OSHA’S PPE Revisions

The following is an excerpt from the article Personal Protective Equipment: Increasing OSHA Liability for Employers, by Mark A. Lies II & Elizabeth Leifel Ash.

Many employers have received citations from OSHA for failing to provide personal protective equipment and training to employees. OSHA has proposed formal revisions to several of its standards that relate to the provision of personal protective equipment (PPE) and training. The proposed amendments are designed to clarify OSHA’s position that an employer may be issued a separate citation for each and every employee who does not receive training or PPE where required. This clarification will undoubtedly increase the number of citations issued for training and PPE violations, exposing the employer to greater liability in monetary penalties and the potential for repeat citations.

Currently, numerous OSHA standards require employers to provide employees with specialized training and/or PPE to protect employees from occupational exposure to hazards. Other standards are more general and require PPE to protect employees wherever necessary. While PPE and training are required under a number of standards, the particular language differs from standard to standard. For example, the LOTO, Process Safety Management, vinyl chloride, and fall protection standards contain language that specifies that “each employee” shall receive the required training. Other standards, such as electrical power generation, Benzene, and hazard communication, require the employer to generally “provide training to employees,” but do not use the words “each employee.”

Most recently, in 2007, the Review Commission affirmed twelve citations issued to General Motors under the LOTO standard’s training requirement, 29 C.F.R. 1910.147(c)(7)(iii). The Commission held that the LOTO standard imposed an employee-specific duty on employers to train each individual, and OSHA could issue citations under the LOTO training standard on a per-employee basis.

(Continued on page 3)
Power Strips and Dangerous Daisy Chains

Extension cords or surge protected power strips are often interconnected, or “daisy chained,” to readily provide more outlets and/or to reach greater distances. Another common solution is to create a “mixed daisy chain,” interconnecting extension cords and power strips. However, interconnecting these devices is a violation of Occupational Safety and Health Administration (OSHA) regulations and the National Electrical Code because doing so can cause them to become overloaded, leading to their failure and a possible fire. (See the Office of Compliance “Extension Cords” Fast Facts for more information).

OSHA regulations require that conductors and electrical equipment be used in accordance with the conditions under which they are approved by a recognized testing organization (29 CFR 1910.303(a)). Most power strips are approved for providing power to a maximum of four or six individual items; however, when multiple power strips are interconnected, the one directly connected to the building outlet is often supplying power to far more than the approved number. This electrical current overload can result in a fire or can cause a circuit breaker to trip, deenergizing computers and other equipment throughout the area. The risk is magnified when another outlet in the same wall or

Cranes and Derricks

OSHA is proposing a rule to protect employees from the hazards associated with hoisting equipment when used to perform construction activities. Under this proposed rule, employers would first need to determine whether the ground is sufficient to support the anticipated weight of hoisting equipment and associated loads. The employer then would be required to assess hazards within the work zone that would affect the safe operation of hoisting equipment, such as those of power lines and objects or personnel that would be within the work zone or swing radius of the hoisting equipment. Finally, the employer would be required to ensure that the equipment is in safe operating condition via required inspections and employees in the work zone are trained to recognize hazards associated with the use of the equipment and any related duties that they are assigned to perform.

For more information on this proposed rule please click on or go to the following link:
OSHA’S PPE Revisions (continued)

OSHA takes the position that it has always interpreted training and PPE requirements, regardless of the precise wording of the standard, to be enforceable on a per-employee basis. However, in light of the Review Commission’s decisions that have vacated citations based on linguistic variations, OSHA proposes to revise the following standards to specify that “each employee” is to receive training and/or PPE where required.

OSHA has added general provisions, 29 C.F.R. 1910.9, 29 C.F.R. 1915.9, 29 C.F.R. 1918.5, and 29 C.F.R. 1926.20, that codify the employer’s duty to provide PPE and training to each employee where required under any standard. Other affected standards include (but are not limited to) the following:

- 29 C.F.R. 1910.95, Occupational Noise Exposure, is amended to require training
- 29 C.F.R. 1910.134, Respiratory Protection
- 29 C.F.R. 1910.1001, 1926.1101 and 1915.1001 Asbestos
- 29 C.F.R. 1910.1003, Carcinogens
- 29 C.F.R. 1910.1017, Vinyl Chloride
- 29 C.F.R. 1910.1018, Inorganic Arsenic
- 29 C.F.R. 1910.1025 and 1926.62, Lead
- 29 C.F.R. 1910.1026, Chromium (VI)
- 29 C.F.R. 1910.1027, Cadmium
- 29 C.F.R. 1910.1028, Benzene
- 29 C.F.R. 1910.1029, Coke Oven Emissions
- 29 C.F.R. 1910.1030, Bloodborne Pathogens
- 29 C.F.R. 1910.1043, Cotton Dust
- 29 C.F.R. 1910.1048, Formaldehyde
- 29 C.F.R. 1915.1026, Chromium (VI)
- 29 C.F.R. 1926.761, Training

The proposed revisions are very likely to become enforceable regulations. OSHA’s proposed revisions are likely to increase the number of citations employers may potentially receive for training and PPE violations. For a complete failure to train or provide PPE, OSHA may have the ability to issue a citation for each employee who did not receive the required training or PPE. For large employers with hundreds of employees at each facility, the number of citations and corresponding penalties could be significant. In order to prepare for the anticipated revised rules, the employer should seriously consider the following actions to avoid liability:

- Ensure that it has developed, conducted, and documented a written comprehensive job hazard assessment to identify all hazards and required PPE;
- Obtain and provide all required PPE to employees;
- Conduct and document training for employees on the necessity to inspect, utilize, and maintain PPE;
- Document employee training that failure to utilize PPE will result in disciplinary action;
- Conduct regular walkthrough inspections to observe and confirm that employees are utilizing PPE properly;
- Issue written disciplinary action to employees who fail to utilize PPE properly.

To read this article in its entirety, including additional affected standards please click on or go to: http://www.malterassociates.com/malter/newsletter.aspx and click on the article from the selection box.

Thank you to Mark Lies of Seyfarth Shaw LLP for providing this informative article. Questions regarding this article should be directed to Mr. Lies via email at: mlies@seyfarth.com. For more information regarding Seyfarth Shaw LLP please visit their website at: www.seyfarth.com.

Malter Associates, Inc., can help you prepare for OSHA’s proposed revisions by reviewing your current training program and assessing your PPE requirements. We can help train employees and implement safe work practices with regards to proper PPE usage. MA, Inc. can also assist you with the review and proper maintenance of your recordkeeping practices. Poorly managed records even for a single employee, could make the process of defense against a citation difficult and costly. Please call our office at 815-363-5512 for more information.
Power Strips and Dangerous Daisy Chains (continued)

floor receptacle is also overloaded in a similar fashion. When other outlets on the same circuit are also overloaded, the risk increases.

Extension cords are sometimes used to energize power strips in locations far from outlets. Because electrical resistance increases with increased power cord length, interconnecting cords increases the total resistance and resultant heat generation. This creates an additional risk of equipment failure and fire, particularly when paper and other combustible materials are in contact with the wires. Additionally, OSHA’s regulations allow extension cords to be used only as temporary wiring for up to 90 days. Unfortunately, once in place, extension cords tend to become permanent wiring and a fire hazard.

Several safe solutions exist. In many cases, a power strip energized by an extension cord or another power strip can simply be replaced by a power strip with a power cord of adequate length to reach an outlet. Check each surge protector to make sure it is in good condition for use (www.compliance.gov). Only power strips equipped with internal fuses are acceptable as permanent wiring. Those lacking these fuses are equivalent to extension cords, and therefore may not be used as permanent wiring. When a power strip is installed, care must be taken to ensure that it is not suspended in mid-air by its power cord or cords plugged into it, resulting in excessive stress on electrical connections.

For more information on this article see the Office of Compliance “Extension Cords” Fast Facts at http://www.compliance.gov/forms-pubs/eresources/fastfacts_extensioncords.pdf.