

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-AA70¹****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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¹ 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.

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

AGENCY: Legal Services Corporation.

ACTION: Regulatory negotiation working group meeting.

SUMMARY: LSC is conducting a Negotiated Rulemaking to consider revisions to its eligibility regulations at 45 CFR Part 1611. This document announces the dates, times, and address of the next meeting of the working group, which is open to the public.

DATES: The Legal Services Corporation's 1611 Negotiated Rulemaking Working Group will meet on April 11–12, 2002. The meeting will begin at 9 a.m. on April 11, 2002. It is anticipated that the meeting will end by 3:30 p.m. on April 12, 2002.

ADDRESSES: The meeting will be held at the offices of the Center for Law and Social Policy, 1015 15th Street, NW., Suite 400, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Mattie C. Condray, Senior Assistant General Counsel, Legal Services Corporation, 750 First St., NE., 11th Floor, Washington, DC 20001; (202) 336–8817 (phone); (202) 336–8952 (fax); mcondray@lsc.gov.

SUPPLEMENTARY INFORMATION: LSC is conducting a Negotiated Rulemaking to consider revisions to its eligibility regulations at 45 CFR Part 1611. The working group will hold its next meeting on the dates and at the location announced above. The meeting is open to public observation. Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Ms. Condray.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

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FEDERAL MARITIME COMMISSION

46 CFR Parts 502, 503, 515, 520, 530, 535, 540, 550, 551, 555, and 560

[Docket No. 02–05]

Update of Existing and Addition of New Filing and Service Fees

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Maritime Commission (“Commission”) proposes to revise its existing fees for filing petitions and complaints; various public information services, such as record searches, document copying, and

admissions to practice; filing ocean transportation intermediary applications; applications for special permission; service contracts; agreements; and passenger vessel performance and casualty certificate applications. These revised fees reflect current costs to the Commission. In addition, the Commission adds a new fee for the provision of a database report on effective carrier agreements, makes nomenclature changes in certain CFR units with respect to Commission bureau designations, and makes section reference changes in certain CFR units to reflect numbering changes made in a previous rulemaking. The Commission also is republishing a fee requirement that was previously inadvertently omitted.

DATES: Submit an original and 15 copies of comments (paper), or e-mail comments as an attachment in WordPerfect 8, Microsoft Word 97, or earlier versions of these applications, no later than April 22, 2002.

ADDRESSES: Address comments to: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573–0001, *E-mail:* secretary@fmc.gov.

FOR FURTHER INFORMATION CONTACT: JoAnn Baca, Special Assistant to the Executive Director, Office of the Executive Director, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573–0001, (202) 523–5800, *E-mail:* joannb@fmc.gov.

SUPPLEMENTARY INFORMATION: The Commission is authorized under the Independent Offices Appropriation Act (“IOAA”), 31 U.S.C. 9701 (1983), to establish fees for services and benefits that it provides to specific recipients. The IOAA provides that each service or thing of value provided by an agency to a person be self-sustaining to the extent possible, and that each charge shall be fair and based on the costs to the Government, the value of the service or thing to the recipient, policy or interest served, and other relevant facts. 31 U.S.C. 9701.

The primary guidance for implementation of IOAA is Office of Management and Budget (“OMB”) Circular A–25, as revised July 8, 1993. OMB Circular A–25 requires that a reasonable charge be made to each recipient for a measurable unit or amount of Government service from which the recipient derives a benefit, in order that the Government recover the full cost of rendering that service.

OMB Circular A–25 further provides that costs be determined or estimated from the best available records in the agency, and that cost computations shall

cover the direct and indirect costs to the Government of carrying out the activity, including but not limited to:

(A) Direct and indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement.

(B) Physical overhead, consulting, and other indirect costs including material and supply costs, utilities, insurance, travel and rent.

(C) The management and supervisory costs.

(D) The costs of enforcement, collection, research, establishment of standards and regulations, including any required environmental impact statements.

OMB Circular A–25, paragraphs 6.d.1.(a), (b), (c) and (d).

OMB Circular A–25 also calls for a periodic reassessment of costs, with related adjustment of fees, if necessary, and the establishment of new fees where none exist.

The Commission's current filing and service fees have been in effect since 1998, and are no longer representative of the Commission's actual costs for providing such services. Accordingly, the Commission proposes to revise its fees so as to reflect costs attendant to providing the involved services. Fee increases primarily reflect increases in salary and indirect (overhead) costs. For some services, the increase in processing or review time accounts in part for the increase in the level of proposed fees. For other services, proposed fees are lower than current fees due to overall reduced costs to provide those services.

The Commission is instituting a new user fee for provision of a database report on effective carrier agreements. Also, in promulgating new rules governing the filing of service contracts to implement the Ocean Shipping Reform Act of 1998, Public Law 105–158, 112 Stat. 1902, in Docket No. 99–12, *Termination of Dial-Up Service Contract Filing System*, 64 FR 41041 (July 29, 1999), we inadvertently failed to carry over \$ 514.7 into part 530. That section was a permission process to correct clerical or administrative errors in the essential terms of a filed service contract, and included an attendant user fee. We are therefore republishing it.

The Commission has reviewed its current fees and developed data on the time and cost involved in providing particular services to arrive at the updated direct labor costs for those services. The direct labor costs include clerical, professional, supervisory, and executive time expended on an activity, plus a check processing cost of \$1.70. The indirect costs include Government