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Part XII

Department of Labor

Semiannual Regulatory Agenda

DEPARTMENT OF LABOR**Office of the Secretary****20 CFR Chs. I, IV, V, VI, VII, and IX****29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV****30 CFR Ch. I****41 CFR Ch. 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.

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 of Labor is withdrawing the only section 610 item on the Department of Labor's Regulatory Flexibility Agenda:

Occupational Safety and Health Administration*Bloodborne Pathogens (RIN 1218-AC34)*

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.

Edward C. Hugler,
Acting Secretary of Labor.

OFFICE OF THE SECRETARY—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
160	Change of Mailing Address for the Benefits Review Board (Section 610 Review)	1290-AA32

EMPLOYEE BENEFITS SECURITY ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
161	Guide or Similar Requirement for Section 408(b)(2) Disclosures	1210-AB53
162	Definition of the Term Fiduciary—Delay of Applicability Date	1210-AB79

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
163	Occupational Exposure to Beryllium	1218-AB76

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
164	Infectious Diseases	1218-AC46

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
165	Bloodborne Pathogens (Completion of a Section 610 Review)	1218-AC34
166	Combustible Dust	1218-AC41
167	Preventing Backover Injuries and Fatalities	1218-AC51

DEPARTMENT OF LABOR (DOL)*Office of the Secretary (OS)*

Final Rule Stage

160. • Change of Mailing Address for the Benefits Review Board (Section 610 Review)

Legal Authority: 5 U.S.C. 301; 30 U.S.C. 901 *et seq.*; 33 U.S.C. 901 *et seq.*

Abstract: The rule amends one section of the Benefits Review Board's regulations in order to change the mailing address for correspondence and legal pleadings sent to the Board.

Timetable:

Action	Date	FR Cite
Final Rule	12/00/17	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Thomas Shepherd, Clerk of the Appellate Boards, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room S-5220, Washington, DC 20210, *Phone:* 202 693-6319, *Email:* shepherd.thomas@dol.gov.

RIN: 1290-AA32

DEPARTMENT OF LABOR (DOL)*Employee Benefits Security Administration (EBSA)*

Completed Actions

161. Guide or Similar Requirement for Section 408(b)(2) Disclosures

Legal Authority: 29 U.S.C. 1108(b)(2); 29 U.S.C. 1135

Abstract: Paragraph (c) of 29 CFR 2550.408(b)-2 requires covered service providers to make certain disclosures to responsible plan fiduciaries in order for contracts or arrangements between the parties to be considered reasonable under section 408(b)(2) of the Employee Retirement Income Security Act (ERISA). This rulemaking would amend the disclosure provisions in paragraph (c) so that covered service providers may be required to furnish a guide or similar tool along with such disclosures. A guide or similar requirement may assist fiduciaries, especially fiduciaries to small and medium-sized plans, in identifying and understanding the potentially complex disclosure documents that are provided to them, or if disclosures are located in multiple documents.

EBSA is withdrawing this entry from the agenda at this time. Withdrawal of an entry does not necessarily mean that EBSA will not proceed with the rulemaking in the future. Withdrawal

allows EBSA to assess the subject matter further and determine whether rulemaking in this area is appropriate. Following such an assessment, EBSA may determine that rulemaking is appropriate. If that determination is made, this or a similar matter will be included in succeeding semiannual agenda.

Timetable:

Action	Date	FR Cite
NPRM	03/12/14	79 FR 13949
NPRM Comment Period End.	06/10/14	
Withdrawn	03/30/17	

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-AB53

162. • Definition of the Term Fiduciary—Delay of Applicability Date

Legal Authority: 29 U.S.C. 1002 (ERISA sec 3(21)); 29 U.S.C. 1135 (ERISA sec 505)

Abstract: This rulemaking extends for 60 days the applicability date of the final regulation, published on April 8, 2016, defining who is a “fiduciary” under the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986. It also extends for 60 days the applicability dates of the Best Interest Contract Exemption and the Class Exemption for Principal Transactions in Certain Assets Between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs. It requires that fiduciaries relying on these exemptions for covered transactions adhere only to the Impartial Conduct Standards (including the best “interest” standard), as conditions of the exemptions during the transition period from June 9, 2017, through January 1, 2018. Thus, the fiduciary definition in the rule (Fiduciary Rule or Rule) published on April 8, 2016, and Impartial Conduct Standards in these exemptions, are applicable on June 9, 2017, while compliance with the remaining conditions in these exemptions, such as requirements to make specific written disclosures and representations of fiduciary compliance in communications with investors, is not required until January 1, 2018. This rulemaking also delays the applicability of amendments to Prohibited

Transaction Exemption 84-24 until January 1, 2018, other than the Impartial Conduct Standards, which will become applicable on June 9, 2017. Finally, this rulemaking extends for 60 days the applicability dates of amendments to other previously granted exemptions. The President, by Memorandum to the Secretary of Labor dated February 3, 2017, directed the Department of Labor to examine whether the Fiduciary Rule may adversely affect the ability of Americans to gain access to retirement information and financial advice, and to prepare an updated economic and legal analysis concerning the likely impact of the Fiduciary Rule as part of that examination. The extensions announced in this rulemaking are necessary to enable the Department to perform this examination and to consider possible changes with respect to the Fiduciary Rule and PTEs based on new evidence or analysis developed pursuant to the examination.

Timetable:

Action	Date	FR Cite
Proposed Rule; Extension of Applicability Date.	03/03/17	82 FR 12319
Proposed Rule Comment Period End.	03/17/17	
Final Rule; Delay of Applicability Date.	04/07/17	
Final Rule; Delay of Applicability Date Effective.	06/09/17	

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, *Fax:* 202 219-7291.

RIN: 1210-AB79

DEPARTMENT OF LABOR (DOL)*Occupational Safety and Health Administration (OSHA)*

Proposed Rule Stage

163. Occupational Exposure to Beryllium

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

Abstract: In 1999 and 2001, OSHA was petitioned to issue an emergency temporary standard for permissible exposure limit (PEL) to beryllium by the

United Steel Workers (formerly 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 worksites 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. OSHA also completed a scientific peer review of its draft risk assessment. OSHA published a NPRM for a comprehensive beryllium standard for general industry on August 7, 2015 (80 FR 47565) and convened an informal public hearing on the proposed hearings in Washington, DC, on March 21 and 22, 2016. Following the Agency's review and consideration of comments and testimony received on the proposed standard, OSHA published final comprehensive standards for general industry, construction and shipyards on January 9, 2017 (82 FR 2470). In accordance with the Presidential directive as expressed in the memorandum of January 20, 2017 from the Assistant to the President and Chief of Staff entitled "Regulatory Freeze Pending Review," OSHA delayed the effective date of the standard to May 20, 2017, to allow OSHA officials the opportunity for further review and consideration of the new regulations. Based on this review and the comments received in response to extending the effective date on June 27, 2017. OSHA proposed changes to the standards that apply to construction and shipyard operations.

Timetable:

Action	Date	FR Cite
Request for Information (RFI).	11/26/02	67 FR 70707
RFI Comment Period End.	02/24/03	

Action	Date	FR Cite
SBREFA Report Completed.	01/23/08	
Initiated Peer Review of Health Effects and Risk Assessment.	03/22/10	
Complete Peer Review.	11/19/10	
NPRM	08/07/15	80 FR 47565
NPRM Comment Period End.	11/05/15	
Notice of Public Hearing; Date 02/29/2016.	12/30/15	80 FR 81475
Notice of Public Hearing; Date Change 03/21/2016.	02/16/16	81 FR 7717
Final Rule	01/09/17	82 FR 2470
Final Rule; Delay of Effective Date.	02/01/17	82 FR 8901
Final Rule; Proposed Further Delay of Effective Date.	03/02/17	82 FR 12318
Final Rule; Further Delay of Effective Date.	03/21/17	82 FR 14439
Final Rule; Further Delay of Effective Date.	05/20/17	
NPRM	06/27/17	82 FR 29182
NPRM Comment Period End.	08/28/17	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N-3718, Washington, DC 20210, Phone: 202 693-1950, Fax: 202 693-1678, Email: perry.bill@dol.gov. RIN: 1218-AB76

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Long-Term Actions

164. 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 (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 TB, SARS, Methicillin-resistant Staphylococcus aureus (MRSA), and other infectious diseases that 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 developing a standard to ensure that employers establish a comprehensive infection control program and 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	
Stakeholder Meetings.	07/05/11	76 FR 39041
Initiate SBREFA ..	06/04/14	
Complete SBREFA.	12/22/14	
NPRM	To Be Determined	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N-3718, Washington, DC 20210, Phone: 202 693-1950, Fax: 202 693-1678, Email: perry.bill@dol.gov.

RIN: 1218-AC46

DEPARTMENT OF LABOR (DOL)*Occupational Safety and Health Administration (OSHA)*

Completed Actions

165. Bloodborne Pathogens (Completion of a Section 610 Review)

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

Abstract: OSHA will undertake a review of the Bloodborne Pathogen Standard (29 CFR 1910.1030) in accordance with the requirements of the Regulatory Flexibility Act and section 5 of Executive Order 12866. The review will consider the continued need for the rule; whether the rule overlaps, duplicates, or conflicts with other Federal, State or local regulations; and the degree to which technology, economic conditions, or other factors may have changed since the rule was evaluated. OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

Timetable:

Action	Date	FR Cite
Begin Review	10/22/09	75 FR 27237
Notice of Request for Comment.	05/14/10	
Notice of Request for Comment Period End.	08/12/10	
Withdrawn	03/30/17	

Regulatory Flexibility Analysis

Required: No.

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

RIN: 1218-AC34

166. Combustible Dust

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

Abstract: Occupational Safety and Health Administration (OSHA) has initiated rulemaking to develop a combustible dust standard for general industry. OSHA will use information gathered, including from an upcoming SBREFA panel, to develop a comprehensive standard that addresses combustible dust hazards. OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

Timetable:

Action	Date	FR Cite
ANPRM	10/21/09	74 FR 54333
Notice of Stakeholder Meetings.	12/14/09	
ANPRM Comment Period End.	01/19/10	75 FR 10739
Notice of Stakeholder Meetings.	03/09/10	
Withdrawn	03/30/17	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N-3718, Washington, DC 20210, *Phone:* 202 693-1950, *Fax:* 202 693-1678, *Email:* perry.bill@dol.gov.

RIN: 1218-AC41

167. Preventing Backover Injuries and Fatalities

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

Abstract: Backing vehicles and equipment are common causes of struck-by injuries and can also cause caught-between injuries when backing vehicles and equipment pin a worker against an object. Struck-by injuries and caught-between injuries are two of the

four leading causes of workplace fatalities. The Bureau of Labor Statistics reports that in 2013, 67 workers were fatally backed over while working. While many backing incidents can prove to be fatal, workers can suffer severe, non-fatal injuries as well. A review of OSHA's Integrated Management Information System (IMIS) database found that backing incidents can result in serious injury to the back and pelvis, fractured bones, concussions, amputations, and other injuries. Emerging technologies in the field of backing operations may prevent incidents. The technologies include cameras and proximity detection systems. The use of spotters and internal traffic control plans can also make backing operations safer. The Agency has held stakeholder meetings on backovers, and is conducting site visits to employers, and is developing a standard to address these hazards. OSHA is withdrawing this entry from the agenda at this time due to resource constraints and other priorities.

Timetable:

Action	Date	FR Cite
Request for Information (RFI).	03/29/12	77 FR 18973
RFI Comment Period End.	07/27/12	
Withdrawn	03/30/17	

Regulatory Flexibility Analysis

Required: Yes.

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

RIN: 1218-AC51

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