work transition programs. When developing regulatory proposals (after receipt of public comment on the advance notice of proposed rulemaking), the Department's focus will be on assuring healthy, safe and

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fair workplaces for young workers, and at the same time promoting job opportunities for young people and making regulatory standards less burdensome to the regulated community.

Alternatives: Regulatory alternatives will be developed based on the public comments responding to the advance notice of proposed rulemaking. Alternatives likely to be considered include specific additions or modifications to the hazardous occupation orders and changes to the hours 14- and 15-year-olds may work.

Anticipated Costs and Benefits: Preliminary estimates of the anticipated costs and benefits of this regulatory action will be developed once decisions are reached on particular proposed changes in the child labor regulations. Benefits will include safer working environments and the avoidance of injuries with respect to young workers.

Risks: An assessment of the magnitude of the risk addressed by this action will be prepared once decisions are reached on particular proposed changes in the child labor regulations.

Timetable:

Action	Date	FR Cite
Final Action on HOs 2, 10, 12	11/20/91	56 FR 58626
Final Action Effective Date	12/20/91	
ANPRM	05/13/94	59 FR 25167
ANPRM Comment Period End	08/11/94	59 FR 40318
NPRM	04/00/97	
NPRM Comment Period End	06/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Rm S3502, FP Bldg., Washington, DC 20210 Phone: 202 219-8305

RIN: 1215-AA09

1899. ENFORCEMENT OF CONTRACTUAL OBLIGATIONS FOR TEMPORARY ALIEN AGRICULTURAL WORKERS ADMITTED UNDER SECTION 216 OF THE IMMIGRATION AND NATIONALITY ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-603

CFR Citation: 29 CFR 501

Legal Deadline: Final, Statutory, June 1, 1987.

Abstract: The Immigration Reform and Control Act of 1986 contains certain labor standards requirements for foreign agricultural workers employed under the H-2A foreign agricultural worker program, as well as for U.S. workers hired by employers who utilize foreign agricultural workers. The standards relate to pay, working conditions, housing, transportation and recruitment. The Employment Standards Administration issued an interim final rule on June 1, 1987 (53 FR 20524) that incorporates the labor standards issued by the Employment and Training Administration (ETA) and sets forth procedures for enforcement of these labor standards.

Timetable:

Action	Date	FR Cite
NPRM	05/05/87	52 FR 16795
NPRM Comment Period End	05/19/87	
Interim Final Rule	06/01/87	52 FR 20524
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Rm S3502, FP Bldg., Washington, DC 20210 Phone: 202 219-8305 Fax: 202 219-5122

RIN: 1215-AA43

1900. PROCEDURES FOR PREDETERMINATION OF WAGE RATES (29 CFR PART 1) AND LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (29 CFR PART 5)

Priority: Economically Significant

Legal Authority: 40 USC 276a to 276a(7)

CFR Citation: 29 CFR 1; 29 CFR 5

Legal Deadline: None

Abstract: The Department attempted to implement revised rules governing the circumstances in which "helpers" may be used on federally funded and assisted construction contracts subject to the Davis-Bacon Act in May 1982 (see 47 FR 23644, 23658 (May 28, 1982); 47 FR 32090 (July 20, 1982)). After protracted litigation, a final rule was published in January 1989 (see 54 FR 4234) which became effective on February 4, 1991. Thereafter, on two occasions, Congress acted to prevent the Department from expending any funds to implement these revised helper regulations--through the Dire Emergency Supplemental Appropriations Act of 1991, PL 102-27, 105 Stat. 130,151 (1991), and then through section 104 of the DOL Appropriations Act of 1994, PL 103-112. Given the uncertainty of continuation of such moratoriums, the Department has determined that the helper issue may need to be addressed through rulemaking.

Statement of Need: The current helper rules are difficult to administer and enforce, and--as evidenced by the prolonged litigation history and subsequent Congressional actions--are highly controversial. In May 1982, the Department attempted to implement revised rules governing the circumstances in which "helpers" may be used on federally funded and assisted construction contracts subject to the Davis-Bacon Act. After protracted litigation, a final rule was published in January 1989 and became effective on February 4, 1991. Thereafter, on two occasions, Congress acted to prevent the Department from expending any funds to implement these revised helper regulations through appropriations riders. Given the uncertainty of continuation of such moratoriums, the Department has determined that the helper issue may need to be addressed through further rulemaking.

Alternatives: The Administration has determined that there are only limited alternatives to addressing this issue through rulemaking, in addition to possible legislative changes. Specific regulatory alternatives have not yet been developed pending current appropriations actions in the Congress.

Anticipated Costs and Benefits: A new rulemaking regarding the helper criteria

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will seek to make administration of the Davis-Bacon Act more efficient by establishing reasonable “helper” criteria and methodology--thus resolving the controversy and uncertainty currently experienced by interested parties. Changes in the helper regulations may affect prior estimates of potential construction procurement cost savings anticipated from the earlier rulemaking. Estimates of the financial impacts of revised

“helper” regulations will be prepared for inclusion in the NPRM.

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

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215-AA94

DEPARTMENT OF LABOR (DOL)

Completed Actions

Employment Standards Administration (ESA)

1901. ATTESTATIONS BY EMPLOYERS FOR OFF-CAMPUS WORK AUTHORIZATION FOR ALIEN STUDENTS (F-1 NONIMMIGRANTS)

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-649, Sec 221(a); 104 Stat 4978 and 5027; PL 102-232

CFR Citation: 29 CFR 508

Legal Deadline: Final, Statutory, October 1, 1991.

Abstract: This rule implements regulations governing the filing and enforcement of attestations by employers seeking to use aliens admitted as students on F-1 visas (hereafter F-1 student) in off-campus work. Under the Immigration and Nationality Act (INA), as amended by the Immigration Act of 1990, employers are required to submit these attestations to DOL and the educational institution in order for such students, if otherwise qualified, to receive work authorizations from the Attorney General. The attestation process has been administered by ETA, while complaints and investigations regarding violations are handled by ESA. Statutory authority for the initial program expired on September 30, 1994, but on October 25, 1994, Public Law 103-416 revived and extended the program through September 30, 1996.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/06/91	56 FR 56860
Joint Interim Final Rule	12/15/94	59 FR 64776
Extension of Joint Interim Final Rule	06/30/95	60 FR 34132
Extension of Joint Interim Final Rule	07/31/95	60 FR 38957

Action	Date	FR Cite
Extension of Joint Interim Final Rule	09/27/95	60 FR 49753
Final Action	11/29/95	60 FR 61209
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Bldg., Washington, DC 20210
Phone: 202 219-8305
Fax: 202 210-5122

RIN: 1215-AA68

1902. TRAINING WAGE AND SEASONAL INDUSTRY PROVISIONS OF THE FAIR LABOR STANDARDS ACT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 101-157, sec 6; 103 Stat 938; 29 USC 210 et seq; 52 Stat 1060, sec 1; 29 USC 201; 29 USC 207

CFR Citation: 29 CFR 517; 29 CFR 526

Legal Deadline: None

Abstract: The regulations at 29 CFR parts 517 and 526 were promulgated under the Fair Labor Standards Act. These regulations implement provisions of the Act which have expired or have been repealed by subsequent amendments. The training wage authorization under 29 CFR Part 517 expired March 31, 1993, and the partial exemptions from the Act's overtime requirements for employees in

industries of a seasonal nature or for employees in industries with annual recurring seasonal peaks of operation were repealed by the 1974 amendments effective December 31, 1976. The regulations do not affect the current operations of any program and are being removed from the CFR.

Timetable:

Action	Date	FR Cite
Final Action	10/26/95	60 FR 54804
Final Action Effective	11/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maria Echaveste, Administrator, Wage Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210

Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215-AB04

1903. WORKERS EMPLOYED IN SEASONAL AGRICULTURAL SERVICES UNDER SECTION 210A OF THE IMMIGRATION AND NATIONALITY ACT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 8 USC 1160; 8 USC 1161; 8 USC 1801 et seq

CFR Citation: 29 CFR 502; 29 CFR 503

Legal Deadline: None

Abstract: The regulations at 29 CFR parts 502 and 503 were promulgated

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Completed Actions

under section 210A of the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986 (ICRA), and implement requirements of a special program for aliens in seasonal agricultural services which ended with fiscal year 1992, or September 30, 1992. The regulations do not affect the current operation of any

program and are being removed from the CFR.

Timetable:

Action	Date	FR Cite
Final Action	10/26/95	60 FR 54803
Final Action Effective	11/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122
RIN: 1215-AB05

DEPARTMENT OF LABOR (DOL)

Proposed Rule Stage

Employment and Training Administration (ETA)

1904. JOB TRAINING PARTNERSHIP ACT: INDIAN AND NATIVE AMERICAN PROGRAMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Title IV, sec 401 of the JTPA

CFR Citation: 20 CFR 632; 20 CFR 636

Legal Deadline: None

Abstract: The purpose of title IV, section 401 of the Job Training Partnership Act is to provide job training and employment activities to Indians and other Native Americans. Such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives for the communities and groups served by this section, including furtherance of the policy of Indian Self-Determination.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	
Final Action	02/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Tribal

Agency Contact: Paul A. Mayrand, Director, Office of Special Targeted Program, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4641, FP Building, Washington, DC 20210
Phone: 202 219-5500

RIN: 1205-AA96

1905. JOB TRAINING PARTNERSHIP ACT: MIGRANT AND SEASONAL FARMWORKER PROGRAMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Title IV, sec 402 of the JTPA

CFR Citation: 20 CFR 633; 20 CFR 636

Legal Deadline: None

Abstract: It is the purpose of title IV, section 402, of the Job Training Partnership Act to provide job training, employment opportunities, and other services for those individuals who suffer chronic seasonal unemployment and underemployment in the agriculture industry. These conditions have been substantially aggravated by continual advancements in technology and mechanization, resulting in displacement, and contribute significantly to the Nation's rural employment problem. This problem is Federal in scope. No alternative solutions are under consideration at this time. Benefits include fuller rural employment. Over \$75 million is appropriated annually by Congress for this program. This rule would implement changes made by the 1992 amendments to JTPA.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
NPRM Comment Period End	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul A. Mayrand, Office of Special Targeted Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4641, FP Building, Washington, DC 20210
Phone: 202 219-5500

RIN: 1205-AA99

1906. DISASTER UNEMPLOYMENT ASSISTANCE PROGRAM, AMENDMENT TO REGULATIONS

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 5177; EO 12673

CFR Citation: 20 CFR 625

Legal Deadline: None

Abstract: Experience in several recent disasters has highlighted the complexity and time-consuming nature of the monetary benefit provisions of the current regulations and brought into question other provisions of the current regulations which are perceived to be unduly restrictive and/or result in perceived inequities in some disaster situations. These issues will be addressed in two stages. First, an ANPRM was published, with a 60-day comment period, on 12/08/94 at 59 FR 63670. This ANPRM outlined provisions in the Disaster Unemployment Assistance (DUA) program regulations (20 CFR Part 625), other than the monetary benefit provisions, that have come into question and solicits public comment and suggestions relative to these provisions and on other provisions for review and potential revision in a future NPRM. Second, an interim final rule was published May 11, 1995, with a 60-day comment period. This rule simplified the monetary assistance provisions by removing cumbersome

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Proposed Rule Stage

administrative provisions and inconsistencies in the computation of a weekly amount. A final rule will be published to incorporate comments and other minor technical amendments.

Timetable:

Action	Date	FR Cite
ANPRM	12/08/94	59 FR 63670
ANPRM Comment Period End	02/06/95	
Interim Final Rule	05/11/95	60 FR 25560
NPRM	07/00/96	
NPRM Comment Period End	09/00/96	
Final Action	11/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Robert Gillham, Chief, Federal Programs Group, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Washington, DC 20210
Phone: 202 219-5312

RIN: 1205-AB02

1907. AMENDMENTS TO THE LABOR CERTIFICATION PROCESS FOR TEMPORARY AGRICULTURAL EMPLOYMENT IN THE UNITED STATES (H-2A)

Priority: Other Significant

Legal Authority: 8 USC 1101(a)(H)(ii)(a); 8 USC 1184(c)

CFR Citation: 20 CFR 655 subpart B

Legal Deadline: None

Abstract: Based on six years of experience with the current regulations, the Department has concluded that they should be amended to clarify a number of regulatory provisions to simplify the administration of the program, and to provide additional protection to U.S. workers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	05/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Flora Richardson, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4456, FP Building, Washington, DC 20210
Phone: 202 219-4369

RIN: 1205-AB09

1908. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; UNEMPLOYMENT INSURANCE PERFORMANCE SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 503(a)(1); 42 USC 503(a)(6); 42 USC 503(b)

CFR Citation: 20 CFR 602; 20 CFR 640; 20 CFR 650

Legal Deadline: None

Abstract: This regulation will formally establish a comprehensive system for helping ensure continuous improvement in UI operational performance. It will enunciate as the system's building blocks principles for Federal and State cooperation, key nationwide performance measures, criteria distinguishing satisfactory from unsatisfactory performance, an annual planning process, and actions which the Department may take when a State fails to perform satisfactorily. This regulation will be as brief and general as possible; detail and measures, standards, criteria and plans will be contained in implementing handbooks.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Virginia Chupp, Chief, Division of Legislation,

Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room S4015, FP Building, Washington, DC 20210
Phone: 202 219-5220
Fax: 202 219-8506

RIN: 1205-AB10

1909. • LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS; RESEARCHERS EMPLOYED BY COLLEGES AND UNIVERSITIES

Priority: Other Significant

Legal Authority: 8 USC 1182(a)(5)(A)

CFR Citation: 20 CFR 656.40

Legal Deadline: None

Abstract: The Employment and Training Administration is proposing to amend its regulations relating to labor certification for permanent employment of immigrant aliens in the United States. The proposed amendments would change the way prevailing wage determinations are made for researchers employed by colleges and universities. The amendments would also change the way prevailing wages are determined for colleges and universities filing H-1B labor condition applications on behalf of researchers, since the regulations governing prevailing wage determinations for the permanent are followed in determining prevailing wages for the H-1B program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Beverly, Deputy Director, U.S. Employment Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4470, FP Building, Washington, DC 20210

Phone: 202 219-5257

Fax: 202 219-6643

Email: Beverlyj@doleta.gov

RIN: 1205-AB11

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)
Final Rule Stage
1910. ATTESTATIONS BY EMPLOYERS USING ALIEN CREWMEMBERS FOR LONGSHORE ACTIVITIES IN U.S. PORTS, THE ALASKA EXCEPTION
Priority: Other Significant

Legal Authority: PL 103-98, sec 8; PL 103-206, sec 323

CFR Citation: 29 CFR 655 subparts F and G; 29 CFR 506 subparts F and G

Legal Deadline: None

Abstract: This proposed rule is necessary because of amendments to section 258 of the Immigration and Nationality Act. Section 258 establishes a general prohibition on the prohibition of longshore work by alien crewmen. The amendment of section 258 establishes an "Alaska exception" whereby employees in Alaska would be permitted to use an alien crewmen after: (1) requesting a dispatch of U.S. longshoremen from qualified stevedoring companies and private dock operators; and (2) determining that U.S. longshore workers are not available in sufficient numbers from those resources in response to a request for dispatch.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/95	60 FR 3920
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John M. Robinson, Deputy Assistant Secretary, U.S. Employment Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4470, FP Building, Washington, DC 20210
Phone: 202 219-5257

RIN: 1205-AB03

1911. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—IMPLEMENTATION OF 1988 AMENDMENTS
Priority: Other Significant

Legal Authority: 19 USC 2320

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: The final rule implementing the 1988 Amendments to the TAA program was published in the Federal Register on January 6, 1994. Although published as final, comments were requested on several material changes, being made in the final rule which differ from the November 1988 proposed rule and on a number of other changes which were not included in the proposed rule. Comments have been received and another final rule will be published relating to these substantive changes.

Timetable:

Action	Date	FR Cite
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Columbo, Director, Office of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
Phone: 202 219-5555

RIN: 1205-AB05

1912. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—TRANSITIONAL ADJUSTMENT ASSISTANCE NAFTA-TAA
Priority: Other Significant

Legal Authority: PL 103-182 title V

CFR Citation: 20 CFR 617

Legal Deadline: Final, Statutory, January 1, 1995.

Final regulation to be issued to the maximum extent feasible by 12/31/95.

Abstract: Title V of the North American Free Trade Agreement Implementation Act (PL 103-182) amends Chapter 2 of Title II of the Trade Act of 1974 by adding a new Transitional Adjustment Assistance Program (NAFTA-TAA) for workers who lose their jobs because of increased imports from or a shift of production to Mexico and Canada. Most of the provisions of Title V are in the form of amendments to Chapter 2, Title II, of the Trade Act. While some of the provisions are not in the form of amendments to the Trade Act, they nonetheless must be given effect in implementing the NAFTA-TAA program. A proposed rule to amend the regulations on the trade adjustment assistance program for workers was published in the Federal Register on January 17, 1995. Comments on this proposed rule are requested before March 20, 1995.

Timetable:

Action	Date	FR Cite
NPRM	01/17/95	60 FR 3472
NPRM Comment Period End	03/20/95	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Columbo, Director, Office of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
Phone: 202 219-5555

RIN: 1205-AB07

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)
Long-Term Actions
1913. AIRLINE DEREGULATION: EMPLOYEE BENEFIT PROGRAM
Priority: Other Significant

Legal Authority: 49 USC 1552

CFR Citation: 20 CFR 618

Legal Deadline: None

Abstract: U.S. District Court for the District of Columbia held that Section 43 of the Airline Deregulation Act was unconstitutional. On July 16, 1985, the U.S. Court of Appeals decided that the employee protection provisions of Section 43 were severable from the legislative veto provisions. The U.S. Supreme Court ruled on March 25,

1987 that the legislative veto provisions were unconstitutional but the first right-to-hire provisions were constitutional, therefore, rulemaking can proceed on the monetary benefits aspect of the employee protection provisions. In 1991 the DOT determined there were no job losses due to deregulation. In September 1993,

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the U.S. District Court for the District of Columbia ordered the DOT to develop broader guidelines to apply to the air carriers, which may result in a finding of job losses due to deregulation. Rulemaking is pending Departmental review of the monetary provisions of the employee protection program due to the provision in S.143 repealing this program

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: Next action is undetermined pending Departmental review due to provision repealing Airline Employee Protection Program contained in S.143.

Agency Contact: Sandra T. King, Chief, Division of Program Development and Implementation, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4514, FP Bldg., Washington, DC 20210
Phone: 202 219-5309

RIN: 1205-AA07

1914. SERVICES TO MIGRANT AND SEASONAL FARMWORKERS, JOB SERVICE COMPLAINT SYSTEM, MONITORING, AND ENFORCEMENT

Priority: Other Significant

Legal Authority: 29 USC 49k

CFR Citation: 20 CFR 653; 20 CFR 658; 20 CFR 651

Legal Deadline: None

Abstract: ETA is reviewing services to migrant and seasonal farmworkers under the Wagner-Peyser Act as a result of amendments to Wagner-Peyser under Title V of the Job Training Partnership Act. It is anticipated that an ANPRM will be published and subsequent rulemaking may result.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Beverly, Deputy Director, USES, Department of

Labor, Employment and Training Administration, 200 Constitution Ave. NW., Rm N4470, FP Building, Washington, DC 20210
Phone: 202 219-8174

RIN: 1205-AA37

1915. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: INA 212(a)(5)(A)

CFR Citation: 20 CFR 656

Legal Deadline: None

Abstract: The Department of Labor (DOL) is currently re-engineering the labor certification process that is set forth in DOL regulations at 20 CFR 656. DOL's goals are to make fundamental changes and refinements that will (a) better serve customers, (b) streamline the process, (c) improve effectiveness, and (d) save resources. The re-engineering effort is a collaborative effort of Federal and State staff who are involved in the administration of alien certification programs. The re-engineering effort also involves consultation throughout the process with sponsors, stakeholders, State partners, and outside interest groups to solicit ideas and suggestions for change.

Statement of Need: The labor certification process has been criticized as being complicated and time-consuming. It can take up to 2 years or more to complete the process; the process requires substantial government resources to administer, and it is reportedly costly and burdensome to employers. The Employment and Training Administration (ETA), therefore, is reexamining the effectiveness of the various regulatory requirements and the application processing procedure, with a view to achieving considerable savings in resources both for the Government and

employers, without diminishing the significant protections now afforded U.S. workers by the current regulatory and administrative requirements.

Summary of the Legal Basis: Before the Department of State and the Immigration and Naturalization Service may issue visas and admit certain immigrant aliens to work permanently in the United States, the Secretary of Labor, pursuant to section 212(a)(5)(A) of the Immigration and Nationality Act (INA), must certify to the Secretary of State and to the Attorney General that: (a) there are not sufficient U.S. workers who are able, willing, qualified, and available at the time of the application for a visa and admission into the United States and at the place where the alien is to work; and (b) the employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers (8 USC 1182(a)(5)(A)). The Department of Labor has promulgated regulations at 20 CFR 656 pursuant to and to implement section 212(a)(5)(A) of the INA. These regulations set forth the fact-finding process designed to support the granting or denial of a permanent labor certification.

Anticipated Costs and Benefits: As indicated above, it is anticipated that the re-engineering effort will result in significant cost savings to the Government and to the regulated community. DOL will be able to provide a more precise estimation of anticipated cost reductions after the re-engineering of the permanent labor certification process is completed.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Flora Richardson, Chief, Division of Foreign Labor Certifications, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4456, FP Building, Washington, DC 20210
Phone: 202 219-5263

RIN: 1205-AA66

DEPARTMENT OF LABOR (DOL)

Proposed Rule Stage

Pension and Welfare Benefits Administration (PWBA)

1916. QUALIFIED DOMESTIC RELATIONS ORDERS**Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 1056(d)(3)(L); 29 USC 1135**CFR Citation:** 29 CFR 2530**Legal Deadline:** None**Abstract:** This regulation would clarify the application of the qualified domestic relations order provisions of section 206(d)(3) of ERISA and related provisions contained in section 414(p) of the Internal Revenue Code which were added by the Retirement Equity Act of 1984.**Timetable:**

Action	Date	FR Cite
ANPRM	10/21/93	58 FR 54444
Extension of Comment Period	01/12/94	58 FR 1692
ANPRM Comment Period End	02/18/94	
NPRM	12/00/96	

Small Entities Affected: Undetermined**Government Levels Affected:** Undetermined**Agency Contact:** Susan Lahne, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave. NW., Rm N5669, FP Building, Washington, DC 20210
Phone: 202 219-7461**RIN:** 1210-AA19**1917. REMOVAL OF OBSOLETE REGULATIONS AND INTERPRETIVE BULLETINS****Priority:** Other**Reinventing Government:** This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.**Legal Authority:** 29 USC 1135; 29 USC 1021 to 1025; 29 USC 1029 to 1031; 29 USC 1107; 29 USC 1112; 29 USC 1114**CFR Citation:** 29 CFR 2509; 29 CFR 2520; 29 CFR 2550**Legal Deadline:** None**Abstract:** PWBA plans to propose the removal from the Code of Federal Regulations certain regulations and interpretive bulletins under the Employee Retirement Income Security Act of 1974 (ERISA) that have been determined to be obsolete and

unnecessary. Many of these obsolete regulations and interpretive bulletins provided transitional rules to assist plan sponsors, plan administrators, and others subject to the requirements of title I of ERISA, in coming into compliance with ERISA's requirements following ERISA's enactment in 1974.

Timetable:

Action	Date	FR Cite
NPRM	04/03/96	61 FR 14690
NPRM Comment Period End	06/03/96	

Small Entities Affected: None**Government Levels Affected:** None**Agency Contact:** Katherine D. Lewis, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-7461**RIN:** 1210-AA51**1918. REVISION OF THE FORM 5500 SERIES AND IMPLEMENTING AND RELATED REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)****Priority:** Economically Significant**Reinventing Government:** This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.**Legal Authority:** 29 USC 1021; 29 USC 1022; 29 USC 1023; 29 USC 1024; 29 USC 1025; 29 USC 1026; 29 USC 1027; 29 USC 1029; 29 USC 1030; 29 USC 1059; 29 USC 1135; 29 USC 1166; 29 USC 1168**CFR Citation:** Not yet determined**Legal Deadline:** None**Abstract:** Each year, pension and welfare benefit plans subject to title I of ERISA are generally required to file an annual return/report, the Form 5500 Series, regarding their financial condition, investments, and operations. The Form 5500 Series is the primary source of information concerning the operation, funding, assets, and investments of pension and other employee benefit plans. The Form 5500 Series is not only an important compliance and research tool for the Department, but is also a disclosure document for plan participants and

beneficiaries and a source of information and data for use by other Federal agencies, Congress, and the private sector in assessing employee benefit, tax, and economic trends and policies. As part of the President's Pension Simplification proposal, the agencies are undertaking a comprehensive review of the annual return/report forms in an effort to streamline the information required to be reported and the methods by which such information is filed and processed.

Statement of Need: In the 20 years since Congress enacted ERISA to protect pension and other employee benefit promises made to employees, the laws and regulations have become more complex. There are many reasons for this: the desire for employers to have a high degree of flexibility in designing plans that best suit their work force; policies designed to ensure that all employees receive tax and savings benefits from retirement and other benefit plans that are comparable to those available to highly compensated employees and business owners; the need to protect the integrity of Federal tax revenues; and the prevention of tax-shelter abuses.

While each of these causes may have merit, and the private sector employee benefit system has been greatly strengthened as a result of ERISA, the cumulative result--together with frequent legislative changes--has been to raise compliance and administrative costs to a level that has created a disincentive for employers, and particularly small employers, to offer pension and other benefit plans to their employees.

A source of complexity and costs has been the Form 5500 Annual Return/Report Series, which is filed annually by an estimated 750,000 employee benefit plans. The Form 5500 Series is a joint Department of Labor, Internal Revenue Service, and Pension Benefit Guaranty Corporation form and serves as the principal source of financial information and data available to the Agencies, and participants and beneficiaries, concerning the operations of employee benefit plans. The proposed revision to the Form 5500 Series is being coordinated with the Internal Revenue Service, the Treasury Department, and the Pension Benefit Guaranty Corporation as part of the

DOL—PWBA

Proposed Rule Stage

process of implementing the President's pension simplification proposal.

Title I of ERISA, sections 101 through 105, 107, 209, and 606, impose specific reporting and disclosure obligations on administrators of employee benefit plans. Section 104(a)(3) and 110 of ERISA provide the Secretary with the authority to prescribe exemptions and alternative methods of compliance for employee welfare benefit plans and employee pension benefit plans. Section 505 provides the Secretary with general authority to prescribe regulations necessary or appropriate to carry out the provisions of Title I of ERISA.

Alternatives: The annual reporting requirement could be left unaltered. However, the Pension and Welfare Benefits Administration (PWBA) believes that compliance with the requirement may be facilitated without harming the security of the employment-based benefits system. Simplifying the Form 5500 Series is one step in improving ERISA's reporting and disclosure system. This initiative includes revision of the Form 5500 Series and related regulations. Filer costs from preparing forms and government costs for processing the

Form 5500 Series can be reduced while enhancing the ability of the Government to protect workers' benefits by receiving more accurate and timely information on the operation, funding, investments, usefulness, and safety of employee pension and welfare benefit plans.

Anticipated Costs and Benefits: Meaningful burden hour, and cost reductions can be achieved only through an integrated implementation of changes to both the Form 5500 Series and the processing system. By simplifying the Form 5500 and creating an automated processing system for the filed reports, it is anticipated that filer costs of preparing forms, as well as Government processing costs, will be reduced. It is the goal of the Department to eliminate reporting requirements for information that is not needed to discharge its statutory responsibilities, while ensuring that participants and beneficiaries have access to the information they need to protect their rights and benefits under ERISA.

Risks: The Form 5500 Series is part of ERISA's reporting and disclosure framework, which is intended to assure that employee benefit plans are

operated and managed in accordance with certain prescribed standards and that participants and beneficiaries, as well as regulators, are provided or have access to sufficient information to protect the rights and benefits of participants and beneficiaries under employee benefit plans. Better focused annual reporting, through regulatory changes, should serve to facilitate compliance by plan administrators, thereby reducing litigation and penalty risks to plan administrators, fiduciaries, and sponsors, without increasing risks of benefit losses by participants and beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, Washington, DC 20210
Phone: 202 219-7461

RIN: 1210-AA52

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Pension and Welfare Benefits Administration (PWBA)

1919. DEFINITION OF COLLECTIVE BARGAINING AGREEMENT (ERISA SECTION 3(40))

Priority: Other Significant

Legal Authority: 29 USC 1002(40)

CFR Citation: 29 CFR 2510.3-40

Legal Deadline: None

Abstract: The regulation will establish standards for determining whether an employee benefit plan is established or maintained pursuant to one or more collective bargaining agreements for purposes of its exclusion from the Multiple Employer Welfare Arrangement (MEWA) definition in section 3(40) of ERISA, and thus exempted from state regulation. The regulation will clarify the scope of the exception from the MEWA definition for plans maintained under or pursuant to one or more collective bargaining agreements by providing criteria which will serve to distinguish health benefit arrangements which are maintained by

legitimate unions pursuant to bona fide collective bargaining agreements from health insurance arrangements promoted and marketed under the guise of ERISA-covered plans exempt from state insurance regulation. The regulation will also serve to limit the extent to which health plans maintained pursuant to bona fide collective bargaining agreements may extend plan coverage to individuals not covered by such agreements.

Timetable:

Action	Date	FR Cite
NPRM	08/01/95	60 FR 39208
NPRM Comment Period Extended to 11/16/95	09/29/95	60 FR 50508
NPRM Comment Period End	10/02/95	60 FR 39208
Final Action	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Connor, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N-5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210-AA48

1920. INTERPRETIVE BULLETIN ON PARTICIPANT EDUCATION

Priority: Other Significant

Legal Authority: 29 USC 1135

CFR Citation: 29 CFR 2509

Legal Deadline: None

Abstract: This interpretive bulletin will provide guidance to plan sponsors, fiduciaries, participants and beneficiaries concerning the circumstances under which the provision of investment-related educational information, programs and materials to plan participants and

DOL—PWBA

Final Rule Stage

beneficiaries will not give rise to fiduciary liability under ERISA.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bette Briggs, Supervisory Pension Law Specialist, Office of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210-AA50

1921. • REGULATIONS RELATING TO DEFINITION OF PLAN ASSETS: PARTICIPANT CONTRIBUTIONS

Priority: Other Significant

Legal Authority: 29 USC 1135

CFR Citation: 29 CFR 2510.3-102

Legal Deadline: None

Abstract: This regulation will revise the definition of when participant monies paid to or withheld by an employer for contribution to an employee benefit plan, including a plan complying with section 401(k) of the Internal Revenue Code, constitute "plan assets" for purposes of Title I of ERISA. In addition to making clear that participant contributions become plan assets as soon as they can reasonably be segregated from the employer's general assets, the regulation will shorten the 90-day maximum period permitted under the current regulation for segregation of participant

contributions from the employers' general assets.

Timetable:

Action	Date	FR Cite
NPRM	12/20/95	60 FR 66036
Public Hearing Scheduled 2/22/96	01/24/96	61 FR 1879
NPRM Comment Period End	02/05/96	
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Rudy Nuissl, Supervisory Pension Law Specialist, Office of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-7461

RIN: 1210-AA53

DEPARTMENT OF LABOR (DOL)

Long-Term Actions

Pension and Welfare Benefits Administration (PWBA)

1922. ADEQUATE CONSIDERATION

Priority: Other Significant

Legal Authority: 29 USC 1002(3)(18); 29 USC 1135

CFR Citation: 29 CFR 2510

Legal Deadline: None

Abstract: This regulation would provide guidance as to what constitutes "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	07/18/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Mannina, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N4611, FP Building, Washington, DC 20210

Phone: 202 219-4592

RIN: 1210-AA15

1923. CIVIL PENALTIES UNDER ERISA SECTION 502(L)

Priority: Other Significant

Legal Authority: 29 USC 1132

CFR Citation: 29 CFR 2570.80 (Procedural); 29 CFR 2560.502(l)-1 (Substantive)

Legal Deadline: None

Abstract: Section 502(l) of ERISA requires the Secretary of Labor to assess a civil penalty against a fiduciary who breaches a fiduciary duty under, or commits a violation of, part 4 of Title I of ERISA, or any other person who knowingly participates in such breach or violation. The Department has published an interim rule setting forth the procedures for the assessment of penalties under ERISA section 502(l) and for petitioning the Secretary to exercise his or her discretion to waive or reduce the mandated assessment, as well as a proposed rule that defines the following pivotal terms contained in section 502(l): "applicable recovery amount," "breach of fiduciary responsibility or violation," "settlement agreement," and "court order." The Department intends to finalize these two regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/20/90	55 FR 25284
Interim Final Rule	06/20/90	55 FR 25284
NPRM Comment Period End	08/20/90	55 FR 25284

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Vicki Shteir-Dunn, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N4611, FP Building, Washington, DC 20210

Phone: 202 219-8610

RIN: 1210-AA37

1924. REPORTING AND DISCLOSURE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

DOL—PWBA**Long-Term Actions**

Legal Authority: 29 USC 1135; 29 USC 1029; 29 USC 1143; 29 USC 1021; 29 USC 1022; 29 USC 1024; 29 USC 1025; 29 USC 1059

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: PWBA has undertaken a comprehensive review of the current reporting and disclosure framework to identify changes that will serve to assure the disclosure of useful and timely information, while eliminating any unnecessary administrative burdens and costs on plans and plan sponsors attendant to compliance with these requirements. As an initial step in this process, PWBA solicited comments, recommendations and

information from the public concerning the need for regulatory and legislative changes in the disclosure area. PWBA concluded that only marginal changes to the disclosure requirements can be accomplished through the regulatory process and, therefore, reform efforts should focus on regulatory changes relating to the streamlining of the Form 5500 Series, and related annual reporting regulations, in addition to possible legislative changes to both the reporting and disclosure provisions.

Timetable:

Action	Date	FR Cite
ANPRM	12/27/93	58 FR 68339
ANPRM Comment Period End	02/25/94	

Action	Date	FR Cite
End Review	06/30/95	
Next Action	Undetermined	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210

Phone: 202 219-7461

RIN: 1210-AA44

DEPARTMENT OF LABOR (DOL)**Long-Term Actions****Office of the American Workplace (OAW)****1925. REPORTING BY LABOR RELATIONS CONSULTANTS AND OTHER PERSONS**

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 433; 29 USC 438

CFR Citation: 29 CFR 406.3

Legal Deadline: None

Abstract: The Office of Labor-Management Standards (OLMS) is proposing to amend Receipts and Disbursements Report (Form LM-21) to narrow the scope of reporting. A Receipts and Disbursements Report is

required in the circumstances specified in Section 203(b) of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA). It is required to be filed by any labor relations consultant, or other individual or organization, who has made or received payment as a party to an agreement or arrangement with an employer, pursuant to which he has undertaken persuader or information-supplying activities on behalf of the employer. The proposed amendment would reflect reporting guidelines established in *Donovan v. The Rose Law Firm*, 768 F.2d 964 (8th Cir. 1985). This judicial decision narrowed the scope of reporting to eliminate reporting of receipts and disbursements in connection with labor relations advice and services rendered to employers for whom no persuader or

information-supplying activities were undertaken.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kay H. Oshel, Chief, Division of Interpretations and Standards, Department of Labor, Office of the American Workplace, 200 Constitution Avenue NW., Room N5605, FP Building, Washington, DC 20210

Phone: 202 219-7373

Fax: 202 219-6459

RIN: 1294-AA12

DEPARTMENT OF LABOR (DOL)**Completed Actions****Office of the American Workplace (OAW)****1926. ELIGIBILITY REQUIREMENTS FOR CANDIDACY FOR UNION OFFICE**

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 481; 29 USC 482

CFR Citation: 29 CFR 452.38

Legal Deadline: None

Abstract: The OAW has revised the Department's regulation on the reasonableness of a union's meeting attendance requirement for union officer candidacy to reference the decision of the D.C. Circuit Court in *Doyle v. Brock*, 821 F.2d 788 (1987). 29 CFR 452.38 currently provides that the reasonableness of a union rule

requiring candidates to have attended a specified number of membership meetings during the period immediately preceding the election must be gauged in the light of all the circumstances of the particular case, including the impact of the rule (i.e., the number or percentage of members disqualified by its application). A new footnote summarizes the holding in *Doyle* that a meeting attendance requirement may be unreasonable

DOL—OAW

Completed Actions

solely because it disqualifies a large portion of members from candidacy.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/94	59 FR 30834
ANPRM Comment Period End	08/15/94	
NPRM	05/17/95	60 FR 26388
NPRM Comment Period End	07/17/95	
Final Action	11/14/95	60 FR 57177
Final Action Effective	12/14/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kay H. Oshel, Chief, Division of Interpretations and Standards, Department of Labor, Office of the American Workplace, 200 Constitution Avenue NW., Room N5605, FP Building, Washington, DC 20210
Phone: 202 219-7373

RIN: 1294-AA09

1927. GUIDELINES, SECTION 5333(B), FEDERAL TRANSIT LAW

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5333(b) Federal Transit Law

CFR Citation: 29 CFR 215

Legal Deadline: None

Abstract: The Office of the American Workplace proposes to revise the guidelines concerning its procedures for administering Section 5333(b) of the Federal Transit law, commonly known as Section 13(c). These revised guidelines will replace the existing guidelines in their entirety. Section 5333(b) requires that certain protective arrangements for transit employees be in place as a condition of Federal financial assistance for transit projects. The proposed changes have been developed to standardize the certification process, thereby insuring certification of protective arrangements

in a prompt manner after an application has been submitted, and to make the certification process more predictable for the parties involved.

Timetable:

Action	Date	FR Cite
NPRM	06/29/95	60 FR 34072
NPRM Comment Period End	07/31/95	
Final Action	12/07/95	60 FR 62964
Final Action Effective	01/29/96	61 FR 2117

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This effort was not part of a formal reinventing government activity, but it is designed specifically to reduce the regulatory burden and streamline requirements.

Agency Contact: Charles L. Smith, Deputy Assistant Secretary, Department of Labor, Office of the American Workplace, 200 Constitution Avenue NW., Room S2203, FP Building, Washington, DC 20210
Phone: 202 219-6045
Fax: 202 219-4315

RIN: 1294-AA14

DEPARTMENT OF LABOR (DOL)

Prerule Stage

Mine Safety and Health Administration (MSHA)

1928. ADVISORY COMMITTEE ON THE ELIMINATION OF PNEUMOCONIOSIS AMONG COAL MINERS

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 812; 5 USC app

CFR Citation: 30 CFR 70; 30 CFR 71; 30 CFR 90

Legal Deadline: None

The Committee will terminate 180 days from the date of its appointment.

Abstract: The Federal Coal Mine Health and Safety Act of 1969 established the first comprehensive respirable dust standards for coal mines. These standards were designed to reduce the incidence of coal workers' pneumoconiosis ("black lung") and silicosis and eventually eliminate these diseases. While significant progress has been made toward improving the health conditions in our Nation's coal mines, miners continue to be at risk of developing occupational lung disease, according to the National Institute for Occupational Safety and Health

(NIOSH). On January 31, 1995, Secretary of Labor Robert Reich announced his intention to appoint an advisory committee to make recommendations for the elimination of black lung and silicosis among coal miners. The advisory committee convened in February 1996 and should deliver its recommendations to the Secretary by September 1996.

Timetable:

Action	Date	FR Cite
Recommendations Expected	09/00/96	

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, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203

Phone: 703 235-1910

RIN: 1219-AA81

1929. SURFACE HAULAGE

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 77

Legal Deadline: None

Abstract: Accidents involving surface haulage equipment constitute a major safety problem in the mining industry. A review of fatal mining accidents during the past 3 years shows that 30% of the deaths involved surface haulage equipment. This equipment includes large 240 ton haulage vehicles, over-the-road trucks, front-end loaders, and other equipment. Causes of surface haulage accidents include brake failures, unsafe grades, overloaded vehicles, and "blindspots." To address this problem, MSHA intends to issue an advance notice of proposed rulemaking which would request information on the safe operation of surface haulage equipment and which would focus on these and other factors

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Prerule Stage

linked to accidents involving surface haulage equipment.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/96	

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, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203

Phone: 703 235-1910

RIN: 1219-AA93

1930. SAFETY STANDARDS FOR THE USE OF ROOF BOLTING MACHINES IN UNDERGROUND COAL MINES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing

Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: Recent fatalities in underground coal mines involving roof-bolting machines indicate the need to both modify the design of such machines and take additional precautions in their use. MSHA has evaluated roof-bolting machines currently in use focusing on potential hazards to the machine operators during the drilling and roof-bolt installation procedures. MSHA believes that machine design features may contribute to or cause accidents, and that changes in machine design and operating procedures would make operating the equipment safer for the machine operator. The Agency intends to issue an Advance Notice of Proposed

Rulemaking to obtain additional information and data on mine operators' experiences with these machines. The Agency is exploring the use of negotiated rulemaking to address this issue.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/96	
NPRM	00/00/00	

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, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203

Phone: 703 235-1910

RIN: 1219-AA94

DEPARTMENT OF LABOR (DOL)

Proposed Rule Stage

Mine Safety and Health Administration (MSHA)

1931. NOISE STANDARD

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 70; 30 CFR 71

Legal Deadline: None

Abstract: Many miners are exposed to noise levels that are at or near maximum levels currently permitted by Mine Safety and Health Administration (MSHA) regulations. Notwithstanding MSHA's enforcement of its current noise regulations, miners are continuing to incur hearing impairment. Data indicate that protective action needs to be taken at a lower noise level than is currently required. MSHA is developing a proposed rule that would establish uniform noise standards to apply to all mining, and which will consider requiring additional measures to protect miners, such as hearing protection and audiometric testing.

Statement of Need: MSHA's experience under its current standards for occupational exposure to hazardous noise levels indicates that current standards do not provide the protection intended. Many miners are exposed to noise levels that are near the maximum currently permitted by MSHA regulations. Notwithstanding MSHA's enforcement of existing noise standards, miners continue to suffer hearing impairment. This proposed rule will consider establishing a lower action level for requiring hearing protection and will address methods for controlling exposure. The proposed rule also will consider requiring hearing conservation programs to determine the effectiveness of control measures in reducing the amount of hearing damage in exposed miners.

In addition, MSHA's current noise standards for coal mines differ from those for metal and nonmetal mines. MSHA's proposed rule would provide consistent requirements for all mines.

Alternatives: MSHA published an advance notice of proposed rulemaking which requested industry comments and data on a number of issues. Based upon its own research and experience,

and data and information submitted to the record, MSHA is considering numerous alternatives on a wide variety of complex issues. For example, MSHA is considering (a) the respective roles of personal hearing protection and engineering controls in controlling miners' exposures; (b) lowering the permissible exposure level; and (c) whether or not to require a hearing conservation program, including audiometric testing, exposure monitoring, and miner training. This proposed rule will be derived from MSHA's deliberations and decisions on these issues and alternatives.

Anticipated Costs and Benefits: Depending on the form of the rule, MSHA expects costs could be incurred for engineering controls, personal hearing protection, exposure monitoring, audiometric testing, training, and recordkeeping. The major benefit of implementing the protection sought would be an average annual reduction of several hundred cases of hearing impairment from occupational noise exposure in mining, assuming that existing exposure levels and the number of miners remained constant and that miners were exposed for 20 years at these levels. The scope and

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Proposed Rule Stage

nature of the proposed rule is currently under development and, thus, estimates of costs and benefits are preliminary.

Risks:

Noise is a serious occupational hazard in the mining industry. Occupational exposure to loud noises results in hearing loss and hearing impairment, which affects both quality of life and functional capacity. The Agency believes that the health evidence forms a reasonable basis for proposing revisions to MSHA's existing noise standards. In addition, cases of hearing loss reported to MSHA indicate that a significant number of these miners received all of their noise exposure under existing standards.

Timetable:

Action	Date	FR Cite
ANPRM	12/04/89	54 FR 50209
ANPRM Comment Period End	06/22/90	55 FR 6011
NPRM	05/00/96	

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, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219-AA53

1932. DIESEL PARTICULATE

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Epidemiological studies have found that diesel exhaust presents potential health risks to workers. These possible health effects range from headaches and nausea to respiratory disease and cancer. In 1988, the National Institute for Occupational Safety and Health recommended that "whole diesel exhaust be regarded as a potential occupational carcinogen." In addition, in 1989 the International Agency for Research on Cancer concluded that "diesel engine exhaust is probably carcinogenic to humans."

In 1988, a Secretarial advisory committee made recommendations to the Secretary of Labor concerning safety

and health standards for the use of diesel-powered equipment in underground coal mines. One of the recommendations was for the Secretary of Labor to set in motion a mechanism whereby a diesel particulate standard could be set. Based on that recommendation, the Mine Safety and Health Administration (MSHA) published an advance notice of proposed rulemaking, in January 1992, seeking information relative to exposure limits, risk assessment, sampling and monitoring methods, and control feasibility. Because of the potential health risk to miners from exposure to diesel particulate, MSHA is investigating a variety of approaches that would control the exposure of miners to diesel particulate.

Timetable:

Action	Date	FR Cite
ANPRM	01/06/92	57 FR 500
ANPRM Comment Period End	07/10/92	57 FR 7906
NPRM	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219-AA74

1933. BELT ENTRY USE AS INTAKE AIRCOURSES TO VENTILATE WORKING SECTIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: Since 1970, Mine Safety and Health Administration (MSHA) regulations have generally prohibited belt haulage entries from being used to ventilate active working places. The intention of this prohibition is to prevent smoke from a belt conveyor fire

from being coursed to miners in their workplace. Improved technology, including sophisticated atmospheric monitoring systems, has since made it possible to safely use "belt air" to ventilate active working places. This rulemaking would permit the use of belt air, provided that certain safety requirements are met. In many cases, the use of belt air may result in more efficient and effective ventilation systems, enhancing the health and safety of miners. Additionally, because this regulation will eliminate the need for mine operators to seek regulatory variances from MSHA, costs and burdens on both industry and MSHA will be reduced.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	06/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A public hearing was held in April 1990.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219-AA76

1934. SAFETY STANDARD REVISIONS FOR UNDERGROUND ANTHRACITE MINES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: There are two major types of coal mines -- bituminous and anthracite. The mining methods used and hazards encountered in underground anthracite mines are significantly different from underground bituminous coal mines. Mining methods in anthracite mines include minimal use of mechanized

DOL—MSHA

Proposed Rule Stage

equipment, slow rate of advance into the coal seam, pitching and undulating seams, and non-explosiveness of coal dust. Because of these differences, some mine operators find it difficult to comply with existing safety standards at their anthracite mines. These individual anthracite mine operators must request a variance from existing standards to change the requirements. The variance process costs time and money. Because anthracite mines are usually small operations, this burden

can be significant. MSHA has received 300 variance requests from anthracite mine operators since January 1993. MSHA intends to issue a proposed rule to modify several existing safety standards to address more appropriately the specific conditions of the anthracite mining industry.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

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, 4015 Wilson Blvd, Room 631, Arlington, VA 22203
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RIN: 1219-AA96

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Mine Safety and Health Administration (MSHA)

1935. DIESEL-POWERED EQUIPMENT FOR UNDERGROUND COAL MINES

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 7; 30 CFR 70; 30 CFR 75

Legal Deadline: None

Abstract: The use of diesel-powered equipment in underground coal mines poses a risk of fire or explosion from two sources: internal combustion engines that introduce an ignition source into an environment where methane can be present; and underground handling and storage of diesel fuel. The Mine Safety and Health Administration (MSHA) currently has limited approval, safety, and health regulations that address the use of diesel-powered equipment in underground coal mines. In addition, some hazards are currently addressed in the mine ventilation plan. In 1988, a Secretarial advisory committee made recommendations concerning safety and health standards for the use of diesel-powered equipment in underground coal mines. In 1989, MSHA published a proposed rule based on those recommendations. This final rule will address criteria for the approval of diesel equipment and provisions for the safe use of such equipment in underground coal mines.

Statement of Need: The use of diesel-powered equipment is increasing steadily in underground coal mines across the United States, from 175 units in 30 mines in 1977 to more than 2,885 units in 170 mines in 1995. Given the current state of the industry and assuming no change in existing regulations, MSHA projects that the

presence of diesel equipment in the industry would increase to about 3,520 units in 250 underground coal mines by the year 2000.

Currently, MSHA regulations do not specifically regulate this type of equipment, in contrast to other more conventional mining equipment. Diesel equipment in underground coal mines poses a risk of fire or explosion, as a result of the introduction of an ignition source (the diesel engine) into an environment that may contain methane gas. Poor fuel handling and fuel transfer procedures underground present significant fire hazards. Between 1979 and 1992, MSHA investigated 10 diesel-equipment-related fires in underground coal mines. Because of the methane gas and coal dust present in the underground coal mining environment, any fire presents a significant risk of loss of life. Without rules for the design, use, and maintenance of diesel-powered equipment, the Agency also lacks an effective means to regulate health and safety hazards associated with diesel equipment.

Under current regulations, diesel-powered equipment is not required to have a number of important safety features that have long been required on electric equipment, such as cabs and canopies (which protect equipment operators from roof falls), automatic emergency parking brakes, and methane monitors, which shut equipment off when methane concentrations reach certain levels.

In July 1988, a Federal advisory committee convened by the Secretary of Labor made recommendations to the Secretary concerning safety and health standards for the use of diesel-powered

equipment in underground coal mines. Based on those recommendations, in 1989 MSHA published a proposed rule that: included criteria for the approval of diesel engines and other related equipment; addressed exposure limits, monitoring, and recordkeeping requirements for certain diesel emissions; and provided corresponding safety standards for the use of diesel-powered equipment in underground coal mines, including the safe storage and transport of diesel fuel and the training of mechanics. MSHA is working on a final rule which will provide increased protection for miners, allow for flexibility in control technology, and minimize recordkeeping requirements.

Alternatives: On January 6, 1992, MSHA published an advance notice of proposed rulemaking soliciting comments on the potential health effects from occupational exposure to diesel exhaust particulates, especially in the closed environment of the underground mine. MSHA has decided to continue to address the potential health effects from exposure to diesel particulates in a separate rulemaking.

MSHA considered third-party testing and certification of the results as an alternative to MSHA testing for the approval of diesel-powered equipment. The final rule may contain a combination of approaches to address this issue.

Anticipated Costs and Benefits: The scope and nature of the final rule is currently under development and, thus, final estimates of costs and benefits have not been determined. MSHA had made a preliminary assessment in 1989 that the proposed rule would have had an incremental annual impact of over

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Final Rule Stage

\$20 million on the mining industry. Subsequent estimates, however, project the incremental annual cost to be from \$16 million to \$35 million, depending upon the alternatives selected.

MSHA projects that one benefit of implementing this regulatory protection will be a reduction in the risk of fires and explosions, and corresponding injuries, resulting from the use of diesel-powered equipment in underground gassy mines, as well as a reduction in the incidence of potential adverse health effects that result from exposure to diesel exhaust.

The final rule also will encourage the use of advanced diesel technology, such as flame arresters, spark arresters, water scrubbers, and exhaust filters in the approval of diesel engine design, all of which would improve the safety and health of miners. Also, because some hazards are currently addressed in the mine ventilation plan, the final rule will reduce the resources and paperwork associated with the submission and approval of this aspect of the ventilation plan. It also will provide for more uniform requirements, resulting in more consistent enforcement.

Risks: The use of diesel-powered equipment in underground coal mines poses a risk of fire or explosion by introducing an ignition source through the engine itself and from the underground handling and storage of diesel fuel. Without rules for the design, use, and maintenance of diesel-powered equipment, the Agency lacks an effective means to control safety and health hazards associated with diesel-powered equipment in the confined environment of the underground coal mine.

Timetable:

Action	Date	FR Cite
NPRM	10/04/89	54 FR 40950
NPRM Comment Period End	05/10/91	56 FR 13404
Final Action	06/00/96	

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, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203

Phone: 703 235-1910

RIN: 1219-AA27

1936. HAZARD COMMUNICATION

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Today's complex mining environment subjects miners to well-known hazards, such as coal mine dust and crystalline silica; to emerging hazards, including hazardous wastes burned as fuel supplements at cement kilns; and to changing hazards from the many chemicals brought onto mine property. This rule would provide miners with the means to receive necessary information on the hazards of chemicals to which they are exposed and the actions necessary to protect them from such hazards. In developing this rule, MSHA has reviewed OSHA's hazard communication standard, information collected by NIOSH, and public comments. For its final rule, MSHA intends to publish a user-friendly regulation which will facilitate compliance by mine operators, while providing increased health and safety protection to miners.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/88	53 FR 10257
ANPRM Comment Period End	07/31/88	
NPRM	11/02/90	55 FR 46400
NPRM Comment Period End	01/31/92	56 FR 48720
Final Action	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standard, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203

Phone: 703 235-1910

RIN: 1219-AA47

1937. AIR QUALITY, CHEMICAL SUBSTANCES, AND RESPIRATORY PROTECTION STANDARDS

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 58; 30 CFR 70; 30 CFR 71; 30 CFR 72; 30 CFR 75; 30 CFR 90

Legal Deadline: None

Abstract: The Mine Safety and Health Administration's (MSHA's) current air quality standards for exposure to hazardous airborne contaminants were promulgated over 20 years ago. They do not fully protect today's miners, who are potentially exposed to an array of toxic chemicals, including lead, cyanide, arsenic, benzene, asbestos, and other well-documented hazards. Some miners have developed occupational illness (e.g., lead poisoning, acute cyanide poisoning, and silicosis) as a result of their exposure. The proposed rule would update permissible exposure limits (PELs) applicable to hazards encountered in metal and nonmetal and coal mines, revise requirements for exposure monitoring, improve precautions for handling restricted-use chemicals, provide for miner observation of monitoring, and establish provisions for medical surveillance and transfer of miners required to use respirators and miners exposed to certain carcinogens. At this point, MSHA is exploring issuing the final rule in phases. For this phase of the final rule, MSHA is considering alternatives which may address PELs applicable to some of the most serious hazards found in metal and nonmetal and coal mines, thereby expediting the rulemaking and providing for more immediate protection. This phase may include provisions in addition to PELs, e.g., respiratory protection. MSHA has concluded that a gradual phase-in of provisions in the air quality rulemaking will be less burdensome for the industry and provide more immediate protection for the miners exposed to the most serious hazards.

Timetable:

Action	Date	FR Cite
ANPRM	07/06/83	48 FR 31171
ANPRM	11/19/85	50 FR 47702
NPRM	08/29/89	54 FR 35760
NPRM Comment Period End	08/30/91	56 FR 29201
Final Action	07/00/96	

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

DOL—MSHA

Final Rule Stage

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RIN: 1219-AA48

1938. LONGWALL EQUIPMENT (INCLUDING HIGH-VOLTAGE)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: Since 1970 MSHA regulations have required that high-voltage cables and transformers be kept at least 150 feet from the coal extraction area. The objective of this requirement is to prohibit the use of high-voltage cables and equipment that could serve as an ignition source for methane and coal dust in close proximity to the work area.

The modern development of highly productive longwall mining systems has resulted in their widespread use in the mining industry. Mine operators, however, currently must apply to MSHA for a variance from the existing standards in order to use this high-voltage equipment. The increased use of high-voltage longwalls in underground coal mines in recent years has led to the design of safe high-voltage electrical equipment and associated cables. These improvements have occurred specifically in the area of design and construction of explosion-proof equipment; insulation, short circuit, ground fault, and mechanical protection of cables; and equipment for safe handling of cables. For these reasons, in August 1992 MSHA published a proposed rule to establish safety requirements for the design, construction, installation, use, and maintenance of high-voltage longwall equipment and associated cables. The proposal would eliminate the need for a variance to use this equipment.

Statement of Need: Because of the existing regulatory prohibition against using high-voltage cables and

transformers within 150 feet of the extraction area, underground coal mine operators who wish to use high-voltage longwall equipment must apply for a variance from the standard. Over the years, MSHA has granted high-voltage longwall variances which require that the mine operator comply with certain requirements, including the use of explosion-proof high-voltage equipment, specially designed cable, cable-handling systems, and state-of-the-art ground fault and short-circuit protective devices. Since 1985 MSHA has granted about 90 variances for use of high-voltage longwalls and has denied only one. Since 1992, when the proposed rule was published, MSHA has granted about 33 variances for use of high-voltage longwalls.

The variance process involves substantial costs to the industry and MSHA. Most mine operators engage an attorney to prepare and submit a variance for the use of high-voltage longwall equipment. This part of the process alone can cost thousands of dollars. After receipt of the variance, MSHA processes the request, publishes a brief description in the Federal Register, has an inspector conduct an onsite investigation and prepare a report to the Administrator, and prepares a Proposed Decision and Order. Costs are incurred by industry in order to submit the appropriate documentation to support the variance. Agency costs are associated with processing, publication, and investigation of variances.

Alternatives: MSHA intends to revise its regulations to allow underground coal mine operators to use high-voltage longwall equipment and associated cables. The regulations would be based on the Agency's experience with variances, and would require the use of properly designed and constructed equipment and cables, as well as electrical and mechanical protective devices.

Anticipated Costs and Benefits: It is estimated that the rule would result in a cost savings. In the absence of the need to apply for variances, mine operators wishing to use high-voltage longwall equipment would realize reduced paperwork and significant savings associated with legal and administrative costs. In addition, high-voltage longwall equipment could be installed without waiting for MSHA to approve a variance. The normal length

of time for preparing and processing a variance and issuing a decision is about 6 months to a year; but, on occasion, the entire process has taken several years. Eliminating the need to process and investigate variances would increase the resources available to both industry and MSHA personnel that could be directed to the proper installation, inspection, and maintenance of the equipment.

High-voltage longwall systems improve miners' safety from electrical hazards through improved technology in the areas of cable design and construction, circuit and equipment electrical protection, and cable handling and support systems. Additional benefits are realized from the convenient location of disconnect devices for the purpose of performing electrical work, and the use of barriers and interlock switches in electrical equipment to help guard against accidental contact with energized circuits.

Risks: The mining industry, through the variance process, has been using high-voltage longwalls and associated cables since 1985. The Agency is unaware of any accidents attributable to the use of such equipment allowed under conditions approved through the variance process.

Timetable:

Action	Date	FR Cite
NPRM	08/27/92	57 FR 39036
NPRM Comment Period End	11/13/92	57 FR 46350
Reopen Record	10/18/95	60 FR 53891
Extended Comment Period	11/14/95	60 FR 57203
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

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Phone: 703 235-1910

RIN: 1219-AA75

1939. SINGLE-SHIFT SAMPLING NOTICE

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 842(f)

CFR Citation: Not yet determined

DOL—MSHA

Final Rule Stage

Legal Deadline: None

Abstract: The Secretaries of Labor and Health and Human Services have issued a joint proposed finding that the average concentration of respirable dust to which each miner is exposed can be measured accurately over a single shift. This joint finding would also rescind their earlier joint finding published in July 1971 and affirmed in February 1972. MSHA believes that enforcement based on single, full-shift samples will enhance mine operators' compliance with the requirement to maintain the average concentration of respirable dust in the mine atmosphere during each shift where miners work or travel at or below the applicable standard.

Timetable:

Action	Date	FR Cite
Notice of Coal Mine Respirable Dust Standard Noncompliance Determinations	02/18/94	59 FR 8356
Notice of Extension of Comment Period to 5/20/94	04/08/94	59 FR 16958
Notice of Public Hearing	06/06/94	59 FR 29348
Notice of Public Hearing	07/07/94	59 FR 34868
Notice of Extension of Comment Period; Close of Record 9/30/94	08/01/94	59 FR 38988
Notice Re-opening Record	03/12/96	61 FR 10012
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203

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RIN: 1219-AA82

1940. SAFETY STANDARDS FOR EXPLOSIVES AT METAL AND NONMETAL MINES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: MSHA's final rule will address changes to safety standards for the use of explosives at metal and nonmetal mines. This rule arises from on-going litigation and the Agency's enforcement experience with the current explosives standards.

Timetable:

Action	Date	FR Cite
NPRM	01/05/95	60 FR 1866
NPRM Comment Period End	03/06/95	
Final Action	04/00/96	

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, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203

Phone: 703 235-1910

RIN: 1219-AA84

1941. FIRST-AID AT METAL AND NONMETAL MINES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: Existing standards for metal and nonmetal mines require that selected supervisors be trained in first aid and that first-aid training be made available to all interested persons. The intent of this standard was to ensure that, in the event of an emergency, a person competent to administer first aid was available at the mine site during each working shift. MSHA recognizes that there are persons highly trained and competent to administer first aid other than supervisors; yet, the standard, as written, does not allow the mine operator this flexibility. MSHA, therefore, is developing a proposed rule to revise this standard to remove the requirement that selected supervisors have to be trained in first aid, and to substitute the requirement that a person trained and capable of administering first aid be available at the mine on all shifts. This proposal would be consistent with a petition for rulemaking submitted to the Secretary by a large segment of the mining industry. A public hearing is requested.

Timetable:

Action	Date	FR Cite
NPRM	10/27/95	60 FR 55150
NPRM Comment Period End	12/11/95	
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219-AA97

DEPARTMENT OF LABOR (DOL)

Long-Term Actions

Mine Safety and Health Administration (MSHA)

1942. CONFINED SPACES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 70; 30 CFR 71; 30 CFR 75; 30 CFR 77

Legal Deadline: None

Abstract: In mining operations, the majority of the fatalities associated with confined spaces occur in storage bins, hoppers, tanks, and stockpiles. The primary hazards to miners occur from

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Long-Term Actions

being trapped by shifting piles of loose materials, falling into materials, and being struck by overhanging materials. Due to the many chemicals used and stored in mining, the toxic and physical hazards encountered in mining are identical to those confined space hazards that exist in general industry. MSHA intends to explore both regulatory and non-regulatory options to address the hazards associated with working in confined spaces at mines.

Timetable:

Action	Date	FR Cite
ANPRM	12/30/91	56 FR 67364
ANPRM Comment Period End	05/01/92	57 FR 8102
NPRM	00/00/00	

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, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203

Phone: 703 235-1910

RIN: 1219-AA54

1943. CARBON MONOXIDE MONITOR APPROVAL

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 12

Legal Deadline: None

Abstract: The use of carbon monoxide monitoring systems in underground coal mines can be effective in monitoring mine atmospheres to detect fires in the early stages of development. This rulemaking would address minimum performance criteria for these systems. MSHA intends to explore the use of negotiated rulemaking to address this regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

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, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203

Phone: 703 235-1910

RIN: 1219-AA72

1944. DECERTIFICATION OF CERTIFIED AND QUALIFIED PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 42; 30 CFR 48; 30 CFR 70; 30 CFR 71; 30 CFR 75; 30 CFR 77; 30 CFR 90

Legal Deadline: None

Abstract: MSHA regulations require the certification or qualification of individuals to perform certain tasks at mines. However, the Agency has no formal procedures for revoking a person's certification or qualification when evidence indicates that the individual has not adhered to required regulatory procedures. The final rule would establish generic procedures for decertification of individuals who no longer meet the requirements to be certified or qualified, or who have failed to comply with the regulations in their role as a certified or qualified person.

Timetable:

Action	Date	FR Cite
NPRM	11/02/94	59 FR 54855
NPRM Comment Period End	02/06/95	59 FR 60101
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203

Phone: 703 235-1910

RIN: 1219-AA79

1945. METAL/NONMETAL IMPOUNDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: Water, sediment, and slurry impoundments for metal and nonmetal mining and milling operations are located throughout the country, and

some are within flood range of homes and well traveled roads. Failure of an impoundment could endanger lives and cause property damage. This rulemaking addresses, among other issues, proper design and construction of impoundments. MSHA intends to explore negotiated rulemaking to address this action.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

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, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203

Phone: 703 235-1910

RIN: 1219-AA83

1946. INDEPENDENT LABORATORY TESTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 6; 30 CFR 18; 30 CFR 19; 30 CFR 20; 30 CFR 21; 30 CFR 22; 30 CFR 23; 30 CFR 24; 30 CFR 26; 30 CFR 27; 30 CFR 28; 30 CFR 29; 30 CFR 33; 30 CFR 35

Legal Deadline: None

Abstract: To ensure that only safe products are used in mines, MSHA sets approval requirements and tests products itself. This rulemaking would allow MSHA to accept testing of certain mine equipment performed by independent laboratories. It also would allow MSHA to approve products which satisfied alternative testing and evaluation requirements, provided that the alternative requirements were equivalent to MSHA's own, or could be enhanced to be equivalent. By reducing its testing activities, MSHA could direct more resources toward verifying that products in use have been manufactured in compliance with the relevant approval. This rulemaking is consistent with a recommendation of

DOL—MSHA

Long-Term Actions

the National Performance Review. Public hearing scheduled for November 1995 was cancelled due to funding lapse. The hearing will be rescheduled.

Timetable:

Action	Date	FR Cite
NPRM	11/30/94	59 FR 61376
NPRM Comment Period End	02/21/95	
Public Hearing Notice	10/10/95	60 FR 52640
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203

Phone: 703 235-1910

RIN: 1219-AA87

1947. SAFETY STANDARDS FOR METHANE IN METAL AND NONMETAL MINES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: Current MSHA regulations place metal and nonmetal mines with a history of, or a potential for, methane liberation (gassy mines) into several categories. Safety standards for methane detection and prevention apply to a mine depending on its category. Recent legal decisions have narrowed the application of existing gassy mine standards, leading MSHA to conclude that the standards may need to be revised to protect adequately all miners who work in gassy mines. This action would revise the existing safety standards for methane in metal and nonmetal mines to address dangerous levels of methane in outburst cavities in abandoned, idle, and worked out areas of category II-A mines. It would further address the use of approved equipment in category III mines. The Agency is exploring the use of negotiated rulemaking to address this issue.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203

Phone: 703 235-1910

RIN: 1219-AA90

1948. REQUIREMENTS FOR APPROVAL OF FLAME-RESISTANT CONVEYOR BELTS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957; 30 USC 811

CFR Citation: 30 CFR 14; 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: The final rule would implement new procedures and requirements for testing and approval of flame-resistant conveyor belts to be used in underground mines. These revisions would replace the existing flame test for conveyor belts. Current regulations require that conveyor belts be flame resistant in accordance with specifications of the Secretary. As part of this rulemaking, the Agency also would promulgate conforming amendments to safety standards.

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61524
NPRM Comment Period End	03/26/93	58 FR 8028
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203

Phone: 703 235-1910

RIN: 1219-AA92

1949. • IMPROVING AND ELIMINATING REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in

the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR ch 1

Legal Deadline: None

Abstract: In response to the President's directive, the Mine Safety and Health Administration (MSHA) conducted a review of its existing regulations to identify provisions that are outdated, redundant, unnecessary, or otherwise in need of changing. Many of the changes require notice and comment rulemaking while other non-substantive changes can be implemented upon publication. So far, the Agency has identified nine regulations that could be removed entirely without any adverse impact on miner safety and health. In general, these regulations are obsolete or redundant. MSHA also has identified provisions in over 80 other regulations that need overhauling or the cleanup of non-substantive language. MSHA considers this project to be an evolving, ongoing process and will continue to accept recommendations from the public as the review progresses.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: As part of its regulatory improvement project, MSHA published final technical amendments updating addresses in 30 CFR Chapter 1 on July 11, 1995 (60 FR 35692).

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RIN: 1219-AA98

1950. • RESPIRABLE DUST STANDARD FOR UNDERGROUND AND SURFACE COAL MINES; NIOSH CRITERIA DOCUMENT

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 70; 30 CFR 71

Legal Deadline: None

DOL—MSHA

Long-Term Actions

Abstract: The Mine Safety and Health Administration (MSHA) received a criteria document from the National Institute for Occupational Safety and Health (NIOSH) entitled "Criteria for a Recommended Standard: Occupational Exposure to Respirable Coal Mine Dust" (criteria document). The NIOSH criteria document contains a number of recommendations, including a reduction of the existing MSHA permissible exposure limit (PEL) for respirable coal mine dust. In addition, NIOSH recommends a separate PEL for respirable crystalline silica. The Federal Mine Safety and Health Act of 1977 (Mine Act) obligates MSHA to issue a public response to the NIOSH criteria document. This proposed rule is MSHA's response to the NIOSH criteria document. It would revise MSHA's existing PEL for respirable coal mine dust and would establish a separate PEL for respirable crystalline silica as recommended by NIOSH. The scientific justification for MSHA's proposal is based upon the health effects evidence in the NIOSH criteria document.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219-AA99

1951. • SAFETY STANDARDS FOR ROOF BOLTS IN METAL AND NONMETAL MINES AND UNDERGROUND COAL MINES

Priority: Other Significant

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

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 75

Legal Deadline: None

Abstract: MSHA is revising its safety standards for metal and nonmetal mines and underground coal mines by substituting a new reference to the 1995 ASTM standard for roof bolts and accessories (ASTM F432-95). The new standard reflects technological advances in the design of roof and rock bolts and support materials and would improve the level of protection provided to miners. The safety standards for ground control and roof control at mines currently require that

mine operators obtain a certification from the manufacturer that rock bolts and accessories are manufactured and tested in accordance with an American Society for Testing and Material (ASTM) publication "Standard Specification for Roof and Rock Bolts and Accessories." MSHA regulations reference the 1983 revision (ASTM F432-83 for metal and nonmetal mines and the 1988 revision (ASTM 432-88) for coal mines. The ASTM standard is a consensus standard used throughout the United States. It contains specifications for the chemical, mechanical, and dimensional requirements for roof and rock bolts and accessories used for ground support systems.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

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, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219-AB00

DEPARTMENT OF LABOR (DOL)

Completed Actions

Mine Safety and Health Administration (MSHA)

1952. UNDERGROUND COAL MINE VENTILATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: The final rule revises certain provisions of MSHA's ventilation standards for underground coal mines. Proper mine ventilation provides basic protection against mine explosions involving methane gas and coal dust

and against unhealthy concentrations of airborne contaminants. The application of 3 provisions of the existing rule had been stayed. The final rule revised the stayed and other provisions to respond to the mining community and improve the protections provided to miners.

Timetable:

Action	Date	FR Cite
Extension of Administrative Stay	12/30/93	58 FR 69312
NPRM	05/19/94	59 FR 26356
NPRM Comment Period End	08/08/94	59 FR 35071
Notice of Public Hearing and Extension of Comment Period to	08/17/94	59 FR 42193
	11/18/94	

Action	Date	FR Cite
Final Action	03/11/96	61 FR 9764
Final Action Effective	06/10/96	

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, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219-AA11

DEPARTMENT OF LABOR (DOL)**Long-Term Actions****Office of the Assistant Secretary for Administration and Management (OASAM)****1953. DEPARTMENT OF LABOR ACQUISITION REGULATIONS****Priority:** Other**Legal Authority:** 5 USC 301; 40 USC 486(c)**CFR Citation:** 48 CFR 2900 to 2999**Legal Deadline:** None**Abstract:** Revisions to DOLAR reflect changes in the Federal Acquisition Regulations and organizational changes within DOL.**Timetable:** Next Action Undetermined**Small Entities Affected:** Businesses**Government Levels Affected:** None**Procurement:** This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.**Additional Information:** Revision of the Department of Labor Acquisition Regulation is awaiting the final publication of revisions to the Federal Acquisition Regulation as the result of changes being implemented pursuant to passage of the Federal Acquisition Streamlining Act of 1994 enacted October 13, 1994.**Agency Contact:** Melvin Goldberg, Director, Office of Procurement and Grant Policy, Department of Labor, Office of the Assistant Secretary for

Administration and Management, 200 Constitution Avenue NW., Room N5425, FP Bldg., Washington, DC 20210

Phone: 202 219-9174

RIN: 1291-AA20**1954. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE DEPARTMENT OF LABOR****Priority:** Substantive, Nonsignificant**Legal Authority:** 42 USC 6101 et seq Age Discrimination Act of 1975**CFR Citation:** 45 CFR 90**Legal Deadline:** NPRM, Statutory, September 10, 1979.

45 CFR 90 requires publication of the NPRM no later than 90 days after publication of government-wide rule, and submission to HHS of final rule within 120 days of NPRM.

Abstract: The proposed regulatory action is necessary to comply with the Department's statutory and regulatory obligations under the Age Discrimination Act of 1975, as amended (the "Act"). The Act and the general, government-wide implementing rule issued by the Department of Health and Human Services (HHS) (45 CFR 90) require each Federal agency providing financial

assistance to any program or activity to publish proposed regulations implementing the Act no later than 90 days after the publication date of the government-wide rule, and to submit final agency regulations to HHS no later than 120 days after publication of the NPRM. As a practical matter, while DOL has not issued proposed or final regulations under the Age Discrimination Act, it has complied with its enforcement obligations. Furthermore, discrimination on the basis of age is prohibited under Section 167 of the Job Training Partnership Act of 1982, and the implementing regulations at 29 CFR 34.

Timetable:

Action	Date	FR Cite
NPRM	04/00/97	

Small Entities Affected: None**Government Levels Affected:** None**Agency Contact:** Annabelle T. Lockhart, Director, Directorate of Civil Rights, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room N4123, FP Building, Washington, DC 20210
Phone: 202 219-8927**RIN:** 1291-AA21**DEPARTMENT OF LABOR (DOL)****Proposed Rule Stage****Occupational Safety and Health Administration (OSHA)****1955. STEEL ERECTION (PART 1926) (SAFETY PROTECTION FOR IRONWORKING)****Priority:** Economically Significant**Reinventing Government:** This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.**Legal Authority:** 29 USC 655; 40 USC 333**CFR Citation:** 29 CFR 1926.750 (Revision); 29 CFR 1926.751 (Revision); 29 CFR 1926.752 (Revision)**Legal Deadline:** None**Abstract:** On December 29, 1992, the Occupational Safety and Health Administration (OSHA) announced its intention to form a negotiated

rulemaking advisory committee to negotiate issues associated with a revision of the existing steel erection standard. Four of the primary issues to be negotiated include the need to expand the scope and application of the existing standard, construction specifications and work practices, written construction safety erection plan, and fall protection. The Steel Erection Negotiated Rulemaking Advisory Committee (SENRAC), a 20-member committee, was established, and the SENRAC charter was signed by Secretary Reich on May 26, 1994. The first meeting was held in the Washington area on June 14-16, 1994, and the Committee has met nine times since.

The negotiated rulemaking process has been successful in bringing together the interested parties that will be affected

by the proposed revision to the steel erection rule to work out contrasting positions, find common ground on the major issues, and achieve consensus on a proposed rule. The use of this process and a neutral facilitator allowed the stakeholders to develop an ownership stake in the proposal that they would not have had without the use of this process.

The process has led to a draft revision to Subpart R of 29 CFR 1926 that contains innovative provisions that will help to minimize the major causes of steel erection injuries and fatalities. Many of these provisions could not have been developed without this process, which has brought together industry experts, via face-to-face negotiations, to discuss different approaches to resolving the issues. This process has proved mutually beneficial

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to all the parties involved (including OSHA), with each Committee member participating in resolving the issues and developing practical and effective rules to make the steel erection industry safer.

The Agency benefitted from this process by having industry members participate and add to the Agency's knowledge about steel erection. Also, the Agency has been able to work together constructively with the various parties and has avoided the adversarial environment that sometimes develops during OSHA rulemaking. The negotiated rulemaking process will enable the Agency to publish a proposal and go from proposal to final rule more quickly and with less controversy than would otherwise have been possible.

Statement of Need: In 1989, OSHA was petitioned by the Iron Workers Union and National Erectors Association to revise its construction safety standard for steel erection through the negotiated rulemaking process. OSHA asked an independent consultant to review the issues involved in a steel erection revision, render an independent opinion, and recommend a course of action to revise the standard. The consultant recommended that OSHA address the issues by using the negotiated rulemaking process. Based on the consultant's findings and the continued requests for negotiated rulemaking, OSHA decided to use the negotiated rulemaking process to develop a proposed revision of Subpart R. The use of negotiated rulemaking was thought to be the best approach to resolving steel erection safety issues, some of which have proven intractable in the past.

Alternatives: An alternative to using the negotiated rulemaking process is to publish a notice of proposed rulemaking developed by Agency staff and consider the concerns of the affected interests through the public comment and public hearing process. It is anticipated that using this alternative would result in an extremely long and contentious rulemaking proceeding, with subsequent challenge in the Court of Appeals. This alternative was therefore rejected. Another alternative would be not to revise the Agency's current steel erection rules for construction. This alternative was rejected because it

would permit steel erection-related injuries and fatalities to continue.

Anticipated Costs and Benefits: The scope and nature of the proposed rule are currently under development, and thus estimates of costs and benefits have not been determined at this time. Costs are not likely to exceed \$100 million annually, and benefits will include the prevention of numerous fatalities and hundreds of injuries associated with steel erection activities.

Risks: The magnitude of the risk associated with steel erection activities is great. It is estimated that about 40 workers are killed every year during steel erection activities. Falls are currently the number one killer of construction workers, and since the erection of buildings necessarily involves high exposure to fall hazards, the central focus of this rule will be to eliminate or reduce the risks associated with falls. All other construction trades are afforded a higher level of protection from falls by other rules in the construction safety and health standards.

Timetable:

Action	Date	FR Cite
Notice of Committee Establishment	05/11/94	59 FR 24389
NPRM	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218-AA65

1956. RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES (SIMPLIFIED INJURY/ILLNESS RECORDKEEPING REQUIREMENTS)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 657; 29 USC 673

CFR Citation: 29 CFR 1904.1

Legal Deadline: None

Abstract:

Over the years, concerns about the reliability and utility of injury and illness data derived from the employer-maintained OSHA records have been raised by Congress, NIOSH, BLS, the National Statistics (BLS), the National Academy of Sciences, the Office of Management and Budget (OMB), the General Accounting Office, business, and labor, as well as OSHA. In the late 1980s, to facilitate national policy dialogues, OSHA brought together representatives of industry, labor, government, and academia in a year-long effort to discuss problems with OSHA's injury and illness recordkeeping system. Keystone issued a report with specific recommendations on how to improve the system. Despite this effort, a regulatory revision was not formally begun. Earlier this year OSHA initiated an intensified effort to revive the revision process. Several meetings were again held with stakeholders from business, labor, and government in order to obtain feedback on a draft OSHA recordkeeping proposal and to gather related information. As a result of these meetings, OSHA is now planning to issue a proposed rule that will contain revised recordkeeping requirements, new recordkeeping forms, and new interpretive material to improve the Nation's injury and illness statistics, simplify the injury and illness recordkeeping system, and reduce the burden of the new rule on employers. Benefits will include: (1) a system that is more compatible with modern computer technology and is easier for employers, employees and government to use; (2) more reliable and useful records; (3) for the first time, comprehensive injury and illness records for construction sites; and (4) greater employee involvement in and awareness of safety and health matters.

Statement of Need: A revision to OSHA's outdated recordkeeping system has been contemplated for some time. The process of revision originated in BLS in 1987 and moved in 1990 to OSHA, when the recordkeeping function was transferred to the Agency. The proposed rule reflects the input of many stakeholders, including OSHA field and national office staff, the participants in the 1987 Keystone policy dialogue, staff from other government agencies (BLS, MSHA, the

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Federal Railroad Administration (FRA) NIOSH and the States), and members of OSHA's advisory committees. OSHA has discussed the proposed revision with thousands of employers and representatives of the safety/health community in over 100 presentations for employer groups, trade associations, safety councils, and union groups.

Recently, OSHA shared copies of the draft proposal with stakeholders from labor, industry, trade associations, and other government agencies. The proposal also was reprinted in several occupational safety and health trade publications, and OSHA held two stakeholder meetings to discuss the proposal and obtain feedback. As a result of this recent stakeholder input, OSHA made over 50 changes to the document. Although the various stakeholders did not agree on every detail of the proposal, OSHA is confident that the multiphase process followed in developing this proposal has resulted in substantial agreement on the issues and consensus on the desirability of publishing the proposal in the *Federal Register* to enable OSHA to obtain input from the public at large.

The occupational injury and illness records maintained by employers are an important component of OSHA's program. The records are used by employers and employees to discover and evaluate workplace safety and health hazards, and they provide OSHA personnel with necessary information during workplace inspections. The records also provide the source data for the Annual Survey of Occupational Injuries and Illnesses conducted by the BLS.

The records have their greatest value when they are used by employers and employees to manage and develop workplace safety and health programs. These records are an effective way to quantify a firm's injury and illness experience. When problems are quantified and presented to employers and employees, they are much more likely to be solved. Hazardous conditions, departments and jobs also can be identified by reviewing injury and illness records. Once hazards are discovered and corrective actions are taken, the records can be used to monitor the effectiveness of control approaches taken. Employers and employees can also use injury and illness records to develop and operate safety and health programs. When

information on workplace injuries and illnesses is not available or is incorrect, the ability to identify problems and take corrective action is diminished.

The Government also has several uses for injury and illness records. These records are used by OSHA safety and health inspectors during worksite visits to highlight potential problems that require additional scrutiny. The records are the source documents for the Bureau of Labor Statistics Annual Survey of Occupational Injuries and Illnesses, the nation's primary source of information on workplace injury and illness. The resulting statistics on the frequency, rate, and factors contributing to job-related injury and illness are used to measure the performance of the Nation's safety and health policies, determine regulatory actions, and provide a point of comparison for an individual company's safety and health performance. The statistics are also used by NIOSH, academia, and other safety and health researchers to determine trends, discover emerging occupational conditions, and evaluate occupational safety and health policies.

The records will also be the source documents for OSHA's data collection initiative. This program will allow OSHA to use limited resources to focus intervention efforts (e.g., consultation, training, outreach, and enforcement) on worksites with the highest injury and illness rates. The data collection initiative will also provide OSHA with a means for measuring its performance in terms of outcomes—changes in workplace injury and illness—rather than activities.

Alternatives: One alternative to publication of the proposed revision is to take no action and continue to administer the injury and illness recordkeeping system using the current regulation, forms and guidelines. Another alternative is to publish the proposal without changing the coverage and scope of the rule (i.e., continue the current rule's small employer and Standard Industrial Classification exemptions).

The first alternative is unacceptable because it does not address the recognized problems of the current system. The second alternative is also unacceptable. Evaluation of the most current injury and illness data available shows that modification of the existing coverage (of small employers and employers in certain Standard

Industrial Classification Codes) will lead to the collection of more injury and illness information and reduce the paperwork burden on employers with smaller-sized establishments and those operating in less hazardous private industry sectors.

Anticipated Costs and Benefits: The average establishment affected by the proposed changes to the recordkeeping requirements would incur a net reduction in recordkeeping costs. Thus the proposed rule will not impose adverse economic impacts on firms in the regulated community. The proposed exemption from the regulation of all nonconstruction establishments with fewer than 20 employees will mean that small entities are likely to experience the greatest cost savings.

Risks: Benefits will include: (a) a system that is more compatible with and easier for government to use; (b) more reliable and useful records; (c) construction sites; and (d) greater employee involvement.

Timetable:

Action	Date	FR Cite
NPRM	02/02/96	61 FR 4030
NPRM Comment Period End	05/02/96	
Final Action	10/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Sectors Affected: All

Agency Contact: Stephen A. Newell, Director, Office of Statistics, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3507, FP Building, Washington, DC 20210
Phone: 202 219-6463

RIN: 1218-AB24

1957. COMPREHENSIVE OCCUPATIONAL SAFETY AND HEALTH PROGRAMS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655

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CFR Citation: 29 CFR 1910; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918; 29 CFR 1926; 29 CFR 1928

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA), many of the States, members of the safety and health community, insurance companies, professional organizations, companies participating in the Agency's Voluntary Protection Program, and many proactive employers in all industries have recognized the value of worksite-specific safety and health programs in preventing job-related injuries, illnesses, and fatalities. The effectiveness of these programs is seen most dramatically in the reductions in job-related injuries and illnesses, workers' compensation costs, and absenteeism that occur after employers implement such programs. To assist employers in establishing safety and health programs, OSHA in 1989 (54 FR 3904) published nonmandatory guidelines that were based on a distillation of the best safety and health management practices observed by OSHA in the years since the Agency was established. OSHA's decision to expand on these guidelines by developing a safety and health programs rule is based on the Agency's recognition that occupational injuries, illnesses, and fatalities are continuing to occur at an unacceptably high rate. In fact, in the most recent year for which data are available--1993--fatalities rose by 1.7 percent over 1992, and injuries and illnesses continued at approximately the same rate as in the past.

Although the precise scope of the standard (e.g., what industries will be covered, what sizes of firms will be covered) has not yet been determined, the safety and health programs contained in the proposed rule will include at least the following elements: management leadership of the program; active employee participation in the program; analysis of the worksite to identify safety and health hazards of all types; requirements that employers eliminate or control those hazards in an effective and timely way; safety and health training for employees, supervisors, and managers; and regular evaluation of the effectiveness of the safety and health program. In addition, in response to preliminary meetings with OSHA stakeholders, the Agency has decided to incorporate several

program elements into this rule that were under consideration for separate rulemaking action. These elements include exposure assessment and medical surveillance for workers exposed to chemical hazards in their places of work. In the last Regulatory Plan (see 59 FR 57138, November 14, 1994), for example, OSHA presented separate entries for a proposed rule addressing Exposure Assessment Programs for Employees Exposed to Hazardous Chemicals and for a proposed rule on Medical Surveillance Programs for Employees. At the present time, however, OSHA intends to address exposure assessment as part of the worksite analysis that will be required of employers by the proposed safety and health programs rule and to obtain additional input from stakeholders about the need for a medical surveillance module in this rulemaking. OSHA has also decided, in response to President Clinton's April 24, 1995, Regulatory Reinvention Initiative, to undertake a general consolidation of duplicative elements across current standards. For example, OSHA plans to consolidate hundreds of training and records maintenance provisions, that are currently found throughout OSHA's general industry, construction, and maritime standards, into the proposed safety and health programs rule. This means that, once the programs rule has been promulgated, all of the Agency's procedural requirements for training and records maintenance (e.g., who must be trained, how often training must be conducted, how long training records must be kept) will be found in one place--in the programs rule--rather than in hundreds of individual standards, as is current practice. In keeping with the President's directive, this regulatory consolidation will eliminate duplicative paperwork, make compliance easier for employers, and standardize the procedural aspects of training and records maintenance. OSHA is also developing a program evaluation directive and a program evaluation profile to be used by compliance officers to evaluate the completeness and effectiveness of an employer's safety and health program. Those employers who can demonstrate effective and comprehensive programs will receive penalty reductions for any cited violations found by the compliance officer. OSHA believes that the effect of these enforcement

initiatives, coupled with the regulatory requirements of the safety and health programs rule, will act as incentives to employers to establish safety and health programs that protect workers, enhance productivity, and decrease employer costs.

Statement of Need: Worksite-specific safety and health programs are increasingly being recognized as the most effective way of reducing job-related accidents, injuries, and illnesses. Ten States have to date passed legislation and/or regulations mandating such programs for some or all employers, and insurance companies have also been encouraging their client companies to implement these programs, because the results they have achieved have been so dramatic. In addition, all of the companies in OSHA's Voluntary Protection Program have established such programs and are reporting injury and illness rates that are sometimes only 20 percent of the average for other establishments in their industry. Safety and health programs apparently achieve these results by actively engaging front-line employees, who are closest to operations in the workplace and have the highest stake in preventing job-related accidents, in the process of identifying and correcting occupational hazards. Finding and fixing workplace hazards is a cost-effective process, both in terms of the avoidance of pain and suffering and the prevention of the expenditure of large sums of money to pay for the direct and indirect costs of these injuries and illnesses. For example, many employers report that these programs return between \$5 and \$9 for every dollar invested in the program, and almost all employers with such programs experience substantial reductions in their workers' compensation premiums. OSHA believes that having employers evaluate the job-related safety and health hazards in their workplace and address any hazards identified before they cause occupational injuries, illnesses, or deaths is an excellent example of "regulating smarter," because all parties will benefit: workers will avoid the injuries and illnesses they are currently experiencing; employers will save substantial sums of money and increase their productivity and competitiveness; and OSHA's scarce resources will be leveraged as employers and employees join together to identify, correct, and

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prevent job-related safety and health hazards.

Alternatives: In the last few years, OSHA has considered both nonregulatory and regulatory alternatives in the area of safety and health program management. First, OSHA published, in 1989, a set of voluntary management guidelines designed to assist employers to establish and maintain programs such as the one envisioned by the proposed safety and health programs rule. Although these guidelines have received widespread praise from many employers and professional safety and health associations, they have not been effective in stemming the growing tide of job-related deaths, injuries, and illnesses, which have continued to occur at unacceptably high levels. Many of the States have also recognized the value of these programs and have mandated that some or all covered employers establish them; however, this has led to inconsistent coverage from State-to-State, with many States having no coverage and others imposing stringent program requirements. OSHA believes that this experience clearly points to the need for a national regulation that will be consistent across State lines, will apply to all or to a clearly identified group of employers, will have provisions that are widely recognized as being effective, and will be cost-effective in implementation.

Anticipated Costs and Benefits: The scope and nature of the proposed rule are currently under development, and thus estimates of costs and benefits have not been determined at this time. Costs are likely to exceed \$1 billion annually, and benefits will include the prevention of many of the thousands of fatalities and millions of injuries and illnesses associated with a broad spectrum of occupational hazards.

Risks: Workers in all major industry sectors in the United States continue to experience an unacceptably high rate of occupational fatalities, injuries, and illnesses. In 1993, the latest year for which statistics are available, the Bureau of Labor Statistics reports that 5,590 fatalities and 6.7 million injuries and illnesses occurred within private industry. There is increasing evidence that addressing hazards in a piecemeal fashion, as employers tend to do in the absence of a comprehensive safety and health program, is considerably less

effective in reducing accidents than a systematic approach. Dramatic evidence of the seriousness of this problem can be found in the staggering workers' compensation bill paid by America's employers and employees: \$54 billion annually. These risks can be reduced by the implementation of safety and health programs, as evidenced by the experience of OSHA's Voluntary Protection Program participants, who regularly achieve injury and illness rates averaging one-fifth to one-third those of competing firms in their industries. Other benefits of reducing accidents include enhanced productivity, improved employee morale, and reduced absenteeism. Because these programs address all job-related hazards—including those that are covered by OSHA standards as well as those not currently addressed by these standards—the proposed rule will be effective in ensuring a systematic approach to the control of long-recognized hazards, such as lead, and emerging hazards, such as lasers and heat stress.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218-AB41

1958. OCCUPATIONAL EXPOSURE TO TUBERCULOSIS

Priority: Economically Significant

Legal Authority: 29 USC 655(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On August 25, 1993, the Occupational Safety and Health Administration (OSHA) was petitioned by the Labor Coalition to Fight TB in the Workplace to initiate rulemaking for a permanent standard to protect workers against occupational transmission of tuberculosis (TB). Although the Centers for Disease Control and Prevention (CDC) have

developed recommendations for controlling the spread of TB in several work settings (correctional institutions, health-care facilities, homeless shelters, long-term care facilities for the elderly, and drug treatment centers), the petitioners stated that in every recent TB outbreak investigated by the CDC noncompliance with CDC's TB control guidelines was evident. After reviewing the available information, OSHA has preliminarily concluded that significant risk of occupational transmission of TB does exist for some workers and has decided to initiate a standard 6(b) rulemaking. The Agency is currently developing a proposed rule which would require certain employers to take steps to eliminate or minimize employee exposure to TB. OSHA already regulates the biological hazard of bloodborne pathogens (e.g., HIV, hepatitis B) under 29 CFR 1910.1030 and believes that development of a TB standard is consistent with the Agency's mission and previous activity.

OSHA is currently pursuing a dialog with parties outside of the Agency with regard to the developing proposal. The draft preliminary Risk Assessment is being peer-reviewed by four individuals with specific knowledge in the areas of tuberculosis and risk assessment. One reviewer is from the Centers for Disease Control and Prevention (CDC) and three are from academia. In addition, OSHA is conducting stakeholder meetings with representatives of relevant professional organizations, trade associations, labor unions, and other groups. These meetings provide the opportunity for both general and frontline stakeholder representatives to present OSHA with their individual comments, observations, and concerns about the contents of the draft proposal. OSHA is also remaining cognizant of the activities of other Federal agencies relative to TB. In October of 1994, CDC published revised guidelines for protection against transmission of TB. Similarly, the National Institute for Occupational Safety and Health published new respirator certification procedures in June 1995. OSHA will give careful consideration to these documents during development of the proposed standard.

Statement of Need: For centuries, TB has been responsible for the deaths of millions of people throughout the world. TB is a contagious disease caused by the bacterium

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Mycobacterium tuberculosis. Infection is generally acquired by the inhalation of airborne particles carrying the bacterium. These airborne particles, called droplet nuclei, can be generated when persons with pulmonary or laryngeal tuberculosis in the infectious state of the disease cough, sneeze, speak, or sing. In some individuals exposed to droplet nuclei, TB bacilli enter the alveoli and establish an infection. In most cases, the bacilli are contained by the individual's immune response. However, in some cases, the bacilli are not contained by the immune system and continue to grow and invade the tissue, leading to the progressive destruction of the organ involved. While in most cases this organ is the lung (i.e., pulmonary tuberculosis), other organs outside of the lung may also be infected and become diseased (i.e., extrapulmonary tuberculosis).

From 1953, when active cases began to be reported in the United States, until 1984, the number of annual reported cases declined 74 percent, from 84,304 to 22,255. However, this steady decline in TB cases has not continued. Instead, from 1985 through 1992, the number of reported TB cases increased 20.1 percent. In 1992, more than 26,000 new cases of active TB were reported in the United States. In New York City alone, 3,700 cases of active TB were reported in 1991. Although a 5.1 percent decrease was observed in 1993, this number still represents a 14 percent increase over the number of cases reported in 1985. In addition to the resurgence of TB, strains of tuberculosis have emerged that are resistant to several of the first-line anti-TB drugs. This multidrug-resistant TB (MDR-TB) has a higher probability of being fatal due to the difficulty of halting the progression of the disease. Individuals with MDR-TB often remain infectious for longer periods of time due to delays in diagnosing resistance patterns and initiating proper treatment. This lengthened period of infectiousness increases the risk that the organism will be transmitted to other persons coming in contact with such individuals.

As the number of individuals with tuberculosis who require health care for the disease increases, so does occupational exposure to TB among health care workers. In fact, several outbreaks of tuberculosis, including MDR-TB, have recently occurred in health care facilities, resulting in

transmission to both patients and health care workers. CDC found that factors contributing to these outbreaks included delayed diagnosis of TB, delayed recognition of drug resistance, delayed initiation of effective therapy, delayed initiation and inadequate duration of TB isolation, inadequate ventilation in TB isolation rooms, lapses in TB isolation practices, inadequate precautions for cough-inducing procedures, and lack of adequate respiratory protection. CDC's analysis of data collected from three of the health care facilities involved in the outbreaks indicated that transmission of TB decreased significantly or ceased entirely in areas where recommended TB control measures were implemented.

Alternatives: Before deciding to publish a proposal, OSHA considered a number of options, including whether or not to develop an emergency temporary standard, publish an advance notice of proposed rulemaking, or enforce existing regulations.

Anticipated Costs and Benefits: Costs will be incurred by employers for engineering controls, respiratory protection, medical surveillance, training, exposure control, recordkeeping, and work practice controls. Benefits will include the prevention of occupationally related TB transmissions and infections, and a corresponding reduced risk of exposure among the general population. The scope and nature of the proposed rule are currently under development and thus estimates of costs and benefits have not been determined at this time.

Risks: Since 1985, the number of reported cases of TB in the United States increased, reversing a previous 30-year downward trend. In addition to the resurgence of TB, strains of multidrug-resistant TB have emerged which are even more likely to be fatal. Along with the increase of TB among the general population is an increased risk of occupational transmission to employees in work settings such as health care or correctional facilities who have contact with infectious individuals. TB is a contagious disease spread by airborne particles known as droplet nuclei. Active disease can cause signs and symptoms such as fatigue, weight loss, fever, night sweats, loss of appetite, persistent cough, and shortness of breath, and may possibly

result in serious respiratory illness or death.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210
Phone: 202 219-7075

RIN: 1218-AB46

1959. CONFINED SPACES FOR CONSTRUCTION (PART 1926) (CONSTRUCTION: PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: In January 1993, OSHA issued a general industry rule on preventing suffocation/explosions in confined spaces (58 FR 4462). This standard did not apply to the construction industry because of differences in the nature of the worksite. In discussions with the United Steel Workers of America on a settlement agreement for the general industry standard, OSHA agreed to issue a standard to extend the protection to construction workers, appropriate to their work environment. 1,000,000 construction workers are exposed to this hazard annually.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Russell B. Swanson, Director, Construction Standards,

DOL—OSHA

Proposed Rule Stage

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Phone: 202 219-8644

RIN: 1218-AB47

1960. GENERAL WORKING CONDITIONS IN SHIPYARDS (PART 1915, SUBPART F) (PHASE II) (SHIPYARDS: GENERAL WORKING CONDITIONS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.1 et seq; 29 CFR 1915.31 et seq; 29 CFR 1915.91 et seq; 29 CFR 1915.111 et seq; 29 CFR 1915.131 et seq; 29 CFR 1915.161 et seq; 29 CFR 1915.171 et seq; 29 CFR 1915.181; 29 CFR 1910.13 et seq; 29 CFR 1910.14; 29 CFR 1910.15; 29 CFR 1910.95; 29 CFR 1910.96; 29 CFR 1910.97; 29 CFR 1910.141; ...

Legal Deadline: None

Abstract: Under the Reagan Administration, OSHA embarked on a project to update and consolidate the varying OSHA standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. A shipyard employer was subject to both the "shipyard" standards that applied only to shipboard hazards and OSHA's general industry standards for landside operations. This resulted in inconsistent, and sometimes contradictory, requirements for essentially the same operation. Phase 1 of this project aimed at establishing a truly vertical standard for shipyard employment and addressed six subparts of shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project (including general work practices and fire safety). This action is endorsed by the Shipyard Advisory Committee which was

chartered in 1989 to update and consolidate existing shipyard standards. This particular proposal will consolidate and update the provisions of 29 CFR 1910 (general industry) and 29 CFR (shipyard employment) into one comprehensive Part 1915 that will apply to all activities and areas in shipyards. The operations that are addressed in this subpart relate to housekeeping, illumination, sanitation, first aid, and lockout/tagout. About 75,000 workers are exposed annually to these hazards.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218-AB50

1961. PERMISSIBLE EXPOSURE LIMITS (PELS) FOR AIR CONTAMINANTS

Priority: Economically Significant

Legal Authority: 29 USC 655 (b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: OSHA enforces hundreds of permissible exposure limits (PELs) for toxic air contaminants found in U.S. workplaces. These PELs set OSHA-enforceable limits on the magnitude and duration of employee exposure to each contaminant. The amount of exposure permitted by a given PEL depends on the toxicity and other characteristics of the particular substance. OSHA's PELs for air contaminants are codified in 29 CFR 1910.1000, Tables Z-1, Z-2, and Z-3. The air contaminant limits were adopted by OSHA in 1971 from existing national consensus standards issued by the American Conference of Governmental Industrial Hygienists and the American National Standards Institute. These PELs, which have not been updated since 1971, thus reflect the results of research conducted in the 1950s and 1960s. Since then, much

new information has become available that indicates that, in most cases, these early limits are outdated and insufficiently protective of worker health. To correct this situation, OSHA published a proposal in 1988 updating the air contaminant limits in general industry. That proposal became a final rule in 1989 (54 FR 2332); it lowered the existing PEL for 212 toxic air contaminants and established PELs for 164 previously unregulated air contaminants. On June 12, 1992 (57 FR 26001), OSHA proposed a rule that would have extended these limits to workplaces in the construction, maritime, and agriculture industries. However, on July 10, 1992, the Eleventh Circuit Court of Appeals vacated the 1989 final rule on the grounds that "(1) OSHA failed to establish that existing exposure limits in the workplace presented significant risk of material health impairment or that new standards eliminated or substantially lessened the risk; (2) OSHA did not meet its burden of establishing that its 428 new permissible exposure limits (PELs) were either economically or technologically feasible." The Court's decision to vacate the rule forced the Agency to return to the earlier, insufficiently protective limits.

OSHA continues to believe that establishing a rulemaking approach that will permit the Agency to update existing air contaminant limits and establish new ones as toxicological evidence of the need to do so becomes available is a high priority. The rulemaking described in this Regulatory Plan entry reflects OSHA's intention to move forward with this process. In determining how to proceed, OSHA is being guided by the OSH Act and the Eleventh District Court decision regarding the extent of the risk and feasibility analyses required to support revised and new air contaminant limits. OSHA is planning to propose new PELs for a smaller number of substances (substantially fewer than in the 1989 rulemaking) by July of 1996. The Agency will rely on a risk-based prioritization system to identify those air contaminants that present significant risks to exposed employees and for which technologically and economically feasible controls exist. State-of-the-art risk assessment methodologies will be utilized for both carcinogens and noncarcinogens, and the determinations of feasibility

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contained in the economic analysis accompanying the proposal will be extensive. The specific hazards associated with the air contaminants to be regulated will depend on the particular contaminants selected for rulemaking. Using priority planning criteria, such as the severity of the health effect, either acute or chronic, and the number of exposed workers, will ensure that significant risks are addressed and that workers will experience substantial benefits in the form of enhanced health and safety. Publication of the proposal will allow OSHA to institutionalize a mechanism for updating and extending its air contaminant limits, which will, at the same time, provide added protection to many workers who are currently being overexposed to toxic substances in the workplace.

Statement of Need: OSHA's current Tables Z-1, Z-2, and Z-3 contain approximately 470 PELs for various forms (e.g., dust, fumes, vapors) of the regulated contaminants, many of which are widely used in industrial settings. These PELs, which were adopted wholesale by OSHA in 1971 and have not been revised since then, are in many cases seriously unprotective of worker health. In addition, new chemicals are constantly being introduced into the working environment, and exposure to these substances can result in both acute and chronic health effects, with chronic effects being the more frequent and serious. Acute effects include respiratory and sensory irritation, chemical burns, and ocular damage; chronic effects include cardiovascular disease, respiratory, liver and kidney disease, reproductive effects, neurological damage, and cancer. For these reasons, it is a high OSHA priority to establish an ongoing regular process that will allow OSHA routinely to update existing PELs and establish limits for previously unregulated substances. The first step in achieving this goal is to publish an air contaminants proposal for a limited number of substances that will establish streamlined but scientifically sound and defensible procedures for conducting risk assessments and performing feasibility analyses that will permit regular updating and review of permissible exposure limits for air contaminants. The ability to lower existing limits and establish limits for new contaminants is an essential

component of OSHA's mandate to protect the health and functional well-being of America's workers.

Alternatives: OSHA has considered a variety of nonregulatory approaches to address the problem of the Agency's outdated exposure limits for air contaminants. These include the issuance of nonmandatory guidelines, enforcing lower limits through the "general duty" cause of the OSH Act in cases where substantial evidence exists that exposure presents a recognized hazard of serious physical harm, and the issuance of hazard alerts. OSHA believes, however, that the problem of overexposure to hazardous air contaminants is so widespread, and the Agency's current limits are so out of date, that only a regulatory approach will achieve the necessary level of protection. The regulatory approach also has advantages for employers, because it gives them the information they need to establish appropriate control strategies to protect their workers and reduce the costs of job-related illnesses. This first phase of an ongoing air contaminants updating and revision process thus will begin to resolve a problem of long-standing and major occupational health import.

Anticipated Costs and Benefits: The scope of the proposed rule is currently under development, and thus quantitative estimates of costs and benefits have not been determined at this time. Implementation costs associated with the proposed standard include primarily those related to identifying and correcting over-exposures using engineering controls and work practices. Additional costs may be incurred for the implementation of administrative controls and the purchase and use of personal protective equipment. Estimates of the magnitude of the problem of occupational illnesses, both acute and chronic, vary considerably. In 1989, OSHA concluded that its Air Contaminants rule in general industry, which lowered 212 exposure limits and added 164 where none had previously existed, would result in a reduction of approximately 55,000 illnesses and over 23,300 lost-workday illnesses annually. Chronic effects include cardiovascular disease, respiratory, liver and kidney disease, reproductive effects, neurological damage, and cancer. Acute effects include respiratory and sensory irritation, chemical burns, and ocular effects.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210

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RIN: 1218-AB54

1962. REVISION OF CERTAIN STANDARDS PROMULGATED UNDER SECTION 6(A) OF THE WILLIAMS-STEIGER OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 5 USC 533

CFR Citation: 29 CFR 1910.106; 29 CFR 1910.107; 29 CFR 1910.108; 29 CFR 1910.94(c); 29 CFR 1910.94(d); 29 CFR 1911

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA) adopted its initial package of workplace safety and health standards from various nationally recognized consensus standards and from standards that had already been promulgated by other Federal agencies. These standards reflected technologies that were current at the time the Williams-Steiger Occupational Safety and Health Act of 1970 (the Act) became law. Section 6(a) of the Act permitted OSHA to adopt significant nationally recognized consensus standards, developed by groups such as the National Fire Protection Association (NFPA) and the American National Standards Institute (ANSI), and existing Federal standards for use as OSHA standards without public participation or public comment. OSHA refers to the standards it adopted under section 6(a) of the Act as "6(a) standards." Since their adoption, many of these 6(a) standards have been

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identified by the regulated community as being overly complex, difficult to read and follow, and out of date with current technology.

This project is part of a Presidential initiative to respond to the general criticism concerning the complexity and obsolescence of certain Federal regulations. OSHA believes that some of the Agency's section 6(a) standards in subpart H of part H of part 1910 meet the criteria for critical review set forth in the Presidential initiative. OSHA has identified three standards from subpart H that need to be revised and updated to eliminate their complexity and obsolescence. These standards include 29 CFR 1910.106, Flammable and Combustible Liquids; 29 CFR 1910.107, Spray Finishing Using Flammable and Combustible Materials; and 29 CFR 1910.108, Dip Tanks Containing Flammable or Combustible Materials.

With this project, OSHA is initiating three separate rulemakings that will revise and update three of OSHA's most complex and out-of-date section 6(a) standards. These specific sections address flammable and combustible liquid storage, handling, and use; spray finishing using flammable and combustible liquids; and dip tanks containing flammable and combustible liquids. The regulations contained in 29 CFR 1910.106, 1910.107, and 1910.108 have long been criticized by labor, management, and government for their complexity, duplicative nature, and obsolescence. 29 CFR 1910.106 contains outdated and duplicative standards as well. 29 CFR 1910.107 and 1910.108 also contain substantive ventilation requirements that are duplicative with ventilation requirements contained in 29 CFR 1910.104, paragraphs (c) and (d).

OSHA intends to issue three separate proposals individually addressing 29 CFR 1910.106; 29 CFR 1910.107 and 1910.94(c); and 29 CFR 1910.108 and 1910.94(d). The purpose of these rulemakings will be to solicit public participation in the revision and updating of these standards to current levels of technology. It is also the purpose of the rulemakings to eliminate the complexity, duplicative nature, and obsolescence of the current existing standards and to write them in "plain language," as directed by the President's report.

Statement of Need: These three OSHA safety standards are being revised and updated as part of the President's initiative on Federal regulations discussed in the U.S. Department of Labor report of June 15, 1995. The Department of Labor report was issued in response to the President's Regulatory Reform Initiative dated April 24, 1995.

Fire hazards in the workplace associated with exposure to flammable and combustible liquids create a variety of safety and health problems, including thermal burns, chemical burns, smoke inhalation, respiratory inflammations, nausea, dizziness, other serious physical injuries and death. Overexposure to vapors, fumes, and mists created during spray applications or dipping processes involving flammable or combustible liquids create a variety of health problems, including respiratory infections, nausea, dizziness, respiratory allergies, heart disease, lung cancer, decreases in pulmonary function, other serious illnesses, and death.

Fires and explosions continue to occur frequently in the industrial environment. Such fires, which are often catastrophic, are often caused by improper storage, handling and use of flammable and combustible liquids, including improper or inadequate ventilation of their vapors, fumes, or mists. Control of the fire and health hazards that employees are exposed to during operations involving flammable and combustible liquids requires adequate fire control and ventilation procedures. These procedures can protect employees from the adverse physical safety or health effects resulting from exposure to flammable and combustible liquids and their vapor, fumes, or mists.

Employees are also exposed to significant health hazards when they work around spray finishing operations or dip tank operations that use nonflammable or noncombustible liquids. Many employers will use such nonflammable or noncombustible liquids in spray finishing or dipping operations to eliminate fire or explosion hazards. However, some chemicals, such as perchlorethylene, create significant health hazards to employees when used by spray finishing and dip tank operations. Health problems such as respiratory infections, nausea, dizziness,

respiratory allergies, heart disease, lung cancer, decreases in pulmonary function, other serious illnesses, and death may occur if employee exposure to toxic, nonflammable or toxic noncombustible liquids are not controlled.

When 29 CFR 1910.94(c), 1910.94(d), 1910-106, 1910.107, and 1910.108 were promulgated, many of the protective technologies and work practices recognized today in industries using flammable and combustible liquids did not exist. Advances in fire prevention strategies and equipment and in ventilation techniques and equipment necessitate the updating of these OSHA standards. Revising and updating these sections of Subpart H to recognize these new technologies and work practices will improve the occupational safety and health of employees by introducing new fire control and ventilation techniques into the workplace. The revision of these standards will also make them consistent with current nationally recognized consensus standards adopted by various authorities having jurisdiction over fire safety and health hazards. A consistent set of standards will make compliance with these rules easier for the regulated populations of employees and employers.

Alternatives: OSHA has considered several alternative approaches to controlling these hazards, including issuing guidelines, using the "general duty clause" of the OSHA Act to cite serious and unsafe work practices not regulated by the existing standards, issuing hazard alerts, issuing program directives, and revising and updating the current OSHA standards to reflect the updated national consensus standards. OSHA believes that, in this case, revising and updating these standards is the most appropriate way to proceed. It is the only approach that will assure public participation in the updating and revision of outdated, complex, and obsolete rules. It will also assure that employers will provide the most recent technologies to protect their employees from fire and explosion hazards.

Anticipated Costs and Benefits: The benefits and costs associated with these revisions are undetermined at this time; however, OSHA anticipates that cost savings and increased benefits will be associated with these actions due to the use of newer technologies, equipment,

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and procedures to reduce employee injuries and fatalities in the workplace.

Risks: Physical injuries and fatalities caused by thermal burns, chemical burns, smoke inhalation and traumatic injuries are common among employees exposed to fire or explosion hazards in the workplace. In addition, overexposure to vapors, fumes, and mists created during spray applications or dipping processes involving flammable or combustible liquids can create a variety of health problems, including respiratory infections, nausea, dizziness, respiratory allergies, heart disease, lung cancer, decreases in pulmonary function, other serious illnesses, and death.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Action	Date	FR Cite
NPRM Access/Egress	05/00/96	
NPRM Flammable and Combustible	07/00/96	
NPRM Dip Tanks	09/00/96	
NPRM Spray Finishing	09/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: Flammable and Combustible Liquids, 29 CFR 1910.106, Spray Finishing Using Flammable and Combustible Materials, 29 CFR 1910.107, Dip Tanks Containing Flammable and Combustible Liquids, 29 CFR 1010.108 are three standards selected for revision and updating under a Presidential Initiative to revise and update outdated, duplicative, or obsolete federal regulations. These

standards were adopted under section 6(a) of the Williams-Steiger Occupational Safety and Health Act of 1970. 29 CFR 1910.106 will be revised and updated to be consistent with the current National Fire Protection Association source standard. It will also be formatted to make it easier to read. 29 CFR 1910.94(d) will be combined with 29 CFR 1910.108 to eliminate duplicative standards.

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RIN: 1218-AB55

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Occupational Safety and Health Administration (OSHA)

1963. RESPIRATORY PROTECTION (PROPER USE OF MODERN RESPIRATORS)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.134; 29 CFR 1915.152; 29 CFR 1918.102; 29 CFR 1926.103

Legal Deadline: None

Abstract: Under the Reagan Administration, OSHA issued an ANPRM on respirators to address 6,850-11,000 cancer fatalities and 66,500 illnesses occurring annually. Existing standards had been in place for more than 20 years and did not take into consideration the current state-of-the-art for respiratory protection. In addition, the general industry standard for respirators contains redundancies and includes several advisory provisions which should be eliminated or changed. OSHA reviewed the current standards and issued a proposal to modernize the requirements on November 15, 1994 (59 FR 58884). In developing the proposal, OSHA worked closely with the National Institute for

Occupational Safety and Health (NIOSH) and the Mine Safety and Health Administration (MSHA). On April 17, 1995 (60 FR 19162), OSHA extended the comment period until May 15, 1995. On May 25, 1995 (60 FR 27707), OSHA published a notice to schedule a technical panel discussion on assigned protection factors as part of the pending rulemaking hearing. Hearings began on June 6, 1995 and ended on June 20, 1995. The post-hearing comment period ended on September 20, 1995.

Timetable:

Action	Date	FR Cite
ANPRM	05/14/82	47 FR 20803
ANPRM Comment Period End	09/13/82	
Public Comment Period on Preproposal Draft Ends	11/29/85	
NPRM Final Action	11/15/94	59 FR 58884
	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave. NW., Rm N3718, FP Bldg., Washington, DC 20210

Phone: 202 219-7075

RIN: 1218-AA05

1964. SCAFFOLDS (PART 1926) (CONSTRUCTION: SAFER SCAFFOLDS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

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

CFR Citation: 29 CFR 1926.451; 29 CFR 1926.452; 29 CFR 1910.28; 29 CFR 1910.29; 29 CFR 1926.752(k)

Legal Deadline: None

Abstract: Under the Reagan Administration, OSHA issued a proposal (51 FR 42680) to address the 23 fatalities and 15,600 injuries still occurring annually from scaffolds in the construction industry. The existing OSHA standard is poorly formatted and contains unnecessary specific coverage for certain types of scaffolds. The proposal raises several significant issues including (1) the use of crossbraces as guardrails, (2) the use of fall protection during scaffold erection

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and dismantling operations, and (3) the role of engineers in scaffold design.

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	51 FR 42680
NPRM Comment Period End	08/14/87	52 FR 20616
Record Reopened	03/29/93	58 FR 16509
Record Reopened	02/01/94	59 FR 4615
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218-AA40

1965. SAFETY AND HEALTH REGULATIONS FOR LONGSHORING (PART 1918) AND MARINE TERMINALS (PART 1917) (SHIPYARDS: PROTECTING LONGSHORING WORKERS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655 Occupational Safety and Health Act of 1970; 33 USC 941 Longshore and Harborworkers Compensation Act

CFR Citation: 29 CFR 1910.16; 29 CFR 1918 (Revision); 29 CFR 1917 (Revision and Corrections)

Legal Deadline: None

Abstract: Current longshoring standards have been in place since 1960. The language in many instances addresses the hazards of cargo handling involving methods long since abandoned and fails to address the serious hazards of newer methods. Since much of the current standard is out-of-date, there are problems with compliance. Settlement agreements following the 1983 Marine Terminal standard (49 FR 30886), identified problems with OSHA's existing longshoring standard. Also, the International Longshoremen's and

Warehousemen's Union and the National Maritime Safety Association requested revisions to the current standard. On June 6, 1994, (59 FR 28594) OSHA issued a proposal to address the 18 fatalities and 7,593 injuries occurring annually. The proposed revised requirements will provide both employers and employees with a blueprint for modern, effective, and safe work practices in the cargo handling industry. OSHA held public hearings on this proposal and the record closed 4/30/95.

Timetable:

Action	Date	FR Cite
NPRM	06/06/94	59 FR 28594
NPRM Comment Period End	09/23/94	
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 44 Water Transportation

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RIN: 1218-AA56

1966. SCAFFOLDS IN SHIPYARDS (PART 1915—SUBPART N) (PHASE I) (SHIPYARDS: SAFER SCAFFOLDS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.71; 29 CFR 1910.28; 29 CFR 1910.29

Legal Deadline: None

Abstract: Under the Reagan Administration, OSHA embarked on a project to update and consolidate the varying OSHA standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. A shipyard employer was subject to both the "shipyard" standards that applied only to shipboard hazards and OSHA's general industry standards for landside

operations. This resulted in inconsistent, and sometimes contradictory, requirements for essentially the same operation.

Phase 1 of this project aimed at establishing a truly vertical standard for shipyard employment and addressed six subparts of shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project (including general work practices and fire safety). This action is endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards.

This particular regulatory action will revise the existing shipyard employment standards covering scaffolds and will consolidate all related and applicable 29 CFR part 1910 provisions. It will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48182
NPRM Comment Period End	02/27/89	
Reopened Record Comment Period Ended 6/13/94	04/12/94	59 FR 17290
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Applicable part 1910 provisions under consideration: 29 CFR 1910.28 - 1910.29.

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RIN: 1218-AA68

DOL—OSHA

Final Rule Stage

1967. ACCESS AND EGRESS IN SHIPYARDS (PART 1915, SUBPART E) (PHASE I) (SHIPYARDS: EMERGENCY EXITS AND AISLES)**Priority:** Substantive, Nonsignificant**Reinventing Government:** This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.**Legal Authority:** 29 USC 655(b); 33 USC 941**CFR Citation:** 29 CFR 1915.72; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.76**Legal Deadline:** None**Abstract:** Under the Reagan Administration, OSHA embarked on a project to update and consolidate the varying OSHA standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. A shipyard employer was subject to both the "shipyard" standards that applied only to shipboard hazards and OSHA's general industry standards for landside operations. This resulted in inconsistent, and sometimes contradictory, requirements for essentially the same operation.

Phase 1 of this project aimed at establishing a truly vertical standard for shipyard employment and addressed six subparts (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project including general work practices and fire safety). This action is endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards.

This particular standard will revise the existing shipyard employment standards covering access and egress and will consolidate all related and applicable 29 CFR part 1910 provisions into 29 CFR part 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions. 75,000 workers are potentially exposed to these hazards annually.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48130
NPRM Comment Period End	02/27/89	
Final Action	12/00/96	

Small Entities Affected: None**Government Levels Affected:** State, Local, Federal**Additional Information:** Applicable part 1910 provisions under consideration: 29 CFR 1910.24-1910.27; 29 CFR 1910.36-1910.37.**Agency Contact:** Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061**RIN:** 1218-AA70**1968. PERSONAL PROTECTIVE EQUIPMENT IN SHIPYARDS (PART 1915) (SHIPYARDS: GOGGLES, GLOVES, AND OTHER PPE)****Priority:** Substantive, Nonsignificant**Reinventing Government:** This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.**Legal Authority:** 29 USC 655(b); 33 USC 941**CFR Citation:** 29 CFR 1915.151; 29 CFR 1915.152; 29 CFR 1915.153; 29 CFR 1915.154; 29 CFR 1915.155; 29 CFR 1915.156; 29 CFR 1915.157; 29 CFR 1915.158; 29 CFR 1915.159**Legal Deadline:** None**Abstract:** Under the Reagan Administration, OSHA embarked on a project to update and consolidate the varying OSHA standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. A shipyard employer was subject to both the "shipyard" standards that applied only to shipboard hazards and OSHA's general industry standards for landside operations. This resulted in inconsistent, and sometimes contradictory, requirements for essentially the same operation.

Phase 1 of this project aimed at establishing a truly vertical standard for shipyard employment and addressed

six subparts of shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project (including general work practices and fire safety). This action is endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards.

This particular standard will be, in part, performance-oriented and will address current gaps in coverage, recognizing new technology, and eliminate outmoded or redundant provisions. It will consolidate 29 CFR part 1915 and applicable 29 CFR part 1910 standards into one set of provisions regarding gloves, goggles, and other personnel protective equipment.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48150
NPRM Comment Period End	02/27/89	
Reopened Record Comment Period Ends 8/22/94	07/06/94	59 FR 34586
Comment Period Ended 1/25/95	12/13/94	59 FR 64173
Final Action	04/00/96	

Small Entities Affected: None**Government Levels Affected:** None**Additional Information:** Applicable part 1910 provisions under consideration: 29 CFR 1910.132-1910.138. The public record has been reopened for 45 days to incorporate the general industry records for PPE (S-060) and personal fall protection equipment (S-057) so that final regulations for PPE used in shipyards and in general industry can be consistent where appropriate.**Agency Contact:** Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave. NW., Rm N3605, FP Bldg., Washington, DC 20210
Phone: 202 219-8061**RIN:** 1218-AA74

DOL—OSHA

Final Rule Stage

1969. 1,3-BUTADIENE (PREVENTING OCCUPATIONAL ILLNESS: BUTADIENE)**Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 655(b)**CFR Citation:** 29 CFR 1910.1000 (Table Z-1); 29 CFR 1910.1051**Legal Deadline:** None

Abstract: On October 10, 1985, EPA referred 1,3-butadiene (BD) to OSHA for possible regulatory action under section 9(a) of the Toxic Substance Control Act. On April 11, 1986, OSHA responded to the EPA referral indicating that the Agency has preliminarily concluded that BD poses risk to the occupationally exposed population at the current OSHA permissible exposure limit and that the risk can be reduced or prevented through the promulgation of a revised standard. On October 1, 1986 (51 FR 35003), OSHA published an ANPRM initiating regulatory action within the meaning of section 9(a) of TSCA. Comments were submitted to OSHA by December 30, 1986. Based on the comments received in response to the ANPRM, OSHA developed a proposal which was published on August 10, 1990. Hearings were held in Washington, D.C. on January 15, 1991, and in New Orleans, Louisiana on February 20, 1991. Submission of the post-hearing comments and briefs were scheduled to end on June 22, and July 22, 1991 respectively; however, OSHA extended the dates to September 27, and October 28, 1991. The post-hearing comments and briefs were again extended and finally closed on November 26, 1991, and February 10, 1992, respectively. In March 1996, OSHA reopened the rulemaking record to receive comments on safety and health information presented to the Agency by business and labor. Work on a final rule is continuing

Timetable:

Action	Date	FR Cite
EPA Referral	10/10/85	50 FR 41393
Request for Comments	12/27/85	50 FR 52952
Response to EPA Referral	04/11/86	51 FR 12526
ANPRM	10/01/86	51 FR 35003
ANPRM Comment Period End	12/30/86	
NPRM	08/10/90	55 FR 32736
NPRM Comment Period End	10/19/90	

Action	Date	FR Cite
Limited Reopening of Rulemaking Record - Comments due by 4/8/96	03/08/96	61 FR 9381
Final Action	06/00/96	
Small Entities Affected: Undetermined		
Government Levels Affected: Undetermined		
Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3718, FP Bldg., Washington, DC 20210 Phone: 202 219-7075		
RIN: 1218-AA83		

1970. METHYLENE CHLORIDE (PREVENTING OCCUPATIONAL ILLNESSES: METHYLENE CHLORIDE)**Priority:** Other Significant**Legal Authority:** 29 USC 655; 29 USC 657**CFR Citation:** 29 CFR 1910.1052; 29 CFR 1926.1162**Legal Deadline:** None

Abstract: In July 1985, OSHA was petitioned by the UAW to issue a hazard alert; issue an emergency temporary standard; and to begin work on a new permanent standard for methylene chloride. This request was based on information obtained from the EPA and the National Toxicology Program indicating that DCM is an animal carcinogen and may have the potential to cause cancer in humans. An estimated 209,479 workers are exposed to the hazards of MC annually. In November 1986, OSHA notified the UAW that its petition had been granted, in part, and denied, in part. Specifically, OSHA issued a set of guidelines for controlling occupational exposure to MC and OSHA denied that portion of the petition requesting the issuance of an emergency temporary standard. OSHA published an ANPRM on November 24, 1986 (51 FR 42257). After reviewing and analyzing the comments received in response to the ANPRM, OSHA published a proposal in the Federal Register on November 7, 1991 (56 FR 57036). The comment period closed on April 6, 1992. On June 9, 1992, OSHA published a notice of informal public hearings that were held in Washington, DC September 16-24 and in San Francisco, CA on October

14-16, 1992. The post-hearing comment period for new evidence closed on January 14, 1993, and the final date for submitting post-hearing summations and briefs was March 15, 1993. The record was reopened on March 11, 1994, for 45 days to address MC exposure in the furniture stripping industry, an NCI study relating brain cancer to occupational exposure to MC, and information regarding the use of MC as a solvent in adhesive formulation in flexible foam manufacturing. The record was also reopened in late 1995 to receive new data and information on MC-related risks. Work on a final rule is continuing.

Timetable:

Action	Date	FR Cite
ANPRM	11/24/86	51 FR 42257
ANPRM Comment Period End	02/23/87	
NPRM	11/07/91	56 FR 57036
NPRM Comment Period End	04/06/92	
Final Action	07/00/96	

Small Entities Affected: Undetermined**Government Levels Affected:** Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave. NW., Rm N3718, FP Bldg., Washington, DC 20210 Phone: 202 219-7075

RIN: 1218-AA98**1971. WALKING WORKING SURFACES AND PERSONAL FALL PROTECTION SYSTEMS (PART 1910) (SLIPS, TRIPS, AND FALL PREVENTION)****Priority:** Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.21; 29 CFR 1910.22; 29 CFR 1910.23; 29 CFR 1910.24; 29 CFR 1910.25; 29 CFR 1910.26; 29 CFR 1910.27; 29 CFR 1910.28; 29 CFR 1910.29; 29 CFR 1910.30; 29 CFR 1910.31; 29 CFR 1910.32; 29 CFR 1910.128; 29 CFR 1910.129; 29 CFR 1910.130; ...

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Legal Deadline: None

Abstract: Standards for walking and working surfaces and personal fall protection systems will be issued concurrently as a final rule. The Occupational Safety and Health Administration's (OSHA's) existing standards for walking and working surfaces need to be revised because they are out of date and limit technological innovation in the means employers can use to comply. The final rule is performance-oriented, written in plain language, and flexible in the means of compliance permitted. In addition, OSHA's existing standards do not contain criteria for personal fall protection systems. Consequently, requirements containing criteria for such systems will be added to 29 CFR Part 1910, Subpart I, Personal Protection Equipment, to enhance employee protection from injury and death due to falls to different elevations.

Statement of Need: The existing standards for walking/working surfaces were originally adopted in 1971 under Section 6(a) rulemaking procedures. These standards are now out of date, restrict technological innovation, and contain gaps in coverage. Currently, there are also no standards for personal fall protection systems that cover all general industry applications. This rulemaking action will thus revise and update OSHA's existing regulations for walking/working surfaces (29 CFR Part 1910, Subpart D) and add new coverage for personal fall protection systems to the current personal protective equipment standards (29 CFR Part 1910, Subpart I). The revised rules will be written in plain English so that they will be easier for employers and employees to understand.

The new standard will use a performance-oriented approach to permit flexibility in the means of compliance and to encourage innovation. New criteria for personal fall protection systems will be added to allow these systems to be used as additional alternatives to provide fall protection and to ensure that this type of equipment functions properly and is used correctly.

The legal basis for this action is that employees in general industry are exposed to a significant risk of falls, both falls on the same level and falls from an elevation. However, this action

is not specifically required by statute, and is not required by court order.

The new standard will reduce risks to workers by providing clearer, up-to-date requirements to minimize fall hazards. The standard will also cover new areas of fall protection such as special surfaces and manhole steps, and the use of qualified climbers. The new standard will also recognize personal fall protection systems as an acceptable option for fall protection, as well as provide the criteria to ensure that such systems will safely stop a worker's fall.

Alternatives: The following alternatives were considered for analysis:

1. Retaining the existing regulation unchanged. A number of the existing requirements are specification-oriented provisions that in some situations are inappropriate, unnecessarily costly, and inflexible. For example, the existing standard mandates guardrails for most roof perimeters and requires that fixed ladders on most towers and other structures be fitted with cages or ladder safety devices; but in some limited circumstances, such requirements are unnecessarily restrictive. Also, personal fall protection systems, which are suited to many difficult fall protection situations, are not permitted under the existing rule.
2. Issuing the final rule without an exemption for qualified climbers. This option would require that all fixed ladders over 24 feet in height utilize cages or ladder-safety devices. Under this option, the benefits of the standard would be about the same as they are for the version reflected in the final rule, but the first-year capital cost of compliance would be increased by more than a factor of eleven.
3. Issuing the revised final rule as a final standard, including the exemption for qualified climbers, requirements for fall protection systems, and other flexible provisions for such protective devices as guardrails. OSHA believes that this alternative will result in the greatest amount of employee protection at the least cost to employers of all the alternatives considered.

Anticipated Costs and Benefits:

Modifications to existing requirements are expected to involve annual costs of less than \$20 million. Benefits include the prevention of dozens of fatalities and thousands of injuries associated with falls and other work-surface-related incidents.

Risks: Nearly all workplaces and employees covered by the OSHA general-industry standards are affected by the standards for walking and working surfaces. These standards cover about 84 million workers. Examples of walking and working surfaces included in these standards are stairs, step bolts, manhole steps, ramps, ladders, floors, fall-protection systems, scaffolds, and mobile ladder stands.

The Bureau of Labor Statistics (BLS) reported from the 1987 and 1988 annual surveys that falls accounted for 12 percent of all deaths of employees in workplaces with 11 or more employees.

The National Institute of Occupational Safety and Health (NIOSH) publication, "Fatal Injuries to Workers in the United States, 1980-1989: A Decade of Surveillance," reports that deaths from falls are the fourth leading cause of occupational fatalities, accounting for 10 percent of all deaths in the workplace. According to the Insurance Institute for Highway Safety, falls are the second largest cause of occupational fatalities, next after death due to over-the-road motor vehicle accidents. Falls are also second only to motor vehicle accidents as a cause of brain injuries.

OSHA has determined that hazards associated with walking and working surfaces persist and must be addressed with improved standards. OSHA's preliminary regulatory impact analysis estimated that as many as 105,000 disabling injuries and 132 fatalities that occur annually are potentially preventable by compliance with the revised final rule.

A number of special studies have also been conducted to gain a better understanding of the nature and causes of employee injuries, and the methods required for reducing their numbers. One such study on ladders, conducted by BLS, indicated that in about 55 percent of ladder-related accidents where employee injuries occurred, the ladder either moved, slipped, fell or broke. The study also indicated that ladders were not secured or braced in about 50 percent of these injury incidents. Furthermore, in nearly 60 percent of the incidents, employees were carrying something in their hands at the time of the incident. The final standard will address these problems by requiring design criteria and employee training in the use of ladders.

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Another study of scaffold fatalities and catastrophes developed by OSHA indicated that 90 percent of fatally injured employees were performing their normal job activities at the time of the accident, and 55 percent of these employees were performing their basic or primary work tasks.

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
Final Action	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Because RINs 1218-AB05 and 1218-AA48 will be issued concurrently, they have been combined under this RIN 1218-AB04.

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Phone: 202 219-8061

RIN: 1218-AB04

1972. ABATEMENT VERIFICATION (HAZARD CORRECTION)

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 657; 29 USC 658; 5 USC 553

CFR Citation: 29 CFR 1903

Legal Deadline: None

Abstract: A critical element of OSHA's comprehensive enforcement strategy under the Occupational Safety and Health Act is assurance that employers have abated cited hazards. A May 1991, General Accounting Office report entitled, "Options to Improve Hazard-Abatement Procedures in the Workplace," pointed out deficiencies in OSHA's abatement verification procedures and how they could be improved. The Department of Labor Inspector General, as well as OSHA's internal audits, also identified similar problems. Currently, unless an employer voluntarily complies with OSHA's request to submit documentation, OSHA has no means to require employers to submit proof of hazard abatement. From 1972 to the present, OSHA has implemented

several administrative measures to induce employers to provide abatement documentation, but at least 30 percent of cited employers still do not voluntarily do so. OSHA's April 19, 1994, proposal (29 FR 18508) would require cited employers to provide hazard abatement documentations. The NPRM addressed the kinds of evidence to be required, what notice to employees is needed, potential penalties for non-reporting, possible certification forms for compliance, and other questions. Work on the final regulation is continuing.

Timetable:

Action	Date	FR Cite
NPRM	04/19/94	59 FR 18508
NPRM Comment Period End	07/18/94	
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State

Sectors Affected: All

Analysis: Regulatory Flexibility Analysis

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Phone: 202 219-8041

RIN: 1218-AB40

1973. PERMIT REQUIRED CONFINED SPACES (GENERAL INDUSTRY: PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910-146

Legal Deadline: None

Abstract: OSHA issued a final standard on preventing suffocation/explosions in confined spaces in general industry on January 14, 1993 (58 FR 4462). OSHA reached a settlement agreement with the United Steel Workers of America in June 1994. As part of this settlement

agreement, OSHA issued a proposal on November 28, 1994 (59 FR 60735) proposing minimal revisions to paragraph (k) of the existing rule to clarify the standard and to make compliance easier. OSHA has proposed to state more clearly the employer's duty to ensure effective rescue capability for employees who enter permit-required confined spaces and to allow more flexibility in the point of a retrieval line attachment. OSHA is also asking whether the standard should have provisions to provide affected employees or their representatives with the opportunity to observe the evaluation of confined spaces, including atmospheric testing or monitoring, and to have access to evaluation results. Hearings are scheduled to be held September 27, 1995 - October 2, 1995.

Timetable:

Action	Date	FR Cite
NPRM	11/28/94	59 FR 60735
NPRM Comment Period End	02/27/95	
Final Action	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218-AB52

1974. ELIMINATING AND IMPROVING REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1901; 29 CFR 1910; 29 CFR 1926; 29 CFR 1928; 29 CFR 1950; 29 CFR 1951

Legal Deadline: None

Abstract: OSHA has made a continuing effort to eliminate confusing, outdated, and duplicative regulations. In 1978 and again in 1984, the Agency conducted comprehensive revocation and revision projects that resulted in the elimination of hundreds of

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unnecessary rules. In response to the President's Memorandum of March 4, 1995, and the April 24, 1995, Presidential Directive, the Agency is again renewing its effort to eliminate unnecessary regulations and improve others. Following a page-by-page review of regulations that was required as part of the President's April 24, 1995 regulatory reform initiative, OSHA developed a list of standards it proposes to revoke or revise. These standards were deemed to be out of date, duplicative, inconsistent with other OSHA standards, or preempted by the regulations of other Federal agencies. Administrative changes will also be addressed in this rulemaking.

Statement of Need: This rulemaking is part of OSHA's response to the President's Regulatory Reform Initiative, as embodied in the Department of Labor's report of June 15, 1995. In carrying out OSHA's responsibilities under the Presidential directive, and as part of OSHA's reinvention efforts, the Agency is reworking many health and safety standards, particularly those that were first adopted by OSHA in 1971, into standards that are more understandable to employers and employees, are flexible in their means of compliance, and are founded in common-sense approaches to preventing or controlling workplace safety and health hazards. This standards project is a key part of the Agency's initial effort to meet this objective.

Workplace safety and health standards should be both protective of workers and user-friendly for employers and employees. If OSHA standards are duplicative, employers have more difficulty in achieving compliance. For example, rubber insulating equipment requirements in 29 CFR 1910.268(f) should be revoked, because these same requirements appear in a more up-to-date form in 29 CFR 1910.137. Similarly, information given in respirator fit test procedures contained in 29 CFR 1910.1000 is repeated in a number of other locations in OSHA health standards and could be

eliminated by the addition of a cross reference to a single source.

In addition, any OSHA standards that are out of date as a result of industry changes in the use of materials or equipment should be revised to accommodate these changes. For example, only approved metal safety cans can be used for the storage and handling of flammable and combustible liquids in the construction industry, as required in 29 CFR 1926.152(a)(1). Since plastic cans are now also approved and acceptable for this purpose, the OSHA standard should be revised to allow this industry to use such equipment if desired.

OSHA standards that are preempted by similar standards enforced by other Federal agencies (as specified in Section 4(b)(1) of the OSH Act) should also be removed from OSHA's regulations. For example, the capacity limits for liquefied petroleum gas (LPG) cylinders addressed in 29 CFR 1910.110(e)(10) are preempted by regulations enforced by the Department of Transportation for the same equipment. The inclusion of such standards in OSHA regulations unnecessarily increases the burden on employers trying to understand and comply with applicable standards.

There are also some OSHA standards that conflict with the rules of other Federal agencies. For example, OSHA requires empty boxes that previously contained high explosives that are being disposed of to be burned (29 CFR 1910.109(e)(2)), although some employers have been prohibited from burning these boxes by local air pollution requirements. OSHA will be revising these standards to allow flexibility and common-sense alternative methods and procedures.

Administrative actions will also be proposed in this rulemaking to reduce employer burden. These actions include the elimination of obsolete standards that address such matters as effective dates and sources of standards.

Alternatives: OSHA has considered issuing de minimis citations for noncompliance with many of the duplicative, outdated, or confusing standards that would be addressed in this notice. Such enforcement actions, however, do not eliminate the continuing problem for employers who must attempt to identify the standards that apply to their worksites. OSHA believes that the selective elimination of unnecessary standards and the revision and updating of others is the most satisfactory approach to resolving this problem.

Anticipated Costs and Benefits: No additional costs are anticipated for employers. Employers should benefit from this action because it will enhance their ability to comply with OSHA standards that are more user-friendly.

Risks: Employee protection is likely to be enhanced to some extent by this action, which will clarify and update regulatory requirements.

Timetable:

Action	Date	FR Cite
Final - Consolidation of Similar Requirements	03/07/96	61 FR 9228
Final - Consolidation of Similar Requirements Effective Date	03/07/96	
Final - Longshoring	04/00/96	
NPRM - Elimination of Duplicative Pages	07/00/96	
NPRM - Elimination of Problem Regulations	07/00/96	
Final - Respirators	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 1218-AB53

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA)

Long-Term Actions

1975. GLYCOL ETHERS: 2-METHOXYETHANOL, 2-ETHOXYETHANOL, AND THEIR ACETATES PROTECTING REPRODUCTIVE HEALTH

Priority: Other Significant

Legal Authority: 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.1000

Legal Deadline: None

Abstract: On May 20, 1986, the Environmental Protection Agency (EPA) issued a report to OSHA, under Section 9(a) of the Toxic Substances Control Act, stating that EPA has reasonable basis to conclude that the risk of injury to worker health from exposure to four glycol ethers during their manufacture, processing and use is unreasonable, and that this risk may be prevented or reduced to a significant extent by OSHA regulatory action. EPA gave OSHA 180 days in which to respond to its report. OSHA published its response on December 11, 1986, stating that OSHA had preliminarily concluded that occupational exposures to the subject glycol ethers at the current OSHA permissible exposure limits may present significant risks to the health of workers. OSHA published an Advance Notice of Proposed rulemaking (ANPRM) on April 2, 1987, (52 FR 10586). OSHA used the information received in response to the ANPRM, as well as other information and analysis, and published a proposal, March 23, 1993 (58 FR 15526), that would reduce the permissible exposure limits for four glycol ethers and provide protection for approximately 46,000 workers exposed to the substances.

Timetable:

Action	Date	FR Cite
ANPRM	04/02/87	52 FR 10586
ANPRM Comment Period End	07/31/87	
NPRM	03/23/93	58 FR 15526
NPRM Comment Period End	06/07/93	
Final Action	06/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3718, FP Bldg., Washington, DC 20210

Phone: 202 219-7075

RIN: 1218-AA84

1976. ACCREDITATION OF TRAINING PROGRAMS FOR HAZARDOUS WASTE OPERATIONS (PART 1910)

Priority: Other Significant

Legal Authority: 29 USC 655(b); PL 101-549 (November 15, 1990); 5 USC 552(a); 5 USC 533

CFR Citation: 29 CFR 1910.121, subpart H

Legal Deadline: None

Abstract: The Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499) established the criteria under which OSHA should develop and promulgate the Hazardous Waste Operations and Emergency Response standards. OSHA issued an interim final standard on December 19, 1986, (51 FR 45654) to comply with the law requirements. OSHA issued a permanent final rule for provisions on training to replace this interim rule on March 9, 1989 (29 CFR 1910.120).

On December 22, 1987, as part of an omnibus budget reconciliation bill (PL 100-202), section 126(d)(3) of SARA was amended to include accreditation of training programs for hazardous waste operations. OSHA issued a proposal on January 26, 1990 (55 FR 2776) addressing this issue. OSHA held a public comment period following the issuance of the proposal and held a limited reopening of the public record in June 1992 to allow additional public comment on an effectiveness of training study conducted by OSHA. OSHA has also developed nonmandatory guidelines to further address minimum training criteria.

Timetable:

Action	Date	FR Cite
NPRM	01/26/90	55 FR 2776
NPRM Comment Period End	04/26/90	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution

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 Phone: 202 219-8061

RIN: 1218-AB27

1977. CONTROL OF HAZARDOUS ENERGY (LOCKOUT)—CONSTRUCTION (PART 1926) (PREVENTING CONSTRUCTION INJURIES/FATALITIES: LOCKOUT)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: OSHA was petitioned by UAW in May 1979 to issue an emergency temporary standard for locking out machinery and equipment. OSHA did not issue an emergency temporary standard, but did issue a general industry rule on September 1, 1989 (54 FR 36644). Still, OSHA has not yet issued a rule for the preventing accidents during equipment repair and maintenance for the construction industry. 4,000,000 workers annually are exposed to this hazard in the workplace. As a result, OSHA intends to issue a proposal to address this industry.

Hazards at construction sites resulting from the absence of effective lockout/tagout procedures to control hazardous energy appear to be caused by several factors, all associated with the nature of the construction industry. These factors basically related to such considerations as the types of machines and equipment found in construction; the makeup of the industry in which employment is relatively "short term," lasting only as long as the length of the current project; the presence of multiple employers having different employer/employee relationships and the temporary nature of the "in-the-field" maintenance activity. OSHA expects the proposal to address lockout-related hazards in those construction work-site areas in which the available data indicate these hazards to be major.

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Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	06/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Russell B. Swanson, Director, Construction Standards, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3306, FP Building, Washington, DC 20210

Phone: 202 219-8644

RIN: 1218-AB30

1978. POWERED INDUSTRIAL TRUCK OPERATOR TRAINING (INDUSTRIAL TRUCK SAFETY TRAINING)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.178; 29 CFR 1915.120; 29 CFR 1917.43; 29 CFR 1918.77; 29 CFR 1926.602

Legal Deadline: None

Abstract: This is the second leading cause of fatalities in the private sector, behind only highway vehicle fatalities. On average, there are 107 fatalities and 38,330 injuries annually in the workplace.

The present standard has proven to be ineffective in reducing the number of accidents involving powered industrial trucks. As a result, there has been strong Congressional interest that OSHA issue a new standard to more effectively address this hazard. OSHA intends to revise the present standard to increase its effectiveness by requiring, in performance language, initial and refresher training as necessary. The frequency of the refresher training will be based upon the ability of the vehicle operator to retain the knowledge, skills and abilities to perform the job safely. OSHA will also give guidance as to what information the instruction should include. There will also be other amendments to the standard to increase its effectiveness. This proposal, if adopted, would apply to

general industry, the maritime industries and construction.

Timetable:

Action	Date	FR Cite
NPRM	03/14/95	60 FR 13782
NPRM Comment	07/12/95	
Period End		
NPRM Second and Hearing	01/30/96	61 FR 3092
Final Action	09/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Hearing to be held 4/30/96 and May 1, 1996.

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218-AB33

1979. PREVENTION OF WORK-RELATED MUSCULOSKELETAL DISORDERS

Priority: Economically Significant

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

CFR Citation: 29 CFR 1910; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918; 29 CFR 1926; 29 CFR 1928

Legal Deadline: None

Abstract: Work-related musculoskeletal disorders are a leading cause of pain, suffering, and disability in American workplaces. Since the 1980's, the Occupational Safety and Health Administration (OSHA) has had a number of initiatives related to addressing these problems, including enforcement under the general duty clause, issuance of guidelines for the meatpacking industry, and development of other compliance-assistance materials.

Ultimately, the Agency decided that, given the increasing magnitude of the problem, a regulatory approach should be explored to ensure that the largest possible number of employers and employees become aware of the problems and ways of preventing work-related musculoskeletal disorders. The Agency was precluded from issuing a standard or guidelines in this area by a rider on its fiscal year 1995 rescission

bill. It is unclear at this point whether similar Congressional restrictions will prevent OSHA from addressing this issue in fiscal year 1996.

An open process to develop and consider regulatory alternatives was initiated by the Bush Administration with the publication of an advance notice of proposed rulemaking on August 3, 1992 (57 FR 34192). About 300 comments were received in response to that request. In addition to the public comments, OSHA has examined and analyzed the extensive scientific literature documenting the problem of work-related musculoskeletal disorders, the causes of the problem, and effective solutions; conducted a telephone survey of over 3,000 establishments regarding their current practices to prevent work-related musculoskeletal disorders; and completed a number of site visits to facilities with existing programs. The Agency has also held numerous stakeholder meetings to solicit input from individuals regarding the possible contents of a standard to prevent work-related musculoskeletal disorders, and on a draft proposed regulatory text and supporting documents. Agency representatives have delivered numerous outreach presentations to people who are interested in this subject; consulted professionals in the field to obtain expert opinions on various aspects of the options considered by the Agency; and had some employers field-test certain requirements under consideration for the standard. A quantitative risk assessment has been drafted, as well as a preliminary assessment of potential costs and benefits.

OSHA is in the process of refining its regulatory approach based on stakeholder input and other information for inclusion in an NPRM. The Agency believes that the scientific evidence supports the need for a standard and that the availability of effective and reasonable means to control these hazards has been demonstrated. The criteria that have been developed for setting OSHA priorities support the Agency's determination that action is needed now to stop the escalating occurrence of work-related musculoskeletal disorders.

Statement of Need: OSHA estimates that the occurrence of work-related musculoskeletal disorders in the United

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States ranges from more than 700,000 lost workday injuries and illnesses (30% of all lost workdays reported to the Bureau of Labor Statistics (BLS)) to more than 2.7 million annually awarded workers' compensation claims. These disorders now account for one out of every three dollars spent on workers' compensation. It is estimated that employers spend \$20 billion a year on direct costs for workers' compensation, and up to five times that much for indirect costs, such as those associated with hiring and training replacement workers. In addition to these monetary effects, these disorders often impose a substantial personal toll on workers who experience their effects, and as a result are no longer able to work or to perform simple personal tasks like buttoning their clothes or brushing their hair.

Scientific evidence associates these disorders with stresses to various body parts caused by the way certain tasks are performed. The positioning of the body and the type of physical work that must be done to complete the tasks of a job may cause persistent pain and lead over time to deterioration of the affected joints, tissues, and muscles. The longer the time the worker must maintain a fixed or awkward posture, exert force, repeat the same movements, experience vibration, or handle heavy items, the greater the chance that such a disorder will occur. These job-related stresses are referred to as "workplace risk factors," and the scientific literature demonstrates that exposure to these risk factors, particularly in combination with each other, significantly increases an employee's risk of developing a work-related musculoskeletal disorder. Jobs involving exposure to workplace risk factors appear in all types of industries and in all sizes of facilities.

Musculoskeletal disorders occur in all parts of the body--the upper extremity, the lower extremity, and the back.

The evidence OSHA has assembled and analyzed indicates that there are technologically and economically feasible measures available that can significantly reduce exposures to workplace risk factors and the risk of developing work-related musculoskeletal disorders. Many companies that have voluntarily implemented ergonomics programs have demonstrated that effective ergonomic interventions are available and implementation of them is

beneficial to the employer and the employee. Many of these interventions are simple and inexpensive, but nevertheless have a significant effect on the occurrence of work-related musculoskeletal disorders. Substantial savings in workers' compensation costs, increased productivity, and decreased turnover are among the benefits found.

Alternatives: OSHA has considered many different regulatory alternatives since initiating the rulemaking process. These include variations in the scope of coverage, particularly with regard to industrial sectors; various phasing options related to the size of facility; and limitations to the types of disorders to be covered by the proposed rule. In particular, OSHA is examining scope options that would narrow or focus coverage to a similar percentage of the population at risk. The Agency is also looking at different ways to address the issue, such as having a program-oriented approach rather than focusing on the process for identifying and controlling hazards.

Anticipated Costs and Benefits: Implementation costs associated with a regulatory approach would include those related to identifying and correcting problem jobs using engineering and administrative controls. Benefits expected include reduced pain and suffering, both from prevented disorders as well as reduced severity in those disorders that do occur, fewer workers' compensation claims and lower associated costs, and reduced lost work time. Secondary benefits may accrue from improved quality and productivity due to better designed work systems.

Risks: The data OSHA has obtained and analyzed indicate that employees are at a significant risk of developing or aggravating musculoskeletal disorders due to exposure to risk factors in the workplace. In addition, information OSHA has obtained from site visits, scientific literature, compliance experience, and other sources indicates that there are economically and technologically feasible means of addressing and reducing these risks to prevent the development or aggravation of such disorders, or to reduce their severity. These data and analyses will be presented in the preamble to any proposed standard published in the Federal Register.

Timetable:

Action	Date	FR Cite
ANPRM	08/03/92	57 FR 34192
ANPRM Comment	02/01/93	
Period End		
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 1218-AB36

1980. INDOOR AIR QUALITY IN THE WORKPLACE

Priority: Economically Significant

Legal Authority: 29 USC 655

CFR Citation: 29 CFR 1910.1033

Legal Deadline: None

Abstract: OSHA was petitioned in March 1987 by the Action on Smoking or Health (ASH), Public Citizen, and the American Public Health Association to issue an emergency temporary standard on environmental tobacco smoke (ETS) in the workplace. In March 1992, OSHA was petitioned by the AFL-CIO to establish workplace IAQ standards. In December 1992, ASH again petitioned for rulemaking on ETS. In January 1993, Labor Secretary Lynn Martin, under the Bush Administration, directed OSHA to begin rulemaking to address the hazards of exposure to ETS.

Everyday, more than 20 million American workers face an unnecessary health threat because of poor indoor air quality (IAQ) and ETS in the workplace. Thousands of heart disease deaths, hundreds of lung cancer deaths, respiratory disease, legionnaire's disease, asthma, and other ailments are linked to this occupational hazard. More specifically, it is estimated that each year, there are approximately 700 cases of lung cancer and 13,000 deaths from heart disease among nonsmoking workers exposed to ETS. Further, America's workers are at risk of developing over a hundred thousand upper respiratory symptoms, as well as many thousands of headaches from poor indoor air quality. EPA estimates

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that 20 to 35 percent of all workers in modern mechanically ventilated buildings may experience air-quality problems that could result in illnesses, absenteeism, lost productivity, and discomfort.

Surveys have estimated that as many as 85 percent of the polled companies had some sort of smoking restriction in place, due to either concerns about production safety or employee health and safety. The fact that this is a national problem suggests that it should be solved at the Federal level.

OSHA published a Request for Information on September 20, 1991, to collect information to determine if a standard regulating indoor air quality is justified and feasible. Information was requested on the ventilation system performance necessary to optimize indoor air quality, techniques for improving ventilation, building maintenance programs, existing workplace indoor air policies, and local and State laws addressing indoor air quality.

After reviewing and analyzing available information, OSHA published a proposed rule on April 5, 1994. The proposal would require employers to write and implement indoor air quality compliance plans that would include inspection and maintenance of current building ventilation systems to ensure they are functioning as designed. In buildings where smoking is allowed, the proposal would require designated smoking areas that would be separate, enclosed rooms where the air would be exhausted directly to the outside. Other proposed provisions would require employers to maintain healthy air quality during renovation, remodeling and similar activities. The provisions for indoor air quality would apply to 70 million workers and more than 4.5 million nonindustrial indoor work environments, including schools and training centers, offices, commercial establishments, health care facilities, cafeterias and factory break rooms. ETS provisions would apply to all 6 million industrial and nonindustrial work environments under OSHA jurisdiction. OSHA preliminarily estimates that 5,583 to 32,502 cancer deaths and 97,700 to 577,818 coronary heart diseases related to occupational exposure to ETS will be prevented over the next 45 years. This represents 140 to 722 cancer deaths and 2,094 to 13,001 heart diseases each year. OSHA

preliminarily estimates that the proposed standard will prevent 4.5 million upper respiratory problems over the next 45 years. This is approximately 105,000 upper respiratory symptoms per year. These estimates understate the prevalence of building-related symptoms since they only reflect excess risk in air conditioned buildings.

Timetable:

Action	Date	FR Cite
Request for Information	09/20/91	56 FR 47892
Comment Period End	01/21/92	
NPRM	04/05/94	59 FR 15968
NPRM Comment Period End	08/13/94	59 FR 30560
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218-AB37

1981. OCCUPATIONAL EXPOSURE TO HEXAVALENT CHROMIUM (PREVENTING OCCUPATIONAL ILLNESS: CHROMIUM)

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: 29 CFR 655(b); 29 CFR 657

Legal Deadline: None

Abstract: On July 19, 1993, the Oil, Chemical, and Atomic Workers International Union (OCAW) and Public Citizen's Health Research Group (HRG) petitioned for an emergency temporary standard to lower the permissible exposure limit (PEL) for hexavalent chromium compounds (CrCL) to 0.5 micrograms of hexavalent chromium per cubic meter of air (ug/ms) as an eight hour, time weighted average (TWA). The current PEL is 100 ug/m³, as an 8-hour time-weighted average. Occupational exposure to hexavalent chromium is known to cause lung cancer, bronchial asthma, nasal septum perforations, skin ulcers, and irritative dermatitis. CrVL includes

chromic acid, chromates, lead chromate, and zinc chromate, all measured as CrO₃. OSHA thoroughly reviewed the petition. While OSHA agrees that there is clear evidence that exposure to CrVL at the current PEL of 100 ug/m³ can result in significant risk of lung cancer and other CrVL-related illnesses, based on the Agency's analysis, OSHA finds that the currently available data are not sufficiently definitive in certain critical areas to support the need for an ETS, particularly in light of the extremely stringent statutory criteria for issuing and sustaining such action. While OSHA is denying the petition for an ETS, the Agency will issue a Section 6(b) rulemaking action to be responsible to the stakeholders' requests and to protect the 200,000-700,000 workers exposed to hazards of chromium annually.

Timetable:

Action	Date	FR Cite
NPRM	06/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 1218-AB45

1982. FIRE PROTECTION IN SHIPYARD EMPLOYMENT (PART 1915, SUBPART P) (PHASE II) (SHIPYARDS: FIRE SAFETY)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.1 et seq; 29 CFR 1915.31 et seq; 29 CFR 1915.91 et seq; 29 CFR 1915.111 et seq; 29 CFR 1915.131 et seq; 29 CFR 1915.161 et seq; 29 CFR 1915.171 et seq; 29 CFR 1915.181; 29 CFR 1910.13 et seq; 29 CFR 1910.14; 29 CFR 1910.15; 29 CFR

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1910.95; 29 CFR 1910.96; 29 CFR 1910.97; 29 CFR 1910.141; ...

Legal Deadline: None

Abstract: Under the Reagan Administration, OSHA embarked on a project to update and consolidate the varying OSHA standards that were applied in the shipbuilding, ship repair, and shipbreaking industry. A shipyard employer was subject to both the "shipyard" standards that applied only to shipboard hazards and OSHA's general industry standards for landslide operations. This resulted in inconsistent, and sometimes contradictory, requirements for essentially the same operation. Phase 1 of this project aimed at establishing a truly vertical standard for shipyard employment and addressed six subparts of shipyard employment safety

standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project (including general work practices and fire safety). This action is endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards. This particular proposal will consolidate and update the provisions of 29 CFR 1910 and 29 CFR 1915 into one comprehensive Part 1915 that will apply to all activities and areas in shipyards. The operations that are addressed in this subpart relate to fire brigades, fire extinguishers, sprinkler

systems, detection systems, alarm systems, fire watches, and emergency plans. 100,000 workers are potentially exposed to these hazards annually.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

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RIN: 1218-AB51

DEPARTMENT OF LABOR (DOL)

Completed Actions

Occupational Safety and Health Administration (OSHA)

1983. GRAIN HANDLING FACILITIES

Priority: Other Significant

Legal Authority: 29 USC 655(b); 5 USC 533

CFR Citation: 29 CFR 1910.272; 29 CFR 1911

Legal Deadline: None

Abstract: Paragraph (g) of OSHA's standard for grain handling facilities (section 1910.272) covers employee entry into bins, silos, and tanks. Formerly, paragraph (g) did not apply to certain grain storage buildings or to certain tanks unless entry into such tanks was made from the top of the structure. This rule amended paragraph

(g) of section 1910.272 to assure and to clarify OSHA's original intent that this paragraph apply to all entries into structures that are made above the level of the grain.

Timetable:

Action	Date	FR Cite
NPRM	10/19/95	60 FR 54047
NPRM Comment Period End	11/20/95	
Final Action	03/08/96	61 FR 9578
Final Action Effective	04/08/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 272 Periodicals: Publishing, or Publishing and Printing;

422 Public Warehousing and Storage; 515 Farm-product Raw Materials; 204 Grain Mill Products

Analysis: Regulatory Flexibility Analysis

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RIN: 1218-AB56

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