

deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write to Valerie M. Willis, (202) 514-6794.

Congressional Review Act

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of non-agency parties. Accordingly, it is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 804. Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies), Whistleblowing. According, part 0 of title 28 of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority citation for part 0 continues to read as follows:

Authority: 5 U.S.C. 301, 3151; 28 U.S.C. 509, 510, 515-519.

§ 0.137 [Removed and Reserved]

2. Section 0.137 of Subpart X is removed and reserved.

3. Section 0.138 is revised to read as follows:

§ 0.138 Federal Bureau of Investigation, Drug Enforcement Administration, Bureau of Prisons, Federal Prison Industries, Immigration and Naturalization Service, United States Marshals Service, Office of Justice Programs, Executive Office for Immigration Review, Executive Office for United States Attorneys, Executive Office for United States Trustees.

(a) The Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, the Commissioner of Immigration and Naturalization Service, the Director of the United States Marshals Service, the Assistant Attorney General for the Office of Justice Programs, the Director of the Executive Office for Immigration Review, the Director of the Executive Office for United States Attorneys, and the Director of the Executive Office for United States Trustees are, as to their

respective jurisdictions, authorized to exercise the power and authority vested in the Attorney General by law to take final action in matters pertaining to the employment, direction, and general administration (including appointment, assignment, training, promotion, demotion, compensation, leave, awards, classification, and separation) of personnel in General Schedule grades GS-1 through GS-15 and in wage board positions, but excluding therefrom all attorney and U.S. Marshal positions. Such officials are, as to their respective jurisdictions, authorized to exercise the power and authority vested in the Attorney General by law to employ on a temporary basis experts or consultants or organizations thereof, including stenographic reporting services (5 U.S.C. 3109(b)).

(b) All personnel actions taken under this section shall be subject to post-audit and correction by the Assistant Attorney General for Administration.

4. Section 0.157 is amended by removing paragraph (e) and revising paragraphs (b) through (d) to read as follows:

§ 0.157 Federal Bureau of Investigation-Drug Enforcement Administration Senior Executive Service.

* * * * *

(b) Pursuant to 5 U.S.C. 3151(b)(2)(B), a career employee in the civil service is one who occupies, or who within the last 5 years occupied, a permanent position in the competitive service, a career-type permanent position in the excepted service, or a permanent position in the SES while serving under a career appointment. A career-type permanent position in the excepted service does not include:

- (1) A Schedule C position authorized under 5 CFR 213.3301;
- (2) A position that meets the same criteria as a Schedule C position; and
- (3) A position where the incumbent is traditionally removed upon a change in Presidential Administration.

(c) Except as to the position of Deputy Director of the FBI (which remains subject to the exclusive authority of the Attorney General), the FBI-DEA SES is subject to the overall supervision and direction of the Deputy Attorney General, who shall ensure that the FBI-DEA SES is designed and administered in compliance with all statutory and regulatory requirements.

(d) The Attorney General retains the authority to recommend members of the FBI-DEA SES for Presidential Rank Awards.

Dated: August 17, 1999.

Janet Reno,

Attorney General.

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1917 and 1918

RIN 1218-AB33

Powered Industrial Truck Operator Training; Stay of Compliance Dates

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule; Stay of compliance dates.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is staying the compliance date for the new Powered Industrial Truck Operator Training Standard as it applies to employers in the Marine Terminal and Longshoring Industries from December 1, 1999, until March 1, 2000. The compliance date of the standard for employers in General Industry, Shipyards and Construction remains December 1, 1999.

DATES: The effective date of this document is August 27, 1999.

The effective date for the new Powered Industrial Truck Operator Training Standard, published December 1, 1998 (63 FR 66238), is March 1, 1999.

Compliance Dates: The dates by which powered industrial truck operators must be trained and evaluated pursuant to the new standard in the Marine Terminal and Longshoring Industries are shown on the following table.

If the employee was hired	The initial training and evaluation of that employee must be completed
Before March 1, 2000 After March 1, 2000 ..	By March 1, 2000. Before the employee is assigned to operate a powered industrial truck.

Until operators are trained and evaluated pursuant to the new standard, employers in the Marine Terminal and Longshoring Industries must remain in compliance with OSHA's prior powered industrial truck operator training standards: 29 CFR 1917.27 (1998) for marine terminals; and 29 CFR 1918.98 (1998) for longshoring.

FOR FURTHER INFORMATION CONTACT:

Direct press inquiries to: Bonnie Friedman, Director, Office of Information and Consumer Affairs, Rm. N3637, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693-1999, Fax (202) 693-1634. Direct technical inquiries to: Paul Rossi, Office of Maritime Safety Standards, Rm. N3621, telephone (202) 693-2066, Fax (202) 693-1663 or Patrick Kapust, Directorate of Compliance Programs, Rm. N-3603, telephone (202) 693-1850, Fax (202) 693-1628 at the above address.

SUPPLEMENTARY INFORMATION: On December 1, 1998, OSHA published a final standard improving training requirements for powered industrial truck operators at 63 FR 66238-66274. The new standard applies to employees in general industry, shipyards, marine terminals, longshoring and construction. The new standard will replace existing, more general training requirements in standards pertaining to each of these industrial sectors. The new standard had an effective date of March 1, 1999, and a completion of initial training and evaluation date of December 1, 1999 for operators employed before December 1, 1999. Completion of initial training and evaluation for operators hired on or after December 1, 1999 shall occur prior to their assignment to operate a truck.

The National Maritime Safety Association, Inc. (NMSA) petitioned for review of the standard in the Court of Appeals as it applied to the marine terminal and longshoring industries. (No other legal challenges were filed.) NMSA has asked OSHA to consider that certain unique circumstances in those industries involving the use of day labor and hiring halls suggest the need for flexibility in interpreting some provisions of the new standard.

OSHA, NMSA and some of its management and labor members are engaged in settlement negotiations, which have made some progress. In order to permit time for the negotiations to proceed, OSHA and NMSA have agreed to delay the court briefing schedule, and OSHA has agreed to stay the compliance dates of the new Powered Industrial Truck Operator Training Standard for the marine terminals and longshoring industries from December 1, 1999 to March 1, 2000. In the interim, employers in the marine terminal and longshoring industries are to remain in compliance with the pre-existing powered industrial

truck training requirements at 29 CFR 1917.27 and 29 CFR 1918.98, respectively, which appear in the CFR volume, 29 CFR Parts 1911 to 1925 (Revised as of July 1, 1998).

The new Powered Industrial Truck Operator Training Standard is codified as 29 CFR 1910.178(1) and was published at 63 FR 66270-66273 (December 1, 1998). The new standard is made applicable to marine terminals by cross reference from 29 CFR 1917.1(a)(2)(xiv) and to longshoring by 29 CFR 1918.1(b)(10). See 63 FR 66274. Accordingly, to give notice of the stay, OSHA is adding a note following 29 CFR 1917.1(a)(2)(xiv) and 29 CFR 1918.1(b)(10).

OSHA is not staying the compliance date of the standard for the general industry, shipyard and construction sectors. Accordingly, compliance with the new Powered Industrial Truck Operator Standard is required for those sectors by December 1, 1999. See also 64 FR 22552 (April 27, 1999) for further discussion of the compliance dates.

List of Subjects*29 CFR Part 1917*

Hazardous substances, Longshore and harbor workers, Marine terminals, Occupational safety and health, Reporting and recordkeeping.

29 CFR Part 1918

Freight, Hazardous substances, Longshore and harbor workers, Occupational safety and health, Reporting and recordkeeping, Vessels.

Authority and Signature:

This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 23rd day of August, 1999.

Charles N. Jeffress,

Assistant Secretary of Labor.

Accordingly, pursuant to sections 4, 6(b), 8(c) and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657,) section 41 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941), Secretary of Labor's Order 6-96 (62 FR 111), and 29 CFR part 1911, 29 CFR parts 1917 and 1918 are amended as set forth below.

SUBPART 1917—MARINE TERMINALS

1. The authority citation for part 1917 continues to read as follows:

Authority: Section 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Sections 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 235736), or 6-96 (62 FR 111), as applicable; and 29 CFR Part 1911.

Section 1917.28 also issued under 5 U.S.C. 553.

Subpart A—Scope and Definitions

2. Section 1917.1 is amended by revising paragraph (a)(2)(xiv) to read as follows:

§ 1917.1 Scope and applicability.

(1) * * *

(2) * * *

(xiv) Powered industrial truck operator training, Subpart N, § 1910.178(1).

Note to Paragraph (a)(2)(xiv): The compliance dates of December 1, 1999 set forth in 29 CFR 1910.178(l)(7) are stayed until March 1, 2000 for Marine Terminals.

PART 1918—SAFETY AND HEALTH REGULATIONS FOR LONGSHORING

1. The authority citation for part 1918 continues to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970, 29 U.S.C. 653, 655, 657; Walsh Healey Act, 41 U.S.C. 35 et seq.; Service Contract Act of 1965, 41 U.S.C. 351 et seq.; Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act), 40 U.S.C. 333; Sec. 41 of the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 941; National Foundation of Arts and Humanities Act, 20 U.S.C. 951 et seq.; Secretary of Labor's Order No. 6-96 (62 FR 111); and 29 CFR part 1911.

Subpart A—Scope and Definitions

2. Section 1918.1 is amended by revising paragraph (b)(10) to read as follows:

§ 1918.1 Scope and application.

* * * * *

(b) * * *

(10) Powered industrial truck operator training, Subpart N, § 1910.178(l).

Note to Paragraph (b)(10): The Compliance dates of December 1, 1999 set forth in 29 CFR 1910.178(l)(7) are stayed until March 1, 2000 for Longshoring.

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