



DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1926

[Docket No. OSHA-2013-0005]

RIN 1218-AC77

Updating OSHA Standards Based on National Consensus Standards; Signage

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

ACTION: Final rule; confirmation of effective date.

SUMMARY: On June 13, 2013, OSHA published in the Federal Register (78 FR 35559) a direct final rule that revised its signage standards for general industry and construction by updating the references to national consensus standards approved by the American National Standards Institute, a clearinghouse that verifies that the criteria for approval of consensus standards have been met. OSHA stated in that Federal Register notice that it would withdraw the companion proposed rule and confirm the effective date of the direct final rule if the Agency received no significant adverse comments on the direct final rule. Since OSHA received no such significant adverse comments, the Agency now confirms that the direct final rule became effective as a final rule on September 11, 2013.

DATES: The direct final rule published on June 13, 2013 (78 FR 35559), became effective as a final rule on September 11, 2013. For the purposes of judicial review, OSHA considers [INSERT THE DATE OF PUBLICATION IN THE FEDERAL REGISTER], the date of issuance of the final rule.

ADDRESSES: In compliance with 28 U.S.C. 2112(a), OSHA designates the

Associate Solicitor of Labor for Occupational Safety and Health as the recipient of petitions for review of the final standard. Contact Joseph M. Woodward, Associate Solicitor, at the Office of the Solicitor, Room S-4004, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-5445; email: woodward.joseph@dol.gov.

FOR FURTHER INFORMATION CONTACT:

General information and press inquiries: Frank Meilinger, Director, OSHA Office of Communications, Room N-3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-1999; email: meilinger.francis2@dol.gov.

Technical information: Ken Stevanus, Directorate of Standards and Guidance, Room N-3609, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-2260; fax: (202) 693-1663; email: stevanus.ken@dol.gov.

SUPPLEMENTARY INFORMATION:

Copies of this Federal Register notice: Electronic copies of this Federal Register notice are available at <http://www.regulations.gov>. This Federal Register notice, as well as news releases and other relevant information, also are available at OSHA's Webpage at <http://www.osha.gov>.

Confirmation of the effective date: On June 13, 2013, OSHA published a direct final rule (DFR) in the Federal Register that revised its signage standards for general industry at 29 CFR 1910.97, 1910.145, and 1910.261, and construction at 29 CFR 1926.200, by updating references to the American National Standards Institute (ANSI)

signage protection standards (see 78 FR 35559). Specifically, the DFR updated the signage references in OSHA's existing general industry and construction standards, including references to ANSI Z53.1-1967 (Safety Color Code for Marking Physical Hazards), Z35.1-1968 (Specifications for Accident Prevention Signs), and Z35.2-1968 (Specifications for Accident Prevention Tags), by adding references to the latest ANSI standards, including ANSI Z535.1-2006(R2011) (Safety Colors), Z535.2-2011 (Environmental and Facility Safety Signs), and Z535.5-2011 (Safety Tags and Barricade Tapes (for Temporary Hazards)). Thus, the DFR allowed employers to follow either the updated ANSI standards or the older ANSI signage standards already referenced in OSHA's existing general industry and construction standards.

The DFR also incorporated by reference Part VI of the Manual of Uniform Traffic Control Devices, 1988 Edition, Revision 3, into 29 CFR 1926.6, and amended citations in two provisions of the construction standards to show the correct incorporation-by-reference section.

In the DFR, OSHA stated that it would confirm the effective date of the DFR if it received no significant adverse comments. OSHA received eight favorable and no adverse comments on the DFR (see ID: OSHA-2013-0005-0008 thru -0015 in the docket for this rulemaking). Accordingly, OSHA is confirming the effective date of the final rule.

In addition to explicitly supporting the DFR, several of the commenters provided supplemental information. Mr. Charles Johnson of AltairStrickland stated that as a result of "[OSHA's] incorporating both the 1968 and the [2011] versions of the ANSI Z535 standard by reference[,] both manufacturers and employers will likely migrate to the

newer versions and the older versions will likely fade away as demand declines” (ID: OSHA-2013-0005-0011). Mr. Johnson also commented that “[h]ad OSHA deleted the reference to the ANSI Z35.1-1968 language, these signs would require replacement at considerable and unnecessary cost to employers.” Id.

A second commenter, Mr. Blair Brewster of MySafetySign.com, described several advantages and limitations of the updated ANSI signage standards, concluding that “[i]t would be arrogant to assume that a single standard is best. The ANSI Z535 designs, the traditional safety sign and tag designs, as well as the countless other designs to come, will all have their place and will all coexist” (ID: OSHA-2013-0005-0014).

A third commenter, Mr. Kyle Pitsor of the National Electrical Manufacturers Association (NEMA) stated that “[w]hile we would have preferred that the references to the outdated standards be removed entirely from OSHA’s regulations, NEMA agrees that giving employers the option of using signs and tags that meet either the 1967-1968 or the most recent versions of the standards will provide the greatest flexibility without imposing additional costs” (ID: OSHA-2013-0005-0013). Mr. Pitsor also helpfully noted that, contrary to proposed §§1910.6(e)(66) and (e)(67) and 1926.6(h)(28)-(h)(30), the International Safety Equipment Association (ISEA) is not authorized to sell the ANSI Z535 standards proposed for incorporation by reference, and these standards are not sold on the ISEA website, www.safetysign.com. In response to Mr. Pitsor’s comment, OSHA is correcting the incorporation-by-reference provisions in question in 29 CFR 1910.6 and 1926.6 in a separate Federal Register notice identifying the three locations where the public can purchase the updated ANSI Z535 standards.

Finally, OSHA received an email from Jonathan Stewart, Manager, Government Relations, NEMA, after the comment period ended (ID: OSHA-2013-0005-0015). In his email, Mr. Stewart mentioned NEMA's earlier comments to the docket (ID: OSHA-2013-0005-0013), and stated that "[w]hile reflective of NEMA's position, those comments did not include a clarification regarding the language that the NRPM used in Sec. 1926.200 Accident prevention signs and tags." He further indicated that "[t]he language, while not inaccurate, was unclear regarding which figure(s) it intended to reference in the ANSI Z535.2-2011 standard." Although this comment was late, OSHA considered it because it was a purely technical comment, pointing out an ambiguity in the cited provision's reference to figures in the updated version of the national consensus standard, ANSI Z535.2-2011. OSHA finds that the comment has merit, and accordingly is clarifying the language in 29 CFR 1926.200(b) and (c) specifying which figures employers must follow in ANSI Z535.2-2011.

List of Subjects in 29 CFR Parts 1910 and 1926

Signage, Incorporation by reference, Occupational safety and health, Safety.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, authorized the preparation of this final rule. OSHA is issuing this final rule pursuant to 29 U.S.C. 653, 655, and 657, 5 U.S.C. 553, Secretary of Labor's Order 1-2012 (77 FR 3912), and 29 CFR part 1911.

Signed at Washington, DC, on October 30, 2013.

David Michaels,
Assistant Secretary of Labor for Occupational Safety and Health.

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