

PRESIDENT'S COLUMN

Employers Still Should Provide Workers' PPE

In July, OSHA reopened the record of a proposed rule on personal protective equipment that we thought was resolved five years ago. In 1999, Building Trades members and other stakeholders testified about who should pay for PPE, which in construction includes fall-protection harnesses, hardhats, and safety glasses. Although the proposed rule, Employer Payment for Personal Protective Equipment, wasn't issued, OSHA's web page on construction PPE says,



President Sullivan

OSHA requires employers to use personal protective equipment (PPE) to reduce employee exposure to hazards when engineering and administrative controls are not feasible or effective.

The page goes on to sketch a PPE program for which the employer is responsible.

Congress's intent in the 1970 OSH Act establishing OSHA, and the agency's long-standing policy, has been to hold the employer responsible for workplace safety and health. (An OSHA standard, CFR 1926.95, says PPE "shall be provided...") Now it looks as if OSHA may be backing off that position, which would be a very bad idea.

PPE in construction is both costly and essential to protecting workers' health—and lives.

Freeing employers from the need to provide PPE likely would reduce their incentives to use engineering controls—such as, guardrails or improved ventilation—which are preferable and can cost less than a proper PPE program, in many cases. Avoiding engineering controls might save employers dollars

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CPWR, NIOSH Begin New 5-Year Program

The Center to Protect Workers' Rights and its academic and industry partners nationwide on August 1 began a new, 5-year program focusing on construction safety and health. The program, Centers for Construction Safety and Health, is funded by the National Institute for Occupational Safety and Health, NIOSH.

"We're proud of this award's recognition of our unique and valuable contributions to improved safety and health for construction workers," said Edward C. Sullivan, president of the AFL-CIO Building and Construction Trades Department and the Center to Protect Workers' Rights (CPWR). "This is a wonderful opportunity.



PHOTO BY JIM NOLAN, LOCAL 2119

Duke University researchers are working to reduce nail gun injuries. Here, a carpenter from the Carpenters' District Council of Greater St. Louis uses a nail gun on a residential construction site.

"With modest funding from NIOSH starting in 1990," Sullivan added, "we have developed the largest private research and training organization in the world devoted to construction safety and health. We look forward to continuing our work with NIOSH on these critical issues."

The current funding for more than 20 projects, awarded after a competitive application and scientific review, will focus on practical research and interventions and the translation of scientific findings for widespread use.

Some of the planned projects are:

- An analysis of work-related factors contributing to chronic obstructive pulmonary disease (COPD) among sheet metal workers.
- Evaluation of controls for silica dust and noise on small powered tools and any barriers to use of the effective controls.
- Development and evaluation of a program to reduce work-related low-back pain among masons and mason tenders.

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BCTD Asks OSHA To Lower APF For Dust Masks in Proposed Rule

PHOTOS BY GENE DANIELS, CPWR.

The Building Trades Department is asking OSHA to give a lower rating (called an APF) to disposable dust masks (as shown, lower right) to show they are less protective than the half-mask air-purifying respirator.

The Building and Construction Trades Department has asked OSHA to change its June 2003 Proposed Rule on Assigned Protection Factors for respirators. In comments submitted to OSHA, the Department said it wants to make sure construction employers and workers choose the right respirators and understand the limitations of disposable dust masks (filtering facepiece respirators).

The proposed rule gives an assigned protection factor (APF) of 10 to both disposable dust masks and so-called elastomeric (rubber-like) half-mask air-purifying respirators. The Department is asking the federal agency to give disposable dust masks an APF of 5, because studies have not proved they are as effective as the elastomeric ones. (A higher number indicates better protection.)

“By giving filter facepiece respirators an APF of ten, you will be giving well-meaning employers the wrong impression that all types of filtering facepiece respirators are as protective as elastomeric respirators,” the BCTD wrote. And treating the two types of respirators as equivalent provides a strong incentive for employers to buy the dust masks, because they are a lot cheaper than the rubber-type respirators, the BCTD added.

“All filtering facepiece respirators are not created equal,” the BCTD stressed; some in the large class of disposable dust masks do not provide an effective face-to-facepiece seal and thus fail to protect workers.

APFs indicate the level of protection provided by each respirator and are based on workplace and laboratory studies. Employers use APFs, along with exposure measurements and

OSHA permissible exposure limits (PELs), to determine the type of respirator workers need. Respirators are supposed to be used only when engineering and other controls do not do enough to protect workers from hazardous substances.

The BCTD objected also to OSHA’s proposal to remove respirator selection tables from the lead (29 CFR 1926.62) and asbestos (29 CFR 1926.1101) standards. Noting that the tables contain helpful information about respirator selection, the Department wrote that the tables are consistent with OSHA’s intent to write regulations in plain language and to eliminate the guesswork about complying with respirator requirements.

At the same time, the Department is encouraging the National Institute for Occupational Safety and Health, NIOSH, to measure total inward leakage when it certifies respirators. (OSHA uses NIOSH studies as a basis for its regulations.) Until now, NIOSH has certified only the filter media for leakage when evaluating the thousands of respirators it certifies. Using total inward leakage as a measure would more accurately reflect respirator performance.

For more information, contact Christina Trahan at CPWR, 301-578-8500.

Proposed OSHA PPE Rule

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in the short run, but society can be expected to pay the difference—in increased medical insurance and workers’ compensation premiums, along with disability program costs. Recent immigrants and temporary workers at the low end of the pay scale would be most likely to suffer harm, either by trying to avoid using PPE they can’t afford or by using worn out or inadequate equipment.

In reopening the record, OSHA is referring to PPE as “tools of the trade.” To us, tools of the trade are hand tools that construction workers carry from job to job, not protections against a hazardous situation.

As is often true for regulators, construction is a special case. Workers move from employer to employer and may require a lot of PPE that involves personal fit or hygiene (and requires training). But life-threatening hazards are there and construction workers are professionals providing an essential service. Our brothers and sisters deserve to be protected.

Respirator Program is Portable Using Online Medical Questionnaire



John Weinberg, a Seattle construction worker, starts to take the online medical exam for respirator use.

Free Silicosis Exams For Yucca Mtn Workers

Current and former workers at the Yucca Mountain tunnel-mining project are being offered free medical screenings for silicosis, a very serious lung disease. (If you have silicosis, you may have coughing and shortness of breath—and it can continue to get worse.)

Workers at the facility in southern Nevada, starting in 1992, may have been exposed without proper protection to dangerous levels of silica dust from sand and rock.

The University of Cincinnati Medical School and the Center to Protect Workers' Rights (CPWR) are conducting the screenings, which are paid for by the U.S. Department of Energy. CPWR is an arm of the Building and Construction Trades Department, AFL-CIO.

The screenings are confidential and about 1,500 workers are eligible. After you answer some questions about your work at Yucca Mountain, if you are eligible, the program will schedule a free medical exam near your home.

Call now to learn more. The program runs only through December 2004. The toll-free number is 1-866-716-1542.

A new program in Washington state is simplifying complying with OSHA's respirator program requirements. The goal is to help contractors clear workers for jobs quickly and avoid having workers repeat clearance procedures unnecessarily. The effort begun in 2003 by Build It Smart, the Building Trades Labor-Management Organization of Washington State, uses an online medical questionnaire and database developed by the 3M company.

To make sure workers are medically fit to use a respirator to protect against toxic exposures, OSHA requires a program that includes filling out a questionnaire and, in some cases (depending on the worker's responses), follow-up medical checks. OSHA has other requirements for respirator use, including training. Mounds of employer paperwork, some of it misplaced, have sometimes meant an employer has given the questionnaire to workers more than once in a year. And construction workers, who may change employers a few times each year, have had to go through the procedure for each new boss.

Not any more.

In most cases, workers who respond to the on-line questionnaire are cleared to work immediately. One reason they can be cleared so quickly is that follow-up questions normally asked by a physician are built into the program. For example, if a worker smokes, the program asks how much and for how long. Only about 3% of workers need to be referred to a physician for further testing.

"The status of the worker is available online: pending (follow-up needed), certified/cleared, cleared with restriction, or must see physician," said Margie Weinberg, who is coordinating the program for Build It Smart. If there's a restriction, the program can print out a letter describing the restriction.

Build It Smart has customized the database in the last 18 months for construction workers. Among other things, the Build It Smart database includes information about types of hazards for different construction sites (to help doctors evaluating workers' fitness) and which respirators should be used for which hazard. A participating contractor, using an assigned password, can learn a worker's status just by typing in the worker's name.

Thus far the program has worked with 11 contractors and has cleared almost 250 workers in several trades, Weinberg said. The program will be developed for another year; the plan is to have workers re-evaluated every two years, she added.

Said Sharon Garber, 3M's lead senior specialist overseeing the program, "We've been getting good feedback. Working with Build It Smart has helped us understand the unique needs of the construction industry."

To learn more about the program, contact Weinberg at 206-523-9044.

New NIOSH Appointee

Jeffery Kohler, a mining research engineer and manager who will co-chair the Steps to A Healthier Workforce session on construction, took over as NIOSH's new associate director for mining and construction in July. He succeeds Lewis V. Wade, who has been named senior science advisor in the NIOSH Office of the Director. Kohler is responsible for coordinating safety and health research at NIOSH laboratories throughout the U.S., but will also oversee work by grantees such as the Center to Protect Workers' Rights.



Jeffery Kohler, PhD

Construction Health Promotion Panel Set.

Janie Gittleman, CPWR associate director for safety and health research, will co-host a session focusing on construction at NIOSH's *Steps to a Healthier US Workplace* symposium, set for October 26-28, in Washington, D.C. Jeffery Kohler, the new associate director for mining for the National Institute for Occupational Safety and Health, will co-host the construction session on Oct. 27, Integrating Health Promotion into the Construction Worksite. A panel of university researchers and union leaders will describe successful programs on skin-cancer prevention and smoking cessation and discuss both the use of workers' compensation claims data to target health promotion/disease prevention and the economics of disease management in Taft-Hartley trusts. The symposium is expected to draw more than 350 participants. For information, go to www.cdc.gov/niosh/steps.

New Projects Focus On Training Projects to Control Noise, Dusts; Stress Training, Communications

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- Development and evaluation of methods to reduce shoulder pain and disorders caused by repeated overhead drilling.
 - Development and evaluation of an inspection program to reduce electrical hazards during construction.
 - Identification of the main causes of falls from portable ladders, plus development (and evaluation) of training and new designs to reduce the falls.
 - For a new leading-edge fall protection system for ironworkers, development of a training video and workbook, along with evaluation of a contractor's ability to implement the system.
 - Improvement and evaluation of changes in fall-prevention training among apprentice carpenters.
 - Evaluation of (and improvement of) training and design changes to prevent nail gun injuries among carpenters, in terms of safety and productivity.
 - A focus on the Hispanic construction-workforce: its safety-and-health status, health care use, reasons for any disparities, and development of interventions.
 - Development, delivery, and evaluation of a 10-hour safety and health course for Spanish-speaking day laborers.
 - Development and evaluation of a communications program to encourage contractors and workers to use two low-cost ergonomic innovations.
 - Identification of barriers to safe work practices, plus development and evaluation of training and safety campaigns to address the barriers.
 - Evaluation of Smart Mark 10-hour OSHA training and its effect on self-reported illnesses and injuries.
 - Two national conferences on safety, health, and ergonomics, planned for 2006 and 2008, with regional conferences in 2007 and 2009.
 - Continuing use of data to show trends in the industry, plus a 4th edition of *The Construction Chart Book* in 2007, which covers economics and safety and health.
- In addition to construction unions, contractors, and equipment manufacturers, partners in these efforts include Colorado State University; Duke University Medical Center; Harvard School of Public Health; the International Masonry Institute; Liberty Mutual Research Institute; New Labor (New Jersey); Rutgers University; University of California, San Francisco; the University of Illinois at Chicago; the Universities of Iowa, Oregon, and Washington; the University of Massachusetts Lowell; Washington University School of Medicine; and the West Virginia University Safety and Health Extension.
- NIOSH, part of the CDC, in 1990 began its first cooperative research agreement with CPWR, the research, development, and training arm of the 15 unions in the Building and Construction Trades Department, AFL-CIO.

Disaster-Response DVD Now Used Nationwide

CPWR's DVD-based *Disaster Response: Safety and Health Training for Construction Workers* is providing trained trainers in every corner of the United States. As of September 2004, more than 1,300 trainers had been trained to deliver the program. By October, CPWR was expected to produce 3,000 more of the DVDs. The program is for use by Building Trades trainers who are construction industry outreach instructors under OSHA's outreach program and have been trained to use the DVD.

Launched in September 2003, the training is included as part of other CPWR/Building Trades safety and health courses. The goal is to train skilled support personnel to protect their safety and health during disaster response and to ensure that skilled support personnel are integrated effectively into emergency response operations. Development of the program was funded by the National Institute of Environmental Health

Sciences, which provided guidance along with the 15 Building Trades unions and the International Association of Firefighters.

CPWR has reached an agreement with the OSHA Office of Training and Education to allow CPWR-trained disaster response instructors to award OSHA completion cards. As part of the agreement, CPWR will add a hands-on respirator training module to our disaster response course.

State and local Building Trades councils may arrange courses free of charge by contacting Chris Trahan at CPWR, 301-578-8500, ext. 120.



New Alert on Equipment

CPWR has produced a new hazard alert pocket card for workers, *Operating Heavy Equipment*. The card tells what the employer and operator should do to protect the operator and others on the work site. The card, produced with help from the International Union of Operating Engineers, can be found (in English and Spanish) at www.cpwr.com, at www.eLCOSH.org, and from CPWR at 301-578-8500. CPWR publications are free of charge to members of Building Trades unions.



Training for Decon. This photo, from a new DVD to be used by trainers of hazardous waste workers, was presented to Building Trades safety and health trainers at CPWR's annual Trainer Enhancement meeting, held August 9-11 near Baltimore, Maryland. The new 2-hour unit on decontamination and another on confined spaces will be included in the annual 8-hour Hazardous Waste Refresher course, offered to about 1,700 construction workers annually around the United States. New units are produced regularly to maintain interest for workers who must take the refresher each year. For more information, contact your local union or Don Ellenberger at CPWR, 301-578-8500, ext. 104.



10-Hour Safety, Health Training Now Law in Two States

In Massachusetts, starting in July 2006, all construction workers on public works projects must have completed a 10-hour OSHA-approved course in construction safety and health. The legislature overrode the governor's veto to pass the law in July 2004. The law is a big step forward for workplace safety and health.

Safety training and education is "the most effective way to reduce loss of life and injuries to construction workers," said Joseph Dart, president of the Massachusetts Building and Construction Trades Council, which, with construction contractors, pushed for the new law. "This proactive approach is much more effective than any system of fines or penalties that come into play only after a worker is hurt."

Massachusetts is believed to be the second state to require the training, after Rhode Island, which passed such a law in July 2000. That law took effect in January 2002, after Building Trades unions pressed for it.

"In Rhode Island, we're beginning to see a downward trend in the number of workers' compensation injuries reported, even though work has

been abundant," said Joseph Sabitoni, chair of the labor-management Safety Awareness Board set up under the law. "It's a step in the right direction," he added, noting that the board has received inquiries from other states, including Connecticut.

Nationwide, more than 1,100 construction workers were killed by work-related injuries in 2002, more than 163,000 suffered serious injuries requiring time off, and countless others were made ill by their work.

The Center to Protect Workers' Rights (CPWR), along with Building Trades unions throughout the U.S., has provided such OSHA-approved training to more than 175,000 union workers since 1998 through the Smart Mark program. The courses, available in English or Spanish, increase awareness of safety and health hazards in the workplace—such as electricity, falls, and work in confined spaces—and how to control or prevent them.

The nonprofit Labor-Management Construction Safety Alliance provides the training in Massachusetts. Contact them at info@lmcsa.org or, for Smart Mark information, contact your local union or CPWR at 301-578-8500.

Web Site: www.cpw.com



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Nonprofit
Organization
U.S. Postage
PAID
Washington, DC
Permit No. 5968

This publication was produced by the Center to Protect Workers' Rights (CPWR) as part of a research agreement with the National Institute for Occupational Safety and Health, NIOSH grant 1 U54 OH008307-01). The information provided here is solely the responsibility of the authors and does not necessarily represent the official views of NIOSH.

On Center is published by
The Center to Protect Workers' Rights,
Postage paid at Washington, D.C.
Postmaster: Send address corrections to On Center, c/o CPWR
8484 Georgia Avenue, Suite 1000, Silver Spring, MD 20910



Volume 4, No. 2
October 2004