

**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.

**FOR FURTHER INFORMATION CONTACT:** Laura M. Dawkins, Director, Office of Regulatory and Programmatic 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](http://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 Department’s Regulatory Flexibility Agenda does not include section 610 items at this time.

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

**Martin J. Walsh,**  
*Secretary of Labor.*

**WAGE AND HOUR DIVISION—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
151 .....	Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees.	1235-AA39

**WAGE AND HOUR DIVISION—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
152 .....	Independent Contractor Status Under the Fair Labor Standards Act .....	1235-AA34

**EMPLOYMENT AND TRAINING ADMINISTRATION—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
153 .....	Temporary Employment of H-2B Foreign Workers in Certain Itinerant Occupations in the United States ...	1205-AB93

**EMPLOYEE BENEFITS SECURITY ADMINISTRATION—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
154 .....	Requirements Related to Surprise Billing, Part 1 .....	1210-AB99

**EMPLOYEE BENEFITS SECURITY ADMINISTRATION—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
155 .....	Fiduciary Duties Regarding Proxy Voting and Shareholder Rights .....	1210-AB91
156 .....	Financial Factors in Selecting Plan Investments .....	1210-AB95

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
157 .....	Process Safety Management and Prevention of Major Chemical Accidents .....	1218-AC82
158 .....	Emergency Response .....	1218-AC91
159 .....	Prevention of Workplace Violence in Health Care and Social Assistance .....	1218-AD08

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
160 .....	Infectious Diseases .....	1218-AC46
161 .....	Communication Tower Safety .....	1218-AC90
162 .....	Tree Care Standard .....	1218-AD04

**DEPARTMENT OF LABOR (DOL)**

Wage and Hour Division (WHD)

Long-Term Actions

**151. • Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees**

Legal Authority: 29 U.S.C. 201 et seq.; 29 U.S.C. 213

Abstract: WHD is reviewing the regulations at 29 CFR 541, which implement the exemption of bona fide executive, administrative, and professional employees from the Fair Labor Standards Act's minimum wage and overtime requirements.

Timetable:

Action	Date	FR Cite
Next Action Undetermined.	To Be	Determined

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Amy DeBisschop, Director of the Division of Regulations, Legislation and Interpretation, Department of Labor, Wage and Hour Division, 200 Constitution Avenue NW, FP Building, Room S-3502, Washington, DC 20210, Phone: 202 693-0406.

RIN: 1235-AA39

**DEPARTMENT OF LABOR (DOL)**

Wage and Hour Division (WHD)

Completed Actions

**152. Independent Contractor Status Under the Fair Labor Standards Act**

Legal Authority: Fair Labor Standards Act, 29 U.S.C. 201 et seq.

Abstract: The Department of Labor issued a final rule, with an effective date of March 8, 2021, revising its

interpretation of is proposing a regulation for determining independent contractor status under the Fair Labor Standards Act. In accordance with the Presidential directive as expressed in the memorandum of January 20, 2021, from the Assistant to the President and Chief of Staff, entitled "Regulatory Freeze Pending Review," the Department issued a Notice of Proposed Rulemaking to delay the effective date of the rule until May 7, 2021, to review and consider the questions of law, policy, and fact raised by the rule.

Timetable:

Action	Date	FR Cite
NPRM .....	09/25/20	85 FR 60600
NPRM Comment Period End.	10/26/20	
Final Rule .....	01/07/21	86 FR 1168
Proposed Delay of Final Rule Effective Date.	02/05/21	86 FR 8326
Proposed Delay of Final Rule Effective Date Comment Period End.	02/24/21	
Final Rule Delay of Effective Date.	03/04/21	86 FR 12535
Final Rule Delay of Effective Date Effective.	05/07/21	
NPRM; Proposal to Withdraw.	03/12/21	86 FR 14027
NPRM; Proposal to Withdraw Comment Period End.	04/12/21	
Final Rule; Withdrawal.	05/06/21	86 FR 24303

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Amy DeBisschop, Director of the Division of Regulations, Legislation and Interpretation, Department of Labor, Wage and Hour Division, 200 Constitution Avenue NW, FP Building, Room S-3502,

Washington, DC 20210, Phone: 202 693-0406.

RIN: 1235-AA34

**DEPARTMENT OF LABOR (DOL)**

Employment and Training Administration (ETA)

Proposed Rule Stage

**153. Temporary Employment of H-2B Foreign Workers in Certain Itinerant Occupations in the United States**

Legal Authority: 8 U.S.C. 1184; 8 U.S.C. 1103

Abstract: The United States Department of Labor's (DOL) Employment and Training Administration and Wage and Hour Division, and the United States Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services, are jointly proposing to amend H-2B non-immigrant visa program regulations at 20 CFR part 655, subpart A, and 8 CFR 214. The Notice of Proposed Rulemaking (NPRM) would establish standards and procedures for employers seeking to hire foreign temporary nonagricultural workers for certain itinerant job opportunities, including entertainers and carnivals and utility vegetation management.

Timetable:

Action	Date	FR Cite
NPRM .....	12/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brian Pasternak, Administrator, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, Office of Foreign Labor Certification; Room N-5311, FP Building, Washington, DC 20210,

Phone: 202 693-8200, Email: [pasternak.brian@dol.gov](mailto:pasternak.brian@dol.gov).  
RIN: 1205-AB93

**DEPARTMENT OF LABOR (DOL)**

Employee Benefits Security Administration (EBSA)

Final Rule Stage

**154. • Requirements Related to Surprise Billing, Part 1**

*Legal Authority:* Pub. L. 116-260, Division BB, Title I and Title II  
*Abstract:* This interim final rule with comment would implement certain protections against surprise medical bills under the No Surprises Act, including requirements on group health plans, issuers offering group or individual health insurance coverage, providers, facilities, and providers of air ambulance services.

*Timetable:*

Action	Date	FR Cite
Interim Final Rule	07/00/21	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Amber Rivers, Director, Office of Health Plan Standards and Compliance Assistance, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW, Washington, DC 20210, *Phone:* 202 693-8335.  
*RIN:* 1210-AB99

**DEPARTMENT OF LABOR (DOL)**

Employee Benefits Security Administration (EBSA)

Completed Actions

**155. • Fiduciary Duties Regarding Proxy Voting and Shareholder Rights**

*Legal Authority:* 29 U.S.C. 1102 to 1104; 29 U.S.C. 1135  
*Abstract:* This regulatory action would address the application of the prudence and exclusive purpose duties under the Employee Retirement Income Security Act of 1974 to the exercise of shareholder rights, including proxy voting, the use of written proxy voting policies and guidelines, and the selection and monitoring of proxy advisory firms.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/04/20	85 FR 55219
NPRM Comment Period End.	10/05/20	

Action	Date	FR Cite
Final Rule .....	12/16/20	85 FR 81658
Final Rule Effective.	01/15/21	

*Regulatory Flexibility Analysis Required: Yes.*

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

*RIN:* 1210-AB91

**156. Financial Factors in Selecting Plan Investments**

*Legal Authority:* 29 U.S.C. 1102 to 1104; 29 U.S.C. 1135

*Abstract:* This regulatory action supersedes and replaces the Department of Labor’s prior Interpretive Bulletins on the application of the fiduciary rules in the Employee Retirement Income Security Act of 1974 (ERISA) to pension plan investments selected because they may further collateral economic or social benefits in addition to their investment returns. The rule protects participant and beneficiary interests by requiring that plan fiduciaries select investments and investment courses of action based solely on financial considerations relevant to the risk-adjusted economic value of a particular investment or investment course of action.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/30/20	85 FR 39113
NPRM Comment Period End.	07/30/20	
Final Rule .....	11/13/20	85 FR 72846
Final Rule Effective.	01/12/21	

*Regulatory Flexibility Analysis Required: Yes.*

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

*RIN:* 1210-AB95

**DEPARTMENT OF LABOR (DOL)**

Occupational Safety and Health Administration (OSHA)

Prerule Stage

**157. Process Safety Management and Prevention of Major Chemical Accidents**

*Legal Authority:* 29 U.S.C. 655; 29 U.S.C. 657

*Abstract:* The Occupational Safety and Health Administration (OSHA) issued a Request for Information (RFI) on December 9, 2013 (78 FR 73756). The RFI identified issues related to modernization of the Process Safety Management standard and related standards necessary to meet the goal of preventing major chemical accidents.

*Timetable:*

Action	Date	FR Cite
Request for Information (RFI).	12/09/13	78 FR 73756
RFI Comment Period Extended.	03/07/14	79 FR 13006
RFI Comment Period Extended End.	03/31/14	
Initiate SBREFA ..	06/08/15	
SBREFA Report Completed.	08/01/16	
Stakeholder Meeting.	08/00/21	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Andrew Levinson, Deputy Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3718, Washington, DC 20210, *Phone:* 202 693-1950, *Email:* [levinson.andrew@dol.gov](mailto:levinson.andrew@dol.gov).

*RIN:* 1218-AC82

**158. Emergency Response**

*Legal Authority:* 29 U.S.C. 655(b); 29 U.S.C. 657; 5 U.S.C. 609

*Abstract:* OSHA currently regulates aspects of emergency response and preparedness; 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, and other workers providing skilled support, nor do they reflect major changes in performance specifications for protective clothing and equipment. The agency acknowledged that 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 industry consensus standards. OSHA is considering updating these standards with information gathered through an RFI and public meetings.

*Timetable:*

Action	Date	FR Cite
Stakeholder Meetings.	07/30/14	
Convene NACOSH Workgroup.	09/09/15	
NACOSH Review of Workgroup Report.	12/14/16	
Initiate SBREFA ..	05/00/21	

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Andrew Levinson, Deputy Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3718, Washington, DC 20210, *Phone:* 202 693-1950, *Email:* levinson.andrew@dol.gov.

*RIN:* 1218-AC91

**159. Prevention of Workplace Violence in Health Care and Social Assistance**

*Legal Authority:* 29 U.S.C. 655(b); 5 U.S.C. 609

*Abstract:* The Request for Information (RFI) (published on December 7, 2016 81 FR 88147)) provides OSHA's history with the issue of workplace violence in health care and social assistance, including a discussion of the Guidelines that were initially published in 1996, a 2014 update to the Guidelines, the agency's use of 5(a)(1) in enforcement cases in health care. The RFI solicited information primarily from health care employers, workers and other subject matter experts on impacts of violence, prevention strategies, and other information that will be useful to the agency. OSHA was petitioned for a standard preventing workplace violence in health care by a broad coalition of labor unions, and in a separate petition by the National Nurses United. On January 10, 2017, OSHA granted the petitions.

*Timetable:*

Action	Date	FR Cite
Request for Information (RFI).	12/07/16	81 FR 88147
RFI Comment Period End.	04/06/17	
Initiate SBREFA ..	12/00/21	

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Andrew Levinson, Deputy Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3718, Washington, DC 20210, *Phone:* 202 693-1950, *Email:* levinson.andrew@dol.gov.

*RIN:* 1218-AD08

**DEPARTMENT OF LABOR (DOL)**

*Occupational Safety and Health Administration (OSHA)*

Proposed Rule Stage

**160. Infectious Diseases**

*Legal Authority:* 5 U.S.C. 533; 29 U.S.C. 657 and 658; 29 U.S.C. 660; 29 U.S.C. 666; 29 U.S.C. 669; 29 U.S.C. 673

*Abstract:* Employees in health care and other high-risk environments face long-standing infectious disease hazards such as tuberculosis (TB), varicella disease (chickenpox, shingles), and measles, as well as new and emerging infectious disease threats, such as Severe Acute Respiratory Syndrome (SARS), the 2019 Novel Coronavirus (COVID-19), and pandemic influenza. Health care workers and workers in related occupations, or who are exposed in other high-risk environments, are at increased risk of contracting TB, SARS, Methicillin-Resistant Staphylococcus Aureus (MRSA), COVID-19, and other infectious diseases that can be transmitted through a variety of exposure routes. OSHA is examining regulatory alternatives for control measures to protect employees from infectious disease exposures to pathogens that can cause significant disease. Workplaces where such control measures might be necessary include: health care, emergency response, correctional facilities, homeless shelters, drug treatment programs, and other occupational settings where employees can be at increased risk of exposure to potentially infectious people. A standard could also apply to laboratories, which handle materials that may be a source of pathogens, and to pathologists, coroners' offices, medical examiners, and mortuaries.

*Timetable:*

Action	Date	FR Cite
Request for Information (RFI).	05/06/10	75 FR 24835
RFI Comment Period End.	08/04/10	
Analyze Comments.	12/30/10	

Action	Date	FR Cite
Stakeholder Meetings.	07/05/11	76 FR 39041
Initiate SBREFA ..	06/04/14	
Complete SBREFA.	12/22/14	
NPRM .....	12/00/21	

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Andrew Levinson, Deputy Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3718, Washington, DC 20210, *Phone:* 202 693-1950, *Email:* levinson.andrew@dol.gov.

*RIN:* 1218-AC46

**161. Communication Tower Safety**

*Legal Authority:* 29 U.S.C. 655(b); 5 U.S.C. 609

*Abstract:* While the number of employees engaged in the communication tower industry remains small, the fatality rate is very high. Over the past 20 years, this industry has experienced an average fatality rate that greatly exceeds that of the construction industry. Due to recent FCC spectrum auctions and innovations in cellular technology, there will be a very high level of construction activity taking place on communication towers over the next few years. A similar increase in the number of construction projects needed to support cellular phone coverage triggered a spike in fatality and injury rates years ago. Based on information collected from an April 2016 Request for Information (RFI), OSHA concluded that current OSHA requirements such as those for fall protection and personnel hoisting, may not adequately cover all hazards of communication tower construction and maintenance activities. OSHA will use information collected from a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel to identify effective work practices and advances in engineering technology that would best address industry safety and health concerns. The Panel carefully considered the issue of the expansion of the rule beyond just communication towers. OSHA will continue to consider also covering structures that have telecommunications equipment on or attached to them (e.g., buildings, rooftops, water towers, billboards).

*Timetable:*

Action	Date	FR Cite
Request for Information (RFI).	04/15/15	80 FR 20185

Action	Date	FR Cite
RFI Comment Period End.	06/15/15	
Initiate SBREFA ..	01/04/17	
Initiate SBREFA ..	05/31/18	
Complete SBREFA.	10/11/18	
NPRM .....	03/00/22	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Scott Ketcham, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, Room N-3468, FP Building, Washington, DC 20210, *Phone:* 202 693-2020, *Fax:* 202 693-1689, *Email:* ketcham.scott@dol.gov.

*RIN:* 1218-AC90

**162. Tree Care Standard**

*Legal Authority:* Not Yet Determined  
*Abstract:* There is no OSHA standard for tree care operations; the agency currently applies a patchwork of standards to address the serious hazards in this industry. The tree care industry previously petitioned the agency for rulemaking and OSHA issued an ANPRM (September 2008). OSHA completed a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel in May 2020, collecting information from affected small entities on a potential standard, including the scope of the standard, effective work practices, and arboricultural specific uses of equipment to guide OSHA in developing a rule that would best address industry safety and health concerns. Tree care continues to be a high-hazard industry.  
*Timetable:*

Action	Date	FR Cite
Stakeholder Meeting.	07/13/16	
Initiate SBREFA ..	01/10/20	
Complete SBREFA.	05/22/20	
NPRM .....	04/00/22	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Andrew Levinson, Deputy Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3718, Washington, DC 20210, *Phone:* 202 693-1950, *Email:* levinson.andrew@dol.gov.

*RIN:* 1218-AD04

[FR Doc. 2021-14873 Filed 7-29-21; 8:45 am]

**BILLING CODE 4510-HL-P**