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Part XIII

Department of Labor

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Semiannual Regulatory Agenda

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. 100

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.
ACTION: Semiannual Regulatory Agenda.

SUMMARY: The Internet has become the means for disseminating the entirety of the Department of Labor’s semiannual regulatory agenda. However, the Regulatory Flexibility Act requires publication of a regulatory flexibility agenda in the **Federal Register**. This **Federal Register** Notice contains the regulatory flexibility agenda.

FOR FURTHER INFORMATION CONTACT: Stephanie Swirsky, Deputy Assistant Secretary, Office of Regulatory Policy,

Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–2312, Washington, DC 20210; (202) 693–5959.

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

SUPPLEMENTARY INFORMATION: Executive Order 12866 requires the semiannual publication of an agenda of regulations that contains a listing of all the regulations the Department of Labor expects to have under active consideration for promulgation, proposal, or review during the coming one-year period. The entirety of the Department’s semiannual agenda is available online at www.reginfo.gov.

The Regulatory Flexibility Act (5 U.S.C. 602) requires DOL to publish in the **Federal Register** a regulatory flexibility agenda. The Department’s Regulatory Flexibility Agenda published with this notice, includes only those rules on its semiannual agenda that are likely to have a significant economic impact on a substantial number of small entities; and those rules identified for periodic review in keeping with the

requirements of section 610 of the Regulatory Flexibility Act. Thus, the regulatory flexibility agenda is a subset of the Department’s semiannual regulatory agenda. There is only one section 610 item on the Department of Labor’s Regulatory Flexibility Agenda:

Occupational Safety and Health Administration

Bloodborne Pathogens (RIN 1218–AC34)

In addition, the Department’s Regulatory Plan, also a subset of the Department’s regulatory agenda, is being published in the **Federal Register**. The Regulatory Plan contains a statement of the Department’s regulatory priorities and the regulatory actions the Department wants to highlight as its most important and significant.

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

Thomas E. Perez,
Secretary of Labor.

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
343	Discrimination on the Basis of Sex	1250–AA05

WAGE AND HOUR DIVISION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
344	Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees.	1235–AA11
345	Establishing Paid Sick Leave for Contractors, Executive Order 13706	1235–AA13

EMPLOYMENT AND TRAINING ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
346	Modernizing the Permanent Labor Certification Program (PERM)	1205–AB75

EMPLOYMENT AND TRAINING ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
347	Workforce Innovation and Opportunity Act	1205–AB73
348	Workforce Innovation and Opportunity Act; Joint Rule With U.S. Department of Education for Combined and Unified State Plans, Performance Accountability, and the One-Stop System Joint Provisions.	1205–AB74

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
349	Bloodborne Pathogens (Section 610 Review)	1218-AC34
350	Combustible Dust	1218-AC41
351	Preventing Backover Injuries and Fatalities	1218-AC51

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
352	Infectious Diseases (Reg Plan Seq No. 85)	1218-AC46

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

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
353	Occupational Exposure to Beryllium (Reg Plan Seq No. 87)	1218-AB76

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

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
354	Injury and Illness Prevention Program	1218-AC48

DEPARTMENT OF LABOR (DOL)

Office of Federal Contract Compliance Programs (OFCCP)

Completed Actions

343. Discrimination on the Basis of Sex

Legal Authority: Sec. 201, E.O. 11246, 30 FR 12319 and E.O. 11375, 32 FR 14303, as amended by E.O. 12086

Abstract: The Office of Federal Contract Compliance Programs (OFCCP) is charged with enforcing Executive Order 11246, as amended, which prohibits Federal Government contractors and subcontractors from discriminating against individuals in employment on the basis of race, color, sex, sexual orientation, gender identity, religion, or national origin, and requires them to take affirmative action. This order also prohibits discrimination based on an employee discussing his or her pay or the pay of a coworker. OFCCP regulations at 41 CFR part 60-20 set forth the interpretations and guidelines for implementing Executive Order 11246, as amended, in regard to promoting and ensuring equal opportunities for all persons employed or seeking employment with Government contractors and subcontractors without regard to sex. This nondiscrimination requirement also applies to contractors and subcontractors performing under

federally assisted construction contracts. The guidance in part 60-20 is more than 30 years old, and warranted changes that align OFCCP's requirements with current law and better address the realities of today's workplaces. OFCCP published a Notice of Proposed Rulemaking on January 30, 2015 (80 FR 5245), to create sex discrimination regulations that reflect the current state of the law in this area. OFCCP published the Discrimination on the Basis of Sex Final Rule on June 14, 2016 (81 FR 39107). The Final Rule becomes effective August 15, 2016.

Timetable:

Action	Date	FR Cite
NPRM	01/30/15	80 FR 5245
NPRM Comment Period End.	03/31/15	
NPRM Comment Period Extended.	04/01/15	80 FR 17373
NPRM Comment Period Extended End.	04/14/15	
Final Rule	06/15/16	81 FR 39108
Final Rule Effective.	08/15/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Debra A. Carr, Director, Division of Policy and Program Development, Department of Labor,

Office of Federal Contract Compliance Programs, 200 Constitution Avenue NW., FP Building, Room C-3325, Washington, DC 20210, *Phone:* 202 693-0103, *TDD Phone:* 202 693-1337, *Fax:* 202 693-1304, *Email:* ofccp-public@dol.gov.

RIN: 1250-AA05

DEPARTMENT OF LABOR (DOL)

Wage and Hour Division (WHD)

Completed Actions

344. Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees

Legal Authority: 29 U.S.C. 213(a)(1) (Fair Labor Standards Act)

Abstract: The Department proposes to update the regulations governing which executive, administrative, and professional employees (white collar workers) are entitled to the Fair Labor Standards Act's minimum wage and overtime pay protections. Key provisions of the proposed rule include: (1) Setting the standard salary level required for exemption for full-time salaried workers; (2) increasing the total annual compensation requirement needed to exempt highly compensated employees; and (3) establishing a

mechanism for automatically updating the salary and compensation levels going forward to ensure that they will continue to provide a useful and effective test for exemption. The Department last updated these regulations in 2004, which, among other items, set the standard salary level at not less than \$455 per week.

Timetable:

Action	Date	FR Cite
NPRM	07/06/15	80 FR 38516
NPRM Comment Period End.	09/04/15	
Final Rule	05/23/16	81 FR 32391
Final Rule Effective.	12/01/16	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Melissa Smith, Director, Regulations, Legislation and Interpretations, Department of Labor, Wage and Hour Division, 200 Constitution Avenue NW., Room S3502, Washington, DC 20210, *Phone:* 202 693-0406, *Fax:* 202 693-1387.

RIN: 1235-AA11

345. Establishing Paid Sick Leave for Contractors, Executive Order 13706

Legal Authority: E.O. 13706

Abstract: Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors (80 FR 54697) establishes paid sick leave for Federal contractors and subcontractors. The Executive order indicates that Executive Departments and agencies shall, to the extent permitted by law, ensure that new contracts, contract-like instruments, and solicitations as described in section 6 of the order, include a clause, which the contractor and any subcontractors shall incorporate into lower-tier subcontracts, specifying that all employees, in the performance of the contract or any subcontract thereunder, shall earn not less than one hour of paid sick leave for every 30 hours worked. Consistent with the Executive order, the Department of Labor will issue implementing regulations.

Timetable:

Action	Date	FR Cite
NPRM	02/25/16	81 FR 9592
NPRM Comment Period End.	03/28/16	
NPRM Comment Period Extended.	03/14/16	81 FR 13306
NPRM Comment Period Extended End.	04/12/16	
Final Rule	09/30/16	81 FR 67598
Final Rule Effective.	11/29/16	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Melissa Smith, Director, Regulations, Legislation and Interpretations, Department of Labor, Wage and Hour Division, 200 Constitution Avenue NW., Room S3502, Washington, DC 20210, *Phone:* 202 693-0406, *Fax:* 202 693-1387.

RIN: 1235-AA13

DEPARTMENT OF HOMELAND SECURITY (DHS)

Employment and Training Administration (ETA)

Proposed Rule Stage

346. Modernizing the Permanent Labor Certification Program (PERM)

Legal Authority: 8 U.S.C. 1182(a)(5)(A)

Abstract: The PERM regulations govern the labor certification process for employers seeking to employ foreign workers permanently in the United States. The Department of Labor (Department) has not comprehensively examined and modified the permanent labor certification requirements and process since 2004. Over the last ten years, much has changed in our country's economy, affecting employers' demand for workers and the availability of a qualified domestic labor force. Advances in technology and information dissemination have dramatically altered common industry recruitment practices, and the Department has received ongoing feedback that the existing regulatory requirements governing the PERM process frequently do not align with worker or industry needs and practices. Therefore, the Department is engaging in rulemaking that will consider options to modernize the PERM program to be more responsive to changes in the national workforce, to further align the program design with the objectives of the U.S. immigration system and needs of workers and employers, and to enhance the integrity of the labor certification process.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: William W. Thompson II, Acting Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 375 E Street SW., Patriot Plaza II, Room 12-200,

Washington, DC 20024, *Phone:* 202 513-7350.

RIN: 1205-AB75

DEPARTMENT OF HOMELAND SECURITY (DHS)

Employment and Training Administration (ETA)

Completed Actions

347. Workforce Innovation and Opportunity Act

Legal Authority: Sec. 503(f) of the Workforce Innovation and Opportunity Act (Pub. L. 113-128)

Abstract: On July 22, 2014, the President signed the Workforce Innovation and Opportunity Act (WIOA) (Pub. L. 113-128). WIOA repeals the Workforce Investment Act of 1998 (WIA) and amends the Wagner-Peyser Act. (29 U.S.C. 2801 *et seq.*) The Department of Labor issued a Notice of Proposed Rulemaking (NPRM) on April 16, 2015, that proposed to implement the changes WIOA makes to the public workforce system in regulations. Through the NPRM, the Department proposed ways to carry out the purposes of WIOA to provide workforce investment activities, through State and local workforce development systems, that increase employment, retention, and earnings of participants, meet the skill requirements of employers, and enhance the productivity and competitiveness of the Nation. The Department analyzed the comments received and developed a final rule.

Timetable:

Action	Date	FR Cite
NPRM	04/16/15	80 FR 20690
NPRM Comment Period End.	06/15/15	
Final Rule	08/19/16	81 FR 56072
Final Rule Effective.	10/18/16	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Portia Wu, Assistant Secretary for Employment and Training, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210, *Phone:* 202 639-2700.

RIN: 1205-AB73

348. Workforce Innovation and Opportunity Act; Joint Rule With U.S. Department of Education for Combined and Unified State Plans, Performance Accountability, and the One-Stop System Joint Provisions

Legal Authority: Sec. 503(f) of the Workforce Innovation and Opportunity Act (Pub. L. 113–128)

Abstract: On July 22, 2014, the President signed the Workforce Innovation and Opportunity Act (WIOA) (Pub. L. 113–128) which repeals the Workforce Investment Act of 1998 (WIA). (29 U.S.C. 2801 *et seq.*) As directed by WIOA, the Departments of Education and Labor issued a Notice of Proposed Rulemaking (NPRM) on April 16, 2015, to implement the changes in regulations that WIOA makes to the public workforce system regarding Combined and Unified State Plans, performance accountability for WIOA title I, title II, title III, and title IV programs, and the one-stop delivery system.

All of the other regulations implementing WIOA were published by the Departments of Labor and Education in separate NPRMs. The Departments analyzed the comments received and developed a final rule.

Timetable:

Action	Date	FR Cite
NPRM	04/16/15	80 FR 20574
NPRM Comment Period End.	06/15/15	
Final Rule	08/19/16	81 FR 55792
Final Rule Effective.	10/18/16	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Portia Wu, Assistant Secretary for Employment and Training, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210, *Phone:* 202 639–2700.

RIN: 1205–AB74

DEPARTMENT OF HOMELAND SECURITY (DHS)

Occupational Safety and Health Administration (OSHA)

Prerule Stage

349. Bloodborne Pathogens (Section 610 Review)

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

Abstract: OSHA will undertake a review of the Bloodborne Pathogen Standard (29 CFR 1910.1030) in

accordance with the requirements of the Regulatory Flexibility Act and section 5 of Executive Order 12866. The review will consider the continued need for the rule; whether the rule overlaps, duplicates, or conflicts with other Federal, State or local regulations; and the degree to which technology, economic conditions, or other factors may have changed since the rule was evaluated.

Timetable:

Action	Date	FR Cite
Begin Review	10/22/09	
Notice of Request for Comment.	05/14/10	75 FR 27237
Notice of Request for Comment Period End.	08/12/10	
End Review and Issue Findings.	11/00/16	

Regulatory Flexibility Analysis

Required: No.

Agency Contact: Amanda Edens, Director, Directorate of Technical Support and Emergency Management, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3653, Washington, DC 20210, *Phone:* 202 693–2300, *Fax:* 202 693–1644, *Email:* edens.mandy@dol.gov.

RIN: 1218–AC34

350. Combustible Dust

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

Abstract: Occupational Safety and Health Administration (OSHA) has initiated rulemaking to develop a combustible dust standard for general industry. OSHA will use information gathered, including from an upcoming SBREFA panel, to develop a comprehensive standard that addresses combustible dust hazards.

Timetable:

Action	Date	FR Cite
ANPRM	10/21/09	74 FR 54333
Notice of Stakeholder Meetings.	12/14/09	
ANPRM Comment Period End.	01/19/10	
Notice of Stakeholder Meetings.	03/09/10	75 FR 10739
Initiate SBREFA ..	11/00/16	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: William Perry, 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:* perry.bill@dol.gov.

RIN: 1218–AC41

351. Preventing Backover Injuries and Fatalities

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

Abstract: Backing vehicles and equipment are common causes of struck-by injuries and can also cause caught-between injuries when backing vehicles and equipment pin a worker against an object. Struck-by injuries and caught-between injuries are two of the four leading causes of workplace fatalities. The Bureau of Labor Statistics reports that in 2013, 67 workers were fatally backed over while working. While many backing incidents can prove to be fatal, workers can suffer severe, non-fatal injuries as well. A review of OSHA’s Integrated Management Information System (IMIS) database found that backing incidents can result in serious injury to the back and pelvis, fractured bones, concussions, amputations, and other injuries. Emerging technologies in the field of backing operations may prevent incidents. The technologies include cameras and proximity detection systems. The use of spotters and internal traffic control plans can also make backing operations safer. The Agency has held stakeholder meetings on backovers, and is conducting site visits to employers, and is developing a standard to address these hazards.

Timetable:

Action	Date	FR Cite
Request for Information (RFI).	03/29/12	77 FR 18973
RFI Comment Period End.	07/27/12	
Initiate SBREFA ..	04/00/17	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Dean McKenzie, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N–3468, FP Building, 200 Constitution Avenue NW., Washington, DC 20210, *Phone:* 202 693–2020, *Fax:* 202 693–1689, *Email:* mckenzie.dean@dol.gov.

RIN: 1218–AC51

DEPARTMENT OF HOMELAND SECURITY (DHS)

Occupational Safety and Health Administration (OSHA)

Proposed Rule Stage

352. Infectious Diseases

Regulatory Plan: This entry is Seq. No. 85 in part II of this issue of the **Federal Register**.

RIN: 1218-AC46

DEPARTMENT OF HOMELAND SECURITY (DHS)

Occupational Safety and Health Administration (OSHA)

Final Rule Stage

353. Occupational Exposure to Beryllium

Regulatory Plan: This entry is Seq. No. 87 in part II of this issue of the **Federal Register**.

RIN: 1218-AB76

DEPARTMENT OF HOMELAND SECURITY (DHS)

Occupational Safety and Health Administration (OSHA)

Long-Term Actions

354. Injury and Illness Prevention Program

Legal Authority: 29 U.S.C. 653; 29 U.S.C. 655(b); 29 U.S.C. 657

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 to 3916), published in 1989. An injury and illness prevention program 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 Occupational Health and Safety Assessment Series 18001.

Timetable:

Action	Date	FR Cite
Notice of Stakeholder Meetings.	05/04/10	75 FR 23637
Notice of Additional Stakeholder Meetings.	06/22/10	75 FR 35360
SBREFA	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: William Perry, 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:* perry.bill@dol.gov.

RIN: 1218-AC48

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