

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: Albert T. Herrera, 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.

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.

Julie A. Su, Acting Secretary of Labor.

WAGE AND HOUR DIVISION—FINAL RULE STAGE

Table with 3 columns: Sequence No., Title, Regulation Identifier No. Row 1: 142, Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees, 1235-AA39

WAGE AND HOUR DIVISION—COMPLETED ACTIONS

Table with 3 columns: Sequence No., Title, Regulation Identifier No. Row 1: 143, Employee or Independent Contractor Classification Under the Fair Labor Standards Act, 1235-AA43

EMPLOYMENT AND TRAINING ADMINISTRATION—PROPOSED RULE STAGE

Table with 3 columns: Sequence No., Title, Regulation Identifier No. Row 1: 144, Temporary Employment of H-2B Foreign Workers in the United States, 1205-AB93. Row 2: 145, Employer-Provided Survey Wage Methodology for the Temporary Non-Agricultural Employment H-2B Program, 1205-AC15

EMPLOYMENT AND TRAINING ADMINISTRATION—FINAL RULE STAGE

Table with 3 columns: Sequence No., Title, Regulation Identifier No. Row 1: 146, National Apprenticeship System Enhancements, 1205-AC13

EMPLOYMENT AND TRAINING ADMINISTRATION—COMPLETED ACTIONS

Table with 3 columns: Sequence No., Title, Regulation Identifier No. Row 1: 147, Workforce Innovation and Opportunity Act Effectiveness in Serving Employers Performance Indicator Provisions, 1205-AC01. Row 2: 148, Workforce Innovation and Opportunity Act Title I Non-Core Programs Effectiveness in Serving Employers Performance Indicator, 1205-AC08

EMPLOYMENT AND TRAINING ADMINISTRATION—COMPLETED ACTIONS—Continued

Sequence No.	Title	Regulation Identifier No.
149	Improving Protections for Workers in Temporary Agricultural Employment in the United States	1205-AC12

EMPLOYEE BENEFITS SECURITY ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
150	Independent Dispute Resolution Operations	1210-AC17

EMPLOYEE BENEFITS SECURITY ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
151	Retirement Security Rule: Definition of an Investment Advice Fiduciary	1210-AC02

MINE SAFETY AND HEALTH ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
152	Respirable Crystalline Silica	1219-AB36

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
153	Infectious Diseases	1218-AC46
154	Process Safety Management and Prevention of Major Chemical Accidents	1218-AC82
155	Communication Tower Safety	1218-AC90
156	Emergency Response	1218-AC91
157	Tree Care Standard	1218-AD04
158	Prevention of Workplace Violence in Health Care and Social Assistance	1218-AD08

DEPARTMENT OF LABOR (DOL)*Wage and Hour Division (WHD)*

Final Rule Stage

142. Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees [1235-AA39]

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

Abstract: The Department of Labor (Department) proposed to update and revise the regulations issued under the Fair Labor Standards Act implementing the exemptions from minimum wage and overtime pay requirements for executive, administrative, professional, outside sales, and computer employees. As part of this rulemaking, the Department held a series of stakeholder listening sessions between March and

June 2022, to gather input on its part 541 regulations. Stakeholders invited to participate in these listening sessions included representatives from labor unions; worker advocate groups; industry associations; small business associations; state and local governments; tribal governments; non-profits; and representatives from specific industries such as K-12 education, higher education, healthcare, retail, restaurant, manufacturing, and wholesale. Stakeholders were invited to share their input on issues including the appropriate EAP salary level, the costs and benefits of increasing the salary level to employers and employees, the methodology for updating the salary level and frequency of updates, and whether changes to the duties test are warranted. A listening session was held specifically for State and local governments on April 1, 2022, and a

session for Tribal governments was held on May 12, 2022.

The Department published a final rule on April 26, 2024, that updates the standard salary level and the total annual compensation required for the exemption of highly compensated employees. Under this final rule, beginning July 1, 2024, the standard salary level for bona fide executive, administrative, and professional employees, who are currently required to be paid a salary level of at least \$684 per week, must be paid a salary level of not less than \$844 per week (equivalent to \$43,888 per year). On July 1, 2024, the highly compensated employee (HCE) threshold will also increase from \$107,432 to \$132,694 annually. Beginning January 1, 2025, the standard salary level will increase from \$844 to \$1,128 per week, which is based on the 35th percentile of full-time salaried

worker earnings in the lowest-wage Census Region (the South), and the HCE threshold will increase from \$132,964 to \$151,164 annually, which is based on the annualized earnings of the 85th percentile of full-time salaried worker earnings nationwide. The Department also adds to the regulations an updating mechanism to allow for the timely and efficient updating of all the earnings thresholds. On July 1, 2027, and every 3 years thereafter, the standard salary level and HCE total annual compensation requirement will be updated using the methodology in effect at the time of the update. The Department proposed in sections IV.B.1 and B.2 of the NPRM to apply the updated standard salary level to the four U.S. territories that are subject to the federal minimum wage (Puerto Rico, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands) and to update the special salary levels for American Samoa and the motion picture industry in relation to the new standard salary level. The Department will address these aspects of its proposal in a future final rule.

Timetable:

Action	Date	FR Cite
NPRM	09/08/23	88 FR 62152
NPRM Comment Period End.	11/07/23	
Final Rule	04/26/24	89 FR 32842
Final Rule Effective.	07/01/24	
Analyze Comments.	05/00/25	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Daniel Navarrete, Acting 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

143. Employee or Independent Contractor Classification Under the Fair Labor Standards Act [1235-AA43]

Legal Authority: 52 Stat. 1060, as amended; 29 U.S.C. 201-219

Abstract: The Department proposed to rescind the Independent Contractor Status under the Fair Labor Standards Act rule published on January 7, 2021,

86 FR 1168 (2021 IC Rule) and provide guidance for determining employee or independent contractor status under the FLSA that is more consistent with existing judicial precedent and the Department’s longstanding guidance prior to the 2021 IC Rule. The Department conducted extensive stakeholder engagement prior to publishing the NPRM on October 13, 2022. The Department’s Wage and Hour Division (WHD) held a number of stakeholder forums in the summer of 2022, which solicited participation from many workers, unions, businesses, freelancers, independent contractors, and affiliated advocacy groups. Those stakeholder forums informed the Department’s drafting of the 2022 proposed rule. The Department subsequently benefited from thousands of comments submitted during the comment period. In the final rule, the Department returns to a totality of the circumstances analysis of the economic reality test in which factors do not have a predetermined weight and are considered in view of the economic reality of the whole activity. The final rule rescinds the 2021 IC Rule. The Department published the final rule on January 10, 2024 (89 FR 1638).

Timetable:

Action	Date	FR Cite
NPRM	10/13/22	87 FR 62218
NPRM Comment Period Extended.	10/26/22	87 FR 64749
NPRM Comment Period Extended End.	12/13/22	
Final Rule	01/10/24	89 FR 1638
Final Rule Effective.	03/11/24	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Daniel Navarrete, Acting 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-AA43

DEPARTMENT OF LABOR (DOL)

Employment and Training Administration (ETA)

Proposed Rule Stage

144. Temporary Employment of H-2B Foreign Workers in the United States [1205-AB93]

Legal Authority: 8 U.S.C. 1184; 8 U.S.C. 1103; sec. 655.0 issued under 8 U.S.C. 1101(a)(15)(E)(iii), 1101(a)(15)(H)(i) and (ii); 8 U.S.C. 1103(a)(6), 1182(m), (n) and (t), 1184(c), (g), and (j), 1188, and 1288(c) and (d); sec. 3(c)(1), Pub. L. 101-238; 103 Stat. 2099, 2102 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101-649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); sec. 303(a)(8), Pub. L. 102-232, 105 Stat. 733, 1748 (8 U.S.C. 1101 note); sec. 323(c), Pub. L. 103-206, 107 Stat. 2428; sec. 412(e); Pub. L. 105-277, 112 Stat. 2681 (8 U.S.C. 1182 note); sec. 2(d), Pub. L. 106-95, 113 Stat. 1312, 1316 (8 U.S.C. 1182 note); 29 U.S.C. 49k; Pub. L. 107-296, 116 Stat. 2135, as amended; Pub. L. 109-423, 120 Stat. 2900; . . .

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 update the H-2B visa program regulations at 20 CFR part 655, subpart A, the related prevailing wage regulations at 20 CFR 656, and 8 CFR 214 governing the certification of the employment of H-2B nonimmigrant workers in temporary or seasonal non-agricultural employment and the enforcement of the obligations applicable to employers of such nonimmigrant workers and U.S. workers in corresponding employment. Specifically, the Notice of Proposed Rulemaking (NPRM) would update the process by which employers seeking to employ H-2B workers would obtain temporary certification from DOL for use in petitioning DHS to employ a nonimmigrant worker in H-2B status. The updates would also establish standards and procedures for employers seeking to hire foreign temporary non-agricultural workers for certain itinerant job opportunities, including entertainers, tree planting, and utility vegetation management.

Timetable:

Action	Date	FR Cite
NPRM	04/00/25	

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. RIN: 1205-AB93

145. Employer-Provided Survey Wage Methodology for the Temporary Non-Agricultural Employment H-2B Program [1205-AC15]

Legal Authority: 8 U.S.C. 1101(a)(15)(H)(ii)(b); 8 U.S.C. 1103(a)(6); 8 U.S.C. 1184(c)(1); Pub. L. 117-328, 12/29/22, 136 Stat. 4459, Div. H, title I, sec. 110; Pub. L. 118-15, 9/30/23, 137 Stat. 71, Division A, sec. 101(8)

Abstract: The Immigration and Nationality Act, as amended, requires the Department of Homeland Security (DHS), prior to the approval of H-2B visa petitions, consult with the Department of Labor (Department). DHS' regulation at 8 CFR 214.2(h)(6) requires that employers must first apply for a temporary labor certification from the Department. Specifically, the Department must certify that there are not sufficient U.S. workers able, available, willing, and qualified to perform the temporary services or labor, and that the employment of the H-2B workers will not adversely affect the wages and working conditions of similarly employed U.S. workers. To ensure that there is no adverse effect, DOL requires employers to pay the prevailing wage to H-2B workers and U.S. workers similarly employed. Employer-provided surveys are one of the prevailing wage sources under the H-2B regulations and has been the subject of recent litigation. On December 23, 2022, the U.S. District Court for the District of Columbia held the employer-provided survey provision under the Wage Methodology for the Temporary Non-Agricultural Employment H-2B Program (2015 Wage Rule) in, 20 CFR part 655 subpart A did not satisfy the notice and comment requirements under the Administrative Procedure Act (APA). *Mary Jane Williams, et al. v. Martin J. Walsh, et al. (Williams)*, Civil No. 1:21-cv-01150 (RC), 2022 WL 17904227 (D.D.C. December 23, 2022). The Court remanded the rule without vacatur and ordered act[ion] with haste for further consideration consistent with the Court's opinion. The Department is proposing to issue a notice of proposed rulemaking on the employer-provided

survey provision of the 2015 Wage Rule to cure the procedural defect of the 2015 Wage Rule, pursuant to the decision in *Williams*.

Timetable:

Action	Date	FR Cite
NPRM	07/00/24	

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. RIN: 1205-AC15

DEPARTMENT OF LABOR (DOL)

Employment and Training Administration (ETA)

Final Rule Stage

146. National Apprenticeship System Enhancements [1205-AC13]

Legal Authority: The National Apprenticeship Act, as amended (50 Stat. 664) 29 U.S.C. 50

Abstract: The regulations at 29 CFR part 29 addressing labor standards of apprenticeship and the governance of the National Apprenticeship System were last updated in October 2008 to increase administrative flexibility, ensure program quality, and promote registered apprenticeship opportunities. The Department plans to revise these regulations to strengthen, expand, modernize, and diversify the National Apprenticeship System by enhancing worker protections and equity, improving the quality of registered apprenticeships, revising the state governance provisions, and more clearly establishing critical pipelines to registered apprenticeships such as pre-apprenticeships so that the National Apprenticeship System is more responsive to current worker and employer needs. These efforts have been informed by the deliberations of the Department's reconstituted Advisory Committee on Apprenticeship (ACA). The Department will also make technical and conforming adjustments to the current text of 29 CFR part 30 (governing equal employment opportunity in apprenticeships) as appropriate. For additional information, please see the Department's regulatory plan narrative statement. The Department conducted the following

public outreach: In 2022 interim recommendations of the ACA and its 2023 Biennial Report, which incorporates the ACA's 2022 Interim Report recommendations and includes additional guideposts for the Office of Apprenticeship (OA) to consider related to registered apprenticeship; virtual listening sessions in 2021 coordinated by OA in partnership with various partners and stakeholders to hear perspectives on the current state of the National Apprenticeship System and to gather ideas and suggestions on ways to modernize registered apprenticeship programs; National Online Dialogue in 2022, led by OA and launched by ePolicyWorks (entitled Advancing the National Apprenticeship System"), which asked participants, including various partners and stakeholders, to describe what they believed to be the optimal implementation of the registered apprenticeship model; Virtual Listening Sessions in 2023, coordinated by OA, wherein partners and stakeholders were given the opportunity to share perspectives on the current state of the National Apprenticeship System and to share policy recommendations for ways to strengthen and modernize the system. Questions for these sessions were developed, in part, by reviewing the ACA's 2022 Interim Report; The 2023 Quality Apprenticeships Recommendation (ILO Recommendation No. 208), adopted by the 111th International Labour Conference on June 16, 2023, which describes the fundamental attributes of quality apprenticeships; and Regular stakeholder engagements related to the expansion of the registered apprenticeship model, including with industry groups, labor unions, worker advocates, State and local workforce partners, education systems, and intermediaries.

Timetable:

Action	Date	FR Cite
NPRM	01/17/24	89 FR 3118
NPRM Comment Period End.	03/18/24	
Final Rule	08/00/24	

Regulatory Flexibility Analysis
Required: Yes.

Agency Contact: John V. Ladd, Administrator, Office of Apprenticeship, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, FP Building, Room C-5311, Washington, DC 20210, Phone: 202 693-2796, Fax: 202 693-3799, Email: ladd.john@dol.gov. RIN: 1205-AC13

DEPARTMENT OF LABOR (DOL)

Employment and Training Administration (ETA)

Completed Actions

147. Workforce Innovation and Opportunity Act Effectiveness in Serving Employers Performance Indicator Provisions [1205-AC01]

Legal Authority: 29 U.S.C. 3249(a)

Abstract: Under WIOA, there are six primary indicators of performance. Five of the six indicators were defined in the regulation; however, in the 2016 final rule implementing WIOA the Departments of Labor and Education (the Departments) determined that it was prudent to pilot various alternatives for the sixth indicator of performance, which measures the system’s effectiveness in serving employers. The pilot process was completed and the Departments published a final rule updating the WIOA implementing regulations to incorporate Retention with the Same Employer as the standard definition of the effectiveness in serving employers indicator and to require one WIOA core program report on the indicator on behalf of all six WIOA core programs within each state. The Department of Labor issued a separate final rule incorporating Retention with the Same Employer as the definition of the effectiveness in serving employers into the regulations for the Job Corps program, Indian and Native American Programs, and YouthBuild.

Timetable:

Action	Date	FR Cite
NPRM	09/14/22	87 FR 56318
NPRM Comment Period End.	11/14/22	
Final Rule	02/23/24	89 FR 13814
Final Rule Effective.	03/25/24	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Michelle Paczynski, Administrator, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, N-5641, Washington, DC 20210, *Phone:* 202 693-3700, *Email:* paczynski.michelle.l@dol.gov.

RIN: 1205-AC01

148. Workforce Innovation and Opportunity Act Title I Non-Core Programs Effectiveness in Serving Employers Performance Indicator [1205-AC08]

Legal Authority: 29 U.S.C. 3141; 29 U.S.C. 3209; 29 U.S.C. 3221; 29 U.S.C. 3226; 29 U.S.C. 3249

Abstract: Under WIOA, there are six primary indicators of performance. Five of the six indicators were defined in a regulation the Departments of Labor and Education (the Departments) jointly issued. The Departments pilot tested various alternatives for the sixth indicator of performance, which measures the workforce system’s effectiveness in serving employers. That process was completed and the Departments published a final rule under RIN number 1205-AC01 to incorporate Retention with the Same Employer as the standard definition of the effectiveness in serving employers indicator into the regulations implementing WIOA at 20 CFR part 677, 34 CFR part 361, and 34 CFR part 463.

The Department of Labor (DOL) has completed this rulemaking to incorporate the Retention with the Same Employer standard definition of the effectiveness in serving employers indicator into the regulations for three (3) programs DOL administers under WIOA 20 CFR part 684 (Indian and Native American Programs), 20 CFR part 686 (Job Corps), 20 CFR part 688 (YouthBuild).

One additional WIOA authorized program, the National Farmworker Jobs Program (NFJP) at 20 CFR part 685, was impacted by the addition of the definition of the effectiveness in serving employers indicator. WIOA section 167 (29 U.S.C. 3222) authorizes the NFJP. Section 167 of WIOA requires DOL to use the six WIOA primary indicators of performance, including the effectiveness in serving employers indicator, to assess the performance of the NFJP. Therefore, the new definition of the effectiveness in serving employers indicator in 20 CFR part 677 will also apply to the NFJP. However, no changes to the regulation text at 20 CFR part 685 (NFJP’s implementation regulations) were necessary to implement this change.

Timetable:

Action	Date	FR Cite
NPRM	09/14/22	87 FR 56340
NPRM Comment Period End.	11/14/22	
Final Rule	02/23/24	89 FR 13595
Final Rule Effective.	03/25/24	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Michelle Paczynski, Administrator, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, N-5641, Washington, DC 20210, *Phone:* 202 693-3700, *Email:* paczynski.michelle.l@dol.gov.

RIN: 1205-AC08

149. Improving Protections for Workers in Temporary Agricultural Employment in the United States [1205-AC12]

Legal Authority: 8 U.S.C. 1188; 29 U.S.C. 49 *et seq.*

Abstract: The Department identified a need to strengthen and clarify protections for all temporary agricultural workers, including U.S. workers and workers employed through the H-2A temporary agricultural program. The H-2A temporary agricultural program allows agricultural employers to perform agricultural labor or services of a temporary or seasonal nature so long as there are not sufficient able, willing, and qualified U.S. workers to perform the work and the employment of H-2A workers does not adversely affect the wages and working conditions of similarly employed workers in the United States. The use of the H-2A program has grown substantially in recent years and the Department is committed to protecting agricultural workers in light of their significant vulnerabilities.

The Department of Labor’s (DOL) Employment and Training Administration and Wage and Hour Division amended regulations to improve working conditions and protections for workers engaged in temporary agricultural employment in the United States; and strengthen protections in the recruitment, job order clearance, and oversight processes. The final rule made regulatory changes involving the Employment Service and the H-2A nonimmigrant visa program at 29 CFR part 501 and 20 CFR parts 651, 653, 654, 655, and 658.

Timetable:

Action	Date	FR Cite
NPRM	09/15/23	88 FR 63750
NPRM Comment Period End.	11/14/23	
Final Rule	04/29/24	89 FR 33898
Final Rule Effective.	06/28/24	

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.

RIN: 1205-AC12

DEPARTMENT OF LABOR (DOL)

Employee Benefits Security Administration (EBSA)

Final Rule Stage

150. Independent Dispute Resolution Operations [1210-AC17]

Legal Authority: Pub. L. 116-260, Div. BB, Title I and Title II

Abstract: This final rule amends the Requirements Related to Surprise Billing; Part I (July 2021 interim final rules), Requirements Related to Surprise Billing Interim Final Rules; Part II (October 2021 interim final rules), and Requirements Related to Surprise Billing; Final Rules (August 2022 final rules) which set forth requirements related to Title I (No Surprises Act (NSA)) and Title II (Transparency) of Division BB of the Consolidated Appropriations Act, 2021.

Timetable:

Action	Date	FR Cite
NPRM	11/03/23	88 FR 75744
NPRM Comment Period End.	01/02/24	
NPRM Comment Period Re-opened.	01/22/24	89 FR 3896
NPRM Comment Period Re-opened End.	02/05/24	
Final Action	11/00/24	

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, *Email:* rivers.amber@dol.gov, *RIN:* 1210-AC17

DEPARTMENT OF LABOR (DOL)

Employee Benefits Security Administration (EBSA)

Completed Actions

151. Retirement Security Rule: Definition of an Investment Advice Fiduciary [1210-AC02]

Legal Authority: 29 U.S.C. 1002; 29 U.S.C. 1135; Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 252 (2020)

Abstract: This rulemaking amended the regulatory definition of the term fiduciary set forth at 29 CFR 2510.3-21(c) to more appropriately define when persons who render investment advice for a fee to employee benefit plans and IRAs are fiduciaries within the meaning

of section 3(21) of ERISA and section 4975(e)(3) of the Internal Revenue Code. The amendment took into account practices of investment advisers, and the expectations of plan officials and participants, and IRA owners who receive investment advice, as well as developments in the investment marketplace, including in the ways advisers are compensated that can subject advisers to harmful conflicts of interest. In conjunction with this rulemaking, EBSA also amended existing prohibited transaction exemptions to ensure consistent protection of employee benefit plan and IRA investors. During the consideration of the proposed rule, in order to broaden public participation and community engagement in the regulatory process, the Department developed a web page dedicated to this rulemaking that included plain language information on the rulemaking and provided information about where to submit comments. The Department also held a public hearing during the comment period for this rulemaking at which more than 40 witnesses testified.

Timetable:

Action	Date	FR Cite
NPRM	11/03/23	88 FR 75890
NPRM Comment Period End.	01/02/24	
Final Rule	04/25/24	89 FR 32122
Final Rule Effective.	09/23/24	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Karen E. Lloyd, 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:* 202 693-8510, *RIN:* 1210-AC02

DEPARTMENT OF LABOR (DOL)

Mine Safety and Health Administration (MSHA)

Completed Actions

152. Respirable Crystalline Silica [1219-AB36]

Legal Authority: 30 U.S.C. 811; 30 U.S.C. 813(h); 30 U.S.C. 957

Abstract: Many miners are exposed to respirable crystalline silica (RCS) in respirable dust. These miners can develop lung diseases such as chronic obstructive pulmonary disease, and various forms of pneumoconiosis, such

as silicosis, progressive massive fibrosis, and rapidly progressive pneumoconiosis. These diseases are irreversible and may ultimately be fatal. The Mine Safety and Health Administration's (MSHA) existing standards limit miners' exposures to RCS. MSHA published a final rule to address the existing permissible exposure limit of RCS for all miners and to update the existing respiratory protection standards under 30 CFR 56, 57, and 72. Throughout the rulemaking process, MSHA widely solicited stakeholder participation by holding virtual and in-person public hearings throughout the country and participating in a Small Business Labor Safety Roundtable discussion organized by the Small Business Administration's Office of Advocacy.

Timetable:

Action	Date	FR Cite
Request for Information (RFI).	08/29/19	84 FR 45452
RFI Comment Period End.	10/28/19	
NPRM	07/13/23	88 FR 44852
NPRM Comment Period Extended.	08/14/23	88 FR 54961
NPRM Comment Period Extended End.	09/11/23	
NPRM Notice of Public Hearings.	07/26/23	88 FR 48146
NPRM Public Hearing in Arlington, Virginia.	08/03/23	
NPRM Public Hearing in Beckley, West Virginia.	08/10/23	
NPRM Public Hearing in Denver, Colorado.	08/21/23	
Final Rule	04/18/24	89 FR 28218
Final Rule Effective.	06/17/24	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 201 12th Street S, Suite 401, Arlington, VA 22202, *Phone:* 202 693-9440, *Fax:* 202 693-9441.

RIN: 1219-AB36

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Proposed Rule Stage

153. Infectious Diseases [1218-AC46]

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), Methicillin-Resistant Staphylococcus Aureus (MRSA), 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. OSHA is examining regulatory alternatives for control measures to protect employees from exposure to pathogens that can cause significant infectious 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 individuals who are potentially infectious. 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	
Stakeholder Meetings.	07/05/11	76 FR 39041
Initiate SBREFA ..	06/04/14	
Complete SBREFA.	12/22/14	
NPRM	11/00/24	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Andrew Levinson, 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

154. Process Safety Management and Prevention of Major Chemical Accidents [1218-AC82]

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. OSHA completed SBREFA in August 2016. OSHA held a stakeholder meeting on October 12, 2022, and kept the docket open for comments until November 14, 2022.

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.	10/12/22	
Analyze Comments.	09/00/24	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Andrew Levinson, 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-AC82

155. Communication Tower Safety [1218-AC90]

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 Federal Communications Commission (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 2015 Request for Information (RFI), Occupational Safety and Health Administration (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
RFI Comment Period End.	06/15/15	
Initiate SBREFA ..	01/04/17	
Initiate SBREFA ..	05/31/18	
Complete SBREFA.	10/11/18	
NPRM	02/00/25	

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

156. Emergency Response [1218-AC91]

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

Abstract: The Occupational Safety and Health Administration (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 acknowledges 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.

The regulatory effort began in 2007 with a Request for Information (RFI). In July 2014, OSHA hosted two stakeholder meetings with participants representing a broad range of emergency responders as well as allied stakeholders such as State Plan representatives, skilled support workers, and law enforcement. Given the broad support and interest seen during the stakeholder meetings, OSHA decided to move forward with a comprehensive proposed standard for emergency response. In September 2015, OSHA requested, and NACOSH designated, a subcommittee made up of major stakeholders and charged with developing proposed regulatory text. The subcommittee held six meetings over the course of a year.

In December 2016, the full NACOSH committee reviewed and approved the recommendations for a proposed rule developed by the subcommittee. The committee recommended to the Secretary that OSHA proceed with rulemaking, using the subcommittee's regulatory text as a basis for the rule. In October 2021, a Small Business Advocacy Review (SBAR) panel was assembled, as required by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA); SBREFA was concluded in December, 2021.

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 ..	08/02/21	
Finalize SBREFA	12/02/21	
NPRM	02/05/24	89 FR 7774
Comment Period Extended.	03/28/24	89 FR 21468
NPRM Comment Period End.	05/06/24	
NPRM Comment Period Extension End.	06/21/24	

Action	Date	FR Cite
NPRM Comment Period Extended.	06/11/24	89 FR 49119
NPRM Comment Period Extended End.	07/22/24	
NPRM Analyze Comments.	09/00/24	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Andrew Levinson, 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

157. Tree Care Standard [1218-AD04]

Legal Authority: Not Yet Determined
Abstract: There is no Occupational Safety and Health Administration (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	12/00/24	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Andrew Levinson, 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

158. Prevention of Workplace Violence in Health Care and Social Assistance [1218-AD08]

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 the Occupational Safety and Health Administration's (OSHA) 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, and 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. In accordance with the requirements of the Small Business Regulatory Enforcement Fairness Act (SBREFA) OSHA convened a Small Business Advocacy Review (SBAR) panel in March 2023. OSHA issued the SBREFA Panel report on May 1, 2023.

Timetable:

Action	Date	FR Cite
Request for Information (RFI).	12/07/16	81 FR 88147
RFI Comment Period End.	04/06/17	
Initiate SBREFA ..	12/29/22	
Complete SBREFA.	05/01/23	
NPRM	12/00/24	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Andrew Levinson, 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

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