

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-600]

Revocation of Advisory and Repetitive Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Final rule.

SUMMARY: This final rule revokes 153 of the 194 provisions of the General Industry Standards (29 CFR Part 1910) which were proposed for revocation on May 28, 1982 (47 FR 23477). These provisions use the word "should," or other advisory language instead of the mandatory "shall." Also revoked are three sections whose requirements are repeated elsewhere in Part 1910, and one advisory paragraph which was improperly adopted by OSHA as a mandatory provision.

Forty-one provisions originally proposed for revocation are being retained. Public comment and evidence in the record indicates that some of these provisions provide valuable guidance to employers in addressing significant workplace hazards, while the others are tied to or are part of mandatory provisions and are critical to the application or understanding of those provisions.

In addition, OSHA is amending § 1910.6 to clarify that only mandatory provisions of standards incorporated by reference are adopted as OSHA standards.

The removal of these advisory and repetitive provisions from the standards will facilitate OSHA's enforcement responsibilities regarding these provisions, and will assist employers by improving the clarity of the standards.

EFFECTIVE DATE: This final rule becomes effective on February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3637, 200 Constitution Avenue NW., Washington, D.C. 20210, (202) 523-8151.

SUPPLEMENTARY INFORMATION:**I. Background**

On May 28, 1982, OSHA published (47 FR 23477) a proposed revocation of nearly 200 provisions of the General Industry Standards (Part 1910). Notices of corrections to the proposal were published on June 8, 1982, (47 FR 24751)

and June 15, 1982, (47 FR 25743). The purpose of the proposal was to correct problems that OSHA had encountered in enforcing some of the provisions in the initial package of Occupational Safety and Health Standards adopted under Section 6(a) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1593, 29 U.S.C. 655).

Many of the standards adopted under Section 6(a) were national consensus standards originally developed by the American National Standards Institute (ANSI) and the National Fire Protection Association (NFPA). Some of these standards contained advisory provisions which were adopted verbatim by OSHA. The advisory provisions generally provided that an employer "should" undertake specified safety or health obligations. For example, the third sentence of 29 CFR 1910.107(e)(7) provides that agitators, if used, "should" preferably be driven by compressed air, water, or low pressure stream.

In other instances, ANSI standards which contained "should" provisions were changed by OSHA to "shall" when the regulations were promulgated under Section 6(a). The sole remaining standard of this type is 29 CFR 1910.28(a)(3), which provides that guardrails *shall* be installed on platforms more than 10 feet in height. This regulation's ANSI precursor merely advised that guardrails *should* be provided.

In still other instances, OSHA incorporated by reference certain ANSI or NFPA consensus standards which contained advisory provisions. It is clear that the problems associated with the "should" standards and other advisory provisions which are actually published in Part 1910, are also present wherever such advisory provisions are found in standards incorporated by reference.

In the past, OSHA maintained that all standards, regardless of whether the term "should" or "shall" is used, created mandatory compliance responsibilities. Employers have consistently challenged this position on the basis that Section 6(a) of the Act only gave OSHA the authority to adopt ANSI standards verbatim. In ANSI standards, use of the term "should" means that the provision is only advisory. Therefore, employers maintained that ANSI "should" standards could only be advisory when adopted by OSHA under Section 6(a).

Enforcement of "should" standards has been denied by the Occupational Safety and Health Review Commission, and by most of the appellate courts in which contested cases have been heard. For example, in *Marshall v. Pittsburgh-Des Moines Steel Company*, 584 F.2d 638, 643-44 (1978), the Third Circuit

Court of Appeals determined that "should" standards were merely advisory because the consensus organization had reached "substantial agreement" that these provisions be viewed only as *recommendations*, and not as mandatory standards.

The courts have also ruled that failure to adopt an ANSI standard verbatim (in this case by changing a "should" to a "shall" in § 1910.28(a)(3)) renders the resulting OSHA Section 6(a) standard invalid and unenforceable [see *Usery v. Kennecott Copper Corporation*, 577 F.2d 1113, 1117 (10th Cir. 1977)].

Although the "should" standards have not have enforceable in and of themselves, OSHA has also employed the "should" provisions to demonstrate the existence of "recognized hazards" under the general duty clause [Section 5(a)(1)] of the Act. However, the Review Commission has ruled that, as long as the "should" standard remains in effect, even though it is not enforceable, OSHA may not issue a general duty clause citation for the hazard addressed by that "should" standard (see *A. Prokosch & Sons Sheet Metal and Mid Hudson Automatic Sprinkler*, 1980 CCH OSHO ¶24,840). This decision was of great concern to the Agency, since some of the "should" and other advisory provisions cover hazards which may be serious or potentially serious under certain conditions. The fact that OSHA cannot enforce these provisions either directly or indirectly leaves gaps in coverage, resulting in decreased safety and health protection for the nation's employees. Where these provisions cover hazards which may cause death or serious physical harm to employees, the revocation of such provisions will enable OSHA to issue citations for these hazards under the general duty clause.

Many of the "should" provisions in the OSHA standards have little direct or immediate relationship to employee safety and health. The removal of these advisory provisions will serve to simplify and streamline the existing Part 1910.

The standards contained in §§ 1910.166-168 are not "shoulds" or other advisory provisions. Rather, they are repetitions of requirements concerning compressed gas cylinders and compressed gas equipment which are also found in § 1910.101 of Subpart H. Their removal will not lessen employee protection in any way. Elimination of these repetitive sections will, however, serve to shorten and streamline Part 1910.

At its meeting on December 18, 1981, the National Advisory Committee on Occupational Safety and Health

(NACOSH) recommended that OSHA not proceed with deletion of advisory provisions at this time. Instead, the committee recommended that OSHA wait until the Agency could simultaneously propose mandatory rules under Section 6(b) of the Act to take the place of the advisory provisions wherever necessary. OSHA agreed with NACOSH that rulemaking action might be warranted in the future to provide specific coverage for certain hazards which are currently addressed only by advisory provisions. The need for future promulgation of mandatory provisions is discussed more fully below.

Based on OSHA's review of the comments, the Agency has determined that some of the "should" provisions proposed for revocation in May 1982 are not totally advisory, in that they are an essential part of, or otherwise tied to, a mandatory provision. For example, the note to Table G-16 of § 1910.95, Occupational Noise Exposure, is necessary for the proper interpretation and use of the Table. There are other provisions which, though advisory on their face, are relied upon for valuable guidance in insuring a safe workplace when dealing with potentially serious hazards, while still others are used by other federal agencies, such as the Federal Communications Commission (FCC), in exercising its own statutory obligations. OSHA believes that revocation of these provisions would have deleterious effects and would not accomplish the purposes of the revocation as expressed in the proposal. A discussion of the provisions being revoked and of those being retained is found in the summary and explanation of the final rule.

In this preamble, OSHA identifies exhibits submitted to Docket S-600 with parentheses (Ex. 5). Comment numbers follow the exhibit in which they are contained (Ex. 5: 24). If more than one comment within an exhibit is cited, the comment numbers are separated by semicolons (Ex. 5: 24; 102).

II. Public Response to the Proposal

The comment period, originally scheduled to be closed on July 27, 1982, was later extended to September 10, 1982 (47 FR 34577). A total of 58 comments were received.

Twenty two (22) commenters (e.g., Ex. 2: 1; 2: 2; 2: 4; 2: 5; 2: 8) were generally supportive of the proposed revocation, and for the most part did not discuss any of the specific provisions. For example, Mr. James McKarns, (Ex. 2: 4) an industrial hygienist, stated " * * * I agree with the proposal to revoke the 194 advisory statements and standards enumerated."

Eighteen (18) commenters (e.g., Ex. 2: 6; 2: 7; 2: 9; 2: 11; and 2: 13) generally opposed the proposed revocations because they felt that even though the advisory provisions were not enforceable, a reduction in employee safety and health would result from their removal. For example, the Hoist Manufacturers Institute (Ex. 2: 13), in its comment stated, " * * * we believe the proposed revocation of advisory OSHA standards would be both unwise and in violation of OSHA's primary obligation to assure * * * safe and healthful working conditions." The National Society to Prevent Blindness stated, "While we recognize the legal difficulties presented to OSHA by the use of the word 'should' in many standards adopted by the Agency, revoking them would have an effect exactly opposite as to the Agency's goal—reducing workplace injuries."

Twelve (12) of the 18 commenters (e.g., Ex. 2: 19; 2: 35; 2: 40; and 2: 50), in addition to objecting generally to the proposal, suggested that OSHA convert all the "shoulds" to "shalls" in accordance with the procedure recommended by NACOSH. For example, the Phillips Petroleum Company (Ex. 2: 19) stated, "If it is determined that advisory standards should be revoked, we believe that OSHA should follow the recommendation of the National Advisory Committee on Occupational Safety and Health (NACOSH)."

The State of California (Ex. 2: 58) stated, " * * * although we do not have access to the details of the arguments presented at the NACOSH meeting in December 1981, we agree with the Committee's recommendation that OSHA not proceed to delete rules until replacement rules are in effect."

Three commenters (Ex. 2: 7; 2: 39; and 2: 52) addressed the issue of the proposed revocation of the three repetitive sections (§§ 1910.166-1910.168), while only two commenters (Ex. 2: 7; and 2: 20) addressed the issue of the proposed amendment to § 1910.6.

Only one request (Ex. 2: 6) for an informal public hearing was received, but was later withdrawn (Ex. 2: 59). Therefore, no public hearing was held on the proposal.

III. Summary and Explanation of the Final Rule

OSHA has determined that most of the proposed revocations will not reduce the safety and health of employees. However, where OSHA believes that revocation of a given provision might diminish employee protection, the provision in question is being retained in Part 1910. OSHA would like to point out,

in addition, that 78 of the 194 provisions originally proposed for revocation are contained in standards already scheduled for revision by section 6(b) rulemaking in the future. These provisions include those contained in Subparts D and H, and in § 1910.66, § 1910.95, § 1910.97, and § 1910.134. It is expected that mandatory provisions will be proposed in these revisions where necessary to replace the advisory provisions currently contained in those sections.

After consideration of the evidence and public comment, OSHA has decided to revoke 153 of the 194 provisions originally proposed for revocation, and to amend § 1910.6 in the manner proposed. These 153 items, including the improperly promulgated "shall" in § 1910.28(a)(3), are being revoked (as discussed in the proposal, and again in the *Background* section of this document) because they have been determined to be unenforceable, and it is the OSHA's conclusion that their elimination will not adversely affect the safety and health of the employees covered by the OSHA standards. Revocation of the repetitive sections (§§ 1910.166-168) will simplify and streamline the existing OSHA General Industry Standards.

However, after reviewing the record, OSHA has determined that 41 of the provisions which were proposed for revocation should, in fact, be retained in OSHA standards. Each of these 41 provisions is being retained for one, or both, of two reasons: (1) The provision provides valuable guidance for employers and employees in achieving a safe and healthful workplace; or (2) Its retention is necessary for the application or understanding of an existing mandatory provision of the OSHA standards. A discussion of each of these areas follows.

A. The record reflects that some of the provisions originally proposed for revocation are valuable even though they are unenforceable, because they are relied upon in many situations for guidance in providing and maintaining a safe and healthful workplace. OSHA, in reviewing the record, has determined that the benefits to employee safety and health are sufficient to justify leaving these provisions in place until they can be replaced by mandatory provisions.

For example, the FCC (Ex. 2: 29) recognizes that § 1910.97 is only advisory, but recommends that the standard be retained until a replacement is promulgated because " * * * the lack of any standard will leave a vacuum that may create serious problems for Federal and state agencies

with an interest in the use of RF energy."

The Atlantic Richfield Company (Ex. 2: 31) in expressing its concerns regarding proposed revocations of parts of the respiratory protection standard (§ 1910.134) stated, "This action may materially affect the level of protection afforded employees who must utilize respiratory protective devices." Atlantic Richfield went on to recommend that OSHA not revoke these provisions, but leave them until a section 6(b) rulemaking can be initiated to revise § 1910.134.

The Bakery, Confectionary and Tobacco Workers International Union (Ex. 2: 11), in opposing the proposed revocation of § 1910.263(i)(11) and § 1910.263(j)(1)(vii)(c), stated that "... [the two provisions] have proved indispensable in ensuring safer working conditions in the baking industry."

The American Petroleum Institute (Ex. 2: 27), while generally sympathetic to OSHA's position on the "should" provisions, nevertheless believes

"... That certain of the advisory provisions in question provide useful guidance to employers in implementing employee protection programs and believes that deletion of such provisions may work to the detriment of near term employee welfare."

The United Steelworkers of America (Ex. 2: 24), in opposing the OSHA proposal, stated "I have listed below several examples of 'should' standards which you propose to delete that cover serious safety and health standards. This is only a partial list. There are many others that at least inform an employer that a serious hazard exists * * *." The provisions listed by the Steelworkers include two from § 1910.25, one from § 1910.134, three from § 1910.252 and one from § 1910.265.

It is evident that although there is not complete agreement on which provisions should be retained because of their valuable guidance, there is sufficient justification for retention of a significant number of these provisions. A list of provisions being retained for their guidance value appears later in this summary and explanation section.

B. Secondly, OSHA recognizes that some of the proposed revocations involve provisions which, although advisory on their face, are actually either tied to or part of mandatory provisions, and are critical for the application and understanding of these provisions.

For example, numerous objections to revoking the footnote to Table G-16, § 1910.95 (Occupational Noise Exposure), were received. Alice Suter

(Ex. 2: 30), an industrial audiologist, commented that "To delete the footnote to Table G-16 would give employers the impression that these provisions are unnecessary to protect the hearing and health of their employees." The DuPont Company (Ex. 2: 32) stated in its comment that "To effectively carry out the intent of Table G-16, the footnote should be part of the Table." The Shell Oil Company (Ex. 2: 42) felt that the deletion of the footnote "... may substantially reduce employee protection from noise exposure. It would eliminate the combined effect of noise exposure periods and delete the peak impulsive or impact noise restriction of 140 db."

Another example of a provision tied to or part of a mandatory provision, and necessary for the application or understanding of the mandatory provision is § 1910.66(d)(8)(ii), which states that fastening devices for safety belts "should" be of the self-closing type. Safety belts are mandated in § 1910.66(d)(8)(i). Since adequate fastening devices are essential in the use of safety belts, the "should" provision is necessary for the application of the total safety belt provision.

Table I presents a complete listing of the provisions being retained because of their guidance value. Those provisions included in standards for which revisions are planned in the future are denoted by an asterisk.

Table I.—Provisions Which Provide Guidance

- * 1. The phrase "and false floors, platforms, mats, or other dry standing places should be provided where practicable" in the second sentence of paragraph (a)(2) of § 1910.22.
- * 2. The third sentence of paragraph (e)(5)(i) of § 1910.23.
- * 3. Paragraph (c)(5) of § 1910.25.
- * 4. Paragraph (d)(1)(xi) of § 1910.25.
- * 5. Paragraph (d)(2)(ii) of § 1910.25.
- * 6. Paragraph (d)(2)(xv) of § 1910.25.
- * 7. Paragraph (d)(2)(xvii) of § 1910.25.
- * 8. The first sentence of paragraph (d)(2)(ix) of § 1910.25.
- * 9. Paragraph (c)(2)(vi)(d) of § 1910.26.
- * 10. Paragraph (c)(3)(vii) of § 1910.26.
- * 11. Paragraph (d)(8)(ii) of § 1910.66.
12. Paragraph (c)(6)(iii)(a) of § 1910.94.
- * 13. § 1910.97.
14. Paragraph (a)(2)(vii) of § 1910.133.
- * 15. Paragraph (b)(10) of § 1910.134.
- * 16. The second and third sentences of paragraph (e)(1) of § 1910.134.
- * 17. The second, third and fifth sentences of paragraph (f)(5)(i) of § 1910.134.
- * 18. Paragraph (f)(5)(ii) of § 1910.134.
19. Paragraph (e)(2) of § 1910.145.
20. Paragraph (i)(3)(vi) of § 1910.181.
21. Paragraph (i)(4)(ii) of § 1910.181.
22. Paragraph (b)(4) of § 1910.213.
23. Paragraph (l)(2) of § 1910.213.
24. Paragraph (m)(1)(ii) of § 1910.219.

25. The second sentence of paragraph (b)(4)(viii) of § 1910.252.

26. The first sentence of paragraph (b)(4)(ix)(a) of § 1910.252.

27. The second sentence of paragraph (f)(11)(ii) of § 1910.252.

28. The third sentence of paragraph (l)(9)(i) of § 1910.261.

29. The phrases "and should not be operated at a speed greater than" and "which," in the first sentence of paragraph (y)(1)(iv) of § 1910.262.

30. Paragraph (c)(12)(i) of § 1910.265.

31. Paragraph (c)(20)(i) of § 1910.265.

Table II presents a complete listing of the provisions being retained because they are tied to, or part of, mandatory provisions. Those provisions included in standards for which revisions are planned in the future are denoted by an asterisk.

Table II.—Provisions Which Are Tied to, or Part of, Mandatory Provisions

- * 1. Paragraph (d)(8)(ii) of § 1910.66.
 - * 2. The entire footnote at the end of Table G-16 of § 1910.95.
 - * 3. The phrase "in addition, they should be separated from each other by not less than the distances shown for a 'Separation of Magazines,' except that the quantity of explosives contained in cap magazines shall govern in regard to the spacing of said cap magazines" in note 4 of Table H-21, § 1910.109.
 - * 4. The third sentence (including the entire formula for determining maximum volume of LP Gas) and notes at the end of paragraph (b)(19)(v)(a) of § 1910.110.
 - * 5. The second and third sentences of paragraph (e)(1) of § 1910.134.
 - * 6. The second, third and fifth sentences of paragraph (f)(5)(i) of § 1910.134.
 7. The third sentence of paragraph (p)(1) of § 1910.213.
 8. The phrase "should not exceed 90° or one-fourth of the periphery" in the first sentence, and the phrase "This exposure" in the second sentence of paragraph (b)(3) of § 1910.215.
 9. The second sentence of paragraph (a)(3)(iv) of § 1910.218.
 10. The first and second sentences of paragraph (b)(2)(iv)(d) of § 1910.252.
 11. The phrase "those on the unloading side should be partially cut through first, and then the binder wires cut on the opposite side. Wire cutters equipped with long extension handles shall be used." In the first and second sentences of paragraph (c)(4)(iii) of § 1910.261.
 12. The third sentence of paragraph (l)(9)(i) of § 1910.261.
 13. The second sentence of paragraph (i)(11) of § 1910.263.
 14. The second and third sentences of paragraph (j)(1)(vii)(c) of § 1910.263.
- The remaining 22 (unasterisked) of these retained provisions in Tables I and II are contained in standards for which early rulemaking is not currently contemplated. However, OSHA plans to incorporate proposed amendments of

these provisions into its review and revision of the various subparts of Part 1910 when it updates these subparts in the future.

In summary, OSHA has determined that the 41 provisions being retained are too important for the establishment and maintenance of a safe and healthful workplace to be removed without simultaneous replacement by a mandatory requirement. However, the problems with enforcement of these provisions remains as long as they are left in place. It is anticipated, therefore, that *all* of the topics addressed by these 41 provisions will be the subject of 6(b) rulemaking in the future to develop provisions which are mandatory and fully enforceable.

IV. Regulatory Assessment

The revocation of "should" and other advisory or repetitive provisions of the General Industry Safety and Health Standards is not a "major" action as defined by Executive Order Number 12291 (46 FR 13193, February 19, 1981) as it does not have an annual effect on the economy of \$100 million or more; cause major increases in costs or prices; or have other significant adverse effects. Revocation of these provisions does not constitute a "major rule" primarily because few, if any, additional requirements are imposed on industry. Revocation relieves current regulatory burdens created by the uncertainty regarding the enforceability of these provisions.

For the same reason, it is certified that pursuant to the provisions of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601) these revocations do not have a significant economic impact on a substantial number of small entities.

V. List of Subjects in 29 CFR Part 1910

Explosives, Flammable materials, Gases, Hazardous materials, Health, Industrial trucks, Ladders and scaffolds, Machinery, Occupational safety and health, Protective equipment, Respiratory protection, Safety, Signs and symbols, Tools, Welding.

VI. Effective Date

Because this regulatory action involves deletion of unenforceable standards, OSHA has determined that there is good cause to make this final rule effective immediately, pursuant to 5 U.S.C. 553(d). Therefore the revocations listed herein are effective on February 10, 1984. The 24 States with their own OSHA approved occupational safety and health plans must adopt comparable standards within six months of this publication date. These are: Alaska,

Arizona, California, Connecticut (for state and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming.

VII. Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, pursuant to sections 6(b) and 8(g) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1600; 29 U.S.C. 655, 657), Secretary of Labor's Order No. 9-83 (48 FR 35736) and 29 CFR Part 1911, 29 CFR Part 1910 is amended as set forth below.

Signed at Washington, D.C., this 7th day of February 1984.

Thorne G. Auchter,
Assistant Secretary of Labor.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Part 1910 of Title 29 of the Code of Federal Regulations is amended as follows:

A. Paragraph (a) of §1910.6 is revised to read as follows:

§ 1910.6 Incorporation by reference.

(a) The standards of agencies of the U.S. Government, and organizations which are not agencies of the U.S. Government which are incorporated by reference in this Part, have the same force and effect as other standards in this Part. Only the mandatory provisions (i.e., provisions containing the word "shall" or other mandatory language) of standards incorporated by reference are adopted as standards under the Occupational Safety and Health Act.

* * * * *

§ 1910.24 [Amended]

B. The heading of paragraph (g) of § 1910.24 is revised to read "Stairway platforms."

C. 29 CFR Part 1910 is further amended as follows:

Subpart D—Walking-Working Surfaces

§ 1910.23 Guarding floor and wall openings and holes. [Amended]

1. The phrase, "and should preferably be hinged or otherwise mounted so as to be conveniently replaceable," in the second sentence of paragraph (a)(3)(ii) of § 1910.23 is removed.

2. The phrase, "which should be hinged in place," in the first sentence of paragraph (a)(5) of § 1910.23 is removed.

3. The phrase, "that should be hinged in place," in the first sentence of paragraph (a)(8)(ii) of § 1910.23 is removed.

4. The second sentence of paragraph (b)(1)(i) of § 1910.23 is removed.

§ 1910.24 Fixed industrial stairs. [Amended]

5. The first two sentences of paragraph (f) of § 1910.24 are removed.

6. The first two sentences of paragraph (g) of § 1910.24 are removed.

7. Paragraph (j) of § 1910.24 is removed.

§ 1910.25 Portable wood ladders. [Amended]

8. Paragraph (d)(2)(vi) of § 1910.25 is removed.

9. Paragraph (d)(2)(vii) of § 1910.25 is removed.

10. The second sentence of paragraph (d)(2)(xiv) of § 1910.25 is removed.

11. Paragraph (d)(2)(xvi) of § 1910.25 is removed.

12. Paragraph (d)(2)(xviii) of § 1910.25 is removed.

§ 1910.26 Portable metal ladders. [Amended]

13. The second sentence of paragraph (c)(2)(iv) of § 1910.26 is removed.

14. Paragraph (c)(2)(v) of § 1910.26 is removed.

15. The first sentence of the introductory text of paragraph (c)(2)(vi) of § 1910.26 is removed.

16. Paragraph (c)(2)(vi)(b) of § 1910.26 is removed.

17. Paragraph (c)(2)(vi)(c) of § 1910.26 is removed.

18. The first sentence of paragraph (c)(3)(i) of § 1910.26 is removed.

19. The second and third sentences of paragraph (c)(3)(iii) of § 1910.26 are removed.

20. The second sentence of paragraph (c)(3)(iv) of § 1910.26 is removed.

§ 1910.28 Safety requirements for scaffolding. [Amended]

21. Paragraph (a)(3) of § 1910.28 is removed.

22. Paragraph (p)(1) of § 1910.28 is removed.

23. The words "they should be arranged so as to provide four ends which are to be securely fastened to an overhead support" in the third sentence of paragraph (u)(5) of § 1910.28 are removed and the remainder of the third sentence is combined with the fourth sentence.

§ 1910.30 Other working surfaces. [Amended]

24. The phrase, "and should be defined by marking," in the second sentence of paragraph (b)(2) of § 1910.30, is removed.

Subpart F—Powered Platforms, Manlifts and Vehicle-Mounted Work Platforms

§ 1910.66 Powered Platforms for exterior building maintenance. [Amended]

25. The first sentence of paragraph (c)(20)(viii) of § 1910.66 is removed.

Subpart G—Occupational Health and Environmental Control

§ 1910.94 Ventilation. [Amended]

26. The phrase, "periodically, thereafter, the air flow should be remeasured, and," in the fourth sentence of paragraph (d)(8)(iii) of § 1910.94 is removed.

Subpart H—Hazardous Materials

§ 1910.107 Spray finishing using flammable and combustible materials. [Amended]

27. The fourth, fifth and sixth sentences of paragraph (b)(5)(i) of § 1910.107 are removed.

28. Paragraph (c)(9)(ii) of § 1910.107 is removed.

29. The third sentence of paragraph (e)(7) of § 1910.107 is removed.

30. The second sentence of paragraph (i)(3) of § 1910.107 is removed.

§ 1910.108 Dip tanks containing flammable or combustible liquids. [Amended]

31. The second sentence of paragraph (c)(1) of § 1910.108 is removed.

32. The second, third and fourth sentences of paragraph (c)(2)(i) of § 1910.108 are removed.

33. The second sentence of paragraph (g)(3)(ii)(a) of § 1910.108 is removed.

34. The phrase, "and should be at least five feet from processing equipment," in the second sentence of paragraph (h)(3)(x) of § 1910.108 is removed.

§ 1910.110 Storage and handling of liquefied petroleum gases. [Amended]

35. The fourth sentence of paragraph (b)(10)(xii) of § 1910.110 is removed.

36. The note, "Fixed electrical equipment should preferably not be installed" in the fourth column, Table H-28 of § 1910.110, is removed.

37. The second sentence of paragraph (d)(7)(vi)(b) of § 1910.110 is removed.

38. The words, "pits and," in the heading and the first sentence of paragraph (d)(11) of § 1910.110 are removed.

39. The first sentence of paragraph (e)(5)(iv)(e) of § 1910.110 is removed.

40. The words "should preferably be stored in the open" and "they" in paragraph (f)(2)(v) of § 1910.110 are removed and the two sentences are combined into one.

41. Paragraph (h)(4)(iii)(b) of § 1910.110 is removed.

§ 1910.111 Storage and handling of anhydrous ammonia. [Amended]

42. Paragraph (b)(10)(i) of § 1910.111 is removed.

43. Paragraph (b)(15) of § 1910.111 is removed.

Subpart I—Personal Protective Equipment

§ 1910.134 Respiratory protection. [Amended]

44. Paragraph (b)(4) of § 1910.134 is removed.

45. The second sentence of paragraph (b)(5) of § 1910.134 is removed.

46. The fourth, fifth, and sixth sentences of paragraph (e)(2) of § 1910.134 are removed.

47. The second and third sentences of paragraph (f)(3) of § 1910.134 are removed.

Subpart J—General Environmental Controls

§ 1910.144 Safety color code for marking physical hazards. [Amended]

48. The second sentence of paragraph (a)(3) of § 1910.144 is removed.

§ 1910.145 Specifications for accident prevention signs and tags. [Amended]

49. The first sentence of paragraph (c)(1)(i) of § 1910.145 is removed.

50. The phrase, "but should be used until a positive means can be employed to eliminate the hazard," in the second sentence of paragraph (f)(1)(i) of § 1910.145 is removed.

51. Paragraph (f)(4)(i) of § 1910.145 is removed.

52. Paragraph (f)(4)(ii) of § 1910.145 is removed.

53. Paragraph (f)(5)(i) of § 1910.145 is removed.

54. Paragraph (f)(5)(ii) of § 1910.145 is removed.

55. Paragraph (f)(6) of § 1910.145 is removed.

Subpart M—Compressed Gas and Compressed Air Equipment

§ 1910.166 Inspection of compressed gas cylinders. [Removed]

56. The heading and text of § 1910.166 is removed. The section number is reserved.

§ 1910.167 Safety relief devices for compressed gas cylinders. [Removed]

57. The heading and text of § 1910.167 is removed. The section number is reserved.

§ 1910.168 Safety relief devices for cargo and portable tanks storing compressed gases. [Removed]

58. The heading and text of § 1910.168 is removed. The section number is reserved.

§ 1910.169 Air receivers. [Amended]

59. The second and fourth sentences of paragraph (b)(1) of § 1910.169 are removed.

Subpart N—Materials Handling and Storage

§ 1910.178 Powered industrial trucks. [Amended]

60. Paragraph (g)(3) of § 1910.178 is removed.

61. The first sentence of paragraph (g)(9) of § 1910.178 is removed.

62. Paragraph (h)(1) of § 1910.178 is removed.

63. Paragraph (i)(2) of § 1910.178 is removed.

64. Paragraph (n)(7)(ii) of § 1910.178 is removed.

65. The first sentence of paragraph (o)(4) of § 1910.178 is removed.

§ 1910.179 Overhead and gantry cranes. [Amended]

66. The second sentence of paragraph (b)(2) of § 1910.179 is removed.

67. Paragraph (c)(1)(iii) of § 1910.179 is removed.

68. The first sentence of paragraph (c)(3) of § 1910.179 is removed.

69. The second sentence of paragraph (d)(1)(i) of § 1910.179 is removed.

70. The first and third sentences of paragraph (d)(1)(ii) of § 1910.179 are removed. The second sentence of that paragraph is revised to read as follows: "Where footwalks are located in no case shall less than 48 inches of headroom be provided."

71. Paragraph (d)(2)(iii) of § 1910.179 is removed.

72. The first sentence of paragraph (d)(2)(iv) of § 1910.179 is removed.

73. Paragraph (j)(3)(ix) of § 1910.179 is removed.

74. The second sentence of paragraph (j)(4)(iii) of § 1910.179 is removed.

75. The first two sentences of paragraph (k)(2) of § 1910.179 are removed.

76. Paragraph (l)(2)(i)(f) of § 1910.179 is removed.

§ 1910.180 Crawler locomotive and truck cranes. [Amended]

77. Paragraph (h)(3)(ii)(d) of § 1910.180 is removed.

§ 1910.181 Derricks. [Amended]

78. The second sentence of paragraph (b)(2) of § 1910.181 is removed.

79. All of paragraph (d)(3)(i)(f) except the word "Hooks" is removed.

80. The second sentence of paragraph (d)(4)(iii) of § 1910.181 is removed.

81. Paragraph (i)(3)(ii)(d) of § 1910.181 is removed.

Subpart O—Machinery and Machine Guarding**§ 1910.213 Woodworking machinery requirements. [Amended]**

82. The fifth sentence of paragraph (c)(1) of § 1910.213 is removed.

83. The phrase, "and should be placed so that there is not more than ½-inch space between the spreader and the back of the saw when the largest saw is mounted in the machine" in the fourth sentence of paragraph (c)(2) of § 1910.213, is removed.

84. Paragraph (d)(2) of § 1910.213 is removed.

85. The fourth sentence of paragraph (h)(5) of § 1910.213 is removed.

86. The phrase, "and the top member of the guard should have at least a 2-inch clearance outside the saw and be lined with smooth material, preferably metal," in the ninth sentence of paragraph (i)(1) of § 1910.213, is removed.

87. The tenth sentence of paragraph (i)(1) of § 1910.213 is removed.

88. Paragraph (m)(2) of § 1910.213 is removed.

89. The phrase, "which should be hinged to the machines so that they can be thrown back for making adjustments," in paragraph (o)(2) of § 1910.213, is removed.

§ 1910.215 Abrasive wheel machinery. [Amended]

90. The phrase, "and should be greater where practicable," in the second sentence of paragraph (c)(8)(i) of § 1910.215 is removed.

91. The phrase, "and should be greater where practicable," in the second sentence of paragraph (c)(8)(ii) of § 1910.215, is removed.

92. The phrase, "and should be greater where practicable," in the second sentence of paragraph (c)(8)(iii) of § 1910.215, is removed.

93. The second and third sentences of paragraph (d)(5) of § 1910.215, is removed.

94. Paragraph (d)(7) of § 1910.215 is removed.

§ 1910.216 Mills and calendars in the rubber and plastics industries. [Amended]

95. The third sentence of paragraph (b)(1)(i) of § 1910.216 is removed.

96. Paragraph (b)(2) of § 1910.216 is removed.

97. The second and third sentences of paragraph (c)(2) of § 1910.216 are removed.

98. Paragraph (g) of § 1910.216 is removed.

§ 1910.218 Forging machines. [Amended]

99. The second, third and fourth sentences of paragraph (a)(3)(v) of § 1910.218 are removed.

100. The phrase, "and should not project more than 2 inches in front and 4 inches in back of ram or die," in paragraph (b)(1) of § 1910.218, is removed.

101. The phrase, "and should be conveniently located and distinctly marked for ease of identification" in paragraph (e)(1)(ii) of § 1910.218 is removed.

102. The second, third and fourth sentences of paragraph (h)(4) of § 1910.218 are removed.

103. The second and third sentences of paragraph (j)(2) of § 1910.218 are removed.

§ 1910.219 Mechanical power transmission apparatus. [Amended]

104. Paragraph (d)(2)(ii) of § 1910.219 is removed.

105. Paragraph (l)(1)(iii) of § 1910.219 is removed.

106. The second sentence of paragraph (l)(3) of § 1910.219 is removed.

107. The seventh sentence of paragraph (o)(5)(ii) of § 1910.219 is removed.

108. The second sentence of paragraph (o)(5)(iii) of § 1910.219 is removed.

109. Paragraph (p)(5)(ii) of § 1910.219 is removed.

110. Paragraph (p)(5)(iii) of § 1910.219 is removed.

111. Paragraph (p)(5)(iv) of § 1910.219 is removed.

112. Paragraph (p)(6)(iii) of § 1910.219 is removed.

113. The phrase, "and should use cans with long spouts to keep their hands out of danger," in the first sentence of paragraph (p)(7) of § 1910.219 is removed.

Subpart P—Hand and Portable Tools and Other Hand-Held Equipment**§ 1910.243 Guarding of portable powered tools. [Amended]**

114. The phrase, "and hands should be kept clear of the open barrel end," in the

second sentence of paragraph (d)(4)(iii) of § 1910.243, is removed.

115. The fourth sentence of paragraph (d)(4)(v) of § 1910.243 is removed.

§ 1910.244 Other portable tools and equipment. [Amended]

116. The second sentence of paragraph (a)(2)(v) of § 1910.244 is removed.

Subpart Q—Welding, Cutting, and Brazing**§ 1910.252 Welding, cutting, and brazing. [Amended]**

117. The fourth sentence of paragraph (a)(2)(iii)(a) of § 1910.252 is removed.

118. Paragraph (a)(3)(v)(e) of § 1910.252 is removed.

119. The second sentence of paragraph (a)(4)(iii)(e) of § 1910.252 is removed.

120. The second sentence of paragraph (a)(6)(vii)(f) of § 1910.252 is removed.

121. The first sentence of paragraph (b)(2)(iii) of § 1910.252 is removed.

122. The second sentence of paragraph (b)(2)(iv)(a) of § 1910.252 is removed.

123. The phrase, "and appropriate periodic inspections should be conducted as to ascertain that no condition of electrolysis or shock, or fire hazard exists by virtue of such use," in paragraph (b)(3)(ii)(d) of § 1910.252 is removed.

124. The first sentence of paragraph (b)(4)(ix)(c) of § 1910.252 is removed.

125. The third and fourth sentences of paragraph (d)(2)(vii) of § 1910.252 are removed.

126. The second and third sentences of paragraph (d)(2)(xv) of § 1910.252 are removed.

127. The second and third sentences of paragraph (e)(2)(i)(a) of § 1910.252 are removed.

128. Paragraph (e)(2)(ii)(f) of § 1910.252 is removed.

129. Paragraph (f)(1)(ii) of § 1910.252 is removed.

130. The second sentence of paragraph (f)(13) of § 1910.252 is removed.

Subpart R—Special Industries**§ 1910.261 Pulp, paper, and paperboard mills. [Amended]**

131. Paragraph (d)(4)(i) of § 1910.261 is removed.

132. The second sentence of paragraph (d)(4)(ii) of § 1910.261 is removed.

133. Paragraph (d)(4)(iv) of § 1910.261 is removed.

134. The second sentence of paragraph (e)(17) of § 1910.261 is removed.

135. The third sentence of paragraph (e)(18) of § 1910.261 is removed.

136. Paragraph (f)(6)(iii) of § 1910.261 is removed.

137. The phrase, "and buildings should be designed with explosion relief," in paragraph (g)(1)(iii) of § 1910.261, is removed.

138. The phrase, "and should be replaced when necessary," in the second sentence of paragraph (g)(12)(iii) of § 1910.261 is removed.

139. Paragraph (g)(14)(iv) of § 1910.261 is removed.

140. Paragraph (g)(19)(i) of § 1910.261 is removed.

141. Paragraph (g)(19)(ii) of § 1910.261 is removed.

142. The second sentence of paragraph (h)(1) of § 1910.261 is removed.

143. The second sentence of paragraph (h)(3)(v) of § 1910.261 is removed.

144. Paragraph (j)(4)(v) of § 1910.261 is removed.

145. Paragraph (k)(5) of § 1910.261 is removed.

146. The second and third sentences of paragraph (k)(18) of § 1910.261 are removed.

147. Paragraph (k)(19)(i) of § 1910.261 is removed.

148. Paragraph (k)(19)(ii) of § 1910.261 is removed.

149. The first sentence of paragraph (k)(22) of § 1910.261 is removed.

150. Paragraph (k)(26)(ii) of § 1910.261 is removed.

151. The first and third sentences of paragraph (k)(29) of § 1910.261 are removed.

152. The second sentence of paragraph (k)(30) of § 1910.261 is removed.

§ 1910.262 Textiles. [Amended]

153. The second sentence of paragraph (cc)(1) of § 1910.262 is removed.

(Secs. 6, 8, 84 Stat. 1593, 1600 (29 U.S.C. 655, 657), Secretary of Labor's Order No. 9-83 (48 FR 35736), 29 CFR Part 1911)

(FR Doc. 84-3771 Filed 2-9-84; 8:45 am)

BILLING CODE 4510-26-M