

# OSHA REGULATIONS

## INFORMATION & RESOURCES ON THE BASICS OF OSHA REGULATIONS

The OSH Act- legislation to create OSHA (The Occupational Safety and Health Administration) was signed on December 29, 1970 and enacted on April 28, 1971 providing workers unprecedented health and safety rights and protections. (April 28th now annually commemorates Worker's Memorial Day). A clause in the OSH Act excludes public employees from protection under OSHA Regulations, so in 1980 The PESH Act was enacted creating the Public Employees Safety and Health Bureau for New York State public employees. PESH enforces OSHA regulations and even some other regulations specifically made for New York public employees such as the NYS Workplace Violence Prevention Act. Private sector employees are still covered under OSHA in New York unless they are self-employed or a part of a family business such as a farm.

OSHA has four categories of standards, General Industry (29 CFR 1910), Construction (29 CFR 1926), Maritime (29 CFR 1915-1918) and Agricultural (29 CFR 1928). CSEA members mostly use General Industry and Construction standards. It can be difficult to determine which standards apply and which ones do not. It is even possible that more than one regulation may apply. **OSHA/PESH determine which regulations apply on a case by case basis.**

When a standard is unclear, one can not interpret regulations on their own, they must write to OSHA and ask for a **letter of interpretation**. These letters are for continual reference and clarification. Such letters exist to help understand the difference between General Industry and Construction work activities.

Maintenance (1910 general industry) is defined as making or keeping a structure, fixture or foundation in proper condition in a routine, scheduled, or anticipated fashion, including manufacturing, furnishing of materials, or servicing and maintenance.

The construction (1926) standards apply to construction work, alteration, and/or repair, including painting and decorating. They include without limitation, buildings, structures and improvements of all types, rehabilitation and reactivation of facilities. This also includes construction activities involved in a work zone.

General industry standards do not apply to construction work and in turn construction standards do not apply to general industry work.

For example, the Fall Protection standard 1926 Subpart M, does not cover falls during any general industry work. Instead, parts of specific general industry standards address barriers and falls and the Walking and Working Surfaces standard (1910 Subpart D) applies as well.

### Common Factors to Determine Construction vs. General Industry Tasks:

#### 1) Condition

Improvement = Construction

Preservation = General Industry

#### 2) Routine

Scheduled at Regular Intervals = General Industry

#### 3) Scale and Complexity

Large Scale Tasks & Objects = Construction

#### 4) Impact

Major Disruptions = Construction



There are also standards for the same topic that differ between the categories such as the Permit-Required Confined Space Standards (1910.146 and 1926.1203). 1910.146 was created in 1993 and calls for periodic testing of the atmosphere, however 1926.1203 was created in 2015 and calls for continuous testing due to advances in technology of the equipment capabilities and case studies where periodic testing was insufficient.

**Always keep in mind it is better to focus on identifying and controlling a hazard than to just do what the regulations say. Regulations are only the bare minimum of what can be done to protect workers.**

