

OSHA Quarterly Newsletter, June 2017

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PRACTICES OSHA, Labor and Employment

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Labor Secretary Alexander Acosta Appointed

Secretary of Labor Alexander Acosta was sworn in on April 28, 2017, after his Senate confirmation. Secretary Acosta has experience serving on the National Labor Relations Board and has held the positions of assistant attorney general for the Civil Rights Division of the U.S. Department of Justice, and U.S. Attorney for the Southern District of Florida.

[Read more.](#)

OSHA's Electronic Record-Keeping Compliance Deadline Delayed Indefinitely

OSHA announced that it has delayed the much-anticipated July 1, 2017, compliance deadline for employers to electronically submit form 300A injury and illness data. OSHA has not provided a new compliance deadline, thus, leaving the delay open-ended.

[Read more.](#)

Occupational Safety and Health Review Commission Vacancies Could be Filled

The Occupational Safety and Health Review Commission ("OSHRC") is the highest administrative court deciding contested citations resulting from OSHA inspections. After a case is decided by an Administrative Law Judge, an employer may appeal the decision to be heard by the OSHRC's panel of judges. Further appeals go to a federal appeals court.

[Read more.](#)

Beryllium Rule Takes Effect Despite Trump Administration Beryllium Proposal Under Review

More than 40 years after the original beryllium standard, OSHA, under the Obama Administration, issued a final rule on January 9, 2017, reducing the occupational exposure limits for beryllium. The rule contains standards for general industry, construction, and shipyards. The three new standards reduce the permissible exposure limit for beryllium to 0.2 micrograms per cubic meter of air averaged over an eight-hour shift, 10 times lower than the previous limit. The rule also includes provisions to protect employees, such as requirements for exposure assessments, methods for controlling exposure, respiratory protection, medical surveillance, hazard communication, and recordkeeping.

[Read more.](#)

First Deadlines of New General Industry Walking-Working Surfaces and Fall Protection Standard

The final rule for General Industry Walking-Working Surfaces and Fall Protection ("Walking-Working Surfaces Rule") was published in November 2016, but some of the deadlines for compliance are in May 2017. The Walking-Working Surfaces Rule covers any horizontal, vertical or inclined working

surface, adding new requirements for ladder safety and inspecting walking-working surfaces amongst other new requirements.

[Read more.](#)

OSHA's "Union Walk Around Rule" Rescinded by OSHA

OSHA rescinded a memo creating the Union Walk Around Rule, which stated that non-union employees may elect anyone to accompany OSHA compliance officers as they inspect the employer's worksite.

OSHA, under the new direction of the Trump Administration, inherited a legal challenge to the Union Walk Around Rule but has now decided to drop its defense of the rule and rescind it. On September 8, 2016, a lawsuit was filed by the National Federation of Independent Business seeking to enjoin and strike down the Walk Around Rule.

[Read more.](#)

OSHA's Continuing Recordkeeping Obligation Rule Revoked via the Congressional Review Act

Congress and the White House utilized the Congressional Review Act to overturn the Obama Administration's final rule entitled "Clarification of Employer's Continuing Obligation to Make and Maintain an Accurate Record of Each Recordable Injury and Illness." The Congressional Review Act allows Congress and the White House to review and reverse laws passed towards the end of a former president's term.

[Read more.](#)

OSHA's Changes to Lockout/Tagout Rule Facing Major Delay

OSHA's proposed revision to the lockout/tagout rule is facing major delays. As previously reported, OSHA made its proposed revisions to the rule, and many others, under OSHA's Standards Improvement Project-Phase IV. The current lockout/tagout standard applies to servicing and maintenance operations "in which the unexpected energization or startup of the machine or equipment, or release of stored energy could harm employees." OSHA intends to revise the lockout/tagout rule by removing the word "unexpected," such that the standard would apply to any energization, not just "unexpected" ones.

[Read more.](#)

Penalties for State OSHA Programs May Increase

In August 2016, OSHA promulgated rules that significantly increased the maximum penalties for violations of safety regulations by 78 percent. This constituted the *first* penalty increase since 1990 and was explained as a one-time inflation catch-up.

[Read more.](#)