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OSHA's Deregulatory Agenda Takes Shape

Client Alerts

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On July 1, 2025, the Occupational Safety and Health Administration (OSHA) published twenty-five proposed rules and one final rule taking actions that include limiting OSHA's application of the General Duty Clause, removing respiratory protection medical requirements, and eliminating dozens of other regulatory requirements that the agency contends are outdated or duplicative. Many of these actions are in response to President Trump's Executive Order 14192, entitled "Unleashing Prosperity Through Deregulation."

Limiting Application of the General Duty Clause

OSHA proposes clarifying its interpretation of the General Duty Clause "to exclude from enforcement known hazards that are inherent and inseparable from the core nature of a professional activity or performance."

OSHA relies upon the General Duty Clause (29 U.S.C. 654(a)(1)) to enforce against workplace hazards not otherwise covered by a specific section of the Occupational Safety and Health Act. The agency now seeks to align its interpretation of that clause with a dissent filed by then-Appellate Judge Brett Kavanaugh in *SeaWorld of Florida, LLC v. Perez*, 748 F.3d 1202 (D.C. Cir. 2014). The court found SeaWorld was required to abate the recognized hazard of exposing trainers to close contact with orca whales during live performances. Judge Kavanaugh, in a lone dissent, contended that the General Duty Clause does not authorize OSHA to regulate hazards arising from normal activities that are intrinsic to professional, athletic, or entertainment occupations.

In its proposal, OSHA states it has reexamined its authority under the General Duty Clause "[i]n light of the issues raised in that dissent and subsequent developments in administrative and constitutional law." The agency is therefore proposing to codify "the principle that the General Duty Clause does not authorize OSHA to prohibit, restrict, or penalize inherently risky activities that are intrinsic to professional, athletic, or entertainment occupations." Specifically, the rule "would provide that the General Duty Clause does not require employers to remove hazards arising from inherently risky employment activities, where: the activity is integral to the essential function of a professional or performance-based occupation; and the hazard cannot be eliminated without fundamentally altering or prohibiting the activity." While the *Sea World* case primarily relates to

sports and entertainment where some risk of injury is inherently anticipated, OSHA's reasoning applies more generally to the full range of occupational activities with inherent risks involved.

Removing Requirements Applicable to Certain Respiratory Protection

OSHA proposes various regulatory changes to its respiratory protection requirements. First, OSHA proposes removing certain medical evaluation requirements in the Respiratory Protection Rule for filtering facepiece respirators (FFRs) and loose-fitting powered air-purifying respirators (PAPRs). OSHA's current rule requires an employer, as part of its respiratory protection program, to complete medical evaluations to determine whether an employee is physically able to wear a specified respirator. In the new proposal, OSHA states that current data is "lacking and insufficient to establish that medical evaluations meaningfully reduce material impairment caused by wearing" these types of respirators and that "there is not sufficient evidence to conclude that wearing FFRs and loose-fitting PAPRs without a prior medical evaluation can result in unavoidable adverse outcomes." If finalized, the rule will remove medical evaluation requirements for these two respirator types. Medical evaluations for other air-purifying or supplied-air respirators would still apply.

OSHA also issued proposals addressing respirator requirements for specific substances, including: 1,2-dibromo-3-chloropropane; 1,3-butadiene; 13 carcinogens (4-nitrobiphenyl, etc.); acrylonitrile; asbestos; benzene; cadmium; coke oven emissions; cotton dust; ethylene oxide; formaldehyde; inorganic arsenic; lead; methylene chloride; methylenedianiline; and vinyl chloride. As described in each proposal, the changes would allow different types of respirators to be used under these substance-specific standards and better align each standard with OSHA's respiratory protection standard. Employers in compliance with the current standards will still be in compliance with the revised standard. However, OSHA contends the revisions will provide employers greater flexibility in the respirators they select for exposed workers, while providing equivalent worker protection. Specifically, the proposals will delete substance-specific standard requirements duplicative of the general respiratory requirements in 29 CFR 1910.134 and will "remove unnecessary restrictions on respirator selection where another equally protective option exists."

Streamlining Recordkeeping and Reporting

OSHA also announced the withdrawal of its proposed rule that would have added a new column to the OSHA 300 log for work-related musculoskeletal disorders (MSDs). These are typically injuries resulting from overexertion and repetitive motion, where injuries include a pinched nerve, herniated disc, sprain, strain, pain, swelling, and numbness. In a prior attempt to add this information to the OSHA 300 log, OSHA in 2003 found that the additional data "would add only marginally to the information currently available." OSHA determined that comments in the most recent proposal did not provide evidence contradicting the agency's prior finding, and that "the MSD column would not materially improve the information currently available from national statistics on MSDs."

OSHA also proposes ending the COVID-19 Emergency Temporary Standard and its associated recordkeeping and reporting requirements for healthcare settings in 29 C.F.R. 1910 Subpart U. Employers in these areas have been required to establish and maintain logs recording all COVID-19 cases, making those records available to employees and employee representatives, and reporting work-related COVID-19 fatalities and hospitalizations to OSHA regardless of how much time passed between the exposure and the employer learning of the fatality or hospitalization. Per its proposal, OSHA states that these requirements "are of lesser utility" given that, among other reasons, the agency has stopped enforcing the bulk of Subpart U regulations, vaccines are widely available, and the public health emergency has ended. OSHA further notes that COVID-19 cases and reporting are being treated by the Centers for Disease Control and Prevention similar to other respiratory diseases. OSHA does state, however, that removing these requirements will not entirely "eliminate the requirement to report work-related cases of COVID-19 to OSHA" as employers are still required to report hospitalizations and deaths resulting from work-related incidents per the existing recordkeeping and reporting provisions in 29 CFR 1904. OSHA added that it will be removing the remainder of the non-recordkeeping and reporting provisions in the COVID-19 Emergency Temporary Standard upon finalizing its current rulemaking.

Rescinding Outdated Standards Applicable to Marine Terminals

OSHA proposes two rulemakings relating to marine terminals. First, OSHA seeks to remove its open fires in marine terminals standard, which prohibits open fires including in drums and other containers. OSHA states the rule is no longer necessary due to marine terminal industry containerization and technology improvements, and because open fires are no longer a standard practice in the industry.

Second, OSHA proposes removing its house falls in marine terminals standard. House falls, as described in the proposal, "are spans and supporting members, winches, blocks, and standing and running rigging forming part of a marine terminal and used with a vessel's cargo gear to load or unload by means of married falls." OSHA proposes removing the standard because "the marine terminals industry does not currently employ house falls" and "most cargo has been containerized and is moved by cranes." For both marine terminal standards, OSHA adds that it has not issued a citation since 2012 or earlier.

Changes to Construction Safety Standards

OSHA also issued one final rule that will revoke 29 CFR 1911.10 and 29 CFR 1912.3. Section 1911.10 requires the Assistant Secretary for OSHA to consult with the Advisory Committee on Construction Safety and Health (ACCSH) in formulating rules applicable to construction work. Section 1912.3 contains regulations governing ACCSH. OSHA states these provisions impose burdens on the Assistant Secretary beyond those mandated by statute, and "needlessly delay" the Secretary of Labor's regulatory agenda. ACCSH will still be able to advise the secretary on potential regulatory actions without affecting any regulatory timeline. As described in the *Federal Register* notice, the

changes will remove requirements contrary to the secretary's interest in moving forward quickly with deregulatory actions.

OSHA also proposes to rescind its construction illumination requirements in 29 CFR 1926.26 and 1926.56. If finalized, the rule will remove the requirement that construction areas, aisles, stairs, ramps, runways, corridors, offices, shops, and storage areas where work is in progress be lighted with either natural or artificial illumination. OSHA contends the standard is not reasonably necessary or appropriate "because it does not substantially reduce a significant risk to workers." OSHA further contends the standard "does not provide significant protection beyond what would exist without the standard because the hazard—lack of illumination—is obvious to employers and employees, as is the means to address it." OSHA notes, however, that it may still issue citations under the General Duty Clause if employers do not identify and correct working conditions with inadequate illumination on their own.

Rescinding Requirements for Hazard Color Markings

OSHA issued a proposal that would remove the agency's Safety Color Code for Marking Physical Hazards Standard (29 CFR 1910.144), paragraph (c)(8) of OSHA's Textiles Standard, paragraph (c)(11) of OSHA's Sawmills Standard, and OSHA's Color Code for Marking Physical Hazards for Shipyard Employment Standard. Section 1910.144 generally applies color codes for identifying danger or cautions, while the other provisions refer to that requirement. OSHA contends the hazards addressed by these rules are already addressed in other federal, state, and local requirements, such as OSHA's Specifications for Accident Prevention Signs and Tags Standard, or local building and fire codes. OSHA also contends that identifying hazards by color alone may be insufficient for individuals with color vision deficiencies and is therefore proposing removing these standards.

Rescinding Coordinated Enforcement Regulations Regarding Migrant Farmworkers

OSHA also proposes rescinding regulations that set forth procedures for OSHA to coordinate enforcement activities with the Wage and Hour Division and the Employment and Training Administration relating to migrant farmworkers. OSHA contends the regulations limit its discretion, impose unnecessary and duplicative internal procedures, and prevent the Department of Labor's agencies from coordinating in more efficient, effective ways. OSHA contends the regulations, passed in 1980, are outdated and "no longer reflect the current organization of the Department or the legal landscape pertaining to migrant farmworkers" such as more recent standards including the Migrant and Seasonal Agricultural Worker Protection Act.

Conclusion

On July 1, 2025, several agencies issued multiple proposals to rescind rules considered duplicative, outdated, or unnecessary consistent with the Trump Administration's deregulatory agenda, specifically Executive Order 14192. The current proposals may therefore signal only the first wave of actions implementing this agenda.

Comments on the proposals are generally due by September 2, 2025. However, interested parties seeking to submit comments on a specific proposal should visit the respective *Federal Register* notice website for exact timelines and information on how to do so, and can also reach out to our lawyers with questions on any of the above. We will continue to track these and other regulatory developments.

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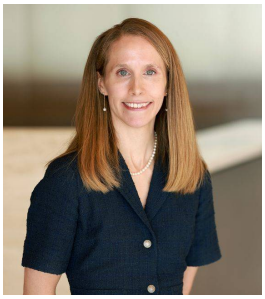

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