



American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

Greg Bell, Director
Industrial Relations
1300 L Street, NW
Washington, DC 20005
202-842-4273 (Office)
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October 22, 2009

To: Local Presidents

Re: OSHA Complaint – Electrical Hazards Related to the Postal Service's
Continuing Failure to Comply with OSHA Subpart S - Electrical Standards

National Executive Board

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Coordinator, Southern Region

Omar M. Gonzalez
Coordinator, Western Region

Dear Local President:

I am writing in regard to electrical work hazards related to the Postal Service's failure to comply with OSHA Subpart S regulations. The purpose of this letter is to explain the attached information and APWU's intent to have multiple OSHA complaints filed by locals nationwide.

APWU has made many attempts to discuss and correct known electrical risks and hazards with the Postal Service. On April 9, 2007 and April 14, 2008, OSHA conducted compliance inspections of postal facilities and found the Postal Service in violation of various Electrical Standards contained in Subpart S regulations. The Postal Service agreed that these hazards existed and entered into informal settlements, but has so far failed to correct the problems.

APWU has developed the enclosed OSHA complaint package which Locals are being asked to file with their OSHA Area offices. Instructions on completing an OSHA-7 form are attached. Additionally you can find your OSHA Area Office at www.osha.gov/html/RAmap/html.

Following submission of the complaint, OSHA should schedule an inspection. You and/or your designee may participate fully in this inspection. OSHA should not provide any advanced notice of the inspection. OSHA may hold an opening and closing conference to outline the purpose of, and the findings from, their inspection.

Please notify Corey Thompson, APWU Safety & Health Specialist, at 202-842-4273 or cthompson@apwu.org, about OSHA's visit.

Thank you in advance for your assistance.

In Union Solidarity,


Greg Bell, Director
Industrial Relations

GB/CT:jm;
OPEIU #2;AFL-CIO

OSHA Complaint – Electrical hazards related to the Postal Service’s continuing failure to comply with OSHA Subpart S – Electrical Standards

The Issues/Complaint

The following information is provided as supplemental information for the OSHA Form-7 (attached) and further provides notification of electrical hazards which Postal Service employees are exposed to on a daily basis. More specifically, the Postal Service continues to willfully expose postal employees to electrical risks and hazards associated with work in and around electrical machinery and equipment, even after the risks and hazards have been documented and presented to the Postal Service through prior OSHA citations. In addition to ignoring OSHA, the Postal Service continues to fail to provide instructions and work guidelines (handbooks and manuals) and training programs required to protect employees. Employees are exposed to electrical hazards and the risk of arc-flash and related injuries due to the lack of a written electrical program, improper training, failure to provide proper flame-resistant PPE clothing, failure to properly label electrical hazards, failure to conduct hazard assessments, and lack of compliance with other related OSHA standards such as proper lockout/tagout.

The following are some of the common violation present in Postal facilities:

1. 29 CFR 1910.332(b)(1): employees were not trained in and familiar with safety-related work practices required by 29 CFR 1910.331 through 29 CFR 1910.335 that pertained to their respective job assignments.
2. 29 CFR 1910.335 (a)(1)(i): Employees working in areas where there were potential electrical hazards were not provided with, and/or did not use, electrical protective equipment that was appropriate for the

specific parts of the body to be protected and for the work to be performed.

3. 29 CFR 1910.335(a)(2)(i): When working near exposed energized conductors or circuit parts, each employee did not use insulated tools or handling equipment when the tools or handling equipment might have made contact with such conductors or parts.
4. 29 CFR 1910.304(g)(5): The path to ground from circuits, equipment, and enclosures were not permanent, continuous, and effective.
5. 29 CFR 1901.147(c)(4)(i): Procedures were not developed, documented and utilized for the control of potentially hazardous energy when employees were engaged in activities covered by this section.
6. 29 CFR 1910.147(c)(6)(i): The employer did not conduct a periodic inspection of the energy control procedures at least annually to ensure that the procedures and the requirement of this standard were being followed.

The above-referenced OSHA standards identify some of the many hazards employees who work in and around electrical equipment are exposed to. Please note this includes not only maintenance tasks but also operations. The APWU has on both the local and National level tried without success to jointly work with the Postal Service on this issue.

Does the Hazard Exist?

1. NFPA (National Fire Protection Association) consensus standard 70E according to OSHA (02/29/2008 Standard Interpretation) can be evidence that there is a hazard for which PPE is necessary. While the NFPA 70E consensus standard has not been adopted as an OSHA standard, it is relevant as evidence that arc flash is a recognized hazard and that PPE is necessary to protect against that hazard.

2. OSHA's present requirements in Subpart S, *Safety-Related Work Practices*, are based on NFPA 70E-1983, which did not at that time include specific provisions for flame-resistant (FR) clothing [protective equipment]. Although more recent versions of NFPA 70E have included such body protection provisions, OSHA has not conducted rulemaking proceedings to update Subpart S by adopting comparable provisions specifically related to the use of FR clothing to protect against arc-flash hazards. OSHA's existing Subpart S, therefore, does not include a specific requirement for the use of FR clothing.

However, arc-flash hazards are addressed in the OSHA electrical safety-related work practices standards. For example, with respect to arc-flash burn hazard prevention, the general provisions for the *Selection and use of work practices* contained in §1910.333(a)(1) generally require de-energizing of live parts before an employee works on or near them – i.e., employees must first render electric equipment safe by completely de-energizing it by means of lockout and tagging procedures. This single safe work practice significantly reduces the likelihood of arc-flash burn injury by reducing employee exposure to electrical hazards – i.e., exposure is limited to when the equipment is shut down and when the qualified employee verifies, by use of a test instrument, a de-energized state.

When employees perform work on energized circuits, as permitted by §1910.333(a)(1), tools and handling equipment that might make contact with exposed energized parts must be insulated in accordance with §1910.335(a)(2)(i). This work practice also reduces the likelihood of employee injury caused by an arc blast.

Arc-flash hazards are also addressed in §1910.335(a)(1)(v), *Safeguards for personnel protection*, which requires that personal protective equipment (PPE) for the eyes and face be worn whenever there is danger of injury to the eyes or face from electrical arcs or flashes or from flying objects resulting from an electrical explosion. In addition, paragraph (a)(2)(ii) of §1910.335 requires, in pertinent part, the use of protective shields, barriers, or insulating equipment "to protect each employee from shocks, burns, or

other electrically related injuries while that employee is working ... *where dangerous electric heating or arcing might occur*" (emphasis added). The §1910.335(a)(2)(ii) safeguard selected – shield, barrier, or insulating material – must fully protect employees from electric shock, the blast, and arc-flash burn hazards associated with the incident energy exposure for the specific task to be performed. However, in situations where a fully protective safeguard could be used as an alternative, OSHA will, under its policy for *de minimis* violations, allow employers to use instead safeguards that are not fully protective, provided that the employer implements additional measures. The supplemental measures, which could include the use of arc-rated FR clothing appropriate to the specific task, **must fully protect** the employee from all residual hazardous energy (e.g., the resultant thermal effects from the electric arc) that passes the initial safeguard.

Where there is no §1910.335(a)(2)(ii) safeguard that would fully protect against the hazards, an employer is still obligated under the Occupational Safety and Health Act of 1970 to take reasonable steps that will protect the employee to the degree possible. As noted in the previous paragraph, the protection provided by a safeguard that is not fully effective can be augmented through use of other safety measures such as FR clothing and other appropriate PPE.

OSHA recommends that employers consult consensus standards such as NFPA 70E-2004 to identify safety measures that can be used to comply with or supplement the requirements of OSHA's standards for preventing or protecting against arc-flash hazards. For example, Section 130.3 of the NFPA standard establishes its own mandatory provisions for flash-hazard-analysis, which sets forth the criteria to define a flash-protection boundary and the personal protective equipment for use by employees within the flash-protection boundary. The goal of this provision is to reduce the possibility of being injured by an arc-flash. The analysis is task specific and determines the worker's incident-energy exposure (in calories per square centimeter). Where it has been determined that work will be performed within the flash-protection boundary, NFPA 70E specifies that flame-resistant clothing and PPE use either be based on the pre-determined

incident-energy exposure data or be in accordance with the *Hazard/Risk Category Classifications* and *Protective Clothing and Personal Protective equipment (PPE) Matrix* tables contained in Sections 130.7(C)(9) and (C)(10), respectively.

Other NFPA 70E, Article 130 provisions, such as the justification for work through the use of an energized electrical work authorization permit, and the completion of a job briefing with employees before they start each job, additionally decrease the likelihood that exposure to electrical hazards would occur.

Is the hazard recognized?

The Postal Service is well aware that electrical hazards exist in their facilities and, further, they are equally aware that these hazards are regulated under OSHA Subpart S and other OSHA standards. The Postal Service has been cited for violating OSHA's Electrical Standards on numerous occasions and, more particularly, has settled violations by agreeing that serious hazard existed and paying a monetary penalty. Specific examples include OSHA inspection numbers 312338239 issued on 10/08/2008 and 309556223 issued on 9/24/2007.

Further, industry consensus standard NFPA 70E may be evidence that a hazard is "recognized" and that there is a feasible means of correcting such hazards. In OSHA enforcement actions, these consensus standards can be used as evidence of whether the employer acted reasonably.

Conclusion – Request for on-site formal inspection.

The Postal Service continues to willfully expose postal employees to electrical risks and hazards associated with work in and around electrical machinery and equipment, even after the risks and hazards have been documented and presented to the Postal Service through prior OSHA citations. In addition to ignoring OSHA, the Postal Service continues to fail to provide instruction (handbooks and manuals), proper electrical hazard labeling, or written electrical programs and training programs

required to protect employees. Employees are exposed to electrical hazards and the risk of arc-flash hazards and related injuries due to the lack of a written electrical program, lack of or improper training, failure to provide proper FR PPE clothing, failure to conduct hazard assessments, failure to properly label, and lack of compliance with other related OSHA standards such as proper lockout/tagout.

APWU is requesting that OSHA perform a formal inspection of our plant/facility. We have presented facts that electrical hazards exist, the hazards are and have been recognized by the Postal Service, the hazards are causing and are likely to continue to cause serious physical harm to employees and there are feasible and useful methods to correct the hazards.

We formally request that OSHA evaluate the entire work operation for electrical risks and hazards and that if the findings reflect that postal employees are continuing to be exposed to known electrical risks, that OSHA cite the Postal Service for WILLFULLY violating their obligation to comply with, at a minimum the following OSHA standards:

- 5(a)(1) furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or likely to cause death or serious physical harm to his employees.
- 29 CFR 1910.332(b)(1): Employees were not trained in and familiar with safety-related work practices required by 29 CFR 1910.331 through 29 CFR 1910.335 that pertained to their respective job assignments.
- 29CFR1910.335 (a)(1)(i): Employees working in areas where there were potential electrical hazards were not provided with, and/or did not use, electrical protective equipment that was appropriate for the specific parts of the body to be protected and for the work to be performed.
- 29CFR 1910.335(a)(2)(i): When working near exposed energized conductors or circuit parts, each employee did not use insulated tools

or handling equipment when the tools or handling equipment might have made contact with such conductors or parts.

- 29 CFR 1910.304(g)(5): The path to ground from circuits, equipment, and enclosures were not permanent, continuous, and effective.
- 29 CFR 1910.335(a)(1)(v), *Safeguards for personnel protection*, which requires that personal protective Equipment (PPE) for the eyes and face be worn whenever there is danger of injury to the eyes or face from electric arcs or flashes or from flying objects resulting from an electrical explosion.
- 29 CFR 1910.335(a)(2)(ii) requires, in pertinent part, the use of protective shields, barriers, or insulating equipment "to protect each employee from shocks, burns, or other electrically related injuries while that employee is working . . . *where dangerous electric heating or arcing might occur*" (emphasis added). The §1910.335(a)(2)(ii) safeguard selected – shield, barrier, or insulating material – must fully protect employees from electric shock, the blast, and arc-flash burn hazards associated with the incident energy exposure for the specific task to be performed.
- 29 CFR 1910.303(e) requires employers to mark electrical equipment with descriptive markings, including the equipment's voltage, current, wattage, or other ratings as necessary.
- 29 CFR 1910.335(b), OSHA requires employers to use alerting techniques (safety signs and tags, barricades, and attendants) ... *to warn and protect employees from hazards which could cause injury due to electric shock, burns or failure of electric equipment parts*. Although these Subpart S electrical provisions do not specifically require that electric equipment be marked to warn qualified persons of arc-flash hazards, §1910.335(b)(1) requires the use of safety signs, safety symbols, or accident prevention tags to **warn** employees about electrical hazards (e.g., electric-arc-flash hazards) which may

endanger them as required by §1910.145

- 29 CFR 1901.147(c)(4)(i): Procedures were not developed, documented and utilized for the control of potentially hazardous energy when employees were engaged in activities covered by this section.
- 29 CFR 1910.147(c)(6)(i): The employer did not conduct a periodic inspection of the energy control procedures at least annually to ensure that the procedures and the requirement of this standard were being followed.

Attachments:

1. Standard Interpretations: 11/14/2006 – OSHA requirements for warning signs and protection from electric-arc-flash hazards and compliance with NFPA 70E-2004.
2. Standard Interpretations: 10/18/2006 – Incorporation of NFPA 70E-2000 into OSHA standards.
3. Standard Interpretations: 07/25/2003 – General Duty Clause (5(a)(1)) citations on multi-employer worksites; NFPA 70E electrical safety requirements and personal protective equipment.
4. Standard Interpretations: 12/19/2006 – "Continuous industrial processes" and the infeasibility of de-energizing equipment under 29 CFR 1910.333
5. Standard Interpretations: 02/29/2008 – Whether employees who are verifying that an electrical system is de-energized or are turning off circuit breakers are required to use personal protective equipment.
6. OSHA Inspection No. 312338239 Informal Settlement Agreement.
7. Search Results – Inspection Details No(s). 312338239 and 309556223.

U.S. Department of Labor

Occupational Safety and Health Administration
380 Westminister Street, Room 543
Providence, RI 02903

Phone: (401) 528-4889
Fax: (401) 528-4863



In the Matter Of: U.S. Postal Service
and its successors

OSHA No.(s): 312338239

INFORMAL SETTLEMENT AGREEMENT

The undersigned Employer and the undersigned Occupational Safety and Health Administration (OSHA), in settlement of the above citation(s) and penalties which were issued on 10/08/2008, hereby agree as follows:

1. The Employer agrees to correct the violations as cited in the above citation(s) or as amended below.
2. The Employer agrees to pay the proposed penalties, if any, as issued with the above citation(s), or, if amended by this agreement, as amended below:

The new proposed penalty is \$2,312.50

The Employer agrees that should he fail to pay the penalty as reduced, or any installments promptly when due or fail to complete all other provisions of this agreement, then he shall forthwith be liable for payment of the full unreduced penalty of \$6,750.00 as originally proposed plus interest at the current legal rate and costs.

3. OSHA agrees that the following citations and penalties are being amended as shown below:

(See attached)

4. The Employer, by signing this informal settlement agreement, hereby waives its rights to contest the above citation(s) and penalties, as amended in paragraph 3 of this agreement.
5. The Employer agrees to immediately post a copy of this Settlement Agreement in a prominent place at or near the location of the violation(s) referred to in paragraph 3 above. This Settlement Agreement must remain posted until the violations cited have been corrected, or for 3 working days (excluding weekends and Federal Holidays), whichever is longer.
6. The Employer agrees to continue to comply with the applicable provisions of the Occupational Safety and Health Act of 1970, and the applicable safety and health standards promulgated pursuant to the Act.

7. Each party hereby agrees to bear its own fees and other expenses incurred by such parties in connection with any stage of this proceeding.
8. None of the foregoing agreements, statements, stipulations, and actions taken by the employer shall be deemed an admission of the allegations contained within the citations, notifications of penalty herein. The agreements, statements, stipulations, findings, and actions taken herein are made for the purpose of settling this matter economically and amicably and they shall not be used for any purpose, except for the proceedings and matters arising under the OSHA Act (29 USC 651, et seq.).

A. E. R.
 For the Employer
 A. Elaine Roy, NEA USPS Attorney

11-12-08
 Date

Robert J. Sestito
 For the Occupational Safety and Health
 Administration
 Patrick J. Griffin, Area Director

11/12/08
 Date

NOTICE TO EMPLOYEES

The law gives you or your representative the opportunity to object to any abatement date set for in a violation if you believe the date to be unreasonable. Any contest to the abatement dates of the citations amended in paragraph 3 of this Settlement Agreement must be mailed to the U.S. Department of Labor/OSHA at 380 Westminister Street 543, Providence, RI 02903, within 15 working days (excluding weekends and Federal Holidays) of the receipt by the Employer of this Settlement Agreement. You or your representative also have the right to object to any of the abatement dates sets for violations, which were not amended, provided that the objection is mailed to the address shown above within the 15-working-day period established by the original citation.



UNITED STATES DEPARTMENT OF LABOR

OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION

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Inspection Detail

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Quick Link Reference

312338239

309556223

Inspection: 312338239 - U.S. Postal Service

Inspection Information - Office: Providence		
Nr: 312338239	Report ID:0112300	Open Date: 04/16/2008
U.S. Postal Service 24 Corliss Street Providence, RI 02904 SIC: 9199/General Government, Not Elsewhere Classified NAICS: 921190/Other General Government Support Mailing: 24 Corliss Street, Providence, RI 02904		Union Status: Union
Inspection Type: Complaint Scope: Partial Ownership: Private Safety/Health: Safety Emphasis: S:Electrical		Advanced Notice: N Close Conference: 04/22/2008 Close Case: 03/30/2009
Related Activity: Type ID Safety Health Complaint 206658262 Yes		

	Violation Summary					
	Serious	Willful	Repeat	Other	Unclass	Total
Initial Violations	3					3
Current Violations	2					2
Initial Penalty	6750					6750
Current Penalty	2312.5					2312.5
FTA Amount						

Violation Items										
#	ID	Type	Standard	Issuance	Abate	Curr\$	Init\$	Fta\$	Contest	LastEvent
Deleted 1.	01001	Serious	19100147 C04 I	10/08/2008	11/04/2008	\$0	\$2125	\$0		F - Formal Settlement
2.	01002A	Serious	19100332 B01	10/08/2008	12/31/2008	\$1250	\$2500	\$0		I - Informal Settlement
3.	01002B	Serious	19100333 B02 I	10/08/2008	12/31/2008	\$0	\$0	\$0		F - Formal Settlement
4.	01003	Serious	19100335 A01 I	10/08/2008	12/31/2008	\$1063	\$2125	\$0		F - Formal Settlement

Inspection: 309556223 - U.S. Postal Service

Inspection Information - Office: Concord		
Nr: 309556223	Report ID:0111700	Open Date: 04/09/2007



UNITED STATES DEPARTMENT OF LABOR

OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION

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Standard Interpretations

11/14/2006 - OSHA requirements for warning signs and protection from electric-arc-flash hazards and compliance with NFPA 70E-2004.
[← Standard Interpretations - Table of Contents](#)

- **Standard Number:** [1910.5](#); [1910.5\(c\)\(1\)](#); [1910.5\(f\)](#); [1910.132](#); [1910.145](#); [1910.303](#); [1910.303\(e\)](#); [1910.333](#); [1910.333\(a\)\(1\)](#); [1910.333\(b\)\(2\)](#); [1910.335](#); [1910.335\(b\)](#); [1910.335\(b\)\(1\)](#); [1910.335\(a\)\(1\)\(iv\)](#); [1910.335\(a\)\(1\)\(v\)](#); [1910.335\(a\)\(2\)\(i\)](#); [1910.335\(a\)\(2\)\(ii\)](#)

This letter constitutes OSHA's interpretation only of the requirements discussed and may not be applicable to any situation not delineated within the original correspondence.

November 14, 2006

Ms. Joanne B. Linhard
 ORC Worldwide
 1910 Sunderland Place, NW
 Washington, DC 20036

Dear Ms. Linhard:

Thank you for your e-mail to the Occupational Safety and Health Administration's (OSHA's) Directorate of Enforcement Programs (DEP) for an interpretation regarding OSHA's requirements and the National Fire Protection Association's (NFPA) 70E-2004, *Standard for Electrical Safety in the Workplace*. Your questions have been restated below for clarity. We apologize for the delay in our response.

Question 1: When work must be performed on energized electric equipment that is capable of exposing employees to arc-flash hazards, does OSHA require the marking of the electric equipment to warn qualified persons of potential electric arc-flash hazards — i.e., as required by NFPA 70E-2004?¹

Reply: OSHA has no specific requirement for such marking. A requirement to mark equipment with flash hazard warnings was not included in the 1981 Subpart S revision. However, paragraph (e) of §1910.303 requires employers to mark electrical equipment with descriptive markings, including the equipment's voltage, current, wattage, or other ratings as necessary. OSHA believes that this information, along with the training requirements for qualified persons, will provide employees the necessary information to protect themselves from arc-flash hazards.

Additionally, in §1910.335(b), OSHA requires employers to use alerting techniques (safety signs and tags, barricades, and attendants) . . . *to warn and protect employees from hazards which could cause injury due to electric shock, burns or failure of electric equipment parts*. Although these Subpart S electrical provisions do not specifically require that electric equipment be marked to warn qualified persons of arc-flash hazards, §1910.335(b)(1) requires the use of safety signs, safety symbols, or accident prevention tags to **warn** employees about electrical hazards (e.g., electric-arc-flash hazards) which may endanger them as required by §1910.145.

Question 2: Is flame-resistant clothing required for employees working on electrical installations covered by Subpart S?

Reply: OSHA's present requirements in Subpart S, *Safety-Related Work Practices*, are based on NFPA 70E-1983, which did not at that time include specific provisions for flame-resistant (FR) clothing [protective equipment]. Although more recent versions of NFPA 70E have included such body protection provisions, OSHA has not conducted rulemaking proceedings to update Subpart S by adopting comparable provisions specifically related to the use of FR clothing to protect against arc-flash hazards. OSHA's existing Subpart S, therefore, does not include a specific requirement for the use of FR clothing.

However, arc-flash hazards are addressed in the OSHA electrical safety-related work practices standards. For example, with respect to arc-flash burn hazard prevention, the general provisions for the *Selection and use of work practices* contained in §1910.333(a)(1) generally require deenergization of live parts before an employee works on or near them — i.e., employees must first render electric equipment safe by completely deenergizing it by means of lockout and tagging procedures. This single safe work practice significantly reduces the likelihood of arc-flash burn injury by reducing employee exposure to electrical hazards — i.e., exposure is limited to when the equipment is shut down and when the qualified employee verifies, by use of a test instrument, a deenergized state.

When employees perform work on energized circuits, as permitted by §1910.333(a)(1), tools and handling equipment that might make contact with exposed energized parts must be insulated in accordance with §1910.335(a)(2)(i). This work practice also reduces the likelihood of employee injury caused by an arc blast.

Arc-flash hazards are also addressed in §1910.335(a)(1)(v), *Safeguards for personnel protection*, which requires that personal protective Equipment (PPE) for the eyes and face be worn whenever there is danger of injury to the eyes or face from electric arcs or flashes or from flying objects resulting from an electrical explosion. In addition, paragraph (a)(2)(ii) of §1910.335 requires, in pertinent part, the use of protective shields, barriers, or insulating equipment "to protect each employee from shocks, burns, or other electrically related injuries while that employee is working . . . where dangerous electric heating or arcing might occur" (emphasis added). The §1910.335(a)(2)(ii) safeguard selected — shield, barrier, or insulating material — must fully protect employees from electric shock, the blast, and arc-flash burn hazards associated with the incident energy exposure for the specific task to be performed. However, in situations where a fully protective safeguard could be used as an alternative, OSHA will, under its policy for *de minimis* violations, allow employers to use, instead, safeguards that are not fully protective, provided that the employer implement additional measures.² The supplemental measures, which could include the use of arc-rated FR clothing appropriate to the specific task, **must fully protect** the employee from all residual hazardous energy (e.g., the resultant thermal effects³ from the electric arc) that passes the initial safeguard.

Where there is no §1910.335(a)(2)(ii) safeguard that would fully protect against the hazards, an employer is still obligated under the Occupational Safety and Health Act of 1970 to take reasonable steps that will protect the employee to the degree possible.⁴ As noted in the previous paragraph, the protection provided by a safeguard that is not fully effective can be augmented through use of other safety measures such as FR clothing and other appropriate PPE.

OSHA recommends that employers consult consensus standards such as NFPA 70E-2004 to identify safety measures that can be used to comply with or supplement the requirements of OSHA's standards for preventing or protecting against arc-flash hazards. For example, Section 130.3 of the NFPA standard establishes its own mandatory provisions for flash-hazard-analysis⁵, which sets forth the criteria to define a flash-protection boundary and the personal protective equipment for use by employees within the flash-protection boundary. The goal of this provision is to reduce the possibility of being injured by an arc-flash. The analysis is task specific and determines the worker's incident-energy exposure (in calories per square centimeter). Where it has been determined that work will be performed within the flash-protection boundary, NFPA 70E specifies that flame-resistant clothing and PPE use either be based on the pre-determined incident-energy exposure data or be in accordance with the *Hazard/Risk Category Classifications and Protective Clothing and Personal Protective equipment (PPE) Matrix* tables contained in Sections 130.7(C)(9) and (C)(10), respectively.

Other NFPA 70E, Article 130 provisions, such as the justification for work through the use of an energized electrical work authorization permit, and the completion of a job briefing with employees before they start each job, additionally decrease the likelihood that exposure to electrical hazards would occur.

Question 3: How is OSHA enforcing §1910.132 and Subpart S with regard to the latest edition of NFPA 70E requirements?

Reply: As noted above, OSHA has not conducted a rulemaking to adopt the requirements of the latest edition of NFPA 70E and, therefore, does not "enforce" those requirements. However, industry consensus standards, such as NFPA 70E, can be used by OSHA and employers as guides in making hazard analyses and selecting control measures.

With regards to enforcing §1910.132 and the Subpart S standards, the PPE requirements contained in Subpart S would prevail over the general requirements contained in §1910.132 where both standards would apply to the same condition, practice, control method, etc. See §1910.5(c)(1).

Question 4: Does OSHA issue Section 5(a)(1) General Duty Clause violations to companies who do not follow the new NFPA 70E requirements?

Reply: A violation of the General Duty Clause, Section 5(a)(1) of the Act, exists if an employer has failed to furnish a workplace that is free from recognized hazards causing or likely to cause death or serious physical injury. The General Duty Clause is not used to enforce the provisions of consensus standards, although such standards are sometimes used as evidence of hazard recognition and the availability of feasible means of abatement. In addition, the General Duty Clause usually should not be used if there is a standard that applies to the particular condition, practice, means, operation, or process involved. See §1910.5(f).

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. In addition, 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,

Edwin G. Foulke, Jr.

¹ Section 400.11 of NFPA 70E-2004 states: *Switchboards, panelboards, industrial control panels, and motor control centers that are in other than dwelling occupancies and are likely to require examination, adjustment, servicing, or maintenance while energized shall be field marked to warn qualified persons of potential electric arc flash hazards. The marking shall be located so as to be clearly visible to qualified persons before examination, adjustment, servicing, or maintenance of the equipment.* [[back to text](#)]

² OSHA has not formally compared each provision of the NFPA 70E-2004 standard with the parallel provision in Subpart S but generally believes that the NFPA standard offers useful guidance for employers and employees attempting to control electrical hazards. The Agency notes, however, that the face and head protection requirements contained in the Section 130.7(c)(10) Table do not require face and head area protection for Hazard Risk Category 1, even when serious face and head injury from the thermal effects of the arc could result. Therefore, this particular NFPA provision may not provide equivalent or greater employee protection with respect to the corresponding OSHA standards on eye, face, and head protection — i.e., §§1910.335(a)(1)(iv) and 1910.335(a)(1)(v). In addition, the Individual Qualified Employee Control Procedure conditionally permits certain work activities to be performed without the placement of lockout/tagout devices on the disconnecting means. See

Section 130.7(D)(1). This work practice provides less employee protection than that afforded by compliance with the OSHA lockout and tagging requirements contained in §1910.333(b)(2) and is, therefore, not acceptable. [[back to text](#)]

³ When an employee is working within the flash-protection boundary, Section 130.7 of the NFPA 70E-2004 standard requires the employee to wear protective clothing wherever there is possible exposure to an electric arc flash above the threshold incident-energy level for a second-degree burn, 5 J/cm² (1.2) cal/cm². In other words, the protective clothing system is designed to protect the employee from receiving second- or third-degree burns to his or her body. The typical characteristics, degree of protection, and required minimum arc ratings for typical protective clothing systems may be found in Table 130.7(c)(11). The NFPA standard requires the protective clothing selected for the corresponding hazard/risk category number to have an arc rating of at least the minimum value listed. [[back to text](#)]

⁴ To establish all of the elements of the affirmative defense of impossibility, an employer who can show that compliance with the terms of a standard is impossible under the circumstances must also show that it used alternative measures to protect employees, or that there were no such control measures. [[back to text](#)]

⁵ This flash hazard analysis information represents recognized good engineering practice and can be useful guidance for both OSHA personnel and employers applying the provisions contained in the electrical safety-related work practice standards contained in 29 CFR §§1910.331 through 1910.335. [[back to text](#)]

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Standard Interpretations

10/18/2006 - Incorporation of NFPA 70E-2000 into OSHA standards.[← Standard Interpretations - Table of Contents](#)**• Standard Number:** [1910 Subpart S](#)

This letter constitutes OSHA's interpretation only of the requirements discussed and may not be applicable to any situation not delineated within the original correspondence.

October 18, 2006

Mr. Michael C. Botts
3645 37th Ave.
Minneapolis, MN 55406

Dear Mr. Botts:

Thank you for your November 8, 2004 e-mail to the Occupational Safety and Health Administration's (OSHA) Directorate of Enforcement Programs. You had questions regarding the relationship between OSHA standards and the February, 2000 update of *National Fire Protection Association (NFPA) 70E, Standard for Electrical Safety Requirements for Employee Workplaces*. Your paraphrased inquiries and our responses follow.

Question: Has OSHA promulgated or changed any standards to directly incorporate NFPA 70E-2000 at this time?

Response: No. The electrical installation requirements and the electrical safety-related work practices in OSHA's general industry standards in Subpart S--Electrical Work, are based on previous editions of 70E. However, OSHA has proposed to update the installation requirements in Subpart S based on Part I of the 2000 edition of NFPA 70E. See 69 *Federal Register* 17773 (April 5, 2004). Later stages of this rulemaking project will also be based on other parts of NFPA 70E. Also, it should be noted that the latest edition of the NFPA standard is NFPA 70E-2004.

Because OSHA has not adopted through rulemaking the requirements of a more recent edition of NFPA 70E, those requirements have not become OSHA standards. A national consensus standard, however, can sometimes be relevant to a general duty clause citation in the sense that the consensus standard may be used as evidence of hazard recognition and the availability of feasible means of abatement. The general duty clause, Section 5(a)(1) of the OSH Act, is violated if an employer has failed to furnish a workplace that is free from recognized hazards causing or likely to cause death or serious physical harm. The general duty clause is used where there is no standard that applies to the particular hazards involved.

As you may know, the State of Minnesota administers its own occupational safety and health program, with approval and monitoring by federal OSHA. States that administer their own OSH plans must promulgate regulations that are "at least as effective" as the federal regulations, although they may be more stringent. As a result, Minnesota may have safety and health laws that are more restrictive than the federal laws. For more information specific to the State of Minnesota, you may contact the Minnesota Department of Labor and Industry at:

Minnesota Department of Labor and Industry
443 Lafayette Road North
St. Paul, Minnesota 55155-4307
(651) 284-5050
(651) 282-5405 FAX

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 employee 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

cc: Scott Brener, Commissioner

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Occupational Safety & Health Administration
200 Constitution Avenue, NW
Washington, DC 20210



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Standard Interpretations

12/19/2006 - "Continuous industrial processes" and the infeasibility of de-energizing equipment under 29 CFR 1910.333.

[Standard Interpretations - Table of Contents](#)

• **Standard Number:** [1910.333](#); [1910.333\(a\)\(1\)](#)

This letter constitutes OSHA's interpretation only of the requirements discussed and may not be applicable to any situation not delineated within the original correspondence.

December 19, 2006

Mr. Alan E. Scales
Safety Department
Fairchild Semiconductor International
333 Western Avenue
MS 01-31
Portland, ME 04106

Dear Mr. Scales:

Thank you for your June 6, 2006, letter to the Occupational Safety and Health Administration's (OSHA's) Directorate of Enforcement Programs. You had questions regarding OSHA's *Selection and use of work practices* standard, 29 CFR 1910.333, as it relates to "continuous industrial processes" and the infeasibility of de-energizing equipment under certain circumstances. Your paraphrased scenario, question, and our response follow.

Scenario: The manufacturing of our products involves many discrete pieces of equipment whose individual processes are part of the overall manufacture of integrated circuit components. For example, we have ten pieces of manufacturing equipment fed out of a 480-volt three-phase panel. A new project requires that additional feeders and a 225-ampere circuit breaker be added to the panel to supply a new piece of equipment. To perform the work in a de-energized state, it requires the power to the panel must be disconnected and appropriate LOTO devices applied. This activity would result in the shutdown of the ten pieces of equipment, causing a significant interruption to our ability to manufacture integrated circuits.

Question: Is the panel considered part of a "continuous industrial process," thus allowing the work to be performed while the panel was energized using electrical safe work practices, as per Note 2 in §1910.333(a)(1)?

Response: It appears that your panel is not part of a "continuous industrial process." The term "continuous industrial process" was derived from its use in the National Electrical Code (NEC). In the NEC "continuous industrial process" is used in the context of situations where the orderly shut down of integrated processes and equipment would introduce additional or increased hazards.¹ Therefore, to qualify for the exception found in Note 2 of §1910.333(a)(1), the employer must, on a case-by-case basis, determine if the orderly shutdown of the related equipment (including the panel) and processes would introduce additional or increased hazards. If so, then the employer may perform the work using the electrical safe work practices found in §§1910.331-1910.335, including, but not limited to, insulated tools, shields, barrier, and personal protective equipment. If the orderly shutdown of the related equipment and processes would not introduce additional or increased hazards, but merely

alter or interrupt production, then the de-energization of the equipment would be considered feasible, and the exception found in Note 2 of §1910.333(a)(1) would not apply. Based on the limited information you provided, it does not appear that de-energization of the panel in question would introduce additional or increased hazards.

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

¹ While the term "continuous industrial process" is used only once in the body of the NEC, the index directs the reader to four locations where the provisions are applicable to "continuous industrial processes." See NEC 2003, Sections 240-12, 230-95 Ex. 1, 430-44, and 240-3(a) [[back to text](#)]

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Standard Interpretations

02/29/2008 - Whether employees who are verifying that an electrical system is de-energized or are turning off circuit breakers are required to use personal protective equipment.

[Standard Interpretations - Table of Contents](#)

- **Standard Number:** [1926.95\(a\)](#); [1926.416\(a\)](#); [1926.416\(a\)\(1\)](#); [1926 Subpart K](#)

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>.

February 29, 2008

Mr. Brian Dolin, MS, CSP
Safety Consultant
Fortier Loss Control Consultants, Inc.
1947 Saint Gregorys Court
Knoxville, TN 37931

Re: Whether employees who are verifying that an electrical system is de-energized or are turning off circuit breakers are required to use personal protective equipment.

Dear Mr. Dolin:

This is in response to your letter dated October 4, 2005, to the Occupational Safety and Health Administration (OSHA). You ask about requirements relative to the use of personal protective equipment in construction under the electrical standard, 29 CFR 1926 Subpart K and the applicability of the National Fire Protection Association (NFPA) industry consensus standard, NFPA 70E (the "Standard for Electrical Safety in the Workplace" (2004).

Your letter was transferred to this office on November 14, 2005 because your questions relate to OSHA's construction safety requirements. We apologize for the long delay in processing your request.¹

Your questions have been paraphrased as follows:

Question (1): Scenario: Employees will be using an insulated device to verify that an electrical circuit that has been "turned off, locked, and tagged" is de-energized. Are these employees required to use Personal Protective Equipment (PPE) under OSHA's construction standard 1926.416(a)(1) and/or NFPA 70E?

Answer: Section 1926.416(a)(1) provides:

No employer shall permit an employee to work in such proximity to any part of an electric power circuit that the employee could contact the electric power circuit in the course of work, unless the employee is protected against **electric shock**

by de-energizing the circuit and grounding it or by guarding it effectively by insulation or other means. [Emphasis added]

In your scenario, the employees are exposed to the hazard of electric shock since, at the time they are doing the work, a determination that the circuit has been de-energized has not yet occurred. Therefore, under this provision, these employees must be protected against electric shock "by guarding [the part] by insulation or other means." When so guarded, under this provision, PPE would not be required to protect against the electric shock hazard.

An additional hazard that may be associated with the work described in your scenario is that of arc flash. While Subpart K requirements have the effect of reducing the likelihood of an arc flash, Subpart K does not address the hazard that an arc flash poses to employees if it were to occur.² However, 29 CFR 1926.95(a) provides that:

Protective equipment, including personal protective equipment for eyes, face, head, and the extremities, protective clothing, respiratory devices, and protective shields and barriers, shall be provided, used, and maintained in a sanitary and reliable condition wherever it is **necessary** by reason of hazards of processes or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation, or physical contact. [Emphasis added].

Industry consensus standards can be evidence that there is a hazard for which that PPE is "necessary." While the NFPA 70E consensus standard has not been adopted as an OSHA standard, it is relevant as evidence that arc flash is a recognized hazard and that PPE is necessary to protect against that hazard.

NFPA 70E Article 130 sets out alternative approaches for protecting against arc flash. One approach is to use an arc flash analysis to determine the Flash Protection Boundary; it calls for PPE to be used within that boundary.

An alternative approach is to follow a table that lists specific tasks and the PPE that is needed for each task. This approach is set out in Article 130.7(C):

(9) Selection of Personal Protective Equipment.

(a) When required for Various Tasks. When selected in lieu of the **flash hazard** analysis of 130.3(A), Table 130.7(C)(9) shall be used to determine the hazard/risk category for a task.

* * *

(10) Protective Clothing and Personal Protective Equipment Matrix. Once the Hazard/Risk Category has been identified, Table 130.7(C)(10) shall be used to determine the required personal protective equipment (PPE) for the task.

* * *

NFPA 70E's Table 130.7(C)(9)(a), Hazard/Risk Category Classifications, referenced above, lists the task, "Work on energized parts, **including voltage testing**" and assigns it a "Hazard/Risk Category" of "1" or higher. Under Table 130.7(C)(10), that categorization triggers various PPE provisions, including non-melting clothing, flame-resistant clothing, and other protective equipment.³ Thus, NFPA 70E is evidence that the industry recognizes the hazard of arc flash, that this hazard is present when testing voltage, and that, when present, it is necessary for PPE to be used to protect the employee from it.

Because the arc flash hazard varies with site-specific factors, we cannot determine from the information you provided the extent of the arc flash hazard in your scenario or the appropriate PPE. One way of ensuring that an employee is adequately protected is to use the NFPA 70E for assessing the factors in a specific situation and determining what protection to use.

Question (2): Scenario: Construction employees will be turning off circuit breakers. These circuit breakers, some of which are rated in excess of 240 volts (but not greater than 600 volts) and others less than 240 volts, are installed in three-phase panel boards contained within an approved enclosure with a bolt-on cover trim. The enclosure and cover trim prevent live parts from being exposed. Would the circuit breaker be considered an exposed electrical

part when it has a closed cover trim installed such that PPE would be required to protect against electric shock when someone turns the breaker on or off? Would PPE be required to protect against arc flash?

Answer: The requirement in 1926.416(a)(1) to provide protection is triggered where an employee "could contact the electric power circuit." The circuit breaker you refer to is contained within an approved enclosure and has no exposed live parts. The enclosure and closed cover trim is a type of dead front design that does not expose employees to live parts. Therefore, electric shock protection is not required when simply turning the switch on or off.

Arc flash, however, may occur if the switch is defective. Employees in the scenario you describe may be exposed to risk when they are fixing the breaker or turning it on or off. While the chances of serious injury from arc flash may be remote in certain circumstances, NFPA 70E calls for a flash hazard analysis (or use of PPE under its table of tasks) to be performed in order to determine the risk level and the appropriate PPE. NFPA 70E 130.3 states:

A flash hazard analysis shall be done in order to protect personnel from the possibility of being injured by an arc flash. The analysis shall determine the Flash Protection Boundary and the personal protective equipment that people within the Flash Protection Boundary shall use.

(A) Flash Protection Boundary. For systems that are 600 volts or less, the Flash Protection Boundary shall be 4.0 ft, based on the product of the clearing times of 6 cycles (0.1 second) and the available bolted fault current of 50 kA or any combination not exceeding 300 kA cycles (5000 ampere seconds). For clearing times and bolted fault currents other than 300 kA cycles, or under engineering supervision, the Flash Protection Boundary shall alternatively be permitted to be calculated in accordance with the following general formula:

$$D_c = [2.65 \times MVA_{bf} \times t]^{1/2}$$

or

$$D_c = [53 \times MVA \times t]^{1/2}$$

Where:

D_c = distance in feet from an arc source for a second-degree burn

MVA_{bf} = bolted fault capacity available at point involved (in mega volt-amperes)

MVA = capacity rating of transformer (mega volt-amperes). For transformers with MVA ratings below 0.75 MVA, multiply the MVA transformer rating by 1.25

t = time of arc exposure (in seconds)

Once the risk of exposure is assessed, the employer must then provide PPE in accordance with the results of the analysis. NFPA 70E §130.3(B) states,

... The flash hazard analysis shall determine, and the employer shall document, the incident energy exposure of the worker (in calories per centimeter). . . Flame-resistant (FR) clothing and personal protective equipment (PPE) shall be used by the employee based on the incident energy exposure associated with the specific task. . . As an alternative, the PPE requirements of 130.7(C)(9) shall be permitted to be used in lieu of the detailed flash analysis approach described in 130.3(A).

As provided in the last sentence of section 130.3(B), NFPA 70E also provides an alternative analysis to determine PPE requirements. If the task to be performed has a high probability of arc flash occurrence, the charts under 130.7(C)(9) and (10) can be used to determine the appropriate PPE. Section 130.7(C)(9)(a) states in part,

When selected in lieu of the flash hazard analysis of 130.3(A), Table 130.7(C)(9)(a) shall be used to determine the hazard/risk category for a task. The assumed short-circuit current capacities and fault clearing times for various tasks are listed in the text and notes to Table 130.7(C)(9)(a). For tasks not listed, or for power systems with greater than the assumed short-circuit current capacity or with longer than the assumed fault clearing times, a flash hazard analysis shall be required in accordance with 130.3.



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Standard Interpretations

07/25/2003 - General Duty Clause (5(a)(1)) citations on multi-employer worksites; NFPA 70E electrical safety requirements and personal protective equipment.

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-
- **Standard Number:** [1926.402\(a\)](#); [1910.132](#); [1910.335](#); [1926.403](#); [1926.404](#); [1926.405](#); [1926.406](#); [1926.407](#); [1926.408](#); [1910.303\(f\)](#); [1926.403\(h\)](#); [1910.12](#)
-

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>.

July 25, 2003

James H. Brown
Director of Safety and Health
Associated General Contractors of Indiana, Inc.
1050 Market Tower, 10 West Market Street
Indianapolis, IN 46204

Re: Relevance of NFPA 70E industry consensus standard to OSHA requirements; whether OSHA requirements apply to owners

Dear Mr. Brown:

This is in response to your March 15, 2002, letter asking for clarification of several issues concerning the Occupational Safety and Health Administration's (OSHA) multi-employer citation policy, owner responsibilities, National Fire Protection Association (NFPA) standard 70E, and several OSHA standards. We apologize for the long delay in providing this response.

All your questions involve the NFPA 70E standard, which is one of many industry consensus standards developed by the National Fire Protection Association. NFPA 70E, which is titled "Electrical Safety Requirements for Employee Workplaces," is the NFPA's consensus standard for workplace electrical safety. It covers employee protection from electrical hazards including shock, arc blasts, explosions initiated by electricity, outside conductors, etc.

We have paraphrased your questions as follows:

Question (1): *Is a general contractor who is engaged in construction work required to oversee a subcontractor's compliance with NFPA 70E under Section 5(a)(1) (General Duty Clause) of the OSH Act and OSHA's multi-employer citation policy?*

Answer

Summary of the Multi-employer Citation Policy

OSHA's multi-employer citation policy is described in compliance directive CPL 2-0.124.¹ Under the policy, there are circumstances where more than one employer may be cited for a violation of an OSHA standard, and where an employer may be held responsible for a hazard even though none of its own employees were exposed to it.

Compliance officers must use a two-step analysis to determine if an employer should be cited for a hazardous condition. The first step is to determine if the employer has responsibilities with respect to OSHA requirements. This is evaluated based on the employer's role at the worksite. There are four employer role categories: (1) "exposing" - an employer whose own employees are exposed to the hazard; (2) "creating" - an employer that creates a hazard to which a different employer's employees are exposed; (3) "correcting" - an employer that has been brought in specifically to correct hazards; and (4) "controlling" - an employer with general supervisory authority over the worksite with the power to have safety and health violations corrected.

If an employer fits one or more of these categories, the compliance officer must go to step two: determining if the employer took sufficient steps to meet its obligations. Only if insufficient measures were taken, may a citation be issued. The directive emphasizes that the multi-employer citation policy is not one of strict liability. It also states that a lesser degree of care is required of a controlling employer than that of the other categories to prevent/discover hazards.

To help compliance officers determine if a controlling employer has met its responsibilities, the directive outlines specific factors to evaluate. For example, to assess whether periodic inspections of appropriate frequency were made, compliance officers are directed to consider factors such as the scale of the project, nature and pace of the work, and the subcontractors' safety history.

General Duty Clause and the Multi-employer Citation Policy

Section 5(a)(1) of the Occupational Safety and Health Act requires an employer to furnish to its employees:

employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees

However, as stated in the multi-employer citation policy compliance directive,

only exposing employers can be cited for General Duty Clause violations.

Therefore, citations based on a failure to meet a General Duty Clause requirement can only be issued to an "exposing" employer - an employer whose own employees were exposed to the hazard. So, for example, an employer cannot be cited in its role as a "controlling employer" for exposure of subcontractor employees to a General Duty Clause violation.

Industry Consensus Standard NFPA 70E

With respect to the General Duty Clause, industry consensus standards may be evidence that a hazard is "recognized" and that there is a feasible means of correcting such a hazard. However, as explained above, NFPA 70E is not relevant to assessing a controlling employer's duties under OSHA's multi-employer citation policy, since controlling employers are not responsible for overseeing their subcontractors' compliance with General Duty Clause responsibilities.²

A controlling employer engaged in construction work does have obligations regarding 29 CFR Part 1926 Subpart K (Electrical) under the multi-employer citation policy.³

Question (2): *I note that OSHA has not incorporated the personal protective equipment portions of NFPA 70E by reference in §1910.132 (personal protective equipment, general requirements) or §1910.335 (safeguards for personal protection). Does an employer have an obligation under the General Duty Clause to ensure that its own employees comply with personal protective equipment requirements in NFPA 70E?*

**Instruction for filing the enclosed
OSHA Complaint – Electrical hazards related to the Postal
Service’s continuing failure to comply with
OSHA Subpart S – Electrical Standards**

To: Local President:

The attached package and the following instructions are being provided as part of a National effort to address the risks and hazards associated with electrical work in the Postal Service. We are asking that you assist us by sending to OSHA one complaint package and an OSHA-7 form for each facility under your jurisdiction. We are trying to coordinate submissions from multiple locals to arrive at Area OSHA offices over the next two weeks.

We have standardized the complaint process and it only requires that you complete the attached OSHA-7 form with your local information; attach the form to the front of the complaint package; and mail or fax it to your OSHA Area office - the address and fax number can be found at <http://www.osha.gov/html/RAmap.html>.

The following are brief instructions on completing an OSHA-7 form, or you may put the same information on your letterhead. (A fillable OSHA-7 form is available on the Industrial Relations’ Safety & Health web page at <http://www.apwu.org/dept/ind-rel/irsh.htm>.)

Employer name – Insert “United States Postal Service.” Be sure to spell out the full name, without abbreviation.

Site location – the street address, including ZIP code, of the workplace. This is the address that an OSHA inspector will come to, so give OSHA the location of the entrance the inspector should use to see the hazard.

Mailing address (If different) – in case the company doesn't get mail at the site location address.

Management official – Give OSHA the name of the site manager or highest company official who works on-site. If you're not sure who to name, leave it blank and the inspector will ask for the "person in charge."

Telephone number – of the management official or the office head.

Type of Business – Insert Postal Services.

Hazard Description/Location – Insert “SEE THE ATTACHED ‘OSHA Complaint – Electrical Hazards related to the Postal Service’s failure to comply with OSHA Subpart S – Electrical Standards.’”

Has the condition been brought to the attention of – check Employer.

Please check your desire – your choice.

The undersigned believes that a violation... – check Representative of Employees.

The rest of the form is self-explanatory. If you need additional information on submitting this package, please contact Corey Thompson, APWU Safety & Health Specialist, at 202 842-4273.

U. S. Department of Labor
Occupational Safety and Health Administration

Notice of Alleged Safety or Health Hazards

For the General Public:

This form is provided for the assistance of any complainant and is not intended to constitute the exclusive means by which a complaint may be registered with the U.S. Department of Labor.

Sec 8(f)(1) of the Williams-Steiger Occupational Safety and Health Act, 29 U.S.C. 651, provides as follows: Any employees or representative of employees who believe that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice to the Secretary or his authorized representative of such violation or danger. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or representative of employees, and a copy shall be provided the employer or his agent no later than at the time of inspection, except that, upon request of the person giving such notice, his name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released, or made available pursuant to subsection (g) of this section. If upon receipt of such notification the Secretary determines there are reasonable grounds to believe that such violation or danger exists, he shall make a special inspection in accordance with the provisions of this section as soon as practicable to determine if such violation or danger exists. If the Secretary determines there are no reasonable grounds to believe that a violation or danger exists, he shall notify the employees or representative of the employees in writing of such determination.

NOTE: Section 11(c) of the Act provides explicit protection for employees exercising their rights, including making safety and health complaints.

For Federal Employees:

This report format is provided to assist Federal employees or authorized representatives in registering a report of unsafe or unhealthful working conditions with the U.S. Department of Labor.

The Secretary of Labor may conduct unannounced inspection of agency workplaces when deemed necessary if an agency does not have occupational safety and health committees established in accordance with Subpart F, 29 CFR 1960; or in response to the reports of unsafe or unhealthful working conditions upon request of such agency committees under Sec. 1-3, Executive Order 12196; or in the case of a report of imminent danger when such a committee has not responded to the report as required in Sec. 1-201(h).

INSTRUCTIONS:

Open the form and complete the front page as accurately and completely as possible. Describe each hazard you think exists in as much detail as you can. If the hazards described in your complaint are not all in the same area, please identify where each hazard can be found at the worksite. If there is any particular evidence that supports your suspicion that a hazard exists (for instance, a recent accident or physical symptoms of employees at your site) include the information in your description. If you need more space than is provided on the form, continue on any other sheet of paper.

After you have completed the form, return it to your local OSHA office.

NOTE: It is unlawful to make any false statement, representation or certification in any document filed pursuant to the Occupational Safety and Health Act of 1970. Violations can be punished by a fine of not more than \$10,000. or by imprisonment of not more than six months, or by both. (Section 17(g))

Public reporting burden for this voluntary collection of information is estimated to vary from 15 to 25 minutes per response with an average of 17 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. An Agency may not conduct or sponsor, and persons are not required to respond to the collection of information unless it displays a valid OMB Control Number. Send comment regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Directorate of Enforcement Programs, Department of Labor, Room N-3119, 200 Constitution Ave., NW, Washington, DC; 20210.

OMB Approval# 1218-0064; Expires: 03-31-2011

Do not send the completed form to this Office.

U. S. Department of Labor
Occupational Safety and Health Administration

Notice of Alleged Safety or Health Hazards

		Complaint Number			
Establishment Name					
Site Address					
		Site Phone		Site FAX	
Mailing Address					
		Mail Phone		Mail FAX	
Management Official				Telephone	
Type of Business					
HAZARD DESCRIPTION/LOCATION. Describe briefly the hazard(s) which you believe exist. Include the approximate number of employees exposed to or threatened by each hazard. Specify the particular building or worksite where the alleged violation exists.					
Has this condition been brought to the attention of:		☐ Employer ☐ Other Government Agency(specify)			
Please Indicate Your Desire:		☐ Do NOT reveal my name to my Employer ☐ My name may be revealed to the Employer			
The Undersigned believes that a violation of an Occupational Safety or Health standard exists which is a job safety or health hazard at the establishment named on this form.		(Mark "X" in ONE box) ☐ Employee ☐ Federal Safety and Health Committee ☐ Representative of Employees ☐ Other (specify)			
Complainant Name				Telephone	
Address(Street, City, State, Zip)					
Signature				Date	
If you are an authorized representative of employees affected by this complaint, please state the name of the organization that you represent and your title:					
Organization Name: Your Title:					