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• Standard Number:

1910.23(e)(1) · 1910.23(e)(2) · 1910.23(e)(5)(ii)

September 14, 2005

Mr. Helmut Haydl
3710 Sydna Street
Bethlehem, PA 18107

Dear Mr. Haydl:

Thank you for your June 24, 2004 letter to the Occupational Safety and Health Administration (OSHA). Your letter was forwarded to the Office of General Industry Enforcement for response. This letter constitutes OSHA's interpretation only of the requirements discussed and may not be applicable to any questions not delineated within your original correspondence. You had specific questions regarding the requirements for stair and hand rails.

The question below has been restated for clarity.

Question: Does the OSHA requirement for a "standard railing" at 42-inch height apply to open stairs? Under the General Industry standard, can a 42-inch high top rail for a stairway also serve as a handrail, or must a handrail also be provided?

Response: In your letter you asked whether the 42-inch height requirement for a "standard railing" (29 CFR 1910.23(e)(1)) applies to open stairs. The requirements for a "stair railing" are set out in 29 CFR 1910.23(e)(2). The vertical height of a stair railing must be not more than 34 inches nor less than 30 inches from the upper surface of the top rail to the surface of the tread. The same height specifications apply to handrails on stairs. See §1910.23(e)(5)(ii).

OSHA, however, opened a rulemaking proceeding in 1990 to revise Subpart D of Part 1910, including the current height requirements for stair railings and handrails. See [55 Federal Register 13396 \(April 10, 1990\)](#). Under the proposal [proposed §1910.28(c)(2)(ii) and (iv)], for new installation the height of a handrail shall be not less than 36 inches above the tread.

Under the proposal [proposed §1910.28(c)(2)(iv)], a stair rail may also serve as a handrail if its height is not more than 37 inches nor less than 36 inches. In recognition of the fact some existing handrails are set at heights above 34 inches (see 55 Federal Register 13374), the proposal included grandfathering provisions under which existing handrails would be acceptable if not more than 42 inches nor less than 30 inches above the tread, and an existing stair rail could also serve as a handrail if its height is not more than 42 inches nor less than 36 inches above the tread.

OSHA often treats an employer's compliance with a proposed standard as a *de minimis* violation of the terms of an existing standard. A *de minimis* violation results in no citation or abatement requirement. Under this policy for *de minimis* violations, OSHA will, for stair rails installed prior to the date of the rulemaking notice, allow a stair rail not more than 42 inches nor less than 36 inches above the tread to also serve as a handrail. For installations after the date of the rulemaking notice, the height requirements in the existing standards apply, but a railing/handrail that meets the requirement of the proposed standard will be regarded as a *de minimis* violation.

Thank you for your interest in occupational safety and health. We hope you find this information helpful. OSHA requirements are set by statute, standards, and regulations. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. This letter constitutes OSHA's interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. Also, from time to time we update our guidance in response to new information. To keep apprised of such developments, you can consult OSHA's website at <http://www.osha.gov>. If you have any further questions, please feel free to contact the Office of General Industry Enforcement at (202) 693-1850.

Sincerely,

Richard E. Fairfax, Director
Directorate of Enforcement Programs

[Corrected 3/25/2009]

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