

**OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)  
REGULATORY UPDATES**

**FINAL STATUTES, RULEMAKINGS, AND GUIDANCE**

| Citations  | Summary   |
|--|---|
| <p>29 CFR Part 1926<br/>Subpart M—Fall<br/>Protection</p> <p>Directive Number:<br/>STD 03-11-002</p> <p>Compliance<br/>Guidance for<br/>Residential<br/>Construction—<br/>Instruction</p> <p>Effective Date:<br/>December 16, 2010</p> | <p>This Instruction cancels OSHA Instruction STD 03-00-001, the Agency's interim enforcement policy on fall protection for specified residential construction activities, and replaces it with new compliance guidance. Under the new policy, employers engaged in residential construction must comply with 29 CFR 1926.501(b)(13).</p> <p>This Instruction clarifies OSHA's citation policy with regard to the requirement that employers engaged in residential construction demonstrate the infeasibility of required fall protection systems, or that such systems create a greater hazard, prior to implementing alternative measures under 29 CFR 1926.501(b)(13) and 1926.502(k). This Instruction also clarifies OSHA's enforcement policy regarding the requirements in 29 CFR 1926.502(k) that fall protection plans, when used, be written and site-specific.</p> |

**Letters of Interpretation:**

OSHA issued the following letters of interpretation during September 2010 and October 2010. Links to the letters are provided below each reference.

- Clarification of term "Active Hydrocarbon Zone" as it relates to the oil and gas well drilling operations; and the need to use FRC when performing drilling operations.[1910.132; 1910.132(a); 1910.106; 1910.119]. Issued October 19, 2010.
  - [http://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=INTERPRETATIONS&p\\_id=27584](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=27584)
- Applicability of Subpart S to tunnels constructed by auger boring. [1926.800; 1926.800 (a)(1)]. Issued on October 1, 2010.
  - [http://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=INTERPRETATIONS&p\\_id=27515](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=27515)

- Whether OSHA will rely on ANSI Z359.1-2007, regarding snaphook compressive strength requirements, in enforcing the general duty clause with respect to personal fall arrest systems in construction. [1926.502; 1926.502(d)(3); 1926.502 (d)(4)]. Issued on September 20, 2010.
  - [http://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=INTERPRETATIONS&p\\_id=27512](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=27512)

## **Other Recent Developments:**

### **Most Citable Violation Revealed under the Combustible Dust National Emphasis Program (NEP)**

During an October 25, 2010 speech, Dr. David Michaels, Assistant Secretary of Labor for OSHA stated that in 80 percent of Combustible Dust NEP citations issued under the General Duty Clause a single, dominant problem prevailed and that is **dust collectors** were located inside buildings without proper explosion protection systems such as suppression systems or venting to a safe, outside area. The other most prominently cited violation under the NEP was simple housekeeping — keeping the dust accumulation under control. Although presently OSHA does not have a specific standard on combustible dust hazards, several existing OSHA standards apply to combustible dust handling facilities. The NEP focuses on these standards, as well as the General Duty Clause. Further information on the NEP can be found at:

[http://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=DIRECTIVES&p\\_id=3830](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVES&p_id=3830)

### **OSHA and Department of Transportation Partner to Combat Distracted Driving**

OSHA and the U.S. Department of Transportation are joining forces to combat distracted driving. Motor vehicle crashes are a leading cause of worker fatalities. OSHA is launching a multi-pronged initiative to help prevent further avoidable injuries and deaths. OSHA is also partnering with key organizations to help reach out to employers, especially small business employers, to combat distracted driving and prohibit texting while driving. In addition, OSHA is placing a special emphasis on reaching out to young workers, collaborating with other Labor Department agencies as well as stakeholders and alliance partners. When OSHA receives a credible complaint that an employer requires texting while driving or organizes work so that texting is a practical necessity, the agency will investigate and where necessary issue citations and penalties to end this practice. More details are available at: <http://www.osha.gov/distracted-driving/index.html>

### **OSHA Targets High Hazard Worksites for Inspection**

OSHA issued its annual inspection plan under the Site-Specific Targeting 2010 program in August to help the agency direct enforcement resources to high-hazard workplaces where the highest rates of injuries and illnesses occur. The SST program is OSHA's main programmed inspection plan for non-construction workplaces that have 40 or more workers. Establishments are randomly selected for inspection from an initial list of 4,100 manufacturing, non-manufacturing, and nursing and personal care facilities. In addition to SST, OSHA implements both national and local emphasis inspection programs to target high-risk hazards and industries. OSHA currently has nationwide emphasis programs that intensify the focus on topics including amputations, lead, crystalline silica, shipbuilding,

trenching/excavations, process safety management in petroleum refineries, hexavalent chromium, diacetyl, recordkeeping and combustible dust. A copy of the SST 2010 program can be found at: [http://www.osha.gov/OshDoc/Directive\\_pdf/CPL\\_02\\_10-06.pdf](http://www.osha.gov/OshDoc/Directive_pdf/CPL_02_10-06.pdf)

### **OSHA Increases Enforcement against Serious Safety and Health Violators**

In a so-called egregious case, an employer is cited on a per-instance basis under the same standard rather than grouping similar violations for penalty purposes. The result is a considerably higher penalty intended to serve as a deterrent. Egregious treatment is often used when an employer exhibits deliberate violating conduct or indifference to employee safety and health or the law. The increase in significant and egregious cases demonstrates OSHA's commitment to aggressively enforcing its standards when employers show indifference to protecting the safety, health and lives of their workers. The increase results from better inspection targeting, more follow-up inspections and the addition of more compliance officers. In addition, inspectors are issuing a higher percentage of citations for violations that seriously endanger workers or show an employer's willful disregard for their safety.

### **OSHA Warns of Occupational Health Hazards from Food Flavorings**

OSHA released a Safety and Health Information Bulletin on health hazards posed to workers by occupational exposure to certain chemicals used to add flavor and aroma to food and other products. The food flavoring diacetyl, as well as some diacetyl substitutes, can burn the eyes, cause soreness in the nose and throat, and irritate the skin and produce a severe lung disease that has disabled or killed workers. If workers exposed to diacetyl or substitute chemicals experience symptoms including persistent cough and shortness of breath, they are advised to ask their employers to send them to a doctor for evaluation. The OSHA Worker Alert can be found at: [http://www.osha.gov/SLTC/flavoringlung/diacetyl\\_worker\\_alert.html](http://www.osha.gov/SLTC/flavoringlung/diacetyl_worker_alert.html)

### **Public Meeting on Globally Harmonized System Chemical Labeling held by OSHA**

The Globally Harmonized System was formally adopted by the United Nations in December 2002. The GHS is a single, harmonized system for classification of chemicals according to their health, physical, and environmental effects. It also provides harmonized communication elements, including labels and safety data sheets. The purpose of the meeting was to provide interested groups and individuals with an update on GHS-related issues and an opportunity to express their views for consideration in developing U.S. government positions for the December U.N. meeting in Geneva, Switzerland. More information on GHS can be found at: <http://www.osha.gov/dsg/hazcom/global.html>