



Federal Register

**Monday,
April 26, 2010**

Part XI

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 |
|-----------------|---|------------------------------|
| 204 | 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 |
|-----------------|--|------------------------------|
| 205 | Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors; Evaluation of Recruitment and Placement Results Under the VEVRAA of 1974, As Amended | 1250-AA00 |

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Office of Federal Contract Compliance Programs—Proposed Rule Stage (Continued)

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|---|------------------------------|
| 206 | Construction Contractor Affirmative Action Requirements | 1250-AA01 |

Office of Labor Management Standards—Prerule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|---|------------------------------|
| 207 | Internet Balloting in Union Officer Elections | 1245-AA04 |

Office of Labor Management Standards—Proposed Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|---|------------------------------|
| 208 | Labor Organization Officer and Employee Report (Form LM-30) | 1245-AA01 |
| 209 | Form T-1: Reports by Labor Organizations on Related Organizations; Reporting by Public Sector Intermediate Unions | 1245-AA02 |
| 210 | Persuader Agreements: Employer and Labor Consultant Reporting Under the LMRDA | 1245-AA03 |

Office of Labor Management Standards—Final Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|--|------------------------------|
| 211 | Notification of Employee Rights Under Federal Labor Laws | 1245-AA00 |

Office of Worker's Compensation Program—Proposed Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|---|------------------------------|
| 212 | Defense Base Act Waivers | 1240-AA01 |
| 213 | Regulations Implementing the Longshore and Harbor Workers' Compensation Act: Recreational Vessels | 1240-AA02 |
| 214 | Claims for Compensation Under the Federal Employees' Compensation Act | 1240-AA03 |

Office of Worker's Compensation Program—Final Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|---|------------------------------|
| 215 | Death Gratuity Authorized for Federal Employees | 1240-AA00 |

Wage and Hour Division—Proposed Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|--|------------------------------|
| 216 | Nondisplacement of Qualified Workers Under Service Contracts | 1235-AA02 |
| 217 | The Family and Medical Leave Act of 1993, as Amended | 1235-AA03 |
| 218 | Records To Be Kept by Employers Under the Fair Labor Standards Act | 1235-AA04 |

DOL

Wage and Hour Division—Final Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|---|------------------------------|
| 219 | Amendments to the Fair Labor Standards Act | 1235-AA00 |
| 220 | Child Labor Regulations, Orders, and Statements of Interpretation | 1235-AA01 |

Wage and Hour Division—Long-Term Actions

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|---|------------------------------|
| 221 | Application of the Fair Labor Standards Act to Domestic Service | 1235-AA05 |

Employment Standards Administration—Completed Actions

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|---|------------------------------|
| 222 | Notification of Employee Rights Under Federal Labor Laws | 1215-AB70 |
| 223 | Form T-1: Reports by Labor Organizations on Related Organizations; Reporting by Public Sector Intermediate Unions | 1215-AB75 |
| 224 | Persuader Agreements: Employer and Labor Consultant Reporting Under the LMRDA | 1215-AB79 |

Employee Benefits Security Administration—Completed Actions

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|---|------------------------------|
| 225 | Amendment of Regulation Relating to Definition of Plan Assets—Participant Contributions | 1210-AB02 |
| 226 | Participant Contributions 610 Regulation Review (Completion of a Section 610 Review) | 1210-AB11 |

Occupational Safety and Health Administration—Prerule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|---|------------------------------|
| 227 | Occupational Exposure to Beryllium | 1218-AB76 |
| 228 | Methylene Chloride (Section 610 Review) | 1218-AC23 |
| 229 | Occupational Exposure to Diacetyl and Food Flavorings Containing Diacetyl | 1218-AC33 |
| 230 | Bloodborne Pathogens (610 Review) (Section 610 Review) | 1218-AC34 |

Occupational Safety and Health Administration—Proposed Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|---|------------------------------|
| 231 | Confined Spaces in Construction | 1218-AB47 |
| 232 | Occupational Exposure to Crystalline Silica | 1218-AB70 |

Occupational Safety and Health Administration—Final Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|---|------------------------------|
| 233 | Electric Power Transmission and Distribution; Electrical Protective Equipment | 1218-AB67 |

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

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|---|------------------------------|
| 234 | Cranes and Derricks in Construction | 1218-AC01 |

Department of Labor (DOL)

Prerule Stage

Office of Federal Contract Compliance Programs (OFCCP)

204. 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

Department of Labor (DOL)

Proposed Rule Stage

Office of Federal Contract Compliance Programs (OFCCP)

205. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS; EVALUATION OF RECRUITMENT AND PLACEMENT RESULTS UNDER THE VEVRAA OF 1974, AS AMENDED

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 793; 38 USC 4211 (2001) (amended 2002); 38 USC 4212 (2001) (amended 2002); EO 11758 (3 CFR 1971 to 1975 Comp, p 841)

CFR Citation: 41 CFR 60-250 and 60-300

Legal Deadline: None

Abstract: This Notice of Proposed Rulemaking (NPRM) would revise the regulations in 41 CFR parts 60-250 and 60-300, implementing the nondiscrimination and affirmative action provisions of VEVRAA. This NPRM would strengthen the affirmative action requirements for Federal contractors and subcontractors. The NPRM would amend the regulations to require that Federal contractors and subcontractors conduct more

substantive analyses of recruitment and placement actions taken under VEVRAA and would require the use of numerical targets to measure the effectiveness of affirmative action efforts. The NPRM would also make revisions to recordkeeping requirements.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 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-AB80

RIN: 1250-AA00

206. CONSTRUCTION CONTRACTOR AFFIRMATIVE ACTION REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: sec 201, 202, 205, 211, 301, 302, and 303 of EO 11246, as amended; 30 FR 12319; 32 FR 14303, as amended by EO 12086

CFR Citation: 41 CFR 60-1; 41 CFR 60-4

Legal Deadline: None

Abstract: This Notice of Proposed Rulemaking (NPRM) would revise the regulations in 41 CFR parts 60-1 and 60-4 implementing the affirmative action requirements of Executive Order 11246 that are applicable to Federal and federally assisted construction contractors. This NPRM would remove outdated regulatory provisions and

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Proposed Rule Stage

update the provisions in the regulations that set forth the actions construction contractors are required to take to implement their affirmative action obligations.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 01/00/11 | |

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-AB81

RIN: 1250-AA01

Department of Labor (DOL)

Prerule Stage

Office of Labor Management Standards (OLMS)

207. INTERNET BALLOTING IN UNION OFFICER ELECTIONS

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

Legal Authority: 29 USC 481 and 482

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Department intends to publish a Request for Information regarding the application of title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) in the context

of Internet balloting in union officer elections.

Timetable:

| Action | Date | FR Cite |
|-------------------------|----------|---------|
| Request for Information | 11/00/10 | |

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

URL For More Information:

www.olms.dol.gov

URL For Public Comments:

www.regulations.gov

Agency Contact: Andrew R. Davis, Chief, Division of Interpretations and Standards, Office of Labor-Management Standards, Department of Labor, Office of Labor Management Standards, 200 Constitution Avenue NW., FP Building, Room N-5609, Washington, DC 20210
Phone: 202 693-0123
Fax: 202 693-1340
Email: davis.andrew@dol.gov

Related RIN: Previously reported as 1215-AB84

RIN: 1245-AA04

Department of Labor (DOL)

Proposed Rule Stage

Office of Labor Management Standards (OLMS)

208. LABOR ORGANIZATION OFFICER AND EMPLOYEE REPORT (FORM LM-30)

Priority: Other Significant

Legal Authority: 29 USC 432 and 438

CFR Citation: 29 CFR 404

Legal Deadline: None

Abstract: The Department intends to review questions of law and policy within the recently published changes to the Form LM-30. The Form LM-30 (Labor Organization Officer and Employee Report) is required by the LMRDA. The purpose of the Form, among others, is to identify potential conflicts of interest between the labor organization officials and their labor organization.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 08/00/10 | |

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: Andrew R. Davis, Chief, Division of Interpretations and Standards, Office of Labor-Management Standards, Department of Labor, Office of Labor Management Standards, 200 Constitution Avenue NW., FP Building, Room N-5609, Washington, DC 20210
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Related RIN: Previously reported as 1215-AB74

RIN: 1245-AA01

209. FORM T-1: REPORTS BY LABOR ORGANIZATIONS ON RELATED ORGANIZATIONS; REPORTING BY PUBLIC SECTOR INTERMEDIATE UNIONS

Priority: Other Significant

Legal Authority: 29 USC 438

CFR Citation: 29 CFR 403

Legal Deadline: None

Abstract: On October 2, 2008, the Department published a final rule

establishing a Form T-1, Trust Annual Report, which certain labor organizations must file to disclose financial information regarding trusts in which they are interested pursuant to the Labor-Management Reporting and Disclosure Act (LMRDA). This rulemaking would propose to rescind the Form T-1. It would instead propose that filers of Form LM-2, Labor Organization Annual Report, report on their wholly owned, wholly controlled and wholly financed organizations ("subsidiary organizations") on their Form LM-2 report. Additionally, the rulemaking would propose to change an interpretation of the LMRDA regarding intermediate bodies. The proposed revised interpretation would state that intermediate bodies are covered only if they are themselves composed, in whole or part, of private sector affiliates.

Timetable:

| Action | Date | FR Cite |
|--------|----------|------------|
| NPRM | 02/02/10 | 75 FR 5456 |

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Proposed Rule Stage

| Action | Date | FR Cite |
|----------------------------|----------|---------|
| NPRM Comment Period End | 04/05/10 | |
| Final Action | 12/00/10 | |

Regulatory Flexibility Analysis**Required:** Yes**Small Entities Affected:** Organizations**Government Levels Affected:** None**Additional Information:** Per DOL this RIN was transferred from 1215-AB75.

Agency Contact: Andrew R. Davis, Chief, Division of Interpretations and Standards, Office of Labor-Management Standards, Department of Labor, Office of Labor Management Standards, 200 Constitution Avenue NW., FP Building, Room N-5609, Washington, DC 20210
Phone: 202 693-0123
Fax: 202 693-1340
Email: davis.andrew@dol.gov

Related RIN: Previously reported as 1215-AB75**RIN:** 1245-AA02**210. PERSUADER AGREEMENTS: EMPLOYER AND LABOR CONSULTANT REPORTING UNDER THE LMRDA****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 29 USC 433; 29 USC 438**CFR Citation:** 29 CFR 405; 29 CFR 406**Legal Deadline:** None

Abstract: The Department intends to publish notice and comment rulemaking seeking consideration of a revised interpretation of section 203(c) of the Labor-Management Reporting and Disclosure Act (LMRDA). That

statutory provision creates an “advice” exemption from reporting requirements that apply to employers and other persons in connection with persuading employees about the right to organize and bargain collectively. A proposed revised interpretation would narrow the scope of the advice exemption.

Statement of Need: The Department of Labor is proposing a regulatory initiative to better implement the public disclosure objectives of the Labor-Management Reporting and Disclosure Act (LMRDA) regarding employer-consultant agreements to persuade employees concerning their rights to organize and bargain collectively. Under LMRDA section 203, an employer must report any agreement or arrangement with a third party consultant to persuade employees as to their collective bargaining rights or to obtain certain information concerning the activities of employees or a labor organization in connection with a labor dispute involving the employer. The consultant also is required to report concerning such an agreement or arrangement with an employer. Statutory exceptions to these reporting requirements are set forth in LMRDA section 203(c), which provides, in part, that employers and consultants are not required to file a report by reason of the consultant’s giving or agreeing to give “advice” to the employer. The Department believes that its current policy concerning the scope of the “advice exception” is overbroad and that a narrower construction would better allow for the employer and consultant reporting intended by the LMRDA. Regulatory action is needed to provide workers with information critical to their effective participation in the workplace.

Summary of Legal Basis: This proposed rulemaking is authorized under U.S.C. sections 433 and 438 and applies to regulations at 29 CFR part 405 and 29 CFR part 406.

Alternatives: Alternatives will be developed and considered in the course of notice and comment rulemaking.

Anticipated Cost and Benefits:

Anticipated costs and benefits of this proposed regulatory initiative have not been assessed and will be determined at a later date, as appropriate.

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

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 11/00/10 | |

Regulatory Flexibility Analysis**Required:** Yes**Small Entities Affected:** Businesses**Government Levels Affected:** None**URL For More Information:**

www.olms.dol.gov

URL For Public Comments:

www.regulations.gov

Agency Contact: Andrew R. Davis, Chief, Division of Interpretations and Standards, Office of Labor-Management Standards, Department of Labor, Office of Labor Management Standards, 200 Constitution Avenue NW., FP Building, Room N-5609, Washington, DC 20210
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Email: davis.andrew@dol.gov

Related RIN: Previously reported as 1215-AB79**RIN:** 1245-AA03
Department of Labor (DOL)
Office of Labor Management Standards (OLMS)

Final Rule Stage

211. NOTIFICATION OF EMPLOYEE RIGHTS UNDER FEDERAL LABOR LAWS**Priority:** Other Significant**Legal Authority:** EO 13496**CFR Citation:** 29 CFR 471**Legal Deadline:** None

Abstract: Pursuant to Executive Order 13496 of January 30, 2009, the Department of Labor’s Employment

Standards Administration proposes to prescribe the size, form, and content of the notice to be posted by a contractor under paragraph 1 of the contract clause described in section 2 of the order. Such notice shall describe the rights of employees under Federal labor laws, consistent with the policy set forth in section 1 of the order.

Timetable:

| Action | Date | FR Cite |
|----------------------------|----------|-------------|
| NPRM | 08/03/09 | 74 FR 38488 |
| NPRM Comment Period End | 09/02/09 | |
| Final Action | 06/00/10 | |

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

DOL—OLMS

Final Rule Stage

Additional Information: Per DOL, this RIN was transferred from 1215-AB70.

Agency Contact: Andrew R. Davis, Chief, Division of Interpretations and Standards, Office of Labor-Management

Standards, Department of Labor, Office of Labor Management Standards, 200 Constitution Avenue NW., FP Building, Room N-5609, Washington, DC 20210
Phone: 202 693-0123

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Email: davis.andrew@dol.gov

Related RIN: Previously reported as 1215-AB70

RIN: 1245-AA00

Department of Labor (DOL)

Proposed Rule Stage

Office of Worker's Compensation Program (OWCP)

212. DEFENSE BASE ACT WAIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1651(e)

CFR Citation: 20 CFR 704

Legal Deadline: None

Abstract: The Defense Base Act (DBA), 42 U.S.C. section 1651 et seq., provides workers' compensation benefits for civilian employees of U.S. Government contractors injured or killed while working overseas. The DBA authorizes the Secretary of Labor to waive application of the DBA in any contract, subcontract, location, or class of employees upon the recommendation of the head of any department or agency of the U.S. Government. 42 U.S.C. section 1651(e). Over the years, DOL has granted a variety of waivers without any published rules. This proposed regulation would clarify the procedures for agencies to request waivers, including who may request a waiver, the format of a waiver request, and the supporting information required. The regulation would also explain DOL's procedures for reviewing and granting a waiver, including the factors DOL considers in granting a waiver and the conditions and limitations of any waiver granted.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 03/00/11 | |

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Michael Niss, Director, Division of Longshore and Harbor Workers' Compensation, OWCP, Department of Labor, Office of Worker's Compensation Program, 200 Constitution Avenue NW., FP Building, Room C-4315, Washington, DC 20210
Phone: 202 693-0038
Fax: 202 693-1380

Email: niss.michael@dol.gov

Related RIN: Previously reported as 1215-AB72

RIN: 1240-AA01

213. REGULATIONS IMPLEMENTING THE LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT: RECREATIONAL VESSELS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 939

CFR Citation: 20 CFR 701

Legal Deadline: None

Abstract: The American Recovery and Reinvestment Act of 2009 amended the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 901 to 950, to exclude from the Act's coverage certain employees who repair recreational vessels and who dismantle them for repair, regardless of the vessel's length. To implement this amendment, the Department anticipates proposing a rule that addresses the definition of recreational vessel, coverage of those employees who work in both covered employment and employment excluded under the amendment, and the interplay between State workers' compensation coverage and Longshore Act coverage for those who repair recreational vessels and who dismantle them for repair.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 09/00/10 | |

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Niss, Director, Division of Longshore and Harbor Workers' Compensation, OWCP, Department of Labor, Office of Worker's Compensation Program, 200 Constitution Avenue NW., FP Building, Room C-4315, Washington, DC 20210

Phone: 202 693-0038

Fax: 202 693-1380
Email: niss.michael@dol.gov

Related RIN: Previously reported as 1215-AB73

RIN: 1240-AA02

214. CLAIMS FOR COMPENSATION UNDER THE FEDERAL EMPLOYEES' COMPENSATION ACT

Priority: Other Significant

Legal Authority: 5 USC 8149

CFR Citation: 20 CFR 1; 20 CFR 10; 20 CFR 25

Legal Deadline: None

Abstract: ESA's Office of Workers' Compensation Programs (OWCP) plans to issue new regulations to update its organizational description to reflect the reorganization that will transform OWCP into a stand-alone organization reporting directly to the Office of the Secretary of Labor. OWCP administers four major disability compensation programs that provide wage replacement benefits, medical treatment, vocational rehabilitation and other benefits (such as survivors' benefits) to certain workers who experience work-related injury or occupational disease.

The Federal Employees' Compensation Act (FECA) provides workers' compensation benefits to Federal workers for employment-related injuries and occupational diseases as well as survivor benefits for a covered employee's employment-related death. OWCP plans to update its regulations governing administration of claims under the FECA. The last comprehensive update of the FECA regulations was undertaken more than 10 years ago. Since that time a number of improvements have been made to OWCP's processing of claims. The regulations will be revised to reflect those changes and to incorporate new procedures that will enhance OWCP's

DOL—OWCP

Proposed Rule Stage

ability to administer FECA. Changes to the regulations will facilitate the return to work of injured workers who are able to work by such measures as increasing the opportunity for vocational rehabilitation. Revisions to the regulations will also enhance OWCP's ability to efficiently provide sufficient income and medical care for those who are unable to work. The planned regulatory changes will better explain the increased automation of the medical billing process; reflect changes in procedure, such as FECA's centralized mail processing; and also codify changes in case law affecting FECA claims administration. OWCP

also plans to modernize the provision of compensation for employees situated overseas who are neither citizens nor residents of the United States to reflect current realities in regard to such employees. The regulations will also be revised to reflect a recent statutory change to the FECA moving the 3-day waiting period before qualifying for wage-loss compensation for employees of the Postal Service.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 08/00/10 | |

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Douglas Fitzgerald, Director, Division of Federal Employees' Compensation, Office of Workers' Compensation Programs, Department of Labor, Office of Worker's Compensation Program, 200 Constitution Avenue NW., FP Building, Room S-3229, Washington, DC 20210
Phone: 202 693-0040
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Fax: 202 693-1497
Email: fitzgerald.douglas@dol.gov

Related RIN: Previously reported as 1215-AB83

RIN: 1240-AA03

Department of Labor (DOL)

Office of Worker's Compensation Program (OWCP)

Final Rule Stage

215. DEATH GRATUITY AUTHORIZED FOR FEDERAL EMPLOYEES

Priority: Other Significant

Legal Authority: PL 110-181 National Defense Authorization Act for FY 2008

CFR Citation: 20 CFR 10.900 et al

Legal Deadline: None

Abstract: The National Defense Authorization Act for FY 2008, which was signed in to law on January 28, 2008, resulted in the creation of a new section of the Federal Employees' Compensation Act. This section establishes a death gratuity payment of up to \$100,000 for federal employees who die of injuries incurred in

connection with the employee's service with an armed force in a contingency operation. This bill also contains a provision for retroactivity for employees who died on or after October 7, 2001.

Timetable:

| Action | Date | FR Cite |
|---------------------------------------|----------|-------------|
| Interim Final Rule | 08/18/09 | 74 FR 41617 |
| Interim Final Rule Effective | 08/18/09 | |
| Interim Final Rule Comment Period End | 10/19/09 | |
| Final Action | 04/00/10 | |

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jennifer Valdivieso, Acting Chief, Branch of Regulations and Procedures, Division of Federal Employees Compensation, Department of Labor, Office of Worker's Compensation Program, 400 West Bay Street, Room 826, Jacksonville, FL 32202
Phone: 904 357-4754
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Email: valdivieso.jennifer@dol.gov

Related RIN: Previously reported as 1215-AB66

RIN: 1240-AA00

Department of Labor (DOL)

Wage and Hour Division (WHD)

Proposed Rule Stage

216. NONDISPLACEMENT OF QUALIFIED WORKERS UNDER SERVICE CONTRACTS

Priority: Other Significant

Legal Authority: EO 13495, sec 4 to 6; 5 USC 301

CFR Citation: 29 CFR 9

Legal Deadline: None

Abstract: Executive Order 13495 of January 30, 2009, Nondisplacement of Qualified Workers Under Service Contracts, establishes the policy that Federal service contracts generally include a clause requiring the contractor and its subcontractors, under

a contract that succeeds a contract for the same or similar service at the same location, to offer qualified employees (except managerial and supervisory personnel) employed on the predecessor contract a right of first refusal to employment under the successor contract. The order assigns enforcement responsibility to the Secretary of Labor and directs the Secretary, in consultation with the Federal Acquisition Regulatory Council, to issue regulations to implement the order.

Timetable:

| Action | Date | FR Cite |
|-------------------------|----------|-------------|
| NPRM | 03/19/10 | 75 FR 13382 |
| NPRM Comment Period End | 05/18/10 | |
| Final Action | 12/00/10 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Timothy Helm, Government Contracts Branch Chief, Division of Enforcement Policy, Department of Labor, 200 Constitution Avenue NW., Room S-3502, FP Building, Washington, DC 20210

DOL—WHD

Proposed Rule Stage

Phone: 202 693-0064

Fax: 202 693-1387

Related RIN: Previously reported as 1215-AB69

RIN: 1235-AA02

217. THE FAMILY AND MEDICAL LEAVE ACT OF 1993, AS AMENDED

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

Legal Authority: 29 USC 2654

CFR Citation: 29 CFR 825

Legal Deadline: None

Abstract: DOL will propose regulatory changes to implement the National Defense Authorization Act for FY 2010, which further expanded the existing military leave provisions; and the Airline Flight Crew Technical Corrections Act, which expanded FMLA eligibility requirements to include airline flight crews.

Statement of Need: The FMLA requires covered employers to grant eligible employees up to 12 work weeks of unpaid, job-protected leave a year for specified family and medical reasons, and to maintain group health benefits during the leave as if the employees continued to work instead of taking leave. When an eligible employee returns from FMLA leave, the employer must restore the employee to the same or an equivalent job with equivalent pay, benefits, and other conditions of employment. FMLA makes it unlawful for an employer to interfere with, restrain, or deny the exercise of any right provided by the FMLA. The President signed the National Defense Authorization Act for FY 2010 and the Airline Flight Crew Technical Corrections Act on October 28, 2009, and December 21, 2009, respectively. The Department is reviewing the implementation of these statutory amendments and other revisions of the current regulations.

Summary of Legal Basis: These regulations are authorized by section 404 of the Family and Medical Leave Act, 29 U.S.C. 2654.

Alternatives: After completing a review of the implementation of the recent statutory amendments to the FMLA regulatory alternatives will be developed for notice-and-comment rulemaking.

Anticipated Cost and Benefits:

Preliminary estimates of the anticipated costs and benefits of this initiative will be determined once regulatory alternatives are developed.

Risks: This rulemaking action does not directly affect risks to public health, safety, or the environment.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 11/00/10 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Local, State, Tribal

Federalism: Undetermined

Agency Contact: Helen Applewhaite, Family and Medical Leave Act Branch Chief, Division of Enforcement Policy, Department of Labor, 200 Constitution Avenue NW., Room S-3502, FP Building, Washington, DC 20210
Phone: 202 693-0066
Fax: 202 693-1387

Related RIN: Previously reported as 1215-AB76

RIN: 1235-AA03

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

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

Legal Authority: 29 USC 211(c)

CFR Citation: 29 CFR 516

Legal Deadline: None

Abstract: The Department of Labor proposes to update the recordkeeping regulations under the Fair Labor Standards Act in order to enhance the transparency and disclosure to workers of how their pay is computed, and to modernize other recordkeeping requirements for employees under "telework" and "flexiplace" arrangements.

Statement of Need: The recordkeeping regulation issued under the Fair Labor Standards Act (FLSA), 29 CFR part 516, specifies the scope and manner of records covered employers must keep that demonstrate compliance with minimum wage, overtime, and child labor requirements under the FLSA, or the records to be kept that confirm particular exemptions from some of the Act's requirements may apply. This proposal intends to update the

recordkeeping requirements to foster more openness and transparency in demonstrating employers' compliance with applicable requirements to their workers, to better ensure compliance by regulated entities, and to assist in enforcement. In addition, the proposal intends to update the recordkeeping requirements applicable to certain domestic employees and to modernize the requirements, consistent with the increasing emphasis on flexiplace and telecommuting, to allow for automated or electronic recordkeeping systems instead of the mandatory manual preparation of "homeworker" handbooks currently required for all work that an employee may perform in the home.

Summary of Legal Basis: These regulations are authorized by section 11 of the Fair Labor Standards Act, 29 U.S.C. 211.

Alternatives: Alternatives will be developed in considering proposed revisions to the current recordkeeping requirements. The public will be invited to provide comments on the proposed revisions and possible alternatives.

Anticipated Cost and Benefits:

Preliminary estimates of anticipated costs and benefits of this regulatory initiative have not been determined at this time and will be determined at a later date as appropriate.

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

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 08/00/10 | |

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Local, State, Tribal

Federalism: Undetermined

Agency Contact: Montaniel Navarro, Fair Labor Standards Act Branch Chief, Division of Enforcement Policy, Department of Labor, Wage and Hour Division, 200 Constitution Avenue NW., Room S-3502, FP Building, Washington, DC 20210
Phone: 202 693-0067
Fax: 202 693-1387

Related RIN: Previously reported as 1215-AB78

RIN: 1235-AA04

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

Final Rule Stage

219. AMENDMENTS TO THE FAIR LABOR STANDARDS ACT

Priority: Other Significant

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

CFR Citation: 29 CFR 4; 29 CFR 531; 29 CFR 778 to 780; 29 CFR 785 to 786; 29 CFR 790

Legal Deadline: None

Abstract: Small Business Job Protection Act of 1996 (H.R. 3448) enacted on August 20, 1996 (Pub. L. 104-188, title II), amended the Portal-to-Portal Act (PA) and the Fair Labor Standards Act (FLSA). The U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Pub. L. 110-28) also amended the FLSA by increasing the minimum wage in three steps: to \$5.85 per hour effective July 24, 2007; to \$6.55 per hour effective July 24, 2008; and to \$7.25 per hour effective July 24, 2009. Changes will be required in the regulations to reflect these amendments. Other updates will address needed clarifications to additional sections of the regulations, including sections affected by Public Law 106-151, section 1 (Dec. 9, 1999), 113 Stat. 1731, and Public Law 106-202 (May 18, 2000), 114 Stat. 308.

Timetable:

| Action | Date | FR Cite |
|---------------------------------|----------|-------------|
| NPRM | 07/28/08 | 73 FR 43654 |
| NPRM Comment Period End | 09/11/08 | |
| NPRM Comment Period Extended | 08/22/08 | 73 FR 49621 |
| Final Action | 06/00/10 | |

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: Federal, Local, State

URL For Public Comments:

www.regulations.gov

Agency Contact: Montaniel Navarro, Fair Labor Standards Act Branch Chief, Division of Enforcement Policy, Department of Labor, Wage and Hour Division, 200 Constitution Avenue NW., Room S-3502, FP Building, Washington, DC 20210
 Phone: 202 693-0067
 Fax: 202 693-1387

Related RIN: Previously reported as 1215-AB13

RIN: 1235-AA00

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

Priority: Other Significant

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

CFR Citation: 29 CFR 570

Legal Deadline: None

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

Statement of Need: The Fair Labor Standards Act (FLSA) requires the Secretary of Labor to issue regulations on the employment of 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, and to designate occupations that are 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. Updating the child labor regulations issued under the FLSA will help meet the challenge of ensuring good jobs that are safe, healthy, and fair for the Nation's working youth, while balancing their educational needs with job-related experiences that are safe. Updated child labor regulations that better address the safety needs of today's workplaces will ensure our young workers have permissible job opportunities that are safe, enhancing their opportunities to gain the skills to find and hold good jobs with the potential to increase their

earnings over time. Ensuring safe and reasonable work hours for working youth will also ensure that top priority is given to their education, consistent with the purposes of the statute.

Summary of Legal Basis: These regulations are issued pursuant to sections 3(1), 11, 12, and 13 of the Fair Labor Standards Act, 29 U.S.C. 203(1), 211, 121, and 213.

Alternatives: When developing regulatory alternatives in the analysis of recommendations of the National Institute for Occupational Safety and Health in its 2002 report to the Department on the child labor hazardous occupations orders and other proposals, the Department has focused on assuring healthy, safe, and fair workplaces for young workers that are not detrimental to their education, as required by the statute. Some of the regulatory alternatives were developed based on recent legislative amendments.

Anticipated Cost and Benefits:

Preliminary estimates of the anticipated costs and benefits of this rulemaking initiative indicated it was not economically significant. Benefits to the public, including employers and workers, will include safer working conditions and the avoidance of injuries and lost productivity involving young workers.

Risks: The Department's child labor regulations, by ensuring that permissible job opportunities for working youth are safe and healthy and not detrimental to their education, produce positive benefits by reducing health-related and lost-productivity costs employers might otherwise incur from higher accident and injury rates to young and inexperienced workers. Because of the limited nature of the regulatory revisions contemplated under this initiative, a detailed assessment of the magnitude of risk was not prepared.

Timetable:

| Action | Date | FR Cite |
|----------------------------|----------|-------------|
| NPRM | 04/17/07 | 72 FR 19337 |
| NPRM Comment Period End | 07/16/07 | |
| Final Action | 04/00/10 | |

Regulatory Flexibility Analysis

Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

DOL—WHD

Final Rule Stage

Government Levels Affected: Local, State
Agency Contact: Arthur M. Kerschner, Child Labor and Special Employment Branch Chief, Division of Enforcement

Policy, Department of Labor, 200 Constitution Avenue NW., Room S-3502, FP Building, Washington, DC 20210
 Phone: 202 693-0072

Fax: 202 693-1387
Related RIN: Previously reported as 1215-AB57
RIN: 1235-AA01

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

Long-Term Actions

221. • APPLICATION OF THE FAIR LABOR STANDARDS ACT TO DOMESTIC SERVICE
Priority: Other Significant. Major status under 5 USC 801 is undetermined.
Unfunded Mandates: Undetermined
Legal Authority: 29 USC 213 (a)(15); 29 USC 213 (b)(21)
CFR Citation: 29 CFR 552
Legal Deadline: None
Abstract: Fair Labor Standards Act (FLSA) section 13(a)(15) provides an exemption from minimum wage and overtime compensation for domestic employees engaged in providing companionship services. FLSA section

13(b)(21) provides an exemption from overtime compensation for live-in domestic employees. In light of significant changes in the home care industry, the DOL is proposing to update regulations at 29 CFR part 552, Application of the FLSA to Domestic Service, including examining the definition of “companionship services,” the criteria used to judge whether employees qualify as trained personnel who are not exempt companions, and the applicability of the exemption to third party employers.

Timetable:

| Action | Date | FR Cite |
|--------|----------|---------|
| NPRM | 10/00/11 | |

Regulatory Flexibility Analysis Required: Undetermined
Government Levels Affected: Federal, Local, State
Additional Information: Previously reported as 1215-AB85.
Agency Contact: Montaniel Navarro, Fair Labor Standards Act Branch Chief, Division of Enforcement Policy, Department of Labor, Wage and Hour Division, 200 Constitution Avenue NW., Room S-3502, FP Building, Washington, DC 20210
 Phone: 202 693-0067
 Fax: 202 693-1387
RIN: 1235-AA05

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

Completed Actions

222. NOTIFICATION OF EMPLOYEE RIGHTS UNDER FEDERAL LABOR LAWS
Timetable:

| Action | Date | FR Cite |
|------------------------------|----------|---------|
| Transferred to RIN 1245-AA00 | 03/02/10 | |

RIN: 1215-AB70

223. FORM T-1: REPORTS BY LABOR ORGANIZATIONS ON RELATED ORGANIZATIONS; REPORTING BY PUBLIC SECTOR INTERMEDIATE UNIONS
Timetable:

| Action | Date | FR Cite |
|------------------------------|----------|---------|
| Transferred to RIN 1245-AA02 | 03/02/10 | |

RIN: 1215-AB75

224. PERSUADER AGREEMENTS: EMPLOYER AND LABOR CONSULTANT REPORTING UNDER THE LMRDA
Timetable:

| Action | Date | FR Cite |
|------------------------------|----------|---------|
| Transferred to RIN 1245-AA03 | 03/02/10 | |

RIN: 1215-AB79

Department of Labor (DOL)
Employee Benefits Security Administration (EBSA)

Completed Actions

225. AMENDMENT OF REGULATION RELATING TO DEFINITION OF PLAN ASSETS—PARTICIPANT CONTRIBUTIONS
Legal Authority: 29 USC 1135
Abstract: This rulemaking will amend the regulation that defines when participant moneys paid to or withheld by an employer for contribution to an employee benefit plan constitute “plan assets” for purposes of title I of ERISA

and the related prohibited transaction provisions of the Internal Revenue Code. The regulation contains an amendment to the current regulation that will establish a safe harbor period of a specified number of business days during which certain moneys that a participant pays to, or has withheld by, an employer for contribution to a plan would not constitute “plan assets.”

Timetable:

| Action | Date | FR Cite |
|-------------------------|----------|-------------|
| NPRM | 02/29/08 | 73 FR 11072 |
| NPRM Comment Period End | 04/29/08 | |
| Final Action | 01/14/10 | 75 FR 2068 |
| Final Action Effective | 01/14/10 | |

Regulatory Flexibility Analysis Required: Yes
Agency Contact: Louis J. Campagna, Chief, Division of Fiduciary

DOL—EBSA

Completed Actions

Interpretations, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N-5655, Washington, DC 20210
Phone: 202 693-8510
Fax: 202 219-7291

RIN: 1210-AB02

226. PARTICIPANT CONTRIBUTIONS 610 REGULATION REVIEW (COMPLETION OF A SECTION 610 REVIEW)

Legal Authority: 29 USC 1135

Abstract: EBSA has determined that the plan assets-participant contribution regulation under 29 CFR 2510.3-102 does not have a significant economic impact on a substantial number of small entities within the meaning of section 610(a) of the Regulatory Flexibility Act (RFA). Accordingly, a substantive review thereof is not required by section 610(b) of the RFA.

Timetable:

| Action | Date | FR Cite |
|--------------|----------|---------|
| Begin Review | 03/01/06 | |
| End Review | 02/26/10 | |

Regulatory Flexibility Analysis Required: No

Agency Contact: Melissa R. Dennis, Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N-5655, Washington, DC 20210
Phone: 202 693-8500
Fax: 202 219-7291

RIN: 1210-AB11

Department of Labor (DOL)

Prerule Stage

Occupational Safety and Health Administration (OSHA)

227. OCCUPATIONAL EXPOSURE TO BERYLLIUM

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

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

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

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-AB76

228. METHYLENE CHLORIDE (SECTION 610 REVIEW)

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

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

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

229. OCCUPATIONAL EXPOSURE TO DIACETYL AND FOOD FLAVORINGS CONTAINING DIACETYL

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

Abstract: On July 26, 2006, the United Food and Commercial Workers International Union (UFCW) and the International Brotherhood of Teamsters (IBT) petitioned DOL for an Emergency Temporary Standard (ETS) for all employees exposed to diacetyl, a major component in artificial butter flavoring. Diacetyl and a number of other volatile

DOL—OSHA

Prerule Stage

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

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

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

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

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

Timetable:

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

Regulatory Flexibility Analysis

Required: No

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

Department of Labor (DOL)

Proposed Rule Stage

Occupational Safety and Health Administration (OSHA)

231. CONFINED SPACES IN CONSTRUCTION

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

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

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

232. OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA

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

Abstract: Crystalline silica is a significant component of the earth's crust, and many workers in a wide range of industries are exposed to it, usually in the form of respirable quartz or, less frequently, cristobalite. Chronic silicosis is a uniquely occupational disease resulting from exposure of employees over long periods of time (10 years or more). Exposure to high levels of respirable crystalline silica causes acute or accelerated forms of silicosis that are ultimately fatal. The current OSHA permissible exposure

DOL—OSHA

Proposed Rule Stage

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.

Timetable:

| Action | Date | FR Cite |
|---|----------|---------|
| Completed SBREFA Report | 12/19/03 | |
| Initiated Peer Review of Health Effects and Risk Assessment | 05/22/09 | |

| Action | Date | FR Cite |
|-----------------------|----------|---------|
| Completed Peer Review | 01/24/10 | |
| NPRM | 02/00/11 | |

Regulatory Flexibility Analysis Required: Yes

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

RIN: 1218-AB70

Department of Labor (DOL)

Final Rule Stage

Occupational Safety and Health Administration (OSHA)

233. ELECTRIC POWER TRANSMISSION AND DISTRIBUTION; ELECTRICAL PROTECTIVE EQUIPMENT

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

Abstract: Electrical hazards are a major cause of occupational death in the United States. The annual fatality rate for power line workers is about 50 deaths per 100,000 employees. The construction industry standard addressing the safety of these workers during the construction of electric power transmission and distribution lines is over 35 years old. OSHA has developed a revision of this standard that will prevent many of these fatalities, add flexibility to the standard, and update and streamline the standard. OSHA also intends to amend the corresponding standard for general industry so that requirements for work performed during the maintenance of electric power transmission and distribution installations are the same as those for similar work in construction. In addition, OSHA will be revising a few miscellaneous general industry requirements primarily affecting electric transmission and distribution work, including provisions on electrical protective equipment and foot protection. This rulemaking also addresses fall protection in aerial lifts for work on power generation,

transmission, and distribution installations. OSHA published an NPRM on June 15, 2005. A public hearing was held 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 |

| Action | Date | FR Cite |
|--------------------------------|----------|---------|
| Comment Period End | 10/15/09 | |
| Public Hearings | 10/28/09 | |
| Posthearing Comment Period End | 02/10/10 | |
| Final Rule | 02/00/11 | |

Regulatory Flexibility Analysis Required: Yes

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

RIN: 1218-AB67

234. CRANES AND DERRICKS IN CONSTRUCTION

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

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

DOL—OSHA

Final Rule Stage

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.

Timetable:

| Action | Date | FR Cite |
|---|----------|-------------|
| Notice of Intent To Establish Negotiated Rulemaking | 07/16/02 | 67 FR 46612 |
| Comment Period End | 09/16/02 | |

| Action | Date | FR Cite |
|--|----------|-------------|
| 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 | |

| Action | Date | FR Cite |
|----------------|----------|---------|
| Public Hearing | 03/20/09 | |
| Close Record | 06/18/09 | |
| Final Rule | 07/00/10 | |

Regulatory Flexibility Analysis Required: Yes

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RIN: 1218-AC01

[FR Doc. 2010-8938 Filed 04-23-10; 8:45 am]

BILLING CODE 4510-23-S