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Sequence Number: 09-19-11
Rule ID(s): 5022-5020
File Date: 09/23/2011
Effective Date: 02/28/2012

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

| | |
|---------------------------------|--|
| Agency/Board/Commission: | Department of Labor and Workforce Development |
| Division: | Division of Occupational Safety and Health |
| Contact Person: | Jim Cothron |
| Address: | 220 French Landing Drive |
| Zip: | 37243-1002 |
| Phone: | (615) 253-5116 |
| Email: | jim.cothron@tn.gov |

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

| Chapter Number | Chapter Title |
|----------------|---|
| 0800-01-01 | Occupational Safety and Health Standards for General Industry |
| Rule Number | Rule Title |
| 0800-01-01-.06 | Adoption and Citation of Federal Standards |

| Chapter Number | Chapter Title |
|----------------|---|
| 0800-01-06 | Occupational Safety and Health Standards for Construction |
| Rule Number | Rule Title |
| 0800-01-06-.02 | Adoption and Citation of Federal Standards |

| Chapter Number | Chapter Title |
|----------------|--|
| 0800-01-07 | Occupational Safety and Health Standards for Agriculture |
| Rule Number | Rule Title |
| 0800-01-07-.01 | Adoption and Citation of Federal Standards |
| 0800-01-07-.02 | Exceptions to Adoption of Federal Standards |

Chapter 0800-01-01
Occupational Safety and Health Standards for General Industry

Amendments

Paragraph (2) of Rule 0800-01-01-.06 Adoption and Citation of Federal Standards is amended by changing the date from "July 1, 2011" to "January 1, 2012" so as amended the paragraph shall read:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1910, as of January 1, 2012 except as provided in Rule 0800-01-01-.07 of this chapter.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201.

Chapter 0800-01-06
Occupational Safety and Health Standards for Construction

Amendments

Paragraph (2) of Rule 0800-01-06-.02 Adoption and Citation of Federal Standards is amended by changing the date from "July 1, 2011" to "January 1, 2012" so as amended the paragraph shall read:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1926, as of January 1, 2012 except as provided in Rule 0800-01-06-.03 of this chapter.

Authority: T.C.A. §§ 4-3-1411, 50-3-103 and 50-3-201.

Chapter 0800-01-07
Occupational Safety and Health Standards for Agriculture

Amendments

Paragraph (2) of Rule 0800-01-07-.01 Adoption and Citation of Federal Standards is amended by changing the date from "July 1, 2011" to "January 1, 2012" so as amended the paragraph shall read:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1928, as of January 1, 2012 except as provided in Rule 0800-01-07-.02 of this chapter.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201.

Paragraph (1) of Rule 0800-01-07-.02 Exceptions to Adoption of Federal Standards in 29 CFR Part 1928 is amended by changing the date from "July 1, 2011" to "January 1, 2012" so as amended the paragraph shall read:

- (1) As of January 1, 2012, there are no exceptions.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

| Board Member | Aye | No | Abstain | Absent | Signature (if required) |
|--------------|-----|----|---------|--------|-------------------------|
| | | | | | |

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on 08/12/2011 (date as mm/dd/yyyy), and is in compliance with the provisions of TCA 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 8/12/11

Signature: Karla Davis

Name of Officer: Karla Davis

Title of Officer: Commissioner of Labor and Workforce Development

Subscribed and sworn to before me on: 8/12/11

Notary Public Signature: Elaine Davis

My commission expires on: 7-8-2013



All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.

Robert E. Cooper, Jr.
Attorney General and Reporter

9-19-11

Date

Department of State Use Only

Filed with the Department of State on: 9/23/11

Effective on: 2/28/12

Tre Hargett

Tre Hargett
Secretary of State

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Regulatory Flexibility Addendum

Pursuant to § T.C.A. 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

An economic impact statement regarding the amendments in this rule proposal is not required under the provisions of the Regulatory Flexibility Act of 2007. As stated in Section 6 of Public Chapter 464, "This part shall not apply to rules that are adopted on an emergency or public necessity basis under Title 4, Chapter 5, Part 2, that are federally mandated, or that substantially codify existing state or federal law." Under the statutory authority of 29 U.S.C. § 667, Tennessee has an approved state plan that provides for the development and enforcement of occupational safety and health standards. In accordance with the Tennessee Occupational Safety and Health State Plan, when a federal occupational safety and health standard is promulgated under 29 U.S.C. § 655 Tennessee generally adopts the federal standard relating to the same issue. The plan specifies that the state of Tennessee will adopt the federal standards or an equivalent state requirement within six (6) months of the standard's promulgation by federal OSHA. In addition, T.C.A. §50-3-201 authorizes the Commissioner of Labor and Workforce Development to adopt either state or federal occupational safety and health standards.

Impact on Local Governments

Pursuant to T.C.A. 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule does not have a projected impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Rules 0800-01-01-.06, 0800-01-06-.02, 0800-01-07-.01 and 0800-01-07-.02 are amended in order to adopt and reference the latest occupational safety and health standards and exceptions, if any, in the applicable parts of Title 29, Code of Federal Regulations when published in the Federal Register. Since the last amendments to the rules there have been no changes to the Occupational Safety and Health Standards.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Under the statutory authority of 29 U.S.C. § 667, Tennessee has an approved state plan that provides for the development and enforcement of occupational safety and health standards. In accordance with the plan, when a federal occupational safety and health standard is promulgated under 29 U.S.C. § 655 Tennessee generally adopts the federal standard relating to the same issue. When a federal standard is not adopted, it is referenced as an exception in the rules. The statutory authority for promulgation of the rules by the Commissioner of Labor and Workforce Development is T.C.A. § 50-3-201.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

All persons subject to T.C.A. §§ 50-3-101 *et seq.* are directly affected by the rules in Chapters 0800-01-01, 0800-01-06 and 0800-01-07. These rules provide for the effective administration and enforcement of the occupational safety and health standards required by the state plan. Employees and employers including governmental entities in the state must comply with the rules promulgated pursuant to federal and state law. It appears that there are no objections to the proposed amendments to the rules since no inquiries have been made.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

There have been no Attorney General opinions or judicial rulings relevant to these rules.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

There are no anticipated increases or decreases in state and local government revenues and expenditures resulting from promulgation of the proposed rules and amendments to the existing rules.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Jim Cothron, Manager, Standards & Procedures, Division of Occupational Safety and Health, is the agency representative most knowledgeable about these rules.

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

Proposed Amendments with Changes Red-Lined

Chapter 0800-01-01

Rule 0800-01-01-.06 Amended

Paragraph (2) of Rule 0800-01-01-.06 Adoption and Citation of Federal Standards is amended by changing the date from "July 1, 2011" to "January 1, 2012".

Existing Rule:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1910, as of ~~July 1, 2011~~ except as provided in Rule 0800-01-01-.07 of this chapter.

Proposed Amended Rule:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1910, as of January 1, 2012 except as provided in Rule 0800-01-01-.07 of this chapter.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201.

Chapter 0800-01-06

Rule 0800-01-006-.02 Amended

Paragraph (2) of Rule 0800-01-06-.02 Adoption and Citation of Federal Standards is amended by changing the date from "July 1, 2011" to "January 1, 2012".

Existing Rule:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1926, as of ~~July 1, 2011~~ except as provided in Rule 0800-01-06-.03 of this chapter.

Proposed Amended Rule:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1926, as of January 1, 2012 except as provided in Rule 0800-01-06-.03 of this chapter.

Authority: T.C.A. §§ 4-3-1411, 50-3-103 and 50-3-201.

Chapter 0800-01-07

Rule 0800-01-07-.01 Amended

Paragraph (2) of Rule 0800-01-07-.01 Adoption and Citation of Federal Standards is amended by changing the date from "July 1, 2011" to "January 1, 2012".

Existing Rule:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1928, as of ~~July 1, 2011~~ except as provided in Rule 0800-01-07-.02 of this chapter.

Proposed Amended Rule:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1928, as of January 1, 2012 except as provided in Rule 0800-01-07-.02 of this chapter.

Authority: T.C.A. §§4-3-1411 and 50-3-201.

Rule 0800-01-07-.02 Amended

Paragraph (1) of Rule 0800-01-07-.02 Exceptions to Adoption of Federal Standards in 29 CFR Part 1928 is amended by changing the date from "July 1, 2011" to "January 1, 2012".

Existing Rule:

- (1) As of ~~July 1, 2011~~, there are no exceptions.

Proposed Amended Rule:

- (1) As of January 1, 2012, there are no exceptions.

Authority: T.C.A. §§4-3-1411 and 50-3-201.

| | |
|--|-----------|
| Confined Spaces in Construction | 1218-AB47 |
| Electric Power Transmission and Distribution; Electrical Protective Equipment | 1218-AB67 |
| Hazard Communication | 1218-AC20 |
| Cooperative Agreements | 1218-AC32 |
| Revising the Underground Construction and Demolition Standards To Make the Cranes and Derricks in Construction Rule Applicable t | 1218-AC61 |
| Updating OSHA Standards Based on National Consensus Standards--Acetylene | 1218-AC64 |
| Updating OSHA Standards Based on National Consensus Standards--Personal Protection Equipment | 1218-AC65 |
| Standards Improvement Project (SIP III) | 1218-AC19 |

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DOL/OSHA

RIN: 1218-AB47

Publication ID: Spring 2011

Title: Confined Spaces in Construction**Abstract:** In 1993, OSHA issued a rule to protect employees who enter confined spaces while engaged in general industry work (29 CFR 1910.146). This standard has not been extended to cover employees entering confined spaces while engaged in construction work because of unique characteristics of construction worksites. Pursuant to discussions with the United Steel Workers of America that led to a settlement agreement regarding the general industry standard, OSHA agreed to issue a proposed rule to protect construction workers in confined spaces.**Agency:** Department of Labor(DOL)**Priority:** Other Significant**RIN Status:** Previously published in the Unified Agenda**Agenda Stage of Rulemaking:** Final Rule Stage**Major:** No**Unfunded Mandates:** No**CFR Citation:** [29 CFR 1926.35](#)**Legal Authority:** [29 USC 655\(b\)](#); [40 USC 333](#)**Legal Deadline:** None**Timetable:**

| Action | Date | FR Cite |
|------------------------------|------------|-----------------------------|
| SBREFA Panel Report | 11/24/2003 | |
| NPRM | 11/28/2007 | 72 FR 67351 |
| NPRM Comment Period End | 01/28/2008 | |
| NPRM Comment Period Extended | 02/28/2008 | 73 FR 3893 |
| Public Hearing | 07/22/2008 | |
| Close Record | 10/23/2008 | |
| Final Action | 11/00/2011 | |

Regulatory Flexibility Analysis Required: Yes**Government Levels Affected:** Undetermined**Small Entities Affected:** Businesses**Federalism:** No**Included in the Regulatory Plan:** No**RIN Data Printed in the FR:** Yes**Agency Contact:**

Jim Maddux

Directorate of Construction

Department of Labor

Occupational Safety and Health Administration

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DOL/OSHA

RIN: 1218-AB67

Publication ID: Spring 2011

Title: Electric Power Transmission and Distribution, Electrical Protective Equipment

Abstract: Electrical hazards are a major cause of occupational death in the United States. The annual fatality rate for power line workers is about 50 deaths per 100,000 employees. The construction industry standard addressing the safety of these workers during the construction of electric power transmission and distribution lines is over 35 years old. OSHA has developed a revision of this standard that will prevent many of these fatalities, add flexibility to the standard, and update and streamline 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. 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. OSHA published an NPRM on June 15, 2005. A public hearing was held from March 6 through March 14, 2006. OSHA reopened the record to gather additional information on minimum approach distances for specific ranges of voltages. The record was reopened a second time to allow more time for comment and to gather information on minimum approach distances for all voltages and on the newly revised Institute of Electrical and Electronics Engineers consensus standard. Additionally, a public hearing was held on October 28, 2009. The posthearing comment period ended in September 2010. OSHA anticipates publishing a final rule in July 2011.

Agency: Department of Labor(DOL)

Priority: Economically Significant

RIN Status: Previously published in the Unified Agenda

Agenda Stage of Rulemaking: Final Rule Stage

Major: Yes

Unfunded Mandates: No

CFR Citation: [29 CFR 1910.136 to 1910.137](#); [29 CFR 1910.269](#); [29 CFR 1926](#), subpart V, [29 CFR 1926.97](#) (To search for a specific CFR, visit the [Code of Federal Regulations](#).)Legal Authority: [29 USC 655\(b\)](#); [40 USC 333](#)

Legal Deadline: None

Timetable:

| Action | Date | FR Cite |
|---------------------------------------|------------|-----------------------------|
| SBREFA Report | 06/30/2003 | |
| NPRM | 06/15/2005 | 70 FR 34821 |
| NPRM Comment Period End | 10/13/2005 | |
| Comment Period Extended to 01/11/2006 | 10/12/2005 | 70 FR 59290 |
| Public Hearing To Be Held 03/06/2006 | 10/12/2005 | 70 FR 59290 |
| Posthearing Comment Period End | 07/14/2006 | |
| Reopen Record | 10/22/2008 | 73 FR 62942 |
| Comment Period End | 11/21/2008 | |
| Close Record | 11/21/2008 | |
| Second Reopening Record | 09/14/2009 | 74 FR 46958 |
| Comment Period End | 10/15/2009 | |
| Public Hearings | 10/28/2009 | |
| Posthearing Comment Period End | 02/10/2010 | |
| Final Rule | 09/00/2011 | |

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Local

Small Entities Affected: Businesses

Federalism: No

Included in the Regulatory Plan: No

RIN Data Printed in the FR: Yes

Agency Contact:

Dorothy Dougherty

Director, Directorate of Standards and Guidance

Department of Labor

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DOL/OSHA

RIN: 1218-AC20

Publication ID: Spring 2011

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 (U.S.), 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 long-standing 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 adopting the GHS into their national regulatory systems. OSHA published the NPRM on September 30, 2009 and held public hearings in Washington, DC and Pittsburgh, PA in March 2010. The record closed on June 1, 2010. OSHA is scheduled to publish the final rule in August 2011.

Agency: Department of Labor(DOL)

Priority: Economically Significant

RIN Status: Previously published in the Unified Agenda

Agenda Stage of Rulemaking: Final Rule Stage

Major: Yes

Unfunded Mandates: Private Sector

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](#)Legal Authority: [29 USC 655\(b\)](#); [29 USC 657](#)

Legal Deadline: None

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. The comprehensibility of hazard information and worker safety 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. The increase in comprehensibility and consistency will reduce confusion and thus improve worker safety and health. In addition, the 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. Several nations, including the European Union, have adopted the GHS with an implementation schedule through 2015. U.S. manufacturers, employers, and employees will be at a disadvantage in the event that our system of hazard communication is not in compliance with the GHS.

Summary of the 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.

Anticipated 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 | |
| Complete Peer Review of Economic Analysis | 11/19/2007 | |
| NPRM | 09/30/2009 | 74 FR 50279 |
| NPRM Comment Period End | 12/29/2009 | |
| Hearing | 03/02/2010 | |
| Hearing | 03/31/2010 | |
| Post Hearing Comment Period End | 06/01/2010 | |
| Final Action | 09/00/2011 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, State

Federalism: Yes

Included in the Regulatory Plan: Yes

RIN Data Printed in the FR: No

Agency Contact:

Dorothy Dougherty

Director, Directorate of Standards and Guidance

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DOL/OSHA

RIN: 1218-AC32

Publication ID: Spring 2011

Title: Cooperative Agreements

Abstract: OSHA proposes to revise its regulations for the federally funded On-site Consultation Program to: a) Clarify the ability of the Assistant Secretary to define sites which would receive inspections regardless of Safety and Health Achievement Recognition Program (SHARP) exemption status; b) allow Compliance Safety and Health Officers to proceed with enforcement visits resulting from referrals at sites undergoing Consultation visits and at sites that have been awarded SHARP status; and c) limit the delation period from OSHA's programmed inspection schedule for those employers participating in the SHARP program. Note: SHARP is a recognition program that OSHA administers to provide incentives and support for small employers to develop, implement, and continuously improve effective safety and health programs at their worksites.

Agency: Department of Labor(DOL)

Priority: Other Significant

RIN Status: Previously published in the Unified Agenda

Agenda Stage of Rulemaking: Final Rule Stage

Major: No

Unfunded Mandates: No

CFR Citation: [29 CFR 1908](#)

Legal Authority: [29 USC 656](#) and [657](#); [29 USC 670](#)

Legal Deadline: None

Timetable:

| Action | Date | FR Cite |
|-------------------------|------------|-----------------------------|
| NPRM | 09/03/2010 | 75 FR 54064 |
| NPRM Comment Period End | 11/02/2010 | |
| Final Action | 09/00/2011 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Federalism: No

Included in the Regulatory Plan: No

RIN Data Printed in the FR: No

Agency Contact:

Gregory Baxter
Acting Director, Directorate of Cooperative and State Programs
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DOL/OSHA

RIN: 1218-AC61

Publication ID: Spring 2011

Title: •Revising the Underground Construction and Demolition Standards To Make the Cranes and Derricks in Construction Rule Applicable to Those Activities
Abstract: This direct final rule will clarify and simplify OSHA's standards applicable to cranes and derricks in construction by establishing a single set of standards for all construction activities involving cranes and derricks. On August 9, 2010, OSHA issued a Final Rule for Cranes and Derricks in Construction (75 FR 47096), that was originally intended to apply to all crane and derrick use in construction. Rulemaking findings, including the economic analysis, were developed to address all construction work. However, two subsectors of construction work, demolition and underground construction, were exempted from coverage under the new standard, in an effort to ensure that employers involved in those types of work were given sufficient notice to comply with the new rule. These subsectors currently remain covered under the previous rule governing crane and derrick use in construction. This direct final rule will, therefore, apply the new cranes and derricks rule to both demolition and underground construction work, bringing those subsectors current with the rest of the construction industry. It should be noted that a proposed rule accompanies this direct final rule. Should OSHA receive significant adverse comment on this direct final rule, it will withdraw the direct final rule and proceed with the accompanying proposed rule.

Agency: Department of Labor(DOL)

Priority: Substantive, Nonsignificant

RIN Status: First time published in the Unified Agenda

Agenda Stage of Rulemaking: Final Rule Stage

Major: No

Unfunded Mandates: No

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

Legal Authority: Not Yet Determined

Legal Deadline: None

Timetable:

| Action | Date | FR Cite |
|-------------------|------------|---------|
| Direct Final Rule | 08/00/2011 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Small Entities Affected: Businesses

Federalism: No

Included in the Regulatory Plan: No

RIN Data Printed in the FR: No

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DOL/OSHA

RIN: 1218-AC64

Publication ID: Spring 2011

Title: •Updating OSHA Standards Based on National Consensus Standards--Acetylene

Abstract: Under section 6(a) of the OSH Act, during the first two years of the Act, the Agency was directed to adopt national consensus standards as OSHA standards. Some of these standards were adopted as regulatory text, while others were incorporated by reference. In the more than 40 years since these standards were adopted by OSHA, the organizations responsible for these consensus standards have issued updated versions of these standards. However, in most cases, OSHA has not revised its regulations to reflect later editions of the consensus standards. OSHA standards also continue to incorporate by reference various consensus standards that are now outdated and, in some cases, out of print. The Agency is undertaking a multi-year project to update these standards. A notice describing the project was published in November 2004 (69 FR 68283). As part of this multi-year project, OSHA published a Direct Final Rule (DFR) for Acetylene and a final rule on Personal Protective Equipment (PPE). The Acetylene DFR, published August 2009, updated 29 CFR 1910.102 based on the latest NFPA and Compressed Gas Association (CGI) consensus standards. Just prior to issuing the DFR, CGI published a new edition of their standard in June 2009, OSHA's update of 29 CFR 1910.102 was undergoing final OMB review at that time. OSHA intends to publish a DFR to incorporate the 2009 CGI standard.

Agency: Department of Labor(DOL)

Priority: Substantive, Nonsignificant

RIN Status: First time published in the Unified Agenda

Agenda Stage of Rulemaking: Final Rule Stage

Major: Undetermined

Unfunded Mandates: No

CFR Citation: 29 CFR 1910, 29 CFR 1915, 29 CFR 1917 to 1918, 29 CFR 1926

Legal Authority: 29 USC 655 (b)

Legal Deadline: None

Timetable:

| Action | Date | FR Cite |
|-------------------|------------|---------|
| Direct Final Rule | 08/00/2011 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Small Entities Affected: No

Federalism: No

Included In the Regulatory Plan: No

RIN Data Printed in the FR: No

Related RINs: Related to 1218-AC08

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DOL/OSHA

RIN: 1218-AC65

Publication ID: Spring 2011

Title: •Updating OSHA Standards Based on National Consensus Standards—Personal Protection Equipment

Abstract: Under section 6(a) of the OSH Act, during the first two years of the Act, the Agency was directed to adopt national consensus standards as OSHA standards. Some of these standards were adopted as regulatory text, while others were incorporated by reference. In the more than 40 years since these standards were adopted by OSHA, the organizations responsible for these consensus standards have issued updated versions of these standards. However, in most cases, OSHA has not revised its regulations to reflect later editions of the consensus standards. OSHA standards also continue to incorporate by reference various consensus standards that are now outdated and, in some cases, out of print. The Agency is undertaking a multi-year project to update these standards. A notice describing the project was published in November 2004 (69 FR 68283). As part of this multi-year project, OSHA published a Direct Final Rule (DFR) for Acetylene and a final rule on Personal Protective Equipment (PPE). The PPE Final Rule, published September 2009, amended the general industry PPE standard and incorporated by reference a number of updated consensus standards governing the design and testing of certain types of PPE. The Final Rule did not update PPE standards for the construction industry; these standards currently refer to outdated consensus rules. In addition, while the Final Rule was undergoing final OMB review, ANSI published a 2009 edition of the Head Protection (ANSI Z-89.1) consensus standard. This current project will now incorporate the latest PPE consensus standards for the general, construction, and maritime industries

Agency: Department of Labor(DOL)

Priority: Substantive, Nonsignificant

RIN Status: First time published in the Unified Agenda

Agenda Stage of Rulemaking: Final Rule Stage

Major: Undetermined

Unfunded Mandates: No

CFR Citation: 29 CFR 1910; 29 CFR 1915; 29 CFR 1917 to 1918; 29 CFR 1926

Legal Authority: 29 USC 655 (b)

Legal Deadline: None

Timetable:

| Action | Date | FR Cite |
|-------------------|------------|---------|
| Direct Final Rule | 10/00/2011 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Small Entities Affected: No

Federalism: No

Included in the Regulatory Plan: No

RIN Data Printed in the FR: No

Related RINs: Related to 1218-AC08

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DOL/OSHA

RIN: 1218-AC19

Publication ID: Spring 2011

Title: Standards Improvement Project (SIP III)

Abstract: OSHA is continuing its efforts to remove or revise duplicative, unnecessary, and inconsistent safety and health standards. This effort builds upon the success of the Standards Improvement Project (SIP) Phase I published on June 18, 1998 (63 FR 33450), and Phase II published on January 5, 2005 (70 FR 1111). The Agency believes that such changes can reduce compliance costs and reduce the paperwork burden associated with a number of its standards. The Agency will only consider such changes if they do not diminish employee protections. To initiate the project, OSHA published an advance notice of proposed rulemaking (ANPRM) on December 21, 2006, to solicit input from the public on rules that may be addressed in Phase III of SIP. The Agency plans to include both safety and health topics in Phase III. OSHA published a NPRM on July 2, 2010. The comment period closed on September 30, 2010. The next action for this rulemaking is to publish the final rule.

Agency: Department of Labor(DOL)**Priority:** Other Significant**RIN Status:** Previously published in the Unified Agenda**Agenda Stage of Rulemaking:** Completed Actions**Major:** No**Unfunded Mandates:** No**CFR Citation:** [29 CFR 1910](#); [29 CFR 1915](#); [29 CFR 1917 to 1919](#); [29 CFR 1926](#); [29 CFR 1928](#)**Legal Authority:** [29 USC 655\(b\)](#)**Legal Deadline:** None**Timetable:**

| Action | Date | FR Cite |
|--------------------------|------------|-----------------------------|
| ANPRM | 12/21/2006 | 71 FR 76623 |
| ANPRM Comment Period End | 02/20/2007 | |
| Analyze Record | 04/30/2007 | |
| NPRM | 07/02/2010 | 75 FR 38646 |
| NPRM Comment Period End | 09/30/2010 | |
| Final Action | 06/08/2011 | 76 FR 33590 |
| Final Action Effective | 07/08/2011 | |

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** Undetermined**Federalism:** No**Included in the Regulatory Plan:** No**RIN Data Printed in the FR:** No**Agency Contact:**

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Proposed Amendments with Changes Red-Lined

Chapter 0800-01-01

Rule 0800-01-01-.06 Amended

Paragraph (2) of Rule 0800-01-01-.06 Adoption and Citation of Federal Standards is amended by changing the date from "July 1, 2011" to "January 1, 2012".

Existing Rule:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1910, as of ~~July 1, 2011~~ except as provided in Rule 0800-01-01-.07 of this chapter.

Proposed Amended Rule:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1910, as of January 1, 2012 except as provided in Rule 0800-01-01-.07 of this chapter.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201.

Chapter 0800-01-06

Rule 0800-01-06-.02 Amended

Paragraph (2) of Rule 0800-01-06-.02 Adoption and Citation of Federal Standards is amended by changing the date from "July 1, 2011" to "January 1, 2012".

Existing Rule:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1926, as of ~~July 1, 2011~~ except as provided in Rule 0800-01-06-.03 of this chapter.

Proposed Amended Rule:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1926, as of January 1, 2012 except as provided in Rule 0800-01-06-.03 of this chapter.

Authority: T.C.A. §§ 4-3-1411, 50-3-103 and 50-3-201.

Chapter 0800-01-07

Rule 0800-01-07-.01 Amended

Paragraph (2) of Rule 0800-01-07-.01 Adoption and Citation of Federal Standards is amended by changing the date from "July 1, 2011" to "January 1, 2012".

Existing Rule:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1928, as of ~~July 1, 2011~~ except as provided in Rule 0800-01-07-.02 of this chapter.

Proposed Amended Rule:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1928, as of January 1, 2012 except as provided in Rule 0800-01-07-.02 of this chapter.

Authority: T.C.A. §§4-3-1411 and 50-3-201.

Rule 0800-01-07-.02 Amended

Paragraph (1) of Rule 0800-01-07-.02 Exceptions to Adoption of Federal Standards in 29 CFR Part 1928 is amended by changing the date from "July 1, 2011" to "January 1, 2012".

Existing Rule:

- (1) As of ~~July 1, 2011~~, there are no exceptions.

Proposed Amended Rule:

- (1) As of January 1, 2012, there are no exceptions.

Authority: T.C.A. §§4-3-1411 and 50-3-201.