



Occupational Health, Safety &  
Environmental Consultants

**OSHA Updates for October – December 2018**

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

**1.0 FINAL STATUTES AND RULEMAKINGS**

Citations	Summary
<p>Title: Cranes and Derricks in Construction: Operator Qualifications            Publication Date: 11/09/2018            Agency: Occupational Safety and Health Administration            Document Type: Final Rule            Document Citation: 83 FR 56198            Pages: 56198-56247            CFR: 29 CFR 1926            Document Number: 2018-24481</p>	<p>OSHA issued a final rule that clarifies certification requirements for crane operators. Under the final rule, employers are required to train, certify/license, and evaluate operators to safely perform crane activities. Operators can be certified based on either the crane's type and capacity, or type only, ensuring that more accredited testing organizations are eligible to meet OSHA's certification program requirements. The final rule, with the exception of the evaluation and documentation requirements, became effective on Dec. 9, 2018. The evaluation and documentation requirements will become effective on February 7, 2019. A copy of the final rule is available at <a href="https://www.govinfo.gov/content/pkg/FR-2018-11-09/pdf/2018-24481.pdf">https://www.govinfo.gov/content/pkg/FR-2018-11-09/pdf/2018-24481.pdf</a>.</p>
<p>Title: Revising the Beryllium Standard for General Industry.            Publication Date: 12/11/2018            Agency: Occupational Safety and Health Administration            Document Type: Proposed Rule            Document Citation: 83 FR 63746            Pages: 63746-63770            CFR: 29 CFR 1910            Document Number: 2018-24481</p>	<p>On January 9, 2017, OSHA issued a final rule adopting a comprehensive general industry standard for occupational exposure to beryllium and beryllium compounds in general industry. On December 10, 2018, OSHA issued a proposed rule to revise the standard. The proposed changes are designed to clarify the safety standard and improve compliance. The proposed rule would amend selected paragraphs of the standard, and also replace Appendix A, Operations for Establishing Beryllium Work Areas. Comments on the proposed rule must be submitted by Feb. 9, 2019. A copy of the proposed rule is available at <a href="https://www.govinfo.gov/content/pkg/FR-2018-12-11/pdf/2018-26448.pdf">https://www.govinfo.gov/content/pkg/FR-2018-12-11/pdf/2018-26448.pdf</a>.</p>

**2.0 LETTERS OF INTERPRETATION**

OSHA issued the following letters of interpretation since the last regulatory update:

September 13, 2018 - Prescription medications, such as an Epi-Pen, are considered medical treatment beyond first-aid. [1904.7]

- <https://www.osha.gov/laws-regs/standardinterpretations/2018-09-13>



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November 2, 2018 - Enforcement Policy for Respiratory Hazards Not Covered by OSHA Permissible Exposure Limits - [OSH Act of 1970 - Section 5(a)(1)] - [1910.1200]

- <https://www.osha.gov/laws-regs/standardinterpretations/2018-11-02>

November 29, 2018 - Occupational Exposure to Beryllium Standard – Dissolvable Laundry Bags for Personal Protective Clothing - [1910.1024(h)(2)(v); 1910.1024(m)(3); 1910.1200]

- <https://www.osha.gov/laws-regs/standardinterpretations/2018-11-29>

Schoeller should determine if the letters of interpretation are applicable to their operations and confirm that existing procedures and practices are compliant with OSHA requirements.

### 3.0 RECENT NEWS AND DEVELOPMENTS

#### **OSHA Updates National Emphasis Program on Trenching and Excavation**

OSHA has updated its National Emphasis Program (NEP) on preventing trenching and excavation collapses in response to a recent spike in trenching fatalities. Under the NEP, OSHA will increase its education and enforcement efforts; inspectors will record trenching and excavation inspections in a national reporting system; and each area office will develop outreach programs. The NEP began October 1, with a three-month period of education and prevention outreach. Enforcement activities will begin after the outreach period and remain in effect until canceled. OSHA has developed a series of compliance assistance resources to help keep workers safe from trenching and excavation hazards. OSHA's trenching and excavation webpage provides information on trenching hazards and solutions. The webpage is available at the following link. <https://www.osha.gov/SLTC/trenchingexcavation/index.html>

#### **OSHA Issues Memorandum Clarifying Position on Incentive Programs and Drug Testing**

OSHA issued a memorandum clarifying the agency's position that its rule prohibiting employer retaliation against employees for reporting work-related injuries or illnesses does not prohibit workplace safety incentive programs or post-incident drug testing. The Department believes that many employers who implement safety incentive programs and/or conduct post-incident drug testing do so to promote workplace safety and health. Action taken under a safety incentive program or post-incident drug testing policy would only violate OSHA's anti-retaliation rule if the employer took the action to penalize an employee for reporting a work-related injury or illness rather than for the legitimate purpose of promoting workplace safety and health. For more information, see the memorandum at <https://www.osha.gov/laws-regs/standardinterpretations/2018-10-11>.

#### **NIOSH Fact Sheet Addresses Opioid Overdoses in the Workplace**

Opioid overdoses are increasing in the workplace, with the Bureau of Labor Statistics finding that between 2013 and 2016, overdose deaths from non-medical use of drugs and alcohol increased by 38 percent annually. In response to this trend, the National Institute for Occupational Safety and Health (NIOSH) has released a new fact sheet, *Using Naloxone to Reverse Opioid Overdose in the Workplace*. It provides a series of steps for employers to consider when deciding whether to make the overdose reversal medication available in the workplace. The fact sheet is available at <https://www.cdc.gov/niosh/docs/2019-101/pdfs/2019-101-508.pdf?id=10.26616/NIOSH PUB2019101>.



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### **New Publication on Lockout/Tagout Addresses Safety for Temporary Workers**

A new OSHA bulletin on lockout/tagout explains the joint responsibility of host employers and staffing agencies to ensure that temporary employees are properly protected against the sudden release of stored energy. Prior to beginning work, both employers should review the task assignments and job hazards to identify, eliminate, and control the release of hazardous energy before workers perform service or maintenance on machinery. The OSHA bulletin is available at <https://www.osha.gov/Publications/OSHA3964.pdf>.

The bulletin is part of a series of guidance documents from OSHA that focuses on compliance with safety and health requirements for temporary workers. The other documents are available on OSHA's website at <https://www.osha.gov/pls/publications/publication.searchresults?pSearch=twi>.

### **Employers Must Post Their 2018 Injury/Illness Summary Beginning on February 1**

OSHA requires employers to post a copy of their OSHA Form 300A, which summarizes job-related injuries and illnesses logged during 2018. Each year, from February 1 to April 30, the summary must be displayed in a common area where notices to employees are usually posted. Businesses with 10 or fewer employees and those in certain low-hazard industries are exempt from OSHA recordkeeping and posting requirements.