



MAY 17 2013

Reply to the attention of:

MEMORANDUM FOR: REGIONAL ADMINISTRATORS

THROUGH: 
GREG J. BAXTER
Acting Deputy Assistant Secretary

FROM: 
THOMAS GALASSI, Director
Directorate of Enforcement Programs

SUBJECT: Interim Policy for 29 CFR 1915.71(j)(1) Regarding Scaffold Top Rail Heights in Shipyard Employment

The purpose of this memorandum is to provide guidance regarding the enforcement of provisions in 29 CFR 1915.71(j)(1) that read as follows:

29 CFR 1915.71(j)(1): Scaffolding, staging, runways, or working platforms which are supported or suspended more than 5 feet above a solid surface, or at any distance above the water, shall be provided with a railing which has a top rail whose upper surface is from 42 to 45 inches above the upper surface of the staging, platform, or runway and a midrail located halfway between the upper rail and the staging, platform, or runway.

Despite this 42 to 45 inch top rail requirement, the U.S. Navy recently informed OSHA that the majority of scaffolding used in the shipyard employment industry has top rail heights between 38 and 41 inches. In addition, the Navy identified four naval shipyards and 17 private shipyards that were in violation of 29 CFR 1915.71(j)(1) for top rail heights. However, these shipyard scaffold systems meet both the general industry and construction top rail heights with all top rails in the range of 38 to 45 inches. A search of the IMIS Database indicates that there are no documented incidents related to scaffolding top rail heights in the shipyard employment industry.

OSHA is currently in the process of finalizing a rulemaking that requires general industry employers to comply with the construction scaffolding standard, 1926 subpart L. OSHA believes that using one set of regulations for these two industries will simplify both compliance and enforcement of the scaffold standards and result in greater employee protection. The Agency is giving consideration to standardizing/harmonizing the shipyard employment scaffolding standards with these industries, and may pursue future rulemaking in this area.

As a consequence, OSHA is allowing the top edge height of the guardrail or equivalent member on supported scaffolds used in the shipyard employment industry to be installed between 38 inches and 45 inches above the platform surface. Top rail heights that are 38 inches or higher, but less than 42 inches, will be considered *de minimus* until further notice.

If you have any questions regarding this memorandum, please contact Stephen Butler, Director, Office of Maritime Enforcement at (202) 693-2152 or (202) 693-2399.