

OSHA

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CSB, Harwood Training Grant Program back on the chopping block

The Department of Labor's discretionary funding would be cut 10.5%, while the Chemical Safety Board and OSHA's Susan Harwood Training Grant Program are facing elimination once again, under President Donald Trump's fiscal year 2021 budget proposal.

"A Budget for America's Future" – released Feb. 10 – allocates \$11.1 billion to DOL for FY 2021. In the budget's "Major Savings and Reforms" supplement, the White House Office of Management and Budget details the proposed eliminations of CSB and the Harwood grants, using virtually the same language as in the Trump administration's previous budget proposals.

None of this is likely to happen, however, if the past three fiscal years are any indication. Congress instead has chosen to keep the relatively inexpensive CSB and Harwood program each time, and allocated \$12.4 billion to DOL in FY 2020 – \$1.5 billion more than the administration's request.

In the supplement, the administration deems CSB's work "duplicative" and proposes to give the agency \$10 million to wind down operations. The agency is receiving \$12 million this fiscal year, which ends Sept. 30, but its five-member board



has only one seat filled – by interim Executive Authority Kristen Kulinowski. Rick Engler's term on the board expired Feb. 5, and Kulinowski's term is set to end in August. Katherine Lemos was nominated as a CSB board member June 24, but was still awaiting Senate approval at press time.

Congress gave \$11.5 million for the Harwood grants in FY 2020 – a \$1 million increase – and boosted OSHA's funding by \$24 million to \$581.8 million.

Budget proposals for DOL agencies, NIOSH

The administration also released a more detailed DOL budget proposal on the department's website. OSHA is slated for a cut of more than \$4.4 million, including the elimination of the Harwood grants.

In the "Budget in Brief," \$2 million increases for federal enforcement as well as safety and health statistics are proposed.

– article continues on p. 4

OSHA renews and revises NEP on silica

Effective Feb. 4, OSHA has revived its National Emphasis Program on respirable crystalline silica for general industry, maritime and construction to “identify and reduce or eliminate” silica-related hazards.

OSHA canceled the NEP on Oct. 26, 2017, about a month after construction employers were required to comply with the agency’s silica standard and eight months before general industry and maritime employers were required to comply. The program initially launched Jan. 24, 2008.

The revived NEP includes an updated list of target industries as detailed in

Appendices A and B of an OSHA instructional memo issued Feb. 4. Using this list, OSHA area offices will generate randomized lists of covered establishments under their jurisdictions for targeted inspections.

According to a Feb. 5 agency press release, OSHA is implementing a 90-day period of compliance assistance before targeted inspections begin. State Plans and OSHA regional and area offices must participate in the NEP, but area and regional offices are not required to implement corresponding regional or local emphasis programs on silica.

Particles of respirable crystalline silica are typically released into the air during cutting, crushing, drilling, grinding and sawing materials such as bricks, cinder blocks, mortar, stone and rock. One of the most common forms of silica dust is quartz.

Inhaling respirable crystalline silica can lead to lung disease, chronic obstructive pulmonary disease or silicosis, which is incurable. OSHA estimates that 2.3 million workers are exposed to silica dust every year. The silica standards lower the permissible exposure limit to 50 micrograms per cubic meter averaged over an 8-hour period.

OSHA ALLIANCES

The OSHA Alliance Program fosters collaborative relationships with groups committed to worker safety and health. Alliance partners help OSHA reach targeted audiences and give them better access to workplace safety and health tools and information. For more on OSHA alliances, go to osha.gov/dcsp/alliances/index.html.

Dennis Technical Education Center

Date of alliance: Jan. 10, 2020

Through the alliance, the organizations will use relevant injury, illness and hazard exposure data, when appropriate, to help identify areas of emphasis for alliance awareness, outreach and communication activities. The alliance will also explore and implement selected options, including but not limited to member surveys, to evaluate the alliance and measure the impact on improving workplace safety and health.

Training and education:

- Improve training and education for the faculty and student body of DTEC by collaborating to build the framework to provide OSHA 10-hour courses in construction and general industry. The OSHA 10-hour course offerings will potentially serve approximately 900 students per year.
- Create a framework for other technical high schools in Idaho to implement OSHA 10-hour courses and curricula.



Raising awareness: Outreach and communications

- Share information on occupational safety and health laws and standards, including the rights and responsibilities of workers and employers.
- Develop information on the recognition and prevention of workplace hazards, and communicate such information to employers and workers in the industry.
- Speak, exhibit or appear at OSHA and DTEC conferences, local meetings, or other DTEC events.
- Convene or participate in forums, roundtable discussions or stakeholder meetings on youth-worker safety and health topics to help forge innovative solutions in the workplace or to provide input on safety and health issues.

- Share information among OSHA personnel and industry safety and health professionals regarding DTEC best practices or effective approaches through training programs, workshops, seminars, and lectures (or any other applicable forum).
- Collaborate with other alliance participants on specific issues and projects related to developing OSHA 10-hour courses and delivering training in occupational safety and health to students.
- Encourage DTEC to build relationships with OSHA’s regional and area offices, the Pacific Northwest OSHA Education Center based at the University of Washington, and local chapters of the American Industrial Hygiene Association and the American Society of Safety Professionals to address health and safety issues affecting youth employment.

Excerpted from osha.gov/alliances/regional/region10/agreement_20200110.

In Other News...

Electrical hazards: OSHA training institute releases free video

The OSHA Region 6 Training Institute Education Centers has produced a video on preventing injuries and fatalities stemming from common electrical hazards.

The one-hour video covers topics such as arc flash, lockout/tagout and personal protective equipment, and offers best practices and additional resources.

From 2011 to 2018, “exposure to electricity” resulted in an annual average of 151 fatalities, according to the Bureau of Labor Statistics. In 2018, 160 electricity-related deaths and more than 2,000 electricity-related injuries requiring time away from work were recorded.

Registration is required to access the free video. Go to info.alliancesafetycouncil.org/electricity for more information.

DOL adjusts civil penalty amounts for inflation

The Department of Labor has increased civil penalty amounts for violations to adjust for inflation, effective Jan. 15.

The increase is 1.01764% for DOL agencies, including OSHA, according to a final rule published in the Jan. 15 *Federal Register*.

For OSHA, the maximum penalty for “willful” or “repeat” violations is \$134,937 – up from \$132,598. The minimum fine for a willful violation is \$9,639. The maximum fines for serious, other-than-serious, failure-to-correct and posting-requirement violations increase to \$13,494 from \$13,260.

Under the Federal Civil Penalties Inflation Adjustment Act of 1990, DOL is required to adjust civil penalty levels for inflation by Jan. 15 each year. DOL determines yearly adjustment rates via the Consumer Price Index for all Urban Consumers.

OSHA STANDARD INTERPRETATIONS

OSHA requirements are set by statute, standards and regulations. Interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. Enforcement guidance may be affected by changes to OSHA rules.

Use of Music Headphones on Construction Sites

Standards: 1926.52 and 1926.101

Date of response: Sept. 6, 2019

Thank you for your letter to the OSHA Directorate of Enforcement Programs. You requested a clarification on the use of headphones to listen to music on a construction site. This letter constitutes OSHA’s interpretation only of the requirements discussed and may not be applicable to any questions not delineated within your original correspondence. Your specific question is paraphrased below, followed by OSHA’s response.

Question: *Some headphones are equipped with a built-in volume limiter and are marked as “OSHA approved” for use in the workplace. Is there a specific OSHA regulation that prohibits the use of headphones to listen to music on a construction site?*

Response: No, there is no specific OSHA regulation that prohibits the use of headphones on a construction site. OSHA’s standard for Occupational Noise Exposure in construction, 29 CFR 1926.52, sets permissible noise exposure limits in Table D-2 and requires the employer to protect employees subject to sound levels exceeding these limits. OSHA’s Hearing Protection standard, 29 CFR 1926.101, requires that ear protective devices be provided by the employer and used wherever necessary to reduce noise levels below Table D-2 limits. A portable music player is not a substitute for hearing protection, however. The noise exposure on the jobsite, or through the use of volume-limiting headphones, must not exceed the Table D-2 limits.

The use of headphones on a construction site may be permissible at managerial discretion, unless such use creates or augments other hazards apart from noise. For example, struck-by hazards are one of the four leading causes of death in construction. It is the employer’s responsibility to ensure employees are not exposed to struck-by hazards while performing their work. Listening to music may produce a safety hazard by masking environmental sounds that need to be heard, especially on active construction sites where attention to moving equipment, heavy machinery, vehicle traffic and safety warning signals may be compromised.

Additionally, some manufacturers may claim that their products are “OSHA approved” or “100% OSHA compliant.” OSHA does not register, certify, approve or otherwise endorse commercial or private sector entities, products or services. Therefore, any such claims by a manufacturer are misleading.

Patrick Kapust, Acting Director
Directorate of Enforcement Programs

Excerpted from [osha.gov/laws-regs/standardinterpretations/2019-09-06-0](https://www.osha.gov/laws-regs/standardinterpretations/2019-09-06-0).

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Also, the administration proposes an approximately \$1.7 million boost for whistleblower programs and a nearly \$1 million increase for federal compliance assistance.

The proposed budget allocates a nearly \$1.8 million increase to the Mine Safety and Health Administration. Program Evaluation and Information Resources would get around \$2.6 million more “to modernize MSHA’s Standard Information System.”

“The agency’s 20-year-old core mission system ... has outlived its useful life,” the budget proposal states. “A modernized MSIS will leverage cutting-edge digital and mobile technologies and industry best practices to provide improved customer response and security posture in addition to reduced program and infrastructure maintenance costs.”

The budget proposal requests a more than \$1.9 million cut to mine safety and health enforcement. The agency combined coal and metal/nonmetal enforcement into one entity in its FY 2020 budget.

The administration’s proposed budget for Health and Human Services shows a \$153 million cut for NIOSH from its \$343 million budget in FY 2020. Congress gave the agency an \$8 million increase for this fiscal year.

Each legislative branch will begin its deliberation over the budget in the coming months, with a deadline of Oct. 1. If this deadline passes without a resolution, Congress will need to pass a continuing resolution to avoid a government shutdown.

Read a copy of the new budget proposal at sb-m.ag/2Ski22d.

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