

**DEPARTMENT OF LABOR****Occupational Safety and Health Administration****29 CFR Part 1915****[Docket No. S-043; S-044; S-046; S-047; S-047a]****RIN 1218-AA68; 1218-AA70<sup>1</sup>****Safety Standards in Shipyard Employment for Scaffolds; Welding, Cutting, and Heating; Access and Egress; and Fall Protection****AGENCY:** Occupational Safety and Health Administration (OSHA), Department of Labor.**ACTION:** Withdrawal of proposed rules.

**SUMMARY:** OSHA is withdrawing its proposed rules for Scaffolds in Shipyard Employment, Subpart N, Welding, Cutting and Heating in Shipyard Employment, Subpart D, Access and Egress in Shipyards, Subpart E, and Fall Protection for Shipyard Employment, Subpart M.

**DATES:** This withdrawal is effective on March 21, 2002.

**FOR FURTHER INFORMATION CONTACT:** Mr. Joseph V. Daddura, OSHA Office of Maritime Standards, N-3609, 200 Constitution Ave., NW, Washington, DC 20210, telephone (202) 693-2086.

**SUPPLEMENTARY INFORMATION:****Background**

On November 29, 1988, OSHA published proposed rules for Scaffolds in Shipyard Employment, Subpart N (53 FR 48182), Welding, Cutting and Heating in Shipyard Employment, Subpart D (53 FR 48111), Access and Egress in Shipyards, Subpart E (53 FR 48130), and Fall Protection for Shipyard Employment, Subpart M (53 FR 48168). The proposed rules intended to consolidate coverage of various shipyard hazards into one vertical standard.

The proposed rule on scaffolds included general requirements for scaffold construction and use, updated requirements for fall protection and falling object protection, and provided specific requirements for certain types of scaffolds. OSHA received 14 comments in response to this proposed

rule. See Exhibit 6 (Docket S-047). On April 12, 1994, OSHA reopened the rulemaking record to consider some additional issues, including the appropriateness of replacing the term "capable person" in the proposed rule with "qualified person," the requirements for interior hung scaffolds, and the qualifications for persons performing scaffold inspections. 59 FR 17290 (April 12, 1994). OSHA received 8 comments in response to this notice. See Ex. 9 (Docket S-047a).

The proposed rule for welding, cutting, and heating included general requirements for engineering controls, work practices, and personal protective equipment. It also established general requirements for welding, cutting, and heating in hazardous environments such as hollow metal spaces and confined spaces. In addition, the proposal included specific requirements for oxyfuel gas welding and cutting, arc welding and cutting, and resistance welding. OSHA received 8 comments in response to this proposed rule. See Ex. 6 (Docket S-043).

The proposed rule for access and egress included general requirements for means of access and egress, as well as specific requirements for access and egress on vessels, drydocks, cargo spaces, and other structures. OSHA received 5 comments in response to this proposed rule. See Ex. 6 (Docket S-044).

The proposed rule for fall protection specified instances where fall protection systems would be required in the shipyard environment. It also set forth requirements for fall protection systems criteria, including requirements for guardrail systems, and safety net systems. OSHA received 13 comments in response to this proposed rule. See Ex. 6 (Docket S-046).

**Reasons for Withdrawal of Proposed Rules**

OSHA is withdrawing the proposed rules for the following reasons. First, OSHA is devoting its resources to higher priority shipyard standards. These important rulemakings include proposed standards for Fire Protection in Shipyard Employment, Subpart P, and General Working Conditions for Shipyard Employment, Subpart F. See OSHA Regulatory Agenda at 66 FR 61872 (Dec. 3, 2001).

Second, there are technologies and developments in shipyard employment that have emerged over the last 14 years that are not reflected in the proposed rules and supporting economic analyses. For example, since 1988 the use of interior hung scaffolds in the shipyard industry has increased greatly. OSHA did not contemplate such

widespread use of these scaffolds when it published the proposed rule on scaffolds in 1988. Indeed, the proposed rule on scaffolds only provides minimum requirements for the erection of interior hung scaffolds; it does not address the dismantling of such scaffolds or certain work practices that may affect the structural integrity of the scaffolds. In addition, the manner in which ships and other vessels are constructed has changed dramatically since 1988, especially in small shipyards. Most ships are now constructed in component parts and assembled in one location. This method of construction reduces the need for certain work practices, such as piece-by-piece welding. It also reduces the need for multiple craft work at a single location. OSHA did not envision such a change throughout the entire shipyard industry when it published the proposed rules. This change affects the need for the requirements in the proposed rules, as well as necessitating changes to the supporting economic analyses.

Third, the rulemaking records for these proposed rules are particularly sparse. OSHA received only a few comments in response to each proposal. While most of these comments were helpful and informative, OSHA believes there is insufficient information in the rulemaking records upon which to regulate the specific conditions the proposals were intended to address.

Accordingly, the proposed rules for (1) Scaffolds in Shipyard Employment, Subpart N, (2) Welding, Cutting and Heating in Shipyard Employment, Subpart D, (3) Access and Egress in Shipyards, Subpart E, and (4) Fall Protection for Shipyard Employment, Subpart M are withdrawn.

**Authority:** This notice was prepared under the direction of John L. Henshaw, Assistant Secretary for Occupational Safety and Health. It is issued under sections 6 and 8 of the Occupational Safety and Health Act (29 U.S.C. 655, 657), 29 CFR 1911.11, and 29 CFR 1911.18.

Issued at Washington, DC, this 11 day of March, 2002.

**John L. Henshaw,**

*Assistant Secretary of Labor.*

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**LEGAL SERVICES CORPORATION****45 CFR Part 1611****Eligibility; 1611 Negotiated Rulemaking Working Group Meeting**

**AGENCY:** Legal Services Corporation.

<sup>1</sup> These RIN numbers correspond to the proposed rules for Scaffolds in Shipyard Employment, Subpart N and Access and Egress in Shipyards, Subpart E respectively. The proposed rules for Welding, Cutting and Heating in Shipyard Employment, Subpart D, and Fall Protection for Shipyard Employment, Subpart M no longer appear in OSHA's Semi-Annual Regulatory Agenda. These proposed rules were formally assigned RIN numbers 1218-AA73 and 1218-AA66 respectively.