

OSHA Rulemaking Update



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Topics

- Emphasis Programs (EP's)
- Regulatory Agenda
- Questions

Regional and Local EPs (Region VIII)

- Regional Emphasis Programs
 - Fall Hazards in Construction
 - Roadway Work Zone Activities
 - Oil and Gas Industry
 - Grain Handling Facilities
 - Workplace Violence in Residential Intellectual and Developmental Disability Facilities
 - Beverage Manufacturing
 - Hazards in Automotive Services
- Local Emphasis Programs
 - Asbestos Abatement (Englewood)
 - Scrap & Recycling (Englewood)
 - Wood Manufacturing and Processing (Billings)
 - Aircraft Support and Maintenance Facilities (Englewood)



What is the Regulatory Agenda?

- **Regulatory Agenda** informs public of federal agencies' regulatory priorities
 - Published twice a year in Spring and Fall at [Reginfo.gov](https://www.reginfo.gov)
- **Regulatory Plan** (published as part of Fall Agenda) has more details about the most significant regulatory actions



Regulatory Agenda Components

- **Unified Agenda of Regulatory and Deregulatory Actions**
 - Pre-Rule Actions
 - Proposed Rules
 - Final Rules
- **Long-Term Actions**
 - Items for which agency does not expect to have regulatory action within a year
 - Appears on separate list in [Reginfo.gov](https://www.reginfo.gov)



Regulatory Agenda Entry Example



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View Rule

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DOL/OSHA

RIN: 1218-AC99

Publication ID: Spring 2021

Title: Powered Industrial Trucks

Abstract:

Powered Industrial Trucks (e.g., fork trucks, tractors, lift trucks, and motorized hand trucks) are ubiquitous in industrial (and many retail) worksites. The agency's standard still relies upon ANSI standards from 1969. OSHA issued a Request for Information (RFI) on March 11, 2019 (84 FR 8633), to determine if changes need to be made to locations of use, maintenance, training, and operation of powered industrial trucks. On a separate track (RIN 1218-AD26), OSHA also intends to issue a separate proposal for updating the consensus standard incorporated for design and construction of powered industrial trucks. The Industrial Truck Association has been encouraging OSHA to update and expand the OSHA standard to account for the substantial revisions to ANSI standards on powered industrial trucks over the last 45 years. The current standard covers 11 types of trucks, and there are now 19 types. In addition, the standard itself incorporates an out-of-date consensus standard. OSHA will begin the process to develop a proposed rule updating the consensus standard referenced from the 1969 version of the American National Standard B56.1 to the 2016 version.

Agency: Department of Labor(DOL)

Priority: Other Significant

RIN Status: Previously published in the Unified Agenda

Agenda Stage of Rulemaking: Long-Term Actions

Major: Undetermined

Unfunded Mandates: No

CFR Citation: [29 CFR 1910.178](#)

Legal Authority: [29 U.S.C. 655\(b\)](#)

Legal Deadline: None

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	03/11/2019	84 FR 8633
RFI Comment Period End	06/10/2019	
NPRM	To Be Determined	



OSHA: Pre-Rule Stage

- Process Safety Management and Prevention
- Emergency Response and Preparedness
- Mechanical Power Presses
- Workplace Violence in Health Care and Social Assistance
- Blood Lead Level for Medical Removal
- Heat Illness Prevention



OSHA: Proposed Rule Stage

- Infectious Diseases
- Cranes and Derricks in Construction Amendments
- Shipyard Fall Protection
- Communication Towers
- HazCom Update
- Lockout/Tagout Update
- Tree Care Standard
- Silica for Construction- Table 1 Update
- Welding in Construction Confined Spaces
- PPE in Construction
- Powered Industrial Truck Design Standard Update
- Silica- Medical Surveillance Provisions Revisions
- Workplace Injury/Illness Tracking



OSHA: Final Rule Stage

- Retaliation Complaints under:
 - Taxpayer First Act
 - Whistleblower Statutes
 - Anti-Money Laundering Act
 - Criminal Antitrust Anti-Retaliation Act
 - Williams-Steiger Occupational Safety and Health Act of 1970
- Subpart U- Emergency Temporary Standard – COVID-19 – now only addresses health care.
- Walking Working Surfaces (revise language of existing standard to be more clear)



OSHA: Long-Term Actions

- This category generally means that any OSHA action is more than one year away.
- Injury and Illness Recordkeeping
 - OSHA proposed to restore the Musculoskeletal Disorders (MSD) column to OSHA 300 log
- Drug Testing Program and Safety Incentives Rule
 - OSHA is considering making changes to 29 CFR 1904.35(b)(1)(iv) related to implementation of post-incident drug testing and safety incentive programs.



Cranes and Derricks in Construction



- OSHA is proposing various corrections and amendments to the cranes and derricks standards issued in 2010.

Hazard Communication Standard



- Rulemaking to:
 - Harmonize the HCS to the latest edition of the Globally Harmonized System of Classification and Labeling of Chemicals (GHS) and
 - Codify a number of enforcement policies that have been issued since the 2012 standard.

Lock-Out/Tag-Out

- Recent technological advancements that employ computer-based controls of hazardous energy (e.g., mechanical, electrical, pneumatic, chemical, radiation) conflict with OSHA's existing lock-out/tag-out standard.
- The use of these computer-based controls has become more prevalent as equipment manufactures modernize their designs.
- OSHA issued a request for information (RFI) in May 2019 to help it understand the strengths and limitations of this new technology, and potential hazards to workers.



Silica in Construction – Table 1



- Table 1 in OSHA's crystalline silica standard for construction includes dust control methods for certain equipment/tasks. Employers that follow Table 1 are not required to measure workers' silica exposure and are not subject to the PEL.
- In 2019, OSHA issued a request for information (RFI) on the effectiveness of control measures not currently included for tasks and tools listed in Table 1 *and* on tasks and tools involving exposure to silica not currently listed in Table 1.
- OSHA is evaluating this information to determine if revisions to Table 1 may be appropriate.

Silica - Medical Surveillance Provisions for Medical Removal Protection



- OSHA's silica standards (construction and general industry/maritime) do not include a provision for medical removal protection.
- Industry and labor organizations petitioned for review of the rule.
- A federal court concluded that OSHA failed to adequately explain its decision to omit medical removal protections from the rule and sent the rule back to OSHA for further consideration.

Welding in Construction Confined Spaces



- OSHA is proposing to amend the Welding and Cutting Standard in construction to eliminate any perceived ambiguity about the definition of "confined space" that applies to welding activities in construction.

Walking-Working Surfaces



- OSHA received stakeholder feedback that some provisions of the 2016 final rule on walking-working surfaces are unclear.
- OSHA plans to correct a formatting error in Table D-2 (Stairway Handrail Requirements).
- OSHA also plans to revise language on stair rail systems to make them clearer and reflect OSHA's original intent.

Workplace Injury/Illness Tracking

- OSHA intends to restore provisions of the Improve Tracking of Workplace Injuries and Illnesses final rule, 81 FR 29624 (May 12, 2016) that were removed by Tracking of Workplace Injuries and Illnesses final rule, 84 FR 380 (January 25, 2019).
- OSHA proposes to amend its recordkeeping regulation to restore the requirement to electronically submit to OSHA information from the OSHA Form 300 and OSHA Form 301



Process Safety Management and Prevention

- OSHA issued a Request for Information (RFI) in 2013 that identified issues related to modernization of the Process Safety Management standard and related standards to meet the goal of preventing major chemical accidents.



Emergency Response and Preparedness



- Current OSHA standards *do not*:
 - Reflect major developments in safety and health practices that have been incorporated into industry consensus standards.
 - Address the full range of hazards or concerns facing emergency responders,
 - Reflect major changes in performance specifications for protective clothing and equipment.
- OSHA is considering updating these standards with information gathered through a request for information (RFI) and public meetings.

Heat Illness Prevention

- Heat is the leading weather-related killer, and it is becoming more dangerous as 18 of the last 19 years were the hottest on record.
- According to the Bureau of Labor Statistics, heat stress killed 815 US workers and seriously injured more than 70,000 workers from 1992 through 2017.
- OSHA currently relies on the general duty clause (OSH Act Section 5(a)(1)) to protect workers from this hazard.



Advanced Notice of Public Rule Making (ANPRM)

- ANPRM for Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings
- Comments on the ANPRM must now be submitted by January 26, 2022
- Submit comments, identified by Docket No. OSHA-2021-0009, electronically at <https://www.federalregister.gov/documents/2021/10/27/2021-23250/heat-injury-and-illness-prevention-in-outdoor-and-indoor-work-settings>



Heat Illnesses and Fatalities

Table IV.A.1—Reported Occupational Injuries (Involving Days Away From Work) and Fatalities as a Result of Exposure to Environmental Heat

Year	Annual injuries	Annual fatalities
2011	4,420	61
2012	4,170	31
2013	3,160	34
2014	2,660	18
2015	2,830	37
2016	4,110	39
2017	3,180	32
2018	3,950	49
2019	3,080	43

Source: U.S. Bureau of Labor Statistics: Injuries, Illnesses, and Fatalities, (BLS, December 22, 2020 and BLS, January 28, 2021) (Accessed August 30, 2021).

ANPRM for Heat Injury and Illness Prevention

- Submit comments regarding:
 - Heat Injury/Illness prevention programs
 - Controls and PPE
 - Acclimatization
 - Monitoring
 - Response to heat illness emergencies
 - Worker training
 - Impacts on small entities

Questions?

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