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'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.

This document of the Department of Labor was signed on December 16, 2020, by Eugene Scalia, Secretary of Labor. That document with the original signature and date is maintained by the Department of Labor. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the Department of Labor has delegated authority to the undersigned RISC Federal Register Liaison Officer to re-sign and submit the document in electronic format for publication, as an official document of the Department of Labor. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Terri Tolson-Young

Federal Register Liaison Officer, Regulatory Information Service Center.

WAGE AND HOUR DIVISION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
279	Independent Contractor Status Under the Fair Labor Standards Act **(Reg Plan Seq No. 66)**	1235–AA34

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

EMPLOYMENT AND TRAINING ADMINISTRATION—PROPOSED RULE STAGE

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

EMPLOYEE BENEFITS SECURITY ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
281	Financial Factors in Selecting Plan Investments (**Reg Plan Seq No. 69**)	1210–AB95

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
282	Transparency in Coverage	1210–AB93

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
283	Emergency Response	1218–AC91
284	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.
285	Communication Tower Safety	1218–AC90
286	Tree Care Standard	1218–AD04

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
287	Infectious Diseases	1218–AC46
288	Process Safety Management and Prevention of Major Chemical Accidents	1218–AC82

DEPARTMENT OF LABOR (DOL)

Wage and Hour Division (WHD)

Final Rule Stage

279. Independent Contractor Status Under the Fair Labor Standards Act

Regulatory Plan: This entry is Seq. No. 66 in part II of this issue of the **Federal Register**.

RIN: 1235–AA34

DEPARTMENT OF LABOR (DOL)

Employment and Training Administration (ETA)

Proposed Rule Stage

280. 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	09/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brian Pasternak, Administrator, Office of Foreign Labor Certification, 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)

Employee Benefits Security Administration (EBSA)

Final Rule Stage

281. Financial Factors in Selecting Plan Investments

Regulatory Plan: This entry is Seq. No. 69 in part II of this issue of the **Federal Register**.

RIN: 1210–AB95

DEPARTMENT OF LABOR (DOL)

Employee Benefits Security Administration (EBSA)

Completed Actions

282. Transparency in Coverage

E.O. 13771 Designation: Regulatory.

Legal Authority: 42 U.S.C. 18031; 42 U.S.C. 300gg–15a; 29 U.S.C. 1185d

Abstract: This final rule would implement portions of Executive Order 13877 (''Improving Price and Quality Transparency in American Healthcare to Put Patients First'', June 24, 2019), which provides that the Secretaries of Health and Human Services, the Treasury, and Labor will facilitate access to information about expected health care costs for patients before they receive care.

Timetable:

Action	Date	FR Cite
NPRM	11/27/19	84 FR 65464
NPRM Comment Period End.	01/29/20	
Final Rule	11/20/20	85 FR 72158
Final Rule Effective.	01/11/21	

Regulatory Flexibility Analysis Required: Yes.

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

RIN: 1210–AB93

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Prerule Stage

283. 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 ..	02/00/21	

Regulatory Flexibility Analysis Required: Yes.

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

RIN: 1218–AC91

284. 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 ..	12/00/20	

Regulatory Flexibility Analysis Required: Yes.

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

RIN: 1218–AD08

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Proposed Rule Stage

285. 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).

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	07/00/21	

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

286. 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). 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	10/00/21	

Regulatory Flexibility Analysis Required: Yes.

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

RIN: 1218–AD04

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Long-Term Actions

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

Timetable:

Action	Date	FR Cite
Request for Information (RFI).	05/06/10	75 FR 24835
RFI Comment Period End.	08/04/10	
Analyze Comments.	12/30/10	
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: Andrew Levinson, Deputy Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N–3718, Washington, DC 20210, *Phone:* 202 693–1950, *Email: levinson.andrew@dol.gov*.

RIN: 1218–AC46

288. 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
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: Andrew Levinson, Deputy Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N–3718, Washington, DC 20210, *Phone:* 202 693–1950, *Email: levinson.andrew@dol.gov*.

RIN: 1218–AC82

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