



Federal Register

Monday,
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Part IV

Department of Labor

Semiannual Regulatory Agenda

DEPARTMENT OF LABOR (DOL)

DEPARTMENT OF LABOR

Office of the Secretary

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

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

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual regulatory agenda.

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

The agenda complies with the requirements of both Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists all regulations that are expected to be under review or development between April 2010 and April 2011, as well as those completed during the past 6 months.

FOR FURTHER INFORMATION CONTACT: Kathleen Franks, Director, Office of Regulatory Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution

Avenue NW., Room S-2312, Washington, DC 20210; (202) 693-5959.

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

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

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

In addition, beginning with the fall 2007 edition, the Internet will be the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at www.reginfo.gov, in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

The Regulatory Flexibility Act, which became effective on January 1, 1981, requires the Department of Labor to publish an agenda, listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a

substantial number of small entities" (5 U.S.C. 602).

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

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

Occupational Safety and Health Administration

Methylene Chloride (RIN 1218-AC23)

Bloodborne Pathogens (RIN 1218-AC34)

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

For this edition of the Department of Labor's regulatory agenda, the most important significant regulatory actions and a Statement of Regulatory Priorities are included in the Regulatory Plan, which appears in both the online Unified Agenda and in part II of the **Federal Register** that includes the Unified Agenda.

Hilda L. Solis,
Secretary of Labor.

Office of Federal Contract Compliance Programs—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
453	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors: Evaluation of Recruitment and Placement Results Under Section 503	1250-AA02

Office of Federal Contract Compliance Programs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
454	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors; Evaluation of Recruitment and Placement Results Under the VEVRAA of 1974, As Amended	1250-AA00

DOL

Mine Safety and Health Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
537	Criteria and Procedures for Proposed Assessment of Civil Penalties/Recordkeeping and Reporting: Immediate Notification	1219-AB63

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
538	Occupational Exposure to Beryllium	1218-AB76
539	Methylene Chloride (Section 610 Review)	1218-AC23
540	Occupational Exposure to Diacetyl and Food Flavorings Containing Diacetyl	1218-AC33
541	Bloodborne Pathogens (610 Review) (Section 610 Review)	1218-AC34
542	Infectious Diseases	1218-AC46
543	Injury and Illness Prevention Program	1218-AC48
544	Occupational Injury and Illness Recording and Reporting Requirements—Modernizing OSHA's Reporting System	1218-AC49

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
545	Confined Spaces in Construction	1218-AB47
546	Occupational Exposure to Crystalline Silica	1218-AB70
547	Walking Working Surfaces and Personal Fall Protection Systems (Slips, Trips, and Fall Prevention)	1218-AB80
548	Standards Improvement Project (SIP III)	1218-AC19
549	Hazard Communication	1218-AC20
550	Cooperative Agreements	1218-AC32
551	Occupational Injury and Illness Recording and Reporting Requirements—NAICS Update and Reporting Revisions	1218-AC50

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
552	General Working Conditions for Shipyard Employment	1218-AB50
553	Electric Power Transmission and Distribution; Electrical Protective Equipment	1218-AB67
554	Cranes and Derricks in Construction	1218-AC01
555	Procedures for Handling Discrimination Complaints Under Federal Employee Protection Statutes	1218-AC25
556	Nationally Recognized Testing Laboratories Fee Schedule—Revised Approach	1218-AC27
557	Procedures for Handling Employee Retaliation Complaints Under the National Transit Systems Security Act of 2007; Surface Transportation Assistance Act of 1982, as Amended; and Federal Rail Safety Act	1218-AC36
558	Occupational Injury and Illness Recording and Reporting Requirements—Musculoskeletal Disorders (MSD) Column	1218-AC45
559	Procedures for the Handling of Retaliation Complaints Under the Employee Protection Provisions of the Consumer Product Safety Improvement Act (CPSIA) of 2008	1218-AC47

Occupational Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
560	Combustible Dust	1218-AC41

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Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
561	Hearing Conservation Program for Construction Workers	1218-AB89
562	Explosives	1218-AC09
563	Emergency Response and Preparedness	1218-AC17
564	Revision and Update of Standards for Power Presses	1218-AC22
565	Abbreviated Portacount® Quantitative Fit-Testing Protocol	1218-AC39
566	Tree Care Operations	1218-AC40
567	Occupational Exposure to Hexavalent Chromium; Final Rule Remand	1218-AC43

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

Sequence Number	Title	Regulation Identifier Number
568	Revised Funding Formula for Jobs for Veterans State Grants	1293-AA17

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

Sequence Number	Title	Regulation Identifier Number
569	Establishment of a Uniform National Threshold Entered Employment Rate Under the Jobs for Veterans State Grants	1293-AA18

Department of Labor (DOL)

Prerule Stage

Office of Federal Contract Compliance Programs (OFCCP)

453. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS: EVALUATION OF RECRUITMENT AND PLACEMENT RESULTS UNDER SECTION 503

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 706 and 793; EO 11758 (3 CFR 1971 to 1975 Comp p 841)

CFR Citation: 41 CFR 60-741

Legal Deadline: None

Abstract: This Advance Notice of Proposed Rulemaking (ANPRM) seeks information regarding 41 CFR parts 60

to 741. In particular, the ANPRM invites public comments in respect to improving employment opportunities for individuals with disabilities. Further, the ANPRM will request information on how Federal contractors and subcontractors can conduct more substantive analyses and fully monitor their recruitment and placement efforts on behalf of individuals with disabilities.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/10	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Sandra M. Dillon, Deputy Director, Division of Policy, Planning and Program Development, Department of Labor, Office of Federal Contract Compliance Programs, 200 Constitution Avenue NW., N3422, Washington, DC 20210
Phone: 202 693-0102
Email: dillon.sandra.m@dol.gov

Related RIN: Previously reported as 1215-AB77

RIN: 1250-AA02

DOL—MSHA

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	01/16/09	74 FR 2915
NPRM Comment Period End	03/17/09	
Notice of Hearing; Reopening of Comment Period	06/09/09	74 FR 27263
NPRM Comment Period Extended	08/14/09	
Final Action	04/06/10	75 FR 17512
Final Action Effective	06/07/10	

**Regulatory Flexibility Analysis
Required:** No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey,
Director, Office of Standards,
Regulations, and Variances, Department
of Labor, Mine Safety and Health
Administration, 1100 Wilson
Boulevard, Room 2350, Arlington, VA
22209-3939
Phone: 202 693-9440
Fax: 202 693-9441
Email: silvey.patricia@dol.gov

RIN: 1219-AB61

**537. CRITERIA AND PROCEDURES
FOR PROPOSED ASSESSMENT OF
CIVIL PENALTIES/RECORDKEEPING
AND REPORTING: IMMEDIATE
NOTIFICATION**

Priority: Other Significant

Legal Authority: 30 USC 815; 30 USC
820; 30 USC 957

CFR Citation: 30 CFR 100; 30 CFR 50

Legal Deadline: None

Abstract: Consistent with the MINER Act, MSHA's civil penalty regulations require a specified penalty for failure to report certain types of accidents. Under the existing regulations, MSHA must review all violations of section 50.10 under section 100.5(f) for special assessment. The direct final rule makes nonsubstantive organizational and clarifying changes to improve the efficiency and effectiveness of the Agency's procedures for processing civil penalties. MSHA stated the Agency would withdraw the direct final rule if the Agency received significant adverse comments. Because the Agency did not receive any significant adverse comments, the direct final rule became effective. Comments on the direct final rule and the proposal indicate that some members of the mining industry

misunderstood the Agency's intent. For clarification, the Agency intends that the phrase, "any other accident," as used in section 50.10(d) refers to: (1) An entrapment of an individual for more than 30 minutes and (2) any other accident as defined in section 50.2(h)(4)-(12).

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/29/09	74 FR 68918
NPRM	12/29/09	74 FR 68920
NPRM Comment Period End	03/01/10	
Direct Final Rule Effective	03/29/10	

**Regulatory Flexibility Analysis
Required:** No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey,
Director, Office of Standards,
Regulations, and Variances, Department
of Labor, Mine Safety and Health
Administration, 1100 Wilson
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22209-3939
Phone: 202 693-9440
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Email: silvey.patricia@dol.gov

RIN: 1219-AB63

Department of Labor (DOL)

Prerule Stage

Occupational Safety and Health Administration (OSHA)

**538. OCCUPATIONAL EXPOSURE TO
BERYLLIUM**

Priority: Economically Significant.
Major under 5 USC 801.

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 1910

Legal Deadline: None

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

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

Timetable:

Action	Date	FR Cite
Request for Information	11/26/02	67 FR 70707
SBREFA Report Completed	01/23/08	
Initiated Peer Review of Health Effects and Risk Assessment	03/22/10	
Complete Peer Review	11/00/10	

**Regulatory Flexibility Analysis
Required:** Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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

DOL—OSHA

Prerule Stage

Phone: 202 693-1950
 Fax: 202 693-1678
 Email: dougherty.dorothy@dol.gov
 RIN: 1218-AB76

539. METHYLENE CHLORIDE (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

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

CFR Citation: 29 CFR 1910.1052

Legal Deadline: None

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

Timetable:

Action	Date	FR Cite
Begin Review	12/01/06	
Request for Comments	07/10/07	72 FR 37501
Comment Period End	10/09/07	
Reopen Comment Period	01/08/08	73 FR 1299
Comment Period End	03/10/08	
End Review	04/00/10	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Smith, Directorate of Evaluation and Analysis, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N-3641, Washington, DC 20210
 Phone: 202 693-2400
 Fax: 202 693-1641
 Email: smith.john@dol.gov

RIN: 1218-AC23

540. OCCUPATIONAL EXPOSURE TO DIACETYL AND FOOD FLAVORINGS CONTAINING DIACETYL

Priority: Other Significant

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

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: On July 26, 2006, the United Food and Commercial Workers International Union (UFCW) and the International Brotherhood of Teamsters (IBT) petitioned DOL for an Emergency Temporary Standard (ETS) for all employees exposed to diacetyl, a major component in artificial butter flavoring. Diacetyl and a number of other volatile organic compounds are used to manufacture artificial butter food flavorings. These food flavorings are used by various food manufacturers in a multitude of food products including microwave popcorn, certain bakery goods, and some snack foods. OSHA denied the petition on September 25, 2007, but has initiated 6(b) rulemaking.

Evidence from NIOSH and other sources indicated that employee exposure to diacetyl and food flavorings containing diacetyl is associated with bronchiolitis obliterans, a debilitating and potentially fatal disease of the small airways in the lung. Severe obstructive airway disease has been observed in the microwave popcorn industry and in food flavoring manufacturing plants. Experimental evidence has shown that inhalation exposure to artificial butter flavoring vapors and diacetyl damaged tissue lining, the nose, and airways of rats and mice. OSHA published an Advanced Notice of Proposed Rulemaking (ANPRM) on January 21, 2009, but withdrew the ANPRM on March 17, 2009, in order to facilitate timely development of a standard. The Agency subsequently initiated review of the draft proposed standard in accordance with the Small Business Regulatory Enforcement Fairness Act (SBREFA). The SBREFA Panel Report was completed on July 2, 2009. The next step will be for OSHA to conduct a scientific peer review of its draft risk assessment.

Timetable:

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

Regulatory Flexibility Analysis
Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

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

RIN: 1218-AC33

541. BLOODBORNE PATHOGENS (610 REVIEW) (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 533; 5 USC 610; 29 USC 655(b)

CFR Citation: 29 CFR 1910.1030

Legal Deadline: None

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

Timetable:

Action	Date	FR Cite
Begin Review	10/22/09	
Request for Comments	04/00/10	

Regulatory Flexibility Analysis
Required: No

Government Levels Affected: None

Agency Contact: John Smith, Directorate of Evaluation and Analysis, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N-3641, Washington, DC 20210
 Phone: 202 693-2400
 Fax: 202 693-1641
 Email: smith.john@dol.gov

RIN: 1218-AC34

542. INFECTIOUS DISEASES

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

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 533; 29 USC 657 and 658; 29 USC 660; 29 USC 666; 29 USC 669; 29 USC 673; ...

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: Employees in health care and other high-risk environments face long-standing infectious diseases hazards such as tuberculosis (TB), varicella disease (chickenpox, shingles), and measles (rubeola), as well as new and emerging infectious disease threats, such as Severe Acute Respiratory Syndrome (SARS) and pandemic influenza. Health care workers and workers in related occupations or who are exposed in other high-risk environments are at increased risk of contracting TB, SARS, MRSA, and other infectious diseases that can be transmitted through a variety of exposure routes. OSHA is concerned about the ability of employees to continue to provide health care and other critical services without unreasonably jeopardizing their health.

OSHA is considering the need for a standard to ensure that employers establish a comprehensive infection control program and control measures to protect employees from infectious disease exposures to pathogens that can cause significant disease. Workplaces where such control measures might be necessary include: health care, emergency response, correctional facilities, homeless shelters, drug treatment programs, and other occupational settings where employees can be at increased risk of exposure to potentially infectious people. A standard could also apply to laboratories which handle materials that may be a source of pathogens, and to pathologists, coroners' offices, medical examiners, and mortuaries.

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	04/00/10	
RFI Comment Period Ends	07/00/10	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Dorothy Dougherty, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N-3718, Washington, DC 20210
 Phone: 202 693-1950
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RIN: 1218-AC46

543. • INJURY AND ILLNESS PREVENTION PROGRAM

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 653; 29 USC 655(b); 29 USC 657

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: OSHA is developing a rule requiring employers to implement an Injury and Illness Prevention Program. It involves planning, implementing, evaluating, and improving processes and activities that protect employee safety and health. OSHA has substantial data on reductions in injuries and illnesses from employers who have implemented similar effective processes. The Agency currently has voluntary Safety and Health Program Management Guidelines (54 FR 3904-3916), published in 1989. An injury and illness prevention rule would build on these guidelines as well as lessons learned from successful approaches and best practices under OSHA's Voluntary Protection Program Safety and Health Achievement Recognition Program and similar industry and international initiatives such as American National Standards Institute/American Industrial Hygiene Association Z10 and Occupation Health and Safety Association 18001. Twelve States have similar rules. As a first step, the Agency plans to hold stakeholder meetings to obtain input for an injury and illness prevention rulemaking.

Timetable:

Action	Date	FR Cite
Stakeholder Meetings	06/00/10	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Dorothy Dougherty, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N-3718, Washington, DC 20210
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RIN: 1218-AC48

544. • OCCUPATIONAL INJURY AND ILLNESS RECORDING AND REPORTING REQUIREMENTS—MODERNIZING OSHA'S REPORTING SYSTEM

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 657

CFR Citation: 29 CFR 1904

Legal Deadline: None

Abstract: OSHA is modernizing its reporting system for occupational injuries and illnesses. An updated and modernized reporting system would enable a more efficient and timely collection of data and would improve the accuracy and availability of the relevant records and statistics. As a first step, the Agency plans to hold stakeholder meetings in July 2010.

Timetable:

Action	Date	FR Cite
Stakeholder Meetings	07/00/10	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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

RIN: 1218-AC49

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

Proposed Rule Stage

545. CONFINED SPACES IN CONSTRUCTION

Priority: Other Significant

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

CFR Citation: 29 CFR 1926.36

Legal Deadline: None

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

Timetable:

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

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Bill Parsons, Acting Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N-3468, Washington, DC 20210
 Phone: 202 693-2020
 Fax: 202 693-1689

RIN: 1218-AB47

546. OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

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

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

Legal Deadline: None

Abstract: Crystalline silica is a significant component of the earth's crust, and many workers in a wide range of industries are exposed to it, usually in the form of respirable quartz or, less frequently, cristobalite. Chronic silicosis is a uniquely occupational disease resulting from exposure of employees over long periods of time (10 years or more). Exposure to high levels of respirable crystalline silica causes acute or accelerated forms of silicosis that are ultimately fatal. The current OSHA permissible exposure limit (PEL) for general industry is based on a formula recommended by the American Conference of Governmental Industrial Hygienists (ACGIH) in 1971 (PEL=10mg/cubic meter/(% silica + 2), as respirable dust). The current PEL for construction and maritime (derived from ACGIH's 1962 Threshold Limit Value) is based on particle counting technology, which is considered obsolete. NIOSH and ACGIH recommend 50µg/m³ and 25µg/m³ exposure limits, respectively, for respirable crystalline silica.

Both industry and worker groups have recognized that a comprehensive standard for crystalline silica is needed to provide for exposure monitoring, medical surveillance, and worker training. The American Society for Testing and Materials has published a recommended standard for addressing the hazards of crystalline silica. The Building Construction Trades Department of the AFL-CIO has also developed a recommended comprehensive program standard. These standards include provisions for methods of compliance, exposure monitoring, training, and medical surveillance. OSHA is currently developing a NPRM.

Statement of Need: Workers are exposed to crystalline silica dust in general industry, construction, and maritime industries. Industries that could be particularly affected by a standard for crystalline silica include: Foundries, industries that have abrasive blasting operations, paint manufacture, glass and concrete product manufacture, brick making, china and pottery manufacture, manufacture of plumbing fixtures, and many construction activities including

highway repair, masonry, concrete work, rock drilling, and tuckpointing. The seriousness of the health hazards associated with silica exposure is demonstrated by the fatalities and disabling illnesses that continue to occur; between 1990 and 1996, 200 to 300 deaths per year are known to have occurred where silicosis was identified on death certificates as an underlying or contributing cause of death. It is likely that many more cases have occurred where silicosis went undetected. In addition, the International Agency for Research on Cancer has designated crystalline silica as a known human carcinogen. Exposure to crystalline silica has also been associated with an increased risk of developing tuberculosis and other nonmalignant respiratory diseases, as well as renal and autoimmune respiratory diseases. Exposure studies and OSHA enforcement data indicate that some workers continue to be exposed to levels of crystalline silica far in excess of current exposure limits. Congress has included compensation of silicosis victims on Federal nuclear testing sites in the Energy Employees' Occupational Illness Compensation Program Act of 2000. There is a particular need for the Agency to modernize its exposure limits for construction and maritime workers, and to address some specific issues that will need to be resolved to propose a comprehensive standard.

Summary of Legal Basis: The legal basis for the proposed rule is a preliminary determination that workers are exposed to a significant risk of silicosis and other serious disease and that rulemaking is needed to substantially reduce the risk. In addition, the proposed rule will recognize that the PELs for construction and maritime are outdated and need to be revised to reflect current sampling and analytical technologies.

Alternatives: Over the past several years, the Agency has attempted to address this problem through a variety of non-regulatory approaches, including initiation of a Special Emphasis Program on silica in October 1997, sponsorship with NIOSH and MSHA of the National Conference to Eliminate Silicosis, and dissemination of guidance information on its Web site.

Anticipated Cost and Benefits: The scope of the proposed rulemaking and

DOL—OSHA

Proposed Rule Stage

estimates of the costs and benefits are still under development.

Risks: A detailed risk analysis is under way.

Timetable:

Action	Date	FR Cite
Completed SBREFA Report	12/19/03	
Initiated Peer Review of Health Effects and Risk Assessment	05/22/09	
Completed Peer Review	01/24/10	
NPRM	02/00/11	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

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

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

RIN: 1218-AB70

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

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910, subparts D and I

Legal Deadline: None

Abstract: In 1990, OSHA proposed a rule (55 FR 13360) addressing slip, trip, and fall hazards and establishing requirements for personal fall protection systems. Slips, trips, and falls are among the leading causes of work-related injuries and fatalities. Since that time, new technologies and procedures have become available to protect employees from these hazards. The Agency has been working to update these rules to reflect current technology. OSHA published a notice to re-open the rulemaking for comment on May 2, 2003, because a number of

issues were raised in the NPRM record. As a result of the comments received on that notice, OSHA has determined that the rule proposed in 1990 is out-of-date and does not reflect current industry practice or technology. The Agency is developing a new proposal, modified to reflect current information, as well as to re-assess the impact.

Timetable:

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

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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RIN: 1218-AB80

548. STANDARDS IMPROVEMENT PROJECT (SIP III)

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: OSHA is continuing its efforts to remove or revise duplicative, unnecessary, and inconsistent safety and health standards. This effort builds upon the success of the Standards Improvement Project (SIP) Phase I published on June 18, 1998 (63 FR 33450), and Phase II published on January 5, 2005 (70 FR 1111). The Agency believes that such changes can reduce compliance costs and reduce the paperwork burden associated with a number of its standards. The Agency will only consider such changes if they do not diminish employee protections. To initiate the project, OSHA published an advance notice of proposed rulemaking (ANPRM) on December 21, 2006, to solicit input from the public on rules that may be addressed in

Phase III of SIP. The Agency plans to include both safety and health topics in Phase III. OSHA is currently developing a NPRM.

Timetable:

Action	Date	FR Cite
ANPRM	12/21/06	71 FR 76623
ANPRM Comment Period End	02/20/07	
Analyze Record NPRM	04/30/07	
	07/00/10	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: Undetermined

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RIN: 1218-AC19

549. HAZARD COMMUNICATION

Priority: Economically Significant. Major under 5 USC 801.

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

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

CFR Citation: 29 CFR 1910.1200; 29 CFR 1915.1200; 29 CFR 1917.28; 29 CFR 1918.90; 29 CFR 1926.59; 29 CFR 1928.21

Legal Deadline: None

Abstract: OSHA's Hazard Communication Standard (HCS) requires chemical manufacturers and importers to evaluate the hazards of the chemicals they produce or import, and prepare labels and material safety data sheets to convey the hazards and associated protective measures to users of the chemicals. All employers with hazardous chemicals in their workplaces are required to have a hazard communication program, including labels on containers, material safety data sheets (MSDS), and training for employees. Within the United States (U.S.), there are other Federal agencies that also have requirements for classification and labeling of chemicals at different stages of the life cycle.

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Proposed Rule Stage

Internationally, there are a number of countries that have developed similar laws that require information about chemicals to be prepared and transmitted to affected parties. These laws vary with regard to the scope of substances covered, definitions of hazards, the specificity of requirements (e.g., specification of a format for MSDSs), and the use of symbols and pictograms. The inconsistencies between the various laws are substantial enough that different labels and safety data sheets must often be used for the same product when it is marketed in different nations.

The diverse and sometimes conflicting national and international requirements can create confusion among those who seek to use hazard information. Labels and safety data sheets may include symbols and hazard statements that are unfamiliar to readers or not well understood. Containers may be labeled with such a large volume of information that important statements are not easily recognized. Development of multiple sets of labels and safety data sheets is a major compliance burden for chemical manufacturers, distributors, and transporters involved in international trade. Small businesses may have particular difficulty in coping with the complexities and costs involved.

As a result of this situation, and in recognition of the extensive international trade in chemicals, there has been a long-standing effort to harmonize these requirements and develop a system that can be used around the world. In 2003, the United Nations adopted the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). Countries are now adopting the GHS into their national regulatory systems. In September 2009, OSHA published a NPRM to modify its HCS to make it consistent with the GHS. This would involve changing the criteria for classifying health and physical hazards, adopting standardized labeling requirements, and requiring a standardized order of information for safety data sheets.

Statement of Need: Multiple sets of requirements for labels and safety data sheets present a compliance burden for U.S. manufacturers, distributors, and transports involved in international trade. The comprehensibility of hazard information and worker safety will be

enhanced as the GHS will: (1) Provide consistent information and definitions for hazardous chemicals; (2) address stakeholder concerns regarding the need for a standardized format for material safety data sheets; and (3) increase understanding by using standardized pictograms and harmonized hazard statements. The increase in comprehensibility and consistency will reduce confusion and thus improve worker safety and health. In addition, the adoption of the GHS would facilitate international trade in chemicals, reduce the burdens caused by having to comply with differing requirements for the same product, and allow companies that have not had the resources to deal with those burdens to be involved in international trade. This is particularly important for small producers who may be precluded currently from international trade because of the compliance resources required to address the extensive regulatory requirements for classification and labeling of chemicals. Thus every producer is likely to experience some benefits from domestic harmonization, in addition to the benefits that will accrue to producers involved in international trade. Several nations, including the European Union, have adopted the GHS with an implementation schedule through 2015. U.S. manufacturers, employers, and employees will be at a disadvantage in the event that our system of hazard communication is not in compliance with the GHS.

Summary of Legal Basis: The Occupational Safety and Health Act of 1970 authorizes the Secretary of Labor to set mandatory occupational safety and health standards to assure safe and healthful working conditions for working men and women (29 U.S.C. 651).

Alternatives: The alternative to the proposed rulemaking would be to take no regulatory action.

Anticipated Cost and Benefits: The estimates of the costs and benefits are still under development.

Risks: OSHA's risk analysis is under development.

Timetable:

Action	Date	FR Cite
ANPRM	09/12/06	71 FR 53617
ANPRM Comment Period End	11/13/06	

Action	Date	FR Cite
Complete Peer Review of Economic Analysis	11/19/07	
NPRM	09/30/09	74 FR 50279
NPRM Comment Period End	12/29/09	
Hearing	03/02/10	
Hearing	03/31/10	
Post Hearing Comment Period End	06/00/10	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, State

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

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RIN: 1218-AC20

550. COOPERATIVE AGREEMENTS

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

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 656 and 657; 29 USC 670

CFR Citation: 29 CFR 1908

Legal Deadline: None

Abstract: OSHA proposes to revise its regulations for the federally funded On-site Consultation Program to: a) Clarify the ability of the Assistant Secretary to define sites which would receive inspections regardless of Safety and Health Achievement Recognition Program (SHARP) exemption status; b) allow Compliance Safety and Health Officers to proceed with enforcement visits resulting from referrals at sites undergoing Consultation visits and at sites that have been awarded SHARP status; and c) limit the deletion period from OSHA's programmed inspection schedule for those employers participating in the SHARP program.

Note: SHARP is a recognition program that OSHA administers to provide

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incentives and support for small employers to develop, implement, and continuously improve effective safety and health programs at their worksites.

Timetable:

Action	Date	FR Cite
NPRM	09/00/10	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected:

Undetermined

Federalism: Undetermined

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RIN: 1218-AC32

551. • OCCUPATIONAL INJURY AND ILLNESS RECORDING AND REPORTING REQUIREMENTS—NAICS UPDATE AND REPORTING REVISIONS

Priority: Other Significant

Legal Authority: 29 USC 657

CFR Citation: 29 CFR 1904

Legal Deadline: None

Abstract: This proposal involves changes to two aspects of the OSHA recordkeeping and reporting requirements. First, OSHA is proposing to update appendix A to subpart B of part 1904. This appendix contains a list of industries that are partially exempt from the requirements to maintain a log of occupational injuries and illnesses, generally due to their relatively low rates of occupational injury and illness. The current list of industries is based on the Standard Industrial Classification (SIC) system. In 1997, a newer system, the North American Industry Classification System (NAICS), was introduced to classify establishments by industry. The proposed rule would update appendix A by replacing it with a list of industries based on the NAICS and based on more recent occupational

injury and illness rates. Second, OSHA is proposing to revise the reporting requirements regarding the obligations of employers to report to OSHA the occurrence of fatalities and certain injuries. The existing regulations require employers to report to OSHA within 8 hours any work-related incident resulting in the death of an employee or the in-patient hospitalization of three or more employees.

Timetable:

Action	Date	FR Cite
NPRM	11/00/10	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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RIN: 1218-AC50

Department of Labor (DOL)

Final Rule Stage

Occupational Safety and Health Administration (OSHA)

552. GENERAL WORKING CONDITIONS FOR SHIPYARD EMPLOYMENT

Priority: Other Significant

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

CFR Citation: 29 CFR 1915, subpart F

Legal Deadline: None

Abstract: During the 1980s, OSHA initiated a project to update and consolidate the various OSHA shipyard standards that were applied in the shipbuilding, ship repair, and shipbreaking industries. The operations addressed in this rulemaking relate to general working conditions such as housekeeping, illumination, sanitation, first aid, and lockout/tagout. An estimated 100,000 workers are potentially exposed to these hazards each year. The proposed rule was published December 20, 2007, and public hearings were held in 2008. OSHA is currently developing a final rule.

Timetable:

Action	Date	FR Cite
NPRM	12/20/07	72 FR 72451
NPRM Comment Period End	03/19/08	
Public Hearings Held—September 9–10, 2008	06/30/08	73 FR 36823
Public Hearings Held—October 21–22, 2008	09/19/08	73 FR 54340
Public Hearing Comment Period End	02/20/09	
Analyze Record	07/31/09	
Final Rule	11/00/10	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 1218-AB50

553. ELECTRIC POWER TRANSMISSION AND DISTRIBUTION; ELECTRICAL PROTECTIVE EQUIPMENT

Priority: Economically Significant. Major under 5 USC 801.

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

CFR Citation: 29 CFR 1910.136 to 1910.137; 29 CFR 1910.269; 29 CFR 1926, subpart V; 29 CFR 1926.97

Legal Deadline: None

Abstract: Electrical hazards are a major cause of occupational death in the United States. The annual fatality rate for power line workers is about 50 deaths per 100,000 employees. The

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

Timetable:

Action	Date	FR Cite
SBREFA Report	06/30/03	
NPRM	06/15/05	70 FR 34821
NPRM Comment Period End	10/13/05	
Comment Period Extended to 01/11/2006	10/12/05	70 FR 59290
Public Hearing To Be Held 03/06/2006	10/12/05	70 FR 59290
Posthearing Comment Period End	07/14/06	
Reopen Record	10/22/08	73 FR 62942
Comment Period End	11/21/08	
Close Record	11/21/08	
Second Reopening Record	09/14/09	74 FR 46958
Comment Period End	10/15/09	

Action	Date	FR Cite
Public Hearings	10/28/09	
Posthearing Comment Period End	02/10/10	
Final Rule	02/00/11	
Regulatory Flexibility Analysis Required: Yes		
Small Entities Affected: Businesses		
Government Levels Affected: Local		
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RIN: 1218-AB67		

554. CRANES AND DERRICKS IN CONSTRUCTION

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 29 USC 651(b); 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: A number of industry stakeholders asked OSHA to update the cranes and derricks portion of subpart N (29 CFR 1926.550), specifically requesting that negotiated rulemaking be used.

In 2002, OSHA published a notice of intent to establish a negotiated rulemaking committee. A year later, in 2003, committee members were announced and the Cranes and Derricks Negotiated Rulemaking Committee was established and held its first meeting. In July 2004, the committee reached consensus on all issues resulting in a final consensus document.

A Notice of Proposed Rulemaking (NPRM) was published on October 9, 2008. The comment period for the NPRM was extended and closed January 22, 2009. A public hearing was held on March 20, 2009. The final rule is scheduled to be published in July 2010.

Statement of Need: There have been considerable technological changes since the consensus standards upon which the 1971 OSHA standard is based were developed. In addition,

industry consensus standards for derricks and crawler, truck and locomotive cranes were updated as recently as 2004.

The industry indicated that over the past 30 years, considerable changes in both work processes and crane technology have occurred. There are estimated to be 64 to 89 fatalities associated with cranes each year in construction, and a more up-to-date standard would help prevent them.

Summary of Legal Basis: The Occupational Safety and Health Act of 1970 authorizes the Secretary of Labor to set mandatory occupational safety and health standards to assure safe and healthful working conditions for working men and women (29 U.S.C. 651).

Alternatives: The alternative to the proposed rulemaking would be to take no regulatory action and not update the standards in 29 CFR 1926.550 pertaining to cranes and derricks.

Anticipated Cost and Benefits: The estimates of the costs and benefits are still under development.

Risks: OSHA's risk analysis is under development.

Timetable:

Action	Date	FR Cite
Notice of Intent To Establish Negotiated Rulemaking	07/16/02	67 FR 46612
Comment Period End	09/16/02	
Request for Comments on Proposed Committee Members	02/27/03	68 FR 9036
Request for Comments Period End	03/31/03	68 FR 9036
Established Negotiated Rulemaking Committee	06/12/03	68 FR 35172
Rulemaking Negotiations Completed	07/30/04	
SBREFA Report	10/17/06	
NPRM	10/09/08	73 FR 59714
NPRM Comment Period Extended	12/02/08	73 FR 73197
NPRM Comment Period End	01/22/09	
Public Hearing	03/20/09	
Close Record	06/18/09	
Final Rule	07/00/10	

Regulatory Flexibility Analysis Required: Yes

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Small Entities Affected: Businesses

Government Levels Affected:
Undetermined

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RIN: 1218-AC01

555. PROCEDURES FOR HANDLING DISCRIMINATION COMPLAINTS UNDER FEDERAL EMPLOYEE PROTECTION STATUTES

Priority: Other Significant

Legal Authority: 15 USC 2622; 33 USC 1367; 42 USC 300j-9(i); 42 USC 5851; 42 USC 6971; 42 USC 7622; 42 USC 9610

CFR Citation: 29 CFR 24

Legal Deadline: None

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

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/10/07	72 FR 44956
Interim Final Rule Comment Period End	10/09/07	
Final Action	08/00/10	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 1218-AC25

556. NATIONALLY RECOGNIZED TESTING LABORATORIES FEE SCHEDULE—REVISED APPROACH

Priority: Info./Admin./Other

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657; 31 USC 9701

CFR Citation: 29 CFR 1910.7(f)

Legal Deadline: None

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

In 2000, OSHA began charging NRTLs for the services it provides them. The services are processing of NRTL applications and audits of NRTL operations, and they define the fundamental functions of the NRTL Program. OSHA has determined that its current NRTL fee schedule does not recoup the full costs of the services performed because it does not recover certain indirect costs of those services. These indirect costs stem from attendant activities and accrue to the benefit of those services. OSHA's proposed fee schedule would account

for these indirect costs. In determining the revised fee structure, OSHA will follow the guidelines established by the Office of Management and Budget in Circular Number A-25. The proposed schedule will require prepayment of all the fees, which complies with the circular and changes the timing of the payment of many of the fees.

OSHA is currently developing a final rule.

Timetable:

Action	Date	FR Cite
NPRM	12/07/09	74 FR 64027
NPRM Comment Period End	01/21/10	
Final Action	10/00/10	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1218-AC27

557. PROCEDURES FOR HANDLING EMPLOYEE RETALIATION COMPLAINTS UNDER THE NATIONAL TRANSIT SYSTEMS SECURITY ACT OF 2007; SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982, AS AMENDED; AND FEDERAL RAIL SAFETY ACT

Priority: Other Significant

Legal Authority: PL 110-53, sec 1521, The Implementing Recommendations of the 9/11 Commission Act of 2007; 49 USC 20109; PL 110-53, sec 1413, The Implementing Recommendations of the 9/11 Commission Act of 2007; PL 110-53, sec 1536, The Implementing Recommendations of the 9/11 Commission Act of 2007; 49 USC 31105; ...

CFR Citation: 29 CFR 1978

Legal Deadline: None

Abstract: OSHA will implement procedures for the handling and investigation of retaliation complaints pursuant to section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007. This Act

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amended the Federal Rail Safety Act (FRSA), to establish a new whistleblower protection provision to be administered by OSHA that provides protections from retaliation to employees working for railroad carriers and their contractors and subcontractors who report potential violations or engage in certain activities related to safety and security.

OSHA will implement procedures for the handling and investigation of retaliation complaints pursuant to section 1413 of the Implementing Recommendations of the 9/11 Commission Act of 2007. Section 1413, known as the National Transit Systems Security Act (NTSSA), included a new whistleblower protection provision to be administered by OSHA that provides protection from retaliation to employees of public transportation agencies and their contractors and subcontractors who report potential violations or engage in certain activities related to safety and security.

OSHA will amend 29 CFR 1978, the procedures applicable to the handling and investigation of whistleblower complaints under the Surface Transportation Assistance Act (STAA), 49 U.S.C. 31105, to implement statutory changes enacted by Congress under section 1536 of the Implementing Recommendations of the 9/11 Commission Act of 2007, and to provide other procedural updates as needed. The statute provides retaliation protection to employees working for commercial motor carriers who report potential violations or engage in certain activities related to safety and security.

Pursuant to these statutes, the rules will set forth the procedures for handling and investigating retaliation complaints, including a statutory "kick-out" provision allowing the complainant to file the complaint in District Court if the Secretary of Labor has not issued a final decision within 210 days of the filing of the complaint. Immediate implementation of these regulations is necessitated to govern whistleblower investigations conducted under the new and revised statutes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/10	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local, State

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RIN: 1218-AC36

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

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 533; 29 USC 657 and 658; 29 USC 660; 29 USC 666; 29 USC 669

CFR Citation: 29 CFR 1904

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA) issued a final rule on Occupational Injury and Illness Recording and Reporting Requirements (66 FR 5916, Jan. 19, 2001), that became effective January 1, 2002. After a regulatory review, the Agency determined that two provisions of the final rule would be delayed and reconsidered; the recording of occupational hearing loss (1904.10) and the recording of work-related musculoskeletal disorders (WMSDs) (1904.12) (66 FR 35113, Jul. 3, 2001). Subsequently, OSHA issued a final 1904.10 regulation setting recording criteria for occupational hearing loss (67 FR 44037, Jul. 1, 2002). Following notice and comment, OSHA published another final rule to remove the WMSD definition from the regulation and remove a separate column for identifying WMSDs from the OSHA 300 Log of Work-Related Injuries and Illness (68 FR 38601, Jun. 30, 2003).

OSHA has reconsidered the need for a 300 Log column for WMSD, and for defining "musculoskeletal disorders" for recordkeeping purposes. The Agency believes that additional data on WMSDs may help employers and workers track these injuries at individual workplaces, and that the Nation's occupational injury and illness information may benefit from improved statistics on WMSD. Improved WMSD information might also assist the

Agency in its day-to-day activities and overall safety and health policymaking.

Therefore, OSHA published a proposed rule to add a definition of WMSD to 29 CFR part 1904 and a separate column on the 300 Log to track this class of injury/illness. The Agency is developing a final rule.

Timetable:

Action	Date	FR Cite
NPRM	01/29/10	75 FR 4728
Public Meeting	03/09/10	
NPRM Comment Period End	03/09/10	75 FR 10738
Extension of Comment Period End	03/30/10	
Final Action	07/00/10	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

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RIN: 1218-AC45

559. PROCEDURES FOR THE HANDLING OF RETALIATION COMPLAINTS UNDER THE EMPLOYEE PROTECTION PROVISIONS OF THE CONSUMER PRODUCT SAFETY IMPROVEMENT ACT (CPSIA) OF 2008

Priority: Other Significant

Legal Authority: PL 110-314, sec 219, the Consumer Product Safety Improvement Act of 2008; 15 USC 2087

CFR Citation: 29 CFR 1983

Legal Deadline: None

Abstract: OSHA is proposing to promulgate procedures for the handling and investigation of retaliation complaints pursuant to Section 219 of the Consumer Product Safety Improvement Act of 2008. This section established a new whistleblower protection statute to be administered by OSHA that provides protection from retaliation to employees in the consumer product industry, including employees of manufacturers, importers, private labelers, distributors and

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retailers, who report reasonably believed violations of the Consumer Product Safety Act or any other Act enforced by the Consumer Product Safety Commission, or any order, rule, regulation, standard, or ban under those Acts. Pursuant to the statute, the procedures will include remedies and legal burdens of proof provisions. Additionally, the Act includes a "kick-out" provision that allows the complainant to file the complaint in District Court if the Secretary has not

issued a final determination within 210 days, or within 90 days after receiving a written determination. Promulgation of a regulation is necessary to govern whistleblower investigations conducted under the new statute.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/10	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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Department of Labor (DOL)

Long-Term Actions

Occupational Safety and Health Administration (OSHA)

560. COMBUSTIBLE DUST

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 29 USC 6559(b); 29 USC 657

CFR Citation: 29 CFR 1910, subpart H

Legal Deadline: None

Abstract: OSHA has commenced rulemaking to develop a combustible dust standard for general industry. The U.S. Chemical Safety Board (CSB) completed a study of combustible dust hazards in late 2006, which identified 281 combustible dust incidents between 1980 and 2005 that killed 119 workers and injured another 718. Based on these findings, the CSB recommended the Agency pursue a rulemaking on this issue. OSHA has previously addressed aspects of this risk. For example, on July 31, 2005, OSHA published the Safety and Health Information Bulletin, "Combustible

Dust in Industry: Preventing and Mitigating the Effects of Fire and Explosions." Additionally, OSHA implemented a Combustible Dust National Emphasis Program (NEP) March 11, 2008. However, the Agency does not have a comprehensive standard that addresses combustible dust hazards.

OSHA will use the information gathered from the NEP to assist in the development of this rule. OSHA published an ANPRM October 21, 2009. Additionally, stakeholder meetings were held in Washington, DC on December 14, 2009, and in Atlanta, GA on February 17, 2010. Additional meetings are scheduled for April 21, 2010, in Chicago, IL.

Timetable:

Action	Date	FR Cite
ANPRM	10/21/09	74 FR 54333
ANPRM Comment Period End	01/19/10	

Action	Date	FR Cite
Stakeholder Meetings	12/14/09	
Stakeholder Meetings	02/17/10	
Stakeholders Meetings	03/09/10	75 FR 10739
Initiate SBREFA	04/00/11	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218-AC41

Department of Labor (DOL)

Completed Actions

Occupational Safety and Health Administration (OSHA)

561. HEARING CONSERVATION PROGRAM FOR CONSTRUCTION WORKERS

Priority: Economically Significant. Major under 5 USC 801.

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

CFR Citation: 29 CFR 1926.52

Legal Deadline: None

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

Timetable:

Action	Date	FR Cite
ANPRM	08/05/02	67 FR 50610
ANPRM Comment Period End	11/04/02	
Stakeholder Meetings	03/24/04	
Additional Stakeholder Meeting	07/21/04	
Withdrawn	04/26/10	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, State

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RIN: 1218-AB89

DOL—OSHA

Completed Actions

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

Abstract: The OSHA regulations for explosives and blasting agents were published in 1974. Two trade associations representing many of the employers subject to this rule have petitioned the Agency to consider revising it, and have recommended changes they believe address the concerns they are raising. OSHA published a proposed rule on April 13, 2007, and ended the comment period on July 17, 2007. The Agency has since decided to withdraw the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	04/13/07	72 FR 18791
NPRM Comment Period End	07/12/07	
NPRM Comment	07/09/07	72 FR 37155
NPRM Comment	07/17/07	72 FR 39041
Withdrawn	02/03/10	75 FR 5545

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

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RIN: 1218-AC09**563. EMERGENCY RESPONSE AND PREPAREDNESS****Priority:** Other Significant**Legal Authority:** 29 USC 655(b); 29 USC 657**CFR Citation:** 29 CFR 1910**Legal Deadline:** None

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

Timetable:

Action	Date	FR Cite
Request for Information	09/11/07	72 FR 51735
Comment Period End	12/10/07	
Withdrawn	04/26/10	

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

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RIN: 1218-AC17**564. REVISION AND UPDATE OF STANDARDS FOR POWER PRESSES****Priority:** Other Significant**Legal Authority:** 29 USC 655(b); 29 USC 657**CFR Citation:** 29 CFR 1910.217**Legal Deadline:** None

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

Timetable:

Action	Date	FR Cite
ANPRM	06/04/07	72 FR 30729
ANPRM Comment	08/03/07	
Withdrawn	04/26/10	

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

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RIN: 1218-AC22**565. ABBREVIATED PORTACOUNT® QUANTITATIVE FIT-TESTING PROTOCOL****Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 655(b); 29 USC 657**CFR Citation:** 29 CFR 1910.134**Legal Deadline:** None

Abstract: Appendix A of OSHA's Respiratory Protection Standard (29 CFR 1910.134) specifies the procedure for adding new test protocols to this standard. OSHA proposes to include two additional protocols for the PortaCount® quantitative fit testing methodology in its Respiratory Protection Standard; the proposed protocols would apply to employers in general industry, shipyard employment, and the construction industry. The revised PortaCount® quantitative fit testing protocols are referred to as the Revised PortaCount® Quantitative Fit Test Protocol 1 and Protocol 2. The only difference between the proposed revised PortaCount® Protocol 1 and the approved PortaCount® protocol is that the revised Protocol 1 requires that the seven test exercises be performed for 30 seconds instead of the 60 seconds per test currently required. The revised Protocol 2 would reduce exercise time to 40 seconds instead of the currently required 60 seconds, eliminate two of the eight fit testing exercises, and would raise the pass/fail criterion from 100 to 200 for half-masks and 500 to 1,000 for full facepieces.

After thoroughly reviewing the comments and other information available in the record for the proposed rulemaking, OSHA concludes that the reused Portacount® Quantitative Fit-Testing Protocols are not sufficiently accurate or reliable to include among the quantitative fit-tests listed in Part II of the appendix A of its Respiratory Protection Standard. As a result, OSHA published a withdrawal notice on January 27, 2010.

Timetable:

Action	Date	FR Cite
NPRM	01/21/09	74 FR 3526
NPRM Comment	03/23/09	
Analyze Record	06/30/09	
Withdrawn	01/27/10	75 FR 4323

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

DOL—OSHA

Completed Actions

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RIN: 1218-AC40

567. OCCUPATIONAL EXPOSURE TO HEXAVALENT CHROMIUM; FINAL RULE REMAND

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1026(d)(4); 29 CFR 1915.1026(d)(4); 29 CFR 1926.1126(d)(4)

Legal Deadline: None

Abstract: On February 28, 2006, OSHA published a final rule for Occupational Exposure to Hexavalent Chromium (Cr(VI)) (29 CFR 1910.1026, 29 CFR 1915.1026, 29 CFR 1926.1126). Public Citizen Health Research Group (Public Citizen) and other parties petitioned for review of the standard in the United States Court of Appeals for the Third Circuit. The court denied the petitions for review on all but one issue. The Third Circuit remanded the employee notification requirements in the standard's exposure determination provisions for further consideration. More specifically, the court directed the Agency to provide an explanation for its decision to limit employee notice requirements to circumstances in which Cr(VI) exposures exceed the permissible exposure limit (PEL) or to take other appropriate action with respect to that paragraph of the standard. After carefully reviewing the rulemaking record on this issue, OSHA has decided to revise the notification requirements, by means of a direct final rule (DFR), to require employers to notify employees of the results of all exposure

determinations, regardless of exposure level.

OSHA has published a companion NPRM, which will be used if OSHA receives any substantive adverse comments on the DFR.

Timetable:

Action	Date	FR Cite
Respond to Remand	09/30/09	
NPRM	03/16/10	75 FR 12485
NPRM Comment Period End	04/15/10	
Direct Final Rule	03/19/10	75 FR 12681
Direct Final Rule Comment Period End	04/16/10	
Direct Final Rule Effective	06/15/10	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, State

Additional Information: This regulation was previously reported as 1218-AB45. A NPRM was published October 4, 2004 (69 FR 53905), and a final rule was published February 28, 2006 (71 FR 10100).

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Related RIN: Previously reported as 1218-AB45

RIN: 1218-AC43

566. TREE CARE OPERATIONS

Priority: Other Significant

Legal Authority: 23 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910

Legal Deadline: None

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

Timetable:

Action	Date	FR Cite
ANPRM	09/18/08	73 FR 54118
ANPRM Comment Period End	12/17/08	
Withdrawn	04/26/10	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: Local

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Department of Labor (DOL)

Prerule Stage

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

568. REVISED FUNDING FORMULA FOR JOBS FOR VETERANS STATE GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 4102(c)(2)(B)(i)

CFR Citation: 20 CFR 1001

Legal Deadline: None

Abstract: Request comments, including data and other information, on issues

related to the funding formula applicable to the Jobs for Veterans State Grants pursuant to 20 CFR part 1001.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/10	
ANPRM Comment Period End	06/00/10	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: State

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RIN: 1293-AA17