



## **TAUC Quick Reference Guide: OSHA's 2011 Regulatory Agenda**

On December 20, 2010, OSHA released its [semi-annual regulatory agenda](#), an overview of what the agency plans to accomplish in the coming months. The agenda includes updated information on a number of major rulemakings that will have a direct impact on the construction industry. Below is a quick summary of the agenda items that we feel are most important to TAUC members and union construction in general – however, we encourage you to take the time to read through the entire agenda, as there may be other items of interest to particular companies. Click on the RIN (regulation identifier number) next to each entry for more information – the hyperlinks take you directly to the OSHA website. If you have comments or questions about any of the agenda items, we encourage you to reach out directly to the OSHA contact person listed at the bottom of each hyperlinked page.

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**Occupational Exposure to Beryllium ([RIN: 1218-AB76](#))**. Beryllium is found in coal and copper slag, which is sometimes used as a substitute for sand in abrasive blasting operations. OSHA is developing a risk assessment on the relationship between exposure to beryllium and the development of adverse health effects, including lung cancer and a condition known as chronic beryllium disease, or CBD.

*Next Step:* OSHA has been working on this issue since 2002, and it is still in the pre-rule stage. A peer review of the health effects was scheduled to be completed in November 2010. OSHA expects an economic peer review of its draft risk assessment to be completed in May 2011.

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**Injury and Illness Prevention Program ([RIN: 1218-AC48](#))**. OSHA is developing a rule requiring employers to implement an Injury and Illness Prevention Program. It involves planning, implementing, evaluating, and improving processes and activities that protect employee safety and health. The rule would build on the agency's voluntary Safety and Health Program Management Guidelines published in 1989, as well as lessons learned from other successful approaches and best practices.

**Next Step:** This action is still in the pre-rule stage. OSHA held stakeholder meetings last June. In June 2011 it plans to solicit input from small businesses that will be affected by the rule. This step is required by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996. A detailed risk analysis is also underway.

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**Reinforcing and Post-Tensioned Steel Construction ([RIN: 1218-AC51](#)).** OSHA is considering creating a new rule to more properly address worker hazards related to reinforcing steel and post-tensioning activities. “The use of reinforced steel and post-tensioned poured in place concrete in commercial and industrial construction is expected to rise,” OSHA noted. “Without adequate standards, the rate of accidents will likely rise as well. Currently, workers performing steel reinforcing suffer injuries caused by unsafe material handling, structural collapse, and impalement by protruding reinforcing steel dowels, among others. Employees involved in post-tensioning activities are at risk for accidents caused by the misuse of post-tensioning equipment and improper training.”

**Next Step:** An advance notice of proposed rulemaking (ANPRM) is scheduled to be released in March 2011. OSHA will seek comment from professionals in the post-tensioning and reinforcing steel field. The agency says it “will consider rulemaking to prevent worker deaths and injuries related to these operations. By requesting information from professionals who work in the reinforcing steel and post-tensioning fields and other members of the public, OSHA hopes to determine whether a new rule is necessary, and, if so, what hazards need to be addressed.”

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**Backing Operations ([RIN: 1218-AC52](#)).** OSHA is getting the ball rolling on new regulations covering the backup operation of construction equipment – that is, when the equipment is moving in reverse. “NIOSH reports that half of the fatalities involving construction equipment occur while the equipment is backing,” OSHA notes. “Backing accidents cause 500 deaths and 15,000 injuries per year. Emerging technologies in the field of backing operations include after market devices, such as camera, radar, and sonar, to help monitor the presence of workers on foot in blind areas, and new monitoring technology, such as tag-based warning systems that use radio frequency (RFID) and magnetic field generators on equipment to detect electronic tags worn by workers...OSHA believes that regulatory action is necessary to address risks associated with backup operations.”

**Next Step:** OSHA will start the rulemaking process by issuing a preliminary request for information (RFI) in May 2011.

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**Occupational Exposure to Crystalline Silica ([RIN: 1218-AB70](#))**. OSHA is in the process of updating current exposure limits for crystalline silica, classified as a human carcinogen. Construction workers are exposed to silica dust in a number of different ways. Long-term exposure to high levels of the substance can cause silicosis, which is fatal. “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 diseases,” OSHA said. “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... There is a particular need for the agency to modernize its exposure limits for construction and shipyard workers, and to address some specific issues that will need to be resolved to propose a comprehensive standard.”

*Next Step:* OSHA began its rulemaking in 2003. The next step is to issue a Notice of Proposed Rulemaking, due out in April 2011. A detailed risk analysis is also underway.

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**Walking Working Surfaces and Personal Fall Protection Systems (Slips, Trips, and Fall Prevention) ([RIN: 1218-AB80](#))**. In 1990, OSHA first proposed a rule addressing hazards on walking surfaces (including slips and trips) as well as requirements for personal fall protection systems. After reopening the comment period in 2003, the agency realized the original rule was out-of-date and published a second notice of proposed rulemaking in May 2010.

*Next Step:* A public hearing on the revised rulemaking will be held on January 18, 2011.

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**Combustible Dust ([RIN: 1218-AC41](#))**. In 2009 OSHA started a rulemaking process to develop a combustible dust standard for the industry. “The U.S. Chemical Safety Board (CSB) completed a study of combustible dust hazards in late 2006, which identified 281 combustible dust incidents between 1980 and 2005 that killed 119 workers and injured another 718,” OSHA reported. “Based on these findings, the CSB recommended the Agency pursue a rulemaking on this issue.”

*Next Step:* An advance notice of proposed rulemaking (ANPRM) was issued in 2009, followed by stakeholder meetings in 2009 and 2010. In April 2011 OSHA is scheduled to initiate the next step in the rulemaking process by soliciting input from small businesses that will be affected by the rule. This step is required by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996.

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**Modernizing OSHA's Reporting System ([RIN: 1218-AC49](#))**. OSHA is in the process of making changes to its reporting system for occupational injuries and illnesses so that it can collect data in a more timely and efficient manner.

*Next Step:* Stakeholder meetings were held last year; the next step is for OSHA to release a Notice of Proposed Rulemaking outlining the details of its modernization plan in September 2011.

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**NAICS Update and Reporting Provisions ([RIN: 1218-AC50](#))**. OSHA is proposing changes to two aspects of its recordkeeping and reporting requirements, the second of which is of the most interest to the construction industry: "OSHA is proposing to revise the reporting requirements regarding the obligations of employers to report to OSHA the occurrence of fatalities and certain injuries," the agency explained. "The existing regulations require employers to report to OSHA within 8 hours any work-related incident resulting in the death of an employee or the in-patient hospitalization of three or more employees." At this point the exact nature of the intended revisions is unclear.

*Next Step:* OSHA is scheduled to release a notice of proposed rulemaking in March 2011.

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**Confined Spaces in Construction ([RIN: 1218-AB47](#))**. "In January 1993, OSHA issued a general industry rule to protect employees who enter confined spaces," the agency explained. "This standard does not apply to the construction industry because of differences in the nature of the worksite in the construction industry. In discussions with the United Steel Workers of America on a settlement agreement for the general industry standard, OSHA agreed to issue a proposed rule to extend confined-space protection to construction workers appropriate to their work environment."

*Next Step:* A final action is expected in November 2011.

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**Electric Power Transmission and Distribution; Electrical Protective Equipment ([RIN: 1218-AB67](#))**. OSHA is in the process of revising a 35-year-old standard covering the safety of construction workers during the construction of electric power transmission and distribution lines that it says will prevent fatalities and add flexibility to the standard. "OSHA also intends to amend the corresponding standard for general industry so that requirements for work performed during the maintenance of electric power transmission and distribution installations are the same as those for similar work in construction," the agency noted. "In addition, OSHA will be revising a few miscellaneous general industry requirements primarily affecting electric transmission and

distribution work, including provisions on electrical protective equipment and foot protection. This rulemaking also addresses fall protection in aerial lifts for work on power generation, transmission, and distribution installations.”

*Next Step:* A final rule is expected in May 2011.

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**Musculoskeletal Disorders (MSD) Column ([RIN: 1218-AC45](#)).** In 2003 the agency issued a rule removing a column used to record work-related musculoskeletal disorders (WMSD) from the OSHA 300 form. Since then, “OSHA has reconsidered the need for a 300 Log column for WMSD, and for defining ‘musculoskeletal disorders’ for checking the column,” OSHA said. “The Agency believes that having aggregate data on WMSDs may help employers and workers track these injuries at individual workplaces, and that the Nation’s occupational injury and illness information may benefit from improved statistics on WMSD. Improved WMSD information might also assist the Agency in its day-to-day activities and overall safety and health policymaking.”

*Next Step:* Final action is scheduled for February 2011.

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**Standards Improvement Project (SIP III) ([RIN: 1218-AC19](#)).** This action represents the third stage of OSHA’s continuing efforts “to remove or revise duplicative, unnecessary, and inconsistent safety and health standards.” According to a [July 2, 2010 notice of proposed rulemaking](#) (NPRM) issued by OSHA, SIP III will amend a number of OSHA standards, some of which will impact the construction industry either directly or indirectly. We recommend that TAUC members read the entire NPRM. Some of the areas covered in the NPRM include proposed changes to certain training certification records, including the elimination of a recordkeeping requirement for training in Cadmium standards; several minor revisions to the existing Respiratory Protection Standard; and amendments to standards regulating slings that would replace outdated tables specifying safe working loads, among other changes.

*Next Step:* Final action is scheduled for June 2011.

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**Hazard Communication ([RIN: 1218-AC20](#)).** OSHA is in the process of adopting the Globally Harmonized System of Classification and Labeling of Chemicals (GHS), which has already been adopted by the United Nations and is in the process of being implemented in the European Union. The goal is to move to a single standard and eliminate the use of multiple sets of requirements for labels and safety data sheets for hazardous chemicals. The numerous

requirements “present a compliance burden for U.S. manufacturers, distributors and transports involved in international trade,” OSHA said.

*Next Step:* Final action is scheduled for August 2011.

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## **Calendar Summary of Upcoming OSHA Actions**

### **JANUARY 2011**

*Walking Working Surfaces and Personal Fall Protection Systems (Slips, Trips, and Fall Prevention)* (RIN: 1218-AB80): Public hearing scheduled for Jan. 18.

### **FEBRUARY 2011**

*Musculoskeletal Disorders (MSD) Column* (RIN: 1218-AC45): Final action due.

### **MARCH 2011**

*Reinforcing and Post-Tensioned Steel Construction* (RIN: 1218-AC51): Advance notice of proposed rulemaking to be released.

*NAICS Update and Reporting Provisions* (RIN: 1218-AC50): Notice of proposed rulemaking due.

### **APRIL 2011**

*Occupational Exposure to Crystalline Silica* (RIN: 1218-AB70): Notice of proposed rulemaking to be released.

*Combustible Dust* (RIN: 1218-AC41): Solicit input from small businesses per SBREFA requirements.

### **MAY 2011**

*Occupational Exposure to Beryllium* (RIN: 1218-AB76): Economic peer review of draft risk assessment scheduled to be completed.

*Backing Operations* (RIN: 1218-AC52): Preliminary request for information solicitation due.

*Electric Power Transmission and Distribution; Electrical Protective Equipment* (RIN: 1218-AB67): Final rule expected.

**JUNE 2011**

*Injury Illness and Prevention Program* (RIN: 1218-AC48): Solicit input from small businesses per SBREFA requirements.

*Standards Improvement Project (SIP III)* (RIN: 1218-AC19): Final action due.

**AUGUST 2011**

*Hazard Communication* (RIN: 1218-AC20): Final action due.

**SEPTEMBER 2011**

*Modernizing OSHA's Reporting System* (RIN: 1218-AC49): Notice of Proposed Rulemaking due.

**NOVEMBER 2011**

*Confined Spaces in Construction* (RIN: 1218-AB47): Final action due.