

## **DEPARTMENT OF LABOR (DOL)**

### **2007 Regulatory Plan**

#### **Executive Summary: Protecting America's Workers**

Since its creation in 1913, the Department of Labor has been guided by the idea that workers deserve safe and healthy workplaces, as well as protection of their wages and pensions. The Secretary of Labor has made protecting America's workers a top priority, and has combined tough enforcement with compliance assistance to ensure the health, safety and economic security of the American workforce. While the vast majority of employers work hard to keep their employees and workplaces safe and secure, strong enforcement is needed to protect employees whose employers otherwise would not comply with safety and health, wage, and pension laws and regulations.

The Secretary's compliance assistance initiative provides employers with the knowledge and tools they need to carry out their legal obligations, and is based on the proven success that comes when government, employers, unions and employees work together. Educating and encouraging employers helps workers far more than enforcement alone, since no enforcement process can possibly identify every violation of the law, and fines and penalties can never fully redress losses of life, health, and economic well-being.

The Department is committed to aggressively enforcing the laws that protect employees, including the rights of workers returning to their jobs after military service. Workers also need information about protection of their health insurance and pension benefits. In addition, DOL has responsibilities beyond worker protection. The Department recognizes that workers need constant updating of skills to compete in a changing marketplace. DOL helps employers and workers bridge the gap between the requirements of new high-technology jobs and the skills of the workers who are needed to fill them.

#### **The Secretary of Labor's Regulatory Plan for Accomplishing These Objectives**

In general, DOL tries to help employees and employers meet their needs in a cooperative fashion. DOL will maintain health and safety standards and protect employees by working with the regulated community.

DOL considers the following proposals to be proactive, common sense approaches to the issues most clearly needing regulatory attention.

#### **The Department's Regulatory Priorities**

DOL has identified 21 high priority items for regulatory action. Nine items address health and safety issues, which are central to DOL's mission and which represent a major focus of the Secretary. Two agencies, the Mine Safety and Health Administration

(MSHA) and the Occupational Safety and Health Administration (OSHA), are responsible for these initiatives.

The Mine Safety and Health Administration (MSHA) administers the Federal Mine Safety and Health Act of 1977 (Mine Act), which was recently amended by the Mine Improvement and New Emergency Response Act of 2006 (MINER Act). MSHA is undertaking a number of significant regulatory actions to continue to reduce deaths, injuries, and illnesses, and ensure safe and healthful workplaces for the Nation's miners.

On May 22, 2007, MSHA published an Emergency Temporary Standard (ETS) on Sealing of Abandoned Areas (RIN 1219-AB52), to protect miners working in underground coal mines from the grave danger that they face when underground seals separating abandoned areas from active workings fail. The ETS includes requirements to strengthen the design, the construction, the maintenance, and the repair of seals; requirements for sampling and controlling atmospheres behind seals; and requirements for increasing the overpressure of seals in accordance with the MINER Act. MSHA expects to issue a Final Rule on Sealing of Abandoned Areas by February 2008.

On September 6, 2007, MSHA published separate proposed rules to address Mine Rescue Teams (RIN 1219-AB53) in underground coal mines, and Mine Rescue Team Equipment (RIN 1219-AB56) in underground coal and metal and nonmetal mines. The proposed Mine Rescue Teams rule includes provisions for the number, training, composition and certification of mine rescue teams in accordance with the MINER Act, and will be completed in 2007. The proposed Mine Rescue Team Equipment rule would amend existing standards to reflect advances in mine rescue team equipment technology, and will be completed in early 2008.

MSHA is continuing work on its Asbestos Exposure Limit (1219-AB24 final rule), which will provide increased protection to miners potentially exposed to health hazards associated with asbestos. The final rule lowers miners' permissible exposure limit for asbestos from 2.0 fibers per cubic centimeters (f/cc) to 0.1 f/cc.

MSHA is also continuing to work on its Diesel Particulate Matter: Conversion Factor from Total Carbon to Elemental Carbon (RIN 1219-AB55) rulemaking, which will establish the most appropriate measure for determining compliance with the final DPM exposure limit.

MSHA intends to publish a Request for Information on the use of the Continuous Personal Dust Monitor (RIN: 1219-AB48) based upon a research report from the National Institute for Occupational Safety and Health. This new technology is designed to continuously measure a coal miner's exposure to respirable coal mine dust. Such information, available immediately at the miner's work location, has the potential to reduce the occurrence of respirable lung disease among coal miners.

MSHA may initiate a new rulemaking on Refuge Alternatives in Underground Coal Mines in accordance with the MINER Act pending completion of a report by NIOSH due December 2007.

MSHA may initiate a new rulemaking on the Utilization of Belt Air and the Composition and Fire Retardant Properties of Belt Materials in Underground Coal Mining in accordance with the MINER Act pending completion of a technical study panel report due December 2007.

The Occupational Safety and Health Administration (OSHA) oversees a wide range of measures in the public and private sectors. OSHA is committed to establishing clear and sensible priorities, and to continuing to reduce occupational deaths, injuries, and illnesses.

OSHA's first initiative in the area of health standards addresses worker exposures to crystalline silica (RIN 1218-AB70). This substance is one of the most widely found in workplaces, and data indicate that silica exposure causes silicosis, a debilitating respiratory disease, and perhaps cancer as well. OSHA has obtained input from small businesses about regulatory approaches through a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel, and the Panel report was submitted to the Assistant Secretary of OSHA on December 19, 2003. OSHA plans to complete an external peer review of the health effects and risk assessment by January 2008.

OSHA has initiated rulemaking to revise its Hazard Communication Standard (HCS) (RIN 1218-AC20) to adopt provisions to make it consistent with a globally harmonized approach to hazard communication. First promulgated in 1983, the HCS requires chemical manufacturers and importers of chemicals to evaluate the hazards of the chemicals they produce or import, and prepare labels and safety data sheets to communicate the hazards and protective measures to users of their products. All employers with hazardous chemicals in their workplaces are required to have a hazard communication program, including labels on containers, safety data sheets, and employee training. OSHA estimates that the HCS covers over 945,000 hazardous chemical products in 7 million American workplaces. OSHA and other Federal agencies have participated in long-term international negotiations to develop the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). Adopted by the United Nations in 2003, the GHS includes harmonized criteria for health, physical and environmental hazards, as well as specifications for container labels and safety data sheets. There is an international goal to have as many countries as possible implement the GHS by 2008. Revising the HCS to be consistent with the GHS is expected to improve the communication of hazards in American workplaces, as well as facilitate international trade in chemicals.

OSHA is continuing work on its rulemaking to update the 1971 Cranes and Derricks Standards (RIN 1218-AC01) using the recommendations of a negotiated rulemaking committee. The committee submitted its recommendations in July 2004. A Small Business Regulatory Enforcement Fairness Act panel was convened in August 2006 to

obtain input from small businesses; a report summarizing the panel's findings was issued in October 2006. The Agency plans to issue a notice of proposed rulemaking in January 2008.

Protection of pension and health benefits continues to be a priority of the Secretary of Labor. Consistent with the Secretary's priorities for FY 2007, the Employee Benefits Security Administration (EBSA) will focus on compliance assistance for pension and group health plans through issuance of guidance. Specific initiatives for group health plans include guidance on the application of the Health Insurance Portability and Accountability Act (HIPAA) access, portability and renewability provisions of the Employee Retirement Income Security Act (ERISA) (RIN 1210-AA54). With respect to pension plans, the Department will be developing guidance to encourage the automatic enrollment of participants in 401(k) plans and the use of default investment options that will enhance retirement savings (RIN 1210-AB10).

The Department also will be establishing standards to improve the disclosure of information concerning plan service provider fees and potential conflicts of interest to assist fiduciaries and participants in making informed decisions about their plans (RIN 1210-AB07 and 1210-AB08). In addition, the Department is developing guidance on several initiatives relating to the implementation of the Pension Protection Act of 2006, including investment advice guidance (RIN 1210-AB13) and regulations relating to individual pension benefit statements (RIN 1210-AB20). ERISA's requirements affect private sector employee benefit plans including an estimated 683,000 pension benefit plans, covering approximately 106 million participants; an estimated 2.5 million group health benefit plans, covering 137 million participants and dependents; and similar numbers of other welfare benefits plans and participants.

The Employment and Training Administration (ETA) has four priority regulatory initiatives that reflect the Secretary's emphasis on meeting the needs of the 21<sup>st</sup> century workforce. These regulations include: (1) the Apprenticeship Programs, Labor Standards for Registration, Amendment of Regulations (RIN 1205-AB50) which will update the Apprenticeship regulations that have not been updated since promulgated in 1977; (2) the Senior Community Service Employment Program (SCSEP) regulations (RIN 1205-AB48 and 1205-AB47), due to the issuance of the Older Americans Act Amendments of 2006, enacted October 2006, which make substantial changes to the current SCSEP; (3) YouthBuild regulations (RIN 1205-AB49), which arise from Congress transferring oversight and administration of the YouthBuild Program to the U.S. Department of Labor in accordance with the YouthBuild Transfer Act of 2006, enacted in September 2006; and (4) the Federal-State Unemployment Compensation Program; Interstate Arrangement for Combining Employment and Wages (RIN 1205-AB51), which amends current regulations to provide that individuals can only establish Combined-Wage Claims in a State in which they have worked.

The Employment Standards Administration (ESA) has one priority regulatory initiative. ESA's initiative pertains to regulations issued under the Family and Medical Leave Act (FMLA) that were also discussed in OMB's 2001, 2002 and 2004 Reports to Congress

on the Costs and Benefits of Regulations. ESA continues to review the issues raised by the decision of the U.S. Supreme Court in *Ragsdale v. Wolverine World Wide, Inc.*, 535 U.S. 81 (2002), and the decisions of other courts, for possible revisions to the FMLA regulations.

## The 20 Actions Described in the Regulatory Plan

Title	Regulation Identifier Number	Rulemaking Stage
Senior Community Service Employment Program	<a href="#">1205-AB48</a>	Proposed Rule Stage
YouthBuild Program	<a href="#">1205-AB49</a>	Proposed Rule Stage
Apprenticeship Programs, Labor Standards for Registration, Amendment of Regulations	<a href="#">1205-AB50</a>	Proposed Rule Stage
Federal-State Unemployment Compensation Program; Interstate Arrangement for Combining Employment and Wages	<a href="#">1205-AB51</a>	Proposed Rule Stage
Senior Community Service Employment Program; Performance Accountability	<a href="#">1205-AB47</a>	Final Rule Stage
Fee and Expense Disclosures to Participants in Individual Account Plans	<a href="#">1210-AB07</a>	Proposed Rule Stage
Amendment of Standards Applicable to General Statutory Exemption for Services	<a href="#">1210-AB08</a>	Proposed Rule Stage
Prohibited Transaction Exemption for Provision of Investment Advice to Participants in Individual Account Plans	<a href="#">1210-AB13</a>	Proposed Rule Stage
Periodic Pension Benefit Statements	<a href="#">1210-AB20</a>	Proposed Rule Stage
Regulations Implementing the Health Care Access, Portability, and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996	<a href="#">1210-AA54</a>	Final Rule Stage
Section 404 Regulation--Default Investment Alternatives Under Participant Directed Individual Account Plans	<a href="#">1210-AB10</a>	Final Rule Stage
Family and Medical Leave Act of 1993; Conform to the Supreme Court's Ragsdale Decision	<a href="#">1215-AB35</a>	Proposed Rule Stage
Occupational Exposure to Crystalline Silica	<a href="#">1218-AB70</a>	PreRule Stage
Cranes and Derricks	<a href="#">1218-AC01</a>	Proposed Rule Stage
Hazard Communication	<a href="#">1218-AC20</a>	Proposed Rule Stage
Continuous Personal Dust Monitors	<a href="#">1219-AB48</a>	PreRule Stage
Diesel Particulate Matter: Conversion Factor From Total Carbon to Elemental Carbon	<a href="#">1219-AB55</a>	Proposed Rule Stage
Asbestos Exposure Limit	<a href="#">1219-AB24</a>	Final Rule Stage
Sealing of Abandoned Areas	<a href="#">1219-AB52</a>	Final Rule Stage
Mine Rescue Teams	<a href="#">1219-AB53</a>	Final Rule Stage

**DOL****Employment and Training Administration ( ETA )****RIN: 1205-AB48****Title: Senior Community Service Employment Program**

**Abstract:** The Older Americans Act Amendments of 2006, Public Law 109-365, enacted on October 17, 2006, contains provisions amending Title V of that Act, which authorizes the Senior Community Service Employment program (SCSEP). The amendments, effective July 1, 2007, make substantial changes to the current SCSEP provisions in the Older Americans Act, including new requirements relating to performance accountability, income eligibility for program participation, competition of national grants and services to participants. This proposed NPRM consists of 8 subparts: subpart A--Definitions; Subpart B--Coordination with the Workforce Investment Act; subpart C--the State Plan; subpart D--Grant Application, Eligibility, and Award Requirements; Subpart E--Services to Participants; subpart F--Pilots, Demonstration and Evaluation Projects, subpart H--Administrative Requirements; and subpart I--Grievance Procedures and Appeals Process. The performance accountability requirements (subpart G) will be implemented through a separate Interim Final Rule (IFR).

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Proposed Rule

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** 20 CFR 641 (To search for a specific CFR, visit the [Code of Federal Regulations](#) )

**Legal Authority:** 42 USC 3056 et seq

**Legal Deadline:** None

**Regulatory Plan:**

**Statement of Need:** The 2006 Amendments to the Older Americans Act (OAA-2006) were enacted on October 17, 2006. The amendments instituted a number of significant changes to the Senior Community Service Employment Program (SCSEP) including time limits on the participation of eligible individuals, new enrollment priorities, streamlined and strengthened performance measures, more training options for participants, new limits on participant fringe benefits, and required open competition of national grants every four years. The Department was required to implement the new performance measures by July 1, 2007 and published an Interim Final Rule on these requirements in the Federal Register on June 29, 2007 (72 FR 35832). However, SCSEP grantees were advised that they were responsible for complying with all the OAA-2006 changes as of July 1, 2007 as communicated in administrative guidance issued on June 11, 2007. Since OAA-2006 instituted so many significant changes in addition to those relating to performance accountability, it is important that regulations implementing the full requirements of the amendments be issued consistent with the identified timetable.

**Legal Basis:** These regulations are authorized by 42 U.S.C. 3056 et seq. to implement amendments to the Older Americans Act of 1965

**Alternatives:** The public will be afforded an opportunity to provide comments on the SCSEP program changes when the Department publishes the notice of proposed rulemaking (NPRM) in the Federal Register. A Final Rule will be issued after analysis and incorporation of public comments to the NPRM.

**Costs and Benefits:** Preliminary estimates of the anticipated costs of this regulatory action have not been determined at this time and will be determined at a later date.

**Risks:** This action does not affect public health, safety, or the environment.

**Timetable:**

Action	Date	FR Cite
NPRM	01/00/2008	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** Federal; State; Tribal

**Small Entities Affected:** No

**Federalism:** No

**Energy Affected:** No

**Related RINs:** Related to 1205-AB47

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**DOL****Employment and Training Administration ( ETA )****RIN:** 1205-AB49**Title:** YouthBuild Program

**Abstract:** The YouthBuild Transfer Act of 2006, Public Law 109-281, enacted on September 22, 2006, transfers oversight and administration of the YouthBuild program from the U.S. Department of Housing and Urban Development (HUD) to the U.S. Department of Labor (DOL). The YouthBuild program model targets are high school dropouts, adjudicated youth, youth aging out of foster care, and other at-risk youth population. The program model balances in-school learning, geared toward a high school diploma or GED, and construction skills training, geared toward a career placement for the youth. DOL intends to develop regulations in response to the legislation and to guide the program implementation and management.

**Priority:** Other Significant**Agenda Stage of Rulemaking:** Proposed Rule**Major:** No**Unfunded Mandates:** No

**CFR Citation:** Not Yet Determined (To search for a specific CFR, visit the [Code of Federal Regulations](#) )

**Legal Authority:** PL 109-281**Legal Deadline:** None**Regulatory Plan:**

**Statement of Need:** In 2003, the White House Task Force report on Disadvantaged Youth recommended the transfer of YouthBuild because the program is "at its core, an employment and training program for disadvantaged youth, and will benefit from administrative oversight in DOL within the Employment & Training Administration." On September 22, 2006, President Bush signed into law the YouthBuild Transfer Act (Pub. L. 109-281) which transfers the YouthBuild program from the Department of Housing and Urban Development (HUD) to the Department of Labor (DOL). The Employment and Training Administration (ETA) will administer the YouthBuild program beginning in Fiscal Year (FY) 2007. The YouthBuild program assists youth who are often significantly behind in basic skills, in obtaining a high school diploma or GED credential, advance towards post-secondary education and career pathways in construction occupations. The primary target populations for YouthBuild are adjudicated youth, youth aging out of foster care, out-of-school youth, and other at-risk populations. Youth accomplish this through the building or rehabilitation of affordable homes in their communities. The proposed regulation will consist of general information on funding and the grant application process, the program structure including eligibility and participation, performance requirements, and Administration allowances. The regulation also references compliance with existing standards of housing, environmental protections, and safety.

**Legal Basis:** These regulations are authorized by the YouthBuild Transfer Act. 29 U.S.C. 2918a (2006).

**Alternatives:** The public will be afforded an opportunity to provide comments on the YouthBuild regulations when the Department publishes the proposed rule in the Federal Register.

**Costs and Benefits:** Preliminary estimates of the anticipated costs of this regulatory action have not been determined at this time and will be determined at a later date, if necessary.

**Risks:** This action does not affect public health, safety, or the environment.

**Timetable:**

Action	Date	FR Cite
NPRM	04/00/2008	

**Regulatory Flexibility Analysis Required:** No      **Government Levels Affected:** No

**Federalism:** No

**Energy Affected:** No

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**DOL**

**Employment and Training Administration ( ETA )**

**RIN:** 1205-AB50

**Title:** Apprenticeship Programs, Labor Standards for Registration, Amendment of Regulations

**Abstract:** Regulations that implement the National Apprenticeship Act at title 29 Code of Federal Regulations (CFR) part 29 have not been updated since first promulgated in 1977. The Department of Labor (DOL) proposes to update 29 CFR part 29 to ensure that the National Registered Apprenticeship System has the necessary tools and flexibility to keep pace with changes in the economy, technological advances, and corresponding workforce challenges. The proposed rule addresses those changes by both making the procedures for apprenticeship program registration more flexible and strengthening oversight of program performance, including DOL's recognition of a State Apprenticeship Agency (SAA) as the appropriate agency for registering local apprenticeship programs for Federal purposes, and DOL's de-recognition of a SAA. The proposed rule also updates part 29 to incorporate gender neutral terms and technological advances in the delivery of related technical instruction. Such revisions will enable DOL to promote apprenticeship opportunity in the 21st century while continuing to safeguard the welfare of apprentices.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Proposed Rule

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** 29 CFR 29 (Revision) (To search for a specific CFR, visit the [Code of Federal Regulations](#) )

**Legal Authority:** 50 Stat 664, as amended (29 USC 50; 40 USC 3145; 5 USC 301)

**Legal Deadline:** None

**Regulatory Plan:**

**Statement of Need:** Regulations for the Registered Apprenticeship System at Title 29 of the Code of Federal Regulations (CFR) Part 29 have not been updated since the Department of Labor promulgated them in 1977. The regulations must be updated to ensure that the regulatory framework for the Registered Apprenticeship System aligns with technological advancements, changes in the economy, and corresponding workforce challenges that have occurred in the past three decades. The proposed revisions will enable the Registered Apprenticeship System to continue its vital role in developing a skilled, competitive American workforce.

**Legal Basis:** The regulation is authorized by Sec. 1, 50 Stat., as amended 929 U.S.C. 50; 40 U.S.C. 276c; 5 U.S.C. 301), and Reorganization Plan No. 14 of 1950, 64 Stat. 1267 (5 U.S.C. App. P. 534).

**Alternatives:** The public will be afforded an opportunity to provide comments on the proposed revisions of the Apprenticeship Programs, Labor Standards for Registration when the Department publishes the proposed rule in Federal Register.

**Costs and Benefits:** Preliminary estimates of anticipated costs of this regulatory action have not been determined at this time and will be determined at a later date, if appropriate.

**Risks:** This action does not affect public health, safety, or the environment.

**Timetable:**

Action	Date	FR Cite
NPRM	11/00/2007	

**Regulatory Flexibility Analysis Required:** No      **Government Levels Affected:** State; Tribal

**Federalism:** No

**Energy Affected:** No

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**DOL**

**Employment and Training Administration ( ETA )**

**RIN:** 1205-AB51

**Title:** Federal-State Unemployment Compensation Program; Interstate Arrangement for Combining Employment and Wages

**Abstract:** Section 3304(a)(9)(B) of the Federal Unemployment Tax Act requires States to participate in any arrangement specified by the Secretary of Labor for payment of unemployment compensation on the basis of combining an individual's employment and wages in two or more states. Current regulations implementing this arrangement allow individuals who have worked in more than one State to establish a combined-wage claim (CWC) in the State in which they are physically located, regardless of whether or not they have covered wages in that State. The Employment and Training Administration proposes amending current regulations to provide that individuals can establish CWC claims only in a State in which they have worked.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Proposed Rule

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** 20 CFR 616 (Revision) (To search for a specific CFR, visit the [Code of Federal Regulations](#).)

**Legal Authority:** 26 USC 3304(a)(9)(B); Secretary's Order No. 3-2007, 72 FR 15907, April 3, 2007

**Legal Deadline:** None

**Regulatory Plan:**

**Statement of Need:** The current regulation for determining the State in which a CWC is established (the paying State) was issued in 1974 to replace a complicated set of tests for determining the paying State. It was intended to speed payments to eligible claimants by streamlining a manual process which relied on mailing paper forms between States. Before 1974, it could take weeks or months to determine which State should be the paying State for a particular claim. In 1974, UC claims were filed in person. Therefore, a simple solution was to make the paying State the State in which the claimant was physically present, which is where he or she would file the claim. All of the claimant's wages would be transferred to this State, whose law would govern eligibility and the amount of benefits. An unintended consequence of this arrangement is that the paying State is not always a State in which the individual had insured wages. Since this definition was codified, a practice called "forum shopping" has developed. Forum shopping is where a claimant who has worked in more than one State travels to a State with a higher weekly benefit amount to file a CWC claim, even though the claimant has never worked in that State. This practice occurs because weekly benefit amounts vary greatly among States. States with higher weekly amounts have reported a number of instances where individuals traveled to these States for the purpose of filing a CWC and then immediately returned home. That cross-country travel is faster and more affordable has facilitated this practice. The Department believes that forum shopping is undesirable for two reasons. First, it unfairly advantages claimants who worked in multiple States over those who worked in just one state. Second, it results in higher benefit charges to former employers than would otherwise occur. Now that the technology exists to overcome the administrative difficulties that resulted in the current definition of paying State, the Department believes it is appropriate to more tightly conform the regulations to UC's character as wage insurance by making the paying State any State where the individual earned insured wages. Most claims are now filed by telephone or via the Internet, and States can now instantly access each other's wage information and transfer wages electronically or CWCs. Information about the weekly benefit amounts and other eligibility requirements of various State laws is now easily accessible.

**Legal Basis:** This regulation is authorized under section 3304(a)(9)(B) of the Federal Unemployment Tax Act (FUTA) (26 U.S.C. 3304(a)(9)(b)).

**Alternatives:** The Interstate Benefits Committee of the National Association of State Workforce Agencies met to discuss options to address "forum shopping". No recommendations were made.

**Costs and Benefits:** Preliminary estimates of costs and benefits have not been determined at this time and will be determined at a later date, if necessary.

**Risks:** This action does not affect public health, safety, or the environment.

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/2007	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Energy Affected:** No

**Government Levels Affected:** State

**Federalism:** No

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**DOL****Employment and Training Administration ( ETA )****RIN:** 1205-AB47**Title:** Senior Community Service Employment Program; Performance Accountability

**Abstract:** The Older Americans Act Amendments of 2006, Public Law 109-365, enacted on October 17, 2006, contains provisions amending title V of that Act, that authorizes the Senior Community Service Employment Program (SCSEP). The amendments, effective July 1, 2007, make substantial changes to the current SCSEP provisions in the Older Americans Act relating to performance accountability. Section 513 of title V requires that the Agency establish and implement new measures of performance by July 1, 2007. Section 513(b) requires that the Secretary issue definitions of indicators of performance through regulation after consultation with stakeholders. Therefore, this Interim Final Rule is intended to implement changes to the SCSEP program performance accountability regulations found at 20 CFR 641 in subpart G. Changes to other subparts of part 641 will be implemented through a separate Notice of Proposed Rulemaking.

**Priority:** Other Significant**Agenda Stage of Rulemaking:** Final Rule**Major:** No**Unfunded Mandates:** No**CFR Citation:** 20 CFR 641 (To search for a specific CFR, visit the [Code of Federal Regulations](#) )**Legal Authority:** 42 USC 3056 et seq**Legal Deadline:**

Action	Source	Date
Other	Statutory	06/30/2007

**Regulatory Plan:**

**Statement of Need:** The 2006 Amendments to the Older Americans Act (OAA-2006) were enacted on October 17, 2006. The amendments instituted a number of significant changes to the Senior Community Service Employment Program (SCSEP) including time limits on the participation of eligible individuals, new enrollment priorities, streamlined and strengthened performance measures, more training options for participants, new limits on participant fringe benefits, and required open competition of national grants every four years. The Department was required to implement the new performance measures by July 1, 2007 and published an Interim Final Rule on these requirements in the Federal Register on June 29, 2007 (72 FR 35832). However, SCSEP grantees were advised that they were responsible for complying with all the OAA-2006 changes as of July 1, 2007, as communicated in administrative guidance issued on June 11, 2007. Since OAA-2006 instituted so many significant changes in addition to those relating to performance accountability, it is important that regulations implementing the full requirements of the amendments be issued consistent with the identified timetable.

**Legal Basis:** These regulations are authorized by 42 U.S.C. 3056 et seq. to implement amendments to the Older Americans Act of 1965.

**Alternatives:** The public was afforded an opportunity to provide comments on the SCSEP program changes when the Department published the Interim Final Rule (IFR) in the Federal Register. A Final

Rule will be issued after analysis and incorporation of public comments to the IFR.

**Costs and Benefits:** Preliminary estimates of the anticipated costs of this regulatory action have not been determined at this time and will be determined at a later date.

**Risks:** This action does not affect public health, safety, or the environment.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	06/29/2007	72 FR 35832
Interim Final Rule Comment Period End	08/28/2007	
Final Action	09/00/2008	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** Federal; State; Tribal

**Small Entities Affected:** No

**Federalism:** No

**Energy Affected:** No

**Related RINs:** Related to 1205-AB48

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**DOL**

**Employee Benefits Security Administration ( EBSA )**

**RIN:** 1210-AB07

**Title:** Fee and Expense Disclosures to Participants in Individual Account Plans

**Abstract:** This rulemaking will ensure that the participants and beneficiaries in participant-directed individual account plans are provided the information they need, including information about fees and expenses, to make informed investment decisions. The rulemaking may include amendments to the regulation governing ERISA section 404(c) plans (29 CFR 2550.404c-1). The rulemaking is needed to clarify and improve the information currently required to be furnished to participants and beneficiaries.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Proposed Rule

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** 29 CFR 2550 (To search for a specific CFR, visit the [Code of Federal Regulations](#) )

**Legal Authority:** 29 USC 1104; 29 USC 1135

**Legal Deadline:** None

**Regulatory Plan:**

**Statement of Need:** Given the potentially significant impact fees and expenses can have on retirement savings, understanding what and how fees and expenses are charged to 401(k) plans is essential to plan participants and beneficiaries in making informed investment decisions.

**Legal Basis:** Section 505 of ERISA provides that the Secretary may prescribe such regulations as she considers necessary and appropriate to carry out the provisions of title I of the Act, including section 404 of ERISA.

**Alternatives:** Alternatives will be considered following a determination of the scope and nature of the regulatory guidance needed by the public.

**Costs and Benefits:** Preliminary estimates of the anticipated costs and benefits will be developed, as appropriate, following a determination regarding the alternatives to be considered.

**Risks:**

**Timetable:**

Action	Date	FR Cite
Other	04/25/2007	72 FR 20457
Comment Period End	07/24/2007	
NPRM	02/00/2008	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** No

**Federalism:** No

**Energy Affected:** No

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**DOL**

**Employee Benefits Security Administration ( EBSA )**

**RIN:** 1210-AB08

**Title:** Amendment of Standards Applicable to General Statutory Exemption for Services

**Abstract:** This rulemaking will amend the regulation setting forth the standards applicable to the exemption under ERISA section 408(b)(2) for contracting or making reasonable arrangements with a party in interest for office space or services (29 CFR 2550.408b-2). This amendment will ensure that plan fiduciaries are provided or have access to that information necessary to a determination of whether an arrangement for services is "reasonable" within the meaning of the statutory exemption.

**Priority:** Economically Significant

**Agenda Stage of Rulemaking:** Proposed Rule

**Major:** Yes

**Unfunded Mandates:** No

**CFR Citation:** 29 CFR 2550 (To search for a specific CFR, visit the [Code of Federal Regulations](#) )

**Legal Authority:** 29 USC 1108(b)(2); 29 USC 1135

**Legal Deadline:** None

**Regulatory Plan:**

**Statement of Need:** This regulation is needed to eliminate the current uncertainty as to what information relating to services and fees plan fiduciaries must obtain and service providers must furnish for purposes of determining whether a contract for services to be rendered to a plan is reasonable.

**Legal Basis:** Section 505 of ERISA provides that the Secretary may prescribe such regulations as she finds necessary and appropriate to carry out the provisions of title I of the Act. Regulation 29 CFR 2550.408b-2 sets for the conditions necessary for relief, including the requirement that such contract or arrangement is reasonable.

**Alternatives:** Alternatives will be considered following a determination of the scope and nature of the regulatory guidance needed by the public.

**Costs and Benefits:** Preliminary estimates of the anticipated costs and benefits will be developed, as appropriate, following a determination regarding the alternatives to be considered.

**Risks:**

**Timetable:**

Action	Date	FR Cite
NPRM	11/00/2007	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Federalism:** No

**Energy Affected:** No

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**Government Levels Affected:** No

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**DOL**

**Employee Benefits Security Administration ( EBSA )**

**RIN:** 1210-AB13

**Title:** Prohibited Transaction Exemption for Provision of Investment Advice to Participants in Individual Account Plans

**Abstract:** Section 601 of the Pension Protection Act (PL 109-280) amended ERISA by adding new section 408(b)(14) and 408(g). Section 408(b)(14) is a prohibited transaction exemption that permits the provision of investment advice to participants or beneficiaries of certain individual account plans if the investment advice is provided under an "eligible investment advice arrangement," as defined in section 408(g). In order to qualify as an "eligible investment advice arrangement," the arrangement must either provide that any fees received by the adviser do not vary depending on the basis of any investment options selected, or use a computer model under an investment advice program that meets the criteria set forth in section 408(g) in connection with the provision of investment advice. Further, with respect to both types of advice arrangements, the investment adviser must disclose to advice recipients all fees that the adviser or any affiliate is to receive in connection with the advice. Section 408(g) requires that the computer model which serves as the basis for an eligible investment advice arrangement be certified by an "eligible investment expert" in accordance with rules prescribed by the Secretary of Labor. Section 408(g) also directs the Secretary of Labor to issue a model form for the required disclosure of fees. EBSA published a Request for Information that invited interested persons to submit written comments and suggestions concerning the expertise and procedures that may be needed to certify that a computer model meets the statutory criteria, and the content, types and designs of fee disclosure materials currently used and their usefulness to plan participants.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Proposed Rule

**Major:** Undetermined

**Unfunded Mandates:** Undetermined

**CFR Citation:** 29 CFR 2550 (To search for a specific CFR, visit the [Code of Federal Regulations](#) )

**Legal Authority:** 29 USC 1108(g); 29 USC 1135; PL 109-280, sec 601(a), Pension Protection Act of 2006; ERISA sec 408(g); ERISA sec 505

**Legal Deadline:** None

**Regulatory Plan:**

**Statement of Need:** This rulemaking is necessary to fully implement the new exemption under section 408(b)(14) of ERISA pursuant to section 601 of the PPA.

**Legal Basis:** Section 505 of ERISA provides that the Secretary may prescribe such regulations as she finds necessary and appropriate to carry out the provisions of title I of the Act. In addition, section 408(g) (3) of ERISA provides the Secretary with authority to establish rules governing the computer model certification process.

**Alternatives:** Alternatives will be considered following a determination of the scope and nature of the regulatory guidance needed by the public.

**Costs and Benefits:** Preliminary estimates of the anticipated costs and benefits will be developed, as appropriate, following a determination regarding the alternatives to be considered.

**Risks:**

**Timetable:**

Action	Date	FR Cite
Other	12/04/2006	71 FR 70429
Other	01/30/2007	
NPRM	12/00/2007	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** Undetermined

**Federalism:** No

**Energy Affected:** No

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**DOL****Employee Benefits Security Administration ( EBSA )****RIN:** 1210-AB20**Title:** Periodic Pension Benefit Statements

**Abstract:** Section 508 of the Pension Protection Act of 2006 (PPA) amended section 105 of ERISA to require plans that are subject to ERISA to automatically provide participants and certain beneficiaries with individual pension benefit statements. Generally, defined benefit plans must provide the statement every three years, with an annual alternative. Individual account plans that permit participant direction must provide the statement quarterly and individual account plans that do not permit participant direction must provide the statement annually. The PPA directed the Department of Labor to provide a model statement within one year of enactment of the statute and the Department has been given interim final rulemaking authority.

**Priority:** Other Significant**Agenda Stage of Rulemaking:** Proposed Rule**Major:** Undetermined**Unfunded Mandates:** Undetermined**CFR Citation:** 29 CFR 2520 (To search for a specific CFR, visit the [Code of Federal Regulations](#) )**Legal Authority:** 29 USC 1025; ERISA sec 105; PL 109-280 sec 508, Pension Protection Act of 2006; 29 USC 1135; ERISA sec 505**Legal Deadline:**

Action	Source	Date
Other	Statutory	08/18/2007

**Regulatory Plan:**

**Statement of Need:** This rulemaking is needed to implement the new pension benefit statement requirements in section 105 of ERISA, with respect to which Congress directed the Secretary of Labor to issue model benefit statements.

**Legal Basis:** Section 505 of ERISA provides that the Secretary may prescribe such regulations as she finds necessary and appropriate to carry out the provisions of title I of the Act. In addition, section 508(b) (2) of the PPA provides that the Secretary may promulgate any interim final rules as the Secretary determines appropriate to carry out the new pension benefit statement requirements.

**Alternatives:** Alternatives will be considered following a determination of the scope and nature of the regulatory guidance needed by the public.

**Costs and Benefits:** Preliminary estimates of the anticipated costs and benefits will be developed, as appropriate, following a determination regarding the alternatives to be considered.

**Risks:****Timetable:**

Action	Date	FR Cite
NPRM	04/00/2008	

**Regulatory Flexibility Analysis****Required:** Undetermined**Government Levels Affected:** Undetermined**Federalism:** No**Energy Affected:** No**Agency Contact:** Suzanne Adelman

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**DOL****Employee Benefits Security Administration ( EBSA )****RIN:** 1210-AA54**Title:** Regulations Implementing the Health Care Access, Portability, and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996**Abstract:** The Health Insurance Portability and Accountability Act of 1996 (HIPAA) amended title I of ERISA, the Internal Revenue Code, and the Public Health Service Act with parallel provisions designed to improve health care access, portability and renewability. The Departments of Labor, the Treasury, and the Health and Human Services are mutually dependent due to shared interpretive jurisdiction and are proceeding concurrently to provide additional regulatory guidance regarding these provisions.**Priority:** Economically Significant**Agenda Stage of Rulemaking:** Final Rule**Major:** Yes**Unfunded Mandates:** No**CFR Citation:** 29 CFR 2590 (To search for a specific CFR, visit the [Code of Federal Regulations](#) )**Legal Authority:** 29 USC 1027; 29 USC 1059; 29 USC 1135; 29 USC 1171 to 1172; 29 USC 1191c**Legal Deadline:** None**Regulatory Plan:****Statement of Need:** In general, the health care portability provisions in part 7 of ERISA provide for increased portability and availability of group health coverage through limitations on the imposition of any preexisting condition exclusion and special enrollment rights in group health plans after loss of other health coverage or a life event. Plan sponsors, administrators and participants need guidance from the Department with regard to how they can fulfill their respective obligations under these statutory provisions.**Legal Basis:** Part 7 of ERISA specifies the portability and other requirements for group health plans and health insurance issuers. Section 734 of ERISA provides that the Secretary may promulgate such regulations as may be necessary or appropriate to carry out the provisions of part 7 of ERISA. In addition, section 505 of ERISA authorizes the Secretary to issue regulations clarifying the provisions of title I of ERISA.**Alternatives:****Costs and Benefits:** Costs and benefits of regulatory alternatives were estimated and taken into account in developing the proposed rule and published in the Federal Register.

**Risks:** Failure to provide guidance concerning part 7 of ERISA may impede compliance with the law.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	04/08/1997	62 FR 16894
Interim Final Rule Effective	06/07/1997	
Interim Final Rule Comment Period End	07/07/1997	
Other	10/25/1999	64 FR 57520
Comment Period End	01/25/2000	
Other	12/30/2004	69 FR 78825
NPRM	12/30/2004	69 FR 78800
Final Rule	12/30/2004	69 FR 78720
Final Action Effective	02/28/2005	
Comment Period End	03/30/2005	
NPRM Comment Period End	03/30/2005	
Final Action	06/00/2008	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** No

**Federalism:** No

**Energy Affected:** No

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**DOL**

**Employee Benefits Security Administration ( EBSA )**

**RIN:** 1210-AB10

**Title:** Section 404 Regulation--Default Investment Alternatives Under Participant Directed Individual Account Plans

**Abstract:** This rulemaking would establish a relief under which a fiduciary of a participant directed individual account pension plan will be deemed to have satisfied his or her fiduciary responsibilities with respect to investment and asset allocation decisions made on behalf of individual participants and beneficiaries who fail to give investment direction. This rulemaking will describe the types of investments that qualify as default investments in order to obtain fiduciary relief. As with other investment alternatives available under the plan, fiduciaries will continue to be responsible for the prudent selection and monitoring of qualifying default investment alternatives.

**Priority:** Economically Significant

**Agenda Stage of Rulemaking:** Final Rule

**Major:** Yes

**Unfunded Mandates:** No

**CFR Citation:** 29 CFR 2550 (To search for a specific CFR, visit the [Code of Federal Regulations](#) )

**Legal Authority:** 29 USC 1104(c)(5); 29 USC 1135

**Legal Deadline:**

Action	Source	Date
Other	Statutory	02/19/2007

**Regulatory Plan:**

**Statement of Need:** Section 404(c)(1) of ERISA provides that, where a participant or beneficiary of an employee pension benefit plan exercises control over assets in an individual account maintained for him or her under the plan, the participant or beneficiary is not considered a fiduciary by reason of his or her exercise of control and other plan fiduciaries are relieved of liability under part 4 of title I of ERISA for the results of such exercise of control. As part of the Pension Protection Act of 2006, section 404(c) was amended to provide relief accorded by section 404(c)(1) to fiduciaries that invest participant assets in certain types of investment alternatives in the absence of participant investment direction. The Pension Protection Act directed the Department to issue final default investment regulations under section 404(c)(5)(A) of ERISA no later than 6 months after the date of enactment of the Pension Protection Act. This rulemaking responds to a need on the part of plan sponsors and fiduciaries for guidance on the selection of default investments for plan participants who fail to make an investment election. Such guidance would also improve retirement savings for millions of American workers.

**Legal Basis:** Promulgation of this regulation is authorized by sections 505 and 404(c) of ERISA.

**Alternatives:** Regulatory alternatives were considered in developing the proposed rule and published in the Federal Register.

**Costs and Benefits:** Costs and benefits of regulatory alternatives were estimated and taken into account in developing the proposed rule and published in the Federal Register.

**Risks:** Failure to provide guidance on default investment options for individual account plans may result in diminished retirement savings for the many participants who fail to make an investment election with regard to their accounts. In addition, failure to issue final default investment regulations under section 404(c)(5)(A) of ERISA no later than 6 months after the date of enactment of the Pension Protection Act would contravene section 624 of the Pension Protection Act.

**Timetable:**

Action	Date	FR Cite
NPRM	09/27/2006	71 FR 56806
NPRM Comment Period End	11/13/2006	
Final Action	11/00/2007	

**Regulatory Flexibility Analysis Required:** No      **Government Levels Affected:** No

**Federalism:** No

**Energy Affected:** No

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**DOL****Employment Standards Administration ( ESA )**

RIN: 1215-AB35

**Title:** Family and Medical Leave Act of 1993; Conform to the Supreme Court's Ragsdale Decision**Abstract:** The U.S. Supreme Court, in *Ragsdale v. Wolverine World Wide, Inc.*, 535 U.S. 81 (2002), invalidated regulatory provisions issued under the Family and Medical Leave Act (FMLA) pertaining to the effects of an employer's failure to timely designate leave that is taken by an employee as being covered by the FMLA. The Department intends to address this and decisions of other courts in proposed revisions to the FMLA regulations.**Priority:** Other Significant**Agenda Stage of Rulemaking:** Proposed Rule**Major:** No**Unfunded Mandates:** Undetermined**CFR Citation:** 29 CFR 825 (To search for a specific CFR, visit the [Code of Federal Regulations](#) )**Legal Authority:** 29 USC 2654**Legal Deadline:** None**Regulatory Plan:****Statement of Need:** The FMLA requires covered employers to grant eligible employees up to 12 workweeks of unpaid, job-protected leave a year for specified family and medical reasons, and to maintain group health benefits during the leave as if the employees continued to work instead of taking leave. When an eligible employee returns from FMLA leave, the employer must restore the employee to the same or an equivalent job with equivalent pay, benefits, and other conditions of employment. FMLA makes it unlawful for an employer to interfere with, restrain, or deny the exercise of any right provided by the FMLA. The FMLA regulations require employers to designate if an employee's use of leave is counting against the employee's FMLA leave entitlement, and to notify the employee of that designation (29 CFR 825.208). Section 825.700(a) of the regulations provides that if an employee takes paid or unpaid leave and the employer does not designate the leave as FMLA leave, the leave taken does not count against the employee's 12 weeks of FMLA leave entitlement. On March 19, 2002, the U.S. Supreme Court issued its decision in *Ragsdale v. Wolverine World Wide, Inc.*, 535 U.S. 81 (2002). In that decision, the Court invalidated regulatory provisions pertaining to the effects of an employer's failure to timely designate leave that is taken by an employee as being covered by the FMLA. The Court ruled that 29 CFR 825.700(a) was invalid absent evidence that the employer's failure to designate the leave as FMLA leave interfered with the employee's exercise of FMLA rights. The Department intends to propose revisions to address issues raised by this and other judicial decisions.**Legal Basis:** This rule is issued pursuant to section 404 of the Family and Medical Leave Act, 29 U.S.C. 2654.**Alternatives:** After completing a review and analysis of the Supreme Court's decision in *Ragsdale* and other judicial decisions, regulatory alternatives may be developed for notice-and-comment rulemaking.**Costs and Benefits:** Preliminary estimates of the anticipated costs of this regulatory action have not been determined at this time and will be determined at a later time.**Risks:****Timetable:**

Action	Date	FR Cite
Other	12/01/2006	71 FR 69504
Other	02/16/2007	72 FR 3775
Other	06/28/2007	72 FR 35550
NPRM	01/00/2008	

**Regulatory Flexibility Analysis****Required:** Undetermined**Government Levels Affected:** Undetermined**Small Entities Affected:** Business; Governmental Jurisdictions; Organizations**Federalism:** Undetermined**Energy Affected:** No**Agency Contact:** Paul DeCamp

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**DOL****Occupational Safety and Health Administration ( OSHA )****RIN:** 1218-AB70**Title:** Occupational Exposure to Crystalline Silica

**Abstract:** Crystalline silica is a significant component of the earth's crust, and many workers in a wide range of industries are exposed to it, usually in the form of respirable quartz or, less frequently, cristobalite. Chronic silicosis is a uniquely occupational disease resulting from exposure of employees over long periods of time (10 years or more). Exposure to high levels of respirable crystalline silica causes acute or accelerated forms of silicosis that are ultimately fatal. The current OSHA permissible exposure limit (PEL) for general industry is based on a formula recommended by the American Conference of Governmental Industrial Hygienists (ACGIH) in 1971 (PEL=10mg/cubic meter/(% silica + 2), as respirable dust). The current PEL for construction and maritime (derived from ACGIH's 1962 Threshold Limit Value) is based on particle counting technology, which is considered obsolete. NIOSH and ACGIH recommend a 50µg/m<sup>3</sup> exposure limit for respirable crystalline silica. Both industry and worker groups have recognized that a comprehensive standard for crystalline silica is needed to provide for exposure monitoring, medical surveillance, and worker training. The American Society for Testing and Materials (ASTM) has published a recommended standard for addressing the hazards of crystalline silica. The Building Construction Trades Department of the AFL-CIO has also developed a recommended comprehensive program standard. These standards include provisions for methods of compliance, exposure monitoring, training, and medical surveillance.

**Priority:** Economically Significant**Agenda Stage of Rulemaking:** PreRule**Major:** Yes**Unfunded Mandates:** Undetermined**CFR Citation:** 29 CFR 1910; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918; 29 CFR 1926 (To search for a specific CFR, visit the [Code of Federal Regulations](#) )**Legal Authority:** 29 USC 655(b); 29 USC 657**Legal Deadline:** None**Regulatory Plan:**

**Statement of Need:** Over 2 million workers are exposed to crystalline silica dust in general industry, construction and maritime industries. Industries that could be particularly affected by a standard for crystalline silica include: foundries, industries that have abrasive blasting operations, paint manufacture, glass and concrete product manufacture, brick making, china and pottery manufacture, manufacture of plumbing fixtures, and many construction activities including highway repair, masonry, concrete work, rock drilling, and tuckpointing. The seriousness of the health hazards associated with silica exposure is demonstrated by the fatalities and disabling illnesses that continue to occur; between 1990 and 1996, 200 to 300 deaths per year are known to have occurred where silicosis was identified on death certificates as an underlying or contributing cause of death. It is likely that many more cases have occurred where silicosis went undetected. In addition, the International Agency for Research on Cancer (IARC) has designated crystalline silica as a known human carcinogen. Exposure to crystalline silica has also been associated with an increased risk of developing tuberculosis and other nonmalignant respiratory diseases, as well as renal and autoimmune respiratory diseases. Exposure studies and OSHA enforcement data indicate that some workers continue to be exposed to levels of crystalline silica far in excess of current exposure limits. Congress has included compensation of silicosis victims on Federal nuclear testing sites in the Energy Employees' Occupational Illness Compensation Program Act of 2000. There is a particular need for the Agency to modernize its exposure limits for construction and maritime workers, and to address some specific issues that will need to be resolved to propose a comprehensive standard.

**Legal Basis:** The legal basis for the proposed rule is a preliminary determination that workers are exposed to a significant risk of silicosis and other serious disease and that rulemaking is needed to substantially reduce the risk. In addition, the proposed rule will recognize that the PELs for construction and maritime are outdated and need to be revised to reflect current sampling and analytical technologies.

**Alternatives:** Over the past several years, the Agency has attempted to address this problem through a variety of non-regulatory approaches, including initiation of a Special Emphasis Program on silica in October 1997, sponsorship with NIOSH and MSHA of the National Conference to Eliminate Silicosis, and dissemination of guidance information on its Web site. The Agency is currently evaluating several options for the scope of the rulemaking.

**Costs and Benefits:** The scope of the proposed rulemaking and estimates of the costs and benefits are still under development.

**Risks:** A detailed risk analysis is under way.

**Timetable:**

Action	Date	FR Cite
Other	12/19/2003	
Other	01/00/2008	

**Regulatory Flexibility Analysis**

**Required:** Business

**Federalism:** No

**Energy Affected:** No

**Government Levels Affected:** Undetermined

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**DOL****Occupational Safety and Health Administration ( OSHA )****RIN:** 1218-AC01

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**Title:** Cranes and Derricks

**Abstract:** A number of industry stakeholders asked OSHA to update the cranes and derricks portion of subpart N (29 CFR 1926.550), specifically requesting that negotiated rulemaking be used. In 2002 OSHA published a notice of intent to establish a negotiated rulemaking committee. A year later, in 2003, committee members were announced and the Cranes and Derricks Negotiated Rulemaking Committee was established and held its first meeting. In July 2004, the committee reached consensus on all issues resulting in a final consensus document.

**Priority:** Other Significant**Agenda Stage of Rulemaking:** Proposed Rule**Major:** Yes**Unfunded Mandates:** No**CFR Citation:** 29 CFR 1926 (To search for a specific CFR, visit the [Code of Federal Regulations](#) )**Legal Authority:** 29 USC 651(b); 29 USC 655(b); 40 USC 333**Legal Deadline:** None**Regulatory Plan:**

**Statement of Need:** There have been considerable technological changes since the consensus standards upon which the 1971 OSHA standard is based were developed. In addition, industry consensus standards for derricks and crawler, truck and locomotive cranes were updated as recently as 2004. The industry indicated that over the past 30 years, considerable changes in both work processes and crane technology have occurred. There are estimated to be 64 to 82 fatalities associated with cranes each year in construction, and a more up-to-date standard would help prevent them.

**Legal Basis:** The Occupational Safety and Health Act of 1970 authorizes the Secretary of Labor to set mandatory occupational safety and health standards to assure safe and healthful working conditions for working men and women (29 USC 651).

**Alternatives:** The alternative to the proposed rulemaking would be to take no regulatory action and not update the standards in 29 CFR 1926.550 pertaining to cranes and derricks.

**Costs and Benefits:** The estimates of the costs and benefits are still under development.

**Risks:** OSHA's risk analysis is under development.

**Timetable:**

Action	Date	FR Cite
Other	07/16/2002	67 FR 46612
Comment Period End	09/16/2002	
Other	02/27/2003	68 FR 9036
Other	03/31/2003	68 FR 9036
Notice	06/12/2003	68 FR 35172
Other	07/30/2004	
Other	10/17/2006	
NPRM	01/00/2008	

**Regulatory Flexibility Analysis****Required:** Business**Federalism:** No**Energy Affected:** No**Agency Contact:** Steven F. Witt

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**Government Levels Affected:** Undetermined**DOL****Occupational Safety and Health Administration ( OSHA )****RIN:** 1218-AC20**Title:** Hazard Communication

**Abstract:** OSHA's Hazard Communication Standard (HCS) requires chemical manufacturers and importers to evaluate the hazards of the chemicals they produce or import, and prepare labels and material safety data sheets to convey the hazards and associated protective measures to users of the chemicals. All employers with hazardous chemicals in their workplaces are required to have a hazard communication program, including labels on containers, material safety data sheets (MSDS), and training for employees. Within the United States (US), there are other Federal agencies that also have requirements for classification and labeling of chemicals at different stages of the life cycle. Internationally, there are a number of countries that have developed similar laws that require information about chemicals to be prepared and transmitted to affected parties. These laws vary with regard to the scope of substances covered, definitions of hazards, the specificity of requirements (e.g., specification of a format for MSDSs), and the use of symbols and pictograms. The inconsistencies between the various laws are substantial enough that different labels and safety data sheets must often be used for the same product when it is marketed in different nations. The diverse and sometimes conflicting national and international requirements can create confusion among those who seek to use hazard information. Labels and safety data sheets may include symbols and hazard statements that are unfamiliar to readers or not well understood. Containers may be labeled with such a large volume of information that important statements are not easily recognized. Development of multiple sets of labels and safety data sheets is a major compliance burden for chemical manufacturers, distributors, and transporters involved in international trade. Small businesses may have particular difficulty in coping with the complexities and costs involved. As a result of this situation, and in recognition of the extensive international trade in chemicals, there has been a longstanding effort to harmonize these requirements and develop a system that can be used around the world. In 2003, the United Nations adopted the Globally Harmonized

System of Classification and Labeling of Chemicals (GHS). Countries are now considering adoption of the GHS into their national regulatory systems. There is an international goal to have as many countries as possible implement the GHS by 2008. OSHA is considering modifying its HCS to make it consistent with the GHS. This would involve changing the criteria for classifying health and physical hazards, adopting standardized labeling requirements, and requiring a standardized order of information for safety data sheets.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Proposed Rule

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** 29 CFR 1910.1200; 29 CFR 1915.1200; 29 CFR 1917.28; 29 CFR 1918.90; 29 CFR 1926.59; 29 CFR 1928.21 (To search for a specific CFR, visit the [Code of Federal Regulations](#) )

**Legal Authority:** 29 USC 655(b); 29 USC 657

**Legal Deadline:** None

**Regulatory Plan:**

**Statement of Need:** Multiple sets of requirements for labels and safety data sheets present a compliance burden for U.S. manufacturers, distributors and transports involved in international trade. Adoption of the GHS would facilitate international trade in chemicals, reduce the burdens caused by having to comply with differing requirements for the same product, and allow companies that have not had the resources to deal with those burdens to be involved in international trade. This is particularly important for small producers who may be precluded currently from international trade because of the compliance resources required to address the extensive regulatory requirements for classification and labeling of chemicals. Thus every producer is likely to experience some benefits from domestic harmonization, in addition to the benefits that will accrue to producers involved in international trade. Additionally, comprehensibility of hazard information will be enhanced as the GHS will: (1) Provide consistent information and definitions for hazardous chemicals; (2) address stakeholder concerns regarding the need for a standardized format for material safety data sheets; and (3) increase understanding by using standardized pictograms and harmonized hazard statements. Several nations, as well as the European Union, are preparing proposals for adoption of the GHS. US manufacturers, employers, and employees will be at a disadvantage in the event that our system of hazard communication is not compliant with the GHS.

**Legal Basis:** The Occupational Safety and Health Act of 1970 authorizes the Secretary of Labor to set mandatory occupational safety and health standards to assure safe and healthful working conditions for working men and women (29 U.S.C. 651).

**Alternatives:** The alternative to the proposed rulemaking would be to take no regulatory action.

**Costs and Benefits:** The estimates of the costs and benefits are still under development.

**Risks:** OSHA's risk analysis is under development.

**Timetable:**

Action	Date	FR Cite
ANPRM	09/12/2006	71 FR 53617
ANPRM Comment Period End	11/13/2006	
Other	11/00/2007	

**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** No

**Federalism:** No

**Energy Affected:** No

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**DOL****Mine Safety and Health Administration ( MSHA )****RIN:** 1219-AB48**Title:** Continuous Personal Dust Monitors

**Abstract:** On June 24, 2003, MSHA announced that all work on its Plan Verification and Single-Sample Respirable Coal Mine Dust final rules would cease and the rulemaking record would remain open in order to obtain information concerning Continuous Personal Dust Monitors (CPDMs) currently being tested by NIOSH. A Federal Register notice was published on July 3, 2003, extending the comment periods indefinitely. NIOSH issued a report on the CPDM in September 2006, and another report concerning test results in June 2007. MSHA will solicit public input on potential applications of this new monitoring technology in coal mines.

**Priority:** Other Significant**Agenda Stage of Rulemaking:** PreRule**Major:** No**Unfunded Mandates:** No

**CFR Citation:** Not Yet Determined (To search for a specific CFR, visit the [Code of Federal Regulations](#).)

**Legal Authority:** 30 USC 811**Legal Deadline:** None**Regulatory Plan:**

**Statement of Need:** Respirable coal mine dust levels in this country are significantly lower than they were over two decades ago. Despite this progress, there continues to be concern about our current sampling program and MSHA's ability to accurately measure and maintain respirable coal mine dust at or below the applicable standard. The new CPDM, unlike the technology that has been employed since 1970 to measure concentrations of respirable coal mine dust, offers the capability to provide accurate and timely continuous readings of the dust level during a shift. Responses to this Request for Information (RFI) will assist the Agency in determining: (1) how to deploy the CPDM in coal mines and utilize its coal dust monitoring capability to further improve miner health protection from disabling occupational lung disease; and (2) the regulatory and non-regulatory actions that would promote its use for exposure monitoring and control.

**Legal Basis:** This RFI is authorized by sections 101 and 103 of the Federal Mine Safety and Health Act of 1977.

**Alternatives:** This RFI would explore options for amending and improving health protection from that afforded by the existing standards.

**Costs and Benefits:** MSHA will develop a preliminary economic analysis to accompany any proposed rule that may be developed.

**Risks:** Respirable coal dust is one of the most serious occupational hazards in the mining industry. Occupational exposure to excessive levels of respirable coal mine dust can cause black lung, which is potentially disabling and can cause death. MSHA is pursuing both regulatory and nonregulatory actions

to eliminate this disease through the control of coal mine respirable dust levels in mines and reduction of miners' exposure.

**Timetable:**

Action	Date	FR Cite
Other	01/00/2008	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** No

**Small Entities Affected:** Business

**Federalism:** No

**Energy Affected:** No

**RIN Information URL:** [www.msha.gov/regsinfo.htm](http://www.msha.gov/regsinfo.htm) [www.regulations.gov](http://www.regulations.gov)

**Public Comment URL:** [www.regulations.gov](http://www.regulations.gov)

**Related RINs:** Related to 1219-AB14; Related to 1219-AB18

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**DOL****Mine Safety and Health Administration ( MSHA )**

**RIN:** 1219-AB55

**Title:** Diesel Particulate Matter: Conversion Factor From Total Carbon to Elemental Carbon

**Abstract:** On May, 18, 2006, MSHA promulgated its final rule on Diesel Particulate Matter (DPM) Exposure of Underground Metal and Nonmetal Miners (71 FR 28924), phasing in the final diesel particulate matter (DPM) exposure limit over a 2-year period, with the final limit of 160 TC micrograms of total Carbon per cubic meter of air to become effective on May 20, 2008. The DPM exposure limit is expressed in terms of a "TC" or "total carbon" limit. MSHA is initiating a new rulemaking to establish the most appropriate measure for determining compliance with the final DPM exposure limit. Using the latest available evidence, MSHA will be examining the most appropriate conversion factor for a comparable elemental carbon (EC) limit. An EC measurement ensures that a TC exposure limit is valid and not the result of environmental interferences.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Proposed Rule

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** 30 CFR 57 (To search for a specific CFR, visit the [Code of Federal Regulations](#) )

**Legal Authority:** 30 USC 811; 30 USC 813

**Legal Deadline:** None

**Regulatory Plan:**

**Statement of Need:** The May 18, 2006 final rule at 30 CFR 57.5060(b)(3) requires mine operators to ensure that the miners' personal exposures to DPM in an underground mine do not exceed an airborne concentration of 160 micrograms of total carbon per cubic meter of air during an average 8-hour equivalent full shift, effective May 20, 2008. This rulemaking proposes the EC conversion factor for the 160 TC limit, which would allow mine operators to implement the requirements of the May 18, 2006 final rule.

**Legal Basis:** Promulgation of this regulation is authorized by section 101 of the Federal Mine Safety and Health Act of 1977.

**Alternatives:** MSHA will also analyze and evaluate options to convert the final PEL of 160 ug/m<sup>3</sup> of TC to a comparable final EC-based PEL.

**Costs and Benefits:** MSHA will prepare estimates of the anticipated costs and benefits associated with the selected conversion factor.

**Risks:** A number of epidemiological studies have found that exposure to diesel exhaust presents potential health risks to miners. These potential adverse health effects range from headaches and nausea to respiratory disease and cancer. In the confined space of the underground mining environment, occupational exposure to diesel exhaust may present a greater hazard due to ventilation limitations and the presence of other airborne contaminants, such as toxic mine dusts or mine gases. MSHA believes that the health evidence forms a reasonable basis for reducing miners' exposure to diesel particulate matter. Proceeding with a separate rulemaking to determine the correct TC to EC conversion factor for the phased-in final limits will more effectively reduce miners' exposures to DPM.

**Timetable:**

Action	Date	FR Cite
NPRM	11/00/2007	
Final Action	05/00/2008	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** No

**Small Entities Affected:** Business

**Federalism:** No

**Energy Affected:** No

**RIN Information URL:** [www.msha.gov/regsinfo.htm](http://www.msha.gov/regsinfo.htm)

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**DOL**

**Mine Safety and Health Administration (MSHA)**

**RIN:** 1219-AB24

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**Title:** Asbestos Exposure Limit

**Abstract:** MSHA's permissible exposure limit (PEL) for asbestos applies to surface (30 CFR part 56) and underground (30 CFR part 57) metal and nonmetal mines and to surface coal mines and surface areas of underground coal mines (30 CFR part 71). MSHA proposed a rule to lower the asbestos PELs to an 8-hour time-weighted average of 0.1 fiber per cubic centimeter (f/cc) of air and the excursion limit to 1.0 f/cc of air as averaged over a 30 minute sampling period, which would reduce asbestos-induced occupational disease among miners. The proposed PELs are the same as the Occupational Safety and Health Administration (OSHA's) PELs.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Final Rule

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** 30 CFR 56; 30 CFR 57; 30 CFR 71 (To search for a specific CFR, visit the [Code of Federal Regulations](#))

**Legal Authority:** 30 USC 811; 30 USC 813

**Legal Deadline:** None

**Regulatory Plan:**

**Statement of Need:** Current scientific data indicate that MSHA's existing asbestos PEL is not sufficiently protective of miners' health. MSHA's asbestos regulations date to 1967 and are based on the Bureau of Mines (MSHA's predecessor) standard of 5 million particles per cubic foot of air (mppcf). Other Federal agencies have addressed this issue by lowering their asbestos PELs. These lower limits reflect new information and studies that compare asbestos-related disease risk to the number of asbestos-exposed workers.

**Legal Basis:** Promulgation of this regulation is authorized by section 101 of the Federal Mine Safety and Health Act of 1977.

**Alternatives:** The Agency increased sampling to determine miners' exposure levels to asbestos. In early 2000, MSHA began an extensive sampling effort at operations with potential asbestos exposure including taking samples at all existing vermiculite, taconite, talc, and other mines to determine the level of asbestos present. While sampling, MSHA staff also discussed various potential hazards of asbestos with miners and mine operators and the types of preventive measures that could be implemented to reduce exposures. The final rule will be based on comments and testimony to the proposed rule as well as MSHA sampling and inspection experience.

**Costs and Benefits:** The anticipated costs of the proposed rule to the mining industry would be approximately \$136,000 annually. Of this total amount, the cost to the metal and nonmetal mining sector would be \$91,500, and the cost to the coal mining sector would be \$44,600. MSHA estimates that between 1 and 19 deaths could be prevented over the next 65 years, which represents approximately 9 to 84 percent of all occupationally related deaths caused by asbestos exposure. Under the proposed exposure limit, approximately 1 out of every 1,000 miners will avoid the risk of death from asbestosis, lung cancer, mesothelioma, or other forms of cancer attributed to asbestos exposure.

**Risks:** Miners could be exposed to the hazards of asbestos at mine operations where ore body contains asbestos. In addition, miners could be exposed to asbestos at facilities that install, remove or work with material containing asbestos. Overexposure to asbestos causes asbestosis, lung cancer, mesothelioma, and other forms of cancer.

**Timetable:**

Action	Date	FR Cite
ANPRM	03/29/2002	67 FR 15134
Other	04/18/2002	67 FR 19140
ANPRM Comment Period End	06/27/2002	67 FR 15134
NPRM	07/29/2005	70 FR 42950
Public Hearing	10/18/2005	70 FR 43950
NPRM Comment Period End	11/21/2005	70 FR 43950
Final Action	01/00/2008	

**Additional Information:** The Office of the Inspector General issued a report entitled, "Evaluation of MSHA's Handling of Inspections at the W.R. Grace & Company Mine in Libby, Montana," in March 2001.

**Regulatory Flexibility Analysis Required:** No      **Government Levels Affected:** No

**Small Entities Affected:** Business

**Federalism:** No

**Energy Affected:** No

**RIN Information URL:** [www.msha.gov/regsinfo.htm](http://www.msha.gov/regsinfo.htm)      **Public Comment URL:** [www.regulations.gov](http://www.regulations.gov)

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## DOL

### Mine Safety and Health Administration ( MSHA )

RIN: 1219-AB52

**Title:** Sealing of Abandoned Areas

**Abstract:** The Mine Safety and Health Administration (MSHA) published an emergency temporary standard (ETS) on May 22, 2007. Under section 101(b) of the Federal Mine Safety and Health Act of 1977 (Mine Act) the ETS became effective immediately; however, MSHA must publish a final rule no later than nine months after publication of the ETS. In addition, section 10 of the Mine Improvement and New Emergency Response Act of 2006 (MINER Act) requires the Secretary of Labor to finalize mandatory standards relating to the sealing of abandoned areas in underground coal mines no later than December 15, 2007. Therefore, MSHA is issuing a final rule. This final rule will include new comprehensive standards for underground coal mines regarding seal design approval, strength and installation approval, construction, maintenance and repair, sampling and monitoring, training, and recordkeeping, all of which are necessary to protect miners from hazards of sealed areas. It also implements the requirements of section 10 of the MINER Act by increasing the level of overpressure for new seals.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Final Rule

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** 30 CFR 75.335 (To search for a specific CFR, visit the [Code of Federal Regulations](#) )

**Legal Authority:** 30 USC 811

**Legal Deadline:**

Action	Source	Date
Other	Statutory	12/15/2007

### Regulatory Plan:

**Statement of Need:** MSHA issued the ETS in response to the grave danger that miners face when underground seals separating abandoned areas from active workings fail. However, as the ETS is effective until superseded by a mandatory standard, which MSHA shall promulgate within 9 months after publication of the ETS, the ETS provides miners continued critical protection that strengthens the requirement for the design, construction, maintenance, and repair of seals, as well as requirements for sampling, monitoring, and controlling atmospheres behind seals and providing training to miners constructing or repairing seals.

**Legal Basis:** Promulgation of this regulation is authorized by section 101 of the Mine Act and by section 10 of the MINER Act.

**Alternatives:** This final rule would provide: (1) the safety protections afforded to miners by the existing ETS; and (2) additional protections through experience gained through the rule and comments received during rulemaking. MSHA has analyzed regulatory alternatives in its regulatory economic analysis (REA) in support of the ETS. MSHA prepared any analysis of the cost of two alternatives regarding seal application approval: (1) certification of a professional engineer along with supporting documentation; and (2) design based on actual explosion testing. MSHA also considered and included a discussion of alternatives in the preamble to the ETS without a cost analysis. MSHA requested comments on alternatives including seal design, sampling, construction, and seal strength.

**Costs and Benefits:** The anticipated costs and benefits of the final rule focus on seals that would actively monitored to maintain an inert atmosphere and seals that would be strengthened to better withstand explosions, both of which would reduce injuries and fatalities. MSHA will prepare a regulatory economic analysis for the final rules.

**Risks:** Underground coal mines are dynamic work environments in which the working conditions can change rapidly. Caved, mined-out areas may contain coal dust and accumulated gas. This gas can be ignited by rock falls, lightning and, in some instances, fires started by spontaneous combustion. Seals are intended to isolate the environment within the sealed area from the active workings of the mine, and to prevent an explosion that may occur on the inby side of the seal from propagating to the outby side of the seal where miners work or travel. Seals must therefore be designed to withstand elevated pressures and also to prevent the sealed atmosphere from reaching the explosive range. Adequate seals are crucial to contain explosions and prevent potentially explosive or toxic gases from migrating into the active working areas of underground coal mines. Miners rely on seals to protect them from the potentially hazardous environments within the sealed area. Recent mine explosions have demonstrated that improvements in seals are needed.

### Timetable:

Action	Date	FR Cite
Other	05/22/2007	72 FR 28796
Other	06/25/2007	72 FR 34609
Other	07/19/2007	72 FR 28796
Other	07/17/2007	72 FR 28796
Other	07/12/2007	72 FR 28796
Other	07/10/2007	72 FR 28796
Commend Period Extended	08/14/2007	72 FR 45358
Other	08/17/2007	72 FR 34609
Commend Period Extended	09/17/2007	72 FR 45358
Final Action	02/00/2008	

**Regulatory Flexibility Analysis****Required:** Undetermined**Small Entities Affected:** Business**Energy Affected:** No**RIN Information URL:** www.msha.gov/regsinfo.htm www.regulations.gov

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**Government Levels Affected:** No**Federalism:** No**Public Comment URL:** www.regulations.gov**DOL****Mine Safety and Health Administration ( MSHA )****RIN:** 1219-AB53**Title:** Mine Rescue Teams

**Abstract:** On June 15, 2006, Public Law 109-236 or the Mine Improvement and New Emergency Response Act (MINER Act) of 2006 became effective. This rulemaking will implement section 4 of the MINER Act by amending existing standards and developing new standards to provide for certification, composition, and training requirements for mine rescue teams in underground coal mines. Mine rescue team members also must be at the mine within an hour from the mine rescue station, requirements for mine rescue teams are set forth in 30 CFR part 49.

**Priority:** Other Significant**Agenda Stage of Rulemaking:** Final Rule**Major:** No**Unfunded Mandates:** No**CFR Citation:** 30 CFR 49 (To search for a specific CFR, visit the [Code of Federal Regulations](#) )**Legal Authority:** 30 USC 957; 30 USC 811; 30 USC 825**Legal Deadline:**

Action	Source	Date
Other	Statutory	12/15/2007

**Regulatory Plan:**

**Statement of Need:** Section 4 of the MINER Act requires the Secretary of Labor to finalize mandatory health and safety standards relating to mine rescue teams in underground coal mines no later than December 15, 2007. Existing standards require properly trained mine rescue teams to be available within 2 hours from the mine rescue station during mine emergencies. The MINER Act requires team members to have underground coal mining experience and requires teams to participate in mine rescue contests. The MINER Act also provides for multi-employer teams, State-sponsored teams, and contract teams to ensure the availability of qualified mine rescue teams.

**Legal Basis:** Promulgation of this regulation is authorized by the Federal Mine Safety and Health Act of 1977 and the MINER Act of 2006.

**Alternatives:** As required by the MINER Act, MSHA must publish a regulation on mine rescue teams.

**Costs and Benefits:** The proposed rule would increase safety and improve effectiveness of mine rescue teams. MSHA estimates that the yearly cost of the proposed rule would be \$3.0 million for the underground coal mine industry and \$0.1 million for State-sponsored mine rescue teams.

**Risks:** Mine explosions at the Sago Mine and Darby No. 1 Mine and a mine fire at the Alma Mine in 2006 resulted in the deaths of 19 underground coal miners. Explosions, fires, and the migration of potentially explosive methane-air mixtures from worked-out areas to the working areas of an underground coal mine endanger all miners who work in the mine, including potential rescuers.

**Timetable:**

Action	Date	FR Cite
NPRM	09/06/2007	72 FR 51320
NPRM Comment Period End	11/09/2007	
Final Action	12/00/2007	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** Business

**Energy Affected:** No

**RIN Information URL:** [www.msha.gov/regsinfo.htm](http://www.msha.gov/regsinfo.htm) [www.regulations.gov](http://www.regulations.gov)

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**Government Levels Affected:** State

**Federalism:** No

**Public Comment URL:** [www.regulations.gov](http://www.regulations.gov)