

The new OSHA: responds to criticism, makes changes

Roofing contractors have been living with the Occupational Safety and Health Administration (OSHA) for 14 years, but it's not been a marriage made in heaven. The roofing industry began complaining even before the OSHA regulations took effect.

The Occupational Safety and Health Act was signed into law Dec. 29, 1970. It gave the Secretary of Labor the power to set worker safety standards for all "engaged in commerce." To enforce those standards, the law created an organization of inspectors and established a schedule of penalties for employers who failed to comply.

Roofing was one of the five industries originally targeted for safety regulation when OSHA was created. OSHA's first standards included rules governing the use of safety clothing and equipment, the construction of ladders and scaffolding and the erection of guardrails.

Shortly after the original regulations were published in the Feb. 2, 1971 *Federal Register*, Fred Good, NRCA's executive vice president, filed a six-page brief requesting changes and modifications in the rules. "Some change was made—but it was indeed slight," Good wrote in the May 1971 *Roofing Spec*.

Over the years, criticism of the Administration's policies continued. One of the most frequently heard complaints was that OSHA did not have the necessary industry background or understanding of the problems at hand to create effective regulations. Many felt OSHA's efforts were misdirected. A September 1974 *Roofing Spec* article compared CNA Insurance loss statistics to the most frequently cited OSHA violations. The article concluded that the areas OSHA seemed most concerned about were the areas least likely to cause accidents or injuries in the roofing industry.

14-year-old agency reviews its past

Gary Strobel, special assistant to the assistant secretary of labor for OSHA, speaks to roofing contractors at this year's legislative conference.



Current OSHA thinking reflects this criticism. "We find some standards that specifically prohibit some materials or practices that we now know to be the safest approaches to work," said Gary Strobel, special assistant to the Assistant Secretary of Labor for OSHA in a recent interview with *Roofing Spec*.

OSHA finally accepts the pennant

The history of OSHA's warning line regulations demonstrates why close cooperation between the industry and the Administration is necessary to achieve workable rules. NRCA proposed the warning line system in 1973 to prevent workers from falling off the roof. The system consisted of pennants strung between stanchions placed a few feet from the roof's edge. The warning line was offered as an alternative to the guardrails, safety lines and safety nets OSHA recommended to protect workers. A study commissioned by NRCA found that OSHA's recommendations would contribute to the dangers they were trying to correct.

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NRCA's recommendation gained industry acceptance. In 1975, CNA Insurance began to require the inclusion of warning lines in insured contractors' safety programs. It wasn't until 1981, however, that OSHA regulations accepted warning lines as sufficient worker protection on low-sloped roofs with a ground-to-cave height greater than 16 feet.

By working with the industry, OSHA was able to create a regulation that kept workers safe and employers happy. "It's not so much that we've had good reports," Strobel said of the warning line regulations, "but that we haven't received any bad ones. Usually, when something is not working or people are unhappy with it, we hear about it."

OSHA looks at entire picture

Other OSHA regulations and practices have not been as successful as the warning line rule, however, and the Administration may be making some changes in the months to come. Strobel claims that in 1985, the roofing industry is going to see a new OSHA.

Strobel admitted that in the past, OSHA depended too much on the enforcement of its standards and regulations to improve worker safety. "Now, we'll look at the entire picture—the availability of alternative tools such as training and education and compliance programs," he says.

One area that OSHA is reviewing that will affect the roofing industry is fall protection. Older OSHA standards governing ladders and scaffolds are being evaluated by the Administration. "We're looking at a lot of these standards. Some of them were even in the consensus standards adopted when OSHA was formed in 1971," Strobel says. OSHA is also considering standards to regulate the use of respirators and other personal protective equipment. And, the Administration is reviewing its "cancer policy" to determine how to handle the regulation of carcinogens.

Some OSHA changes will be in response to industry innovations. Unions recently have been pushing OSHA to implement standards limiting worker's exposure to formaldehyde and benzene. These chemicals are frequently used to clean seams and improve adhesion in single-ply systems. Laboratory tests have indicated that benzene can cause leukemia and formaldehyde has caused cancer in laboratory animals.

OSHA has added benzene to its regulatory agenda and the rules will now have to go through the rule-making process. Formaldehyde, on the other hand, is not on OSHA's regulatory agenda, Strobel claimed. However, there is the possibility that the Administration will issue an emergency temporary standard. OSHA is gathering data and proceeding with risk analysis on this, Strobel said.

Slow process frustrates some

The slow bureaucratic process has frustrated employers who are anxious to know what regulations they must comply with and unions and other worker groups that believe the workers are in imminent danger.

Strobel explained the lengthy process OSHA uses to introduce or change regulations: "The general rule of thumb for health standards is three years," Strobel said. "We must have a notice of the proposal. Then we ask for responses to the notice. After we receive comments there may be a public hearing. Then there's a post-hearing comment. There's also a post-post-hearing comment period. Then the new rule goes to the Office of Management and Budget, which reviews it. So, it's approximately three years."

To review and update its regulations in the future, OSHA will be looking for help from a variety of sources, according to Strobel. "We'll take our information from any source we can get it—industry, academia, another agency," he said. "After all, everybody breathes the same air."