



# FEDERAL REGISTER

---

Vol. 84

Thursday,

No. 247

December 26, 2019

---

Part X

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](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.

**Eugene Scalia,**  
*Secretary of Labor.*

**WAGE AND HOUR DIVISION—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
292 .....	Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees.	1235-AA20

**EMPLOYMENT AND TRAINING ADMINISTRATION—LONG-TERM ACTIONS**

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

**EMPLOYMENT AND TRAINING ADMINISTRATION—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
294 .....	Modernizing Recruitment Requirements Under the H-2A Program .....	1205-AB90

**EMPLOYEE BENEFITS SECURITY ADMINISTRATION—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
295 .....	Revision of the Form 5500 Series and Implementing Related Regulations Under the Employee Retirement Income Security Act of 1974 (ERISA).	1210-AB63
296 .....	Definition of an "Employer" Under Section 3(5) of ERISA—Association Retirement Plans and Other Multiple Employer Plans.	1210-AB88

**OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PRERULE STAGE**

Sequence No.	Title	Regulation Identifier No.
297 .....	Emergency Response .....	1218-AC91
298 .....	Tree Care Standard .....	1218-AD04
299 .....	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.
300 .....	Communication Tower Safety .....	1218-AC90

## OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
301 .....	Infectious Diseases .....	1218-AC46
302 .....	Process Safety Management and Prevention of Major Chemical Accidents .....	1218-AC82

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

Completed Actions

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

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 29 U.S.C. 201 *et seq.*;  
 29 U.S.C.213(a)(1)

*Abstract:* The Department issued a Notice of Proposed Rulemaking (NPRM) to determine the appropriate salary level for exemption of executive, administrative and professional employees. The Department also proposed to increase the highly compensated employees (HCE) total compensation level, allow the inclusion of up to 10 percent of the standard salary level to include nondiscretionary bonus and incentive payments as long as paid at least annually, and special salary levels for the U.S. territories and the motion picture industry. In developing the final rule, the Department will be informed by the comments received in response to its NPRM.

*Timetable:*

Action	Date	FR Cite
Request for Information (RFI).	07/26/17	82 FR 34616
RFI Comment Period End.	09/25/17	
NPRM .....	03/22/19	84 FR 10840
NPRM Comment Period End.	05/21/19	
Final Rule .....	09/27/19	84 FR 51230
Final Rule Effective.	01/01/20	

*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-2502, Washington, DC 20210, *Phone:* 202 693-0406.

*RIN:* 1235-AA20**DEPARTMENT OF LABOR (DOL)***Employment and Training Administration (ETA)*

Long-Term Actions

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

*E.O. 13771 Designation:* Regulatory.  
*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 amending regulations regarding the H-2B non-immigrant visa program at 20 CFR part 655, subpart A. The Notice of Proposed Rulemaking (NPRM) will 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 .....	12/00/20	

*Regulatory Flexibility Analysis*

Required: Yes.

*Agency Contact:* Thomas M. Dowd, Deputy Assistant Secretary, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, FP Building, Washington, DC 20210, *Phone:* 202 513-7350.

*RIN:* 1205-AB93**DEPARTMENT OF LABOR (DOL)***Employment and Training Administration (ETA)*

Completed Actions

**294. Modernizing Recruitment Requirements Under the H-2A Program**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 8 U.S.C. 1188

*Abstract:* The United States Department of Labor's (DOL) Employment and Training Administration is amending regulations regarding the H-2A non-immigrant visa program at 20 CFR part 655, subpart B. The final rule includes necessary technical improvements, which eliminates print newspaper advertisements and modernizes the requirements employers must meet for advertising job opportunities to U.S. workers.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/09/18	83 FR 55985
NPRM Comment Period End.	12/10/18	
NPRM Comment Period End Extended to 12/28/2018.	12/10/18	83 FR 63456
Final Rule .....	09/20/19	84 FR 49439
Final Rule Effective.	10/21/19	

*Regulatory Flexibility Analysis*

Required: Yes.

*Agency Contact:* Thomas M. Dowd, Deputy Assistant Secretary, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, FP Building, Washington, DC 20210, *Phone:* 202 513-7350.

*RIN:* 1205-AB90

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

## Completed Actions

**295. Revision of the Form 5500 Series and Implementing Related Regulations Under the Employee Retirement Income Security Act of 1974 (ERISA)***E.O. 13771 Designation:* Regulatory.*Legal Authority:* 29 U.S.C. 1021 to 1025; 29 U.S.C. 1027; 29 U.S.C. 1029 and 1030; 29 U.S.C. 1134 and 1135; 29 U.S.C. 1059; 29 U.S.C. 1204

*Abstract:* This regulatory action is part of a long-term strategic project with the Internal Revenue Service and the Pension Benefit Guaranty Corporation (collectively “Agencies”) to modernize and improve the Form 5500 Annual Return/Report of Employee Benefit Plan. The Agencies published proposals in 2016 that included a range of proposed changes in the reporting forms and implementing regulations. Those proposals were never finalized. The Employee Benefits Security Administration is withdrawing this entry from the agenda at this time, due to agency reprioritization.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/21/16	81 FR 47496
NPRM Comment Period End.	10/04/16	
Notice of Proposed Forms Revision.	07/21/16	81 FR 47534
Notice of Proposed Forms Revision Comment Period End.	10/04/16	
NPRM Comment Period Extended.	09/23/16	81 FR 65594
NPRM Comment Period Extended End.	12/05/16	
Withdrawn .....	09/30/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Mara S. Blumenthal, Employee Benefits 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.

*RIN:* 1210-AB63**296. Definition of an “Employer” Under Section 3(5) of ERISA—Association Retirement Plans and Other Multiple Employer Plans***E.O. 13771 Designation:* Deregulatory.*Legal Authority:* 29 U.S.C. 1002(2), 1002(5) and 1135

*Abstract:* This regulatory action would establish criteria under section 3(5) of the Employee Retirement Income Security Act (ERISA) for purposes of being an “employer” able to establish and maintain an employee pension benefit plan (as defined in section 3(2) of ERISA) that is a multiple employer retirement savings plan (other than a multiemployer plan defined in section 3(37) of ERISA).

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/23/18	83 FR 53534
NPRM Comment Period End.	12/24/18	
Final Rule .....	07/31/19	84 FR 37508
Final Rule Effective.	09/30/19	

*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-AB88**DEPARTMENT OF LABOR (DOL)***Occupational Safety and Health Administration (OSHA)*

## Prerule Stage

**297. Emergency Response***E.O. 13771 Designation:* Regulatory.*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 ..	08/00/20	

*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-AC91**298. Tree Care Standard***E.O. 13771 Designation:* Regulatory.*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). Tree care continues to be a high-hazard industry.

*Timetable:*

Action	Date	FR Cite
Stakeholder Meeting.	07/13/16	
Initiate SBREFA ..	11/00/19	

*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-AD04**299. Prevention of Workplace Violence in Health Care and Social Assistance***E.O. 13771 Designation:* Regulatory.*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 ..	01/00/20	

*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-AD08

## DEPARTMENT OF LABOR (DOL)

### Occupational Safety and Health Administration (OSHA)

Proposed Rule Stage

#### 300. Communication Tower Safety

*E.O. 13771 Designation:* Regulatory.  
*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, etc.).

*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 .....	09/00/20	

*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

## DEPARTMENT OF LABOR (DOL)

### Occupational Safety and Health Administration (OSHA)

Long-Term Actions

#### 301. Infectious Diseases

*E.O. 13771 Designation:* Regulatory.  
*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 (rubella), 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 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	
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

#### 302. Process Safety Management and Prevention of Major Chemical Accidents

*E.O. 13771 Designation:* Regulatory.  
*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

Action	Date	FR Cite
RFI Comment Period Extended End.	03/31/14	
Initiate SBREFA .. SBREFA Report Completed.	06/08/15 08/01/16	
Next Action Undetermined.		

*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-AC82

[FR Doc. 2019-26582 Filed 12-23-19; 8:45 am]

**BILLING CODE 4510-04-P**