



APR 2 2015

Reply to the attention of:


MEMORANDUM FOR:

REGIONAL ADMINISTRATORS

THROUGH:


DOROTHY DOUGHERTY
Deputy Assistant Secretary

FROM:


THOMAS GALASSI, Director
Directorate of Enforcement Programs

JIM MADDUX, Director
Directorate of Construction



SUBJECT:

29 CFR 1910.269 and 29 CFR Part 1926, Subpart V: Flame Resistant Clothing and Arc-rated Protection

INTRODUCTION

On April 11, 2014, OSHA promulgated a final rule revising the general industry and construction standards for work on electric power generation, transmission and distribution installations (29 CFR 1910.269 and 29 CFR Part 1926, Subpart V, respectively). The revised standards became effective on July 10, 2014, although some paragraphs have compliance deadlines in 2015. OSHA is presently enforcing all paragraphs of 29 CFR 1910.269 and 29 CFR Part 1926, Subpart V according to the compliance dates set forth in those rules, except as stated in the Agency's Enforcement Date Memorandum issued on February 18, 2015.

This memorandum establishes enforcement policies for some of the requirements for flame resistant clothing and arc-rated protection applicable to work covered by 29 CFR 1910.269 and 29 CFR Part 1926, Subpart V.

BACKGROUND

Estimates of Available Heat Energy - Paragraph (l)(8)(ii) of 29 CFR 1910.269 and paragraph (g)(2) of 29 CFR 1926.960 require employers to make reasonable estimates of the incident heat energy exposures faced by employees exposed to electric arc hazards.

Flame Resistant Clothing - Under 29 CFR 1910.269(l)(8)(iv)(A) through (l)(8)(iv)(D) and 29 CFR 1926.960(g)(4)(i) through (g)(4)(iv), employers generally must ensure that the outer layer of clothing worn by employees is flame resistant under certain conditions.

Arc-rated Protection - Paragraph (l)(8)(v) of 29 CFR 1910.269 and paragraph (g)(5) of 29 CFR 1926.960 generally require employers to ensure that each employee exposed to hazards from

electric arcs wears protective clothing and other protective equipment with an arc rating greater than or equal to the estimated heat energy to which he or she would be exposed. The Enforcement Date Memorandum provides that until August 31, 2015, no citations will be issued under 29 CFR 1910.269(l)(8)(v) or 29 CFR 1926.960(g)(5) because an employer failed to provide protective clothing or equipment rated higher than 8 cal/cm².

ENFORCEMENT POLICIES

1. Through **August 31, 2015**, no citations will be issued under 29 CFR 1910.269(l)(8)(iv)(A) through (l)(8)(iv)(D) or 29 CFR 1926.960(g)(4)(i) through (g)(4)(iv) for failing to have employees wear flame-resistant pants if the employees are wearing 11-ounce or heavier weight cotton pants and the employer can demonstrate that it has contacted its supplier and placed an order for the required pants and that the pants are on back order or are in the process of being shipped and delivered. For this policy to apply, the employer must be able to provide OSHA with documentation of the purchase order and the date by which it expects to receive the clothing.
2. Through **August 31, 2015**, no citations will be issued under 29 CFR 1910.269(l)(8)(v) or 29 CFR 1926.960(g)(5) for failing to have employees wear or use protective clothing or other protective equipment with an appropriate arc rating if the employer can demonstrate that it has contacted its supplier and placed an order for the required clothing or equipment and that the clothing or equipment is on back order or is in the process of being shipped and delivered. For this policy to apply, the employer must be able to provide OSHA with documentation of the purchase order and the date by which it expects to receive the clothing or equipment.
3. Through **August 31, 2015**, if a contract employer (as defined at 29 CFR 1910.269(x) and 29 CFR 1926.968) can demonstrate that it has not received information it needs from a host employer (as defined at 29 CFR 1910.269(x) and 29 CFR 1926.968) to make reasonable estimates of incident heat energy exposures in accordance with 29 CFR 1910.269(l)(8)(ii) and 29 CFR 1926.960(g)(2), then the following policies will apply:
 - (a) No citations will be issued to the contract employer under 29 CFR 1910.269(l)(8)(ii) or 29 CFR 1926.960(g)(2) for failing to do the required estimate of incident heat energy exposures;
 - (b) No citations will be issued to the contract employer under 29 CFR 1910.269(l)(8)(iv)(A) through (l)(8)(iv)(D) or 29 CFR 1926.960(g)(4)(i) through (g)(4)(iv) for failing to have employees wear flame-resistant pants, provided employees are wearing 11-ounce or heavier weight cotton pants; and
 - (c) No citations will be issued to the contract employer under 29 CFR 1910.269(l)(8)(v) or 29 CFR 1926.960(g)(5) for failing to have employees wear or use protective clothing or other protective equipment with an appropriate arc rating.

Please share this information with the State Plans and On-Site Consultation Projections in your Region. Questions regarding these policies should be forwarded through the Regional Office to the Directorate of Enforcement Programs or the Directorate of Construction, as appropriate.