

November 20, 2012

Matthew Paxton, President

Shipbuilders Council of America

655 Fifteenth Street, NW Suite 225

Washington, DC 20005

Dear Mr. Paxton,

In response to your concerns regarding the recently promulgated Control of Hazardous Energy (lockout/tags-plus) standard for maritime employment, 29 C.F.R. § 1915.89, OSHA offers the following interpretive guidance concerning the standard.

Q1. Would the use of a job assignment sheet or other comparable system that requires a tangible action by the employee to "sign on" to the lockout/tags-plus system and "sign out" before it is removed be acceptable under 29 CFR 1915.89(k)(2)?

A1. Yes. Section 1915.89(k)(2) requires employers to use a procedure that provides each authorized employee a level of protection that is equivalent to a personal lockout/tags-plus system. The lockout/tags-plus standard requires that each authorized employee take an affirmative action before he/she begins servicing operations and before the lockout/tags-plus system is removed at the completion of such operations. The two actions protect employees by ensuring that (1) upon signing on, they understand that a lockout/tags-plus system is in place and that they may safely perform servicing operations, and (2) upon signing out, they understand that the lockout/tags-plus system will be removed and that they must not perform further servicing. Thus, your example of a job assignment sheet that requires the employee to sign on and sign out of the lockout/tags-plus system would meet the requirements of paragraph (k)(2). As noted in the preamble to the final rule, § 1915.89(k)(2) "gives employe[r]s flexibility to develop a system equivalent to the group lockout/tags-plus systems ... [such as] signing a group tag or tag equivalent, attaching a personal identification device to a group lockout device, or performing some comparable action before servicing is started." 76 FR 24638

Q2. If an employer is in compliance with the group lockout/tagout section of 29 CFR 1910.147(f)(3) for general industry or 29 CFR 1910.269(d)(8)(iii) for electric power transmission, generation, and distribution, would the employer be considered compliant with the group lockout/tags-plus portion of 29 CFR 1915.89, including 29 CFR 1915.89(c)(7)?

A2. Not necessarily. The specific requirement in the group lockout/tags-plus provision of § 1915.89 for an affirmative action (e.g., sign in and sign out) by each authorized employee is found in the group lockout/tagout standards for general industry and electric power transmission, generation, and distribution. However, other group lockout/tags-plus requirements in § 1915.89 are not found in either of the other two standards. For example, the requirement in the shipyard lockout/tags-plus standard for a lockout/tags-plus coordinator under certain conditions has no counterpart in the general industry and electric power lockout/tagout standards. Thus, a shipyard employer cannot rely solely on compliance with the lockout/tagout requirements of either the general industry or the electric power transmission, generation, and distribution standards to meet the requirements of Subpart F.

Q3. If an employee simply enters a space in which a tank is located and where a lockout/tags-plus system is applied to the tank's piping, would that employee be considered an authorized employee if he or she is not performing servicing or maintenance? Similarly, if an employee inspects the **space** where the tank is located (but does not inspect the tank itself or associated piping, equipment, or systems), would that employee be considered an authorized employee? Finally, if an aircraft carrier elevator is isolated with a tags-plus system and employees must access the ship via gangway attached to the elevator, would those employees be acting as authorized employees if they are not conducting servicing or maintenance?

A3. No. Subpart F defines "servicing" as "[w]orkplace activities that involve the construction, installation, adjustment, inspection, modification, testing, or repair of machinery, equipment or systems. Servicing also includes maintaining machines, equipment, or systems when performing these activities would expose the employee to harm from the start-up or energization of the system being serviced, or the release of hazardous energy." 29 CFR 1915.80(b)(26). Thus, an employee who is simply passing through or near equipment that is under a lockout/tags-plus application and is not performing any servicing to the affected equipment would not

be considered an authorized employee. However, any employee "who ... is working in the area where servicing is being performed under lockout/tags-plus" would be defined as an "affected employee." 29 CFR 1915.80(b)(2).

Q4. Do the lockout/tags-plus requirements apply to employees when their servicing work on machinery, equipment, or systems does not expose them to harm from start-up or energization of the machinery, equipment, or system being serviced?

A4. No. The lockout/tags-plus section of Subpart F applies only when the energization or startup of the machinery, equipment, or systems being serviced could endanger an employee. Thus, an employee who is performing servicing as defined in the standard is not covered by § 1915.89 unless he or she could be endangered by the energization or startup of the machinery, equipment, or system being serviced.

Q5. Does § 1915.89(c)(7)(i) require a lockout/tags-plus coordinator every time a task involves more than one employee or more than one servicing operation?

A5. No. Subpart F's lockout/tags-plus standard does not require a lockout/tags-plus coordinator whenever a task involves more than one employee. Nor did OSHA intend that a coordinator be assigned **automatically** (a) whenever servicing on a vessel or in a vessel section occurs on multiple machines, equipment, or systems at the same time, or (b) whenever multiple servicing operations on a vessel, in a vessel section, or at a landside facility occur simultaneously on the same machine, equipment, or system. A coordinator is required when employees performing a servicing operation could be endangered by one or more other servicing operations being performed at the same time because of the energization or startup of one or more of the machines, pieces of equipment or systems being serviced. The standard gives employers the flexibility to make decisions based on the need in their facilities to ensure employee protection. As noted in the preamble to the final standard, OSHA believes employers are in the best position to assess this need. 76 FR 24629.

Q6. Section 1915.89(m) requires the employer to establish and implement specific procedures for shift or personnel changes to ensure the continuity of lockout/tags-plus protection. Does a written log that transfers authority over the lockout/tags-plus system from the off-going primary authorized

employee to the oncoming primary authorized employee during a shift change meet the requirements of 29 CFR 1915.89(m)?

A6. Yes. Section 1915.89(m) is performance oriented and gives the employer flexibility in deciding how to ensure the continuity of lockout/tags-plus protection during shift or personnel changes. Paragraph (m) is written broadly enough to accept the transfer of primary authorized employee responsibilities from one shift to another through a written log.

Q7. If employees are assigned only to a specific location within a work area on a vessel or vessel section and there are no other employees performing job tasks in other sections of that work area, does every location within that work area need to meet the lighting requirements in Table F-1 of 29 CFR § 1915.82, "Lighting"?

A7. No. Table F-1 requires "assigned work areas" on vessels or vessel sections to have minimum lighting of 5 foot-candles (lumens). This requirement is intended to ensure that employees have adequate light to safely perform their work on vessels and vessel sections. Thus, if employees are assigned to work only in a specific location within a larger area, the minimum 5-lumen requirement applies to that area in which the work is performed and not to other locations within the larger area where no work is performed. However, if any part of the larger work area will be used as an accessway by employees, the minimum illumination must be 3 lumens, in accordance with Table F-1.

Q8. Will employers be cited for brief periods of time when lighting may not meet the requirements of Table F-1 because, for example, a light bulb burns out?

A8. No, as long as the employer replaces the inoperative light bulbs promptly and avoids assigning employees to work in areas that are not adequately lit with permanent or portable lighting.

Q9. What is the minimum lighting requirement for landside outdoor work areas such as access areas for vessel sections or work areas adjacent to ships or on platens or barges?

A9. Table F-1 in 29 CFR 1915.82 requires illumination of 10 lumens for "landside work areas such as machine shops, electrical equipment rooms, carpenter shops, lofts, tool rooms, warehouses, and outdoor work areas." Other landside areas require lesser illumination. OSHA explained that the

higher 10-lumen level for landside areas such as machine and carpentry shops is necessary because employees use tools and equipment that could pose a hazard and perform precision work in these areas. Higher illumination levels are required in warehouses and similar landside areas to ensure that employees can read warning signs and safely operate equipment such as forklift trucks. 76 FR 24588. OSHA recognizes that certain functions of a temporary nature take place landside outdoors where permanent lighting is not always practical because the configurations of the area and vessel sections change frequently over time. OSHA also recognizes that, after sunset, these landside outdoor work areas share many of the same characteristics as work areas inside the vessel, which require only 5 lumens of illumination. Where landside outdoor shipyard work tasks require employees to use tools and equipment that could pose a hazard, perform precision work, read signs and warning labels, or operate forklift trucks or other heavy equipment where the controls and instructions must be seen and understood, OSHA will require 10 lumens of illumination. However, OSHA does not intend to enforce the 10-lumen requirement for other landside outdoor work tasks if those work tasks do not pose a danger to employees working under lesser lighting conditions. For such landside outdoor work tasks and for landside outdoor walkways, OSHA will permit an employer to install temporary lighting of 5 lumens. For areas of vessel ingress and egress, OSHA will permit an employer to install temporary lighting of 3 lumens, as is required for accessways on vessels and vessel sections.

Q10. What part of a work area would be considered a walkway and need to be cordoned off to comply with 29 CFR 1915.81(b)(2)?

A10. Section 1915.81(b)(2) states:

While a walkway or part of a walkway is being used as a working surface, the employer shall cordon off that portion to prevent it from being used as a walkway.

A walkway is defined at 1915.80(b)(35) as:

Any surface, whether vertical, slanted, or horizontal, on which employees walk, including areas that employees pass through, to perform their job tasks. Walkways include, but are not limited to, access ways, designated walkways, aisles, exits, gangways, ladders, ramps, stairs, steps, passageways, and scaffolding. If an area is, or could be, used to gain

access to other locations, it is to be considered a walkway.

OSHA does not intend for a walkway to be any and every surface on which an employee theoretically could walk, but rather an area where employees **do** walk to get from one location to another. Thus, if an employee walks into a work area to collect a tool, to inspect work, or to conduct other business within the work area, the employer need not cordon off the area simply because an employee walked in it. Generally, if any part of the work area would be used to gain access to another location, the employer must cordon off that part of the work area and prevent its use as a walkway. If this presents practical problems, the employer may schedule work activities in the area only for certain times and use the area as a walkway during other times when work is not performed or take other steps to ensure that employees do not have to walk through areas where work is being performed to get from one location to another.

Q11. Section 1915.84(a) and (b) require that "whenever an employee is working alone, such as in a confined space or isolated location, the employer shall account for each employee ... by sight or verbal communication." Does this mean that the employer may use email responses, text messages, or transponders that require employees to press buttons to confirm communication?

A11. No. OSHA intended "verbal" to mean "oral." As stated in the preamble, "OSHA has determined that, when employers use verbal communication to check on employees working alone, communication must include both parties speaking." 76 FR 24596. In sum, employers can account for their employees by talking with them (e.g., face-to-face or by radio), or by seeing them work, even if at a distance. Where an employer chooses to use a cell phone as the primary means of verbal communication, the employer must verify cell phone reception in all areas where the employee will be working alone.

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. To keep apprised of such developments, you can continue to consult OSHA's Web

site at www.osha.gov. If you have any further questions, please feel free to contact Steven Butler at (202) 693-2152.

Sincerely,

Richard E. Fairfax Deputy Assistant Secretary

CC: Tressi L. Cordaro