



Federal Register

**Monday,
April 30, 2007**

Part XIII

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 2007 and April 2008, 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 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.

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

Excavations (RIN 1218-AC02)

Lead in Construction (RIN 1218-AC18)

Methylene Chloride (RIN 1218-AC23)

Employee Benefits Security Administration

Plan Assets-Participant Contributions Regulations (RIN 1210-AB11)

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

Elaine L. Chao,
Secretary of Labor.

Employment Standards Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1759	Child Labor Regulations, Orders, and Statements of Interpretation	1215-AB44

Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1760	Amendments to the Fair Labor Standards Act	1215-AB13
1761	Service Contract Act Health and Welfare Benefits	1215-AB56
1762	Child Labor Regulations, Orders, and Statements of Interpretation	1215-AB57
1763	Amendment to the Interpretive Guidelines Governing the Employee Protective Provisions of the Federal Transit Act	1215-AB58
1764	Government Contractors, Affirmative Action Requirements, Revision of the Employer Information Report (EEO-1 Report)	1215-AB59

DOL—EBSA

Completed Actions

provides that the Secretary may promulgate such regulations as may be necessary or appropriate to carry out the provisions of part 7 ERISA. In addition, section 505 of ERISA authorizes the Secretary to issue regulations clarifying the provisions of title I of ERISA.

Risks: Failure to provide guidance concerning part 7 of ERISA may impede compliance with the law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16894
Interim Final Rule Comment Period End	07/07/97	
NPRM	01/08/01	66 FR 1421
NPRM Comment Period End	04/09/01	
Second Interim Final Rule	01/08/01	66 FR 1378
Interim Final Rule Comment Period End	04/09/01	
Final Rule	12/13/06	71 FR 75014
Final Action Effective	02/12/07	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: This item has been split off from RIN 1210-AA54.

Agency Contact: Amy Turner, Senior Pension Law Specialist, Department of

Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210
Phone: 202 693-8335
RIN: 1210-AA77

1807. • PROHIBITED TRANSACTION EXEMPTION FOR PROVISION OF INVESTMENT ADVICE TO INDIVIDUAL RETIREMENT AND SIMILAR PLANS

Priority: Info./Admin./Other

Legal Authority: 26 USC 4975(d)(17); PL 109-280, sec 601(b)(3)(A) Pension Protection Act of 2006

CFR Citation: 26 CFR 54

Legal Deadline: Other, Statutory, December 31, 2007, A required report. The Department of Labor is required to report the results of its findings with respect to the information requested in this action to the Committee on Ways and Means and the Committee on Education and the Workforce of the House of Representatives and the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate no later than December 31, 2007.

Abstract: The purpose of this document is to solicit information from the public concerning the feasibility of the application of computer model investment advice programs for

Individual Retirement Accounts and similar types of plans. The Department has completed its solicitation of information and will report its findings to Congress no later than December 31, 2007.

Timetable:

Action	Date	FR Cite
RFI	12/04/06	71 FR 70427
No Regulatory Action Required	12/04/06	
RFI Comment Period End	01/30/07	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Allison Padams-Lavigne, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building Room N5700, Washington, DC 20210
Phone: 202 693-8540
Fax: 202 219-0204

Chris Motta, Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building Room N5700, Washington, DC 20210
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RIN: 1210-AB12

Department of Labor (DOL)

Proposed Rule Stage

Mine Safety and Health Administration (MSHA)

1808. FIRE EXTINGUISHERS IN UNDERGROUND COAL MINES

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1100-2

Legal Deadline: None

Abstract: The fire protection requirement in 30 CFR 75.1100-2(a)(2) requires rock dust and water at the underground workings at anthracite coal mines, and 30 CFR 75.1100-2(e)(2) requires a fire extinguisher and rock dust at temporary electrical installations. MSHA has granted 101(c) petitions for modification allowing operators to use only fire extinguishers in lieu of rock dust and other requirements at these two locations. This direct final rule, also issued as a proposed rule, would eliminate the

need to file petitions to use this alternative method of compliance without reducing protection for miners.

Timetable:

Action	Date	FR Cite
NPRM	09/00/07	
Direct Final Rule	09/00/07	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

URL For More Information: www.msha.gov/regsinfo.htm
www.regulations.gov

URL For Public Comments: www.regulations.gov

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-AB40

1809. SEALING OF ABANDONED AREAS

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.335

Legal Deadline: Final, Statutory, December 15, 2007.

Abstract: On June 15, 2006, the Mine Improvement and New Emergency Response Act (MINER Act) of 2006,

DOL—MSHA

Proposed Rule Stage

Public Law 109-236, became effective. Section 10 of the MINER Act requires the Secretary of Labor to finalize mandatory health and safety standards relating to the sealing of abandoned areas in underground coal mines, no later than 18 months after enactment. Such health and safety standards shall provide for an increase in the existing 20 pounds per square inch (psi) standard currently set forth in 30 CFR 75.335(a)(2).

Statement of Need: Section 10 of the MINER Act requires the Secretary of Labor to finalize mandatory standards relating to the sealing of abandoned areas in underground coal mines no later than December 15, 2007, and that provide for an increase in the 20 psi standard currently in effect. Adequate seals are crucial to containing explosions and preventing the migration of potentially explosive methane-air mixtures from worked out areas to the working areas of an underground coal mine. In addition to the requirement in the MINER Act, MSHA's evaluation of alternative seals in underground coal mines has led the Agency to determine that revisions to existing standards for alternative seals are necessary.

Summary of Legal Basis: Promulgation of this regulation is authorized by the Federal Mine Safety and Health Act of 1977 and the MINER Act of 2006.

Alternatives: As required by the MINER Act, MSHA must publish a regulation that increases the 20 psi standard. The Mine Safety and Health Administration is reviewing the information from recent accidents in underground coal mines and the draft report from the National Institute for Occupational Safety and Health to determine an appropriate and protective regulatory course of action. The Agency is also conducting test explosions in experimental mines to determine the relationships between seal design and construction and the ability to withstand explosive forces. This information will assist the Agency in developing new standards consistent with the requirements of the MINER Act.

Anticipated Cost and Benefits: MSHA will develop a preliminary regulatory economic analysis to accompany the proposed rule.

Risks: Properly constructed seals contain explosions and prevent the migration of potentially explosive

methane-air mixtures from worked out areas to the working areas of an underground coal mine. Recent mining accidents and MSHA data show that there are problems with the construction and use of alternative methods and materials to create seals. The exact scope of the problem is unknown at this time. However, the reliability of seals in underground coal mines is in question because of their potential to endanger miners who work in sealed areas.

Timetable:

Action	Date	FR Cite
NPRM	06/00/07	
Final Action	12/00/07	

Regulatory Flexibility Analysis

Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

URL For More Information:

www.msha.gov/regsinfo.htm
www.regulations.gov

URL For Public Comments:

www.regulations.gov

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

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RIN: 1219-AB52

1810. MINE RESCUE TEAMS

Priority: Other Significant

Legal Authority: 30 USC 957; 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 49

Legal Deadline: Final, Statutory, December 15, 2007.

Abstract: On June 15, 2006, Public Law 109-236 or the Mine Improvement and New Emergency Response Act (MINER Act) of 2006 became effective. This rulemaking will implement section 4 of the MINER Act by amending existing standards and developing new standards to provide for certification composition, and training requirements for mine rescue teams in underground coal mines. Currently, requirements for mine rescue teams are set forth in 30 CFR part 49.

Statement of Need: Section 4 of the MINER Act requires the Secretary of Labor to finalize mandatory health and safety standards relating to mine rescue teams in underground coal mines no later than December 15, 2007. Current standards require properly trained mine rescue teams to be immediately available during mine emergencies. The MINER Act requires team members to have underground coal mining experience and requires teams to participate in mine rescue contests. The MINER Act also provides for multi-employer teams, State-sponsored teams, and contract teams to ensure the availability of qualified mine rescue teams.

Summary of Legal Basis: Promulgation of this regulation is authorized by the Federal Mine Safety and Health Act of 1977 and the MINER Act of 2006.

Alternatives: As required by the MINER Act, MSHA must publish a regulation on mine rescue teams.

Anticipated Cost and Benefits: MSHA will develop a preliminary regulatory economic analysis to accompany the proposed rule.

Risks: Mine explosions at the Sago Mine and Darby No. 1 Mine and a mine fire at the Alma Mine in 2006 resulted in the deaths of 19 underground coal miners. Explosions, fires, and the migration of potentially explosive methane-air mixtures from worked-out areas to the working areas of an underground coal mine endanger all miners who work in the mine, including potential rescuers.

Timetable:

Action	Date	FR Cite
NPRM	05/00/07	
Final Action	12/00/07	

Regulatory Flexibility Analysis

Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

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

URL For More Information:

www.msha.gov/regsinfo.htm
www.regulations.gov

URL For Public Comments:

www.regulations.gov

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department

DOL—MSHA

Proposed Rule Stage

of Labor, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209-3939
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RIN: 1219-AB53

1811. DIESEL PARTICULATE MATTER: CONVERSION FACTOR FROM TOTAL CARBON TO ELEMENTAL CARBON

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: On May, 18, 2006, MSHA promulgated its final rule on Diesel Particulate Matter (DPM) Exposure of Underground Metal and Nonmetal Miners (71 FR 28924), phasing in the final diesel particulate matter (DPM) exposure limit over a 2-year period, with the final limit of 160 TC μ /m³ to become effective on May 20, 2008. The DPM exposure limit is expressed in terms of a "TC" or "total carbon" limit. MSHA is initiating a new rulemaking to establish the most appropriate measure for determining compliance with the final DPM exposure limit. Using the latest available evidence, MSHA will be examining the most appropriate conversion factor for a comparable elemental carbon (EC) limit. An EC measurement ensures that a TC

exposure limit is valid and not the result of environmental interferences.

Statement of Need: The May 18, 2006 final rule at 30 CFR 57.5060(b)(3) requires mine operators to ensure that the miners' personal exposures to diesel particulate matter (DPM) in an underground mine do not exceed an airborne concentration of 160 micrograms of total carbon per cubic meter (TC μ /m³) of air during an average 8-hour equivalent full shift, effective May 20, 2008. This rulemaking proposes the EC conversion factor for the 160 TC μ /m³ limit, which would allow mine operators to implement the requirements of the May 18, 2006 final rule.

Summary of Legal Basis: Promulgation of this regulation is authorized by section 101 of the Federal Mine Safety and Health Act of 1977.

Alternatives: This rulemaking would amend and improve health protection from that afforded by the existing standard.

Anticipated Cost and Benefits: MSHA will prepare estimates of the anticipated costs and benefits associated with the selected conversion factor.

Risks: A number of epidemiological studies have found that exposure to diesel exhaust presents potential health risks to miners. These potential adverse health effects range from headaches and nausea to respiratory disease and cancer. In the confined space of the underground mining environment,

occupational exposure to diesel exhaust may present a greater hazard due to ventilation limitations and the presence of other airborne contaminants, such as toxic mine dusts or mine gases. MSHA believes that the health evidence forms a reasonable basis for reducing miners' exposure to diesel particulate matter. Proceeding with a separate rulemaking to determine the correct TC to EC conversion factor for the phased-in final limits will more effectively reduce miners' exposures to DPM.

Timetable:

Action	Date	FR Cite
NPRM	09/00/07	
Final Action	05/00/08	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

URL For More Information:
www.msha.gov/regsinfo.htm
www.regulations.gov

URL For Public Comments:
www.regulations.gov

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
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RIN: 1219-AB55

Department of Labor (DOL)

Mine Safety and Health Administration (MSHA)

Final Rule Stage

1812. HIGH-VOLTAGE CONTINUOUS MINING MACHINE STANDARD FOR UNDERGROUND COAL MINES

Priority: Other Significant

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

CFR Citation: 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: Our July 16, 2004, NPRM (69 FR 42812) proposed to establish design requirements for approval of high-voltage continuous mining machines operating where miners work in underground coal mines. The rule also proposed to establish new mandatory electrical safety standards for the

installation, use, and maintenance of the high-voltage continuous mining machines. MSHA published a supplemental NPRM on March 28, 2006 (71 FR 15359).

This supplemental NPRM proposed and requested comments on two issues that arose from oral and written comments that MSHA received during the hearing and post-hearing comment period on the NPRM.

These issues involved: (1) Types of trailing cables that can be used with high-voltage continuous mining machines; and (2) a requirement to use high-voltage insulating gloves or other personal protective equipment when

handling energized high-voltage trailing cables.

MSHA regularly receives petitions for modifications from coal mine operators seeking permission to use high-voltage continuous mining machines. MSHA believes that, with appropriate safeguards, such machines are safe for use and are routinely granted in these petitions.

Timetable:

Action	Date	FR Cite
NPRM	07/16/04	69 FR 42812
NPRM Comment Period End	08/23/04	69 FR 51784
Second NPRM	03/28/06	71 FR 15359

DOL—MSHA

Final Rule Stage

Action	Date	FR Cite
Second NPRM Comment Period End	05/30/06	
Final Action	09/00/07	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

URL For More Information:
www.msha.gov/regsinfo.htm
www.regulations.gov

URL For Public Comments:
www.regulations.gov

Agency Contact: Patricia W. Silvey,
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Regulations, and Variances, Department

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Administration, 1100 Wilson
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RIN: 1219-AB34

Department of Labor (DOL)

Long-Term Actions

Mine Safety and Health Administration (MSHA)

1813. VERIFICATION OF UNDERGROUND COAL MINE OPERATORS' DUST CONTROL PLANS AND COMPLIANCE SAMPLING FOR RESPIRABLE DUST

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813; 30 USC 961; 30 USC 957

CFR Citation: 30 CFR 70; 30 CFR 75; 30 CFR 90

Legal Deadline: None

Abstract: MSHA's current standards require that all underground coal mine operators develop and follow a mine ventilation plan for each mechanized mining unit that we approve. However, we do not have a requirement that provides for verification of each plan's effectiveness under typical mining conditions. Consequently, plans may be implemented by mine operators that could be inadequate to control respirable dust.

In response to comments received on the July 2000 proposed rule for MSHA to withdraw the rule, MSHA published a new proposed rule on March 6, 2003. The proposed rule would have required mine operators to verify, through sampling, the effectiveness of the dust control parameters for each mechanized mining unit specified in the approved mine ventilation plan.

The use of approved powered air-purifying respirators and/or verifiable administrative controls would have been allowed as a supplemental means of compliance when MSHA had determined that all feasible engineering or environmental controls were exhausted.

Public hearings were held in May 2003, and the comment period, originally scheduled to close on June 4, 2003, was extended until July 3, 2003. On June 24, 2003, MSHA announced that all

work on the final rule would cease and the rulemaking record would remain open in order to obtain information concerning Continuous Personal Dust Monitors being tested by NIOSH. A Federal Register notice was published on July 3, 2003, extending the comment period indefinitely. NIOSH issued a report on the personal dust monitor in September 2006. MSHA will determine the next course of action after a review of all data and test results.

Timetable:

Action	Date	FR Cite
NPRM	07/07/00	65 FR 42122
Notice of Hearings; Close of Record	07/07/00	65 FR 42186
Close of Record	08/11/00	
Extension of Comment Period; Close of Record	08/11/00	65 FR 49215
NPRM	03/06/03	68 FR 10784
Notice of Public Hearing; Close of Record	03/17/03	68 FR 12641
Extension of Comment Period	05/29/03	68 FR 32005
NPRM Comment Period End	06/04/03	
Extension of Comment Period	07/03/03	68 FR 39881
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: This rulemaking is related to RIN 1219-AB18 (Determination of Concentration of Respirable Coal Mine Dust) and RIN 1219-AB48 (Continuous Personal Dust Monitors).

URL For More Information:
www.msha.gov/regsinfo.htm
www.regulations.gov

URL For Public Comments:
www.regulations.gov

Agency Contact: Patricia W. Silvey,
Director, Office of Standards,
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of Labor, Mine Safety and Health
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Phone: 202 693-9440

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Email: silvey.patricia@dol.gov

Related RIN: Related to 1219-AB18,
Related to 1219-AB48

RIN: 1219-AB14

1814. DETERMINATION OF CONCENTRATION OF RESPIRABLE COAL MINE DUST

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 72

Legal Deadline: None

Abstract: The National Institute for Occupational Safety and Health (NIOSH) and the Mine Safety and Health Administration (MSHA) jointly proposed that a single, full-shift measurement (single sample) would accurately represent the atmospheric condition to which a miner is exposed. The proposed rule addresses the U.S. Court of Appeals' concerns raised in *National Mining Association v. Secretary of Labor*, 153 F.3d 1264 (11th Cir. 1998). MSHA and NIOSH reopened the rulemaking record on March 6, 2003, to obtain comments on documents added to the rulemaking record since the proposed rule was published July 7, 2000. MSHA held hearings in May 2003 and the comment period, originally scheduled to close on June 4, 2003, was extended until July 3, 2003. However, on June 24, 2003, MSHA announced that all work on the final rule would cease. On August 12, 2003, the Agencies reopened the

DOL—MSHA

Long-Term Actions

rulemaking record and extended the comment period indefinitely. MSHA collaborated with NIOSH, miners' representatives, industry and the manufacturer to test the production prototype Continuous Personal Dust Monitor (CPDM) unit. NIOSH issued a report on the CPDM in September 2006. MSHA will determine the next course of action after a review of all data and test results.

Timetable:

Action	Date	FR Cite
NPRM	07/07/00	65 FR 42068
Notice of Hearings; Close of Record	07/07/00	65 FR 42185
Extension of Comment Period	08/11/00	65 FR 49215
Reopen Record for Comments	03/06/03	68 FR 10940
Notice of Public Hearings; Close of Record	03/17/03	68 FR 12641
Extension of Comment Period	05/29/03	68 FR 32005
Reopen Record Comment Period End	06/04/03	
Extension of Comment Period; Reopening of Record	08/12/03	68 FR 47886
Reopening of Record; Correction	04/01/03	68 FR 15691
NPRM	To Be	Determined

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

Additional Information: This rulemaking is related to RIN 1219-AB14 (Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust) and RIN 1219-AB48 (Continuous Personal Dust Monitor).

URL For More Information:

www.msha.gov/regsinfo.htm
www.regulations.gov

URL For Public Comments:

www.regulations.gov

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

Related RIN: Related to 1219-AB14, Related to 1219-AB48

RIN: 1219-AB18

1815. ASBESTOS EXPOSURE LIMIT

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813

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

Legal Deadline: None

Abstract: MSHA's permissible exposure limit (PEL) for asbestos applies to surface (30 CFR part 56) and underground (30 CFR part 57) metal and nonmetal mines and to surface coal mines and surface areas of underground coal mines (30 CFR part 71). The Office of the Inspector General (OIG) recommended in a report that MSHA lower its PEL for asbestos to a more protective level, and address take-home contamination from asbestos. It also recommended that MSHA use Transmission Electron Microscopy to analyze fiber samples that may contain asbestos. MSHA proposed a rule to lower the asbestos PEL, which would reduce asbestos-induced occupational disease.

Statement of Need: Current scientific data indicate that the existing asbestos PEL is not sufficiently protective of miners' health. MSHA's asbestos regulations date to 1967 and are based on the Bureau of Mines (MSHA's predecessor) standard of 5 million particles per cubic foot of air (mppcf). Other Federal agencies have addressed this issue by lowering their asbestos PEL. For example, the Occupational Safety and Health Administration, working in conjunction with the Environmental Protection Agency, enacted a revised asbestos standard in 1994 that lowered the permissible exposure limit to an 8-hour time-weighted average of 0.1 fiber per cubic centimeter (f/cc) of air and the excursion limit to 1.0 f/cc of air as averaged over a 30 minute sampling period. These lower limits reflect new information and studies that compare asbestos-related disease risk to the number of asbestos-exposed workers.

Summary of Legal Basis: Promulgation of this regulation is authorized by section 101 of the Federal Mine Safety and Health Act of 1977.

Alternatives: The Agency increased sampling efforts in an attempt to determine miners' exposure levels to asbestos. In early 2000, MSHA began an extensive sampling effort at operations with potential asbestos

exposure including taking samples at all existing vermiculite, taconite, talc, and other mines to determine the level of asbestos present. While sampling, MSHA staff also discussed various potential hazards of asbestos with miners and mine operators and the types of preventive measures that could be implemented to reduce exposures.

The final rule will be based, on comments and testimony to the proposed rule, as well as MSHA sampling and inspection experience.

Anticipated Cost and Benefits: The anticipated costs of the proposed rule to the mining industry would be approximately \$136,000 annually. Of this total amount, the cost to the metal and nonmetal mining sector would be \$91,500, and the cost to the coal mining sector would be \$44,600.

MSHA estimates that between 1 and 19 deaths could be prevented over the next 65 years, which represents approximately 9 to 84 percent of all occupationally related deaths caused by asbestos exposure. Under the proposed exposure limit, approximately 1 out of every 1,000 miners will avoid the risk of death from asbestosis, lung cancer, mesothelioma, or other forms of cancer attributed to asbestos exposure.

Risks: Miners could be exposed to the hazards of asbestos at mine operations where ore body contains asbestos. In addition, miners could be exposed to asbestos at facilities that install material containing asbestos. Overexposure to asbestos causes asbestosis, lung cancer, mesothelioma, and other forms of cancer.

Timetable:

Action	Date	FR Cite
ANPRM	03/29/02	67 FR 15134
Notice of Change to Public Meetings	04/18/02	67 FR 19140
ANPRM Comment Period End	06/27/02	
NPRM	07/29/05	70 FR 42950
NPRM Comment Period End	11/21/05	70 FR 43950
Public Hearing	10/18/05	70 FR 43950
Final Action	06/00/08	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The Office of the Inspector General issued a report entitled, "Evaluation of MSHA's

DOL—MSHA

Long-Term Actions

Handling of Inspections at the W.R. Grace & Company Mine in Libby, Montana," in March 2001.

URL For More Information:

www.msha.gov/regsinfo.htm

URL For Public Comments:

www.regulations.gov

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
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Email: silvey.patricia@dol.gov

RIN: 1219-AB24

1816. RESPIRABLE CRYSTALLINE SILICA STANDARD

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 813

CFR Citation: 30 CFR 56 to 57; 30 CFR 70 to 72; 30 CFR 90

Legal Deadline: None

Abstract: Current standards limit exposures to quartz (crystalline silica) in respirable dust. The coal mining industry standard is based on the formula 10mg/m³ divided by the percentage of quartz where the quartz percent is greater than 5.0 percent calculated as an MRE equivalent concentration. The metal and nonmetal mining industry standard is based on the 1973 American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Values formula: 10 mg/m³ divided by the percentage of quartz plus 2. Overexposure to crystalline silica can result in some miners developing silicosis, which ultimately may be fatal. Both formulas are designed to limit exposures to 0.1 mg/m³ (100mg) of silica. The Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers made several recommendations related to reducing exposure to silica. NIOSH and ACGIH recommend a 50 mg/m³ exposure limit for respirable crystalline silica. MSHA is considering several options to reduce miners' exposure to crystalline silica.

Timetable:

Action	Date	FR Cite
Request for Information	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

URL For More Information:

www.msha.gov/regsinfo.htm
www.regulations.gov

URL For Public Comments:

www.regulations.gov

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
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RIN: 1219-AB36

1817. REVISING ELECTRICAL PRODUCT APPROVAL REGULATIONS

Priority: Other Significant

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 7; 30 CFR 17 to 18; 30 CFR 22 to 23; 30 CFR 27

Legal Deadline: None

Abstract: 30 CFR part 18 (Electric Motor-Driven Mine Equipment and Accessories), describes the approval requirements for electrically operated machines and accessories intended for use in underground gassy mines, and for related matters, such as approval procedures, certification of components, and acceptance of flame-resistant hoses and conveyor belts. Aside from minor modifications, part 18 has been largely unchanged since it was promulgated in 1968. MSHA is proposing revisions to improve the efficiency of the approval process, recognize new technology, add quality assurance provisions, address existing policies through the rulemaking process, and reorganize portions of the approval regulations. MSHA will be addressing the requirements in this NPRM in phases. The first phase will be Flame-Resistance Testing of Mining Materials. This action will be published first because the MINER Act requires all life lines to be flame-resistant by June 14, 2009. The flame-resistant

requirements are contained in 30 CFR part 18.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

URL For More Information:

www.msha.gov/regsinfo.htm
www.regulations.gov

URL For Public Comments:

www.regulations.gov

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RIN: 1219-AB37

1818. FIELD MODIFICATIONS OF PERMISSIBLE MOBILE DIESEL-POWERED EQUIPMENT

Priority: Other Significant

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 36

Legal Deadline: None

Abstract: The implementation of diesel regulations in 30 CFR parts 7, 36, 57, 72, and 75 has resulted in an increase in requests from owners of approved equipment, typically underground mine operators, to field modify permissible diesel-powered equipment. Field modifications allow permissible equipment to be modified for mine-specific use or to comply with new diesel standards. Therefore, the Mine Safety and Health Administration is proposing to add field modification provisions to 30 CFR part 36 (Approval Requirements for Permissible Mobile Diesel-Powered Transportation Equipment).

This proposed rule would codify the field modification process for part 36 field modification acceptances, expand the field modification process to allow mine operators to apply for field modifications, and continue to ensure that field-modified equipment operates safely in gassy underground mines. The proposed rule would also implement

DOL—MSHA

Long-Term Actions

existing policy which dates from 1985, to reflect current procedures for processing field modifications related to mobile diesel-powered transportation equipment. Further, the proposed rule would require labeling provisions for all new field modifications accepted under part 36. These new provisions would enhance miner safety.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219-AB39

1819. USE OF OR IMPAIRMENT FROM ALCOHOL AND OTHER DRUGS ON MINE PROPERTY

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: MSHA is considering publishing a proposed rule to address the risks and hazards to miner safety from the use of or impairment from alcohol and drugs on mine property.

Timetable:

Action	Date	FR Cite
ANPRM	10/04/05	70 FR 57808
ANPRM Comment Period End	11/27/05	
NPRM	To Be	Determined

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

URL For More Information:
www.msha.gov/regsinfo.htm
www.regulations.gov

URL For Public Comments:

www.regulations.gov

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RIN: 1219-AB41

1820. EQUIVALENCY EVALUATION OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S NONROAD DIESEL ENGINE STANDARDS

Priority: Other Significant

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 7

Legal Deadline: None

Abstract: MSHA is reviewing the U.S. Environmental Protection Agency's (EPA) standards for nonroad diesel engines. The review will determine if certain EPA requirements in 40 CFR part 89 (Control of Emissions From New and In-Use Nonroad Compression-Ignition Engines), provide or can be modified to provide at least the same degree of protection as existing requirements in 30 CFR part 7, subpart E (Diesel Engines Intended for Use in Underground Coal Mines). This review is limited to the testing of Category B diesel engines as defined in 30 CFR 7.82 (Definitions).

Timetable:

Action	Date	FR Cite
Notice of Intent to Review the U.S. Environmental Protection Agency Title	03/28/06	71 FR 15358
End of Comment Period	05/30/06	
Final Action	04/00/08	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

URL For More Information:
www.msha.gov/regsinfo.htm
www.regulations.gov

URL For Public Comments:
www.regulations.gov

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RIN: 1219-AB43

1821. CONTINUOUS PERSONAL DUST MONITORS

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: On June 24, 2003, MSHA announced that all work on its Plan Verification and Single-Sample Respirable Coal Mine Dust final rules would cease and the rulemaking record would remain open in order to obtain information concerning Continuous Personal Dust Monitors (CPDMs) currently being tested by NIOSH. A Federal Register notice was published on July 3, 2003, extending the comment periods indefinitely. NIOSH issued a report on the CPDM in September 2001. MSHA will solicit public input on potential applications of this new monitoring technology in coal mines.

Statement of Need: Respirable coal mine dust levels in this country are significantly lower than they were over two decades ago. Despite this progress, there continues to be concern about our current sampling program and MSHA's ability to accurately measure and maintain respirable coal mine dust at or below the applicable standard. The new CPDM, unlike the technology that has been employed since 1970 to measure concentrations of respirable coal mine dust, offers the capability to provide accurate and timely continuous readings of the dust level during a shift. Responses to this Request for Information (RFI) will assist the Agency in determining: (1) how to deploy the CPDM in coal mines and utilize its coal dust monitoring capability to further improve miner health protection from disabling occupational lung disease; and (2) the regulatory and non-regulatory actions that would promote its use for exposure monitoring and control.

Summary of Legal Basis: This RFI is authorized by sections 101 and 103 of the Federal Mine Safety and Health Act of 1977.

DOL—MSHA

Long-Term Actions

Alternatives: This RFI would explore options for amending and improving health protection from that afforded by the existing standards.

Anticipated Cost and Benefits: MSHA will develop a preliminary economic analysis to accompany any proposed rule that may be developed.

Risks: Respirable coal dust is one of the most serious occupational hazards in the mining industry. Occupational exposure to excessive levels of respirable coal mine dust can cause black lung, which is potentially disabling and can cause death. MSHA is pursuing both regulatory and

nonregulatory actions to eliminate this disease through the control of coal mine respirable dust levels in mines and reduction of miners' exposure.

Timetable:

Action	Date	FR Cite
Request for Information	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

URL For More Information:
www.msha.gov/regsinfo.htm
www.regulations.gov

URL For Public Comments:
www.regulations.gov

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Related RIN: Related to 1219-AB14, Related to 1219-AB18

RIN: 1219-AB48

Department of Labor (DOL)

Completed Actions

Mine Safety and Health Administration (MSHA)

1822. EMERGENCY MINE EVACUATION

Priority: Economically Significant. Major under 5 USC 801.

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

Legal Authority: 30 USC 811; 30 USC 813; 30 USC 825; 30 USC 876

CFR Citation: 30 CFR 48; 30 CFR 50; 30 CFR 75

Legal Deadline: Final, Statutory, December 9, 2006.

Abstract: The Mine Safety and Health Administration (MSHA) published an emergency temporary standard on March 9, 2006. Under section 101(b) of the Federal Mine Safety and Health Act of 1977 (Mine Act) the emergency temporary standard was effective immediately. MSHA, however, must publish a final rule no later than nine months after publication of an emergency temporary standard in accordance with section 101(b) of the Mine Act. MSHA has issued a final rule. The final rule incorporated relevant requirements of the Mine Improvement and New Emergency Response Act (MINER Act) of 2006. The final rule included requirements for immediate accident notification applicable to all underground and surface mines. The final rule also addressed requirements for self-contained self-rescuer storage and use; emergency evacuation and self-rescuer training and drills; and the installation and maintenance of lifelines that are

applicable to all underground coal mines.

Statement of Need: MSHA issued the emergency temporary standard, which focused on the evacuation of underground coal mines and immediate accident notification, applicable to all underground and surface mines, to fill a critical need when a mine emergency occurs. Because the emergency temporary standard was immediately effective, MSHA gained experience with the rule. MSHA affirms that the requirements implemented under the emergency temporary standard provide all miners additional critical protection through prompt accident reporting and, in addition, provide all underground coal miners additional critical tools and training to complete a successful mine evacuation.

Summary of Legal Basis: Promulgation of this regulation is authorized by section 101 of the Federal Mine Safety and Health Act of 1977 and the Mine Improvement and New Emergency Response Act of 2006 (Public Law 109-236).

Alternatives: This final rule provided: (1) the safety protections afforded to miners by the existing temporary standard; and (2) additional protections through implementation of parts of the MINER Act.

Anticipated Cost and Benefits: The anticipated costs and benefits of the final rule focus on miners having the tools to successfully escape a serious mine accident that requires emergency evacuation of the mine. MSHA

prepared a regulatory economic analysis for the final rule.

Risks: Mining continues to be one of the most hazardous occupations in the United States. In calendar year 2004, there were 634 underground coal mine operators employing 33,490 miners and 3,697 contractor workers who work underground in coal mines. In total, there were 214,450 miners and 72,739 contract workers who work in the 14,480 U.S. mines. In 2004, 56 miners died in mining accidents, over 8,000 miners suffered nonfatal injuries resulting in lost work days; and over 3,400 miners suffered injuries that resulted in no lost work days. The final rule requirements provide underground coal miners necessary tools to successfully escape a serious mine accident.

Timetable:

Action	Date	FR Cite
Emergency Temporary Standard	03/09/06	71 FR 12252
Emergency Temporary Standard Effective	04/10/06	
Change of Public Hearing Dates	03/27/06	71 FR 15028
Emergency Mine Evacuation Public Hearing	04/24/06	
Emergency Mine Evacuation Public Hearing	04/26/06	
Emergency Mine Evacuation Public Hearing	04/28/06	

DOL—MSHA

Completed Actions

Action	Date	FR Cite
Emergency Mine Evacuation Public Hearing	05/09/06	
Comment Period Extended	05/24/06	71 FR 29785
Comment Period End	06/29/06	
Final Action	12/08/06	71 FR 71430
Final Action Effective	12/08/06	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 1219-AB46

1823. CRITERIA AND PROCEDURES FOR PROPOSED ASSESSMENT OF CIVIL PENALTIES

Priority: Other Significant

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

CFR Citation: 30 CFR 100

Legal Deadline: Final, Statutory, December 30, 2006.

The MINER Act established a deadline of December 30, 2006, for MSHA to complete the Civil Penalties rulemaking. MSHA did not meet that deadline, but the agency has been applying the higher MINER Act penalties since the date of enactment.

Abstract: MSHA is proposing to amend its civil penalty regulations to increase penalty amounts, to revise the process for proposing civil penalties and to implement requirements of the Mine Improvement and New Emergency Response Act (MINER Act) of 2006. The key civil penalty provisions of the MINER Act are: minimum penalties of \$2,000 for unwarrantable failure violations and \$4,000 for repeated

similar violations; penalties of \$5,000 to \$60,000 for failure to timely notify MSHA of a death, injury, or entrapment with a reasonable potential to cause death; and penalties of up to \$220,000 for “flagrant” violations.

Statement of Need: A recent upward trend in citations for violations of MSHA’s safety and health regulations, coupled with several tragic accidents in 2006, have called into question the effectiveness of the current civil penalty regulations. Congress responded by passing the MINER Act to provide MSHA with statutory authority to change the civil penalty regulations. As a result the final rule strengthens the existing regulations, improves miner safety and health, and reduces fatalities.

Summary of Legal Basis: This regulation is authorized by the Federal Mine Safety and Health Act of 1977 and the MINER Act of 2006.

Alternatives: The Agency considered a variety of approaches for calculating civil penalties and is publishing the approach that it believes best achieves the objectives of the Agency.

Anticipated Cost and Benefits: Using 2005 violation and assessment data as a baseline, MSHA estimated that all violations in 2005, if assessed under the final rule, would result in approximately \$69.3 million in penalties annually, which is an increase of \$44.5 million. However, MSHA projected that the higher penalties will induce operators to increase compliance efforts, which would cost an estimated \$9.5 million and decrease the number of violations by approximately 20 percent. The resulting increase in penalties is estimated to be approximately \$22.1 million. In addition, a new provision requiring a written request for safety and health conferences will have an annual cost of approximately \$0.1 million. Taking all of these effects into account, the total cost of the rule would be \$31.6 million yearly.

MSHA believes the projected increased compliance with health and safety regulations would result in fewer

injuries and fatalities, but these benefits have not been scientifically established. Accordingly, MSHA did not prepare a quantitative estimate of the expected reduction in injuries and fatalities.

Risks: The Mine Act imposes civil penalties as a means of ensuring compliance with the requirements of the Act. The Congress intended that the imposition of civil penalties would induce mine operators to be proactive in their approach to mine safety and health, and take necessary action to prevent safety and health hazards before they occur. According to MSHA’s 2005 production data, this regulation applies to 14,666 mine operators and 6,585 independent contractors, as well as the 261,449 miners and 83,267 contract workers they employ.

Timetable:

Action	Date	FR Cite
NPRM	09/08/06	71 FR 53054
NPRM Comment Period End	10/23/06	
NPRM Comment Period Reopened	10/26/06	71 FR 62572
NPRM Comment Period End	11/09/06	
Final Action	03/22/07	72 FR 13592
Final Action Effective	04/23/07	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

URL For More Information:
www.msha.gov/regsinfo.htm
www.regulations.gov

URL For Public Comments:
www.regulations.gov

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RIN: 1219-AB51

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

Prerule Stage

1824. OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA

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; 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 a 50µ/m³ exposure limit 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 (ASTM) 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.

Statement of Need: Over 2 million 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 (IARC) 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. The Agency is currently evaluating several options for the scope of the rulemaking.

Anticipated Cost and Benefits: The scope of the proposed rulemaking and 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	
Complete Peer Review of Health Effects and Risk Assessment	09/00/07	

Regulatory Flexibility Analysis

Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 1218-AB70

1825. 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 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.

DOL—OSHA

Prerule Stage

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 is using this information to develop a proposed rule addressing occupational exposure to beryllium.

Timetable:

Action	Date	FR Cite
Request for Information	11/26/02	67 FR 70707
Complete SBREFA Report	09/00/07	

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
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RIN: 1218-AB76**1826. IONIZING RADIATION****Priority:** Other Significant**Legal Authority:** 29 USC 655(b)**CFR Citation:** 29 CFR 1910.109**Legal Deadline:** None

Abstract: OSHA is considering amending 29 CFR 1910.1096 that addresses exposure to ionizing radiation. The OSHA regulations were published in 1974, with only minor revisions since that time. The Department of Energy and the Nuclear Regulatory Commission both have more extensive radiation standards that reflect new technological and safety advances. In addition, radiation is now used for a broader variety of purposes,

including health care, food safety, mail processing, and baggage screening. OSHA is in the process of reviewing information about the issue, and will determine the appropriate course of action regarding this standard when the review is completed. A request for information was published on May 3, 2005. Subsequently, the National Academy of Science released the latest version of a significant report on the biological effects of ionizing radiation. OSHA extended the comment period on the request for information to ensure commenters had the opportunity to consider this new report. The next step for the ionizing radiation project is to hold discussions with key stakeholders. OSHA plans to hold a series of meetings targeted to specific stakeholder groups including state organizations with responsibility for worker exposure to ionizing radiation, professional associations and specific industry groups such as dental, medical and veterinary professionals. OSHA believes that these targeted meetings will be detailed technical discussions that will inform the Agency on current practices, the use of radiation devices and approaches to protecting employees from exposure to ionizing radiation.

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	05/03/05	70 FR 22828
Request for Information Comment Period End	08/01/05	70 FR 22828
Request for Information Comment Period Extended	11/28/05	70 FR 44074
Stakeholder Meetings	03/05/07	72 FR 9716
Stakeholders Meeting	04/00/07	

Regulatory Flexibility Analysis**Required:** Undetermined**Government Levels Affected:** Undetermined

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RIN: 1218-AC11**1827. EMERGENCY RESPONSE AND PREPAREDNESS****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**Legal Authority:** 29 USC 655(b); 29 USC 657**CFR Citation:** 29 CFR 1910**Legal Deadline:** None

Abstract: Emergency responder health and safety is currently regulated primarily under the following standards: the fire brigade standard (29 CFR 1910.156); hazardous waste operations and emergency response (29 CFR 1910.120); the respiratory protection standard (29 CFR 1910.134); the permit-required confined space standard (29 CFR 1910.146); and the bloodborne pathogens standard (29 CFR 1910.1030). Some of these standards were promulgated decades ago and none were designed as comprehensive emergency response standards. Consequently, they do not address the full range of hazards or concerns currently facing emergency responders. Many do not reflect major changes in performance specifications for protective clothing and equipment. Current OSHA standards also do not reflect all the major developments in safety and health practices that have already been accepted by the emergency response community and incorporated into National Fire Protection Association (NFPA) and American National Standards Institute consensus standards. OSHA will be collecting information to evaluate what action the agency should take.

Timetable:

Action	Date	FR Cite
Request for Information	07/00/07	

Regulatory Flexibility Analysis**Required:** Undetermined**Government Levels Affected:** Undetermined**Federalism:** Undetermined

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DOL—OSHA

Prerule Stage

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RIN: 1218-AC17

1828. LEAD IN CONSTRUCTION (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

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

CFR Citation: 29 CFR 1926.62

Legal Deadline: None

Abstract: OSHA will undertake a review of the Lead in Construction Standard (29 CFR 1926.62) 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, impacts of the rule comments on the rule received from the public, the complexity of 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 last evaluated.

Timetable:

Action	Date	FR Cite
Begin Review	06/06/05	70 FR 32739
End Review Comment	09/06/05	70 FR 32739
End Review	07/00/07	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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RIN: 1218-AC18

1829. REVISION AND UPDATE OF STANDARDS FOR POWER PRESSES

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR Part 1910.217

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration's (OSHA) mechanical power press standard (29 CFR 1910.217) protects employees from injuries that result from working with or around mechanical power presses through the use of machine guards (prevents hands in danger zone) and through limitations on initiation of a press cycle (either two-hand or foot operated). A presence-sensing device (PSD), typically a light curtain, initiates a press cycle only when the system indicates that no objects, such as a hand, are within the hazard zone. OSHA adopted the use of presence-sensing device initiation (PSDI) on mechanical power presses believing that the provision would substantially protect workers and improve productivity. However, OSHA requires PSDI systems to be validated by an OSHA-certified third party, and no organization has agreed to validate PSDI installations. OSHA performed a lookback review of PSDI and determined that the current ANSI standard permits PSDI without independent validation but includes other provisions to maintain PSDI safety.

Based on its completion of the look-back review of PSDI (69 FR 31927), OSHA is planning to revise and update the standard on power presses, which currently covers only mechanical power presses. OSHA will base the revision of the 2001 or later edition of the American National Standards Institute (ANSI) standard on Mechanical Power Presses, ANSI B11.1. Further, OSHA is considering expanding the standard to cover other presses such as hydraulic and pneumatic power presses and to include the latest guarding techniques. This revision will provide the first major update of the Mechanical Power Presses Standard since it was originally published in 1971.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/07	

Regulatory Flexibility Analysis

Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Federalism: Undetermined

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RIN: 1218-AC22

1830. METHYLENE CHLORIDE (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

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

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	06/00/07	
End Review	06/00/08	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 1218-AC23

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

Proposed Rule Stage

1831. CONFINED SPACES IN CONSTRUCTION (PART 1926): PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES

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

Unfunded Mandates: Undetermined

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	08/00/07	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

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RIN: 1218-AB47

1832. GENERAL WORKING CONDITIONS FOR SHIPYARD EMPLOYMENT

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

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. Publication of a proposal addressing general working conditions in shipyards is part of this project. The operations addressed in this rulemaking relate to general working conditions such as housekeeping, illumination, sanitation, first aid, and lockout/tagout. About 100,000 workers are potentially exposed to these hazards annually.

Timetable:

Action	Date	FR Cite
NPRM	06/00/07	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 1218-AB50

1833. CRANES AND DERRICKS

Priority: Other 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.

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 82 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 USC 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 Comment 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	10/00/07	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven F. Witt, Director, Directorate of Construction, Department of Labor, Occupational

DOL—OSHA

Proposed Rule Stage

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RIN: 1218-AC01

1834. UPDATING OSHA STANDARDS BASED ON NATIONAL CONSENSUS STANDARDS

Priority: Other Significant

Legal Authority: 29 USC 655(b)

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

Legal Deadline: None

Abstract: Under section 6(a) of the OSH Act, during the first two years of the Act, the Agency was directed to adopt national consensus standards as OSHA standards. Some of these standards were adopted as regulatory text, while others were incorporated by reference. In the more than 30 years since these standards were adopted by OSHA, the organizations responsible for these consensus standards have issued updated versions of these standards. However, in most cases, OSHA has not revised its regulations to reflect later editions of the consensus standards. OSHA standards also continue to incorporate by reference various consensus standards that are now outdated and, in some cases, out of print.

The Agency is undertaking a multi-year project to update these standards. A notice describing the project was published in the Federal Register on November 24, 2004 (69 FR 68283). The first final rule was published on September 13, 2005. Several additional sets of standards are in preparation.

Timetable:

Action	Date	FR Cite
NPRM	11/24/04	69 FR 68706
Direct Final Rule	11/24/04	69 FR 68712
NPRM Comment Period End	12/27/04	69 FR 68706
Withdraw Direct Final Rule	02/18/05	70 FR 8290
Direct Final Rule Effective Date	02/22/05	
Final Rule	09/13/05	70 FR 53925
Final Rule Effective	11/14/05	
NPRM	05/00/07	
Direct Final Rule	06/00/07	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

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RIN: 1218-AC08

1835. EXPLOSIVES

Priority: Other Significant

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.109

Legal Deadline: None

Abstract: OSHA is amending 29 CFR 1910.109 that addresses explosives and blasting agents. These OSHA regulations were published in 1974, and many of the provisions do not reflect technological and safety advances made by the industry since that time. Additionally, the standard contains outdated references and classifications. 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. Initially, OSHA planned to revise the pyrotechnics requirements in this NPRM. However, based on our work to date, it appears appropriate to reserve action on these requirements for a second phase of rulemaking. The agency therefore plans to propose revisions to 29 CFR 1910.109 without any changes to the existing pyrotechnics requirements, and at a future date will develop a proposed rule for pyrotechnics revision.

Timetable:

Action	Date	FR Cite
NPRM	04/00/07	
Analyze Record	08/00/07	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

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RIN: 1218-AC09

1836. STANDARDS IMPROVEMENT

Priority: Other Significant

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 (SIPs) 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 will be publishing an advance notice of proposed rulemaking (ANPRM) to solicit input from the public on rules that may be addressed in Phase III of SIPs. The Agency plans to include both safety and health topics in Phase III.

Timetable:

Action	Date	FR Cite
ANPRM	12/21/06	71 FR 76623
Analyze Record	04/00/07	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

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RIN: 1218-AC19

DOL—OSHA

Proposed Rule Stage

1837. HAZARD COMMUNICATION**Priority:** Other Significant**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 (US), there are other Federal agencies that also have requirements for classification and labeling of chemicals at different stages of the life cycle. 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 longstanding 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 considering adoption of the GHS into their national regulatory systems. There is an international goal to have as many countries as possible implement the GHS by 2008. OSHA is considering modifying 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. 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.

Additionally, comprehensibility of hazard information 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.

Several nations, as well as the European Union, are preparing

proposals for adoption of the GHS. US manufacturers, employers, and employees will be at a disadvantage in the event that our system of hazard communication is not compliant 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	
Complete Peer Review of Economic Analysis	08/00/07	

Regulatory Flexibility Analysis**Required:** Undetermined**Government Levels Affected:** None

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RIN: 1218-AC20**1838. NATIONALLY RECOGNIZED TESTING LABORATORIES FEE SCHEDULE – REVISED APPROACH**

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

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

CFR Citation: Not Yet Determined**Legal Deadline:** None

Abstract: The Occupational Safety and Health Administration is proposing to adjust the fees that the Agency charges

DOL—OSHA

Proposed Rule Stage

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.

Timetable:

Action	Date	FR Cite
NPRM	07/00/07	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1218-AC27

Department of Labor (DOL)

Final Rule Stage

Occupational Safety and Health Administration (OSHA)

1839. LONGSHORING AND MARINE TERMINALS (PARTS 1917 AND 1918)—REOPENING OF THE RECORD (VERTICAL TANDEM LIFTS (VTLs))

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

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

CFR Citation: 29 CFR 1918.11; 29 CFR 1918.85

Legal Deadline: None

Abstract: OSHA issued a final rule on Longshoring on July 25, 1997 (62 FR 40142). However, in that rule, the Agency reserved provisions related to vertical tandem lifts. Vertical tandem lifts (VTLs) involve the lifting of two or more empty intermodal containers, secured together with twist locks, at the same time. OSHA has continued to work with national and international organizations to gather additional information on the safety of VTLs. The Agency has published an NPRM to address safety issues related to VTLs. The extended comment period concluded February 13, 2004, and an informal public hearing was held on July 29 to 30, 2004. The rulemaking record was open through November 30, 2004. Subsequently, new information was submitted to the docket. The Administrative Law Judge gave hearing participants 45 days to review this

information and comment on it. Comments were due June 27, 2005. The Agency is analyzing the information and comments received to prepare the final action.

Timetable:

Action	Date	FR Cite
NPRM	06/06/94	59 FR 28594
NPRM Comment Period End	09/23/94	
Final Rule on Longshoring/Marine	07/25/97	62 FR 40142
Public Meeting on VTLs - 1/27/1998	10/09/97	62 FR 52671
Second NPRM	09/16/03	68 FR 54298
NPRM Comment Period End 2/13/04	12/10/03	68 FR 68804
Public Hearing	07/29/04	69 FR 19361
Final Action	12/00/07	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 1218-AA56

1840. 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; 29 CFR 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 30 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

DOL—OSHA

Final Rule Stage

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 power generation, transmission and distribution work. OSHA published an NPRM on June 15, 2005. A public hearing was held March 6 to 14, 2006.

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
Post-Hearing Comment Period End	07/14/06	
Final Action	01/00/08	

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

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RIN: 1218-AB67**1841. EMPLOYER PAYMENT FOR PERSONAL PROTECTIVE EQUIPMENT****Priority:** Other Significant**Legal Authority:** 29 USC 655(b); 29 USC 657; 33 USC 941; 40 USC 333**CFR Citation:** 29 CFR 1910.132; 29 CFR 1915.152; 29 CFR 1917.96; 29 CFR 1918.106; 29 CFR 1926.95**Legal Deadline:** None**Abstract:** Generally, OSHA standards require that protective equipment

(including personal protective equipment (PPE)) be provided and used when necessary to protect employees from hazards that can cause them injury, illness, or physical harm. In this discussion, OSHA uses the abbreviation PPE to cover both personal protective equipment and other protective equipment. In 1999, OSHA proposed to require employers to pay for PPE, with a few exceptions. The Agency continues to consider how to address this issue, and re-opened the record on July 8, 2004, to get input on issues related to PPE considered to be a "tool of the trade." The comment period ended August 23, 2004.

Timetable:

Action	Date	FR Cite
NPRM	03/30/99	64 FR 15401
NPRM Comment Period End	06/14/99	
Informal Public Hearing End	08/13/99	
Limited Reopening of Record	07/08/04	69 FR 41221
Comment Period End	08/23/04	
Final Action	11/00/07	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** Federal, Local, State

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RIN: 1218-AB77**1842. PROCEDURES FOR HANDLING DISCRIMINATION COMPLAINTS UNDER FEDERAL EMPLOYEE PROTECTION STATUTES****Priority:** Other Significant**Legal Authority:** 42 USC 300j-9(i); 33 USC 1367; 15 USC 2622; 42 USC 6971;

42 USC 7622; 42 USC 9610; 42 USC 5851;

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 the six EPA statutes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/07	
Interim Final Rule Comment Period End	04/00/07	

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

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RIN: 1218-AC25

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

Long-Term Actions

1843. WALKING WORKING SURFACES AND PERSONAL FALL PROTECTION SYSTEMS (1910) (SLIPS, TRIPS, AND FALL PREVENTION)

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

Unfunded Mandates: Undetermined

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. 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 a number of issues raised in the record for the NPRM. 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 will develop a new proposal, modified to reflect current information, as well as 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

Action	Date	FR Cite
Reopen Record	05/02/03	68 FR 23527
Comment Period End	07/31/03	
NPRM	04/00/08	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1218-AB80

1844. HEARING CONSERVATION PROGRAM FOR CONSTRUCTION WORKERS

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

Unfunded Mandates: Undetermined

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

CFR Citation: 29 CFR 1926.52

Legal Deadline: None

Abstract: OSHA issued a section 6(b)(5) health standard mandating a comprehensive hearing conservation program for noise-exposed workers in general industry in 1983. However, no rule was promulgated to cover workers in the construction industry. A number of recent studies have shown that many construction workers experience work-

related hearing loss. In addition, the use of engineering, administrative and personal protective equipment to reduce exposures to noise is not extensive in this industry. OSHA published an advance notice of proposed rulemaking to gather information on the extent of noise-induced hearing loss among workers in different trades in this industry, current practices to reduce this loss, and additional approaches and protections that could be used to prevent such loss in the future. Work continues on collecting and analyzing information to determine technological and economic feasibility of possible approaches.

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	
Next Action	Undetermined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

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RIN: 1218-AB89

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

Completed Actions

1845. REVISION AND UPDATE OF SUBPART S—ELECTRICAL STANDARDS

Priority: Other Significant

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA) proposed to revise and update its 29 CFR 1910 subpart S—Electrical Standards. OSHA relied heavily on the National Fire Protection Association's

(NFPA's) 70 E standard for Electrical Safety Requirements for Employee Workplaces. This revision will provide the first update of the General Industry—Electrical Standard since it was originally published in 1981. OSHA intends to complete this project in several stages. An NPRM was published on April 5, 2004. The first stage covers design safety standards for electrical systems, while the second stage will cover safety-related maintenance and work practice requirements and safety requirements for special equipment. It will thus

allow the latest technological developments to be considered. Several of these state-of-the-art safety developments will be addressed by OSHA for the first time. OSHA has evaluated public comment received in response to the NPRM, and a final action is being prepared.

Timetable:

Action	Date	FR Cite
NPRM	04/05/04	69 FR 17773
NPRM Comment Period End	06/04/04	

DOL—OSHA

Completed Actions

Action	Date	FR Cite
Final Rule	02/14/07	72 FR 7136
Final Action Effective	08/13/07	

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

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RIN: 1218-AB95**1846. EXCAVATIONS (SECTION 610 REVIEW)****Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 651 et seq; 5 USC 610**CFR Citation:** 29 CFR 1926.650 to 1926.652**Legal Deadline:** None

Abstract: OSHA has undertaken a review of the Agency's Excavations Standard (29 CFR 1926.650 to 1926.652) in accordance with the requirements of the Regulatory Flexibility Act and section 5 of Executive Order 12866. The review is considering the continued need for the rule, the impacts of the rule, public comments on the rule, the complexity of the rule, and whether the rule overlaps, duplicates, or conflicts with other regulations.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/01	
Request for Comments	08/21/02	67 FR 54103
Comment Period End	11/19/02	
End Review	03/29/07	72 FR 14727

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

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RIN: 1218-AC02**1847. NFPA STANDARDS IN SHIPYARD FIRE PROTECTION****Priority:** Substantive, Nonsignificant**Legal Authority:** 29 USC 655(b); 29 USC 657**CFR Citation:** 29 CFR 1915.4; 29 CFR 1915.505; 29 CFR 1915.507**Legal Deadline:** None

Abstract: In this rulemaking, OSHA is updating National Fire Protection Association (NFPA) standards incorporated by reference in the OSHA 29 CFR part 1915 subpart P fire protection standards. OSHA published a final rule for subpart P in 2004 that included nine NFPA standards that have been updated since the rule was proposed. OSHA plans to issue a direct final rulemaking, along with a notice of proposed rulemaking, to update the NFPA standards.

Timetable:

Action	Date	FR Cite
NPRM	10/17/06	71 FR 60932
Direct Final Rule	10/17/06	71 FR 60843
NPRM Comment Period End	11/16/06	
Review Comments	12/29/06	
Direct Final Rule Effective	01/16/07	72 FR 7

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

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RIN: 1218-AC16**1848. NOTICE ON SUPPLIER'S DECLARATION OF CONFORMITY (SDOC)****Priority:** Info./Admin./Other**Legal Authority:** 29 USC 655(b)**CFR Citation:** 29 CFR 1910**Legal Deadline:** None

Abstract: OSHA requested information and comments on a specific proposal submitted to OSHA to permit the use of a Supplier's Declaration of Conformity (SDoC) as part of, or as an alternative to, the Nationally Recognized Testing Laboratories (NRTLs) product approval process. NRTLs are third-party (i.e., independent) organizations, and many of OSHA's workplace standards require that certain types of equipment be approved by an NRTL. Under SDoC, manufacturers self-approve their products.

Based upon the review and analysis of the information gathered during the RFI process, OSHA has confirmed that its third-party approval requirements are effective in safeguarding product safety in the workplace. OSHA has decided to take no further action on the proposal and to withdraw this agenda item from the Regulatory Agenda.

Timetable:

Action	Date	FR Cite
Request for Information	11/15/05	70 FR 69355
RFI Comment Period End	02/13/06	
Review Comments	11/01/06	
End Review	11/01/06	
Withdrawn	12/29/06	

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

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RIN: 1218-AC21