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OSHA seeks one-year delay on crane operator certification

At press time, OSHA was seeking to delay by one year its crane operator certification requirements, scheduled to go into effect in November. The proposed rule, published in the Aug. 30 *Federal Register*, would move the compliance deadline to Nov. 10, 2018. The extra time is needed for OSHA to address stakeholder concerns, the agency states in a press release.

In its Cranes and Derricks in Construction Standard issued in 2010, OSHA mandates that crane operators become certified through an accredited testing service, an independently audited employer program, military training, or compliance with qualifying state or local licensing requirements.

Those requirements originally were set to go into effect in November 2014, but the deadline was delayed for three years because of two issues. The first was that the standard required certification for both the type of cranes and their capacities. OSHA "received information that two (of a total of four) accredited testing organizations have been issuing certifications only by 'type' of crane, rather than by the 'type and capacity' of crane, as the crane standard requires," the agency states in the *Federal Register* notice. "As a result, those certifications do not meet the standard's requirements, and operators who obtained certifications from only those organizations cannot, under OSHA's crane standard, operate cranes on construction sites after the new requirements become effective."

Some stakeholders in the crane industry have asked OSHA to remove the capacity requirement.

James Headley, CEO of the Sanford, FL-based Crane Institute of America and Crane Institute of America Certification, said he would like to see OSHA require certification for "type" and "type or capacity."

"If they change the wording to 'type' alone and they don't include 'type and capacity,' then that will be one of the most

unfair things OSHA has done regarding our industry, especially since 50 percent of the (accredited testing) organizations are by type and capacity. They would also go against the recommendations of [OSHA's Advisory Committee on Construction Safety and Health]," Headley said.

The other sticking point concerned the rule's language, that "certification"

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Photo: karp85/iStockphoto

Judge hears arguments in lawsuit seeking to block Trump's '2-for-1' order on regulations

A federal judge heard arguments Aug. 10 in a lawsuit against President Donald Trump's "2-for-1" Executive Order on federal regulations.

The suit was filed in the U.S. District Court for the District of Columbia by Public Citizen, the Natural Resources Defense Council and Communications Workers of America labor union on Feb. 8 – nine days after President Trump signed the Executive Order.

The order calls for federal agencies to eliminate two existing regulations for every one that is introduced. The White House clarified in a guidance memo on Feb. 2 that the Executive Order would apply only to regulations with an estimated cost of $100 million or more.

Public Citizen contends the order is unconstitutional because it requires agencies "to violate the statutes under which they operate." Former White House Press Secretary Sean Spicer said in a press briefing on Feb. 8 that the lawsuit "is wildly inaccurate. It makes a ton of assumptions that call for speculation on what may or may not happen in the future. … It's just subjective, at best, and doesn't have any basis in fact."

In a press release issued Aug. 8, Public Citizen President Robert Weissman said, "No one thinking sensibly about how to set rules for health, safety, the environment and the economy would adopt the Trump Executive Order approach – unless their only goal was to confer enormous benefits on big business. This order is part of the Trump administration's plan to empower big business to poison our water, pollute our air, endanger workers and cheat our economy."

After the hearing, Weissman said in a video posted on Facebook that a ruling from Judge Randolph D. Moss could come "probably in the next few months." He added that he expects an appeal from either side no matter the outcome.

ASK THE EXPERT

with Rick Kaletsky

Q: *Please explain a hazard that "won't go away."*

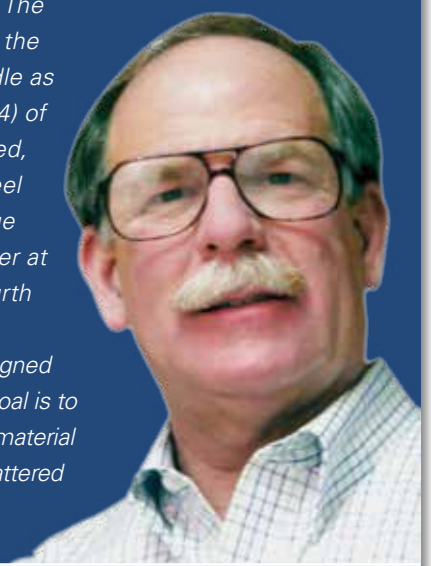
A: Two *offhand grinder hazards are still common:*

• 1910.215(a)(4) Work rests. On offhand grinding machines, work rests shall be used to support the work. They shall be of rigid construction and designed to be adjustable to compensate for wheel wear. Work rests shall be kept adjusted closely to the wheel with a maximum opening of one-eighth inch to prevent the work from being jammed between the wheel and the rest, which may cause wheel breakage. The work rest shall be securely clamped after each adjustment. The adjustment shall not be made with the wheel in motion.

***Note:** Properly adjusted work rests (also called tool rests) can preclude fingers and "the work" from being pulled into, and trapped between, wheel and rest.*

• 1910.215(b)(9) Exposure adjustment. Safety guards of the types described in Subparagraphs (3) and (4) of this paragraph, where the operator stands in front of the opening, shall be constructed so that the peripheral protecting member can be adjusted to the constantly decreasing diameter of the wheel. The maximum angular exposure above the horizontal plane of the wheel spindle as specified in paragraphs (b)(3) and (4) of this section shall never be exceeded, and the distance between the wheel periphery and the adjustable tongue or the end of the peripheral member at the top shall never exceed one-fourth inch.

***Note:** "Tongue guards" are not designed to preclude finger entrapment. The goal is to minimize exposure to flying parts of material worked in/on the grinder and of a shattered wheel.*



*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 was updated and expanded in 2016. Order a copy at* **www.nsc.org**.

In Other News…

OSHA names Loren Sweatt deputy assistant secretary of labor

Loren Sweatt is the new OSHA deputy assistant secretary of labor, the agency has announced. Her appointment was effective July 24.

Sweatt most recently served as a senior policy advisor for the House Education and the Workforce Committee. She has been involved in workplace safety issues for 15 years, working with organizations including OSHA and the Mine Safety and Health Administration.

Sweatt is the first OSHA appointee under President Donald Trump's administration. She fills the role previously held by Jordan Barab, who served under former President Barack Obama.

Heather MacDougall sworn in as OSHRC chairman

Heather MacDougall is the new chair of the Occupational Safety and Health Review Commission, sworn in Aug. 16 after being appointed by President Donald Trump.

MacDougall, the former acting chairman and member of the commission, is the 12th person to occupy the post. Her term is set to expire in April 2023.

MacDougall, of Jupiter, FL, has 20 years of experience representing employers in issues involving labor, employment, and occupational safety and health law. She also was chief legal counsel and special advisor to former OSHRC Chairman W. Scott Railton.

The Senate confirmed MacDougall and James Sullivan, of Philadelphia, as commissioners on Aug. 3. They join Cynthia Attwood, an Obama administration appointee serving her second term, on the three-member commission.

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.

Laundering responsibilities for fire retarding (FR) clothing for employees working as welders, pipefitters, welder helpers in the unionized pipeline and gas distribution sector

Standard: 1926.95(a)
Date of response: June 1, 2015

QUESTION: *Under OSHA regulations 29 CFR 1926.95(a), who is responsible for the laundering of fire retarding clothing that is provided to employees?*

ANSWER: Criteria for Personal Protective Equipment - Title 29 CFR 1926.95(a) section states:

(a) Application. Protective equipment, including personal protective equipment for eyes, face, head, and extremities, protective clothing, respiratory devices, and protective shields and barriers, shall be provided, used, and maintained in a sanitary and reliable condition wherever it is necessary by reason of hazards of processes or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.

Pursuant to the requirements of 29 CFR 1926.95(a), the standard does not prohibit home laundering of FR and arc-rated clothing if the employer permits it. However, to comply with 1910.132 or 1926.95, the employer cannot simply instruct employees to follow manufacturers' instructions. Employers must ensure that protective clothing such as FR garments are adequately maintained in a reliable condition such that if the FR garment is challenged in a flash fire, the garment will perform as designed. In other words, the employer is responsible for ensuring that the FR garment is laundered such that contaminants (e.g. dirt, oils, etc.) will not affect the performance of the garment when it is in use. If employers rely on home laundering of the clothing, they must train their employees in proper laundering procedures and techniques, and employers must inspect the clothing on a regular basis to ensure that it is not in need of repair or replacement. If an employer cannot meet these conditions, then the employer is responsible for laundering the FR and arc-rated clothing.

Sincerely,
James G. Maddux, Director
Directorate of Construction

Excerpted from *www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=29708.*

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In This Issue

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didn't mean an operator was qualified. "Certification means the operator has the minimum knowledge and skill required to operate the equipment," Headley said. "Certification doesn't mean the operator is qualified to operate a particular crane in a particular situation. It's just like a driver's license. When you get a driver's license, it doesn't necessarily mean that you are qualified to drive an SUV or big pickup on icy roads in the mountains."

Headley added that he would like to see OSHA add a training requirement to the standard, which is not in the current version.

The Fairfax, VA-based National Commission for the Certification of Crane Operators expressed its approval for the one-year delay in an Aug. 30 press release.

"[NCCCO], and a majority of the industry (including the labor-management Coalition for Crane Operator Safety), is supportive of the delay on the basis that the current language as interpreted by OSHA would not have the desired safety benefits and is not in line with the intent of the Cranes and Derricks Advisory Committee that wrote the original draft of the rule," the organization states.

ACCSH hosted a teleconference on June 20 to discuss the proposed one-year extension, and the agency sought feedback again. At press time, the deadline to comment was Sept. 29.