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Complete Health, Environmental & Safety Services, Inc.

Complete Health Environmental & Safety Services, Inc. Newsletter

In This Issue

[Aerosol Cans](#)

[Employment Posters](#)

[Federal and State Rules](#)

[OSHA Recordkeeping Change](#)

[Silica](#)

[Walking-Working Surfaces](#)

[Considering a Change to Air](#)

[Quality Rules](#)

[Aircraft Stripper](#)

Quick Links

[Visit our website!](#)

[About Us](#)

[Read our blog](#)

[Join Our Mailing List!](#)

As we said in our December newsletter, there have been a number of regulatory changes. This newsletter will cover some of those.

Aerosols Cans Correction

The date for not being able to puncture aerosol cans is 1 Jan **2018**. The MPCA decided to push the date back one year, from the date that we (and Ramsey County) put in the last newsletter, to 2018.

Employment Posters

You are required to put up five Minnesota employment posters, listed below.

This chart also states when that specific poster was updated. You can download and print the posters at the MN DLI website [here](#) or contact us.

Poster Name	Updated
Age Discrimination	April 2012
Minimum Wage Rates	July 2016
Safety and Health Protection on the Job	October 2015
Unemployed?	September 2015
Workers' Compensation	April 2012

Federal Rules and Minnesota Rules: A general comment

As you probably know, the federal government has put a hold on most new rulemaking, with the requirement that for any new rule proposed, two existing regulations have to be repealed and the agency proposing the rule has to show that the direct cost of the rule changes will be zero (benefits, such as fewer accidents, are not included in the direct cost factoring). Based on that, we don't expect federal OSHA or EPA to propose any new rules for the next few years (Janet's parenthetical comment: there goes the hope of getting a faster method for respirator fit testing). That isn't likely to have major direct changes from what exists now in Minnesota.

OSHA Recordkeeping Change: Three big issues

1. Reporting your OSHA 300. This is the easiest of the three updates. To improve tracking of injuries, Federal OSHA has said that employers with 250 or more employees must electronically submit their OSHA 300 logs, and employers in certain high risk industries (including all manufacturers) with more than 20 employees have to submit their OSHA log summaries. This rule took effect Jan 1, 2017 and the reporting website was supposed to be live by Feb 1, but that date has passed with no action. Minnesota OSHA has not adopted this. Minnesota has stated that until the interface between Federal OSHA and the state improves and they see how the reporting works, they are not going to require employers to submit their OSHA 300s.

However, if you were one of 5000 Minnesota companies that received a letter requesting your data be submitted under the Bureau of Labor Statistics, then you are required to submit injury data. The BLS surveys have been going on for years. The data collected are used for a number of calculations, including determining injury rates within industries.

2. Incentive Programs: This really is not anything new. OSHA will cite companies that have incentive programs that are a disincentive to reporting injuries. An example would be rewarding employees with a pizza lunch if a department or company has no injuries in a given time period. Because that rewards employees for not reporting, it is not allowed.

You can still have incentive programs, but they should reward positive behavior. For example, if 100% of employees complete required safety training, if building inspections are done on a monthly basis, if eyewashes are checked weekly, if everyone wears their safety glasses, then there will be pizza for lunch. That type of program will be allowed.

It sounds like MN OSHA will enforce this. They may ask employees about incentive programs when conducting private interviews during inspections.

3. Drug Testing: Essentially, blanket drug testing - requiring employees be tested whenever they report any injury - is considered a disincentive to reporting injuries. This is no longer allowed. Drug testing is not completely banned, but you have to have some reason other than just because the employee was hurt. These are allowed:

- If drug testing is required by another federal agency, such as DOT (for CDL drivers)
- If you have a policy that employees are drug tested after a motor vehicle accident, regardless of injury.
- If your workers' compensation carrier provides a discount that requires a drug testing program be in place.
- For reasonable suspicion.

If you are going to drug test employees for reasonable suspicion, supervisors must be trained on reasonable suspicion, behaviors must be documented, and OSHA will be looking for reasonable suspicion drug testing to occur at times other than just when an injury occurs.

Minnesota OSHA has suggested they will be enforcing this part of the rule.

There are other nuances to this new recordkeeping rule for incentive programs and drug testing. If you are concerned about these, contact us to discuss what can or cannot be done under the new rule.

OSHA's website has more information: https://www.osha.gov/recordkeeping/modernization_guidance.html

Silica

The silica standard, which goes into effect June 23, 2017 for construction and June 2018 for general industry, changes the Permissible Exposure Limit to 0.05 mg/m³, a level recommended forty years ago. The concern is small particles that are breathed in, with the potential to cause disabling and sometime fatal lung diseases, such as silicosis or lung cancer. Activities such as cutting or sawing concrete, brick, tile or any rock and stone-containing product, can cause the crystalline silica to be airborne.

Employers must try to use engineering controls to control exposure. This includes wet cutting, which most equipment is capable of doing. Ventilation (dust capture systems) are another often-used control.

If engineering controls are not possible or not sufficient, respirators must be provided. If an employer requires a respirator be worn, a written respiratory protection program, medical evaluations, and annual fit testing and training are required.

A written exposure control plan is needed. It must describe methods used to identify and control workplace exposures, such as engineering controls, work practices, and housekeeping measures.

Employees who have potentially high exposure must have medical exams.

Employees must have training on the hazards of silica and how to control those hazards. CHES normally includes this in Right to Know training if we know you have employees with potential exposure.

Employers need to do exposure monitoring to determine whether silica controls are needed. For construction-type tasks, OSHA has published a table listing specific equipment or tasks (such as using handheld grinders, jack hammering, and handheld power saws) and the required engineering controls. If your company does any of those tasks, you don't have to do exposure monitoring as long as you follow the required controls.

Minnesota OSHA has adopted this standard.

Walking-Working Surfaces - Subpart D

Federal OSHA completely rewrote Subpart D of the OSHA standard (1910.21 through 1910.30). The changes are extensive but sensible. The standard has been re-arranged and brought up to date. Rather than just covering floor openings, stairs, ladders and scaffolds, the new standard covers ladders, manhole steps, dockboards, scaffold and rope descent systems, fall protection and training requirements. The biggest change: it makes the need for protection from falls and falling objects more explicit. Some of the major changes:

General

Instead of giving specific capacity limits, the surfaces, whether floors or ladders or dockboards, have to support their maximum intended load.

Floors

The requirements to keep floors in good condition and dry, where possible, hasn't changed. You have to make sure the floor will support its load, but you no longer have to post load limits. You have to make sure people can get out of the area safely, but you no longer have to mark aisles.

Ladders

Instead of having separate repetitive standards for portable wooden ladders, portable metal ladders, and fixed ladders, the standards have been combined. Combination ladders (like Little Giant brand) are now recognized and allowed. Part of this standard is basic ladder safety (e.g., face the ladder when climbing up it). Part of it addresses safe construction.

The standard removes the classification of Type I, Type II and Type III ladders, and simply states that they must not be overloaded. The ANSI standards for ladders will still classify them according to their capacity.

Stairs

Alternating tread stairs (like the Lapeyre stair), ship's stairs, and spiral stairs are now included in the standard, but they shouldn't be used unless standard stairs aren't feasible. Specifications for all of these types are in the standard.

Dockboards

New ones have to be designed so that vehicles can't run off the edge. The requirement for wheel chocks or equivalent, found in the forklift standard, is repeated here, so a truck can't pull away while an employee is standing on the dockboard (that used to be required only for railroad cars).

Scaffolds and rope descent systems

Scaffolds used in general industry now must meet the same requirements as those used in construction.

The Feds added language, straight out of Minnesota's window washing standard, on rope descent systems (used, obviously, to descend the sides of buildings).

Fall protection and falling object protection

Much of this section is the same as before - if there's a risk of falling more than four feet, some protective measures such as guard rails are needed. But the standard now adds language about using personal fall arrest systems. And it provides a better definition of what is needed when doing work on a roof, such as changing filters in an air handler. No fall protection is needed if work is at least 15 feet from edge, but it is needed if work is within six feet from the edge.

Employees who need to use personal fall arrest systems need to be trained on those and on the hazard.

Minnesota OSHA has not yet adopted these new standards. But we are hearing that they plan to do so soon.

Considering a Change to Air Quality Rules (Conditionally Exempt, Conditionally Insignificant...)

Do you feel insignificant? That's not a bad thing, for those who emit air pollutants. Big facilities need air quality permits. So do many small facilities - but they emit so little air pollution that the amount of effort to regulate them is way out of proportion to the reduction in pollution from regulating them. The Minnesota Pollution Control Agency realizes this, so has begun to try to develop possible amendments to the air quality rules for the companies that don't emit much air pollution, such as most body shops and painting operations that have one booth, operated only part time. The agency is considering creating new categories for conditionally exempt facilities, those which will not need air quality permits. Gas stations, for instance, don't need air quality permits now as long as they meet certain conditions. CHESS submitted comments on the MPCA proposal, and will continue to track what happens to this. We're hoping it helps those small shops that don't now have permits and can't easily get permits, because of the ways the rules have been written. Expect that it will take at least a year to see any change to the rules.

Aircraft Stripper - methylene chloride and n-methyl pyrrolidone (NMP)

The EPA recently announced that it is proposing strict limits on the uses of methylene chloride and NMP. Methylene chloride is one of the main ingredients in paint strippers, such as aircraft strippers. NMP is also used as a paint stripper, and was often promoted as an alternative to methylene chloride strippers. OSHA already places limits on methylene chloride exposure, which may cause cancer, liver problems, and central nervous system damage. EPA is proposing prohibiting the manufacture or distribution of methylene chloride (except for commercial furniture refinishing, which will be addressed in a separate rule). NMP may either be prohibited or may have strict limits put on its uses.

Of course, this rule is on hold for now. We still recommend that you avoid methylene-chloride-based strippers, if at all possible.

It's All on Our Blog!

Please see [our blog](#) for recent articles and explanations of the silica standard, the recordkeeping standard and the change in handling aerosol cans.

Questions? Please do not hesitate to contact us if you have safety-related questions or just need more information about something or the services we offer. Please contact us by phone (651-481-9787) or email (eparrish@chess-safety.com) if you no longer want to receive newsletters or if you want them in a different format (mail).

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