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: The Internet has become the means for disseminating the entirety of the Department of Labor’s semiannual regulatory agenda. However, the Regulatory Flexibility Act requires publication of a regulatory flexibility agenda in the Federal Register. This Federal Register Notice contains the regulatory flexibility agenda. In addition, the Department’s Regulatory Plan, a subset of the Department’s regulatory agenda, is being published in the Federal Register. The Regulatory Plan contains a statement of the Department’s regulatory priorities and the regulatory actions the Department wants to highlight as its most important and significant.

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 requires the semiannual publication of an agenda of regulations that contains a listing of all the regulations the Department of Labor expects to have under active consideration for promulgation, proposal, or review during the coming one-year period. The entirety of the Department’s semiannual agenda is available online at www.reginfo.gov. The Regulatory Flexibility Act (5 U.S.C. 602) requires DOL to publish in the Federal Register a regulatory flexibility agenda. The Department’s Regulatory Flexibility Agenda published with this notice, includes only those rules on its semiannual agenda that are likely to have a significant economic impact on a substantial number of small entities; and those rules identified for periodic review in keeping with the requirements of section 610 of the Regulatory Flexibility Act. Thus, the regulatory flexibility agenda is a subset of the Department’s semiannual regulatory agenda.

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

Occupational Safety and Health Administration

Methylene Chloride (RIN 1218-AC23)
Bloodborne Pathogens (RIN 1218-AC34)
Employee Benefits Security Administration

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

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

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

NAME: HILDA L. SOLIS,
Secretary of Labor.
The 121 Regulatory Agendas

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</table>
Title: Consolidation of Regulations Governing Administrative Forfeiture for Department of Justice Law Enforcement Agencies; Application of Department Regulations to Seizures for Forfeiture by ATF

Abstract: By this rule, the Department does seven things: First, the rule modifies the regulations to recognize that the Bureau of Alcohol, Tobacco, Firearms, and Explosives is now part of the Department of Justice. On November 25, 2002, the President signed into law the Homeland Security Act of 2002, Public Law No. 107-296, 116 Stat. 2135 (2002). Section 1111 of the Act established in the Department of Justice the "Bureau of Alcohol, Tobacco, Firearms, and Explosives," and generally transferred law enforcement functions, and seizure and forfeiture authority, of the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury to the Department of Justice. This transfer became effective on January 24, 2003. Second, the Department consolidates the regulations governing the seizure and administrative forfeiture of property by the Drug Enforcement Administration (DEA), the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), and the Federal Bureau of Investigation (FBI), in order to achieve greater consistency and promote overall fairness in the administrative forfeiture process by avoiding unnecessary differences in component procedures. Among other things, the Department provides rules governing practical issues regarding the seizure, custody, inventory, appraisal, settlement, and release of property subject to forfeiture. Third, the Department conforms the DEA, ATF, FBI, and Justice seizure and forfeiture regulations to address procedural changes necessitated by the Civil Asset Forfeiture Reform Act of 2000 (CAFRA), Public Law 106-185, other authorities and current forfeiture practice. Where CAFRA is silent or ambiguous on a subject relating to administrative forfeiture procedure, the proposed rule interprets CAFRA and fills certain gaps. CAFRA's procedural changes enhance the ability of property owners to contest the forfeiture of seized property. CAFRA also makes other changes beneficial to property owners. In particular: The requirement to file a bond for costs with a claim is eliminated; the time for filing a claim is extended; and the release of seized property is required under various circumstances. Fourth, the Department adds a regulation allowing for the pre-forfeiture disposition of seized property where the property is liable to perish, waste or be greatly reduced in value by further retention, or where the expense of holding the property is disproportionate to its value. Fifth, the Department adds discretionary authority for publication of notice for administrative forfeitures on the Internet in lieu of publication in a newspaper. Sixth, the Department modifies the regulations at 28 CFR part 9 governing petitions for remission or mitigation of forfeiture to define the agency official with authority to grant petitions for remission or mitigation in administrative forfeiture proceedings, and to specify the Department official with authority to grant petitions for remission or mitigation in judicial forfeiture cases. Seventh, the Department defines the standards governing administrative and judicial remission and mitigation decisions, including incorporation of CAFRA's statutory criteria for innocent ownership in determining petitions for remission or mitigation.
Title: Procedures for Suspension and Removal of Panel Trustees and Standing Trustees

Abstract: The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA") (Pub. L. No. 109-8) amended 28 U.S.C. 586(d)(2) to clarify that standing trustees and panel trustees who cease to be assigned to cases filed under title 11, United States Code, may obtain judicial review of the final agency decision by commencing an action in the District court after first exhausting all available administrative remedies, which if the trustee so elects, shall also include an administrative hearing on the record. The Attorney General is directed to prescribe procedures to implement these changes. Pursuant to an order dated October 14, 2005, the Attorney General delegated his authority to promulgate rules necessary to implement the provisions of the BAPCPA that relate to the administration and supervision of bankruptcy cases by the United States Trustee Program to the Director of the Executive Office for United States Trustees. 28 CFR 58.6 currently sets forth the procedures for suspension and removal of panel trustees and standing trustees. The Executive Office for United States Trustees is amending these procedures to reflect the changes required by 28 U.S.C. 586(d)(2) under the authority delegated by the Attorney General in his October 14, 2005, order.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Major: No

Unfunded Mandates: No

CFR Citation: 28 CFR 58 (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 28 USC 586(d)(2)

Legal Deadline: None
Title: Conforming OVW Grant Programs Regulations to Statutory Changes

Abstract: The Office on Violence Against Women issued a Notice of Proposed Rulemaking in December 2003 relating to clarification of the match requirement under the STOP Formula Grant Program and the STOP Violence Against Indian Women Discretionary Grant Program. On January 5, 2006, President Bush signed the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005, Pub. L. 109-162). VAWA 2005 changed the match requirements governing these programs and made other changes to OVW grant programs. Because of this, the specific changes proposed in the prior Notice are no longer applicable. Changes to the match requirement due to VAWA 2005 will be included in this new rulemaking. This rule proposes to amend the regulations for certain violence against women grant programs to comply with statutory changes. It also proposes to streamline existing regulations to reduce the repetition of statutory language. The STOP (Services-Training-Officers-Prosecutors) Violence Against Women Formula Grant Program and the STOP Violence Against Indian Women Discretionary Grant Program are codified at 42 U.S.C. 3796gg through 3796gg-5. The final rule for these programs, found at 28 CFR part 90, was promulgated on April 18, 1995. The Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program is codified at 42 U.S.C. 3796hh through 3796hh-4. The final rule for the program, found at 28 CFR part 90, subpart D, was promulgated on August 6, 1996. The Grants to Reduce Violent Crimes Against Women on Campus Program was authorized by title VIII, part E, section 826, of the Higher Education Amendments of 1998, Public Law No. 105-244, 112 Stat. 1581 (Oct. 7, 1998). VAWA 2005 reauthorized the program and removed it from the Higher Education Amendments. The final rule for the program, found at 28 CFR part 90, subpart E, was promulgated on July 22, 1999. This rule proposes to amend the regulations governing the STOP Violence Against Women Formula Grant Program, the STOP Violence Against Indian Women Discretionary Grant Program, the Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program, and the Grants to Reduce Violent Crimes Against Women on Campus Program to comply with the amendments to these programs enacted by VAWA 2005. These proposed changes to the regulations simply incorporate statutory changes and make some minor technical corrections.

Priority: Substantive, Nonsignificant
Major: No
Unfunded Mandates: No
CFR Citation: 28 CFR 90 (To search for a specific CFR, visit the Code of Federal Regulations)
Legal Authority: PL 109-162

Timetable:

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**Title:** Research Misconduct  
**Abstract:** This rule implements the Department of Justice's (DOJ) "Federal Policy on Research Misconduct" by setting forth the definition of research misconduct, procedure for investigating allegations of research misconduct and recommending findings, and procedure for adjudicating and appealing such findings. This rule will ensure the integrity of research funded or supported by DOJ.

**Priority:** Substantive, Nonsignificant  
**Agenda Stage of Rulemaking:** Proposed Rule  
**Major:** No  
**Unfunded Mandates:** No  
**CFR Citation:** 28 CFR 82 (To search for a specific CFR, visit the Code of Federal Regulations)  
**Legal Authority:** 5 USC 301; 28 USC 510; 28 USC 590  
**Legal Deadline: None**

**Timetable:**

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**Additional Information:** Transferred from RIN 1121-AA72

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**Regulatory Flexibility Analysis Required:** No  
**Government Levels Affected:** No  
**Small Entities Affected:** No  
**Federalism:** No

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**Regulatory Flexibility Analysis Required:** No  
**Government Levels Affected:** Undetermined  
**Small Entities Affected:** No  
**Federalism:** No

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**Regulatory Flexibility Analysis Required:** No  
**Government Levels Affected:** No  
**Small Entities Affected:** No  
**Federalism:** No
Title: Uniform Forms for Periodic Reports for Chapter 11 Cases

Abstract: 28 U.S.C. 589b requires the Attorney General to issue rules requiring uniform forms for periodic reports by debtors in possession and trustees in chapter 11 cases. These reports are to be used by the United States Trustee Program to facilitate oversight and monitoring of chapter 11 cases as well as to provide information to the courts, creditors, and public about the debtor's operations while under chapter 11 reorganization. Among the purposes for uniform forms is to accomplish the collection of data required by Congress that will be "in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system." 28 U.S.C. 589b(c).

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Major: No

Unfunded Mandates: No

CFR Citation: 28 CFR 58 (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 11 USC 1106(a)(1); 11 USC 1107(a); 28 USC 589(b); Fed R Bankr P 2015 (a)(2) to (a)(3)

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Federalism: No

Agency Contact: Ramona D. Elliott

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Title: Procedures for Review of Denial of Claims of Standing Trustee for Actual, Necessary Expenses

Abstract: This rule sets forth the procedures for the administrative review of denials of standing trustees' claims that certain expenses are actual, necessary for their administration of chapter 12 and 13 cases. Section 1231(b) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"), as codified at 28 U.S.C. 586(e)(3)(4) requires that: (1) Standing trustees exhaust all administrative remedies pertaining to denial of a claim of actual, necessary expenses before seeking judicial review of them; and (2) the Attorney General prescribe procedures for administrative review of such claim denials. This rule ensures that the process of administratively reviewing denials of standing trustees' expense claims is fair and effective.

Priority: Substantive, Nonsignificant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 28 CFR 58 (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 28 USC 586(e)(4)

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: No
**Title:** Application Procedures and Criteria for Approval of Nonprofit Budget and Credit Counseling Agencies by U.S. Trustees

**Abstract:** This rule sets forth the application procedures to be used by United States Trustees for approval of nonprofit budget and credit counseling agencies under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"). Under the BAPCPA, individual debtors are required to consult with approved agencies to receive a briefing on the opportunities for credit counseling and a budget analysis, within 180 days before filing for bankruptcy relief. The BAPCPA also sets forth procedures and standards for the United States Trustee to use in approving agencies for subsequent inclusion on a publicly available agency list and provider list in each Federal judicial district where they are deemed qualified to counsel individuals.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Final Rule

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** 28 CFR 58 (To search for a specific CFR, visit the Code of Federal Regulations)

**Legal Authority:** 11 USC 111

**Legal Deadline:** None

**Timetable:**

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**Additional Information:** This rule has been revised to pertain only to the application procedures and criteria for the approval of nonprofit budget and credit counseling agencies. The debtor education portion of the interim rule published under this RIN has been transferred to RIN 1105-AB31.

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** No

**Small Entities Affected:** No

**Federalism:** No

**Energy Affected:** No

**Agency Contact:** Ramona D. Elliott

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**Department of Justice (DOJ)**  
Legal Activities (LA)  

**Title:** Production of Certain Information or Testimony by State or Local Law Enforcement or Prosecutive Officials Serving on a Department of Justice Task Force

**Abstract:** This rule amends Department of Justice regulations concerning agency management. The production of certain information or testimony by Department officials in response to subpoenas or demands of courts or other authorities is governed by 28 CFR 16.21 to 16.29, often referred to as the Department's Touhy regulations, see United States ex rel. Touhy v. Ragen, 340 U.S. 462 (1951). The revision avoids any doubt that the Touhy regulations cover information acquired by a State or local law enforcement and prosecutive official while serving as a task force official on a Department of Justice task force.

**Priority:** Substantive, Nonsignificant  
**Major:** No  
**Unfunded Mandates:** No  
**CFR Citation:** 28 CFR 16  
(To search for a specific CFR, visit the Code of Federal Regulations)

**Legal Authority:** 5 USC 301; 5 USC 552; 5 USC 552a; 5 USC 552(b)(g); 18 USC 4203(a)(1); 28 USC 509; 28 USC 510; 28 USC 534; 31 USC 3717; 31 USC 9701

**Legal Deadline:** None

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**Regulatory Flexibility Analysis Required:** No  
**Small Entities Affected:** No  
**Energy Affected:** No  
**Agency Contact:** Robert Hinchman  
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**Department of Justice (DOJ)**  
Legal Activities (LA)  

**Title:** Applicability of the Sex Offender Registration and Notification Act

**Abstract:** The Department of Justice is publishing this rule to specify that the requirements of the Sex Offender Registration and Notification Act, title I of Public Law 109-248, apply to sex offenders convicted of the offense for which registration is required before the enactment of that Act. These requirements include registration by a sex offender in each jurisdiction in which the sex offender resides, is an employee, or is a student. The Attorney General has the authority to make this specification pursuant to sections 112(b) and 113(d) of the Sex Offender Registration and Notification Act.

**Priority:** Other Significant  
**Major:** No  
**Unfunded Mandates:** No  
**CFR Citation:** 28 CFR 72  
(To search for a specific CFR, visit the Code of Federal Regulations)

**Legal Authority:** PL 109-248
Legal Deadline: None

Timetable:

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal; Local; State

Small Entities Affected: No

Federalism: No

Agency Contact: David J. Karp
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Department of Justice (DOJ)
Legal Activities (LA)

RIN: 1105-AB26

Title: Standards for the Administrative Collection of Claims

Abstract: The Federal Claims Collection Standards (FCCS) are issued jointly by the Secretary of the Treasury and the Attorney General. These regulations prescribe the standards for the administrative collection, compromise, termination of agency collection, and the referral to the Department of Justice for litigation of civil claims by the Federal Government for money or property. This rule revises part 901 of the FCCS, which specifies the order in which a Federal agency is required to apply a partial or installment payment to the various components of a delinquent, non-tax debt owed to the United States. The current rule states that payments are required to be applied first to the penalties, then to the administrative costs, then to interest, and last to principal. The revised rule will require the agencies to apply payments first to administrative costs that are paid out of amounts collected from the debtor (known as "contingency fees") when such costs are added to the debt, second to penalties, third to administrative costs other than contingency fees, fourth to interest, and last to principal. Also the term "administrative charges" used in sections 901.9(f) and 901.9(g) is being replaced with "administrative costs" for consistency and clarity.

Priority: Substantive, Nonsignificant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 31 CFR 901.9(f); 31 CFR 901.9(g) (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 31 USC 3717(e)(1)

Legal Deadline: None

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Additional Information: The Department of Treasury Regulatory Identifier Number (RIN) for this rulemaking is 1510-AA91.

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local; State; Tribal

Small Entities Affected: No

Federalism: No

Agency Contact: Ruth Harvey
Assistant Director, Commercial Litigation Branch, Civil Division
Department of Justice
Legal Activities

15
Department of Justice (DOJ)
Legal Activities (LA)

Title: Application Procedures and Criteria for Approval of Providers of a Personal Financial Management Instructional Course by United States Trustees

Abstract: This rule sets forth the application procedures to be used by United States Trustees for approval of providers of a personal financial management instructional course under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"). Under the BAPCPA, individual debtors are required to consult with approved providers of a personal financial management instructional course, after filing for relief, before receiving a discharge of their debts. The BAPCPA also sets forth procedures and standards for the United States Trustee to use in approving providers for subsequent inclusion on a publicly available provider list in each Federal judicial district where they are deemed qualified to instruct individuals.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 28 CFR 58 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 11 USC 111; 28 USC 586

Legal Deadline: None

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Additional Information: This rule derives from the debtor education portion of 1105-AB17 which has been revised to pertain only to the application procedures and criteria for the approval of nonprofit budget and credit counseling agencies.

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Federalism: No

Energy Affected: No

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Department of Justice (DOJ)
Legal Activities (LA)

Title: Radiation Exposure Compensation Act Regulations: Allowance for Costs and Expenses

Abstract: This rule conforms Department regulations implementing the Radiation Exposure Compensation Act (RECA) (codified as amended at 42 U.S.C. section 2210 note (2006) to the decision of the Tenth Circuit in the case of Hackwell v. United States 491 F.3d 1229, 1241 (10th Cir. 2007). The Tenth Circuit held that the plain meaning of "services rendered" in
section 9(a) of the Act revealed Congress's unambiguous intent to exclude "costs incurred" from the attorney fee limitation. Consequently, the court invalidated section 79.74(b) as "contrary to the RECA's plain language." (See also the District Court decision on remand: No. 04-cv-00827-EWN, 2008 WL 2900933.) Accordingly, the Department is amending its regulation at 28 CFR 79.74(b) to strike the language "including costs incurred" from the agency's limitation on payments to attorneys representing claimants under RECA.

**Priority:** Substantive, Nonsignificant  
**Agenda Stage of Rulemaking:** Final Rule  
**Major:** Undetermined  
**Unfunded Mandates:** No  
**CFR Citation:** 28 CFR 79 (To search for a specific CFR, visit the Code of Federal Regulations)  
**Legal Authority:** 42 USC 2210 note (2006) Radiation Exposure Compensation Act  
**Legal Deadline:** None

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**Regulatory Flexibility Analysis Required:** No  
**Government Levels Affected:** No  
**Small Entities Affected:** No  
**Federalism:** No  
**Energy Affected:** No

**Agency Contact:** Dianne S. Spellberg  
Senior Counsel, Civil Division, Torts Branch  
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E-Mail: dianne.spellberg@usdoj.gov

### Title:

**Designation of Agencies To Receive and Investigate Reports Required Under the Protection of Children From Sexual Predators Act**

**Abstract:** On October 30, 1998, Congress passed the Protection of Children From Sexual Predators Act of 1998 (PCSPA). The PCSPA requires providers of an electronic communication service or a remote computing service to the public, through a facility or means of interstate or foreign commerce, to report incidents of child pornography as defined by sections 2251, 2251A, 2252, 2252A, or 2260 of title 18, United States Code, to the appropriate Federal agency. In order to facilitate effective reporting, the PCSPA requires the Attorney General to "designate an agency" to receive and investigate such reports of child pornography. The proposed rule previously published set forth the Attorney General's proposed designations and certain other matters covered by the PCSPA's reporting requirements. On November 29, 1999, as part of the Consolidated Appropriations Act, 2000, Public Law 106-113, 113 Stat. 1501, Congress amended 42 U.S.C. 13032 to require providers to report such incidents to the Cyber Tipline at the National Center for Missing and Exploited Children (NCMEC), which shall forward that report to a law enforcement agency or agencies designated by the Attorney General. As amended by the Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act of 2003, Public Law No. 108-21, the PCSPA also requires providers to report incidents of child pornography involving violations of section 2252B of title 18, United States Code, and incidents of violations of section 1466A, title 18, United States Code, and permits NCMEC to forward reports to State and local law enforcement agencies where appropriate. On November 4, 2003, an interim final rule was published designating four Federal law enforcement agencies that will receive reports pursuant to 42 U.S.C. 13032. These include the Federal Bureau of Investigation, the Bureau of Immigration and Customs Enforcement, the U.S. Postal Inspection Service, and the U.S. Secret Service. In a related matter, RIN 1105-AB06, "Reporting Under the Protection of Children From Sexual Predators Act, as Amended," the Department is preparing a notice of proposed rulemaking to provide guidance to those law enforcement agencies and to the providers making the reports.

**Priority:** Substantive, Nonsignificant  
**Agenda Stage of Rulemaking:** Long-term Action
Title: Disclosure or Production of Records or Information


Priority: Substantive, Nonsignificant

Agenda Stage of Rulemaking: Long-term Action

Major: No

Unfunded Mandates: No

CFR Citation: 28 CFR 16 (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 5 USC 552; 5 USC 552a

Legal Deadline: None

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

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FAX: 202-514-1009
Title: Designation of Domestic and Foreign Law Enforcement Entities To Receive Cybertipline Reports Required Under the Protect Our Children Act of 2008

Abstract: The Protect Our Children Act of 2008 (POCA), Public Law 110-401, title V, section 501(a) requires the Attorney General to designate the Federal law enforcement agencies to which the National Center for Missing and Exploited Children (NCMEC) shall forward any cybertipline report received by NCMEC pursuant to the statute (codified at 18 U.S.C. 2258A(d)(2)); and the foreign law enforcement agencies to which NCMEC shall forward those reports (codified at 18 U.S.C. 2258A(d)(3)). The provision requiring the Attorney General to designate Federal law enforcement agencies to receive these reports originated in earlier legislation—the October 30, 1998, Protection of Children From Sexual Predators Act of 1998 (PCSPA), and subsequently in the Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act of 2003 (PROTECT Act). The cybertipline reporting requirement and the requirement for Attorney General regulations designating the Federal law enforcement agencies were codified in 42 U.S.C. 13032. On November 4, 2003, an interim final rule was published designating four Federal law enforcement agencies that will receive reports pursuant to 42 U.S.C. 13032. These include the Federal Bureau of Investigation, the Bureau of Immigration and Customs Enforcement, the U.S. Postal Inspection Service, and the U.S. Secret Service. See RIN 1105-AA65. Because POCA moves the statutory provision requiring the Attorney General designation of Federal Agencies from title 42 to title 18 of the Criminal Code, and because POCA adds a new designation requirement in addition to Federal agencies, the prior pending RINs (1105-AA65 and 1105-AB06) are superseded by this new RIN. Note that RIN 1105-AB06 contemplated rulemaking that would provide guidance to the Electronic Service Providers covered by 42 U.S.C. 13032, NCMEC, and the designated law enforcement agencies on the content of the required reports. The need for the rulemaking contemplated in RIN 1105-AB06 no longer exists, since POCA specifically provides that guidance. Thus, the rulemaking proposed herein will re-designate the Federal Agencies to whom NCMEC shall forward cybertipline reports; and shall designate, in consultation with the Secretary of State, the foreign law enforcement agencies to which a cybertipline report may be forwarded, and will further establish the conditions under which such a report may be forwarded by NCMEC to such agencies, and will set forth a process for foreign law enforcement agencies to request assistance from Federal law enforcement agencies in obtaining evidence related to a cybertipline report.

Priority: Other Significant

Agenda Stage of Rulemaking: Long-term Action

Major: No

Unfunded Mandates: No

CFR Citation: 28 CFR 81 (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 18 USC 2258A(d)

Legal Deadline: None

Timetable:

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Federalism: No

Energy Affected: No

Agency Contact: Andrew Oosterbaan
Chief, Child Exploitation and Obscenity Section
Department of Justice
Legal Activities
Suite 600 1400 New York Avenue NW
Washington , DC 20530
Phone: 202 514-5780
FAX: 202 514-1793
Title: Revision to United States Marshals Service Fees for Services

Abstract: This rule increases the fee from $45 per person per hour to $55 per person per hour for process served or executed personally by a United States Marshals Service employee, agent, or contractor. This fee increase reflects the current costs to the United States Marshals Service for service of process in Federal court proceedings.

Priority: Other Significant

Agenda Stage of Rulemaking: Completed Action

Major: No

Unfunded Mandates: No

CFR Citation: 28 CFR 0 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; 28 USC 515 to 519

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Energy Affected: No

Agency Contact: Joe Lazar

Associate General Counsel, United States Marshals Service

Department of Justice

Legal Activities

CS-3, 12th Floor

Washington, DC 20530

Phone: 202 307-9054

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Title: Expanded Use of NICS To Allow Access by Criminal Justice Agencies To Conduct Background Checks Prior to the Return of Firearms in Law Enforcement Possession

Abstract: Currently, access to the National Instant Criminal Background Check System (NICS) index for non-Brady Act reasons is limited to two purposes: 1) For the issuance of firearm-related or explosives-related permits or licenses and 2) to respond to Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) inquiries relating to the Gun Control Act or the National Firearms Act. This rule amends FBI regulations to authorize criminal justice agencies to access the NICS Index to conduct background checks for the purpose of returning firearms in the possession of a law enforcement or criminal justice agency, including returning a firearm to a family member in suicide cases.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Major: No

Unfunded Mandates: No

CFR Citation: 28 CFR 25.6 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: PL 103-159

Legal Deadline: None

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Title: Revisions to Procedures and Fee for the Production of an FBI Identification Record

Abstract: The revisions to section 16.32 will allow requests to be transmitted to the FBI by means other than the U.S. mail; will expand the types of satisfactory proof of identity, when such proof is available and appropriate; and will authorize the FBI to accept additional methods of payment. To be consistent with the purpose and scope of the procedure, as set out in section 16.30, the revised section will also clarify that the FBI will return such records only to the subject or to the subject's attorney of record. Section 16.33 will be revised to establish the fee under 31 U.S.C. 9701 and to explain that, with calculation of the fee under OMB's Circular A-25, the revised fee reflects the full cost to the FBI for providing this service.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Major: No

Unfunded Mandates: No

CFR Citation: 28 CFR 16, subpart C (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 31 USC 9701

Legal Deadline: None

Timetable:

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Title: Implementation of the National Stolen Passenger Motor Vehicle Information System (NSPMVIS)

and, under delegated authority from the Attorney General, the FBI is issuing this rule to establish a national system to verify the theft status of major motor vehicle component parts and junk or salvage vehicles. The system will include certain information about each passenger motor vehicle reported to a law enforcement agency as stolen and not recovered. The rule provides how an individual or entity may obtain information from the system on whether a vehicle or part is listed as stolen. The rule also provides verification procedures to be followed by insurance carriers and certain motor vehicle part businesses. In order to verify the theft status of a part or junk or salvage vehicle, an identification number will have to be obtained from the part or vehicle.

Priority: Other Significant  
Major: No  
Unfunded Mandates: No  

CFR Citation: 28 CFR 110  
Legal Authority: 49 USC 33109 to 33111  
Legal Deadline: None

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Additional Information: The Criminal Division will issue a related regulation to implement the National Motor Vehicle Title Information System (NMVTIS). As required by statute, 49 U.S.C. section 30504(a), the regulation will direct junk yard and salvage yard operators and insurance carriers to file monthly reports with the operator of the NMVTIS concerning vehicles in their possession. (See RIN 1110-AA30.) (RIN 1110-AA01 has been transferred from RIN 1105-AA44.)

Regulatory Flexibility Analysis Required: No  
Government Levels Affected: No  
Federalism: No  
Agency Contact: Buffy M. Bonafield  
Criminal Info Coordination  
Department of Justice  
Federal Bureau of Investigation  
1000 Cluster Hollow Road  
Clarksburg, WV 26306  
Phone: 304 625-2000  
FAX: 304 625-3875

Department of Justice (DOJ)  
Federal Bureau of Investigation (FBI)  
RIN: 1110-AA23  
View Related Documents

Title: Implementation of the Private Security Officer Employment Authorization Act of 2004  
Abstract: The Private Security Officer Employment Authorization Act of 2004, Public Law 108-458, section 6402(d)(2), (the Act) requires the Attorney General to issue rules to regulate the security, confidentiality, accuracy, use, submission, dissemination, destruction of information and audits, and recordkeeping of the criminal history record information and related information: standards for qualifying an authorized employer; and the imposition of fees. This rule amends title 28 of the Code of Federal Regulations to implement the Act. The rule authorizes access to FBI-maintained justice information systems to authorize a fingerprint-based check of State and national criminal history records to screen prospective and current private security officers.

Priority: Other Significant  
Major: No  
Unfunded Mandates: No  

CFR Citation: Not Yet Determined  
Legal Authority: 18 USC 534; PL 108-456, sec 6402  
Legal Deadline:  

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Title: Carriage of Concealed Weapons Pursuant to the Law Enforcement Officers Safety Act of 2004

Abstract: The Law Enforcement Officers Safety Act of 2004, Public Law 108-277 (the Act), exempts qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns. This rule implements the Act by amending 28 CFR 20.3(b) to add “the issuing of identification documents to current and retired law enforcement officers pursuant to Public Law 108-277” to the definition of administration of criminal justice. This change will authorize access to FBI-maintained criminal justice information systems to support performing criminal background checks on current and retired law enforcement officers seeking identification documents to carry a concealed firearm pursuant to Public Law 108-277.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 28 CFR 20 (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: PL 108-277

Legal Deadline: None

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal; State

Small Entities Affected: No

Federalism: No

Energy Affected: No

Agency Contact: M. McIntyre Sundin

Unit Chief

Department of Justice

Federal Bureau of Investigation

1000 Custer Hollow Road

Clarksburg, WV 26306

Phone: 304 625-2000

FAX: 304 625-3944

E-Mail: enexreg@leo.gov
Title: Inclusion of Nonserious Offense Identification Records

Abstract: This rule amends FBI regulations defining the offenses that may serve as the basis for maintaining fingerprints and criminal history record information (CHRI) in its criminal history record information systems. The relevant FBI information systems include the Fingerprint Identification Record System (FIRS), which maintains fingerprints records, and the Interstate Identification Index (III) System, which maintains fingerprint-supported CHRI. The amendment broadens the definition of includable offenses to permit the retention of information relating to currently excluded non-serious offenses (NSOs) as well as information relating to "serious and/or significant adult or juvenile offenses." The revised regulation will permit the retention and exchange of fingerprints and CHRI relating to NSOs when provided by the submitting jurisdiction for retention by the FBI. Such NSO information is currently maintained only at the State and local levels. The change allows for the more uniform collection of CHRI at the Federal level. It establishes more uniform sharing of such information among the States by allowing States to make NSO information available for national criminal history record searches--for both criminal justice and non-criminal justice purposes--by submitting such information for retention by the FBI.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Unfunded Mandates: No

CFR Citation: 28 CFR 20 (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 28 USC 534; 42 USC 14614(c); 42 USC 14615; PL 92-544; PL 99-169; PL 99-569; PL 101-410

Legal Deadline: None

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Additional Information: This action (RIN 1110-AA25; FBI Docket No. 111) continues a portion of a rulemaking relating to criminal history record information for non-serious offenses (NSOs) that was previously reported under RIN 1110-AA20; FBI Docket No. 110.

Regulatory Flexibility Analysis Required: No Government Levels Affected: No

Small Entities Affected: No Federalism: No

Agency Contact: M. McIntyre Sundin

Unit Chief

Department of Justice

Federal Bureau of Investigation

1000 Custer Hollow Road

Clarksburg , WV 26306

Phone: 304 625-2000

FAX: 304 625-3944

E-Mail: enexreg@leo.gov
**Abstract:** Under Public Law 101-515, the FBI has the authority to establish and collect fees for fingerprint based criminal history record information (CHRI) checks and other identification services submitted by authorized users for noncriminal justice purposes including employment and licensing. This rule: 1) Revises the fees the FBI charges for performing these checks and services; 2) explains the methodology used to calculate the FBI's revised fee schedule; and 3) establishes a structure by which future fee adjustments for these checks and services will be made by a Notice published in the Federal Register.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Final Rule

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** Not Yet Determined (To search for a specific CFR, visit the [Code of Federal Regulations](https://www.gpo.gov/fdsys/search/index.html?q=CFR))

**Legal Authority:** PL 101-515; 28 USC 534, notes

**Legal Deadline:** None

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** Undetermined

**Federalism:** No

**Energy Affected:** No

**Agency Contact:** Christopher L. Enourato
Section Chief
Department of Justice
Federal Bureau of Investigation
Module E-3 1000 Custer Hollow Road
Clarksburg, WV 26306
Phone: 304 625-2000
E-Mail: cenourato@leo.gov

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**Department of Justice (DOJ)**

**Federal Bureau of Investigation (FBI)**

**RIN:** 1110-AA29

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**Title:** Records Management Division User Fees

**Abstract:** Under Public Law 101-515, the FBI has the authority to establish and collect fees for name-based checks of the FBI's records in response to requests by Federal agencies and Federal intelligence agencies for such noncriminal justice purposes as immigration, Federal Government employment, and security clearances. This rule will establish the fees charged for performing these checks, explain the methodology used to calculate these fees, and advise that future fee revisions will be made by Notice published in the Federal Register.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Final Rule

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** Not Yet Determined (To search for a specific CFR, visit the [Code of Federal Regulations](https://www.gpo.gov/fdsys/search/index.html?q=CFR))

**Legal Authority:** PL 101-515; 28 USC 534, note

**Legal Deadline:** None

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** No

**Small Entities Affected:** No

**Federalism:** No
Title: Communications Assistance for Law Enforcement Act: Definitions of "Replaced" and "Significantly Upgraded or Otherwise Undergone Major Modification"

Abstract: As required by section 109 of the Communications Assistance for Law Enforcement Act (CALEA), the FBI promulgated Cost Recovery Regulations allowing telecommunications carriers to recover certain costs associated with implementing CALEA. The final rule was published on March 20, 1997 (62 FR 13307), and became effective on April 21, 1997. In response to public comment received during this rulemaking, the FBI published an ANPRM on November 19, 1996 (61 FR 58799), which solicited input on the definition of the term "significant upgrade or major modification" as used by CALEA. The "significant upgrade or major modification" NPRM was published on April 28, 1998 (63 FR 23231). A supplemental NPRM proposing definitions was published on October 5, 2001. The FBI is currently reviewing comments received and is drafting a final rule which will define the terms "replaced" and "significantly upgraded or otherwise undergone major modification," for the purposes of the Cost Recovery Regulations.

Priority: Other Significant

Major: Undetermined

Unfunded Mandates: No

CFR Citation: 28 CFR 100 (To search for a specific CFR, visit the Code of Federal Regulations

Legal Authority: PL 103-414 Communications Assistance for Law Enforcement Act; PL 104-208 Omnibus Consolidated Appropriations Act of 1997

Legal Deadline: None

Timetable:

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Additional Information: While CALEA required telecommunications carriers to be in compliance with section 103 by October 25, 1998, the FCC exercised its authority under section 107 of CALEA to grant carriers extensions of this compliance date. As a result of the FCC's order, carriers must now be in compliance with section 103 by June 30, 2000. If compliance is not reasonably achievable through application of available technology, the carrier may petition the FCC for a section 107 extension of up to 2 years. By subsequent FCC orders, the assistance capability compliance date for packet mode communication is November 19, 2001, and for the additional capabilities/punchlist" capabilities is June 30, 2002. Carriers may again petition the FCC for a section 107 extension. Lastly, as a result of the publication of the Final Notice of Capacity for local exchange, cellular, and broadband PCS carriers, these carriers must be in compliance with section 104 by March 12, 2001. TRANSFERRED RIN: This rulemaking 1110-AA21 continues the rulemaking previously listed as "child" RIN 1110-AA12 under "parent" RIN 1110-AA00. This rulemaking has been transferred to RIN 1110-AA21 because the computer system used by the Regulatory Information Service Center (RISC) to compile the Unified Agenda no longer supports "parent" and "child" RINs. This rulemaking is not a new action. (For other CALEA-related rulemakings, see RINs 1110-AA10 and 1110-AA22.)

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: No
**Federalism:** No  
**Energy Affected:** No  
**Agency Contact:** MaryBeth Paglino Department of Justice  
Federal Bureau of Investigation  
Engineering Research Facility (ERF) FBI Academy Building 27958A  
Quantico, VA 22135  
Phone: 703 632-6946  
FAX: 703 632-6855

### Title:
Implementation of Sections 104 and 109 of the Communications Assistance for Law Enforcement Act--Notice of Actual and Maximum Capacity: Paging, MSS, SMR, and ESMR

### Abstract:
Section 104 of the Communications Assistance for Law Enforcement Act (CALEA) requires the Attorney General to publish a Notice of Actual and Maximum Capacity in order to provide telecommunications carriers with the information they will need to meet law enforcement's future simultaneous electronic surveillance requirements. For local exchange, cellular, and broadband PCS, the FBI published an Initial Notice of Capacity on October 16, 1995 (60 FR 53643), and a Second Notice of Capacity on January 14, 1997 (62 FR 1902). The FBI published the Final Notice of Capacity for local exchange, cellular, and broadband PCS on March 12, 1998 (63 FR 12218). Additionally, the FBI published a Notice of Inquiry (NOI) in the Federal Register on December 18, 1998 (63 FR 70160), which solicited information on and suggestions for developing reasonable methodologies for characterizing capacity requirements for telecommunications services and technologies other than local exchange, cellular, and broadband PCS. Comments were due on February 16, 1999. Information gathered in response to the NOI was used in publishing the Further Notice of Inquiry (FNOI) on June 30, 2000 (65 FR 40694). Comments were due August 29, 2000. Information gathered in response to the FNOI will be used in the publication of an Initial Notice of Capacity for developing reasonable capacity methodologies for the paging, mobile satellite, specialized mobile radio, and enhanced specialized mobile radio services.

### Priority:
Other Significant

### Agenda Stage of Rulemaking:
Long-term Action

### Major:
Undetermined

### Unfunded Mandates:
No

### CFR Citation:
28 CFR 100  
(To search for a specific CFR, visit the Code of Federal Regulations)

### Legal Authority:
PL 103-414 Communications Assistance for Law Enforcement Act; PL 104-208 Omnibus Consolidated Appropriations Act of 1997

### Legal Deadline:
None

### Timetable:

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### Additional Information:
While CALEA required telecommunications carriers to be in compliance with section 103 by October 25, 1998, the FCC exercised its authority under section 107 of CALEA to grant carriers extensions of this compliance date. As a result of the FCC's order, carriers must now be in compliance with section 103 by June 30, 2000. If compliance is not reasonably achievable through application of available technology, the carrier may petition the FCC for a section 107 extension of up to 2 years. By subsequent FCC orders, the assistance capability compliance date for packet mode communication is November 19, 2001, and for the additional capabilities/"punchlist" capabilities is June 30, 2002. Carriers may again petition the FCC for a section 107 extension. Lastly, as a result of the publication of the Final Notice of Capacity for local exchange, cellular, and broadband PCS carriers, these carriers must be in compliance with section 104 by March 12, 2001. This rulemaking 1110-AA22 continues the rulemaking previously listed as "child" RIN 1110-AA13 under "parent" RIN 1110-AA00. This rulemaking has been transferred to RIN 1110-AA22 because the computer system used by the Regulatory Information Service Center (RISC) to compile the Unified Agenda no longer supports "parent" and "child" RINs. This rulemaking is not a new action. (For other CALEA-related rulemakings, see RINs 1110-AA10 and 1110-AA21.)

### Regulatory Flexibility Analysis
Required: Undetermined  
Federalism: No  
Government Levels Affected: No
Energy Affected: No
Agency Contact: MaryBeth Paglino Department of Justice
Federal Bureau of Investigation
Engineering Research Facility (ERF) FBI Academy Building 27958A
Quantico, VA 22135
Phone: 703 632-6946
FAX: 703 632-6855

Department of Justice (DOJ)
Drug Enforcement Administration (DEA)  RIN: 1117-AB21

Title: Registration Requirements for Individual Practitioners Operating in a “Locum Tenens” Capacity
Abstract: On December 1, 2006, the Drug Enforcement Administration (DEA) published in the Federal Register a Final Rule “Clarification of Registration Requirements for Individual Practitioners” (71 FR 69478). The Final Rule makes it clear that when an individual practitioner practices in more than one State, he or she must obtain a separate DEA registration for each State. The Final Rule also noted that DEA would address its policy regarding locum tenens practitioners in a separate future document. To adequately address this issue, DEA is publishing this Advance Notice of Proposed Rulemaking to seek information useful to the agency in promulgating regulations regarding locum tenens practitioners.

Priority: Substantive, Nonsignificant  Agenda Stage of Rulemaking: PreRule
Major: No  Unfunded Mandates: No
CFR Citation: 21 CFR 1301 (To search for a specific CFR, visit the Code of Federal Regulations )
Legal Authority: 21 USC 871(b)
Legal Deadline: None

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Additional Information: Docket Number DEA-324

Regulatory Flexibility Analysis Required: No  Government Levels Affected: No
Federalism: No
Energy Affected: No
RIN Information URL: www.dea.diversion.policy@usdoj.gov  Public Comment URL: www.regulations.gov
Agency Contact: Mark W. Caverly
Chief, Liaison and Policy Section
Department of Justice
Drug Enforcement Administration
8701 Morrissette Drive
Springfield, VA 22152
Phone: 202 307-7297
E-Mail: dea.diversion.policy@usdoj.gov

Department of Justice (DOJ)
Drug Enforcement Administration (DEA)  RIN: 1117-AA66

Title: Chemical Mixtures Containing Listed Forms of Phosphorus
Abstract: In a previous rulemaking (RIN 1117-AA57), DEA made red phosphorus, white phosphorus, and hypophosphorous
acid (and its salts) List I chemicals. By this rulemaking (1117-AA66), DEA is making regulations governing chemical mixtures containing the List I chemicals red phosphorus, white phosphorus, and hypophosphorous acid (and its salts). Currently, all chemical mixtures containing red phosphorus, white phosphorus, and hypophosphorous acid (and its salts) are exempt from regulation. These mixtures will remain exempt until publication of rulemakings regarding chemical mixtures (see RIN 1117-AA31). These three List I chemicals are used industrially and have multiple commercial purposes. They are also used in the illicit production of methamphetamine and amphetamine. Based on information available, DEA will determine whether there are chemical mixtures containing red phosphorus, white phosphorus, and hypophosphorous acid (and its salts), which should be exempt from the regulations governing listed chemicals.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Major: No

Unfunded Mandates: No

CFR Citation: 21 CFR 1310 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b)

Legal Deadline: None

Timetable:

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Additional Information: DEA-228

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Small Entities Affected: No

Federalism: No

Public Comment URL: www.deadiversion.usdoj.gov

Related RINs: Related to 1117-AA31; Related to 1117-AA57

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Department of Justice (DOJ)
Drug Enforcement Administration (DEA)

RIN: 1117-AA97

Title: Limited Exemption for Peyote Use in Traditional Ceremonies With a Traditional Indian Religion by Members of Federally Recognized Indian Tribes

Abstract: The Drug Enforcement Administration (DEA) is amending its regulation addressing the use of peyote to clarify that the possession, transportation, and use of peyote is lawful only when such activities are engaged in by a member of a federally recognized Indian tribe for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion. This rule is designed to bring the language of DEA's regulatory exemption for the limited use of peyote into harmony with the historical purpose for the regulatory exemption and to comport with the language of the American Indian Religious Freedom Act Amendments of 1994. Use, possession, and transportation of peyote, as well as the cultivation, harvesting, and distribution of peyote, other than as permitted by the American Indian Religious Freedom Act amendments, is permissible only pursuant to a DEA registration and in accordance with the Controlled Substances Act and applicable State laws.

Priority: Substantive, Nonsignificant

Agenda Stage of Rulemaking: Proposed Rule

Major: No

Unfunded Mandates: No

CFR Citation: 21 CFR 1307.31 (To search for a specific CFR, visit the Code of Federal Regulations)
Legal Authority: 21 USC 821; 21 USC 822(d); 21 USC 871(b)
Legal Deadline: None

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Additional Information: Docket DEA-268

Regulatory Flexibility Analysis Required: No  Government Levels Affected: No
Small Entities Affected: No  Federalism: No
Energy Affected: No
Public Comment URL: www.deadiversion.usdoj.gov
Agency Contact: Mark W. Caverly
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Department of Justice (DOJ)
Drug Enforcement Administration (DEA)  RIN: 1117-AB22

Title: Identification of Institution-Based Individual Practitioners
Abstract: The Drug Enforcement Administration (DEA) is soliciting public comments on how best to standardize the specific internal code number associated with each individual practitioner permitted by the hospital or other institution to administer, dispense, or prescribe controlled substances using that institution's DEA registration. DEA is taking this action in response to comments it received to its Notice of Proposed Rulemaking regarding electronic prescriptions for controlled substances.
Priority: Other Significant  Agenda Stage of Rulemaking: Proposed Rule
Major: No  Unfunded Mandates: No
CFR Citation: 21 CFR 1301 (To search for a specific CFR, visit the Code of Federal Regulations.)
Legal Authority: 21 USC 871(b)
Legal Deadline: None

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Additional Information: Docket Number DEA-321

Regulatory Flexibility Analysis Required: No  Government Levels Affected: No
Federalism: No
Energy Affected: No
RIN Information URL: www.dea.diversion.policy@usdoj.gov  Public Comment URL: www.regulations.gov
Agency Contact: Mark W. Caverly
Chief, Liaison and Policy Section
Department of Justice
Title: Electronic Prescriptions for Controlled Substances

Abstract: DEA is revising its regulations to establish the criteria that will allow DEA-registered practitioners to sign and transmit controlled substances prescriptions electronically. The regulations will also permit pharmacies to receive, dispense, and archive these electronic prescriptions. These regulations would not mandate the use of electronic prescriptions, but would establish the requirements that must be met by any registrant that wishes to issue or receive electronic prescriptions for controlled substances. The regulations would establish requirements that practitioners must meet when issuing electronic prescriptions, including requirements for the software applications used to issue those prescriptions; registrants would have to use only those software applications that meet the security requirements if they intend to sign, transmit, or process electronic prescriptions for controlled substances. The regulations would not apply to software used to create a prescription that is then printed and manually signed. These revised regulations would be in addition to, not a replacement of, the existing rules.

Priority: Economically Significant

Agenda Stage of Rulemaking: Final Rule

Unfunded Mandates: No

CFR Citation: 21 CFR 1300; 21 CFR 1306; 21 CFR 1311 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 21 USC 802; 21 USC 821; 21 USC 827; 21 USC 829; 21 USC 871(b)

Legal Deadline: None

Regulatory Plan:

Statement of Need: These regulations are needed to give pharmacies, hospitals, and practitioners the ability to use modern technology for controlled substance prescriptions, while maintaining the closed system of distribution of controlled substances dispensing. The regulations are required to ensure, to the extent possible, that non-registrants cannot gain access to electronic prescription software applications to issue illegal prescriptions and that legitimate prescriptions, once written, cannot be altered or repudiated.

Legal Basis: The Controlled Substances Act (21 U.S.C. 871(b) provides that the Attorney General, DEA by delegation, may promulgate and enforce any rules, regulations, and procedures deemed necessary for the efficient execution of the Attorney General’s functions, including general enforcement of the Controlled Substances Act. Specific legal authority for this regulation is provided above.

Alternatives: DEA solicited comments on all aspects of its Notice of Proposed Rulemaking regarding this matter, and also sought specific information on a number of issues and topics. All comments received have been considered. DEA has addressed comments in its Final Rule.

Costs and Benefits: The estimated annualized cost of the Final Rule is $34 million (7 percent net present value), which covers the costs for practitioners, pharmacies, and application providers. Electronic prescriptions provide potential benefits in terms of reduced processing time, reduced callbacks, and fewer medication errors. These benefits of electronic prescriptions are not directly attributable to this rule except to the extent the rule facilitates implementation of electronic prescribing of controlled substances. Pharmacies will directly benefit from the rule as they will not be required to maintain paper copies of electronic prescriptions. Electronic prescriptions for controlled substances will also provide benefits as certain types of forgery or alteration of prescriptions may be less likely to occur.

Risks: Were DEA not to promulgate these regulations, prescribing practitioners would not be permitted to sign and transmit electronic controlled substances prescriptions. Pharmacies would not be permitted to receive, dispense, and archive these electronic prescriptions.

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Additional Information: DEA-218

Regulatory Flexibility Analysis Required: No  Government Levels Affected: No
Federalism: No
Public Comment URL: www.deadiversion.usdoj.gov
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Department of Justice (DOJ)
Drug Enforcement Administration (DEA)

RIN: 1117-AA64

Title: Chemical Mixtures Containing Gamma-Butyrolactone
Abstract: In previous rulemakings, DEA made gamma-butyrolactone (GBL) a List I chemical and established thresholds for transactions involving this chemical. This rule establishes a concentration limit for chemical mixtures containing GBL. Currently, all chemical mixtures containing GBL are exempt from regulation. These mixtures will remain exempt until publication of a final rule. GBL is used in the illicit manufacture of gamma-hydroxybutyric acid (GHB), a Schedule I controlled substance.

Priority: Other Significant  Agenda Stage of Rulemaking: Final Rule
Major: No  Unfunded Mandates: No
CFR Citation: 21 CFR 1310  (To search for a specific CFR, visit the Code of Federal Regulations.)
Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b)
Legal Deadline: None

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Additional Information: DEA-222

Regulatory Flexibility Analysis Required: No  Government Levels Affected: No
Small Entities Affected: No  Federalism: No
Public Comment URL: www.deadiversion.usdoj.gov
Related RINs: Related to 1117-AA31
Agency Contact: Mark W. Caverly
Chief, Liaison and Policy Section
Department of Justice
Title: Retail Sales of Scheduled Listed Products; Chemical; Self-Certification of Regulated Sellers of Scheduled Listed Chemical Products

Abstract: This rule implements retail provisions of the Combat Methamphetamine Epidemic Act of 2005 (title VII of Pub. L. 109-177). Provisions include daily and 30-day sales limits for these products, product placement requirements (behind the counter), logbook and identification requirements for purchasers, training of employees of the seller, and self-certification by the seller regarding compliance of the Act.

Priority: Economically Significant

Agenda Stage of Rulemaking: Final Rule

Unfunded Mandates: No

CFR Citation: 21 CFR 1300; 21 CFR 1309; 21 CFR 1310; 21 CFR 1314

Legal authority: 21 USC 802; 21 USC 830; 21 USC 871(b)

Legal Deadline: 09/30/2006

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Additional Information: Docket DEA-291

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Energy Affected: No

Public Comment URL: www.regulations.gov

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Department of Justice (DOJ)
Drug Enforcement Administration (DEA)  

RIN: 1117-AB06

Title: Implementation of the Combat Methamphetamine Epidemic Act of 2005; Notice of Transfers Following Importation or Exportation

Abstract: This rule implements the "spot market" [provisions] of the Combat Methamphetamine Epidemic Act of 2005 (title VII of Pub. L. 109-177). Importers, exporters, and persons conducting international transactions of all List I and List II chemicals will now be required to provide DEA with information on the person to whom they will transfer the listed chemicals and the amount to be transferred, and must now provide a return declaration once the importation, exportation, or international transaction has occurred. These provisions will allow DEA to monitor efficiently the flow of chemicals that can be used illicitly to manufacture controlled substances.

Priority: Other Significant

Major: No

Unfunded Mandates: No

CFR Citation: 21 CFR 1300; 21 CFR 1313 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b); 21 USC 951; 21 USC 958(f); 21 USC 971

Legal Deadline: None

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Additional Information: Docket DEA-292

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Energy Affected: No

RIN Information URL: www.regulations.gov

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Department of Justice (DOJ)  
Drug Enforcement Administration (DEA)  

RIN: 1117-AB07

Title: Information on Foreign Chain of Distribution for Ephedrine, Pseudoephedrine, and Phenylpropanolamine

Abstract: The Combat Methamphetamine Epidemic Act of 2005, which was enacted on March 9, 2006, requires DEA to collect from importers of ephedrine, pseudoephedrine, and phenylpropanolamine all information known to the importer on the chain of distribution of the chemical from the manufacturer to the importer. DEA is amending its regulations to incorporate the requirement for this information into the import declaration.

Priority: Other Significant

Major: No

Unfunded Mandates: No

CFR Citation: 21 CFR 1313 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b); 21 USC 970
Legal Deadline: None

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Additional Information: Docket DEA-295

Regulatory Flexibility Analysis Required: No  Government Levels Affected: No
Small Entities Affected: No  Federalism: No
Energy Affected: No
RIN Information URL: www.regulations.com
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Department of Justice (DOJ)
Drug Enforcement Administration (DEA)

Title: Registration List Requirements for Importers and Manufacturers of Prescription Drug Products Containing Ephedrine, Pseudoephedrine, or Phenylpropanolamine

Abstract: This rule supports the Combat Methamphetamine Epidemic Act of 2005 (title VII, Pub. L. 109-177) by ensuring that every location that manufactures the List I chemicals ephedrine, pseudoephedrine, or phenylpropanolamine, or a drug product containing ephedrine, pseudoephedrine, or phenylpropanolamine, is registered with the DEA to conduct this activity.

Priority: Other Significant  Agenda Stage of Rulemaking: Final Rule
Major: No  Unfunded Mandates: No
CFR Citation: 21 CFR 1309 (To search for a specific CFR, visit the Code of Federal Regulations.)
Legal Authority: 21 USC 821 to 824; 21 USC 830; 21 USC 871(b); 21 USC 875; 21 USC 877; 21 USC 958
Legal Deadline: None

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Additional Information: Docket DEA-294

Regulatory Flexibility Analysis Required: No  Government Levels Affected: No
Small Entities Affected: No  Federalism: No
Energy Affected: No
Public Comment URL: www.regulations.gov
Related RINs: Related to 1117-AB08
Agency Contact:
Mark W. Caverly
Chief, Liaison and Policy Section
Title: Removal of Thresholds for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine

Abstract: This rule removes domestic, import, and export thresholds for the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine. This action is being taken both to implement the quota provisions of the Combat Methamphetamine Epidemic Act of 2005 and due to the potential for diversion of these List I Chemicals.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 21 CFR 1310 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 21 USC 802; 21 USC 827(h); 21 USC 830; 21 USC 871(b); 21 USC 890

Legal Deadline: None

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Additional Information: Docket DEA-296

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Energy Affected: No

Public Comment URL: www.regulations.gov

Related RINs: Related to 1117-AB08

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Title: Record Requirements for Chemical Distributors

Abstract: In March 2006, Congress enacted the Combat Methamphetamine Epidemic Act of 2005, which mandates that regulated sellers of scheduled listed chemical products self-certify with DEA before they are allowed to sell these products at retail. DEA is revising its recordkeeping requirements to include a requirement that manufacturers, distributors, and importers obtain and maintain the certification number issued by DEA to regulated sellers in their records of sales. This change will ensure...
that registrants verify that the regulated sellers to whom they distribute have successfully completed the mandatory self-certification process imposed by the CMEA for sales of scheduled listed chemical products.

**Priority:** Other Significant  
**Major:** No  
**Unfunded Mandates:** No  
**CFR Citation:** 21 CFR 1310 (To search for a specific CFR, visit the [Code of Federal Regulations](https://www.gpo.gov/fdsys/search/fdsysgi.exe) )  
**Legal Authority:** 21 USC 802; 21 USC 827(h); 21 USC 830; 21 USC 871; 21 USC 890; ...

**Legal Deadline:** None

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**Additional Information:** Docket No. DEA-302

**Regulatory Flexibility Analysis Required:** No  
**Government Levels Affected:** No  
**Small Entities Affected:** No  
**Federalism:** No  
**Energy Affected:** No

**Public Comment URL:** [www.deadiversion.usdoj.gov](http://www.deadiversion.usdoj.gov)

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**Title:** Control of Immediate Precursor Used in the Illicit Manufacture of Fentanyl as a Schedule II Controlled Substance  
**Abstract:** The Drug Enforcement Administration is designating the precursor chemical, 4- anilino-N-phenethyl-4-piperidine (ANPP) as an immediate precursor for the Schedule II controlled substance, fentanyl. Further, DEA is controlling ANPP as a Schedule II controlled substance under the Controlled Substances Act. ANPP is the immediate chemical intermediary in the synthesis process currently used by clandestine laboratory operators for the illicit manufacture of the Schedule II controlled substance fentanyl.

**Priority:** Other Significant  
**Major:** No  
**Unfunded Mandates:** No  
**CFR Citation:** 21 CFR 1308 (To search for a specific CFR, visit the [Code of Federal Regulations](https://www.gpo.gov/fdsys/search/fdsysgi.exe) )  
**Legal Authority:** 21 USC 811; 21 USC 812; 21 USC 871(b)

**Legal Deadline:** None

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**Additional Information:** Docket No. DEA-305
Title: Classification of Three Steroids as Schedule III Anabolic Steroids Under the Controlled Substances Act

Abstract: This rule classifies the following three steroids as “anabolic steroids” under the Controlled Substances Act (CSA): Boldione, desoxymethyltestosterone, and 19-nor-4,9(10)-androstadienedione. The Drug Enforcement Administration (DEA) believes that this action is necessary in order to prevent the abuse and trafficking of these steroids.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 21 CFR 1300 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 21 USC 802; 21 USC 871 (b); 21 USC 951; 21 USC 958(f)

Legal Deadline: None

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Additional Information: Docket Number DEA-285

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Small Entities Affected: No

Federalism: No

Agency Contact: Christine A. Sannerud Ph.D.
Chief, Drug and Chemical Evaluation Section, Office of Diversion Control
Department of Justice
Drug Enforcement Administration
8701 Morrissette Drive
Washington, DC  20537
Phone: 202 307-7183

Title: Replacement of DEA Mailing Addresses With Internet Address

Abstract: The Drug Enforcement Administration is amending title 21 of the Code of Federal Regulations to replace DEA mailing addresses with the DEA web site address, which will contain a list of appropriate mailing addresses. DEA is making this change to the CFR to ensure registrants have the most current and accurate information, reduce administrative costs, and
facilitate future address changes. A general statement directing persons to the DEA web site is being provided in place of specific mailing addresses.

**Priority:** Substantive, Nonsignificant  
**Major:** No  
**Unfunded Mandates:** No  
**CFR Citation:** 21 CFR 1301; 21 CFR 1303; 21 CFR 1304; 21 CFR 1306; 21 CFR 1307; 21 CFR 1308; 21 CFR 1309; 21 CFR 1310; 21 CFR 1312; 21 CFR 1313; 21 CFR 1314; 21 CFR 1315; 21 CFR 1316; ... (To search for a specific CFR, visit the Code of Federal Regulations.)

**Legal Authority:** 21 USC 871(b)  
**Legal Deadline:** None

**Timetable:**

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**Additional Information:** Docket Number DEA-312

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

**Federalism:** No  
**RIN Information URL:** www.deadiversion.usdoj.gov  
**Public Comment URL:** www.regulations.gov

**Agency Contact:**
Mark W. Caverly  
Chief, Liaison and Policy Section  
Department of Justice  
Drug Enforcement Administration  
8701 Morrissette Drive  
Springfield, VA 22152  
Phone: 202 307-7297  
E-Mail: dea.diversion.policy@usdoj.gov

**Department of Justice (DOJ)**  
**Drug Enforcement Administration (DEA)**

**Title:** Implementation of the Ryan Haight Online Pharmacy Consumer Protection Act of 2008  
**Abstract:** The Ryan Haight Online Pharmacy Consumer Protection Act, which was enacted on October 15, 2008, amended the Controlled Substances Act and Controlled Substances Import and Export Act by adding several new provisions to prevent the illegal distribution and dispensing of controlled substances by means of the Internet. DEA is hereby issuing an interim rule to amend its regulations to implement the legislation and is requesting comments on the interim rule.

**Priority:** Other Significant  
**Major:** No  
**Unfunded Mandates:** No  
**CFR Citation:** 21 CFR 1300; 21 CFR 1301; 21 CFR 1304; 21 CFR 1306 (To search for a specific CFR, visit the Code of Federal Regulations.)

**Legal Authority:** PL 110-425; 21 USC 802; 21 USC 823; 21 USC 827; 21 USC 829; 21 USC 831; ...  
**Legal Deadline:** Regulatory authority of the Attorney General has been delegated to the Administrator of DEA. It is evident from the foregoing provision of the Act that Congress contemplated it would be necessary for DEA to issue regulations on an interim basis in order to implement the Act within the relatively short time period between the passage of the Act (October 15, 2008) and its effective date (April 13, 2009).

**Timetable:**

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**Title:** Implementation of the Ryan Haight Online Pharmacy Consumer Protection Act of 2008  
**Abstract:** The Ryan Haight Online Pharmacy Consumer Protection Act, which was enacted on October 15, 2008, amended the Controlled Substances Act and Controlled Substances Import and Export Act by adding several new provisions to prevent the illegal distribution and dispensing of controlled substances by means of the Internet. DEA is hereby issuing an interim rule to amend its regulations to implement the legislation and is requesting comments on the interim rule.

**Priority:** Other Significant  
**Major:** No  
**Unfunded Mandates:** No  
**CFR Citation:** 21 CFR 1300; 21 CFR 1301; 21 CFR 1304; 21 CFR 1306 (To search for a specific CFR, visit the Code of Federal Regulations.)

**Legal Authority:** PL 110-425; 21 USC 802; 21 USC 823; 21 USC 827; 21 USC 829; 21 USC 831; ...  
**Legal Deadline:** Regulatory authority of the Attorney General has been delegated to the Administrator of DEA. It is evident from the foregoing provision of the Act that Congress contemplated it would be necessary for DEA to issue regulations on an interim basis in order to implement the Act within the relatively short time period between the passage of the Act (October 15, 2008) and its effective date (April 13, 2009).
Additional Information: Please reference “Docket No. DEA-322” on all written and electronic correspondence. Written comments being sent via regular or express mail should be sent to the Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODL, 8701 Morrissette Drive, Springfield, VA 22152. Comments may be sent to DEA by sending an electronic message to dea.diversion.policy@usdoj.gov.

Regulatory Flexibility Analysis Required: No  Government Levels Affected: No
Federalism: No
Energy Affected: No
RIN Information URL: www.deadiversion.usdoj.gov  Public Comment URL: www.regulations.gov
Agency Contact: Mark W. Caverly, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152. Phone: 202-307-7297. E-Mail: dea.diversion.policy@usdoj.gov

Department of Justice (DOJ)
Drug Enforcement Administration (DEA)

Title: Schedules of Controlled Substances; Table of Excluded Nonnarcotic Products: Nasal Decongestant Inhalers Manufactured by Classic Pharmaceuticals, LLC

Abstract: The Drug Enforcement Administration is updating the Table of Excluded Nonnarcotic Products found in 21 CFR 1308.22 to include the Nasal Decongestant Inhaler/Vapor Inhaler (containing 50 mg Levmetamfetamine) manufactured by Classic Pharmaceuticals, LLC and marketed under various private labels (to include the "Premier Value" and "Kroger" labels). This nonnarcotic drug product, which may be lawfully sold over the counter without a prescription under the Federal Food, Drug, and Cosmetic Act is excluded from provisions of the Controlled Substances Act.

Priority: Substantive, Nonsignificant  Agenda Stage of Rulemaking: Final Rule
Major: No  Unfunded Mandates: No
CFR Citation: 21 CFR 1308.22 (To search for a specific CFR, visit the Code of Federal Regulations.)
Legal Authority: 21 USC 811; 21 USC 812; 21 USC 871(b)
Legal Deadline: None

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Additional Information: Docket Number DEA-329

Regulatory Flexibility Analysis Required: No  Government Levels Affected: No
Federalism: No
Energy Affected: No
RIN Information URL: www.deadiversion.usdoj.gov/index.html  Public Comment URL: www.regulations.gov/search/index.jsp
Agency Contact: Christine A. Sannerud Ph.D., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control
Title: Security Requirements for Handlers of Pseudoephedrine, Ephedrine, and Phenylpropanolamine

Abstract: Pseudoephedrine and ephedrine are used in the illegal manufacture of methamphetamine, and phenylpropanolamine is used in the illegal manufacture of amphetamine. The vast majority of clandestine laboratories produce methamphetamine using over-the-counter regulated drug products. DEA has received numerous reports regarding the theft of large quantities of these products at the wholesale level. DEA drafted a rule to require that manufacturers, distributors, importers, and exporters of pseudoephedrine, ephedrine, and phenylpropanolamine implement security procedures similar to those of Schedule III-V controlled substances to prevent the theft and diversion of these List I chemicals. These procedures include the storage of substances in a secure safe or steel cabinet, cage, or room, and installation of a monitored alarm system linked to a central location. DEA also sought input regarding alternative means to effectively prevent the theft and diversion of these products.

Priority: Other Significant

Agenda Stage of Rulemaking: Long-term Action

Unfunded Mandates: No

CFR Citation: 21 CFR 1309 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 830

Legal Deadline: None

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Additional Information: DEA-211

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Small Entities Affected: No

Federalism: No

Agency Contact: Mark W. Caverly
Chief, Liaison and Policy Section
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8701 Morrissette Drive
Springfield, VA 22152
Phone: 202 307-7297
E-Mail: dea.diversion.policy@usdoj.gov

Title: Disposal of Controlled Substances by Persons Not Registered With the Drug Enforcement Administration

Abstract: In response to concerns raised by individuals, public and private organizations, the healthcare industry, and the law enforcement community, the Drug Enforcement Administration is soliciting information on the disposal of controlled substances
dispensed to individual patients, also defined as ultimate users, as well as long-term care facilities.

**Priority:** Other Significant  
**Agenda Stage of Rulemaking:** Long-term Action  
**Major:** No  
**Unfunded Mandates:** No  
**CFR Citation:** 21 CFR 1300; 21 CFR 1301; 21 CFR 1304; 21 CFR 1305; 21 CFR 1307; ... (To search for a specific CFR, visit the [Code of Federal Regulations](https://www.gpo.gov/fdsys/search/cfr).)  
**Legal Authority:** 21 USC 871(b)  
**Legal Deadline:** None

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**Additional Information:** Docket Number DEA-316

**Regulatory Flexibility Analysis Required:** No  
**Government Levels Affected:** No  
**Federalism:** No  
**Energy Affected:** No  
**RIN Information URL:** [www.deadiversion.usdoj.gov](http://www.deadiversion.usdoj.gov)  
**Public Comment URL:** [www.regulations.gov](http://www.regulations.gov)

**Agency Contact:**  
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Department of Justice  
Drug Enforcement Administration  
8701 Morrissette Drive  
Springfield, VA 22152  
Phone: 202 307-7297  
E-Mail: dea.diversion.policy@usdoj.gov

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**Department of Justice (DOJ)**  
**Bureau of Prisons (BOP)**  
**RIN:** 1120-AB34

**Title:** Administrative Remedy Program--Subpart Revision  
**Abstract:** In this document, the Bureau of Prisons (Bureau) revises current regulations on the Administrative Remedy Program to clarify existing provisions and to expand the program to allow Federal inmates housed in contract facilities to file grievances related to Bureau issues. For further simplification, we remove language relating solely to internal Agency practices and procedures. The changes would provide a consistent approach to correct the current deficiency in the Administrative Remedy Program and to provide Federal inmates housed in contract facilities with a process for addressing issues for which only the Bureau may grant relief.

**Priority:** Other Significant  
**Agenda Stage of Rulemaking:** Proposed Rule  
**Major:** No  
**Unfunded Mandates:** No  
**CFR Citation:** 28 CFR 542 (To search for a specific CFR, visit the [Code of Federal Regulations](https://www.gpo.gov/fdsys/search/cfr).)  
**Legal Authority:** 5 USC 301; 18 USC 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987); 18 USC 5006 to 5024 (Repealed October 12, 1984, as to offenses committed after that date); 28 USC 509 and 510  
**Legal Deadline:** None

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**Regulatory Flexibility Analysis Required:** No  
**Government Levels Affected:** No
Small Entities Affected: No
Energy Affected: No
Agency Contact: Sarah N. Qureshi
Rules Administrator
Department of Justice
Bureau of Prisons
HOLC Building 320 First Street NW
Washington, DC 20534
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FAX: 202 305-4577
E-Mail: squreshi@bop.gov

Department of Justice (DOJ)
Bureau of Prisons (BOP )
RIN: 1120-AB47

Title: Intake Screening
Abstract: In this document, the Bureau of Prisons (Bureau) proposes to streamline intake screening regulations by removing internal agency management procedures that need not be stated in regulation.

Priority: Substantive, Nonsignificant
Agenda Stage of Rulemaking: Proposed Rule
Major: No
Unfunded Mandates: No
CFR Citation: Not Yet Determined (To search for a specific CFR, visit the Code of Federal Regulations)
Legal Authority: 5 USC 301; 18 USC 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987); 18 USC 4161 to 4166 (Repealed in part as to offenses committed on or after November 1, 1987); 18 USC 5006 to 5024 (Repealed October 12, 1984, as to offenses committed after that date); 18 USC 5039; 28 USC 509 and 510
Legal Deadline: None
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Regulatory Flexibility Analysis Required: No
Government Levels Affected: No
Small Entities Affected: No
Federalism: No
Energy Affected: No
Agency Contact: Sarah N. Qureshi
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Washington, DC 20534
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E-Mail: squreshi@bop.gov

Department of Justice (DOJ)
Bureau of Prisons (BOP )
RIN: 1120-AB48

Title: Communication Management Units
Abstract: In this document, the Bureau of Prisons (Bureau) proposes a new regulation that describes Communication Management Units (CMUs). CMUs are designed to provide an inmate housing unit environment that enables staff monitoring of all communication between CMU inmates and persons in the community. The ability to monitor such communication is
necessary to ensure the safety, security, and orderly operation of correctional facilities, and protect the public.

Priority: Other Significant  
Agenda Stage of Rulemaking: Proposed Rule  
Major: No  
Unfunded Mandates: No  

CFR Citation: 28 CFR 540 (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 18 USC 4001, 4042, 4942, 4081, 4082 (Repealed in part as to conduct occurring on or after November 1, 1987); 18 USC 5006 to 5024 (Repealed October 12, 1984, as to conduct occurring after that date); 18 USC 5039; 5 USC 301, 551, 552a; 18 USC ch 113b and 115, 1791, 3621, 3622, 3624

Legal Deadline: None

Regulatory Flexibility Analysis Required: No  
Government Levels Affected: No  
Small Entities Affected: No  
Federalism: No  
Energy Affected: No  
Related RINs: Related to 1120-AB35

Agency Contact: Sarah N. Qureshi  
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E-Mail: squreshi@bop.gov

Title: Inmate Work and Performance Pay Program: Subpart Revision

Abstract: In this document, the Bureau of Prisons (Bureau) proposes to streamline regulations on inmate work and performance pay by deleting redundant language and provisions that relate solely to staff guidance.

Priority: Substantive, Nonsignificant  
Agenda Stage of Rulemaking: Proposed Rule  
Major: No  
Unfunded Mandates: No  

CFR Citation: 28 CFR 545 (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 5 USC 301; 28 USC 509 and 510; 18 USC 3013, 3571, 3572, 3621, 3622, 3624, 3663, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), and 4126; 18 USC 5006 to 5024 (Repealed October 12, 1984, as to offenses committed after that date.)

Legal Deadline: None

Regulatory Flexibility Analysis Required: No  
Government Levels Affected: No  
Small Entities Affected: No  
Federalism: No  
Energy Affected: No  

Agency Contact: Sarah N. Qureshi  
Rules Administrator  
Department of Justice
Title: Telephone Regulations and Inmate Financial Responsibility

Abstract: The Bureau of Prisons (Bureau) is withdrawing certain provisions in its rules on telephone regulations and on the inmate financial responsibility program (IFRP), which were published in the Federal Register on April 4, 1994 (59 FR 15812). In the April 4, 1994, revision of its rules on telephone regulations and on the IFRP, the Bureau delayed the effective date for provisions in sections 540.105(c) and 545.11(d)(10), which imposed limitations on the telephone privileges of inmates refusing to participate in the IFRP. These provisions were to become effective January 3, 1995. Due to ongoing litigation in Washington v. Reno, the effective date for these provisions was further delayed until January 4, 1996 (60 FR 240). In accordance with the Court-approved settlement in Washington v. Reno, through this rule, the Bureau withdrew these provisions and the reference to the IFRP telephone restrictions in 28 CFR section 540.100(a) and published at 61 FR 92 a new proposed rule to impose a
different restriction on the telephone privileges of inmates who refuse to participate in the IFRP. This rule was finalized on December 28, 1999 (64 FR 72798, see RIN 1120-AA49). On July 1, 2005, we merged the two rules described above (1120-AA49 and this rule). The Bureau is currently developing a rule finalizing the interim rules.

Priority: Substantive, Nonsignificant
Major: No
Unfunded Mandates: No
CFR Citation: 28 CFR 540 (To search for a specific CFR, visit the Code of Federal Regulations.)
Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039
Legal Deadline: None

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Regulatory Flexibility Analysis Required: No
Government Levels Affected: No
Small Entities Affected: No
Federalism: No
Agency Contact: Sarah N. Qureshi

Department of Justice (DOJ)
Bureau of Prisons (BOP)  
RIN: 1120-AA62

Title: Good Conduct Time
Abstract: This document notes the statutory requirements for the awarding of good conduct time, including the Bureau's consideration in instances where the inmate does not have a high school diploma or GED and is not making satisfactory progress toward earning a high school diploma or GED.

Priority: Substantive, Nonsignificant
Major: No
Unfunded Mandates: No
CFR Citation: 28 CFR 523 (To search for a specific CFR, visit the Code of Federal Regulations.)
Legal Authority: 18 USC 3568; 28 USC 509 to 510; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039
Legal Deadline: None

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Regulatory Flexibility Analysis Required: No
Government Levels Affected: No
Small Entities Affected: No
Federalism: No
Agency Contact: Sarah N. Qureshi
Title: Designation of Offenses Subject to Sex Offender Release Notification

Abstract: This document designates various offenses as sexual offenses for purposes of 18 U.S.C. 4042(c). The designations ensure that notifications can be made for military offenders, for District of Columbia Code offenders, and for these and other Federal inmates with a sex offense in their criminal history.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 28 CFR 571

(To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 18 USC 3565; 18 USC 5006 to 5024; 18 USC 5031 to 5042; 28 USC 509 to 510; 18 USC 2568 to 3569; 18 USC 3582; 18 USC 3621 to 3622; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 4201 to 4218

Legal Deadline: None

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: No

Federalism: No

Agency Contact: Sarah N. Qureshi

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Title: Drug Testing Program

Abstract: This document consolidates into a single drug testing program separately stated regulations on alcohol testing and urine surveillance. The consolidated regulations provide for more flexibility in the use of testing methods.

Priority: Substantive, Nonsignificant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No
Correspondence: Inspection of Outgoing General Correspondence

This document amends the Bureau's regulations on correspondence to require that outgoing inmate general correspondence at all institutions may not be sealed and may be read and inspected by staff. This amendment is intended to provide for the continued efficient and secure operation of the institution and to protect the public. The requirement does not apply to special mail.

Title: Correspondence: Inspection of Outgoing General Correspondence

Abstract: This document amends the Bureau's regulations on correspondence to require that outgoing inmate general correspondence at all institutions may not be sealed and may be read and inspected by staff. This amendment is intended to provide for the continued efficient and secure operation of the institution and to protect the public. The requirement does not apply to special mail.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 28 CFR 540.14 (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4051 to 4082; 18 USC 5001 to 5006; 18 USC 5024; 18 USC 5039; 28 USC 5006 to 5024; 28 USC 509 to 510

Legal Deadline: None

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Small Entities Affected: No

Federalism: No

Agency Contact: Sarah N. Qureshi
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FAX: 202 305-4577
E-Mail: squreshi@bop.gov
Department of Justice (DOJ)
Bureau of Prisons (BOP)

Title: District of Columbia Educational Good Time Credit
Abstract: This rule establishes procedures for awarding educational good time credit consistent with the DC Code for offenders in Bureau institutions or Bureau contract facilities, under the National Capital Revitalization and Self-Government Improvement Act of 1997, who committed their offenses before August 5, 2000.

Priority: Substantive, Nonsignificant
Major: No
Unfunded Mandates: No
CFR Citation: 28 CFR 523
Legal Authority: 18 USC 3568; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510
Legal Deadline: None
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Regulatory Flexibility Analysis Required: No
Government Levels Affected: No
Small Entities Affected: No
Federalism: No

Agency Contact: Sarah N. Qureshi
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Washington, DC 20534
Phone: 202 307-2105
FAX: 202 305-4577
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Department of Justice (DOJ)
Bureau of Prisons (BOP)

Title: Central Inmate Monitoring (CIM) System: Streamlining Rules
Abstract: In this document, the Bureau of Prisons (Bureau) proposes to streamline its rules on the Central Inmate Monitoring system (CIM). We intend this amendment to streamline our regulations by removing internal agency management procedures that need not be stated in regulation. Bureau policy is a more appropriate vehicle through which to provide instruction and guidance to staff. All the provisions we removed consist of our instruction and guidance to Bureau staff. These provisions relate solely to internal agency management and practice and do not impose obligations or confer any benefits upon our regulated entities (the inmates) or the public. The procedures that were in these regulations will continue to exist, unchanged, in our policy statement on the Admission and Orientation Program. Any requirement imposed on our staff in these rules will remain a Bureau-wide requirement in our policy. It is important to note that we have not changed the substance of the CIM rules.

Priority: Substantive, Nonsignificant
Major: No
Unfunded Mandates: No
CFR Citation: 28 CFR 524

View Related Documents
Title: Inmate Discipline--Subpart Revision

Abstract: In this document, the Bureau of Prisons (Bureau) proposes to amend its Inmate Discipline and Special Housing Unit (SHU) regulations. We intend this amendment to streamline and clarify these regulations, eliminating unnecessary text and obsolete language and removing internal agency procedures (guidance to staff on how to implement disciplinary processes) that need not be in rules text. The changes involve extensive reorganization and updates to obsolete and unnecessary disciplinary codes and processes.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 28 CFR 541 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 5 USC 301; 18 USC 3621 and 3622, 3624, 4001, 4042, 4081 to 4082; 18 USC 223; 18 USC 5006 to 5024, 5039; 28 USC 509 and 510

Legal Deadline: None
Title: Psychiatric Evaluation and Treatment
Abstract: In this document, the Bureau of Prisons (Bureau) amends its regulations on Psychiatric Treatment and Medication. We make several changes to conform more closely with the language of 18 U.S.C. sections 4241 to 4247 on psychiatric hospitalization. We also change the rules to conform with statutory authority regarding military prisoners and District of Columbia (DC) Code violators in Bureau custody. Previously, our procedures for involuntary psychiatric treatment and medication did not apply to military prisoners or DC Code violators. Under new statutory authority, military prisoners who are incompetent to stand trial, or who have been found not guilty by reason of lack of mental responsibility may now be committed to the Bureau’s custody. Sentenced DC Code offenders may now be involuntarily committed to a Bureau psychiatric hospital. Such military prisoners and DC Code violators are subject to our regulations. We revise the applicability statement accordingly.

Priority: Other Significant
Agenda Stage of Rulemaking: Final Rule
Major: No
Unfunded Mandates: No

CFR Citation: 28 CFR 549 (To search for a specific CFR, visit the Code of Federal Regulations)
Legal Authority: 5 USC 301; 10 USC 876b; 18 USC 3621, 3622, 3524, 4001, 4005, 4042, 4045, 4081, 4082; 18 USC 4241 to 4247, 5006 to 5024, 5039; 28 USC 509, 510
Legal Deadline: None

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Regulatory Flexibility Analysis Required: No
Government Levels Affected: No
Small Entities Affected: No
Federalism: No
Energy Affected: No
Agency Contact: Sarah N. Qureshi
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Title: Autopsies
Abstract: In this document, the Bureau of Prisons (Bureau) streamlines the rule on autopsies by removing internal agency management procedures that need not be stated in regulation.

Priority: Substantive, Nonsignificant
Agenda Stage of Rulemaking: Final Rule
Major: No
Unfunded Mandates: No
**CFR Citation:** 28 CFR 549.80 (To search for a specific CFR, visit the Code of Federal Regulations.)

**Legal Authority:** 5 USC 301; 18 USC 3621, 3622, 3624, 4001, 4005, 4042, 4045, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4241 to 4247, 5006 to 5024 (Repealed October 12, 1984)

**Legal Deadline:** None

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No  
**Government Levels Affected:** No  
**Small Entities Affected:** No  
**Federalism:** No

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---

**Title:** Possession or Introduction of Personal Firearms Prohibited on Federal Penal or Correctional Institution Grounds

**Abstract:** To help ensure the safe operation of Federal prisons, this proposed rule clarifies that possession or introduction of personal firearms, or attempting, aiding, or abetting possession or introduction of personal firearms, on Federal penal or correctional institution grounds is prohibited, with the following exceptions: (1) Personal firearms are permitted as required in the performance of official law enforcement duties; (2) law enforcement personnel are permitted to possess personal firearms on firing ranges located on Bureau of Prisons property, where constant possession and control of the firearm is maintained; and (3) an officer or employee of the Bureau of Prisons who resides on Bureau of Prisons property may store personal firearms in secure locations designated by the Warden, other than residences.

**Priority:** Other Significant  
**Agenda Stage of Rulemaking:** Final Rule  
**Major:** No  
**Unfunded Mandates:** No

**CFR Citation:** 28 CFR 511 (To search for a specific CFR, visit the Code of Federal Regulations.)

**Legal Authority:** 5 USC 301; 18 USC 751, 752, 1791, 1792, 1793, 3050, 3621, 3622, 3624, 4001, 4012, 4042, 4081 and 4082 (Repealed as to offenses committed on or after November 1, 1987); 18 USC 5006 to 5024 (Repealed October 12, 1984, as to offenses committed after that date); 28 USC 509, 510; PL 80-772; 18 USC 1791 and 4042; PL 108-277 (18 USC 926B); 28 CFR 6

**Legal Deadline:** None

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**Regulatory Flexibility Analysis Required:** No  
**Government Levels Affected:** No  
**Small Entities Affected:** No  
**Federalism:** No  
**Energy Affected:** No

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**Department of Justice (DOJ)**  
**Bureau of Prisons (BOP)**  
**RIN:** 1120-AB37

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**Visit Regulations.gov**  
**Monday, December 7, 2009**  
**Unified Agenda**  
**52**
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Department of Justice (DOJ)
Bureau of Prisons (BOP)

Title: Smoking/No Smoking Areas

Abstract: In this document, the Bureau of Prisons (Bureau) proposes to revise regulations pertaining to smoking/no smoking for inmates in Bureau facilities. The revised regulations indicate that smoking is generally prohibited in and on the grounds of Bureau institutions and offices, with the following two exceptions: Smoking is permitted as part of an authorized inmate religious activity; and, for all persons who wish to enter, or are present inside, Bureau facilities, other than inmates in Bureau custody, smoking is permitted only in smoking areas designated by the Warden. This rule also clarifies that possession of smoking apparatus and tobacco in any form is prohibited for inmates, unless as part of an authorized inmate religious activity. Smoking is defined as inhaling the smoke of any substance through the use of smoking apparatus including, but not limited to, cigars, cigarettes, or pipes. We intend this amendment to promote a clean air environment and to protect the health and safety of staff and inmates.

Priority: Other Significant
Major: No
Unfunded Mandates: No

CFR Citation: 28 CFR 551 (To search for a specific CFR, visit the Code of Federal Regulations)
Legal Authority: 5 USC 301; 18 USC 1512, 3621, 3622, 3624, 4001, 4005, 4042, 4081, and 4082 (Repealed in part as to offenses committed on or after November 1, 1987); 18 USC 4161 to 4166 (Repealed as to offenses committed on or after November 1, 1987); 28 USC 509 and 510; PL 99-500, sec 209

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No
Government Levels Affected: No
Small Entities Affected: No
Federalism: No

Energy Affected: No

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Department of Justice (DOJ)
Bureau of Prisons (BOP)
Title: Inmate Furloughs

Abstract: In this document, the Bureau of Prisons (Bureau) proposes to revise its Federal regulations on the inmate furlough program primarily to more clearly provide for and define transfer furloughs.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 28 CFR 570 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 5 USC 301; 18 USC 751, 3621, 3622, 3624, 4001, 4042, 4081 and 4082 (Repealed in part as to offenses committed on or after November 1, 1987); 18 USC 4161 to 4166; 18 USC 5006 to 5024 (Repealed October 12, 1984, as to conduct occurring after that date)

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Energy Affected: No

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Title: Use of Non-Lethal Force: Delegation

Abstract: In this document, the Bureau of Prisons (Bureau) proposes to amend its regulation on the use of chemical agents and non-lethal force to clarify that the authority of the Warden to authorize the use of chemical agents or non-lethal weapons may not be delegated below the position of Lieutenant.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 28 CFR 552 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 5 USC 301; 18 USC 3621, 3622, 3624, 4001, 4042, 4081 and 4082 (Repealed in part as to offenses committed on or after November 1, 1987); 18 USC 4161 to 4166; 18 USC 5006 to 5024 (Repealed October 12, 1984, as to offenses committed after that date); 18 USC 5039; 21 USC 848; 28 USC 509 and 510; title V, PL 91-452, 84 Stat 933 (18 USC ch 223)

Legal Deadline: None

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Small Entities Affected: No  Federalism: No
Energy Affected: No
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Title: Religious Beliefs and Practices: Chapel Library Materials
Abstract: The Bureau of Prisons (Bureau) amends its regulations on religious beliefs and practices to add a new regulation regarding chapel library materials. This change is necessary to notify inmates regarding materials that are accessible in chapel libraries and reasons that materials may be excluded.

Priority: Other Significant
Major: No
Unfunded Mandates: No

CFR Citation: 28 CFR 548 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 5 USC 301; 28 USC 509 and 510; 31 USC 3711(f); 5 CFR 297; 18 USC 4001, 4042, 4942, 4081, and 4082 (Repealed in part as to conduct occurring on or after November 1, 1987); 18 USC 5006 to 5024 (Repealed October 12, 1984, as to conduct occurring after that date; 18 USC 5039

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No  Government Levels Affected: No
Small Entities Affected: No  Federalism: No
Energy Affected: No
Agency Contact: Sarah N. Qureshi
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Department of Justice (DOJ)
Bureau of Prisons (BOP)
RIN: 1120-AB50

View Related Documents

Department of Justice (DOJ)
Bureau of Prisons (BOP)
RIN: 1120-AB51

View Related Documents
Title: Pre-Release Community Confinement

Abstract: In this document, the Bureau of Prisons (Bureau) revises current regulations on pre-release community confinement to conform with the requirements of the Second Chance Act of 2007, approved April 9, 2008 (Pub. L. 110-199; 122 Stat. 657) (“Second Chance Act”).

Priority: Other Significant
Major: No

Unfunded Mandates: No

CFR Citation: 28 CFR 570 (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 5 USC 301; 18 USC 5039; 28 USC 509 and 510; 18 USC 751, 3621, 3622, 3624, 4001, 4042, 4081 and 4082 (Repealed in part as to offenses committed on or after November 1, 1987); 18 USC 4061 to 4166; 18 USC 5006 to 5024 (Repealed October 12, 1984, as to offenses committed after that date)

Legal Deadline: 18 U.S.C. 3624(c)(6) is a new provision that requires the Bureau to issue regulations reflecting these provisions “not later than 90 days after the date of the enactment of the Second Chance Act of 2007.” Therefore, these regulations are required to be promulgated no later than July 8, 2008, which is 90 days after the date of enactment of the Second Chance Act, April 9, 2008.

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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Energy Affected: No
Government Levels Affected: No
Federalism: No

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Title: Commutation of Sentence: Technical Change

Abstract: This document makes a minor technical change to the Bureau of Prisons (Bureau) regulations on sentence commutation to clarify that the Bureau staff, who may not be institution-level staff, will recalculate the inmate’s sentence in accordance with the terms of the commutation order if a petition for commutation of sentence is granted.

Priority: Info./Admin./Other
Major: No

Unfunded Mandates: No

CFR Citation: 28 CFR 571.41 (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 5 USC 301; 18 USC 3565 and 3568 to 3569 (Repealed in part as to offenses committed on or after November 1, 1987); 18 USC 3582, 3621, 3622, 3624, 4001, 4042, 4081, and 4082 (Repealed in part as to offenses committed)

Legal Deadline: None

Timetable:

Department of Justice (DOJ)
Bureau of Prisons (BOP)

RIN: 1120-AB54
Title: Reduction in Sentence for Medical Reasons

Abstract: The Bureau of Prisons (Bureau) is revising its rules on procedures for reductions in sentence (RIS) for medical reasons. 28 CFR part 571, subpart G, is currently entitled “Compassionate Release (Procedures for the Implementation of 18 U.S.C. sections 3582(c)(1)(A) and 4205(g)).” We are revising these rules to (1) more accurately reflect our authority under these statutes and our current policy, (2) to clarify inmate and public confusion regarding the procedures for RIS consideration, and (3) to describe procedures for RIS consideration of D.C. code offenders, for whom the Bureau has responsibility under the National Capital Revitalization and Self-Government Improvement Act of 1997 (D.C. Revitalization Act), D.C. Code section 24-101(b). The new subpart G will be entitled “Reduction in Sentence for Medical Reasons.”

Priority: Other Significant

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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Energy Affected: No
Government Levels Affected: No
Federalism: No
Unfunded Mandates: No

CFR Citation: 28 CFR 571 (To search for a specific CFR, visit the Code of Federal Regulations)
**Title:** Limited Communication for Terrorist Inmates

**Abstract:** In this document, the Bureau of Prisons (Bureau) proposes a new rule that allows for limiting the communication opportunities of inmates charged with, convicted of, or detained in relation to an offense under title 18 U.S.C. chapters 113B or 115; or are charged with having engaged in, have engaged in, are detained in relation to, or are linked in any way to terrorist-related activity as part of their current or previous offense conduct or conduct while incarcerated. The rule allows for limiting individual inmate’s communications when the Warden of the facility, in consultation with the Regional Director and approved by the Assistant Director, Correctional Programs Division, deems it necessary to ensure the safety, security, and good order of the institution; protection of the public; or national security.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Long-term Action

**Unfunded Mandates:** No

**CFR Citation:** 28 CFR 540

**Legal Authority:** 5 USC 301, 551, 552a; 18 USC chs 113b and 115, 1791, 3621, 3622, 3624, 4001, 4042, 4081; 18 USC 4082 (Repealed in part as to offenses committed on or after November 1, 1987); 18 USC 5006 to 5024 (Repealed October 12, 1984, as to offenses committed after that date); 18 USC 5039; 28 USC 509, 510, 530C(b)(6)

**Legal Deadline:** None

**Timetable:**

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**Additional Information:** See also RIN 1120-AB08, National Security: Prevention of Acts of Violence and Terrorism.

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** No

**Federalism:** No

**Energy Affected:** No

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**Title:** Inmate Electronic Message Program

**Abstract:** The Bureau of Prisons (Bureau) proposes to establish an inmate electronic message program for general correspondence with persons in the community. We intend that this will provide inmates with an alternative means of written correspondence and provide the Bureau with a more efficient, cost effective, and secure method of managing inmate mail services. However, the inmates participating in this program will not have access to the Internet. As more inmates use the new electronic message program, it will reduce the opportunities to introduce contraband into Bureau facilities through inmate mail.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Completed Action

**Major:** No

**Unfunded Mandates:** No
CFR Citation: 28 CFR 540, subpart C (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 5 USC 301, 551, 552a; 18 USC 1791, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to conduct occurring on or after November 1, 1987); 18 USC 5006 to 5024 (Repealed October 12, 1984, as to conduct occurring after that date); 28 USC 509 and 510

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No    Government Levels Affected: No
Small Entities Affected: No                    Federalism: No
Energy Affected: No                             
Agency Contact: Sarah N. Qureshi
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Department of Justice (DOJ)
Office of Justice Programs (OJP)    RIN: 1121-AA68

Title: Victims of Crime Act (VOCA) Crime Victim Compensation Program Regulations

Abstract: The Victims of Crime Act (VOCA) Crime Victim Compensation Program regulations provide the parameters under which State agencies may use these funds to reimburse crime victims directly for expenses related to crime. Expenses that must be covered are lost wages, medical and mental health costs, and funeral and burial costs. States, at their discretion, may cover loss of support, crime scene cleanup, and other such expenses. VOCA funds are obtained from the Crime Victims Fund in the U.S. Treasury, which consists of fines, fees, and bond forfeitures from Federal offenders.

Priority: Substantive, Nonsignificant    Agenda Stage of Rulemaking: Proposed Rule
Major: Undetermined    Unfunded Mandates: No
CFR Citation: Not Yet Determined (To search for a specific CFR, visit the Code of Federal Regulations.)
Legal Authority: 42 USC 10602; 42 USC 10604
Legal Deadline: None

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Additional Information: TRANSFERRED RIN: This rulemaking 1121-AA68 continues the rulemaking previously listed as "child" RIN 1121-AA66 under "parent" RIN 1121-AA61. This rulemaking has been transferred to RIN 1121-AA68 because the computer system used by the Regulatory Information Service Center (RISC) to compile the Unified Agenda no longer supports "parent" and "child" RINs. This rulemaking is not a new action. (For another VOCA-related rulemaking, see RIN 1121-AA69.)

Regulatory Flexibility Analysis Required: No    Government Levels Affected: State
Small Entities Affected: No                    Federalism: No
Energy Affected: No                             
Agency Contact: Barbara Walker
Deputy Director, Office for Victims of Crime
Department of Justice (DOJ)
Office of Justice Programs (OJP)

Title: Victim of Crime Act (VOCA) Victim Assistance Program
Abstract: The Victim Assistance Program Regulations provide the parameters under which State agencies may use these funds to award grants to Government and nonprofit organizations to provide direct services to crime victims. Local programs include child abuse, homicide survivor, drunk driving, sexual assault, and domestic violence. More than three million crime victims are served through these grants. Victims of Crime Act (VOCA) funds are obtained from the Crime Victims Fund in the U.S. Treasury, which consists of fines, fees, and bond forfeitures from Federal offenders. Costs to States are limited, as the VOCA grant provides for administrative costs for these programs.

Priority: Other Significant
Major: Undetermined
Unfunded Mandates: No
CFR Citation: Not Yet Determined (To search for a specific CFR, visit the Code of Federal Regulations)
Legal Authority: 42 USC 10603; 42 USC 10604
Legal Deadline: None

Timetable:

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Additional Information: TRANSFERRED RIN: This rulemaking 1121-AA69 continues the rulemaking previously listed as "child" RIN 1121-AA65 under "parent" RIN 1121-AA61. This rulemaking has been transferred to RIN 1121-AA69 because the computer system used by the Regulatory Information Service Center (RISC) to compile the Unified Agenda no longer supports "parent" and "child" RINs. This rulemaking is not a new action. (For another VOCA-related rulemaking, see RIN 1121-AA68).

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Energy Affected: No
Agency Contact: Barbara Walker
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Phone: 202 307-5911
E-Mail: barbara.a.walker@usdoj.gov

Department of Justice (DOJ)
Office of Justice Programs (OJP)

Title: Aimee’s Law
Abstract: The Office of Justice Programs (OJP) is implementing Aimee’s Law (Pub. L. No. 106-386, sec. 2001), which enables States to recover the costs of apprehending, convicting, and incarcerating individuals who commit certain heinous

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crimes, where those individuals previously were incarcerated for identical crimes in other States but granted early release. After consultation with relevant agencies and stakeholders, OJP will promulgate regulations that will assist in the effective implementation of the law, particularly relating to administration and data-collection.

**Priority:** Substantive, Nonsignificant  
**Agenda Stage of Rulemaking:** Proposed Rule  
**Major:** No  
**Unfunded Mandates:** No  
**CFR Citation:** Not Yet Determined  
(To search for a specific CFR, visit the Code of Federal Regulations)  
**Legal Authority:** 42 USC 13713  
**Legal Deadline:** None

| Timetable: |  |
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| **Action** | **Date** | **FR Cite** |
| NPRM | 04/00/2010 |  |
| NPRM Comment Period End | 06/00/2010 |  |

**Regulatory Flexibility Analysis Required:** No  
**Government Levels Affected:** State  
**Small Entities Affected:** No  
**Federalism:** No  
**Energy Affected:** No  
**Agency Contact:** Peter Brien  
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**Department of Justice (DOJ)**  
**Office of Justice Programs (OJP)**  
**RIN:** 1121-AA48

**Title:** Bulletproof Vest Partnership Grant Acts of 1998 and 2000  
**Abstract:** The Bureau of Justice Assistance (BJA) is publishing final regulations implementing the Bulletproof Vest Partnership Grant Acts of 1998 and 2000, which authorize BJA funds to eligible States, units of local government, and Indian tribes to purchase armored vests for use by law enforcement officers. This final rule reflects the revised process by which eligible jurisdictions may register, apply, and request funding under BJA's Internet-Based Bulletproof Vest Partnership Grant Program. On September 23, 1998, BJA published an interim final rule, with a request for comments (63 FR 50759). The interim final rule established the process by which BJA would implement the Bulletproof Vest Partnership Grant Act of 1998. BJA did not receive any comments in response to the interim final rule. Nevertheless, BJA initiated numerous outreach efforts, in the form of focus groups and beta testing, to ensure that all affected parties had ample opportunity to review and participate in the program's design and development.

**Priority:** Substantive, Nonsignificant  
**Agenda Stage of Rulemaking:** Final Rule  
**Major:** No  
**Unfunded Mandates:** No  
**CFR Citation:** 28 CFR 33  
(To search for a specific CFR, visit the Code of Federal Regulations)  
**Legal Authority:** 42 USC 3796ll  
**Legal Deadline:**

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| **Action** | **Date** | **FR Cite** |
| Interim Final Rule Effective | 09/23/1998 | 63 FR 50759 |
| Interim Final Rule | 09/23/1998 | 63 FR 50759 |
### Title:
Enforcement of Regulations of the Violent Offender Incarceration/Truth-in-Sentencing Grants Program: Final Rule

### Abstract:
The Office of Justice Programs is issuing this final rule to set forth the procedures that it and the States that are awarded Federal funds under the Violent Offender Incarceration/Truth-in-Sentencing Grants Program must follow in order to comply with the environmental impact review procedures mandated by the National Environmental Policy Act, the Council on Environmental Quality's implementing regulations, and other related Federal environmental impact review requirements.

### Priority:
Substantive, Nonsignificant

### Agenda Stage of Rulemaking:
Final Rule

### Major:
No

### Unfunded Mandates:
No

### CFR Citation:
28 CFR 91

### Legal Authority:
42 USC 13701 et seq, as amended by PL 104-134; 42 USC 4321 et seq; 40 CFR 1500 to 1508

### Legal Deadline:
None

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### Regulatory Flexibility Analysis Required:
No

### Government Levels Affected:
Federal; Local; State; Tribal

### Agency Contact:
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the Omnibus Crime Control and Safe Streets Act of 1968 are used as authorized by law. This revision of 28 CFR part 23 updates the regulation for modern technological advances and extends the use of criminal intelligence systems for public safety purposes.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Final Rule

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** 28 CFR 23 (To search for a specific CFR, visit the Code of Federal Regulations)

**Legal Authority:** 42 USC 3711

**Legal Deadline:** None

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** State

**Small Entities Affected:** No

**Federalism:** No

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**Department of Justice (DOJ)**

**Executive Office for Immigration Review ( EOIR )**

**RIN:** 1125-AA18

**Title:** Authority of Immigration Judges To Issue Civil Money Penalties

**Abstract:** This rule amends the Department's regulations by implementing the statutory authority given to immigration judges to sanction by civil money penalty any action or inaction in contempt of the judge's proper exercise of authority. This statutory authority is derived from section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104-208 (IIRIRA), September 30, 1996. This rule sets forth the types of conduct for which civil money penalty sanctions may be imposed, the procedures for imposing these sanctions, the affirmative defenses which may excuse the imposition of a civil money penalty sanction, and the procedures for appealing such sanctions. The rule also adds an additional ground for disciplinary sanctions under 8 CFR section 1003.102 for engaging in a pattern and practice of conduct which has been found to be in contempt of the immigration judge's proper exercise of authority.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Proposed Rule

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** 8 CFR 1003 (To search for a specific CFR, visit the Code of Federal Regulations)

**Legal Authority:** 5 USC 301; 3 CFR, 1949 to 1953 Comp, p 1002; 8 USC 1103; 8 USC 1252 note; 8 USC 1101 note; 8 USC 1362; 28 USC 509; 8 USC 1324b; 28 USC 510; 28 USC 1746; Reorg Plan No 2 of 1950, sec 2

**Legal Deadline:** None

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** No

**Federalism:** No
Title: Suspension of Deportation and Cancellation of Removal for Certain Battered Spouses and Children; Motions To Reopen for Certain Battered Spouses and Children

Abstract: This rule amends Department regulations by establishing procedures for cancellation of removal for battered spouses and children under 240A(b)(2) of the Immigration and Nationality Act (Act), and suspension of deportation under former section 244(a)(3) of the Act (as it existed before April 1, 1997), which were amended by section 1504 of the Battered Immigrant Women Protection Act of 2000. This rule also amends Department regulations by establishing procedures for certain battered spouses and children to reopen their removal or deportation proceedings to apply for the relief of cancellation of removal or suspension of deportation under 240(c)(6)(C)(iv) of the Act (as amended by section 1506 of the Battered Immigrant Women Protection Act of 2000). Additionally, this rule establishes procedures which must be followed by EOIR when an alien applies for a domestic violence victim waiver under section 237(a)(7) of the Act (as amended by section 1505 of the Battered Immigrant Women Protection Act of 2000).

Priority: Substantive, Nonsignificant

Agenda Stage of Rulemaking: Proposed Rule

Unfunded Mandates: No

CFR Citation: 8 CFR 1003; 8 CFR 1240 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 5 USC 301; 8 USC 1101 note; 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1224 to 1227; 8 USC 1251; 8 USC 1252 note; 8 USC 1251a; 8 USC 1252b; 8 USC 1324b; 8 USC 1362; 28 USC 509 to 510; 28 USC 1746; Reorg Plan No 2 of 1950; 3 CFR 1949 to 1953 Comp, sec 2; PL 105-100, sec 202-203; PL 105-277, sec 902; PL 106-386, sec 1506; PL 106-554, sec 1505; PL 106-554, sec 1510; 8 CFR 2; 8 CFR 3; 8 CFR 240

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Federalism: No

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Department of Justice (DOJ)
Executive Office for Immigration Review (EOIR)

Title: International Marriage Brokers
Abstract: This rule amends the Department of Justice regulations by specifying the procedures for adjudicating alleged violations by international marriage brokers doing business in the United States that fail to provide required information to persons recruited for matchmaking through these entities or that fail to search sex offender registries. This rule implements the procedures for the disposition of cases arising under section 833 of the International Marriage Broker Regulation Act of 2005. This rule is necessary to deter fraudulent marriages and the exploitation or recruits by international marriage brokers.

Priority: Substantive, Nonsignificant

Agenda Stage of Rulemaking: Proposed Rule

Unfunded Mandates: No

CFR Citation: 8 CFR 1270 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 8 USC 1101, 1103, 1324a, 1324b, 1324c, 1375a; PL 109-162, sec 831 et seq; 5 USC 301, 554

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Energy Affected: No

Related RINs: Related to 1615-AA11

Agency Contact: Robin M. Stutman

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Department of Justice (DOJ)

Executive Office for Immigration Review (EOIR)

RIN: 1125-AA49

Title: Reopened Proceedings on Petitions for Alien Entrepreneur Immigrant Classification (EB-5 Visas)

Abstract: This rule amends the regulations of the Executive Office for Immigration Review (EOIR) of the Department of Justice (Department) to implement changes made by the 21st Century Department of Justice Appropriations Authorization Act of 2001, Public Law 107-273 (Nov. 2, 2002), to the EB-5 Alien Entrepreneur immigrant classification. This rule will be published in conjunction with a corresponding rule of the Department of Homeland Security (DHS) that addresses changes to their part of the adjudication. In order to be eligible, an alien must have filed a motion to reopen with the former Immigration and Naturalization Service on or before January 2, 2003, seeking reconsideration of his or her case under this new law. This rule provides the process by which certain aliens, who are seeking immigrant status as alien entrepreneurs, may obtain EOIR review of adverse determinations on the removal of the condition on permanent resident status made by United States Citizenship and Immigration Services (USCIS), a component of DHS. In addition, this rule also establishes procedures for aliens who have received favorable determinations on the removal of the condition on permanent resident status and who have final orders of deportation or removal or who have cases that are pending or administratively closed before EOIR.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Unfunded Mandates: No

CFR Citation: 8 CFR 1003; 8 CFR 1216; 8 CFR 1240 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 8 USC 11866

Legal Deadline: None

Timetable:

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Department of Justice (DOJ)

Executive Office for Immigration Review (EOIR)
Title: Executive Office for Immigration Review; Rules Governing Immigration Proceedings

Abstract: This rule revises the procedures before immigration judges and the Board of Immigration Appeals of the Executive Office for Immigration Review (EOIR), to clarify and improve the administrative adjudication of immigration proceedings. The rule is intended to improve fairness to aliens and to the Government, represented by the Department of Homeland Security, in removal, exclusion, deportation, asylum-only, and other proceedings; reduce delays in the adjudicative process; enable EOIR to better manage its caseload; reduce the existing backlog of cases; and provide for better focus on cases presenting significant issues of law and fact for resolution.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Unfunded Mandates: No

Legal Authority: 5 USC 301; 8 USC 1101, note; 8 USC 1103; 8 USC 1229; 8 USC 1229a; 8 USC 1231; 8 USC 1231, note; 8 USC 1245; 8 USC 1324b; 8 USC 1362; 28 USC 509 to 519; 28 USC 1746; sec 2 Reorg Plan No 2 of 1950, 3 CFR 1949 to 1953 Comp, p 1002; PL 105-100, sec 203; PL 106-386, sec 1506; PL 106-386, sec 1510; PL 106-554, sec 1505; PL 106-554, sec 1510

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Federalism: No

Energy Affected: No

Agency Contact: Robin M. Stutman
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**Title:** Enhancements and Clarifications to the List of Free Legal Services Providers for Aliens Appearing Before the Immigration Courts

**Abstract:** This rule proposes to amend 8 CFR part 1003 by changing the name of the "List of Free Legal Services Providers" to the "List of Pro Bono Legal Service Providers." The rule also enhances the eligibility requirements for organizations, private attorneys, and referral services to be included on the List of Pro Bono Legal Service Providers (List). In addition, the rule transfers responsibility for maintaining the List from the Chief Immigration Judge to the Board of Immigration Appeals.

**Priority:** Substantive, Nonsignificant

**Agenda Stage of Rulemaking:** Proposed Rule

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** 8 CFR 1003 (To search for a specific CFR, visit the Code of Federal Regulations)

**Legal Authority:** 8 USC 1101; 8 USC 1103; 8 USC 1108(d)(4)(B); 8 USC 1229(a)(1)(E)

**Legal Deadline:** None

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** No

**Federalism:** No

**Energy Affected:** No

**Agency Contact:** Robin M. Stutman
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**Title:** New Asylum and Withholding Bars for Recruitment or Use of Child Soldiers

**Abstract:** The Child Soldiers Accountability Act of 2008 (CSAA) was enacted on October 3, 2008. Public Law 110-340, 122 Stat. 3735. The CSAA establishes a criminal offense for the recruitment or use of child soldiers, new grounds of inadmissibility and deportability for aliens who have engaged in such recruitment or use, and subjects applicants for asylum or withholding of removal (under sections 241(b)(3) of the INA) to the eligibility bars for such relief/protection under sections 208(b)(2)(A)(iii) and 241(b)(3) (B)(iii) of the INA, respectively. Sections 241(b)(3)(B)(iii) and 208(b)(2)(A)(iii) of the Act state that aliens are ineligible for withholding of removal or asylum, respectively, where it is determined that "there are serious reasons for believing that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States." Pursuant to the CSAA, for purposes of sections 208(b)(2)(A)(iii) of the Act (asylum) and 241(b)(3)(B)(iii) (withholding of removal) an alien who is subject to the child solider grounds of inadmissibility or deportability "shall be considered an alien with respect to whom there are serious reasons to believe that the alien committed a serious nonpolitical crime."

**Priority:** Substantive, Nonsignificant

**Agenda Stage of Rulemaking:** Proposed Rule

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** 8 CFR 1208 (To search for a specific CFR, visit the Code of Federal Regulations)

**Legal Authority:** 8 USC 1101; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282; 8 CFR 2; PL 110-340 (122 Stat. 3735); ...
Title: Forwarding of Asylum Applications to the Department of State

Abstract: The Department of Justice is amending its regulations to alter the process by which the Executive Office for Immigration Review (EOIR) forwards asylum applications to the Department of State (DOS). Currently, EOIR forwards to DOS all Form I-589, Applications for Asylum and for Withholding of Removal (asylum applications) filed with EOIR Immigration Courts. The interim final rule will amend the regulations to permit EOIR to send asylum applications in its discretion to DOS where EOIR believes that DOS may have relevant country conditions information that may assist with the adjudication of the asylum application. This change will increase the efficiency of DOS's review of asylum applications and is consistent with similar changes being made by U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS).

Priority: Substantive, Nonsignificant

Agenda Stage of Rulemaking: Proposed Rule

Major: No

Unfunded Mandates: No

CFR Citation: 8 CFR 1208; 8 CFR 1240 (To search for a specific CFR, visit the [Code of Federal Regulations](https://www.govinfo.gov/app/cfr))

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1225; 8 USC 1231; 8 USC 1282

Legal Deadline: None

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Additional Information: This rule relates to RIN 1615-AB59 published as final by U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS), on April 6, 2009. 74 FR 15367, Apr. 6, 2009.
Title: Suspension of Deportation and Cancellation of Removal

Abstract: This rule amends the regulations of the Executive Office for Immigration Review by eliminating the conditional grant process at 8 CFR 1240.21 and establishing a permanent procedure for processing suspension of deportation and cancellation of removal cases. This rule is necessary to implement the numerical limitation on suspension of deportation and cancellation of removal and adjustment of status imposed by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA).

Priority: Substantive, Nonsignificant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 8 CFR 1240 (To search for a specific CFR, visit the Code of Federal Regulations

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1224 to 1227; 8 USC 1251 to 1252; 8 USC 1362; PL 105-100, sec 202

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Federalism: No

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Title: Motions To Reopen for Suspension of Deportation and Special Rule Cancellation of Removal Pursuant to Section 1505(c) of the LIFE Act Amendments

Abstract: This rule amends the regulations of the Executive Office for Immigration Review (EOIR) by establishing a special procedure for the filing and adjudication of motions to reopen to apply for suspension of deportation and cancellation of removal pursuant to section 1505(c) of the Legal Immigration Family Equity Act Amendments of 2000 (LIFE Act Amendments). Motions to reopen under this rule must have been filed on or before October 16, 2001. EOIR will be publishing a final rule to respond to comments and complete this rulemaking.

Priority: Substantive, Nonsignificant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No
CFR Citation: 8 CFR 1003  (To search for a specific CFR, visit the Code of Federal Regulations.)
Legal Authority: 5 USC 301; 8 USC 1103, 1252 note, 1252b, 1324b, 1362; 28 USC 509 and 510; 28 USC 1746; sec 203 of PL 105-100; secs 1506 and 1510 of PL 106-386; sec 1505 of PL 106-554
Legal Deadline: None

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Regulatory Flexibility Analysis Required: No  Government Levels Affected: No
Federalism: No

Agency Contact: Robin M. Stutman
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Department of Justice (DOJ)
Executive Office for Immigration Review (EOIR)  RIN: 1125-AA38

Title: Protective Orders in Immigration Administration Proceedings
Abstract: This rule amends regulations governing the Executive Office for Immigration Review (EOIR) by authorizing immigration judges to issue protective orders to limit public disclosure of sensitive law enforcement or national defense information during immigration proceedings. The rule is applicable in all proceedings before immigration judges but involves only a small number of cases.
Priority: Substantive, Nonsignificant  Agenda Stage of Rulemaking: Final Rule
Major: No  Unfunded Mandates: No
CFR Citation: 8 CFR 1003  (To search for a specific CFR, visit the Code of Federal Regulations.)
Legal Authority: 5 USC 301; 8 USC 1101 note, 1103, 1231, 1252 note, 1252b, 1324b, 1253, 1362; 28 USC 509, 510, 1746; sec 2, Reorg Plan No 2 of 1950; 3 CFR 1949 to 1953 Comp, p 1002; sec 203 of PL 105-100, 111 Stat 2196-200; secs 1506 and 1510 of PL 106-386, 114 Stat 1527-29, 1531-32; sec 1505 of PL 106-554, 114 Stat 2763A-326 to 2763A-328
Legal Deadline: None

Timetable:

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Regulatory Flexibility Analysis Required: No  Government Levels Affected: No
Small Entities Affected: No  Federalism: No

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Title: Executive Office for Immigration Review Attorney/Representative Registry

Abstract: This rule concerns the Attorney General's authority to authorize practitioners to represent aliens in immigration proceedings pursuant to statute. Under the pertinent statutory provision, aliens in immigration proceedings "shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose." (8 U.S.C. 1362) The rule arises out of EOIR's electronic Government initiatives, which when fully implemented, will enable electronic case access and filing for individuals in immigration proceedings before EOIR. In essence, the rule amends the current definitions of "attorney" and "representative," the classes of individuals authorized to represent aliens, to include only those persons who have registered with EOIR. Additionally, the rule delegates authority to the Director to require such a registration, and to establish procedures for registration. In concert with that authority, the rule permits the Director to administratively suspend from practice before EOIR any practitioner who fails to comply with registration procedures and requirements. Functionally, practitioners will be required to register with EOIR over a secure Internet connection, by providing name, address(es), date of birth, last four digits of social security number, and bar admission data. Registered practitioners will be assigned a unique User ID and password that will authorize them to conduct electronic transactions with EOIR from desktop personal computers. Registration of practitioners assures the functionality, security, and success of EOIR's electronic Government initiative, and serves as a prerequisite to electronic case access and filing by practitioners. The proposed practitioner registration rule furnishes the Attorney General with the optimum measure of adaptability to establish the criteria and procedures for practitioner registration, while also preserving fairness for regulated parties and ensuring efficiency in Government operations.

Priority: Substantive, Nonsignificant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 8 CFR 1001.1; 8 CFR 1003.0 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 8 USC 1362

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Small Entities Affected: No

Federalism: No

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Title: Transfer of Jurisdiction Over Appeals of Fines From the Board of Immigration Appeals to the Office of the Chief Administrative Hearing Officer

Abstract: This final rule removes the Board of Immigration Appeals' (Board) jurisdiction over appeals of Department of...
Homeland Security (DHS) decisions involving administrative fines under part 1280 of title 8 CFR and transfers that authority to Office of the Chief Administrative Hearing Officer (OCAHO). Part 1280 governs the imposition and collection of fines under a variety of provisions of the Immigration and Nationality Act (INA), most of which pertain to common carriers. Most of the appeals are fines imposed under section 273 of the INA. The transfer is essentially a reallocation of agency resources within the Executive Office for Immigration Review to improve caseload management by substituting a different set of decision makers, the OCAHO for the Board, while preserving the same procedures for the adjudication of appeals.

**Priority:** Substantive, Nonsignificant  
**Major:** No  
**Unfunded Mandates:** No  
**CFR Citation:** 8 CFR 1003; 8 CFR 1103; 8 CFR 1280 (To search for a specific CFR, visit the Code of Federal Regulations.)

**Legal Authority:** Not Yet Determined  
**Legal Deadline:** None

**Regulatory Flexibility Analysis Required:** No  
**Government Levels Affected:** No  
**Small Entities Affected:** No  
**Federalism:** No  
**Related RINs:** Split From 1125-AA36  
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---

**Title:** Definitions; Fees; Powers and Authority of DHS Officers in Removal Proceedings  
**Abstract:** This rule amends regulations relating to the Executive Office for Immigration Review to conform with certain regulatory changes made by the Department of Homeland Security (DHS) for consistency and for the ease of the reader. This rule makes no substantive changes in the Department of Justice regulations, but makes appropriate revisions to the definitions and fee provisions and the regulations relating to issuance of notices to appear and subpoenas in the EOIR regulations, in order to avoid confusing and unnecessary duplication of provisions already set forth in the DHS regulations.

**Priority:** Info./Admin./Other  
**Major:** No  
**Unfunded Mandates:** No  
**CFR Citation:** 8 CFR 1003; 8 CFR 1103 (To search for a specific CFR, visit the Code of Federal Regulations.)  
**Legal Authority:** 8 USC 1101, 1103, 1182, 1221, 1225, 1226, 1251, 1252, 1255, 1357, 1362, 1304, 13246, 1356; 28 USC 509, 510, 1746; 5 USC 301; ...

**Legal Deadline:** None

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**Title:** Background and Security Investigation Checks in Proceedings Before Immigration Judges and the Board of Immigration Appeals

**Abstract:** This rule amends regulations governing the Executive Office for Immigration Review to ensure that the necessary identity, law enforcement, and security investigations are properly initiated and have been completed by the Department of Homeland Security before the immigration judges and the Board adjudicate certain applications for relief.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Final Rule

**CFR Citation:** 8 CFR 1003  (To search for a specific CFR, visit the [Code of Federal Regulations](https://www.govinfo.gov/content/pkg/CFR-2023-title8/page/s1003.htm))

**Legal Authority:** 5 USC 301; 8 USC 1101 note, 1103, 1182, 1186a, 1224, 1225, 1226, 1227, 1251, 1252 note, 1252a, 1252b, 1324b, 1362; 28 USC 509, 510, 1746; sec 2, Reorg Plan No 2 of 1950; 3 CFR, 1949 to 1953 Comp, p 1002; secs 202 and 203 of PL 105-100, 111 Stat 2160, 2193, 2196-200; sec 902, PL 105-277, 112 Stat 2681; secs 1506 and 1510 of PL 106-386, 114 Stat 1527 to 1529, 1531 to 1532; sec 1505 of PL 106-554, 114 Stat 2763A-326 to 2763A-328

**Legal Deadline:** None

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Information Relating to Aliens’ Duty To Surrender When Ordered Removed From the United States

The Department of Justice published an NPRM in 1998 and a supplemental NPRM in 2002 (RIN 1115-AE82) to establish that aliens who become subject to a final order of removal have a legal obligation to surrender for removal. This rule amends the regulations of the Department of Justice to provide that immigration judges and the Board of Immigration Appeals will inform aliens in removal proceedings that they have an affirmative obligation to surrender to Department of Homeland Security (DHS) upon the issuance of a final order of removal by an immigration judge or the Board. Aliens will be informed that the failure to surrender to DHS as required under the DHS rule will result in the denial of any forms of discretionary relief from removal while the alien remains in the United States and for a period of 10 years after the alien's departure from the United States. This rule is being published jointly with DHS.

Final Action

NPRM (RIN 1115-AE82) 09/04/1998 63 FR 47205
NPRM Comment Period End (RIN 1115-AE82) 11/03/1998
Supplemental NPRM (RIN 1115-AE82) 05/09/2002 67 FR 31157
Supplemental NPRM Comment Period End 06/10/2002
Final Action 08/00/2010

This rule will finalize those portions of the rulemaking action formerly listed as RIN 1115-AE82 insofar as it relates to the regulations of the Department of Justice. The DHS rule is now RIN 1653-AA05.

Jurisdiction and Venue in Removal Proceedings

This rule amends the Department of Justice regulation addressing jurisdiction and venue in removal proceedings. This regulatory change is necessary due to the increasing number of removal hearings being conducted by telephone or video conference and will clarify the issue of venue for cases involving multiple geographic locations.

Final Action

NPRM (RIN 1115-AE82) 09/04/1998 63 FR 47205
NPRM Comment Period End (RIN 1115-AE82) 11/03/1998
Supplemental NPRM (RIN 1115-AE82) 05/09/2002 67 FR 31157
Supplemental NPRM Comment Period End 06/10/2002
Final Action 08/00/2010
Title: Eligibility of Arriving Aliens in Removal Proceedings To Apply for Adjustment of Status and Jurisdiction To Adjudicate Applications for Adjustment of Status

Abstract: The Secretary of Homeland Security and the Attorney General are amending their respective agencies’ regulations governing applications for adjustment of status filed by paroled arriving aliens seeking to become lawful permanent residents. The Secretary and the Attorney General are also amending the regulations to clarify when United States Citizenship and Immigration Services or the immigration judges and the Board of Immigration Appeals of the Executive Office for Immigration Review have jurisdiction to adjudicate applications for adjustment of status by such aliens. In addition, the Secretary and the Attorney General are requesting comments on the possibility of adopting further proposals in the future to structure the exercise of discretion in adjudicating these applications for adjustment of status.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 8 CFR 1001.1(q); 8 CFR 1245.1; 8 CFR 1245.2(a)(1) (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 8 USC 1101; 8 USC 1103; 5 USC 301; PL 105-100, sec 202; 8 USC 1182; 8 USC 1255; PL 105-277, sec 902; ...

Legal Deadline: None

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Federalism: No

Energy Affected: No

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Title: Board of Immigration Appeals: Affirmance Without Opinion, Referral for Three-Board-Member Review, and Publication of Decisions as Precedents

Abstract: These revisions implement, in part, the Attorney General's August 9, 2006, Memorandum for Immigration Judges and Members of the Board of Immigration Appeal. This interim rule establishes that the Board may issue an affirmance without opinion (AWO) in the exercise of its discretion when it is satisfied that certain regulatory criteria are met. This provision also permits the Board to better manage its docket, budget its resources, and balance its competing adjudicatory responsibilities by allowing the Board to determine what type of decision to issue in a particular case. This regulation clarifies that the Board's decision to issue an AWO, or any other type of decision, depends on the Board's internal judgment regarding its resources and does not create personal rights and is not independently reviewable. In addition, this rule permits three-Board-member review of a small class of particularly complex cases. The rule provides the Board with the discretion to assess its resources, and where it deems appropriate, devote more of its resources to address complex or unusual issues of law or fact by referring a case for review by a three-member panel. Finally, this rule amends the regulations relating to precedent decisions of the Board, by authorizing publication of decisions either by a majority of Board Members in a panel or by a majority of permanent Board Members at the Board. With these tools, the Board can better manage its docket, budget its resources, and balance its competing adjudicatory responsibilities.
Title: Reorganization of Regulations on Control of Employment of Aliens  
Abstract: The Homeland Security Act of 2002, as amended, transferred the functions of the former Immigration and Naturalization Service (INS) from the Department of Justice to the Department of Homeland Security (DHS); however, it retained within the Department of Justice the functions of the Executive Office for Immigration Review (EOIR), a separate agency within the Department of Justice. Because the existing regulations often intermingled the responsibilities of the former INS and EOIR, this transfer required a reorganization of title 8 of the Code of Federal Regulations (CFR) in February 2003, including the establishment of a new chapter V in 8 CFR pertaining to EOIR. As part of this reorganization, a number of regulations pertaining to the responsibilities of DHS intentionally were duplicated in the new chapter V because of shared responsibilities. The Department of Justice now has determined that most of the duplicated regulations in part 1274a pertain to functions that are DHS’s responsibility and do not need to be reproduced in EOIR’s regulations in chapter V. This interim rule, therefore, deletes unnecessary regulations in part 1274a and makes appropriate reference to the applicable DHS regulations.

Priority: Substantive, Nonsignificant  
Agenda Stage of Rulemaking: Final Rule  
Major: Undetermined  
Unfunded Mandates: No  
CFR Citation: 8 CFR 1274a  
(To search for a specific CFR, visit the Code of Federal Regulations)  
Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a  
Legal Deadline: None

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Regulatory Flexibility Analysis Required: No  
Government Levels Affected: No

Federalism: No

Energy Affected: No

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Title: Application of Immigration Regulations to the Commonwealth of the Northern Mariana Islands  
Abstract: The Department of Homeland Security (DHS) and the Department of Justice (DOJ) are implementing conforming amendments to their respective regulations to comply with the Consolidated Natural Resources Act (CNRA) of 2008. The CNRA extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI). This rule amends the regulations governing asylum and credible fear of persecution determinations; references to the geographical “United States” and its territories and possessions; alien classifications authorized for employment; documentation acceptable for Employment Eligibility Verification; employment of unauthorized aliens; and adjustment of status of immediate relatives admitted under the Guam-CNMI Visa Waiver Program. Additionally, this rule makes a technical change to correct a citation error in the regulations governing the Visa Waiver Program and the regulations governing asylum and withholding of removal. The purpose of this rule is to ensure that the regulations apply to persons and entities arriving in or physically present in the CNMI to the extent authorized by the CNRA.
Title: Reorganization of Regulations on the Adjudication of Department of Homeland Security Practitioner Disciplinary Cases

Abstract: The Homeland Security Act of 2002, as amended, transferred the functions of the former Immigration and Naturalization Service (INS) from the Department of Justice to the Department of Homeland Security (DHS); however, it retained within the Department of Justice the functions of the Executive Office for Immigration Review (EOIR), a separate agency within the Department of Justice. Because the existing regulations often intermingled the responsibilities of the former INS and EOIR, this transfer required a reorganization of title 8 of the Code of Federal Regulations (CFR) in February 2003, including the establishment of a new chapter V in 8 CFR pertaining to EOIR. As part of the reorganization, a number of regulations pertaining to the responsibilities of DHS were duplicated in the new chapter V because of shared responsibilities. Because DHS has amended its regulation at 8 CFR 292.3 concerning its disciplinary rules for practitioners appearing before DHS, the Department of Justice has determined that the duplicative provisions in 8 CFR 1292.3 pertaining to DHS's responsibility do not need to be reproduced in EOIR's regulations in chapter V, and that the few provisions relating to EOIR should be transferred to part 1003. This interim rule, therefore, deletes unnecessary regulations in part 1292 and makes appropriate reference to the applicable DHS regulations. Finally, this rule contains technical amendments to EOIR's practitioner disciplinary regulations, and a correction and clarification to the final rule on Professional Conduct for Practitioners-Rules and Procedures, and Representation and Appearances, which became effective on January 20, 2009. 73 FR 76914 (December 18, 2002).
**Regulatory Flexibility Analysis Required:** No  
**Government Levels Affected:** No  
**Federalism:** No  
**Energy Affected:** No  
**Public Comment URL:** www.regulations.gov

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**Department of Justice (DOJ)**  
**Executive Office for Immigration Review (EOIR)**  
**RIN:** 1125-AA68

**Title:** Motions To Reopen Removal, Deportation, or Exclusion Proceedings Based Upon a Claim of Ineffective Assistance of Counsel

**Abstract:** The Department of Justice is proposing to amend the regulations of the Executive Office for Immigration Review (EOIR) by establishing procedures for the filing and adjudication of motions to reopen removal, deportation, and exclusion proceedings based upon a claim of ineffective assistance of counsel. This proposed rule is in response to Matter of Compean, Bangaly & J-E-C-, 25 I&N Dec. 1 (A.G. 2009) in which Attorney General Eric Holder directed the Department to promulgate such regulations.

**Priority:** Substantive, Nonsignificant  
**Agenda Stage of Rulemaking:** Long-term Action  
**Major:** No  
**Unfunded Mandates:** No  
**CFR Citation:** Not Yet Determined (To search for a specific CFR, visit the Code of Federal Regulations.)  
**Legal Authority:** Not Yet Determined  
**Legal Deadline:** None

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No  
**Government Levels Affected:** No  
**Federalism:** No  
**Energy Affected:** No  
**Agency Contact:** Robin M. Stutman  
General Counsel  
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**Department of Justice (DOJ)**  
**Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)**  
**RIN:** 1140-AA27

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79
Title: Commerce in Explosives--Separation Distances of Ammonium Nitrate and Blasting Agents From Explosives or Blasting Agents

Abstract: The Bureau of Alcohol, Tobacco, Firearms, and Explosives is considering amending the regulations regarding the reference to the Fertilizer Institute document titled "Definition and Test Procedures for Ammonium Nitrate Fertilizer" that appears as a footnote because it is an obsolete document.

Priority: Other Significant

Agenda Stage of Rulemaking: PreRule

Major: No

Unfunded Mandates: No

CFR Citation: 27 CFR 555 (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 18 USC 847

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Small Entities Affected: No

Federalism: No

Energy Affected: No

Agency Contact: Elizabeth Gillis Department of Justice

Bureau of Alcohol, Tobacco, Firearms, and Explosives

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Phone: 202 648-7093

E-Mail: elizabeth.gillis@atf.gov

---

Title: Implementation of Public Law 105-277 Relating to Secure Gun Storage

Abstract: The Department of Justice is amending the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to implement the provisions of Public Law 105-277, Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999. The amendments are with regard to: 1) Certification by applicants for dealers' licenses that secure gun storage or safety devices will be available at any place where firearms are sold to nonlicensed individuals and 2) an amended definition of "antique firearm," to include certain muzzle loading firearms. In addition, the Gun Control Act of 1968 establishes categories of individuals who are prohibited from possessing a firearm. A provision of Public Law 105-277 added aliens in a nonimmigrant classification as an additional prohibited category. In the same Act, the Attorney General was authorized to grant a waiver for individuals disqualified by the new prohibited category. The waiver petition will be granted, inter alia, upon an applicant showing proof of 180 days of residency and a statement of character from the applicant's embassy or consulate and upon a determination by the Attorney General that the waiver should be granted in the interests of justice so as not to jeopardize public safety. Item 1 of this rulemaking proceeding is related to the implementation of the Child Safety Lock Act of 2005 (CSLA), RIN 1140-AA26. While Public Law 105-277 requires applicants for dealer's licenses to certify that secure gun storage or safety devices will be available at any place where firearms are sold to nonlicensees, the CSLA makes it unlawful for any licensed importer, manufacturer, or dealer to sell, deliver, or transfer any handgun to any person, other than another licensee, unless the transferee (buyer) is provided with a secure gun storage or safety device for that handgun.

Priority: Substantive, Nonsignificant

Agenda Stage of Rulemaking: Proposed Rule

Major: No

Unfunded Mandates: No

CFR Citation: 27 CFR 478 (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 931; 44 USC 3504(h)

Legal Deadline: None

Timetable:

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**Title:** Implementation of the Child Safety Lock Act of 2005

**Abstract:** The Department of Justice is proposing to amend the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to implement the provisions of the Child Safety Lock Act of 2005 (CSLA), section 5 of Public Law 109-92. While RIN 1140-AA10 requires that secure gun storage or safety devices are available at any place where dealers sell firearms to nonlicensees, this CSLA rulemaking makes it unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person, other than another licensee, unless the transferee (buyer) is provided with a secure gun storage or safety device for that handgun. This rulemaking proceeding is related to the implementation of a provision of Public Law 105-277, RIN 1140-AA10, which requires applicants for dealer’s licenses to certify that secure gun storage or safety devices will be available at any place where firearms are sold to nonlicensees.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Proposed Rule

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** 27 CFR 478 (To search for a specific CFR, visit the Code of Federal Regulations)

**Legal Authority:** 5 USC 552(a); 18 USC 847; 18 USC 921 to 931; 44 USC 3504(h)

**Legal Deadline:** None

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** No

**Small Entities Affected:** No

**Federalism:** No

**Agency Contact:**
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Washington, DC 20226
Phone: 202 648-7094
Title: Implementation of the USA Patriot Improvement and Reauthorization Act of 2005 Regarding Trafficking in Contraband Cigarettes or Smokeless Tobacco

Abstract: The Department of Justice is amending the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to implement a provision of the USA Patriot Improvement and Reauthorization Act of 2005 regarding trafficking in contraband cigarettes or smokeless tobacco. Section 121 of the Act contains several amendments to the Contraband Cigarette Trafficking Act, 18 U.S.C. chapter 114.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Major: No

Unfunded Mandates: No

CFR Citation: 27 CFR 646 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 18 USC 2341 to 2346

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Small Entities Affected: No

Federalism: No

Energy Affected: No

Agency Contact: James P. Ficaretta
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Phone: 202 648-7094

Department of Justice (DOJ)
Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)

Title: Identification Markings Placed on Firearm Silencers and Firearm Mufflers

Abstract: The Department of Justice is proposing to amend the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives to require licensed manufacturers and licensed importers to place identification markings on the outer tube of firearm silencers and firearm mufflers. The proposed regulations are intended to allow for identification markings to be placed conspicuously and legibly in one location providing consistency throughout the industry.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Major: No

Unfunded Mandates: No

CFR Citation: 27 CFR 478; 27 CFR 479 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 5 USC 552(a); 18 USC 847, 921 to 931; 44 USC 3504(h); 26 USC 7805

Legal Deadline: None

Timetable:

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Small Entities Affected: No

Federalism: No

Agency Contact: Elizabeth Gillis
Department of Justice
Bureau of Alcohol, Tobacco, Firearms, and Explosives
99 New York Avenue NE
Washington, DC 20226
Phone: 202 648-7093

82
E-Mail: elizabeth.gillis@atf.gov

**Department of Justice (DOJ)**
**Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)**

**Title:** Elimination of Firearms Transaction Record, ATF Form 4473 (Low Volume)

**Abstract:** The Department of Justice is proposing to amend the regulations of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) by eliminating the Firearms Transaction Record, ATF Form 4473 (Low Volume (LV)), parts I and II. These forms may be used by federally licensed firearms dealers as an alternate record for the receipt and disposition of firearms. Because licensees rarely use Forms 4473 (LV), ATF has determined that continued use of these forms is unwarranted and they should be eliminated.

**Priority:** Substantive, Nonsignificant

**Agenda Stage of Rulemaking:** Proposed Rule

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** 27 CFR 478

(To search for a specific CFR, visit the Code of Federal Regulations)

**Legal Authority:** 5 USC 522(a); 18 USC 847; 18 USC 921 to 931; 44 USC 3504(h)

**Legal Deadline:** None

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** No

**Federalism:** No

**Agency Contact:** Scott Armstrong-Cezar Department of Justice
Bureau of Alcohol, Tobacco, Firearms, and Explosives
99 New York Avenue NE
Washington, DC 20226
Phone: 202-648-7119
E-Mail: scott.armstrong-cezar@atf.gov

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**Department of Justice (DOJ)**
**Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)**

**Title:** Implementation of the Safe Explosives Act

**Abstract:** The Department of Justice is amending the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to implement the provisions of the Safe Explosives Act, title XI, subtitle C, of Public Law 107-296, the Homeland Security Act of 2002 (enacted November 25, 2002). The law, among other things: (1) Requires that all persons receiving explosives on and after May 24, 2003, obtain a Federal license or permit, and creates a new type of permit, the "limited permit;" (2) requires applicants for licenses and permits to provide as part of their application the names and appropriate identifying information regarding employees authorized to possess explosives as well as fingerprints and photographs of "responsible persons;" (3) extends the time for ATF to act on an application for a license or permit from 45 days to 90 days; (4) authorizes warrantless inspections of places of storage maintained by applicants for limited permits and holders of limited permits; (5) provides that only licensees and holders of user permits must post their licenses and permits and make them available for inspection; (6) requires that ATF conduct background checks on responsible persons and employees authorized to possess explosive materials; (7) specifies additional categories of persons who may not lawfully receive or possess explosive materials; i.e., aliens (other than permanent resident aliens and other excepted aliens), persons dishonorably discharged from the military, and persons who have renounced their U.S. citizenship; (8) broadens the interstate commerce element of the prohibited persons section of the law to specify that a violation is committed if possession of explosive materials affects interstate or foreign commerce; (9) provides ATF the authority to require licensed manufacturers and licensed importers and persons who manufacture or import explosive materials or ammonium nitrate to provide samples, information on chemical composition, and other information relevant to the identification of the product; (10) broadens the scope of a criminal violation of
the law to include any institution or organization receiving Federal financial assistance within the categories of property covered by the violation; (11) expands ATF's authority to grant relief from disabilities to all categories of prohibited persons; and (12) adds a new theft-reporting violation, providing felony penalties for a licensee or permittee who fails to report thefts of explosives within 24 hours of discovery.

Priority: Other Significant
Major: No
Unfunded Mandates: No
CFR Citation: 27 CFR 555 (To search for a specific CFR, visit the Code of Federal Regulations)
Legal Authority: PL 107-296, title XI, subtitle C
Legal Deadline: None

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### Regulatory Flexibility Analysis Required: No
Government Levels Affected: No
Energy Affected: No

Federalism: No

Related RINs: Related to 1140-AA20

Agency Contact:

James P. Ficaretta
Program Manager
Department of Justice
Bureau of Alcohol, Tobacco, Firearms, and Explosives
99 New York Avenue NE
Washington, DC 20226
Phone: 202 648-7094

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**Department of Justice (DOJ)**

**Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)**

**Title:** Commerce in Firearms and Ammunition (Omnibus Consolidated Appropriations Act of 1997)

**Abstract:** The Omnibus Consolidated Appropriations Act of 1997 contains amendments to the Gun Control Act of 1968 (18 U.S.C. chapter 44). These amendments add to the category of "prohibited persons" anyone convicted of a "misdemeanor crime of domestic violence." The amendments require individuals acquiring handguns from Federal firearms licensees to certify (in accordance with the Brady Handgun Violence Prevention Act) that they have not been convicted of such a crime. The amendments also provide for sales between Federal firearms licensees of curio and relic firearms away from their licensed premises.

Priority: Substantive, Nonsignificant
Major: No
Unfunded Mandates: No
CFR Citation: 27 CFR 478 (To search for a specific CFR, visit the Code of Federal Regulations)
Legal Authority: 18 USC 847; 18 USC 921 to 931
Legal Deadline: None

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Additional Information: Transferred from RIN 1512-AB64
Title: Residency Requirement for Persons Acquiring Firearms

Abstract: The Department of Justice is amending the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to require that aliens purchasing firearms provide proof of residency through the use of substantiating documentation, such as utility bills or a lease agreement. In addition, the regulations are being amended to require that licensees examine a photo identification document from aliens purchasing firearms. These regulations implement firearms initiatives intended to protect the American public from gun violence.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 27 CFR 478 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 931; 44 USC 3504(h)

Legal Deadline: None

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Additional Information: Transferred from RIN 1512-AB66

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Federalism: No

Agency Contact: James Ficaretta
Program Manager
Department of Justice
Bureau of Alcohol, Tobacco, Firearms, and Explosives
99 New York Avenue NE
Washington, DC 20226
Phone: 202 648-7094
Abstract: This rule is needed to implement certain provisions of Public Law 104-208, the Omnibus Consolidated Appropriations Act of 1997 (the Act), enacted September 30, 1996. The Act amended the Federal explosives laws in 18 U.S.C. chapter 40 to require all Federal agencies to report to ATF any information involving arson or the suspected criminal misuse of explosives. The Act also authorizes ATF to establish a repository for this information. In addition, the law provides that such repository will contain information on incidents voluntarily reported to ATF by State and local authorities.

Priority: Substantive, Nonsignificant
Major: No
Unfunded Mandates: No
CFR Citation: 27 CFR 555 (To search for a specific CFR, visit the Code of Federal Regulations )
Legal Authority: 18 USC 846(b)
Legal Deadline: None

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Additional Information: Transferred from RIN 1512-AB73

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Agency Contact: James Ficaretta
Program Manager
Department of Justice
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99 New York Avenue NE
Washington, DC 20226
Phone: 202 648-7094

Department of Justice (DOJ)
Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)  RIN: 1140-AA08

Title: Public Law 105-277, Making Omnibus Consolidated and Emergency Supplemental Appropriations for FY 1999 Relating to Firearms Disabilities for Nonimmigrant Aliens

Abstract: The Department of Justice is amending the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to implement the provisions of Public Law 105-277, Making Omnibus Consolidated and Emergency Supplemental Appropriations for fiscal year 1999. The amendments implement the law by prohibiting, with certain exceptions, the transfer to and possession of firearms by aliens admitted to the United States under a nonimmigrant visa.

Priority: Substantive, Nonsignificant
Major: No
Unfunded Mandates: No
CFR Citation: 27 CFR 478 (To search for a specific CFR, visit the Code of Federal Regulations )
Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 931; 44 USC 3504(h)
Legal Deadline: None

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Additional Information: Transferred from RIN 1512-AB93
Department of Justice (DOJ)
Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)

Title: Implementation of the Safe Explosives Act--Delivery of Explosive Materials by Common or Contract Carrier

Abstract: This rule amends the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to remove the requirement that common or contract carriers taking possession of explosive materials for delivery to a licensee or permittee complete ATF Form 5400.8 (Explosives Delivery Record) prior to taking possession of explosive materials, regardless of whether they are hired by the distributor or by the distributee. ATF believes that this requirement is unduly burdensome and unnecessary. Furthermore, ATF does not believe that the elimination of this form will result in diversion of explosive materials to criminal or terrorist use.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Unfunded Mandates: No

CFR Citation: 27 CFR 555 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: PL 107-296, title XI, subtitle C

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Small Entities Affected: No

Federalism: No

Energy Affected: No

Related RINs: Related to 1140-AA00

Agency Contact: James Ficaretta
Program Manager
Department of Justice
Bureau of Alcohol, Tobacco, Firearms, and Explosives
99 New York Avenue NE
Washington, DC 20226
Phone: 202 648-7094
Abstract: The Department of Justice is amending the regulations relating to machine guns, destructive devices, and certain other firearms regulated under the National Firearms Act (NFA) for the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to clarify the definition of the term "pistol" and to define more clearly exceptions to the "pistol" definition. The added language is necessary to clarify that certain weapons, including any weapon disguised to look like an item other than a firearm or any gun that fires more than one shot without manual reloading by a single function of the trigger, are not pistols and are classified as "any other weapon" under the NFA.

Priority: Other Significant  
Major: No  
Unfunded Mandates: No  
CFR Citation: 27 CFR 479 (To search for a specific CFR, visit the Code of Federal Regulations )  
Legal Authority: 26 USC 7805  
Legal Deadline: None

Timetable:

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Regulatory Flexibility Analysis Required: No  
Government Levels Affected: No  
Small Entities Affected: No  
Federalism: No  
Energy Affected: No  
Agency Contact: James P. Ficaretta  
Program Manager  
Department of Justice  
Bureau of Alcohol, Tobacco, Firearms, and Explosives  
99 New York Avenue NE  
Washington, DC 20226  
Phone: 202 648-7094

Department of Justice (DOJ)  
Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)  
RIN: 1140-AA30

Title: Commerce in Explosives--Storage of Shock Tube With Detonators  
Abstract: The Department of Justice is amending the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) by allowing shock tube to be stored with detonators.

Priority: Other Significant  
Major: No  
Unfunded Mandates: No  
CFR Citation: 27 CFR 555 (To search for a specific CFR, visit the Code of Federal Regulations )  
Legal Authority: 18 USC 847  
Legal Deadline: None

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Regulatory Flexibility Analysis Required: No  
Government Levels Affected: No  
Small Entities Affected: No  
Federalism: No  
Energy Affected: No
Agency Contact: James P. Ficaretta
Program Manager
Department of Justice
Bureau of Alcohol, Tobacco, Firearms, and Explosives
99 New York Avenue NE
Washington, DC 20226
Phone: 202 648-7094

Department of Justice (DOJ)
Civil Rights Division (CRT)

Title: The Failure To Select Cause of Action of the American Competitiveness and Workforce Improvement Act of 1998

Abstract: The American Competitiveness and Workforce Improvement Act (ACWIA)—enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1998—made various changes to the Immigration and Nationality Act (the INA) relating to temporary nonimmigrant professionals. In this rule (RIN 1190-AA48), the Department’s Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) will implement the ACWIA “failure to select” protections—codified in the INA at section 212(n)(5)—by establishing a process under which U.S. workers may file complaints against certain employers deemed “H-1B dependent” that deny them employment opportunities by improperly hiring temporary foreign professionals on H-1B visas. Under this process, OSC may receive and review these complaints, and then—if there is reasonable cause to believe the allegations—initiate binding arbitration proceedings through the Federal Mediation and Conciliation Service (FMCS). Although this cause of action, originally enacted in ACWIA, sunset on October 1, 2003, it was revived in the H-1B Visa Reform Act of 2004. This rule also changes regulations of the Office of the Chief Administrative Hearing Officer (OCAHO) of the Executive Office for Immigration Review (EOIR) to provide for the review of arbitrators’ decisions and, where appropriate, the award of administrative relief for a “failure to select” cause of action under the American Competitiveness and Workforce Improvement Act of 1998. This new cause of action allows an aggrieved party to file a complaint against a covered employer when it seeks to hire an H-1B visa holder over an equally or better qualified United States worker who applied for the job. Arbitrators of the Federal Mediation and Conciliation Service will adjudicate the complaints. The regulation also allows the Office of the Chief Administrative Hearing Officer to review the Arbitrator’s findings, if necessary, and to impose remedies against the employer. This rule is being coordinated with EOIR, the Department of Labor (DOL), and the FMCS.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Major: No

Unfunded Mandates: No

CFR Citation: 28 CFR 44.500; 28 CFR 68 (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 8 USC 1182(n)(5); 8 USC 1103(a); 8 USC 1182(n); 8 USC 1324b

Legal Deadline: None

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Additional Information: ACWIA increased the numerical cap on H-1B nonimmigrant aliens; required certain dependent employers to make additional attestations to the Department of Labor (DOL); increased the penalties for employers who have been found to be in violation of DOL’s rules; and created a “whistle blower” clause to protect H-1B workers who filed complaints against their employer.

Regulatory Flexibility Analysis

Required: Undetermined

Federalism: No

Agency Contact: Katherine A. Baldwin
Deputy Special Counsel
Department of Justice
Civil Rights Division
Office of Special Counsel for Immigration-Related Unfair Employment Practices 950 Pennsylvania Avenue NW
Washington, DC 20530
Phone: 202 616-5594
Title: Amendments to the Procedures for the Administration of Section 5 of the Voting Rights Act of 1965

Abstract: Section 5 of the Voting Rights Act of 1965 requires certain States and their political subdivisions (covered jurisdictions) to obtain "preclearance" from the Federal Government of proposed changes in voting practices and procedures prior to their implementation. Preclearance may be obtained either through litigation in the United States District Court for the District of Columbia or administratively from the Attorney General. In 1971, the Department first issued procedures for the administration of section 5 to inform covered jurisdictions concerning the manner in which they could comply with section 5 in the administrative proceeding before the Attorney General. In subsequent years, the Department has amended these procedures to reflect changes in section 5 law and in the Attorney General's internal practices, and to make the procedures clearer and easier to follow. In the many years since the last major amendment to the procedures, there have been significant changes in section 5 law and in the practices employed by the Department in processing submissions, which are not reflected in the existing procedures.

Priority: Substantive, Nonsignificant

Agenda Stage of Rulemaking: Proposed Rule

Major: No

Unfunded Mandates: No

CFR Citation: 28 CFR 51 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 5 USC 301; 28 USC 509 to 510; 42 USC 1973a(c); 42 USC 1973c

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local; State

Federalism: No

Agency Contact: Christopher Coates
Chief, Voting Section
Department of Justice
Civil Rights Division
1800 G Street NW
Washington, DC 20006
Phone: 202 307-2767

Title: Amendments to Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs and Implementation of Executive Order 12250

Abstract: In 1988, the Civil Rights Restoration Act (CRRA) added definitions of "program or activity" and "program" to title VI
and added a definition of "program or activity" to section 504. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. In a joint rulemaking described at RIN 1190-AA49, and published in the Federal Register on August 26, 2003, the Department of Justice and other Federal agencies conformed their regulations to the CRRA. In the rulemaking described under this RIN (1190-AA52) the Department of Justice proposes to make conforming amendments to its coordination regulations concerning agency enforcement of title VI of the Civil Rights Act of 1964, 28 CFR 42.401 to 42.415. The proposed amendments explicitly incorporate the CRRA's definitions of "program or activity" and "program" into the Department's title VI and section 504 coordination regulations. In addition, the Department of Justice proposes to amend portions of its coordinating regulations that govern title VI enforcement by the Federal agencies, which have not been updated since they were issued 1980. The proposed amendments to the title VI coordination regulation will change and strengthen several requirements including data and information collection; the procedures to determine compliance, including grant application reviews and post-approval reviews; the components of Federal agency title VI enforcement plans; and the requirements with respect to meaningful access for limited English proficient individuals.

Priority: Other Significant
Major: No
Unfunded Mandates: No
CFR Citation: 28 CFR 42.401 to 42.415; 28 CFR 41.1 to 41.58 (To search for a specific CFR, visit the Code of Federal Regulations.)
Legal Authority: 42 USC 2000d et seq; 29 USC 706; 29 USC 794; EO 12250
Legal Deadline: None

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Regulatory Flexibility Analysis Required: No
Government Levels Affected: Federal; Local; State
Federalism: No
Agency Contact: Merrily A. Friedlander
Chief, Coordination and Review Section
Department of Justice
Civil Rights Division
P.O. Box 66560
Washington, DC 20035-6560
Phone: 202 307-2222
TDD Phone: 202 307-2678
FAX: 202 307-0595
E-Mail: merrily.a.friedlander@usdoj.gov

Title: Amendments to the Part 55--Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups
Abstract: The language minority provisions of the Voting Rights Act, sections 4(f)(4) and 203, require that certain States and political subdivisions of States (covered jurisdictions) provide materials and information about elections and voting in one or more languages other than English. Under section 203, coverage determinations are based on Census data, made by the Director of the Census, become effective upon publication in the Federal Register, and are not subject to judicial review. In 1976, the Department first issued guidelines on implementation of the language minority provisions of the Voting Rights Act to assist jurisdictions in understanding how the Department measures compliance and enforces these provisions. A table listing jurisdictions covered by both section 4(f)(4) and section 203, as well as the language minority group or groups for which each is covered, is included as an appendix to the guidelines. In subsequent years, the Department has amended these guidelines to reflect changes enacted in the section 203 coverage formula and new section 203 determinations by the Director of the Census, which have been made after each decennial census. The last such revisions to the guidelines were published as a final rule without notice or comment period (58 FR 35371; Jul. 1, 1993). On July 26, 2002, the Director of the Census published in the Federal Register new section 203 determinations based on 2000 Census data (67 FR 48871; Jul. 26, 2002). The appendix should be updated to reflect these determinations currently in effect. The section 4(f)(4) determinations have not changed. On
July 27, 2006, the President signed the "Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments of 2006," Public Law 109-246, 120 Stat. 577, which includes three provisions affecting section 203 of the Voting Rights Act. In addition, the expiration date for section 4(f)(4) and 203, as well as the identification of the census data for making section 203 determinations, should be changed to reflect the amendments to the Voting Rights Act enacted in 2006.

Priority: Other Significant  
Agenda Stage of Rulemaking: Proposed Rule  
Major: No  
Unfunded Mandates: No  
CFR Citation: 28 CFR 55 (To search for a specific CFR, visit the Code of Federal Regulations)  
Legal Authority: 5 USC 301; 28 USC 509 to 510; 42 USC 1973b; 42 USC 1973(d); 42 USC 1973aa-1a to 1973aa-2  
Legal Deadline: None

Title: Implementation of the ADA Amendments Act of 2008 (Title II and Title III of the ADA)  
Abstract: The Department of Justice is amending its regulations implementing title II and title III of the Americans with Disabilities Act (ADA), 28 CFR part 35 and 28 CFR part 36, to implement changes to the ADA enacted in the ADA Amendments Act of 2008, Public Law 110-325, 122 Stat. 3553 (Sept. 25, 2008). The ADA Amendments Act took effect on January 1, 2009. The ADA Amendments Act amended the Americans With Disabilities Act, 42 U.S.C. 12101, et seq., to clarify terms within the definition of disability and to establish standards that must be applied to determine if a person has a covered disability. These changes are intended to mitigate the effects of the Supreme Court's decisions in Sutton v. United Airlines, 527 U.S. 471 (1999), and Toyota Motor Manufacturing v. Williams, 534, U.S. 184 (2002). Specifically, the ADA Amendments Act (1) Adds illustrative lists of "major life activities," including "major bodily functions," that provide more examples of covered activities and covered conditions than are now contained in agency regulations (sec. 3(2)); (2) clarifies that a person who is "regarded as" having a disability does not have to be regarded as being substantially limited in a major life activity (sec. 3(3)); and (3) adds rules of construction regarding the definition of disability that provide guidance in applying the term "substantially limits" and prohibit consideration of mitigating measures in determining whether a person has a disability (sec. 3(4)).

Priority: Other Significant  
Agenda Stage of Rulemaking: Proposed Rule  
Major: No  
Unfunded Mandates: No  
CFR Citation: 28 CFR 35; 28 CFR 36 (To search for a specific CFR, visit the Code of Federal Regulations)  
Legal Authority: PL 110-325; 42 USC 12134(a); 42 USC 12186(b)  
Legal Deadline: None

Timetable:

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Regulatory Flexibility Analysis

Required: Undetermined

Small Entities Affected: Business; Governmental Jurisdictions

Energy Affected: No

Agency Contact: John L. Wodatch
Chief, Disability Rights Section
Department of Justice
Civil Rights Division
950 Pennsylvania Avenue NW
Washington, DC 20030
Phone: 800 514-0301
TDD Phone: 800 514-0383
FAX: 202 307-1198

Department of Justice (DOJ)
Civil Rights Division (CRT)

Title: Implementation of the ADA Amendments Act of 2008 (Section 504 of the Rehabilitation Act)

Abstract: The Department of Justice is amending its regulations implementing section 504 of the Rehabilitation Act of 1973, as amended, 28 CFR part 39 and part 42, subpart G, and its regulation implementing E.O. 12250, 28 CFR part 41, to reflect statutory amendments to the definition of disability enacted in the ADA Amendments Act of 2008, Public Law 110-325, 122 Stat. 3553 (Sept. 25, 2008). The ADA Amendments Act took effect on January 1, 2009. The ADA Amendments Act revised 29 U.S.C. section 705, to make the definition of disability used in the nondiscrimination provisions in title V of the Rehabilitation Act consistent with the amended ADA requirements. These amendments (1) Add illustrative lists of "major life activities," including "major bodily functions," that provide more examples of covered activities and covered conditions than are now contained in agency regulations (sec. 3(2)); (2) clarify that a person who is "regarded as" having a disability does not have to be regarded as being substantially limited in a major life activity (sec. 3(3)); and (3) add rules of construction regarding the definition of disability that provide guidance in applying the term "substantially limits" and prohibit consideration of mitigating measures in determining whether a person has a disability (sec. 3(4)). The Department anticipates that these changes will published for comment in a proposed rule within the next 12 months. During the drafting of these revisions, the Department will also review the currently published rules to ensure that any other statutory changes in the Rehabilitation Act have been properly addressed in these regulations.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Unfunded Mandates: No

CFR Citation: 28 CFR 39; 28 CFR 41; 28 CFR 42, subpart G (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: PL 110-325; 29 USC 794 (sec 504 of the Rehabilitation Act of 1973, as amended); EO 12250 (45 FR 72955; 11/04/1980)

Legal Deadline: None

Timetable:

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: Business; Governmental Jurisdictions

Energy Affected: No

Agency Contact: John L. Wodatch
Chief, Disability Rights Section
Department of Justice
Civil Rights Division
950 Pennsylvania Avenue NW

Government Levels Affected: Local; State

Federalism: Undetermined
Abstract: In 1991, the Department of Justice published regulations to implement title III of the Americans With Disabilities Act of 1990 (ADA). Those regulations include the ADA Standards for Accessible Design, which establish requirements for the design and construction of accessible facilities that are consistent with the ADA Accessibility Guidelines (ADAAG) published by the U.S. Architectural and Transportation Barriers Compliance Board (Access Board). In the time since the regulations became effective, the Department of Justice and the Access Board have each gathered a great deal of information regarding the implementation of the Standards. The Access Board began the process of revising ADAAG a number of years ago. It published new ADAAG in final form on July 23, 2004, after having published guidelines in proposed form in November 1999 and in draft final form in April 2002. In order to maintain consistency between ADAAG and the ADA Standards, the Department is reviewing its title III regulations and expects to propose, in one or more stages, to adopt revised ADA Standards consistent with the final revised ADAAG and to make related revisions to the Department's title III regulations. In addition to maintaining consistency between ADAAG and the Standards, the purpose of this review and these revisions is to more closely coordinate with voluntary standards; to clarify areas which, through inquiries and comments to the Department's technical assistance phone lines, have been shown to cause confusion; to reflect evolving technologies in areas affected by the Standards; and to comply with section 610 of the Regulatory Flexibility Act, which requires agencies once every 10 years to review rules that have a significant economic impact upon a substantial number of small entities. The first step in adopting revised Standards was an advance notice of proposed rulemaking that was published in the Federal Register on September 30, 2004, at 69 FR 58768, issued under both title II and title III. The Department believes that the advance notice simplified and clarified the preparation of the proposed rule. In addition to giving notice that the proposed rule will adopt revised ADA accessibility standards, the advance notice raised questions for public comment and proposed a framework for the regulatory analysis that accompanied the proposed rule. The adoption of revised ADAAG will also serve to address changes to the ADA Standards previously proposed in RIN 1190-AA26, RIN 1190-AA38, RIN 1190-AA47, and RIN 1190-AA50, all of which have now been withdrawn from the Unified Agenda. These changes include technical specifications for facilities designed for use by children, accessibility standards for State and local government facilities, play areas, and recreation facilities, all of which had previously been published by the Access Board. The timetable set forth below refers to the notice of proposed rulemaking that the Department issued as the second step of the above described title III rulemaking. This notice proposed to adopt revised ADA Standards for Accessible Design consistent with the minimum guidelines of the revised ADAAG, and initiated the review of the regulation in accordance with the requirements of section 610 of the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

Title: Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities

Priority: Economically Significant

Major: Yes

Unfunded Mandates: No

CFR Citation: 28 CFR 36 (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; 42 USC 12186(b)

Legal Deadline: None

Regulatory Plan:

Statement of Need: Section 504 of the ADA requires the Access Board to issue supplemental minimum guidelines and requirements for accessible design of buildings and facilities subject to the ADA, including title III. Section 306(c) of the ADA requires the Attorney General to promulgate regulations implementing title III that are consistent with the Access Board's ADA guidelines. Because this rule will adopt standards that are consistent with the minimum guidelines issued by the Access Board, this rule is required by statute. Similarly, the Department's review of its title III regulation is being undertaken to comply with the requirements of the Regulatory Flexibility Act, as amended by SBREFA.

Legal Basis: The summary of the legal basis of authority for this regulation is set forth above under Legal Authority and Statement of Need.

Alternatives: The Department is required by the ADA to issue this regulation. Pursuant to SBREFA, the Department's title
III regulation will consider whether alternatives to the currently published requirements are appropriate.

**Costs and Benefits:** The Access Board has analyzed the effect of applying its proposed amendments to ADAAG to entities covered by titles II and III of the ADA and has determined that they constitute a significant regulatory action for purposes of Executive Order 12866. The Access Board's determination will apply as well to the revised ADA standards published by the Department. As part of its revised ADAAG, the Access Board made available in summary form an updated regulatory assessment to accompany the final revised ADAAG. The Department prepared an initial Regulatory Impact Analysis (RIA), pursuant to E.O. 12866, of the combined economic impact of changes contained in this proposed rule and in the companion NPRM to amend the Department's title II regulation (RIN 1190-AA46). The RIA incorporates the elements required for the Initial Regulatory Flexibility Analysis (IRFA) required by the Regulatory Flexibility Act, as amended. A summary of this RIA was published in the Federal Register at 73 FR 37009, 37042 (June 30, 2008). The full analysis is available for public review on www.regulations.gov and on the Department's ADA Home Page, www.ada.gov. A revised RIA will be made available to the public when the final rules are published. The preliminary RIA indicates that the proposed rules will have a net positive public benefit, i.e., the benefits will exceed the costs over the life of the rule. This concept is expressed as the discounted net present value (NPV) The RIA projects that the NPV will be between $7.5 billion (at a 7% discount rate) and $31.1 billion (at a 3% discount rate). The RIA also concludes that the combined effect of the proposed rules would not have a significant economic impact on a substantial number of small entities. Section 4(2) of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1503(2), excludes from coverage under that Act any proposed or final Federal regulation that "establishes or enforces any statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability." Accordingly, this rulemaking is not subject to the provisions of the Unfunded Mandates Reform Act.

**Risks:** Without the proposed changes to the Department's title III regulation, the ADA Standards will fail to be consistent with the ADAAG.

**Timetable:**

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**Additional Information:** RIN 1190-AA44, which will effect changes to 28 CFR 36 (the Department's regulation implementing title III of the ADA), is related to another rulemaking of the Civil Rights Division, RIN 1190-AA46, which will effect changes to 28 CFR 35 (the Department's regulation implementing title II of the ADA).

**Regulatory Flexibility Analysis Required:** Business; Organizations

**Federalism:** No

**Agency Contact:** John L. Wodatch
Chief, Disability Rights Section
Department of Justice
Civil Rights Division
950 Pennsylvania Avenue NW
Washington, DC 20030
Phone: 800 514-0301
TDD Phone: 800 514-0383
FAX: 202 307-1198
The summary of the legal basis of authority for this regulation is set forth above under Legal Authority and Statement of Need.

Alternatives: The Department is required by the ADA to issue this regulation as described in the Statement of Need above. Pursuant to SBREFA, the Department's title II regulation will consider whether alternatives to the currently published requirements are appropriate.

Costs and Benefits: The Administration is deeply committed to ensuring that the goals of the ADA are met. Promulgating this amendment to the Department's ADA regulations will ensure that entities subject to the ADA will have one comprehensive design standard to follow. Currently, entities subject to title II of the ADA (State and local governments) have a choice between following the Department's ADA Standards for title III, which were adopted for places of public accommodation and commercial facilities and which do not contain standards for common State and local government buildings (such as courthouses and prisons), or the Uniform Federal Accessibility Standards (UFAS). By developing one comprehensive standard, the Department will eliminate the confusion that arises when governments try to mesh two different standards. As a result, the overarching goal of improving access to persons with disabilities will be better served. The Access Board has analyzed the effect of applying its proposed rulemaking that the Department issued as the second step of the above-described title III rulemaking. This notice also proposed to eliminate the Uniform Federal Accessibility Standards (UFAS) as an alternative to the ADA Standards for Accessible Design; harmonize the differences between the ADA Standards and national consensus standards and model codes; update the ADA Standards to reflect technological developments that meet the needs of persons with disabilities; and coordinate future ADA Standards revisions with national standards and model code organizations. As a result, the overarching goal of improving access for persons with disabilities so that they can benefit from the goods, services, and activities provided to the public by covered entities will be met. The first part of the rulemaking process was an advance notice of proposed rulemaking, published in the Federal Register on September 30, 2004, at 69 FR 58768, issued under both title II and title III. The Department believes the advance notice simplified and clarified the preparation of the proposed rule to follow. In addition to giving notice of the proposed rule that will adopt revised ADA accessibility standards, the advance notice raised questions for public comment and proposed a framework for the regulatory analysis that accompanied the proposed rule. The adoption of revised ADA Standards consistent with revised ADAAG will also serve to address changes to the ADA Standards previously proposed under RIN 1190-AA26, RIN 1190-AA38, RIN 1190-AA47, and RIN 1190-AA50, all of which have now been withdrawn from the Unified Agenda. These changes include technical specifications for facilities designed for use by children, accessibility standards for State and local government facilities, play areas, and recreation facilities, all of which had previously been published by the Access Board. The timetable set forth below refers to the notice of proposed rulemaking that the Department issued as the second step of the above-described title III rulemaking. This notice also proposed to eliminate the Uniform Federal Accessibility Standards (UFAS) as an alternative to the ADA Standards for Accessible Design.
significant regulatory action for purposes of Executive Order 12866. The Access Board's determination will apply as well to the revised ADA Standards published by the Department. As part of its revised ADAAG, the Access Board made available in summary form an updated regulatory assessment to accompany the final revised ADAAG. The Department prepared an initial Regulatory Impact Analysis (RIA), pursuant to E.O. 12866, of the combined economic impact of changes contained in this proposed rule and in the companion NPRM to amend the Department's title III regulation (RIN 1190-AA44). The RIA incorporates the elements required for the Initial Regulatory Flexibility Analysis (IRFA) required by the Regulatory Flexibility Act, as amended. A summary of this RIA was published in the Federal Register at 73 FR 36964, 36996 (June 30, 2008). The full analysis is available for public review on www.regulations.gov and on the Department's ADA Home Page, www.ada.gov. A revised RIA will be made available to the public when the final rules are published. The preliminary RIA indicates that the proposed rules will have a net positive public benefit; i.e., the benefits will exceed the costs over the life of the rule. This concept is expressed as the discounted net present value (NPV) The RIA projects that the NPV will be between $7.5 billion (at a 7% discount rate) and $31.1 billion (at a 3% discount rate). The RIA also concludes that the combined effect of the proposed rules would not have a significant economic impact on a substantial number of small entities. The Access Board has made every effort to lessen the impact of its proposed guidelines on State and local governments but recognizes that the guidelines will have some federalism effects. These effects are discussed in the Access Board's regulatory assessment, which also applies to the Department's proposed rule. Section 4(2) of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1503(2), excludes from coverage under that Act any proposed or final Federal regulation that "establishes or enforces any statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability." Accordingly, this rulemaking is not subject to the provisions of the Unfunded Mandates Reform Act.

**Risks:** Without this amendment to the Department's ADA regulations, regulated entities will be subject to confusion and delay as they attempt to sort out the requirements of conflicting design standards. This amendment should eliminate the costs and risks associated with that process.

**Timetable:**

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**Additional Information:** RIN 1190-AA46, which will effect changes to 28 CFR 35 (the Department's regulation implementing title II of the ADA), is related to another rulemaking of the Civil Rights Division, RIN 1190-AA44, which will effect changes to 28 CFR 36 (the Department's regulation implementing title III of the ADA). By adopting revised ADAAG, this rulemaking will, among other things, address changes to the ADA Standards previously proposed in RINs 1190-AA26, 1190-AA36, and 1190-AA38, which have been withdrawn and merged into this rulemaking. These changes include accessibility standards for State and local government facilities that had been previously published by the Access Board (RIN 1190-AA26) and the timing for the compliance of State and local governments with the curb-cut requirements of the title II regulation (RIN 1190-AA36). In order to consolidate regulatory actions implementing title II of the ADA, on February 15, 2000, RINs 1190-AA26 and 1190-AA38 were merged into this rulemaking and on March 5, 2002, RIN 1190-AA36 was merged into this rulemaking.

**Regulatory Flexibility Analysis**

**Required:** Governmental Jurisdictions

**Federalism:** Yes

**Agency Contact:** John L. Wodatch  
Chief, Disability Rights Section  
Department of Justice  
Civil Rights Division  
950 Pennsylvania Avenue NW  
Washington, DC  20030  
Phone: 800 514-0301  
TDD Phone: 800 514-0383  
FAX: 202 307-1198
### Employment and Training Administration - Proposed Rule

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<td>Nondisplacement of Qualified Workers Under Service Contracts</td>
<td>1215-AB69</td>
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<td>1215-AB72</td>
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<td>Regulations Implementing the Longshore and Harbor Workers’ Compensation Act: Recreational Vessels</td>
<td>1215-AB73</td>
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<td>Labor Organization Officer and Employee Report (Form LM-30)</td>
<td>1215-AB74</td>
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<tr>
<td>Proposal to Rescind the Form T-1; Require Subsidiary Organization Reporting; Revise Interpretation Regarding LMRDA Coverage of Public Sector Intermediate Unions</td>
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<td>The Family and Medical Leave Act of 1993, as Amended</td>
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<td>Records To Be Kept by Employers Under the Fair Labor Standards Act</td>
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<td>Interpretation of the “Advice” Exemption of Section 203(c) of the Labor-Management Reporting and Disclosure Act</td>
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<td>Claims for Compensation Under the Federal Employees’ Compensation Act</td>
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### Employment Standards Administration - Final Rule

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<td>1215-AB13</td>
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<tr>
<td>Child Labor Regulations, Orders, and Statements of Interpretation</td>
<td>1215-AB57</td>
</tr>
<tr>
<td>Death Gratuity Authorized for Federal Employees</td>
<td>1215-AB66</td>
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<tr>
<td>Notification of Employee Rights Under Federal Labor Laws</td>
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## Employment Standards Administration - Long-term Action

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<tr>
<td>Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors: Evaluation of Recruitment and Placement Results Under Section 503</td>
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<td>Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors: Evaluation of Recruitment and Placement Results Under the VEVRAA of 1974, as amended</td>
<td>1215-AB80</td>
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<td>Construction Contractor Affirmative Action Requirements</td>
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## Occupational Safety and Health Administration - PreRule

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<tr>
<td>Occupational Exposure to Crystalline Silica</td>
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<tr>
<td>Occupational Exposure to Beryllium</td>
<td>1218-AB76</td>
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<td>Emergency Response and Preparedness</td>
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<td>Methylene Chloride</td>
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<td>Occupational Exposure to Diacetyl and Food Flavorings Containing Diacetyl</td>
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<td>Bloodborne Pathogens (610 Review)</td>
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<tr>
<td>Confined Spaces in Construction</td>
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<td>Walking Working Surfaces and Personal Fall Protection Systems (Slips, Trips, and Fall Prevention)</td>
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<td>Standards Improvement</td>
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<td>Nationally Recognized Testing Laboratories Fee Schedule–Revised Approach</td>
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<td>Cooperative Agreements</td>
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<td>Occupational Exposure to Hexavalent Chromium; Final Rule Remand</td>
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<td>Occupational Injury and Illness Recording and Reporting Requirements</td>
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## Occupational Safety and Health Administration - Final Rule

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<td>General Working Conditions for Shipyard Employment</td>
<td>1218-AB50</td>
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<tr>
<td>Electric Power Transmission and Distribution; Electrical Protective Equipment</td>
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<td>Cranes and Derricks in Construction</td>
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<td>Explosives</td>
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<td>Procedures for Handling Discrimination Complaints Under Federal Employee Protection Statutes</td>
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<td>Procedures for Handling Employee Retaliation Complaints Under the National Transit Systems Security Act of 2007; Surface Transportation Assistance Act of 1982, as Amended; and Federal Rail Safety Act</td>
<td>1218-AC36</td>
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<tr>
<td>Abbreviated Portacount® Quantitative Fit-Testing Protocol</td>
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<td>Procedures for the Handling of Retaliation Complaints Under the Employee Protection Provisions of the Consumer Product Safety Improvement Act (CPSIA) of 2008</td>
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**Occupational Safety and Health Administration - Long-term Action**

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<td>Hearing Conservation Program for Construction Workers</td>
<td>1218-AB89</td>
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<tr>
<td>Revision and Update of Standards for Power Presses</td>
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**Occupational Safety and Health Administration - Completed Action**

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<tr>
<td>Updating OSHA Standards Based on National Consensus Standards</td>
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<tr>
<td>Abbreviated Bitrix Qualitative Fit-Testing Protocol</td>
<td>1218-AC29</td>
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<tr>
<td>Illinois State Plan for Public Employees Only--Initial State Plan Approval</td>
<td>1218-AC44</td>
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**Mine Safety and Health Administration - PreRule**

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<tr>
<td>Coal Mine Respirable Dust; Continuous Personal Dust Monitor (CPDMs)</td>
<td>1219-AB48</td>
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<tr>
<td>Proximity Detection Systems for Underground Mines</td>
<td>1219-AB65</td>
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<td>Metal and Nonmetal Impoundments</td>
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**Mine Safety and Health Administration - Proposed Rule**

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<tr>
<td>Respirable Crystalline Silica Standard</td>
<td>1219-AB36</td>
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<td>Revising Electrical Product Approval Regulations</td>
<td>1219-AB37</td>
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<tr>
<td>Occupational Exposure to Coal Mine Dust (Lowering Exposure)</td>
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**Mine Safety and Health Administration - Final Rule**

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<tr>
<td>High-Voltage Continuous Mining Machine Standard for Underground Coal Mines</td>
<td>1219-AB34</td>
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<tr>
<td>Coal Mine Dust Personal Monitors</td>
<td>1219-AB61</td>
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<tr>
<td>Criteria and Procedures for Proposed Assessment of Civil Penalties/Recordkeeping and Reporting; Immediate Notification</td>
<td>1219-AB63</td>
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</table>
Title: YouthBuild Program Regulation

Abstract: The YouthBuild Transfer Act of 2006, Public Law 109-281, enacted on September 22, 2006, transfers oversight and administration of the YouthBuild program from the U.S. Department of Housing and Urban Development (HUD) to the U.S. Department of Labor (DOL). The YouthBuild program targets are high school dropouts, adjudicated youth, youth aging out of foster care, and other at-risk youth populations. The program model balances in-school learning, geared toward a high school diploma or GED, and construction skills training, geared toward a career placement for the youth. DOL intends to develop regulations in response to the legislation and to guide the program implementation and management.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Unfunded Mandates: No

CFR Citation: Not Yet Determined (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: PL 109-281

Legal Deadline: None
Regulatory Plan:

Statement of Need: The YouthBuild Transfer Act of 2006 (Transfer Act), PL 109-281, transfers the YouthBuild program from the HUD to the DOL. The transfer incorporates technical modifications and amends certain program features. The Employment and Training Administration is proposing new regulations which will govern its administration of the YouthBuild program. The Transfer Act maintains all the goals of the YouthBuild program as originally developed under HUD, including supporting the development of affordable housing, but shifts the emphasis to skills training for youth participants. The Transfer Act makes the YouthBuild program consistent with the job training, education, and employment goals under the Workforce Investment Act, PL 105-220, as amended. This includes authorizing DOL to apply the common performance measures developed for Federal youth activities employment and training programs. The Transfer Act authorizes education and workforce investment, such as occupational skills training, internships, and job shadowing, as well as community service and peer-centered activities. In addition, the Transfer Act allows for greater coordination of the YouthBuild program with the workforce investment system, including local workforce investment boards, and One-Stop Career Centers, and their partner programs. These strengthened connections will enhance the job training and employment opportunities available to participating at-risk youth.

Legal Basis: These regulations are authorized by Public Law 109-281, The YouthBuild Transfer Act of 2006, to implement changes to the amendments to subtitle D of Title I of the Workforce Investment Act of 1998 as amended (WIA).

Alternatives: The public will be afforded an opportunity to provide comments on the YouthBuild program changes when the Department publishes the NPRM in the Federal Register. A Final Rule will be issued after analysis and incorporation of public comments to the NPRM.

Costs and Benefits: Preliminary estimates of the anticipated costs of this regulatory action have not been determined at this time and will be determined at a later date.

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

Timetable:

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Regulatory Flexibility Analysis Required: No  Government Levels Affected: No
Federalism: No
Energy Affected: No
Agency Contact: Grace A. Kilbane
Administrator, Office of Workforce Investment
Department of Labor
Employment and Training Administration
200 Constitution Avenue NW. FP Building, Room S-4231
Washington, DC 20210
Phone: 202 693-3980
E-Mail: kilbane.grace@dol.gov

Department of Labor (DOL)
Employment and Training Administration (ETA)

Title: Trade Adjustment Assistance for Workers Program; Regulations
Abstract: The Trade and Globalization Assistance Act of 2009 (Act), Div. B, Title I, Subtitle I of the American Recovery and Reinvestment Act of 2009, reauthorizes the Trade Adjustment Assistance for Workers program. More specifically, the law amends the criteria for certification of worker groups as eligible to apply for benefits and services and substantially expands those benefits and services. It also requires reports on the program's effectiveness. The Act amends section 248 of the Trade Act of 1974 (19 U.S.C. 2320) and requires that the Secretary issue regulations to carry out these provisions.

Priority: Other Significant  Agenda Stage of Rulemaking: Proposed Rule
Major: No  Unfunded Mandates: No
CFR Citation: 20 CFR 617, 618, 665, 671; 29 CFR 90  (To search for a specific CFR, visit the Code of Federal Regulations.)
Legal Authority: 19 USC 2320; Secretary's Order 3-2007, 72 FR 15907

Legal Deadline: None

Regulatory Plan:

Statement of Need: The Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA) is the portion of the American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. No. 111-5, Div. B, Title I, Subtitle I) that reauthorized and substantially amended the Trade Adjustment Assistance for Workers (TAA) program. Significant program changes enacted in the TGAAA include amending the certification criteria to expand the types of workers who may be certified and expanding the available program benefits. This proposed rule is important because it will update the program's regulations to be in concert with the notable program changes wrought by the TGAAA.

Legal Basis: These regulations are authorized by sections 248 of the Trade Act (19 U.S.C. 2320), as amended by the TGAAA.

Alternatives: The public will be afforded an opportunity to provide comments on the proposed regulatory changes when the Department publishes the NPRM in the Federal Register. A final rule will be issued after analysis of, and response to, public comments.

Costs and Benefits: Preliminary estimates of the anticipated costs of this regulatory action have not been determined at this time and will be determined at a later date.

Risks:

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Small Entities Affected: No

Federalism: No

Agency Contact: Erin Fitzgerald
Office of Trade Adjustment Assistance
Department of Labor
Employment and Training Administration
200 Constitution Avenue NW. Room C-5311, FP Building
Washington, DC 20210
Phone: 202 693-3500
FAX: 202 693-3149
E-Mail: fitzgerald.erin@dol.gov

Department of Labor (DOL)
Employment and Training Administration (ETA)

RIN: 1205-AB58

View Related Documents

Title: Labor Certification Process and Enforcement for Temporary Employment in Occupations Other Than Agriculture or Registered Nursing in the United States (H-2B Workers)

Abstract: The Immigration and Nationality Act of 1952, as amended, requires the Department of Homeland Security, prior to the admission of H-2B workers, to seek advice from the Department of Labor regarding the importation of such workers. Specifically, DOL certifies that there is not sufficient U.S. worker(s) able, available, willing and qualified at the time of an application for a visa, and that the employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers. The Department currently administers such certification through an attestation-based program. As a result of the Department's program experience, this regulation shall propose to re-engineer the H-2B program in order to satisfy the Secretary of Labor's statutory responsibilities and to strengthen the program's integrity and protections of U.S. workers.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Unfunded Mandates: No

CFR Citation: 20 CFR 655 (To search for a specific CFR, visit the Code of Federal Regulations.)
Legal Authority: 8 USC 1101(a)(15)(H)(ii)(B); 8 USC 1184(e)

Legal Deadline: None

Timetable:

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Regulatory Flexibility Analysis Required: No  Government Levels Affected: State

Federalism: No

Energy Affected: No

Agency Contact: Dr. William L. Carlson
Administrator, Office of Foreign Labor Certification
Department of Labor
Employment and Training Administration
FP Building Room C-4312 200 Constitution Avenue NW.
Washington, DC 20210
Phone: 202 693-3010
E-Mail: carlson.william@dol.gov

Title: Equal Employment Opportunity in Apprenticeship and Training, Amendment of Regulations

Abstract: Revisions to the equal opportunity regulatory framework for the National Apprenticeship Act are a critical element in the Department's vision to promote and expand registered apprenticeship opportunities in the 21st century while continuing to safeguard the welfare and safety of apprentices. In October 2008, the Agency issued a Final rule updating regulations for Apprenticeship Programs and Labor Standards for Registration. These regulations, codified at Title 29 Code of Federal Regulations (CFR) part 29, had not been updated since first promulgated in 1977. The companion regulations, 29 CFR part 30, Equal Employment Opportunity (EEO) in Apprenticeship and Training, have not been amended since first promulgated in 1978. The Agency now proposes to update 29 CFR part 30 to ensure that the National Registered Apprenticeship System is consistent and in alignment with changes in Affirmative Action regulations and EEO laws and court cases that have occurred over the past three decades [e.g. Americans with Disabilities Act (ADA) and the Age Discrimination in Employment Act (ADEA)], and recent revisions to Title 29 CFR part 29. This second phase of regulatory updates will ensure that Registered Apprenticeship is positioned to continue to provide economic opportunity for millions of Americans while keeping pace with these new requirements.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Major: No  Unfunded Mandates: No

CFR Citation: 29 CFR 30 (Revision) (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: Sec. 1, 50 Stat. 664, as amended (29 USC 50; 40 USC 276c; 5 USC 301); Reorganization Plan No. 14 of 1950, 64 Stat. 1267 (5 USC App. P. 534)

Legal Deadline: None

Regulatory Plan:

Statement of Need: Federal regulations for Equal Employment Opportunity (EEO) in Apprenticeship and Training have not been updated since first promulgated in 1978. Updates to these regulations are necessary to ensure that DOL regulatory requirements governing the National Registered Apprenticeship System are consistent with the current state of EEO law, including affirmative action, the passage of, for example, the Americans with Disabilities Act (ADA) and the Age Discrimination in Employment Act (ADEA), and recent revisions to Title 29 CFR part 29, regulations for Apprenticeship Programs and Labor Standards for Registration.

Legal Basis: These regulations are authorized by the National Apprenticeship Act of 1937 (29 U.S.C. 50) and the Copeland Act (40 U.S.C. 276c). These regulations will set forth policies and procedures to promote equality of opportunity in apprenticeship programs registered with the U.S. Department of Labor or in State Apprenticeship Agencies recognized by the U.S. Department of Labor.
Alternatives: The public will be afforded an opportunity to provide comments on the proposed amendment to Apprenticeship EEO regulations when the Department publishes a Notice of Proposed Rulemaking (NPRM) in the Federal Register. A Final Rule will be issued after analysis and incorporation of public comments to the NPRM.

Costs and Benefits: Preliminary estimates of anticipated costs and benefits of this regulatory action have not been determined at this time. The Department will explore options for conducting a cost-benefit analysis for this regulatory action, if necessary.

Risks:

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Regulatory Flexibility Analysis Required: No  Government Levels Affected: Federal; State; Tribal
Small Entities Affected: No  Federalism: Yes
Energy Affected: No

Agency Contact: John V. Ladd
Office of Apprenticeship
Department of Labor
Employment and Training Administration
200 Constitution Avenue NW Room N5311 FP Building
Washington, DC 20210
Phone: 202 693-2796
FAX: 202 693-3799
E-Mail: ladd.john@dol.gov

Department of Labor (DOL)
Employment and Training Administration (ETA)

RIN: 1205-AB47

Title: Senior Community Service Employment Program; Performance Accountability
Abstract: The Older Americans Act Amendments of 2006, Public Law 109-365, enacted on October 17, 2006, contains provisions amending title V of that Act, which authorizes the Senior Community Service Employment Program (SCSEP). The Amendments, effective July 1, 2007, make substantial changes to the current SCSEP provisions in the Older Americans Act relating to performance accountability. Section 513(2) of title V requires that the Agency establish and implement new measures of performance by July 1, 2007. Section 513(b)(3) required that the Secretary issue definitions of indicators of performance through regulation after consultation with stakeholders. Therefore, the Interim Final Rule (IFR) implemented changes to the SCSEP program performance accountability regulations found at 20 CFR 641 in subpart G. Changes to other subparts of part 641 were implemented through a separate Notice of Proposed Rulemaking, published Aug. 14, 2008 (73 FR 47770).

Priority: Other Significant  Agenda Stage of Rulemaking: Final Rule
Major: No  Unfunded Mandates: No
CFR Citation: 20 CFR 641  (To search for a specific CFR, visit the Code of Federal Regulations )
Legal Authority: 42 USC 3056 et seq
Legal Deadline:

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Regulatory Flexibility Analysis Required: No  Government Levels Affected: Federal; State; Tribal
Title: Senior Community Service Employment Program

Abstract: The Older Americans Act Amendments of 2006, Public Law 109-365, enacted on October 17, 2006, contain provisions amending title V of that Act, which authorizes the Senior Community Service Employment program (SCSEP). The Amendments, effective July 1, 2007, made substantial changes to the SCSEP provisions in the Older Americans Act, including new requirements relating to performance accountability, income eligibility for program participation, competition of national grants, and services to participants. The Notice of Proposed Rulemaking (NPRM) consists of 8 subparts: subpart A--Purpose and Definitions; subpart B--Coordination with the Workforce Investment Act; subpart C--the State Plan; subpart D--Grant Application and Responsibility Review Requirements for State and National Grants; subpart E--Services to Participants; subpart F--Pilots, Demonstration, and Evaluation Projects, subpart H--Administrative Requirements; and subpart I--Grievance Procedures and Appeals Process. The performance accountability requirements (subpart G) were implemented through a separate Interim Final Rule (IFR).

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 20 CFR 641 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 42 USC 3056 et seq

Legal Deadline: None

Timetable:

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Title: Attestations by Facilities Temporarily Employing H-1C Nonimmigrant Aliens as Registered Nurses

Abstract: This Final Rule reflects the extension of the H-1C visa program, which was extended by the Nursing Relief for Disadvantaged Areas Reauthorization Act of 2005 (NRDARA), Public Law 109-423, 120 Stat. 2900 (2006). In 2000, the Nursing Relief for Disadvantaged Areas Act of 1999 (NRDAA), Public Law 106-95, 113 Stat. 1312 (1999), amended the Immigration and Nationality Act to create a temporary visa program for nonimmigrant aliens to work as registered nurses for up to 3 years in facilities serving health professional shortage areas, subject to certain conditions. The NRDAA specified that the H-1C visas were available only during the 4-year period beginning on the date that interim or final regulations were promulgated. Under this Act, the Department published an interim rule, on August 22, 2000 (65 FR 51137), which was open for public comment through September 21, 2000. Before the NRDARA was enacted on December 20, 2006, the Department determined on April 24, 2006, that continued rulemaking was neither necessary nor appropriate at that time, because health care facilities could not sponsor new H-1C visas and no new H-1C visa could be issued. Therefore, the Department discontinued this rulemaking (71 FR 22912). However, given the new statutory authorization for the program, the Department has determined that it is appropriate to finalize the rule. Section 3 of Public Law 109-423 has exempted this rulemaking from the Administrative Procedure Act, so additional notice and comment are unnecessary.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 22 CFR 655 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: PL 109-423; 120 Stat 2900; 8 USC 1101 (a)(15)(H)(i)(c); 8 USC 1182 (m)(2)

Legal Deadline: None

Timetable:

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal; State

Small Entities Affected: Business

Federalism: Undetermined

Energy Affected: No

Agency Contact: Dr. William L. Carlson
Administrator, Office of Foreign Labor Certification
Department of Labor
Employment and Training Administration
FP Building Room C-4312 200 Constitution Avenue NW.
Washington, DC 20210
Phone: 202 693-3010
E-Mail: carlson.william@dol.gov

Title: Federal-State Unemployment Compensation Program; Funding Goals for Interest-Free Advances

Abstract: Under title XII of the Social Security Act (42 U.S.C. 1321 et seq.), States may, when needed, obtain repayable advances from the Federal unemployment account in the Unemployment Trust Fund to pay State unemployment compensation benefits. States may be exempted from the requirement to pay interest on these advances under certain conditions, including
the condition that the “State meets funding goals” established by the Secretary of Labor in regulations. The regulation would establish these funding goals.

Priority: Other Significant
Major: No
Unfunded Mandates: No
CFR Citation: 20 CFR 606 (To search for a specific CFR, visit the Code of Federal Regulations.)
Legal Authority: 42 USC 1322(b)(2)(C); 26 USC 7805(a); Secretary Order No 3-2007, April 3, 2007 (72 FR 15907)
Legal Deadline: None

Timetable:

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Regulatory Flexibility Analysis Required: No
Government Levels Affected: State
Small Entities Affected: No
Federalism: No
Energy Affected: No

Agency Contact: Ronald Wilus
Chief, Division of Fiscal and Actuarial Services
Department of Labor
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E-Mail: wilus.ronald@dol.gov

Title: Temporary Agricultural Employment of H-2A Aliens in the United States
Abstract: The Department of Labor (the Department of DOL) proposes to amend its regulations governing the certification of temporary employment of nonimmigrant workers in temporary or seasonal agricultural employment and the enforcement of the contractual obligations applicable to employers of such nonimmigrant workers. This Notice of Proposed Rulemaking would reexamine the process by which employers obtain a temporary labor certification from the Department for use in petitioning the Department of Homeland Security (DHS) to employ a nonimmigrant worker in H-2A status.

Priority: Other Significant
Major: No
Unfunded Mandates: No
CFR Citation: 20 CFR 655 (To search for a specific CFR, visit the Code of Federal Regulations.)
Legal Authority: 8 USC 1101(a)(15)(H)(ii)(a); 8 USC 1188
Legal Deadline: None

Regulatory Plan:
Statement of Need: The Department has determined for a variety of reasons that a new rulemaking effort is necessary for the H-2A program. The Department believes that the policy underpinnings of the 2008 Final Rule, e.g., streamlining the H-2A regulatory process to defer many determinations of program compliance until after an application has been fully adjudicated, do not provide an adequate level of protection for either U.S. or foreign workers. In addition, the Department’s experience under the program since January 2009 demonstrates that the policy goals of the 2008 Final Rule have not been met. One of the clear goals of the 2008 Final Rule was to increase the use of the H-2A program and to make the program easier and more affordable to use for the average employer. However, applications have actually decreased since the implementation of the new program. Not only has usage not increased under the program revisions, there has actually been a reversal of an existing multi-year trend toward increased program use. While factors other than the regulatory changes may play a role in this decrease, the Department can not justify the significant decrease in worker protections if the prior rules’ goal of increasing program use is not
being accomplished. The Department believes that there are insufficient worker protections in the attestation-based model in which employers merely confirm, and do not actually demonstrate, that they have performed an adequate test of the U.S. labor market. Even in the first year of the attestation model, it has come to the Department's attention that employers, either from a lack of understanding or otherwise, are attesting to compliance with program obligations with which they have not complied. Such non-compliance appears to be sufficiently substantial and widespread for the Department to revisit the use of attestations, even with the use of back-end integrity measures for demonstrated non-compliance. The Department has also determined that the area in which agricultural workers are most vulnerable – wages – has been adversely impacted to a far more significant extent than anticipated by the 2008 Final Rule. The shift from the AEWR as calculated under the 1987 Rule to the AEWR of the 2008 Final Rule resulted in a substantial reduction of farmworker wages in a number of labor categories, and the obvious effects of that reduction on the workers' and their families' ability to meet necessary costs is an important concern.

**Legal Basis:** These proposed regulations are authorized under Section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act, as amended. 8 U.S.C. 1101(a)(15)(H)(ii)(a); see also 8 U.S.C. 1184(c)(1) and 1188.

**Alternatives:** The Department took into account both the regulations promulgated in 1987, as well as the significant reworking of the regulations in the 2008 Final Rule, in order to arrive at a balance between the worker protections of the 1987 Rule and the program integrity measures of the 2008 Final Rule.

**Costs and Benefits:** Preliminary estimates of the anticipated monetized costs of this proposed regulatory action are $10.56 million in 2009 to $18.07 million in 2018. A final estimate of costs and benefits will be prepared at the Final Rule stage in response to public comments.

**Risks:**

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** Federal; State

**Small Entities Affected:** Business

**Federalism:** No

**Energy Affected:** No

**Agency Contact:** Dr. William L. Carlson
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Department of Labor
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E-Mail: carlson.william@dol.gov

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**Department of Labor (DOL)**
**Employment and Training Administration (ETA)**

**RIN:** 1205-AB56

**Title:** Trade Adjustment Assistance Program; Merit Staffing of State Administration and Allocation of Training Funds to the States

**Abstract:** The Trade and Globalization Assistance Act of 2009 (Act), Div. B, title I, subtitle I of the American Recovery and
Reinvestment Act of 2009, reforms and reauthorizes the Trade Adjustment Assistance (TAA) for Workers program. The Act amended section 236(a)(2) of the Trade Act of 1974 (19 U.S.C. 2296) setting new guidelines and criteria for distributing funds to the States for the purpose of training TAA-certified workers, and added section 236(g) requiring that the Secretary issue regulations to implement the new funding procedures within not later than one year of enactment. This rulemaking would meet that statutory requirement and also proposes that personnel engaged in TAA-funded functions be State employees covered by the merit system of personnel administration applicable to personnel employed in employment security functions.

**Priority:** Other Significant  
**Agenda Stage of Rulemaking:** Final Rule  
**Major:** No  
**Unfunded Mandates:** No  
**CFR Citation:** 20 CFR 618  
(To search for a specific CFR, visit the [Code of Federal Regulations](https://www.gpo.gov/fdsys/search.html))  
**Legal Authority:** 19 USC 2320; Secretary Order No. 3-2007, 72 FR 15907  
**Legal Deadline:**  
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**Regulatory Flexibility Analysis Required:** No  
**Government Levels Affected:** Federal; State  
**Small Entities Affected:** No  
**Federalism:** No  
**Agency Contact:** Erin Fitzgerald  
Office of Trade Adjustment Assistance  
Department of Labor  
Employment and Training Administration  
200 Constitution Avenue NW. Room C-5311, FP Building  
Washington, DC 20210  
Phone: 202 693-3500  
FAX: 202 693-3149  
E-Mail: fitzgerald.erin@dol.gov
**Small Entities Affected:** No  
**Federalism:** No

**Energy Affected:** No

**Related RINs:** Related to 1205-AB40; Related to 1205-AB44

**Agency Contact:** Erica Cantor  
Administrator, Office of National Response  
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Washington, DC 20210  
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FAX: 202 693-3149  
E-Mail: cantor.erica@dol.gov

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**Department of Labor (DOL)**  
**Employment and Training Administration (ETA)**

**RIN:** 1205-AB40

**Title:** Alternative Trade Adjustment Assistance Benefits; Amendment of Regulations

**Abstract:** The rule has been withdrawn.

**Priority:** Other Significant  
**Agenda Stage of Rulemaking:** Completed Action

**Major:** No  
**Unfunded Mandates:** No

**CFR Citation:** 29 CFR 90; 20 CFR 618; 20 CFR 665; 20 CFR 671  
(To search for a specific CFR, visit the [Code of Federal Regulations](https://www.federalregister.gov/)

**Legal Authority:** 19 USC 2320; Secretary's Order No. 3-2007, 72 FR 15907

**Legal Deadline:** None

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No  
**Government Levels Affected:** Federal; State

**Federalism:** No

**Energy Affected:** No

**Related RINs:** Related to 1205-AB32; Related to 1205-AB44

**Agency Contact:** Erica Cantor  
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**Department of Labor (DOL)**  
**Employment and Training Administration (ETA)**

**RIN:** 1205-AB46

**View Related Documents**
Title: Workforce Investment Act Amendments

Abstract: The rule has been withdrawn.

Priority: Other Significant  
Major: No  
Agenda Stage of Rulemaking: Completed Action  
Unfunded Mandates: No

CFR Citation: 20 CFR 661; 20 CFR 662 to 664; 20 CFR 652; 20 CFR 667  
(To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 29 USC 49k; Sec 189(a) of PL 105-220; 29 USC 2939(a)

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No  
Government Levels Affected: State  
Small Entities Affected: No  
Federalism: No

Agency Contact: Adele Gagliardi  
Division Chief  
Department of Labor  
Employment and Training Administration  
200 Constitution Avenue NW. Room N-5641  
Washington, DC 20210  
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E-Mail: gagliardi.adele@dol.gov

Department of Labor (DOL)  
Employee Benefits Security Administration (EBSA)  
RIN: 1210-AB11  

Title: Plan Assets--Participant Contributions Regulation  

Abstract: EBSA is conducting a review of the plan assets-participant contributions regulation in accordance with the requirements of section 610 of the Regulatory Flexibility Act. The review will cover the continued need for the rule; the nature of complaints or comments received from the public concerning the rule; the complexity of the rule; the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules and, to the extent feasible, with State and local rules; and the extent to which technology, economic conditions, or other factors have changed in industries affected by the rule.

Priority: Other Significant  
Major: Undetermined  
Agenda Stage of Rulemaking: PreRule  
Unfunded Mandates: Undetermined

CFR Citation: 29 CFR 2510.3-102  
(To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 29 USC 1135

Legal Deadline: None

Timetable:

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Regulatory Flexibility Analysis Required: Undetermined  
Government Levels Affected: No  
Federalism: Undetermined  
Energy Affected: No

Agency Contact: Melissa R. Dennis  
Pension Law Specialist
Title: Lifetime Income Options for Participants and Beneficiaries in Retirement Plans

Abstract: This initiative will explore what steps, if any, that the Department could or should take, by regulation or otherwise, to enhance the retirement security of American workers by facilitating access to and use of lifetime income or income arrangements designed to provide a stream of income after retirement.

Priority: Other Significant

Agenda Stage of Rulemaking: PreRule

Major: Undetermined

Unfunded Mandates: Undetermined

CFR Citation: Not Yet Determined (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 29 USC 1135; ERISA sec 505

Legal Deadline: None

Regulatory Plan:

Statement of Need: With a continuing trend away from defined benefit plans to defined contribution plans, employees are not only increasingly responsible for the adequacy of their retirement savings, but also for ensuring that their savings last throughout their retirement. Employees may benefit from access to and use of lifetime income or other arrangements that will reduce the risk of running out of funds during the retirement years. However, both access to and use of such arrangements in defined contribution plans is limited. The Department, taking into consideration recommendations of the ERISA Advisory Council and others, intends to explore what steps, if any, it could or should take, by regulation or otherwise, to enhance the retirement security of workers by increasing access to and use of such arrangements.

Legal Basis: Section 505 of ERISA provides that the Secretary may prescribe such regulations as she finds necessary and appropriate to carry out the provisions of title I of the Act.

Alternatives: Alternatives will be considered following a determination of the scope and nature of the regulatory guidance needed by the public.

Costs and Benefits: Preliminary estimates of the anticipated costs and benefits will be developed, as appropriate, following a determination regarding the alternatives to be considered.

Risks:

Timetable:

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Regulatory Flexibility Analysis

Required: Undetermined

Federalism: Undetermined

Agency Contact: Jeffrey J. Turner
Chief, Division of Regulations, Office of Regulations and Interpretations
Department of Labor
Employee Benefits Security Administration
200 Constitution Avenue NW. FP Building Rm N-5655
Washington, DC 20210
Phone: 202 693-8500

Government Levels Affected: Undetermined
Title: Annual Funding Notice for Defined Benefit Plans

Abstract: This rulemaking implements the requirement of section 501 of the Pension Protection Act of 2006 (PPA), which amended section 101(f) of ERISA to require the administrator of a defined benefit pension plan to provide participants, beneficiaries, and other parties with an annual funding notice, and also implements the requirements of section 503(c) of the PPA that amended section 104(b)(3) of ERISA regarding summary annual reports for defined benefit plans.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Status: Unfunded Mandates: Undetermined

Citation: 29 CFR 2520; 29 CFR 2520.104-46; 29 CFR 2520.104b-10 (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 29 USC 1021(f); ERISA sec 101(f); PL 109-280, sec 501, Pension Protection Act of 2006; 29 USC 1021(b); ERISA sec 104(b)(3); PL 109-280, sec 503, Pension Protection Act of 2006; 29 USC 1135; ERISA sec 505

Legal Deadline: 08/18/2007

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Regulatory Flexibility Analysis

Required: Undetermined

Federalism: No

Energy Affected: No

Agency Contact: Stephanie Ward
Senior Pension Law Specialist
Department of Labor
Employee Benefits Security Administration
200 Constitution Avenue NW. FP Building Room N-5655
Washington, DC 20210
Phone: 202 693-8500
FAX: 202 219-7921

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

Title: Periodic Pension Benefit Statements

Abstract: Section 508 of the Pension Protection Act of 2006 (PPA) amended section 105 of ERISA to require plans that are subject to ERISA to automatically provide participants and certain beneficiaries with individual pension benefit statements. Generally, defined benefit plans must provide the statement every 3 years, with an annual alternative. Individual account plans that permit participant direction must provide the statement quarterly and individual account plans that do not permit participant direction must provide the statement annually. The PPA directed the Department of Labor to provide a model statement within 1 year of enactment of the statute and the Department has been given interim final rulemaking authority.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Status: Unfunded Mandates: Undetermined

Citation: 29 CFR 2520 (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 29 USC 1025; ERISA sec 105; PL 109-280, sec 508, Pension Protection Act of 2006; 29 USC 1135; ERISA sec 505
Title: Definition of “Fiduciary” -- Investment Advice

Abstract: This rulemaking would amend the regulatory definition of the term “fiduciary” set forth at 29 CFR 2510.3-21 (c) to more broadly define as employee benefit plan fiduciaries persons who render investment advice to plans for a fee within the meaning of section 3(21) of ERISA. The amendment would take into account current practices of investment advisers and the expectations of plan officials and participants who receive investment advice.

Priority: Economically Significant

Agenda Stage of Rulemaking: Proposed Rule

Major: Yes

Unfunded Mandates: Undetermined

CFR Citation: 29 CFR 2510.3-21(c) (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 29 USC 1002; ERISA sec 3(21); 29 USC 1135; ERISA sec 505

Legal Deadline: None

Regulatory Plan:

Statement of Need: This rulemaking is needed to bring the definition of “fiduciary” into line with investment advice practices and to recast the current regulation to better reflect relationships between investment advisers and their employee benefit plan clients. The current regulation may inappropriately limit the types of investment advice relationships that should give rise to fiduciary duties on the part of the investment adviser.

Legal Basis: Section 505 of ERISA provides that the Secretary may prescribe such regulations as she finds necessary and appropriate to carry out the provisions of title I of the Act. Regulation 29 CFR 2510.3-21(c) defines the term fiduciary for certain purposes under section 3(21) of ERISA.

Alternatives: Alternatives will be considered following a determination of the scope and nature of the regulatory guidance needed by the public.

Costs and Benefits: Preliminary estimates of the anticipated costs and benefits will be developed, as appropriate, following a determination regarding the alternatives to be considered.

Risks:

Timetable:
Title: Health Care Arrangements Established by State and Local Governments for Non-Governmental Employees

Abstract: Department of Labor regulation 29 C.F.R. 2510.3-1 clarifies the definition of the terms "employee welfare benefit plan" and "welfare plan" for purposes of title I of the Employee Retirement Income Security Act of 1974 (ERISA) by identifying certain practices which do not constitute employee welfare benefit plans. This rulemaking would amend that regulation to clarify the circumstances under which health care arrangements established or maintained by state or local governments for the benefit of non-governmental employees do not constitute an employee welfare benefit plan for purposes of section 3(1) of ERISA and 29 CFR 2510.3-1.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Major: Undetermined

Unfunded Mandates: Undetermined

CFR Citation: 29 CFR 2510.3-1 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 29 USC 1135; ERISA sec 505

Legal Deadline: None

Regulatory Plan:

Statement of Need: Questions have been raised regarding the extent to which health care reform efforts on the part of state and local governments result in the creation of ERISA-covered employee welfare benefit plans or otherwise implicate ERISA. This regulation is needed to provide certainty to both governmental bodies and employers concerning the application of ERISA to such efforts.

Legal Basis: Section 505 of ERISA provides that the Secretary may prescribe such regulations as she finds necessary and appropriate to carry out the provisions of title I of the Act. Regulation 29 CFR 2510.3-1 clarifies definitions of the terms "employee welfare benefit plan" and "welfare plan" for purposes of title I of ERISA.

Alternatives: Alternatives will be considered following a determination of the scope and nature of the regulatory guidance needed by the public.

Costs and Benefits: Preliminary estimates of the anticipated costs and benefits will be developed, as appropriate, following a determination regarding the alternatives to be considered.

Risks:

Timetable:

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Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Jeffrey J. Turner
Title: Prohibited Transaction Exemption for Provision of Investment Advice to Participants in Individual Account Plans

Abstract: Section 601 of the Pension Protection Act (PL 109-280) amended ERISA by adding new section 408(b)(14) and 408(g). Section 408(b)(14) is a prohibited transaction exemption that permits the provision of investment advice to participants or beneficiaries of certain individual account plans if the investment advice is provided under an "eligible investment advice arrangement," as defined in section 408(g). In order to qualify as an "eligible investment advice arrangement," the arrangement must either provide that any fees received by the adviser do not vary depending on the basis of any investment options selected, or use a computer model under an investment advice program that meets the criteria set forth in section 408(g) in connection with the provision of investment advice. Further, with respect to both types of advice arrangements, the investment adviser must disclose to advice recipients all fees that the adviser or any affiliate is to receive in connection with the advice. Section 408(g) requires that the computer model which serves as the basis for an eligible investment advice arrangement be certified by an "eligible investment expert" in accordance with rules prescribed by the Secretary of Labor. Section 408(g) also directs the Secretary of Labor to issue a model form for the required disclosure of fees.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Major: Undetermined

Unfunded Mandates: Undetermined

CFR Citation: 29 CFR 2550 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 29 USC 1108(g); 29 USC 1135; PL 109-280, sec 601(a); Pension Protection Act of 2006; ERISA sec 408(g); ERISA sec 505

Legal Deadline: None

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Regulatory Flexibility Analysis

Required: Undetermined

Federalism: No

Energy Affected: No

Related RINs: Related to 1210-AB13

Agency Contact: Fred Wong
Senior Pension Law Specialist
Department of Labor
Employee Benefits Security Administration
200 Constitution Avenue NW. FP Building Room N-5655
Washington, DC 20210
Phone: 202 693-8500
FAX: 202 219-7291
Portability and Accountability Act of 1996

Abstract: The Health Insurance Portability and Accountability Act of 1996 (HIPAA) amended title I of ERISA, the Internal Revenue Code, and the Public Health Service Act with parallel provisions designed to improve health care access, portability, and renewability. The Departments of Labor, the Treasury, and the Health and Human Services are mutually dependent due to shared interpretive jurisdiction and are proceeding concurrently to provide additional regulatory guidance regarding these provisions, including the amendments made by the Children's Health Insurance Program Reauthorization Act of 2009.

Priority: Economically Significant
Major: Yes
Unfunded Mandates: No
CFR Citation: 29 CFR 2590 (To search for a specific CFR, visit the Code of Federal Regulations.)
Legal Authority: 29 USC 1027; 29 USC 1059; 29 USC 1135; 29 USC 1171 to 1172; 29 USC 1191c
Legal Deadline: None

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Regulatory Flexibility Analysis Required: No
Government Levels Affected: No
Federalism: No
Energy Affected: No
Agency Contact: Amy J. Turner
Senior Advisor
Department of Labor
Employee Benefits Security Administration
200 Constitution Avenue NW. FP Building Room N-5653
Washington, DC 20210
Phone: 202 693-8335
FAX: 202 219-1942

Department of Labor (DOL)
Employee Benefits Security Administration (EBSA) RIN: 1210-AB02

Title: Amendment of Regulation Relating to Definition of Plan Assets--Participant Contributions
Abstract: This rulemaking will amend the regulation that defines when participant moneys paid to or withheld by an employer for contribution to an employee benefit plan constitute "plan assets" for purposes of title I of ERISA and the related prohibited transaction provisions of the Internal Revenue Code. The regulation contains an amendment to the current regulation that will establish a safe harbor period of a specified number of business days during which certain moneys that a participant pays to, or has withheld by, an employer for contribution to a plan would not constitute "plan assets."

Priority: Other Significant
Major: No
Unfunded Mandates: No
CFR Citation: 29 CFR 2510.3-102 (To search for a specific CFR, visit the Code of Federal Regulations.)
Legal Authority: 29 USC 1135
Legal Deadline: None
Title: Fiduciary Requirements for Disclosure in Participant-Directed Individual Account Plans

Abstract: This rulemaking will ensure that the participants and beneficiaries in participant-directed individual account plans are provided the information they need, including information about fees and expenses, to make informed investment decisions. The rulemaking may include amendments to the regulation governing ERISA section 404(c) plans (29 CFR 2550.404c-1). The rulemaking is needed to clarify and improve the information currently required to be furnished to participants and beneficiaries.

Priority: Economically Significant  
Major: Yes  
Unfunded Mandates: No

CFR Citation: 29 CFR 2550  (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 29 USC 1104; 29 USC 1135

Legal Deadline: None

Regulatory Flexibility Analysis Required: Undetermined  
Government Levels Affected: No

Federalism: No

Agency Contact: Katherine D. Lewis  
Senior Pension Law Specialist  
Department of Labor  
Employee Benefits Security Administration  
200 Constitution Avenue NW. FP Building Room N-5655  
Washington , DC  20210  
Phone: 202 693-8500
Title: Amendment of Standards Applicable to General Statutory Exemption for Services

Abstract: This rulemaking will amend the regulation setting forth the standards applicable to the exemption under ERISA section 408(b)(2) for contracting or making reasonable arrangements with a party in interest for office space or services (29 CFR 2550.408b-2). This amendment will ensure that plan fiduciaries are provided or have access to that information necessary to a determination of whether an arrangement for services is “reasonable” within the meaning of the statutory exemption.

Priority: Economically Significant

Agenda Stage of Rulemaking: Final Rule

Unfunded Mandates: No

CFR Citation: 29 CFR 2550 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 29 USC 1108(b)(2); 29 USC 1135

Legal Deadline: None

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Regulatory Flexibility Analysis

Government Levels Affected: No

Federalism: No

Agency Contact: Kristen Zarenko
Senior Pension Law Specialist
Department of Labor
Employee Benefits Security Administration
200 Constitution Avenue NW, FP Building Room N-5655
Washington, DC 20210
Phone: 202 693-8500
Major: Yes  Unfunded Mandates: No

CFR Citation: 29 CFR 2550 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 29 USC 1108(g); 29 USC 1135; PL 109-280, sec 601(a), Pension Protection Act of 2006; ERISA sec 408(g); ERISA sec 505

Legal Deadline: None

Regulatory Flexibility Analysis Required: No  Government Levels Affected: No

Federalism: No

Energy Affected: No

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

Department of Labor (DOL)  Employee Benefits Security Administration ( EBSA )  RIN: 1210-AB15

View Related Documents

Title: Time and Order of Issuance of Domestic Relations Orders

Abstract: Section 1001 of the Pension Protection Act of 2006, requires the Secretary of Labor to issue, not later than 1 year after the date of enactment, regulations clarifying certain issues relating to the timing and order of domestic relations orders under section 206(d)(3) of the Employee Retirement Income Security Act (ERISA). This rule will provide guidance to plan administrators, service providers, participants, and alternate payees on the qualified domestic relations order requirements under ERISA.

Priority: Other Significant  Agenda Stage of Rulemaking: Final Rule

Major: No  Unfunded Mandates: No

CFR Citation: 29 CFR 2530.206 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 29 USC 1056; ERISA sec 206(d)(3); PL 109-280, sec 1001, Pension Protection Act of 2006; 29 USC 1135; ERISA sec 505

Legal Deadline:

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Title: Multiemployer Plan Information Made Available on Request

Abstract: This rulemaking implements the requirements of section 502(a)(1) of the Pension Protection Act of 2006 (PPA), which added a new subsection (k) to section 101 of ERISA, under which the plan administrator of a multiemployer plan shall, upon written request, furnish within 30 days to any plan participant or beneficiary, employee representative, or any employer that has an obligation to contribute to the plan a copy of certain actuarial, financial and funding-related documents.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 29 CFR 2520 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 29 USC 1021(k); ERISA, sec 101(k); PL 109-280, sec 502, Pension Protection Act of 2006; 29 USC 1135; ERISA, sec 505

Legal Deadline:

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Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: No

Energy Affected: No

Agency Contact: Stephanie Ward
Senior Pension Law Specialist
Department of Labor
Employee Benefits Security Administration
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Washington, DC 20210
Phone: 202 693-8500
FAX: 202 219-7921
Title: Genetic Information Nondiscrimination

Abstract: Pursuant to ERISA sections 702, 733(d), and 502, as amended by the Genetic Information Nondiscrimination Act of 2008 (GINA) (Pub. L. 110-233) enacted May 21, 2008, the Department is developing regulatory guidance. Regulatory guidance will provide clarification regarding GINA’s prohibition against discrimination in group premiums based on genetic information, its limitations on genetic testing, its prohibition on collection of genetic information, and its new civil monetary penalties under ERISA.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Unfunded Mandates: No

CFR Citation: Not Yet Determined (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 29 USC 1182; 29 USC 1191b(d); 29 USC 1132

Legal Deadline: Other and Statutory

As per GINA section 101(f)(1) 05/21/2009

Regulatory Plan:

Statement of Need: GINA section 101(f)(1) requires the Secretary to issue regulations to carry out its statutory provisions no later than May 21, 2009.

Legal Basis: Section 505 of ERISA provides that the Secretary may prescribe such regulations as she considers necessary and appropriate to carry out the provisions of title I of ERISA. Section 734 of ERISA provides that the Secretary may promulgate such regulations as may be necessary or appropriate to carry out the provisions of part 7 of ERISA. In addition, GINA section 101(f) requires the Secretary to issue regulations to carry out GINA’s amendments.

Alternatives: Alternatives will be considered following a determination of the scope and nature of the regulatory guidance needed by the public.

Costs and Benefits: Preliminary estimates of the anticipated costs and benefits will be developed, as appropriate, following a determination regarding the alternatives to be considered.

Risks:

Timetable:

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Regulatory Flexibility Analysis

Required: Undetermined

Federalism: No

Agency Contact: Amy J. Turner
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Employee Benefits Security Administration
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Washington, DC 20210
Phone: 202 693-8335
FAX: 202 219-1942

Department of Labor (DOL)
Employee Benefits Security Administration ( EBSA )
RIN: 1210-AB30

View Related Documents
Title: Mental Health Parity and Addiction Equity Act

Abstract: Pursuant to ERISA section 712, as amended by the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) (Pub. L. 110-343) enacted on October 8, 2008, the Department is developing regulatory guidance.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: Undetermined

Unfunded Mandates: Undetermined

CFR Citation: Not Yet Determined (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 29 USC 1185a

Legal Deadline:

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Regulatory Plan:

Statement of Need: In response to a Request for Information in April 2008, over 400 comment letters were received raising questions regarding compliance with the federal parity provisions. This regulation is needed to provide clarifications to participants, beneficiaries, health care providers, employment-based health plans, health insurance issuers, third-party administrators, brokers, underwriters, and other plan service providers regarding such provisions.

Legal Basis: Section 505 of ERISA provides that the Secretary may prescribe such regulations as she finds necessary and appropriate to carry out the provisions of title I of the Act. Section 734 of ERISA provides that the Secretary may prescribe regulations necessary or appropriate to carry out the provisions of ERISA Part 7. MHPAEA created new federal parity provisions in ERISA section 712 and provides, in section 512(d), that the Secretary shall issue regulations to carry out the provisions of MHPAEA.

Alternatives: Alternatives will be considered following a determination of the scope and nature of the regulatory guidance needed by the public.

Costs and Benefits: Preliminary estimates of the anticipated costs and benefits will be developed, as appropriate, following a determination regarding the alternatives to be considered.

Risks:

Timetable:

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Regulatory Flexibility Analysis

Government Levels Affected: No

Required: Undetermined

Federalism: Undetermined

Related RINs: Related to 0938-AP65; Related to 1545-BI70

Related Agencies: Joint: CMS; Joint: IRS

Agency Contact: Amy J. Turner
Senior Advisor
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Employee Benefits Security Administration
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Phone: 202 693-8335
FAX: 202 219-1942

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

RIN: 1210-AB31

View Related Documents
Title: Amendments to Civil Penalties Under ERISA Section 502(c)(8)

Abstract: This proposed regulation, upon adoption, would implement the civil penalty provision under section 502(c)(8) of the Employee Retirement Income Security Act of 1974 (ERISA), under which the Secretary of Labor is granted authority to assess civil penalties not to exceed $1,100 per day against any plan sponsor of a multiemployer plan for certain violations of section 305 of ERISA.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 29 CFR 2560.502c-8 (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 29 USC 1132; PL 109-280, sec 305, Pension Protection Act of 2006; 29 USC 2560; PL 110-458, sec 102, Worker, Retiree and Employer Act of 2008,

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Federalism: Undetermined

Agency Contact: Michael Del Conte
Benefits Law Specialist
Department of Labor
Employee Benefits Security Administration
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Washington, DC 20210
Phone: 202 693-8500
FAX: 202 219-7291

Title: Adequate Consideration

Abstract: The Department is removing this initiative from the current regulatory agenda because it does not intend to take any action on the initiative during the next 12 months. This removal from the agenda has no effect on the status of the proposed regulation.

Priority: Other Significant

Agenda Stage of Rulemaking: Completed Action

Major: No

Unfunded Mandates: No

CFR Citation: 29 CFR 2510 (To search for a specific CFR, visit the Code of Federal Regulations.)

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

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Federalism: No

Energy Affected: No

Agency Contact: Jeffrey Turner
Department of Labor (DOL)
Employee Benefits Security Administration (EBSA)

**Title:** Proposed Amendments to Rules Relating To Use of Electronic Communication by Employee Pension and Welfare Benefit Plans

**Abstract:** The Department is removing this initiative from the agenda because it does not intend to take any action on the initiative during the next 12 months. The Department, however, will continue to consider means by which to improve the effectiveness and efficiency of disclosures to participants and beneficiaries.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Completed Action

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** 29 CFR 2520.104b-1 (To search for a specific CFR, visit the Code of Federal Regulations)

**Legal Authority:** 29 USC 1135; ERISA sec 505

**Legal Deadline:** None

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** No

**Federalism:** No

**Energy Affected:** No

**Agency Contact:** Melissa R. Dennis
Pension Law Specialist
Department of Labor
Employee Benefits Security Administration
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Washington, DC 20210
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FAX: 202 219-7291

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

**Title:** Child Labor Regulations, Orders, and Statements of Interpretation

**Abstract:** The Department of Labor is considering possible revisions to the hazardous occupations orders that may be undertaken to address recommendations of the National Institute for Occupational Safety and Health (NIOSH) in its May 2002 report to the Department on the Fair Labor Standards Act child labor regulations (available at http://www.youthrules.dol.gov/resources.htm). This ANPRM sought additional data and public input to supplement the conclusions and recommendations on certain of the Hazardous Orders contained in the NIOSH report for consideration in subsequent rulemaking actions that may be undertaken. This ANPRM is related to a separate NPRM (see Related RIN: 1215-AB57). The Department is reviewing the submitted comments.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** PreRule

**RIN:** 1215-AB44
Title: Internet Balloting in Union Officer Elections Pursuant to Title IV of the Labor-Management Reporting and Disclosure Act

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

Priority: Other Significant

RIN Information URL: www.olms.dol.gov

Public Comment URL: www.regulations.gov

Agency Contact: Andrew R. Davis
Chief, Division of Interpretations and Standards, Office of Labor-Management Standards
Department of Labor
Employment Standards Administration
200 Constitution Avenue NW. FP Building Room N-5609
Washington, DC 20210
Title: Nondisplacement of Qualified Workers Under Service Contracts

Abstract: Executive Order 13495 of January 30, 2009, Nondisplacement of Qualified Workers Under Service Contracts, establishes the policy that Federal service contracts generally include a clause requiring the contractor and its subcontractors, under a contract that succeeds a contract for the same or similar service at the same location, to offer qualified employees (except managerial and supervisory personnel) employed on the predecessor contract a right of first refusal to employment under the successor contract. The order assigns enforcement responsibility to the Secretary of Labor and directs the Secretary, in consultation with the Federal Acquisition Regulatory Council, to issue regulations, within 180 days of the order to the extent permitted by law, to implement the order.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Major: No

Unfunded Mandates: No

CFR Citation: 29 CFR 9 (To search for a specific CFR, visit the Code of Federal Regulations)

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

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Federalism: No

Energy Affected: No

Agency Contact: Richard M. Brennan
Director, Division of Interpretations and Regulatory Analysis, Wage and Hour Division
Department of Labor
Employment Standards Administration
200 Constitution Avenue NW. FP Building Room S-3502
Washington, DC 20210
Phone: 202 693-0051
FAX: 202 693-1387

Title: Defense Base Act Waivers

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

Priority: Substantive, Nonsignificant

Agenda Stage of Rulemaking: Proposed Rule
Title: Regulations Implementing the Longshore and Harbor Workers’ Compensation Act: Recreational Vessels

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

Priority: Substantive, Nonsignificant

Agenda Stage of Rulemaking: Proposed Rule

Major: No

Unfunded Mandates: No

CFR Citation: 20 CFR 701 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 33 USC 939

Legal Deadline: None

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Regulatory Flexibility Analysis

Required: Undetermined

Federalism: No

Agency Contact: Michael Niss
Director, Division of Longshore and Harbor Workers' Compensation, OWCP
Department of Labor
Employment Standards Administration
200 Constitution Avenue NW. FP Building Room C-4315
Washington, DC 20210
Phone: 202 693-0038
FAX: 202 693-1380
E-Mail: niss.michael@dol.gov
Department of Labor (DOL)  
Employment Standards Administration (ESA)  

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

Priority: Other Significant  
Agenda Stage of Rulemaking: Proposed Rule  
Major: No  
Unfunded Mandates: No  
CFR Citation: 29 CFR 404 (To search for a specific CFR, visit the Code of Federal Regulations)  
Legal Authority: 29 USC 432 and 438  
Legal Deadline: None

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Regulatory Flexibility Analysis Required: No  
Government Levels Affected: No  
Federalism: No  
Agency Contact: Andrew R. Davis  
Chief, Division of Interpretations and Standards, Office of Labor-Management Standards  
Department of Labor  
Employment Standards Administration  
200 Constitution Avenue NW. FP Building Room N-5609  
Washington, DC 20210  
Phone: 202 693-0123  
FAX: 202 693-1340  
E-Mail: davis.andrew@dol.gov

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

Title: Proposal to Rescind the Form T-1; Require Subsidiary Organization Reporting; Revise Interpretation Regarding LMRDA Coverage of Public Sector Intermediate Unions  
Abstract: On October 2, 2008, the Department published a final rule establishing a Form T-1, Trust Annual Report, which certain labor organizations must file to disclose financial information regarding trusts in which they are interested pursuant to the Labor-Management Reporting and Disclosure Act (LMRDA). This rulemaking would propose to rescind the Form T-1. It would instead propose that filers of Form LM-2, Labor Organization Annual Report, report on their wholly owned, wholly controlled and wholly financed organizations ("subsidiary organizations") on their Form LM-2 report. Additionally, the rulemaking would propose to change an interpretation of the LMRDA regarding intermediate bodies. The proposed revised interpretation would state that intermediate bodies are covered only if they are themselves composed, in whole or part, of private sector affiliates.

Priority: Other Significant  
Agenda Stage of Rulemaking: Proposed Rule  
Major: No  
Unfunded Mandates: No  
CFR Citation: 29 CFR 403 (To search for a specific CFR, visit the Code of Federal Regulations)  
Legal Authority: 29 USC 438  
Legal Deadline: None
**Title:** The Family and Medical Leave Act of 1993, as Amended  
**Abstract:** The Department of Labor continues to review the implementation of the new military family leave amendments to the Family and Medical Leave Act included in the National Defense Authorization Act for FY 2008, and other revisions of the current regulations implemented in January 2009.

**Priority:** Economically Significant  
**Major:** Undetermined  
**Unfunded Mandates:** No

**CFR Citation:** 29 CFR 825 (To search for a specific CFR, visit the Code of Federal Regulations.)

**Legal Authority:** 29 USC 2654

**Legal Deadline:** None

**Regulatory Flexibility Analysis**

- **Government Levels Affected:** No
- **Agenda Stage of Rulemaking:** Proposed Rule
- **Unfunded Mandates:** No

**Statement of Need:** The FMLA requires covered employers to grant eligible employees up to 12 workweeks of unpaid, job-protected leave a year for specified family and medical reasons, and to maintain group health benefits during the leave as if the employees continued to work instead of taking leave. When an eligible employee returns from FMLA leave, the employer must restore the employee to the same or an equivalent job with equivalent pay, benefits, and other conditions of employment. FMLA makes it unlawful for an employer to interfere with, restrain, or deny the exercise of any right provided by the FMLA. In addition, section 585(a) of the National Defense Authorization Act for FY 2008 (NDAA), Public Law 110-181, amended the FMLA effective January 28, 2008, to permit an eligible employee who is the “spouse, son, daughter, parent, or next of kin of a covered servicemember” to take up to a total of 26 workweeks of leave during a single 12-month period to care for the covered servicemember, defined as “a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.” The NDAA amendment to FMLA also permits an eligible employee to take up to 12 workweeks of FMLA leave for “any qualifying exigency (as the Secretary [of Labor] shall, by regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.” Regulations implementing these amendments were published November 17, 2008, and took effect January 16, 2009 (73 FR 67934). The Department is reviewing the implementation of these new military family leave amendments and other revisions of the current regulations.

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

**Alternatives:** After completing a review of the implementation of the new military family leave amendments and other revisions of the regulations implemented in January 2009, regulatory alternatives will be developed for notice-and-comment rulemaking.

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

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

**Timetable:**

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</table>

**Regulatory Flexibility Analysis**

**Government Levels Affected:** Local; State; Tribal

**Federalism:** Undetermined

**Energy Affected:** No

**Agency Contact:** Richard M. Brennan
Director, Division of Interpretations and Regulatory Analysis, Wage and Hour Division
Department of Labor
Employment Standards Administration
200 Constitution Avenue NW. FP Building Room S-3502
Washington, DC 20210
Phone: 202 693-0051
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**Department of Labor (DOL)**
**Employment Standards Administration (ESA)**

**Title:** Records To Be Kept by Employers Under the Fair Labor Standards Act

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

**Priority:** Other Significant

**Major:** Undetermined

**Unfunded Mandates:** No

**CFR Citation:** 29 CFR 516 (To search for a specific CFR, visit the Code of Federal Regulations)

**Legal Authority:** 29 USC 211(c)

**Legal Deadline:** None

**Regulatory Plan:**

**Statement of Need:** The recordkeeping regulation issued under the Fair Labor Standards Act (FLSA), 29 CFR part 516, specifies the scope and manner of records covered employers must keep that demonstrate compliance with minimum wage, overtime, and child labor requirements under the FLSA, or the records to be kept that confirm particular exemptions from some of the Act's requirements may apply. This proposal intends to update the recordkeeping requirements to foster more openness and transparency in demonstrating employers' compliance with applicable requirements to their workers, to better ensure compliance by regulated entities and to assist in enforcement. In addition, the proposal intends to modernize the requirements, consistent with the increasing emphasis on flexi-place and telecommuting, to allow for automated or electronic recordkeeping systems instead of the mandatory manual preparation of "homeworker" handbooks currently required for all work that an employee may perform in the home.

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

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

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

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

**Timetable:**

[Unified Agenda]
Title: Interpretation of the “Advice” Exemption of Section 203(c) of the Labor-Management Reporting and Disclosure Act

Abstract: The Department intends to publish notice and comment rulemaking seeking consideration of a revised interpretation of Section 203(c) of the Labor-Management Reporting and Disclosure Act (LMRDA). That statutory provision creates an “advice” exemption from reporting requirements that apply to employers and other persons in connection with persuading employees about the right to organize and bargain collectively. A proposed revised interpretation would narrow the scope of the advice exemption.

Regulatory Plan:

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


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

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

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

Timetable:
Title: Claims for Compensation Under the Federal Employees' Compensation Act

Abstract: ESA’s Office of Workers’ Compensation Programs (OWCP) plans to issue new regulations to update its organizational description to reflect the reorganization that will transform OWCP into a stand-alone organization reporting directly to the Office of the Secretary of Labor. OWCP administers four major disability compensation programs that provide wage replacement benefits, medical treatment, vocational rehabilitation and other benefits (such as survivors benefits) to certain workers who experience work-related injury or occupational disease. The Federal Employees’ Compensation Act (FECA) provides workers’ compensation benefits to federal workers for employment-related injuries and occupational diseases as well as survivor benefits for a covered employee’s employment-related death. OWCP plans to update its regulations governing administration of claims under the FECA. The last comprehensive update of the FECA regulations was undertaken more than ten years ago; since that time a number of improvements have been made to OWCP’s processing of claims. The regulations will be revised to reflect those changes and to incorporate new procedures that will enhance OWCP’s ability to administer FECA. Changes to the regulations will facilitate the return to work of injured workers who are able to work by such measures as increasing the opportunity for vocational rehabilitation. Revisions to the regulations will also enhance OWCP’s ability to efficiently provide sufficient income and medical care for those who are unable to work. The planned regulatory changes will better explain the increased automation of the medical billing process; reflect changes in procedure, such as FECA’s centralized mail processing; and also codify changes in case law affecting FECA claims administration. OWCP also plans to modernize the provision of compensation for employees situated overseas who are neither citizens nor residents of the United States to reflect current realities in regard to such employees. The regulations will also be revised to reflect a recent statutory change to the FECA moving the three-day waiting period before qualifying for wage-loss compensation for employees of the Postal Service.
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FAX: 202 693-1497
E-Mail: fitzgerald.douglas@dol.gov

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

Title: Amendments to the Fair Labor Standards Act

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

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 29 CFR 4; 29 CFR 531; 29 CFR 778 to 780; 29 CFR 785 to 786; 29 CFR 790 (To search for a specific CFR, visit the Code of Federal Regulations.)

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

Legal Deadline: None

Timetable:

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal; Local; State

Federalism: No

Energy Affected: No

Public Comment URL: www.regulations.gov

Agency Contact: Richard M. Brennan
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Department of Labor (DOL)
Employment Standards Administration (ESA)

Title: Child Labor Regulations, Orders, and Statements of Interpretation

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

Priority: Other Significant
Major: No
Unfunded Mandates: No
CFR Citation: 29 CFR 570 (To search for a specific CFR, visit the Code of Federal Regulations)
Legal Authority: 29 USC 203(l); 29 USC 212; 29 USC 213(c)
Legal Deadline: None

Regulatory Plan:

Statement of Need: The Fair Labor Standards Act (FLSA) requires the Secretary of Labor to issue regulations on the employment of minors between 14 and 16 years of age, ensuring that the periods and conditions of their employment do not interfere with their schooling, health, or well-being, and to designate occupations that are particularly hazardous for minors 16 and 17 years of age. Child Labor Regulation No. 3 sets forth the permissible industries and occupations in which 14- and 15-year-olds may be employed, specifies the number of hours in a day and in a week, and time periods within a day, that such minors may be employed. Updating the child labor regulations issued under the FLSA will help meet the challenge of ensuring good jobs that are safe, healthy, and fair for the Nation’s working youth, while balancing their educational needs with job-related experiences that are safe. Updated child labor regulations that better address the safety needs of today’s workplaces will ensure our young workers have permissible job opportunities that are safe, enhancing their opportunity to gain the skills to find and hold good jobs with the potential to increase their earnings over time. Ensuring safe and reasonable work hours for working youth will also ensure that top priority is given to their education, consistent with the purposes of the statute.

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

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

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

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

Timetable:

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Regulatory Flexibility Analysis
Required: Undetermined
Small Entities Affected: Business; Governmental Jurisdictions
Energy Affected: No
Agency Contact: Richard M. Brennan
Director, Division of Interpretations and Regulatory Analysis, Wage and Hour Division
Department of Labor
Employment Standards Administration
200 Constitution Avenue NW. FP Building Room S-3502

Government Levels Affected: Local; State
Federalism: No
Title: Death Gratuity Authorized for Federal Employees

Abstract: The National Defense Authorization Act for FY 2008, which was signed into law on January 28, 2008, resulted in the creation of a new section of the Federal Employees’ Compensation Act. This section establishes a death gratuity payment of up to $100,000 for federal employees who die of injuries incurred in connection with the employee’s service with an armed force in a contingency operation. This bill also contains a provision for retroactivity for employees who died on or after October 7, 2001.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 20 CFR 10.900 et al


Legal Deadline: None

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Small Entities Affected: No

Federalism: No

Energy Affected: No

Agency Contact: Jennifer Valdivieso
Acting Chief, Branch of Regulations and Procedures, Division of Federal Employees Compensation
Department of Labor
Employment Standards Administration
400 West Bay Street Room 826
Jacksonville, FL 32202
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FAX: 904 357-4779
E-Mail: valdivieso.jennifer@dol.gov

Title: Notification of Employee Rights Under Federal Labor Laws

Abstract: Pursuant to Executive Order 13496 of January 30, 2009, the Department of Labor's Employment Standards Administration, proposes to prescribe the size, form, and content of the notice to be posted by a contractor under paragraph 1 of the contract clause described in section 2 of the order. Such notice shall describe the rights of employees under Federal labor laws, consistent with the policy set forth in section 1 of the order.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No
Title: Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors: Evaluation of Recruitment and Placement Results Under Section 503

Abstract: This Advance Notice of Proposed Rulemaking (ANPRM) will revise the regulations in 41 CFR parts 60-741 to implement the nondiscrimination and affirmative action provisions of section 503 of the Rehabilitation Act of 1973, as amended. In particular, the ANPRM would strengthen affirmative action requirements by requiring Federal contractors and subcontractors to conduct more substantive analyses and fully monitor their recruitment and placement efforts on behalf of individuals with disabilities.

Priority: Substantive, Nonsignificant

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FAX: 202 693-1340
E-Mail: davis.andrew@dol.gov

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

RIN: 1215-AB77

View Related Documents

Regulatory Flexibility Analysis Required: Business Government Levels Affected: Federal

Federalism: No

Energy Affected: No

Agency Contact: Lorenzo D. Harrison
Director, Division of Policy, Planning and Program Development
Department of Labor
Employment Standards Administration
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Washington , DC  20210
Phone: 202 693-0102

CFR Citation: 29 CFR 471  (To search for a specific CFR, visit the Code of Federal Regulations )
Legal Authority: EO 13496
Legal Deadline: None

Timetable:

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Regulatory Flexibility Analysis Required: Undetermined Government Levels Affected: No

Federalism: Undetermined

Energy Affected: No

Agency Contact: Andrew R. Davis
Chief, Division of Interpretations and Standards, Office of Labor-Management Standards
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FAX: 202 693-1340
E-Mail: davis.andrew@dol.gov
**Title:** Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors; Evaluation of Recruitment and Placement Results Under the VEVRAA of 1974, as amended

**Abstract:** This Notice of Proposed Rulemaking (NPRM) would revise the regulations in 41 CFR parts 60-250 and 60-300, implementing the nondiscrimination and affirmative action provisions of VEVRAA. This NPRM would strengthen the affirmative action requirements for federal contractors and subcontractors. The NPRM would amend the regulations to require that federal contractors and subcontractors conduct more substantive analyses of recruitment and placement actions taken under VEVRAA and would require the use of numerical targets to measure the effectiveness of affirmative action efforts. The NPRM would also make revisions to recordkeeping requirements.

**Priority:** Substantive, Nonsignificant

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

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Federalism:** Undetermined

**Energy Affected:** No

**Agency Contact:** Bruce Bohanon
Director, Division of Policy, Planning and Program Development
Department of Labor
Employment Standards Administration
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Washington, DC 20210
Phone: 202 693-0102
E-Mail: ofccp-public@dol.gov

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**Title:** Construction Contractor Affirmative Action Requirements

**Agency Contact:** Bruce Bohanon
Director, Division of Policy, Planning and Program Development
Department of Labor
Employment Standards Administration
200 Constitution Avenue NW. Room N-3422 FP Building
Washington, DC 20210
Phone: 202 693-0102
E-Mail: ofccp-public@dol.gov
Abstract: This Notice of Proposed Rulemaking (NPRM) would revise the regulations in 41 CFR part 60-4 implementing the affirmative action requirements of Executive Order 11246 that are applicable to Federal and federally assisted construction contractors. This NPRM would remove outdated regulatory provisions and update the provisions in the regulations that set forth the actions construction contractors are required to take to implement their affirmative action obligations.

Priority: Substantive, Nonsignificant
Agenda Stage of Rulemaking: Long-term Action
Major: No
Unfunded Mandates: No
CFR Citation: 41 CFR 60-1 and 60-4 (To search for a specific CFR, visit the Code of Federal Regulations.)
Legal Authority: sec 201, 202, 205, 211, 301, 302, and 303 of EO 11246, as amended; 30 FR 12319; 32 FR 14303, as amended by EO 12086
Legal Deadline: None

Timetable:

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Regulatory Flexibility Analysis Required: No
Government Levels Affected: No
Federalism: Undetermined
Agency Contact: Bruce Bohanon
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Department of Labor (DOL)
Employment Standards Administration (ESA)

Title: Service Contract Act, Health and Welfare Benefits
Abstract: Due to resource limitations and prioritization of regulatory priorities, the Department is temporarily withdrawing this item from the current regulatory agenda and intends to address it at a later date.

Priority: Other Significant
Agenda Stage of Rulemaking: Completed Action
Major: Undetermined
Unfunded Mandates: Undetermined
CFR Citation: 29 CFR 4 (To search for a specific CFR, visit the Code of Federal Regulations.)
Legal Authority: 41 USC 351; 41 USC 38 to 39; 5 USC 301
Legal Deadline: None

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Regulatory Flexibility Analysis Required: Undetermined
Government Levels Affected: Federal
Small Entities Affected: Business
Federalism: No
Agency Contact: Richard M. Brennan
Director, Division of Interpretations and Regulatory Analysis, Wage and Hour Division
Department of Labor
Employment Standards Administration
200 Constitution Avenue NW. FP Building Room S-3502
Washington, DC 20210
Title: Labor Organization Annual Financial Reports  
Abstract: The Department of Labor’s Employment Standards Administration published a final rule on January 21, 2009, which modified the annual financial disclosure report Form LM-2 and established standards and procedures by which the Office of Labor-Management Standards, pursuant to section 208 of the Labor Management Reporting and Disclosure Act (LMRDA), 29 U.S.C. 438, may revoke the authorization of a labor organization to file a simplified annual financial disclosure report, Form LM-3, and instead require it to file the more detailed Form LM-2. Through notice and comment rulemaking the Department extended the effective date of the January 21, 2009 Final Rule to April 21, 2009. The effective date and applicability date of the January 21, 2009 Final Rule were further extended through notice and comment rulemaking to October 19, 2009 and January 1, 2010, respectively. The Department has proposed withdrawing the January 21, 2009, Final Rule. The final rule was withdrawn on October 13, 2009.

Priority: Other Significant  
Agenda Stage of Rulemaking: Completed Action  
Major: No  
Unfunded Mandates: No

Legal Authority: 29 USC 431(b); 29 USC 438

Regulatory Flexibility Analysis Required: No  
Federalism: No

Energy Affected: No

Agency Contact: Denise Boucher  
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Regulations.gov Monday, December 7, 2009
Unified Agenda

Department of Labor (DOL)  
Employment Standards Administration (ESA)  
RIN: 1215-AB62

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<td>74 FR 3678</td>
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<td>10/13/2009</td>
<td>74 FR 52401</td>
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Title: Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors; Contractor Notice-Posting by Electronic Means

Abstract: The Office of Federal Contract Compliance Programs requests the withdrawal of this proposed rule. The agency realigned their limited resources to update Construction regulations in support of the American Recovery Reinvestment Act of 2009.

Priority: Substantive, Nonsignificant

Agenda Stage of Rulemaking: Completed Action

Unfunded Mandates: No

CFR Citation: 41 CFR 60-1; 41 CFR 60-4; 41 CFR 60-250; 41 CFR 60-300; 41 CFR 60-741; ...

(Less to search for a specific CFR, visit the Code of Federal Regulations)


Legal Deadline: None

Timetable:

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Federalism: No

Agency Contact: Bruce Bohanon
Director, Division of Policy, Planning and Program Development
Department of Labor
Employment Standards Administration
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Title: Occupational Exposure to Crystalline Silica

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

**Priority:** Economically Significant

**Agenda Stage of Rulemaking:** PreRule

**Major:** Yes

**Unfunded Mandates:** State, Local, Or Tribal Governments

**CFR Citation:** 29 CFR 1910; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918; 29 CFR 1926 (To search for a specific CFR, visit the [Code of Federal Regulations](https://www.gpo.gov/fdsys/search).)

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

**Legal Deadline:** None

**Regulatory Plan:**

**Statement of Need:** Workers are exposed to crystalline silica dust in general industry, construction, and maritime industries. Industries that could be particularly affected by a standard for crystalline silica include: Foundries, industries that have abrasive blasting operations, paint manufacture, glass and concrete product manufacture, brick making, china and pottery manufacture, manufacture of plumbing fixtures, and many construction activities including highway repair, masonry, concrete work, rock drilling, and tuckpointing. The seriousness of the health hazards associated with silica exposure is demonstrated by the fatalities and disabling illnesses that continue to occur; between 1990 and 1996, 200 to 300 deaths per year are known to have occurred where silicosis was identified on death certificates as an underlying or contributing cause of death. It is likely that many more cases have occurred where silicosis went undetected. In addition, the International Agency for Research on Cancer (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.

**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.

**Costs 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:**

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**Regulatory Flexibility Analysis Required:** Business

**Government Levels Affected:** Federal

**Federalism:** Yes

**Energy Affected:** No

**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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E-Mail: dougherty.dorothy@dol.gov
Department of Labor (DOL)  
**Occupational Safety and Health Administration (OSHA)**  
**RIN:** 1218-AB76

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

**Priority:** Economically Significant  
**Agenda Stage of Rulemaking:** PreRule  
**Unfunded Mandates:** Undetermined  
**CFR Citation:** 29 CFR 1910 (To search for a specific CFR, visit the [Code of Federal Regulations](http://www.cfr.gov))

**Legal Authority:** 29 USC 655(b); 29 USC 657  
**Legal Deadline:** None

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**Regulatory Flexibility Analysis Required:** Business  
**Government Levels Affected:** No  
**Federalism:** No  
**Energy Affected:** No

**Agency Contact:** Dorothy Dougherty  
Director, Directorate of Standards and Guidance  
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Department of Labor (DOL)  
**Occupational Safety and Health Administration (OSHA)**  
**RIN:** 1218-AC17

**Title:** Emergency Response and Preparedness  
**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. The Request for Information was published on September 11, 2007.

**Priority:** Other Significant  
**Agenda Stage of Rulemaking:** PreRule  
**Major:** Undetermined  
**Unfunded Mandates:** Undetermined  
**CFR Citation:** 29 CFR 1910 (To search for a specific CFR, visit the Code of Federal Regulations)  
**Legal Authority:** 29 USC 655(b); 29 USC 657  
**Legal Deadline:** None

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**Regulatory Flexibility Analysis**  
**Required:** Undetermined  
**Government Levels Affected:** Local; State  
**Federalism:** Undetermined  
**Energy Affected:** No

**Agency Contact:** Dorothy Dougherty  
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E-Mail: dougherty.dorothy@dol.gov

### Department of Labor (DOL)  
**Occupational Safety and Health Administration (OSHA)**  
**RIN:** 1218-AC23

**Title:** Methylene Chloride  
**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.

**Priority:** Substantive, Nonsignificant  
**Agenda Stage of Rulemaking:** PreRule  
**Major:** No  
**Unfunded Mandates:** No  
**CFR Citation:** 29 CFR 1910.1052 (To search for a specific CFR, visit the Code of Federal Regulations)  
**Legal Authority:** 5 USC 553; 5 USC 610; 29 USC 655(b)  
**Legal Deadline:** None

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**Regulatory Flexibility Analysis Required:** No  
**Government Levels Affected:** No
Title: Occupational Exposure to Diacetyl and Food Flavorings Containing Diacetyl

Abstract: On July 26, 2006, the United Food and Commercial Workers International Union (UFCW) and the International Brotherhood of Teamsters (IBT) petitioned DOL for an Emergency Temporary Standard (ETS) for all employees exposed to diacetyl, a major component in artificial butter flavoring. Diacetyl and a number of other volatile organic compounds are used to manufacture artificial butter food flavorings. These food flavorings are used by various food manufacturers in a multitude of food products including microwave popcorn, certain bakery goods, and some snack foods. OSHA denied the petition on September 25, 2007, but has initiated 6(b) rulemaking. Evidence from NIOSH and other sources indicated that employee exposure to diacetyl and food flavorings containing diacetyl is associated with bronchiolitis obliterans, a debilitating and potentially fatal disease of the small airways in the lung. Severe obstructive airway disease has been observed in the microwave popcorn industry and in food flavoring manufacturing plants. Experimental evidence has shown that inhalation exposure to artificial butter flavoring vapors and diacetyl damaged tissue lining, the nose, and airways of rats and mice. OSHA published an Advanced Notice of Proposed Rulemaking (ANPRM) on January 21, 2009, but withdrew the ANPRM on March 17, 2009, in order to facilitate timely development of a standard. The Agency subsequently initiated review of the draft proposed standard in accordance with the Small Business Regulatory Enforcement Fairness Act (SBREFA). The SBREFA Panel Report was completed on July 2, 2009.

Priority: Other Significant
Major: No
Agenda Stage of Rulemaking: PreRule
Unfunded Mandates: No

CFR Citation: 29 CFR 1910 (To search for a specific CFR, visit the Code of Federal Regulations)
Legal Authority: 29 USC 655(b); 29 USC 657
Legal Deadline: None

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Regulatory Flexibility Analysis Required: Business
Federalism: No
Energy Affected: No

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
Title: Bloodborne Pathogens (610 Review)

Abstract: OSHA will undertake a review of the Bloodborne Pathogen Standard (29 CFR 1910.1030) in accordance with the requirements of the Regulatory Flexibility Act and section 5 of Executive Order 12866. The review will consider the continued need for 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.

Priority: Substantive, Nonsignificant  
Agenda Stage of Rulemaking: PreRule

Major: No  
Unfunded Mandates: No

CFR Citation: 29 CFR 1910.1030  
(To search for a specific CFR, visit the Code of Federal Regulations)

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

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No  
Government Levels Affected: No

Federalism: No

Energy Affected: No

Agency Contact: John Smith  
Directorate of Evaluation and Analysis  
Department of Labor  
Occupational Safety and Health Administration  
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FAX: 202 693-1641  
E-Mail: smith.john@dol.gov

Title: Tree Care Operations

Abstract: In the 11-year period from 1992 through 2002 for which ornamental shrub and tree services fatality data are available from BLS, there were 637 fatalities in the industry, an average of about 58 fatalities per year or a rate of about 93 fatalities per 100,000 employees. To prevent many of these fatalities, OSHA will develop a standard on tree-trimming work, including maintaining and removing trees and brush. OSHA has standards on logging and line-clearance tree trimming that have been applied to activities performed by tree-care workers. Although there is an existing national consensus standard on tree-trimming work, American National Standards Institute Standard ANSI Z133.1-2006, Safety Requirements for Arboricultural Operations, OSHA has no comprehensive standard to address this type of work. The ANPRM requested information on such hazards as electrocution, falls, and struck by falling objects, as well as hazards associated with equipment used in tree-trimming work, including chippers, chain saws, and stump cutters.

Priority: Other Significant  
Agenda Stage of Rulemaking: PreRule
The Occupational Safety and Health Administration (OSHA) is considering rulemaking to develop a combustible dust standard for general industry. The U.S. Chemical Safety and Hazard Investigation Board (CSB) completed a study of combustible dust hazards in late 2006, which identified 281 combustible dust incidents between 1980 and 2005 that killed 119 workers and injured 718. The CSB also recommended the Agency pursue rulemaking on this issue. While a number of OSHA standards address aspects of this risk among these are: 1910.22 Housekeeping, 1910.38 Emergency Action Plans, 1910.94 Ventilation, 1910.107 Spray Finishing, 1910.146 Permit Required Confined Spaces, 1910.269 Electric Power Generation, Transmission and Distribution (coal handling), 1910.272 Grain Handling Facilities, 1910.307 Hazard Communication), the Agency does not have a comprehensive standard that addresses combustible dust hazards. The Agency has published a Safety and Health Information Bulletin, Combustible Dust in Industry: Preventing and Mitigating the Effects of Fire and Explosions, and has implemented a Combustible Dust National Emphasis Program (NEP). OSHA will also use information gathered from the NEP as the agency considers future rulemaking.

Additional Information: OSHA published an Advanced Notice of Proposed Rulemaking (ANPRM) on October 21, 2009, and plans to hold stakeholder meetings in December 2009.
Title: Airborne Infectious Diseases

Abstract: Employees in health care and other high-risk environments face long-standing respiratory hazards such as tuberculosis (TB), varicella disease (chickenpox, shingles), and measles (rubeola), as well as new and emerging infectious disease threats, such as Severe Acute Respiratory Syndrome (SARS) and pandemic influenza. Health care workers and workers in related occupations or who are exposed in other high-risk environments are at increased risk of contracting tuberculosis, SARS, and other airborne infectious diseases which are spread through respiratory secretions which are exhaled or expelled through coughing, sneezing, etc. and can be transmitted through a variety of exposure routes. OSHA is concerned about the ability of employees to continue to provide health care and other critical services without unreasonably jeopardizing their health. OSHA is considering the need for a standard to ensure that employers establish a comprehensive infection control program and control measures to protect employees from airborne infectious disease exposures to pathogens that can cause significant disease. Workplaces where such control measures might be necessary include: health care, emergency responses, correctional facilities, homeless shelters, drug treatment programs and other occupational settings where employees can be at increased risk of exposure to potentially infectious people. A standard could also apply to laboratories which handle materials that may be a source of pathogens, and to pathologists, coroners' offices, medical examiners and mortuaries.

Priority: Economically Significant

Legal Authority: 5 USC 533; 29 USC 657 and 658; 29 USC 660; 29 USC 666; 29 USC 669; 29 USC 673; ...
Title: Confined Spaces in Construction

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.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Major: No

Unfunded Mandates: No

CFR Citation: 29 CFR 1926.36 (To search for a specific CFR, visit the Code of Federal Regulations)

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

Legal Deadline: None

Regulatory Flexibility Analysis Required: Business

Government Levels Affected: Undetermined

Federalism: No

Energy Affected: No

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FAX: 202 693-1689

Title: Walking Working Surfaces and Personal Fall Protection Systems (Slips, Trips, and Fall Prevention)

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.
Priority: Other Significant  
**Agenda Stage of Rulemaking:** Proposed Rule  
Major: Undetermined  
**Unfunded Mandates:** Undetermined  
**CFR Citation:** 29 CFR 1910, subparts D and I (To search for a specific CFR, visit the [Code of Federal Regulations](https://www.gpo.gov/fdsys/search/cfr.html))  
Legal Authority: 29 USC 655(b)  
Legal Deadline: None

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

### Agency Contact:
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**Department of Labor (DOL)**  
**Occupational Safety and Health Administration (OSHA)**  
**RIN:** 1218-AC19

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

Priority: Other Significant  
**Agenda Stage of Rulemaking:** Proposed Rule  
Major: No  
**Unfunded Mandates:** No

**CFR Citation:** Not Yet Determined (To search for a specific CFR, visit the [Code of Federal Regulations](https://www.gpo.gov/fdsys/search/cfr.html))  
Legal Authority: 29 USC 655(b)  
Legal Deadline: None

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

Federalism: No
Title: Hazard Communication  

Abstract: OSHA's Hazard Communication Standard (HCS) requires chemical manufacturers and importers to evaluate the hazards of the chemicals they produce or import, and prepare labels and material safety data sheets to convey the hazards and associated protective measures to users of the chemicals. All employers with hazardous chemicals in their workplaces are required to have a hazard communication program, including labels on containers, material safety data sheets (MSDS), and training for employees. Within the United States (U.S.), there are other Federal agencies that also have requirements for classification and labeling of chemicals at different stages of the life cycle. Internationally, there are a number of countries that have developed similar laws that require information about chemicals to be prepared and transmitted to affected parties. These laws vary with regard to the scope of substances covered, definitions of hazards, the specificity of requirements (e.g., specification of a format for MSDSs), and the use of symbols and pictograms. The inconsistencies between the various laws are substantial enough that different labels and safety data sheets must often be used for the same product when it is marketed in different nations. The diverse and sometimes conflicting national and international requirements can create confusion among those who seek to use hazard information. Labels and safety data sheets may include symbols and hazard statements that are unfamiliar to readers or not well understood. Containers may be labeled with such a large volume of information that important statements are not easily recognized. Development of multiple sets of labels and safety data sheets is a major compliance burden for chemical manufacturers, distributors, and transporters involved in international trade. Small businesses may have particular difficulty in coping with the complexities and costs involved. As a result of this situation, and in recognition of the extensive international trade in chemicals, there has been a long-standing effort to harmonize these requirements and develop a system that can be used around the world. In 2003, the United Nations adopted the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). Countries are now adopting the GHS into their national regulatory systems. 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.

Priority: Economically Significant  

Agenda Stage of Rulemaking: Proposed Rule  

Major: Yes  

Unfunded Mandates: Private Sector  


(To search for a specific CFR, visit the Code of Federal Regulations.)  

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

Legal Deadline: None  

Regulatory Plan:  

Statement of Need: Multiple sets of requirements for labels and safety data sheets present a compliance burden for U.S. manufacturers, distributors, and transporters 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. Most importantly, comprehensibility of hazard information and worker safety will be enhanced as the GHS will: (1) provide consistent information and definitions for hazardous chemicals; (2) address stakeholder concerns regarding the need for a standardized format for material safety data sheets; and (3) increase understanding by using standardized...
pictograms and harmonized hazard statements. The increase in comprehensibility and consistency will reduce confusion and thus improve worker safety and health. Several nations, including the European Union, have adopted the GHS with an implementation schedule through 2015. U.S. manufacturers, employers, and employees will be at a disadvantage in the event that our system of hazard communication is not compliant with the GHS.

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.

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

Risks: OSHA’s risk analysis is under development.

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local; State

Federalism: Yes

Energy Affected: No

Agency Contact: Dorothy Dougherty
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Title: Nationally Recognized Testing Laboratories Fee Schedule--Revised Approach

Abstract: The Occupational Safety and Health Administration is proposing to adjust the methodology it uses to establish the fees that the Agency charges for the services it provides to Nationally Recognized Testing Laboratories (NRLs). 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 NRL 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 NRL 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 NRLs for the services it provides them. The services are processing of NRL applications and audits of NRL operations, and they define the fundamental functions of the NRL Program. OSHA has determined that its current NRL fee schedule does not recoup the full costs of the services performed because it does not recover certain indirect costs of those services. These indirect costs stem from attendant activities and accrue to the benefit of those services. OSHA’s proposed fee schedule would account for these indirect costs. In determining the revised fee structure, OSHA will follow the guidelines established by the Office of Management and Budget in Circular Number A-25. The proposed schedule will require prepayment of all the fees, which complies with the circular and changes the timing of the payment of many of the fees.
Priority: Info./Admin./Other
Agenda Stage of Rulemaking: Proposed Rule
Major: No
Unfunded Mandates: No
CFR Citation: 29 CFR 1910.7(f) (To search for a specific CFR, visit the Code of Federal Regulations)
Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657; 31 USC 9701
Legal Deadline: None

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Regulatory Flexibility Analysis Required: No
Government Levels Affected: No
Federalism: No
Energy Affected: No

Agency Contact: Mary Ann Garrahan
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Department of Labor (DOL)
Occupational Safety and Health Administration ( OSHA )

Title: Cooperative Agreements
Abstract: OSHA proposes to revise its regulations for the federally funded On-site Consultation Program to: a) clarify the ability of the Assistant Secretary to define sites which would receive inspections regardless of Safety and Health Achievement Recognition Program (SHARP) exemption status; b) allow Compliance Safety and Health Officers to proceed with enforcement visits resulting from referrals at sites undergoing Consultation visits and at sites that have been awarded SHARP status and c) limit the deletion period from OSHA’s programmed inspection schedule for those employers participating in the SHARP program. Note: SHARP is a recognition program that OSHA administers to provide incentives and support for small employers to develop, implement, and continuously improve effective safety and health programs at their worksites.

Priority: Other Significant
Agenda Stage of Rulemaking: Proposed Rule
Major: Undetermined
Unfunded Mandates: Undetermined
CFR Citation: 29 CFR 1908 (To search for a specific CFR, visit the Code of Federal Regulations)
Legal Authority: 29 USC 656 and 657; 29 USC 670
Legal Deadline: None

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Regulatory Flexibility Analysis Required: No
Government Levels Affected: Undetermined
Federalism: Undetermined
Public Comment URL: ecomments.osha.gov
Agency Contact: Larry Liberatore
Director, Office of Small Business Assistance
Department of Labor
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Title: Occupational Exposure to Hexavalent Chromium; Final Rule Remand

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

Priority: Substantive, Nonsignificant
Agenda Stage of Rulemaking: Proposed Rule
Major: No
Unfunded Mandates: No

CFR Citation: 29 CFR 1910.1026(d)(4); 29 CFR 1915.1026(d)(4); 29 CFR 1926.1126(d)(4) (To search for a specific CFR, visit the Code of Federal Regulations.)

Legal Authority: 29 USC 655(b)
Legal Deadline: None

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Additional Information: This regulation was previously report as 1218-AB45. A NPRM was published 10/4/2004 (69 FR 53905), and a final was published 2/28/2006 (71 FR 10100).

Regulatory Flexibility Analysis Required: No
Government Levels Affected: Local; State

Federalism: No
Energy Affected: No

Related RINs: Previously Reported as 1218-AB45

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E-Mail: dougherty.dorothy@dol.gov
Title: Occupational Injury and Illness Recording and Reporting Requirements

Abstract: The Occupational Safety and Health Administration (OSHA) issued a final rule on Occupational Injury and Illness Recording and Reporting Requirements (66 FR 5916, January 19, 2001), that became effective January 1, 2002. After a regulatory review, the Agency determined that two provisions of the final rule would be delayed and reconsidered; the recording of occupational hearing loss (1904.10) and the recording of work-related musculoskeletal disorders (WMSDs) (1904.12) (66 FR 35113, July 3, 2001). Subsequently, OSHA issued a final 1904.10 regulation setting recording criteria for occupational hearing loss (67 FR 44037, July 1, 2002). Following notice and comment, OSHA published another final rule to remove the WMSD recording provisions from the regulation and remove a separate column for identifying WMSDs from the OSHA 300 Log of Work-Related Injuries and Illness (68 FR 38601, June 30, 2003). OSHA has reconsidered the need for a 300 Log column for WMSD, and for defining “musculoskeletal disorders” for recordkeeping purposes. The Agency believes that additional data on WMSDs may help employers and workers track these injuries at individual workplaces, and that the Nation's occupational injury and illness information may benefit from improved statistics on WMSD. Improved WMSD information might also assist the Agency in its day-to-day activities and overall safety and health policymaking. Therefore, OSHA is developing a proposed rule to add a definition of WMSD to 29 CFR part 1904 and a separate column on the 300 Log to track this class of injury/illness.

Priority: Substantive, Nonsignificant

Agenda Stage of Rulemaking: Proposed Rule

Major: Undetermined

Unfunded Mandates: No

CFR Citation: 29 CFR 1904

(To search for a specific CFR, visit the Code of Federal Regulations

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

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Small Entities Affected: Business

Federalism: No

Energy Affected: No

Agency Contact: Dorothy Dougherty
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Title: General Working Conditions for Shipyard Employment

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. The proposed rule was published December 20, 2007.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No
Title: Electric Power Transmission and Distribution; Electrical Protective Equipment

Abstract: Electrical hazards are a major cause of occupational death in the United States. The annual fatality rate for power line workers is about 50 deaths per 100,000 employees. The construction industry standard addressing the safety of these workers during the construction of electric power transmission and distribution lines is over 35 years old. OSHA has developed a revision of this standard that will prevent many of these fatalities, add flexibility to the standard, and update and streamline the standard. OSHA also intends to amend the corresponding standard for general industry so that requirements for work performed during the maintenance of electric power transmission and distribution installations are the same as those for similar work in construction. In addition, OSHA will be revising a few miscellaneous general industry requirements primarily affecting electric transmission and distribution work, including provisions on electrical protective equipment and foot protection. This rulemaking also addresses fall protection in aerial lifts for work on power generation, transmission, and distribution installations. OSHA published an NPRM on June 15, 2005. A public hearing was held March 6 to 14, 2006. OSHA reopened the record to gather additional information on minimum approach distances for specific range of voltages. The record was reopened a second time to allow more time for comment and to gather information on minimum approach distances for all voltages and on the newly revised Institute of Electrical and Electronics Engineers consensus standard.

Priority: Economically Significant

Agenda Stage of Rulemaking: Final Rule

Major: Yes

Unfunded Mandates: No


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

Legal Deadline: None
Title: Cranes and Derricks in Construction

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.

Priority: Economically Significant
Major: Yes
Unfunded Mandates: No

Regulatory Plan:

Statement of Need: There have been considerable technological changes since the consensus standards upon which the 1971 OSHA standard is based were developed. In addition, industry consensus standards for derricks and crawler, truck and locomotive cranes were updated as recently as 2004. The industry indicated that over the past 30 years, considerable changes in both work processes and crane technology have occurred. There are estimated to be 64 to 89 fatalities associated with cranes each year in construction, and a more up-to-date standard would help prevent them.

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

Risks: OSHA’s risk analysis is under development.

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Regulatory Flexibility Analysis Required: Business

Government Levels Affected: Undetermined

Federalism: No

Energy Affected: No

Agency Contact: Noah Connell
Deputy Director, Directorate of Construction
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Department of Labor (DOL)
Occupational Safety and Health Administration (OSHA)

Title: Explosives

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

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Unfunded Mandates: No

CFR Citation: 29 CFR 1910.109 (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 29 USC 655(b)

Legal Deadline: None

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Title: Procedures for Handling Discrimination Complaints Under Federal Employee Protection Statutes

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.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 29 CFR 24 (To search for a specific CFR, visit the Code of Federal Regulations)

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

Legal Deadline: None

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Small Entities Affected: No

Federalism: No
Title: Procedures for Handling Employee Retaliation Complaints Under the National Transit Systems Security Act of 2007; Surface Transportation Assistance Act of 1982, as Amended; and Federal Rail Safety Act

Abstract: OSHA will implement procedures for the handling and investigation of retaliation complaints pursuant to section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007. This Act amended the Federal Rail Safety Act (FRSA), to establish a new whistleblower protection provision to be administered by OSHA that provides protections from retaliation to employees working for railroad carriers and their contractors and subcontractors who report potential violations or engage in certain activities related to safety and security. OSHA will implement procedures for the handling and investigation of retaliation complaints pursuant to section 1413 of the Implementing Recommendations of the 9/11 Commission Act of 2007. Section 1413, known as the National Transit Systems Security Act (NTSSA), included a new whistleblower protection provision to be administered by OSHA that provides protection from retaliation to employees of public transportation agencies and their contractors and subcontractors who report potential violations or engage in certain activities related to safety and security. OSHA will amend 29 CFR 1978, the procedures applicable to the handling and investigation of whistleblower complaints under the Surface Transportation Assistance Act (STAA), 49 U.S.C. 31105, to implement statutory changes enacted by Congress under section 1536 of the Implementing Recommendations of the 9/11 Commission Act of 2007, and to provide other procedural updates as needed. The statute provides retaliation protection to employees working for commercial motor carriers who report potential violations or engage in certain activities related to safety and security. Pursuant to these statutes, the rules will set forth the procedures for handling and investigating retaliation complaints, including a statutory "kick-out" provision allowing the complainant to file the complaint in District Court if the Secretary of Labor has not issued a final decision within 210 days of the filing of the complaint. Immediate implementation of these regulations is necessitated to govern whistleblower investigations conducted under the new and revised statutes.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Unfunded Mandates: No

CFR Citation: 29 CFR 1978 (To search for a specific CFR, visit the Code of Federal Regulations)


Legal Deadline: None

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local; State

Small Entities Affected: No

Federalism: No

Energy Affected: No

Agency Contact: Nilgun Tolek
Director, Office of the Whistleblower Protection Program
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200 Constitution Avenue NW. FP Building Room N-3610
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Title: Abbreviated Portacount® Quantitative Fit-Testing Protocol

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

Priority: Substantive, Nonsignificant
Major: No
Unfunded Mandates: No
CFR Citation: 29 CFR 1910.134 (To search for a specific CFR, visit the Code of Federal Regulations.)
Legal Authority: 29 USC 655(b); 29 USC 657
Legal Deadline: None

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Regulatory Flexibility Analysis Required: No
Government Levels Affected: Undetermined
Federalism: No
Energy Affected: No
Agency Contact: Dorothy Dougherty
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E-Mail: dougherty.dorothy@dol.gov

Title: Procedures for the Handling of Retaliation Complaints Under the Employee Protection Provisions of the Consumer Product Safety Improvement Act (CPSIA) of 2008
Abstract: OSHA is proposing to promulgate procedures for the handling and investigation of retaliation complaints pursuant to Section 219 of the Consumer Product Safety Improvement Act of 2008. This section established a new whistleblower protection statute to be administered by OSHA that provides protection from retaliation to employees in the consumer product industry, including employees of manufacturers, importers, private labelers, distributors and retailers, who report reasonably believed violations of the Consumer Product Safety Act or any other Act enforced by the Consumer Product Safety Commission, or any order, rule, regulation, standard or ban under those Acts. Pursuant to the statute, the procedures will include remedies and legal burdens of proof provisions, and a “kick-out” provision allowing the complainant to file the complaint in District Court if within 210 days of the filing of the complaint the Secretary has not issued a final determination, or within 90 days after receiving a written determination. Promulgation of a regulation is necessary to govern whistleblower investigations conducted under the new statute.

Priority: Info./Admin./Other
Major: No
Unfunded Mandates: No
CFR Citation: 29 CFR 1983 (To search for a specific CFR, visit the Code of Federal Regulations.)
Legal Authority: PL 110-314, sec 219, the Consumer Product Safety Improvement Act of 2008; 15 USC 2087
Legal Deadline: None

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Department of Labor (DOL)
Occupational Safety and Health Administration (OSHA) RIN: 1218-AC47

View Related Documents
Title: Hearing Conservation Program for Construction Workers

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.

Priority: Economically Significant

Agenda Stage of Rulemaking: Long-term Action

Unfunded Mandates: Undetermined

CFR Citation: 29 CFR 1926.52 (To search for a specific CFR, visit the Code of Federal Regulations.)

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

Legal Deadline: None

Timetable:

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local; State

Federalism: No

Energy Affected: No

Agency Contact: Dorothy Dougherty

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Department of Labor

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E-Mail: dougherty.dorothy@dol.gov
Title: Revision and Update of Standards for Power Presses
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 look-back 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 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 is currently planning to base the revision of the Mechanical Power Presses standard on the most recent version of the American National Standards Institute 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.

Priority: Other Significant
Major: No
Unfunded Mandates: No
CFR Citation: 29 CFR 1910.217 (To search for a specific CFR, visit the Code of Federal Regulations)
Legal Authority: 29 USC 655(b); 29 USC 657
Legal Deadline: None

Regulatory Flexibility Analysis
Required: Undetermined
Small Entities Affected: Business
Energy Affected: No

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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. An NPRM on Personal Protective (PPE) consensus standards was published on August 31, 2007,
with a hearing on December 4, 2007. A direct final rule (DFR) on Miscellaneous Changes and Welding Definitions was
published on December 14, 2007. In the next phase of the project, OSHA intends to publish a DFR to update consensus
standards referenced for acetylene, and issue a final rule on the PPE consensus standards.

**Priority:** Other Significant

**Major:** No

**Agenda Stage of Rulemaking:** Completed Action

**Unfunded Mandates:** No

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

(To search for a specific CFR, visit the Code of Federal Regulations)

**Legal Authority:** 29 USC 655(b)

**Legal Deadline:** None

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** No

**Federalism:** No

**Energy Affected:** No

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**Title:** Abbreviated Bitrix Qualitative Fit-Testing Protocol

**Abstract:** The Occupational Safety and Health Administration (OSHA) published the revised standard for respiratory
protection on January 8, 1998. Appendix A of this standard currently lists four challenge agents permitted for use in qualitative fit
testing protocols; these include isoamyl acetate, saccharin aerosol solution, irritant smoke, and Bitrix (denatonium benzoate). The standard also includes procedures that allow parties to submit new fit testing protocols for notice-and-comment rulemaking under section 6(b)(7) of the Occupational Safety and Health Act. OSHA has been requested to consider adding a new fit testing protocol that modifies the existing Bitrix protocol, and is undergoing rulemaking to seek public comment and determine whether to amend the fit testing provisions of the standard to include the proposed protocol. The NPRM was published on December 26, 2007. OSHA withdraw the proposed rule on June 25, 2009 (74 FR 30250).

Priority: Other Significant  
Agenda Stage of Rulemaking: Completed Action  
Major: No  
Unfunded Mandates: No  
CFR Citation: 29 CFR 1910.134 (To search for a specific CFR, visit the Code of Federal Regulations.)  
Legal Authority: 29 USC 655(b); 29 USC 657  
Legal Deadline: None

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Regulatory Flexibility Analysis Required: No  
Government Levels Affected: No

Federalism: No

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Title: Illinois State Plan for Public Employees Only--Initial State Plan Approval

Abstract: OSHA will propose to grant initial State Plan approval, under section 18 of the Occupational Safety and Health Act and 29 CFR 1956, to the Illinois State Plan for Public Employees Only as submitted by the Illinois Department of Labor. The plan proposes to establish a program for the adoption and enforcement of standards applicable only to the employees of the State of Illinois and its political subdivisions (local government employees) within a 3-year developmental period, which will be at least as effective as Federal OSHA’s private sector protection program. Written public comment has been sought on whether initial State plan approval should be granted and an opportunity to interested persons to request an informal public hearing, prior to final action granting initial approval of a developmental State Plan. Initial approval of the Illinois Public Employee Only State plan is based upon a determination that the plan meets, or will meet within three years, OSHA’s initial plan approval criteria and the availability of Federal (50%) and State (50%) matching funds.

Priority: Substantive, Nonsignificant  
Agenda Stage of Rulemaking: Completed Action  
Major: No  
Unfunded Mandates: No  
CFR Citation: 29 CFR 1956 (To search for a specific CFR, visit the Code of Federal Regulations.)  
Legal Authority: 26 USC 667  
Legal Deadline: None

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Title: Coal Mine Respirable Dust; Continuous Personal Dust Monitor (CPDMs)

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) 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 2006, and another report concerning test results in June 2007. MSHA will solicit public input on potential applications of this new monitoring technology in coal mines.

Priority: Other Significant

Agenda Stage of Rulemaking: PreRule

Major: No

Unfunded Mandates: No

CFR Citation: Not Yet Determined (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 30 USC 811

Legal Deadline: None

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Small Entities Affected: Business

Federalism: No

Energy Affected: No

RIN Information URL: www.msha.gov/regsinfo.htm

Public Comment URL: www.regulations.gov

Related RINs: Related to 1219-AB14; Related to 1219-AB18
Title: Proximity Detection Systems for Underground Mines

Abstract: The request for information would seek information relative to the use of a proximity detection system to address crushing and pinning hazards associated with the operation of machinery underground. Currently there are no existing 30 CFR regulations that mandate the use of a proximity detection system to address crushing and pinning hazards underground.

Priority: Substantive, Nonsignificant

Agenda Stage of Rulemaking: PreRule

Unfunded Mandates: Undetermined

CFR Citation: Not Yet Determined

Legal Authority: 30 USC 811

Legal Deadline: None

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Federalism: No

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Title: Metal and Nonmetal Impoundments

Abstract: Water, sediment, and slurry impoundments for metal and nonmetal mining and milling operations are located throughout the country. Some of these impoundments would impact homes, well-traveled roads, and other important infrastructure if they were to fail. Impoundment failures could endanger lives and cause property damage. MSHA will issue an advance notice of proposed rulemaking to solicit information relative to proper design, construction, operation, maintenance, and other safety issues for impoundments at metal and nonmetal mines whose failure could cause loss of life or significant property damage.

Priority: Other Significant

Agenda Stage of Rulemaking: PreRule

Unfunded Mandates: Undetermined

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Authority: 30 USC 811; 30 USC 812

Legal Deadline: None

Regulatory Plan:

Statement of Need: Mining operations regularly find it necessary to construct dams to dispose of large volumes of mine waste (tailings or slurry) from processing operations, or to provide water supply, sediment control, or water treatment. Impoundments are structures that are used to impound water, sediment, or slurry or any combination of materials. Dams that form impoundments must be designed to be stable under the various conditions they will be subjected to, including runoff from rainfall, seepage, and possibly earthquake shaking. The failure of these structures can have a devastating effect on both the
mine and nearby communities. Every two years since 1980, a report has been prepared by the Federal Emergency
Management Agency (FEMA) and sent to Congress on the status of dam safety in the U.S. These reports are required by a
1979 Presidential Memorandum which directed the Federal agencies responsible for dams to adopt and implement the Federal
Guidelines for Dam Safety. MSHA has been criticized in these biennial reports for its lack of regulation of metal and nonmetal
dams. MSHA's Metal and Nonmetal standards do not provide sufficient guidance to determine what is needed to effectively
design and construct dams with high or significant hazard potential. The Metal and Nonmetal standards need to more effectively
address requirements for dam design, construction, operation and maintenance.

**Legal Basis:** Promulgation of this regulation is authorized by the Federal Mine Safety and Health Act of 1977 as amended

**Alternatives:** MSHA is considering amendments, revisions, and additions to existing standards.

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

**Risks:** The failure of impoundments can have a devastating affect on both the mine and nearby communities by causing loss
of life and property damage.

**Timetable:**

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**Regulatory Flexibility Analysis**

**Government Levels Affected:** No

**Small Entities Affected:** Business

**Federalism:** No

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**Department of Labor (DOL)**
**Mine Safety and Health Administration (MSHA)**

**RIN:** 1219-AB36

**Title:** Respirable Crystalline Silica Standard

**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, an irreversible but
preventable lung disease, which ultimately may be fatal. Both formulas are designed to limit exposures to 0.1 mg/m3 (100ug) 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 recommends a 50 ug/m3 exposure limit for respirable
crystalline silica, and ACGIH recommends a 25 ug/m3 exposure limit. MSHA will publish a proposed rule to address miners'
exposure to respirable crystalline silica.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Proposed Rule

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** 30 CFR 56 to 57; 30 CFR 70 to 72; 30 CFR 90 (To search for a specific CFR, visit the Code of Federal
Regulations.)

**Legal Authority:** 30 USC 811; 30 USC 813
Legal Deadline: None

Regulatory Plan:

Statement of Need: MSHA standards are outdated; current regulations may not protect workers from developing silicosis. Evidence indicates that miners continue to develop silicosis. MSHA’s proposed regulatory action exemplifies the agency’s commitment to protecting the most vulnerable populations while assuring broad-based compliance. MSHA will regulate to eliminate or reduce the hazards with the broadest and most serious consequences based on sound science. MSHA intends to use OSHA’s work on the health effects and risk assessment, adapting it as necessary for the mining industry.

Legal Basis: Promulgation of this standard is authorized by sections 101 and 103 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. MSHA will consider alternative methods of addressing miners’ exposure based on the capabilities of the sampling and analytical methods.

Costs and Benefits: MSHA will prepare estimates of the anticipated costs and benefits associated with the proposed rule.

Risks: For over 70 years, toxicology information and epidemiological studies have shown that exposure to respirable crystalline silica presents potential health risks to miners. These potential adverse health effects include simple silicosis, progressive massive fibrosis (lung scarring). Evidence indicates that exposure to silica may cause cancer. MSHA believes that the health evidence forms a reasonable basis for reducing miners’ exposure to respirable crystalline silica.

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Regulatory Flexibility Analysis

Required: Undetermined

Small Entities Affected: Business; Governmental Jurisdictions

Energy Affected: Undetermined

RIN Information URL: www.msha.gov/regsinfo.htm

Government Levels Affected: Local; State

Federalism: No

Public Comment URL: www.regulations.gov

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Department of Labor (DOL)
Mine Safety and Health Administration (MSHA)

RIN: 1219-AB37

Title: Revising Electrical Product Approval Regulations

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, Flame-Resistance Testing of Mining Materials, was completed with the final rule published on December 31, 2008 (73 FR 80580). The second phase will be Intrinsic Safety Requirements. This action will be published second because the MINER Act requires underground coal mine operators to submit an Emergency Response Plan (ERP) that sets forth a means of providing post-accident communication and electronic tracking by June 15, 2009.
Title: Occupational Exposure to Coal Mine Dust (Lowering Exposure)

Abstract: The Federal Coal Mine Health and Safety Act of 1969 established the first comprehensive respirable dust standards for coal mines. These standards were designed to reduce the incidence of coal workers' pneumoconiosis (black lung) and silicosis and eventually eliminate these diseases. While significant progress has been made toward improving the health conditions in our Nation's coal mines, miners continue to be at risk of developing occupational lung disease, according to the National Institute for Occupational Safety and Health (NIOSH). In September 1995, NIOSH issued a Criteria Document in which it recommended that the respirable coal mine dust permissible exposure limit (PEL) be cut in half. In February 1996, the Secretary of Labor convened a Federal Advisory Committee on the Elimination of Pneumoconiosis Among Coal Miners (Advisory Committee) to assess the adequacy of MSHA's current program and standards to control respirable dust in underground and surface coal mines, as well as other ways to eliminate black lung and silicosis among coal miners. The Committee represented the labor, industry and academic communities. The Committee submitted its report to the Secretary of Labor in November 1996, with the majority of the recommendations unanimously supported by the Committee members. The Committee recommended a number of actions to reduce miners' exposure to respirable coal mine dust. MSHA will publish a proposed rule to address miners' exposure to respirable coal mine dust.
Statement of Need: Comprehensive respirable dust standards for coal mines were designed to reduce the incidence, and eventually eliminate, CWP and silicosis. While significant progress has been made toward improving the health conditions in our Nation's coal mines, miners remain at risk of developing occupational lung disease, according to NIOSH. Recent NIOSH data indicates increased prevalence of CWP "clusters" in several geographical areas, particularly in the Southern Appalachian Region.

Legal Basis: Promulgation of this regulation is authorized by the Federal Mine Safety and Health Act of 1977 as amended by the Mine Improvement and New Emergency Response Act of 2006.

Alternatives: MSHA is considering amendments, revisions, and additions to existing standards.

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

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 workers’ pneumoconiosis and silicosis, which are potentially disabling and can cause death. MSHA is pursuing both regulatory and nonregulatory actions to eliminate these diseases through the control of coal mine respirable dust levels in mines and reduction of miners’ exposure. MSHA will develop a risk assessment to accompany the proposed rule.

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Additional Information: 1219-AB14 (Verification of Underground Coal Mine Operators’ Dust Control Plans and Compliance Sampling for Respirable Dust) and 1219-AB18 (Determination of Concentration of Respirable Coal Mine Dust) have been integrated.

Regulatory Flexibility Analysis
Required: Undetermined
Small Entities Affected: Business
Energy Affected: No
Related RINs: Related to 1219-AA81; Related to 1219-AB14; Related to 1219-AB18
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Title: High-Voltage Continuous Mining Machine Standard for Underground Coal Mines
Abstract: MSHA’s 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 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 used in underground coal mines. MSHA published a supplemental NPRM on March 28, 2006 (71 FR 15359). The supplemental NPRM proposed and requested comments on two issues arising from oral and written comments that MSHA received during the hearing and post-hearing comment period on the NPRM. These issues involved: (1) The 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 routinely grants these petitions.
Title: Coal Mine Dust Personal Monitors

Abstract: Existing 30 CFR part 74, specifies requirements for approval of coal mine dust personal sampler units designed to
determine the concentrations of respirable coal dust in coal mine atmospheres; procedures for applying for such approval; tests
procedures; and labeling. This rulemaking established new requirements that both the National Institute for Occupational Safety
and Health (NIOSH) and Mine Safety and Health Administration (MSHA) would use to approve coal mine dust personal
samplers. The requirements would permit the approval of a new type of device, the "continuous personal dust monitor." It would
also update design specifications for the coal mine dust personal sampler units to include improvements made to this device in
the past 15 years. This rulemaking does not address the requirements in 30 CFR parts 70, 71, and 90 on the use of dust
samplers.

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Title: Criteria and Procedures for Proposed Assessment of Civil Penalties/Recordkeeping and Reporting: Immediate Notification

Abstract: Consistent with MINER Act, MSHA's civil penalty regulations require a specified penalty for failure to report certain types of accidents. Under the existing regulations, MSHA must review all violations of 50.10 and 100.5(f) for special assessment. MSHA will publish a final rule to make nonsubstantive organizational changes to improve the efficiency and effectiveness of the Agency's procedures for processing civil penalties.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Unfunded Mandates: No

CFR Citation: 30 CFR 100; 30 CFR 50 (To search for a specific CFR, visit the Code of Federal Regulations.)

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

Legal Deadline: None

Timetable:

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<td>Final Action</td>
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Title: Smoke Density and Toxicity

Abstract: MSHA will gather information on the criteria for testing density and toxicity of smoke from burning conveyor belts or
similar materials.

Priority: Other Significant  
Agenda Stage of Rulemaking: Long-term Action  
Major: No  
Unfunded Mandates: No  
CFR Citation: Not Yet Determined (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: Section 101 of the Federal Mine Safety and Health Act (PL 95-164)

Legal Deadline: None

Timetable:

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Regulatory Flexibility Analysis Required: No  
Government Levels Affected: Undetermined  
Small Entities Affected: Business  
Federalism: No

Agency Contact: Patricia W. Silvey  
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Department of Labor (DOL)  
Mine Safety and Health Administration (MSHA)  
RIN: 1219-AB67

Title: Notification of Legal Identity

Abstract: Currently required information does not provide sufficient information for MSHA to identify all of the mine “operators” responsible for operator safety and health obligations under the Federal Mine Safety and Health Act of 1977, as amended. This new regulation would expand the information required to be submitted to MSHA and allow the Agency to better target the most egregious and persistent violators and more effectively deter future violations by imposing penalties and other remedies on those violators.

Priority: Other Significant  
Agenda Stage of Rulemaking: Long-term Action  
Major: No  
Unfunded Mandates: No  
CFR Citation: Not Yet Determined (To search for a specific CFR, visit the Code of Federal Regulations)

Legal Authority: 30 USC 811

Legal Deadline: None

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Regulatory Flexibility Analysis Required: Undetermined  
Government Levels Affected: No  
Small Entities Affected: Business  
Federalism: No

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

View Related Documents
Title: Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust

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 continuous personal dust monitor in September 2006 and another report concerning test results in June of 2007. MSHA plans to incorporate aspects of this rulemaking into the rulemaking on occupational exposure to coal mine dust (Lowering Exposure).

Priority: Other Significant

Agenda Stage of Rulemaking: Completed Action

Unfunded Mandates: No

CFR Citation: 30 CFR 70; 30 CFR 75; 30 CFR 90 (To search for a specific CFR, visit the Code of Federal Regulations.)

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

Legal Deadline: None

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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), and RIN 1219-AB64 (Occupational Exposure to Coal Mine Dust Lowering Exposure).

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Federalism: No

Energy Affected: No

RIN Information URL: www.MSHA.gov/regsinfo.htm
www.regulations.gov

Public Comment URL: www.regulations.gov
Related RINs: Related to 1219-AB18; Related to 1219-AB48

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Title: Determination of Concentration of Respirable Coal Mine Dust

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 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 and another report concerning test results in June 8, 2007. MSHA plans to incorporate aspects of this rulemaking into the rulemaking on Occupational Exposure to Coal Mine Dust (Lowering Exposure Limit).

Priority: Other Significant
Agenda Stage of Rulemaking: Completed Action
Major: No
Unfunded Mandates: No
CFR Citation: 30 CFR 72 (To search for a specific CFR, visit the Code of Federal Regulations)
Legal Authority: 30 USC 811
Legal Deadline: None

Timetable:

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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), RIN 1219-AB48 (Continuous Personal Dust Monitor), and RIN 1219-AB64 (Occupational Exposure to Coal Mine Dust) (Lowering Exposure).
**Title:** Field Modifications of Permissible Mobile Diesel-Powered Equipment

**Abstract:** The agency does not anticipate doing further work on this rule at this time.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Completed Action

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** 30 CFR 36 (To search for a specific CFR, visit the [Code of Federal Regulations](https://www.regulations.gov))

**Legal Authority:** 30 USC 957

**Legal Deadline:** None

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** No

**Small Entities Affected:** Business

**Federalism:** No

**Energy Affected:** No

**RIN Information URL:** www.msha.gov/regsinfo.htm

**Public Comment URL:** www.regulations.gov

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**Title:** Use of or Impairment From Alcohol and Other Drugs on Mine Property

**Abstract:** MSHA published 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. At this time MSHA is withdrawing action on this rulemaking. Reason for Withdrawal: Due to comments, and limited data on the effects of alcohol and drug use related to mine accidents, MSHA is withdrawing the
proposed rule. Many commenters raised concerns that the proposed rule would negatively impact existing alcohol and drug programs at mining operations, thereby possibly resulting in a diminution of safety. Although MSHA is withdrawing the proposed rule, the Agency will continue to enforce the existing metal and nonmetal standard. In addition, MSHA will collect data to determine the extent to which the use of alcohol or drugs contributes to mine accidents, and will continue to consider options available to the Agency to address alcohol and drugs at all mines.

Priority: Other Significant
Agenda Stage of Rulemaking: Completed Action
Major: No
Unfunded Mandates: No
CFR Citation: Not Yet Determined  (To search for a specific CFR, visit the Code of Federal Regulations)
Legal Authority: Not Yet Determined
Legal Deadline: None

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Regulatory Flexibility Analysis Required: No
Government Levels Affected: Local
Small Entities Affected: Business; Governmental Jurisdictions
Federalism: No
Energy Affected: No
RIN Information URL: www.msha.gov/regsinfo.htm
Public Comment URL: www.regulations.gov

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Department of Labor (DOL)
Mine Safety and Health Administration (MSHA)

RIN: 1219-AB43

Title: Equivalency Evaluation of the U.S. Environmental Protection Agency’s Non-Road Diesel Engine Standards
Abstract: The agency does not anticipate doing further work on this rule at this time.

Priority: Other Significant
Agenda Stage of Rulemaking: Completed Action
Major: No
Unfunded Mandates: No
CFR Citation: 30 CFR 7 (To search for a specific CFR, visit the Code of Federal Regulations)
Legal Authority: 30 USC 957
Legal Deadline: None

Timetable:

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Title: Explosives and Blasting
Abstract: MSHA is reviewing the existing coal and metal and nonmetal standards for explosives and blasting in view of advances in technology and for consistency. The next action will be an advance notice of proposed rulemaking.

Priority: Substantive, Nonsignificant
Major: No
Unfunded Mandates: No

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 75; 30 CFR 77 (To search for a specific CFR, visit the Code of Federal Regulations)
Legal Authority: 30 USC 811
Legal Deadline: None

Timetable:

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Regulatory Flexibility Analysis Required: Undetermined
Federalism: Undetermined
Energy Affected: Undetermined

Agency Contact: Patricia W. Silvey
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Department of Labor (DOL)
Mine Safety and Health Administration (MSHA)

RIN: 1219-AB62

View Related Documents
Title: Mine Rescue Teams

Abstract: The United States Court of Appeals for the District of Columbia Circuit invalidated a portion of MSHA's Mine Rescue Teams final rule, applicable to underground coal mines. The Court's ruling requires state employees on state-sponsored mine rescue teams to train at small mines semi-annually instead of annually and to participate in two mine rescue contests annually instead of one. In addition, mine-site teams at small mines will have to train semi-annually instead of annually. MSHA published a final rule to conform the existing rule to the Court's decision on June 17, 2009 (74 FR 28606).

Priority: Other Significant
Major: No
Unfunded Mandates: No

CFR Citation: 30 CFR 49 (To search for a specific CFR, visit the Code of Federal Regulations)
Legal Authority: 30 USC 957; 30 USC 811; 30 USC 825
Legal Deadline: None

Regulatory Flexibility Analysis Required: No
Small Entities Affected: Business
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Department of Labor (DOL)
Office of the Secretary (OS)
RIN: 1290-AA23

Title: Requirements for DOL Agencies’ Assessment of Occupational Health Risks

Abstract: The Department of Labor is proposing requirements for its Agencies to follow when preparing risk assessments in conjunction with the development of health standards governing occupational exposure to toxic substances and hazardous chemicals. The proposed rule requires DOL agencies to follow a consistent, reliable, and transparent set of procedures when conducting risk assessments, outlines the components that should be included in a risk assessment, and provides for improved public access to rulemaking information.

Priority: Other Significant
Major: No
Unfunded Mandates: No

CFR Citation: Not Yet Determined (To search for a specific CFR, visit the Code of Federal Regulations)
Legal Authority: 5 USC 301
Legal Deadline: None

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Energy Affected: No
Agency Contact: Kathleen Franks
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Department of Labor
Office of the Secretary
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Washington , DC 20210
Phone: 202 693-5959

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

Title: Revised Funding Formula for Jobs for Veterans State Grants
Abstract: Amend regulations at 20 CFR part 1001 which established a funding formula for the Jobs for Veterans State Grants, and establish a cap on administrative costs that may be charged to the grants.
Priority: Substantive, Nonsignificant
Agenda Stage of Rulemaking: PreRule
Major: No
Unfunded Mandates: No
CFR Citation: 20 CFR 1001 (To search for a specific CFR, visit the Code of Federal Regulations)
Legal Authority: 38 USC 4102(c)(2)(B)(i)
Legal Deadline: None

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Regulatory Flexibility Analysis Required: No
Government Levels Affected: State
Small Entities Affected: No
Federalism: No
Energy Affected: No
Agency Contact: Gordon Burke
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Phone: 202 693-4700

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

Title: Establishment of a Uniform National Threshold Entered Employment Rate Under the Jobs for Veterans State Grants
Abstract: Rule will establish a uniform national threshold entered employment rate for veterans under the Jobs for Veterans State Grants, as required by 38 U.S.C. 4102(c)(3)(B).
Priority: Substantive, Nonsignificant
Agenda Stage of Rulemaking: Proposed Rule
Major: No
Unfunded Mandates: No
CFR Citation: None (To search for a specific CFR, visit the Code of Federal Regulations)
Legal Authority: 38 USC 4102(c)(3)(B)
Legal Deadline: None
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**Regulatory Flexibility Analysis Required:** No  
**Government Levels Affected:** State  
**Small Entities Affected:** No  
**Federalism:** No

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