securities are acquired to meet the 25 and 50-percent tests), but are not treated as securities of an issuer for purposes of the numerator of the 25 and 50-percent tests. In addition, for a transfer of a participating interest in a division of a common trust fund not to be considered an admission or withdrawal, each participant's pro rata interest in each of the resulting common trust funds must be substantially the same as was the participant's pro rata interest in the dividing fund. However, in the case of the division of a common trust fund maintained by two or more banks that are members of the same affiliated group resulting from the termination of such affiliation, the division will be treated as meeting the requirements of the preceding sentence if the written plans of operation of the resulting common trust funds are substantially identical to the plan of operation of the dividing common trust fund, each of the assets of the dividing common trust fund are distributed substantially pro rata to each of the resulting common trust funds, and each participant's aggregate interest in the assets of the resulting common trust funds of which he or she is a participant in substantially the same as was the participant's pro rata interest in the assets of the dividing common trust fund. The plan of operation of a resulting common trust fund will not be considered to be substantially identical to that of the dividing common trust fund where, for example, the plan of operation of the resulting common trust fund contains restrictions as to the types of participants that may invest in the common trust fund where such restrictions were not present in the plan of operation of the dividing common trust fund.

* * * * *

(e) *Effective date.* The eighth sentence of paragraph (a) of this section is effective for combinations and divisions of common trust funds completed on or after May 2, 1996.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: March 6, 1996.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 96–10393 Filed 5–1–96; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–060]

RIN 1218–AA71

Personal Protective Equipment for General Industry

AGENCY: Occupational Safety and Health Administration (OSHA); Labor.

ACTION: Final rule; technical amendment.

SUMMARY: The final rule on personal protective equipment for general industry was published by OSHA on April 6, 1994 (59 FR 16334). In that rule, the introductory phrase ''the employer shall ensure'' was removed from various proposed requirements for employees to wear different types of protective equipment (final rule §§ 1910.133, 1910.135, and 1910.136). The general requirement for the employer to select and have the employees wear appropriate PPE, including any PPE described in these specific provisions, was retained in § 1910.132. The employer's obligation to assure compliance with the individual requirements for particular types of PPE was intended to remain the same as if the words ''the employer shall ensure'' or similar language were affixed to each substantive PPE provision in the final rule. However, OSHA's compliance staff has encountered difficulties in using §§ 1910.133, 1910.135, and 1910.136 because they do not explicitly assign the employer the responsibility for assuring that employees wear the designated equipment. Therefore, this technical amendment is necessary to restate that obligation within the text of these requirements.

DATES: This amendment is effective June 3, 1996.

FOR FURTHER INFORMATION CONTACT: Anne C. Cyr, Acting Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U. S. Department of Labor, Room N–3647, 200 Constitution Ave., N. W., Washington, DC 20210. Telephone: (202) 219–8151.

SUPPLEMENTARY INFORMATION: OSHA's final rule on personal protective equipment (PPE) for general industry was published on April 6, 1994 (59 FR 16334), and became effective July 5, 1994. The PPE standards require the employer to assure that each employee wears appropriate equipment which protects the eyes, head, feet, and hands, from exposure to hazards in the workplace. Section 1910.132 clearly states that where such hazards are present, or are likely to be present, the employer has the obligation both to select proper PPE and to require each affected employee to wear it.

Sections 1910.133, 1910.135, and 1910.136 require that each affected employee wear protective equipment for the eyes and face, head, and feet, respectively, when those parts of the body are exposed to hazards. The proposed version of each of those sections was prefaced with the words ''The employer shall ensure that'' the employees wear the equipment. In the final rule, OSHA deleted the prefatory language in response to various comments. The preamble to the final rule made clear that in making these deletions, the Agency intended to make no change in the substantive requirements between the proposed and final rules. That is, the employer was to be obligated to require the employee to wear eye, face, head and foot protection under §§ 1910.133, 1910.135, and 1910.136, regardless of whether the words ''the employer shall ensure'' were included in those standards. (see final rule preamble, 59 FR at 16335.)

The reason for the language change from the proposal was concern by some commenters that the proposed language would result in their being held liable for violations of these standards, regardless of any exculpatory considerations such as employee misconduct. In making the changes, OSHA emphasized two points: first, that the proposed language would not have affected an employer's ability to raise defenses to a citation; and second, that it was the Agency's intention that the employer's obligations for compliance with standards issued under the OSH Act be unaffected by the changes from the proposed rule to the final rule.

Since the final rule was issued, the revised language has caused difficulty for OSHA's compliance staff with regard to the employer's obligation to have employees wear PPE. That obligation, while specifically stated under § 1910.132 for all PPE, is not explicitly spelled out in the specific provisions of §§ 1910.133, 1910.135 and 1910.136, for eye and head, face, and foot protection, even though it was the Agency's clearly stated intention that the obligation apply there, as well. Accordingly, OSHA has determined that it is necessary to make a technical amendment to those three sections, to bring them into line with the stated intention of the Agency in the preamble to the final rule.

The current language of §§ 1910.133, 1910.135, and 1910.136 contains requirements that employees wear the particular PPE addressed by those sections. However, there is no specific text in any of these sections that directly addresses the employer and the employer's responsibilities for compliance. OSHA compliance staff have dealt with this situation to date by grouping their citations for violations of §§ 1910.133, 1910.135, and 1910.136 with their citation under the general PPE requirement in § 1910.132. Each of these provisions was intended in the final rule to stand on its own, and the Agency has determined that a technical amendment is necessary to correct the problem.

This technical amendment inserts appropriate language into §§ 1910.133, 1910.135, and 1910.136 which states the employer's obligation to ensure that each affected employee wears the specified types of PPE under these sections as well as under § 1910.132, where the employer's responsibility in this area is already spelled out. It should also be noted that this technical amendment does not prevent the employer who is cited for a PPE violation from raising any affirmative defenses which would otherwise be applicable.

Under 5 U.S.C. 553 and 29 CFR 1911.5, this constitutes a minor rule change which does not require public notice and comment. As noted above, it clarifies an obligation under the specific PPE standards which already applies to employers under the general rule in § 1910.132, and implements determinations already made by the Agency in the preamble to the final rule. Accordingly, further public participation is not required. However, in order to allow enough time for information on the technical amendment to be distributed and implemented by employers, OSHA is making the amendment effective June 3, 1996.

List of Subjects in 29 CFR Part 1910

Eye protection; Face protection; Foot Protection; Hand protection; Footwear; Hard hats; Head protection; Occupational safety and health; Occupational Safety and Health Administration; Personal protective equipment; Safety glasses; Safety shoes.

Authority

This document has been prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210.

Accordingly, pursuant to sections 4, 6 and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); 5 U.S.C. 553; Secretary of Labor's Order No. 1–90 (55 FR 9033), and 29 CFR Part 1911, 29 CFR part 1910 is amended as set forth below.

Signed at Washington, D.C., this 15th day of April, 1996.

Joseph A. Dear,

Assistant Secretary of Labor.

PART 1910—[AMENDED]

Subpart I—Personal Protective Equipment

1. The authority citation for subpart I of part 1910 is revised to read as follows:

Authority: Sections 4, 6 and 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable.

Sections 1910.132, and 1910.138 also issued under 29 CFR part 1911.

Sections 1910.133, 1910.135, and 1910.136 also issued under 29 CFR part 1911 and 5 U.S.C. 553.

§ 1910.133 [Amended]

2. Paragraphs (a)(1), (a)(2), (a)(5) of § 1910.133 are amended by replacing the words ''Each affected employee shall use'' with the words ''The employer shall ensure that each affected employee uses''.

§ 1910.133 [Amended]

3. Paragraph (a)(3) of § 1910.133 is amended by removing the word ''Each'', adding the words ''The employer shall ensure that each'' in its place at the beginning of the paragraph, and by replacing the words ''shall wear'' with ''wears'' both places they appear in the paragraph.

§ 1910.135 [Amended]

4. Paragraph (a)(1) of § 1910.135 is amended by replacing the words ''Each affected employee shall wear protective helmets'' with the words ''The employer shall ensure that each affected employee wears a protective helmet''.

§ 1910.135 [Amended]

5. Paragraph (a)(2) of § 1910.135 is amended by replacing the words ''Protective helmets'' with the words ''The employer shall ensure that a protective helmet'', and by replacing the words ''shall be worn '' with the words ''is worn.''

§ 1910.136 [Amended]

6. Paragraph (a) of § 1910.136 is amended by replacing the words ''Each affected employee shall wear'' with the words ''the employer shall ensure that each affected employee used.''

[FR Doc. 96–10433 Filed 5–1–96; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

RIN 2135–AA00

Seaway Regulations and Rules: Miscellaneous Amendments

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada publish joint Seaway Regulations. As a result of discussions with the Authority, it has been determined that a number of existing regulations need to be amended for clarification or simplification. In addition, several substantive changes are being made, specifically: changing the maximum allowable beam from 23.16 m (76 feet) to 23.8 m (78 feet), with certain, practical conditions applied; reducing the security deposit for certain vessels; requiring permanent fenders, with a phase-in period; and reducing some of the system's speed limits. The first two of these are intended to encourage increased usage of the Seaway, the third is intended to increase the safety for both the Corporation's and the Authority's locks and the vessels transiting, and the fourth is intended to increase both safety and environmental protection.

DATES: This rule is effective on June 3, 1996.

FOR FURTHER INFORMATION CONTACT: Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 366–6823.

SUPPLEMENTARY INFORMATION: As a result of discussions with the Saint Lawrence Seaway Authority of Canada, the Saint Lawrence Seaway Development Corporation is amending the Seaway Regulations and Rules in 33 CFR Part 401 as described in the following summary.

Section 401.3, ''Maximum vessel dimensions'', is amended by revising paragraph (a), removing paragraph (d)(1), and adding a new paragraph (e) to change the maximum allowable beam from 23.16 m (76 feet) to 23.8 m (78 feet)