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Beryllium rule: OSHA seeks to eliminate provisions aimed at construction, shipyard workers

At press time, OSHA had issued a proposed rule that would roll back certain provisions of its final rule on worker exposure to beryllium in the construction and shipyard industries.

The final rule, which was published in January and went into effect May 20 after several delays, established lower permissible exposure limits and requirements for exposure assessments, respiratory protection and other features. The proposed rule, published in the June 27 *Federal Register*, would retain the new PEL of 0.2 micrograms of beryllium per cubic meter of air but “is proposing to remove the following ancillary provisions: exposure monitoring, regulated areas (and competent person in construction), a written exposure control plan, protective equipment and work clothing, hygiene areas and practices, housekeeping, medical surveillance, medical removal and worker training,” according to a June 23 press release from the agency.

“OSHA has evidence that exposure in these industries is limited to a few operations and has information suggesting that requiring the ancillary provisions broadly may not improve worker protection and be redundant with overlapping

protections in other standards,” the release states.

Beryllium is a lightweight metal used in industries such as electronics and energy. It can be highly toxic when released into the atmosphere, where workers can inhale

it. Exposure can pose serious health risks to workers, including chronic beryllium disease and lung cancer.

OSHA is seeking comment until Aug. 28 on “whether existing standards

— article continues on p. 4

More on beryllium

In addition to construction and shipyard workers, other workers potentially exposed to beryllium include:

- Primary beryllium production workers
- Workers who process beryllium metal/alloys/composites
- Foundry workers
- Furnace tenders
- Machine operators
- Machinists
- Metal fabricators
- Welders
- Dental technicians
- Secondary smelting and refining (recycling electronic and computer parts, metals)
- Abrasive blasters (slags)

End products containing beryllium and beryllium compounds are used in many industries, including:

- Aerospace (aircraft braking systems, engines, satellites, space telescope)
- Automotive (anti-lock brake systems, ignitions)
- Ceramic manufacturing (rocket covers, semiconductor chips)



- Defense (components for nuclear weapons, missile parts, guidance systems, optical systems)
- Dental labs (alloys in crowns, bridges, dental plates)
- Electronics (X-rays, computer parts, telecommunication parts, automotive parts)
- Energy (microwave devices, relays)
- Medicine (laser devices, electro-medical devices, X-ray windows)
- Nuclear energy (heat shields, reactors)
- Sporting goods (golf clubs, bicycles)
- Telecommunications (optical systems, wireless base stations)

However, use of these finished products does not expose workers to beryllium.

Source: OSHA

Budget hearing: Acosta says DOL committed to enforcement; critics claim otherwise

The Department of Labor remains committed to enforcing worker safety regulations, Secretary of Labor R. Alexander Acosta insisted during a recent Senate hearing, but critics contend that proposed budget cuts would undermine those efforts.

Speaking about his department's fiscal year 2018 budget request, Acosta appeared before the Labor, Health and Human Services, Education, and Related Agencies Subcommittee on June 27.

During the hearing, Sen. Joe Manchin (D-WV) questioned Acosta on OSHA's perceived move toward more compliance assistance and less enforcement.

Acosta responded that a proposed \$2 million shift to compliance assistance is small compared to the agency's \$543 million discretionary budget.

Manchin pointed out that the proposed OSHA budget calls for 26 fewer employees, which he says would result in "almost 1,000 fewer inspections." Prior to the hearing, advocacy group National Council for Occupational Safety and Health issued a press release projecting OSHA would conduct 2,300 fewer inspections.

National COSH highlighted two other proposals the group believes are detrimental to worker safety and health: a \$6 million cut for the Mine Safety

and Health Administration's inspection budget and the elimination of the Susan Harwood Training Grant Program.

In a House budget hearing on June 7, Acosta said DOL plans to provide direct training in place of the Harwood Grants, which provide funding to non-profit organizations for the creation of worker safety training and education.

President Trump has requested a \$2.4 billion cut to DOL's FY 2018 budget. In contrast, a draft appropriations bill released by the House on July 12 proposes a \$1.3 billion decrease. DOL is seeking to increase compliance assistance for its worker protection agencies by \$16.6 million.

ASK THE EXPERT

with Rick Kaletsky

Q: According to OSHA, should I secure extension ladders at the top or the bottom?

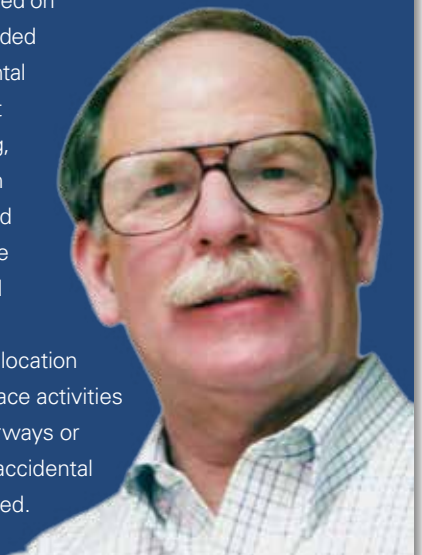
A: Extension ladders are more common in construction work (29 CFR 1926) than in general industry (29 CFR 1910). 1926 addresses securing ladders in more detail than 1910:

1926.1053(b)(1): When portable ladders are used for access to an upper landing surface, the ladder side rails shall extend at least 3 feet (.9 m) above the upper landing surface to which the ladder is used to gain access; or, when such an extension is not possible because of the ladder's length, then the ladder shall be secured at its top to a rigid support that will not deflect, and a grasping device, such as a grabrail, shall be provided to assist employees in mounting and dismounting the ladder. In no case shall the extension be such that ladder deflection under a load would, by itself, cause the ladder to slip off its support.

1926.1053(b)(6): Ladders shall be used only on stable and level surfaces unless secured to prevent accidental displacement.

1926.1053(b)(7): Ladders shall not be used on slippery surfaces unless secured or provided with slip-resistant feet to prevent accidental displacement. Slip-resistant feet shall not be used as a substitute for care in placing, lashing or holding a ladder that is used on slippery surfaces including, but not limited to, flat metal or concrete surfaces that are constructed so they cannot be prevented from becoming slippery.

1926.1053(b)(8): Ladders placed in any location where they can be displaced by workplace activities or traffic, such as in passageways, doorways or driveways, shall be secured to prevent accidental displacement, or a barricade shall be used.



Former OSHA inspector turned consultant **Rick Kaletsky** is a 46-year veteran of the safety industry. He is the author of "OSHA Inspections: Preparation and Response," published by the National Safety Council. Now in its 2nd edition, the book has been updated and expanded in 2016. Order a copy at www.nsc.org.

In Other News...

OSHA proposes Dec. 1 deadline for reporting injury, illness data

OSHA is proposing to delay until Dec. 1 the compliance date for employers to electronically submit injury and illness data as part of the agency's Improve Tracking of Workplace Injuries and Illnesses final rule.

The original compliance date was July 1. OSHA is seeking the delay "to provide the new administration an opportunity to review the new electronic reporting requirements prior to their implementation and allow affected entities sufficient time to familiarize themselves with the electronic reporting system, which will not be available until August 1," according to a notice published in the June 28 *Federal Register*.

The controversial rule, which went into effect Jan. 1, requires establishments with 250 or more workers to electronically submit information from OSHA Form 300A to the agency. OSHA intends to make the information public on its website.

OSHA: No update to Hazard Communication Standard

An update to OSHA's Hazard Communication Standard is not forthcoming, an agency official said June 20.

Speaking during a public meeting in advance of the 33rd session of the United Nations Sub-Committee of Experts on the Globally Harmonized System of Classification and Labeling of Chemicals, Maureen Ruskin, deputy director of OSHA's Directorate of Standards and Guidance, said, "We're still working toward updating the Hazard Communication Standard. It is currently on the (regulatory) agenda, but, as you know, this is a new administration and the transition is still ongoing."

The Hazard Communication Standard was revised most recently in 2012.

OSHA STANDARD INTERPRETATIONS

OSHA requirements are set by statute, standards and regulations. Interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. Enforcement guidance may be affected by changes to OSHA rules.

OSHA's standards pertaining to powered industrial truck load backrest extensions

Standard: 29 CFR 1910.178

Date of response: March 5, 2012

Thank you for your letter dated Aug. 31, 2011, to the Occupational Safety and Health Administration (OSHA) for a clarification of OSHA's standards pertaining to powered industrial truck load backrest extensions. This constitutes OSHA's interpretation only of the requirements discussed and may not be applicable to any question not delineated within your original correspondence.

Your scenario and questions are paraphrased and our responses follow.

Scenario/Background: The Defense Logistics Agency (DLA) has corresponded with several forklift manufacturer representatives and they have stated that the removal of a forklift backrest load extension is not a modification of the forklift. Further, the manufacturer representatives stated that no change would have to be made to the forklift's data plate because removing the load backrest extension does not impact any of the information on the data plate of the truck.

Question #1: Is the removal of the backrest extension originally attached when the forklift was received a modification of the forklift under 29 CFR 1910.178(a)(4)?

Reply #1: No. OSHA standard 29 CFR 1910.178(e)(2) requires that if a load can fall back onto the operator, the employer must equip the forklift with a vertical load backrest extension. As long as the forklift's load does not present a hazard to the operator, the forklift is not required to be equipped with a backrest extension.

Question #2: Do we need written approval from the manufacturer to remove the backrest extension?

Reply #2: No. OSHA does not consider the removal of the backrest extension a modification of the forklift.

Question #3: Do we need approval from each forklift manufacturer and for each model?

Reply #3: Please refer to the reply to Question #2.

Question #4: Is an email acceptable?

Reply #4: Please refer to the reply to Question #2.

Question #5: Do these forklifts need new capacity, operation and maintenance instruction plates or tags that identify the change?

Reply #5: No. As we stated in our response to Question #2, OSHA does not consider the removal of the backrest extension a modification of the forklift. As such, it is not necessary to update the capacity, operation and maintenance instruction plates, tags or other decals.

Sincerely,

Thomas Galassi, Director

Directorate of Enforcement Programs

Excerpted from www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=29066

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covering abrasive blasting in construction, abrasive blasting in shipyards, and welding in shipyards provide adequate protection for workers engaged in these operations.”

The agency said it will not enforce the construction and shipyards standards without further notice while determining possible amendments to the rule.

Opponents claim the proposed rule compromises worker safety.

Jessica Martinez, co-executive director of the National Council for Occupational Safety and Health, called the measure “a step backwards” in a statement released June 23.

“[OSHA] spent more than a decade on the rulemaking process for the standard that would be severely weakened by the proposal announced today,” Martinez

said. “It is well-documented that shipyard and construction workers can be exposed to beryllium. They need the same protections as other workers – including monitoring and assessing exposure to potential harm and taking steps to eliminate hazards, which can lead to life-threatening diseases.”

After hearing rumors of the proposal, AFL-CIO President Richard Trumka released the following statement on June 21: “More working people will die if the Trump administration rolls back OSHA’s beryllium rule. It also will mark the first time in history for the government to roll back worker safety protections against a cancer-causing toxin. The entire labor movement will work together to fight any proposal that takes away standards that keep us safe at work.”

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