



## **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.

**NAME: R. ALEXANDER ACOSTA,**

*Secretary of Labor.*

#### Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
319	Temporary Employment of H-2B Foreign Workers in Certain Itinerant Occupations in the United States	1205-AB93

#### Employee Benefits Security Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
320	Definition of an “Employer” Under Section 3(5) of ERISA— Association Health Plans	1210–AB85

### Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
321	Communication Tower Safety	1218–AC90
322	Emergency Response and Preparedness	1218–AC91
323	Tree Care Standard	1218–AD04
324	Prevention of Workplace Violence in Health Care and Social Assistance	1218–AD08

### Occupational Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
325	Infectious Diseases	1218–AC46
326	Process Safety Management and Prevention of Major Chemical Accidents	1218–AC82

<b>Department of Labor (DOL)</b>	<b>Proposed Rule Stage</b>
<b>Employment and Training Administration (ETA)</b>	

**319. • TEMPORARY EMPLOYMENT OF H-2B FOREIGN WORKERS IN CERTAIN ITINERANT  
OCCUPATIONS IN THE UNITED STATES**

**EO 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:**

<b>Action</b>	<b>Date</b>	<b>FR Cite</b>
NPRM	09/00/19	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** William W. Thompson, II, Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Box # 12-200, Washington, DC 20210

Phone: 202 513-7350

**RIN:** 1205-AB93

<b>Department of Labor (DOL)</b>	<b>Completed Actions</b>
----------------------------------	--------------------------

<b>Employee Benefits Security Administration (EBSA)</b>	
---	--

**320. DEFINITION OF AN “EMPLOYER” UNDER SECTION 3(5) OF ERISA—ASSOCIATION HEALTH PLANS**

**EO 13771 Designation:** Deregulatory

**Legal Authority:** 29 U.S.C. 3(1), 3(5), and 505

**Abstract:** This regulatory action establishes criteria for an employer group or association to act as an "employer" within the meaning of section 3(5) of ERISA and sponsor an association health plan that is an employee welfare benefit plan and a group health plan under title I of ERISA.

**Timetable:**

<b>Action</b>	<b>Date</b>	<b>FR Cite</b>
NPRM	01/05/18	83 FR 614
NPRM Comment Period End	03/06/18	
Final Rule	06/21/18	83 FR 28912
Final Rule Effective	08/20/18	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Amy J. Turner, Director, Office of Health Plan Standards and Compliance Assistance,  
Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP  
Building, Room N-5653, Washington, DC 20210

Phone: 202 693-8335

Fax: 202 219-1942

**RIN:** 1210-AB85

<b>Department of Labor (DOL)</b>	<b>Prerule Stage</b>
----------------------------------	----------------------

<b>Occupational Safety and Health Administration (OSHA)</b>	
---	--

### **321. COMMUNICATION TOWER SAFETY**

**EO 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, 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. While this panel focus on communication towers, OSHA will consider also covering structures that have telecommunications equipment on or attached to them (e.g., buildings, rooftops, water towers, billboards, etc.).

**Timetable:**

<b>Action</b>	<b>Date</b>	<b>FR Cite</b>
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	10/00/18	
-----------------	----------	--

**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–AC90

---

## 322. EMERGENCY RESPONSE AND PREPAREDNESS

**EO 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, 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	10/00/18	

**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

### **323. TREE CARE STANDARD**

**EO 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:**

<b>Action</b>	<b>Date</b>	<b>FR Cite</b>
Stakeholder Meeting	07/13/16	
Initiate SBREFA	06/00/19	

**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

---

## **324. PREVENTION OF WORKPLACE VIOLENCE IN HEALTH CARE AND SOCIAL ASSISTANCE**

**EO 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) provides OSHA's history with the issue of workplace violence in healthcare 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 healthcare. 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 healthcare 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:**

<b>Action</b>	<b>Date</b>	<b>FR Cite</b>
Request For Information (RFI)	12/07/16	81 FR 88147
RFI Comment Period End	04/06/17	
Initiate SBREFA	03/00/19	

**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-AD08

Department of Labor (DOL)	Long-Term Actions
Occupational Safety and Health Administration (OSHA)	

### 325. INFECTIOUS DISEASES

**EO 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 (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 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

---

## **326. PROCESS SAFETY MANAGEMENT AND PREVENTION OF MAJOR CHEMICAL ACCIDENTS**

**EO 13771 Designation:** Regulatory

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

**Abstract:** In accordance with the Executive Order 13650, Improving Chemical Facility Safety and Security, 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	
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. Filed 10-01-18; 12:00 PM]

**BILLING CODE 4510-04-P**

