



# REG **REVIEW**

July 2018

## **Who can be a Forklift Trainer?**

OSHA states under CFR 1910.178(l)(2)(iii) that “All operator training and evaluation shall be conducted by persons who have the knowledge, training, and experience to train powered industrial truck operators and evaluate their competence.” That means that anyone who has a certification, knowledge, and previous experience from working at your establishment or from having worked for a different employer has the ability to train your forklift operators.

### **The right stuff**

You may very well have an employee who can teach your powered industrial truck operators. However, you'll need to verify that the employee who you are going to assign as a trainer is able to do the job. You can test the trainer in writing, but you also want to make sure that the employee can drive the forklift and train on the OSHA standards.

You can provide a certificate that he/she is a certified trainer for your company, but that isn't required. However, make sure that you save the trainer's exam and your notes on how you verified that the trainer can train your forklift operators, just in case OSHA asks for that information.

### **The right equipment**

If you train the trainer, check out the OSHA letter of interpretation dated July 23, 2003. It gives an example that if your employee is going to train forklift operators, then the trainer must be able to use the equipment that you have at your establishment.

Let's say you have forklift attachments, but the trainer has never used attachments on a forklift. According to the letter of interpretation, the trainer is not able to train your operators on using those attachments. Make sure that your trainer has used the equipment and can teach on the equipment that you have at your site.

For example, if your trainer has operated diesel forklifts, but has never operated a battery operated powered forklift, he isn't qualified to train others on the battery powered lifts. This is because according to OSHA the trainer must have the knowledge and expertise on how to use battery operated powered forklifts to train on them.

If the above information is too complicated, the other option is to send your instructor to be trained by an outside contractor. If you choose this option, make sure they can teach your trainer how to use your equipment so they can train your forklift operators on the specific equipment you have. Save the paperwork that the trainer will receive that they are certified to be a trainer.

## **Forklift Attachment Certification**

If you use a forklift with after-market attachments, OSHA requires you to get them certified. What does it mean to get a forklift certified? It means the manufacturer or an engineer examines and approves the new attachment so you can safely use it with the forklift. The forklift's center of gravity and capacity change depending on the attachment used. The forklift could easily tilt if the stability triangle is not adjusted on the forklift.

An engineer must analyze it to make sure the forklift cannot only handle the attachment but also the loads the attachment will carry. This would cover any equipment that the forklift did not originally come with, such as: long extension forks, cages, clamps, etc.

If the manufacturer does not approve the attachment or you are not able to locate the forklift manufacturer, the best thing you can do is to get it certified by an engineer or a third-party vendor. Find a vendor in your area and tell them that you need your forklift certified for a specific attachment. If you purchase different varieties of attachments, you'll need a certification for each type.

If you have more than one forklift and you have different attachments, you will have to determine which forklifts will use which attachments. Forklifts from the same manufacturer can use the same attachment. Sometimes it is easier to assign one specific forklift to use one specific attachment, but you will have to decide what is more convenient for your company. Otherwise, you would have to get all your forklifts and attachments certified for every type of attachment, and that could be costly.

Once you get the forklift/attachment combination certified, you'll receive a plate showing that a specific forklift can be used with regular forks and with the new attachment. The process may take a couple of months, so plan ahead. The new plate will state the forklift's capacity, the attachment, and the maximum loads it can lift, among other things.

Finally, make sure your employees are trained to know which attachments go with each type of forklift, so they do not use the wrong combination of equipment.

## **How to Make an OSHA Inspection go Bad**

Ever wonder what makes OSHA get upset with you? Here are three things you might want to avoid.

### **Asking for a Warrant**

OSHA has the right to come in and conduct an inspection. Denying them entrance delays the inspection. First, they have to notify the Area Director. Second, they have to fill out all the necessary paperwork for a warrant. Third, they go directly to court and appear before a U.S. magistrate (judge) to get a warrant to come in to do an inspection. This could take a few days to a couple of months depending on the magistrate and their pending paperwork.

Once the Compliance Officer goes to the judge to plead for a warrant, the judge might mention to go full force against your company and might even ask the officer to conduct a wall to wall inspection, depending on the complaint items. You do have the right to ask for a warrant, but that usually means OSHA will work harder at finding violations.

### **Asking who made the complaint**

If you start asking who filed a complaint, the Compliance Officer will make note of what you are saying. The Compliance Officer by law can't tell you who made the complaint and could get fired if they give out that information.

Remember that employees are protected from discrimination or retaliation. If you think an employee made the complaint and you discriminate against that employee (including firing the employee), OSHA will conduct a separate investigation by the OSHA Whistleblowers. If you asked who made the complaint, that information could count as evidence if the case makes it to court. If a judge rules against your company, the judge will likely order you to reinstate the employee and pay back wages. Although you do have the right to ask what is the scope of the inspection, don't ask who triggered the inspection.

### **Failing to correct known hazards**

Let's imagine that OSHA conducts an inspection at one of your establishments. They put you on notice for violations they found. Another serious injury happens at one of your establishments during the same inspection time frame. At that point, the second injury could become a repeat or a willful citation.

Of course, OSHA will try to determine if this was done willfully or not, but it looks bad when another injury occurs,

and you did not make changes to prevent future injuries. It is very important to correct the identified hazards at your worksite as soon as possible; otherwise, OSHA could assign more than one inspector to your site, and that likely means more citations could come your way. Your company could even be put on the Severe Violator list, and you do not want that to happen. Once on that list, OSHA will come and knock at your door every year for several years. Violations stay in your OSHA record for five years. This means more citations and higher penalties.

## **Machine Guarding**

OSHA requires all machine parts that could cause an injury to be guarded. If you have not done so, go around and look at each similar machine running in your facility.

Pay attention to the point of operations, areas where work is performed, areas where materials are cut, crushed, formed, shaped, molded, or any areas where items are going into a machine. Similarly, scrutinize reciprocating, rotating, transverse moving parts, feed mechanisms, and auxiliary parts of the machine. This includes examining the following machines or machine parts: knives, saws, drills, lathes, mills, fans, flywheels, pulleys, belts, connecting rods, gears, couplings, cams, spindles, chains, sprockets, cranks, and robots.

When inspecting those areas, you will find the most machine guarding problems. Furthermore, those areas not guarded are where you will find employees suffering from the most severe injuries. Make sure that enough guarding is in place to prevent injuries.

To determine if a machine is properly guarded, try to reach your hand into the point of operation when it is powered down. Did your hand reach the point of operation? If so, then the machine is not properly guarded. Another way to determine if you have the correct guarding is to test the openings with guard opening scale “gotcha stick” that you can get from a safeguarding supplier. The “gotcha stick” will test the proper guarding based on the guard openings and distance to the point of operation as mentioned in OSHA Table O-1 in the power press regulations. To determine if a guard should be in place, memorize this rule: you should never be able to put your hand over, under, around, beneath or through to reach to the point of operation. If your fingers can reach to the point of operation, then you do not have the appropriate guarding in place.

A common misconception is that machines come with adequate guarding, but that is not always true. Check that guards are in place when buying a new or used machine. The seller may not verify or remind you to buy the guarding for that specific machine. Also, they may not be familiar with OSHA’s guarding requirements or how the machine will be used in your operations. OSHA puts the burden on the employer to verify that all necessary guarding is in place.

Next, examine how the machine will be used at your location. Where is the positioning of the employees operating the machine? If a fixed guard is impractical, can the employee be protected by using pullback guards, restraint, fixed, interlocked, adjustable, presence sensing devices, safety controls, self-adjusting guards, or gates? In some standards, OSHA specifies the allowable safeguards that can be used; however, in many cases, there may be flexibility to use methods other than barrier guarding, so long as they are fully effective at protecting the worker from dangerous moving parts.

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Consider using hand tools to alleviate having employees place their hands into a machine. However, hand tools should not be used to replace guards; they are an addition to guarding. Train your employees to not remove guards and instill in them that they should tell you if any guarding is missing. Training should also focus on the fact that guard removal requires Lockout/Tagout (LOTO) and that equipment operation should not take place unless the guards are in place.

Remember that any rotating parts should also be guarded. While some rolls move at a turtle's pace, others do not. Watch for fast moving rolls since they can pull a worker into the machine.

Finally, one additional approach is to guard by location which involves positioning or designing a machine so that the hazardous parts are away from areas where employees work or walk, or alternatively, installing enclosure walls or fences that restrict access to machines. They are simply guarded by location unless you conclude that an employee can get a ladder or find other means to get to the point of operation.

## **Lead dust hazard levels lowered for floors, window sills**

On June 22, EPA released a proposal to lower the dust-lead hazard standards for lead in dust for floors and window sills. If finalized, the action would change the dust-lead hazard standards from 40 micrograms per square foot ( $\mu\text{g}/\text{ft}^2$ ) and 250  $\mu\text{g}/\text{ft}^2$  to 10  $\mu\text{g}/\text{ft}^2$  and 100  $\mu\text{g}/\text{ft}^2$  on floors and window sills, respectively. EPA is not proposing to change the definition of lead-based paint at this time.

The lead-dust hazard standards apply to most pre-1978 housing and child-occupied facilities, such as day care centers and kindergarten facilities. The lower standards will affect firms conducting renovation and repairs to target housing, anyone who trains workers to renovate or repair these properties, and anyone who wishes to sell or lease target housing.

Under the Toxic Substances Control Act (TSCA), EPA must establish hazard standards for dust contaminated with lead, which can be a major source of lead exposure in children. Lead dust can be created when lead-based paint deteriorates or is disturbed during renovation, repair, or repainting. EPA set the first standards for lead dust in child-occupied housing in 2001. Since that time, new scientific evidence has emerged to indicate adverse effects to human health at lower blood levels.

Young children are particularly vulnerable to the adverse effects of lead on their growing nervous systems. Lead exposure can damage the brain and other developing organs.

The docket for this proposed rule will stay open for 45 days once the rule is published in the *Federal Register*. The public may provide comments at regulations.gov using docket # EPA-HQ-OPPT-2018-0166.

## **Click in Safety by Wearing Your Seat Belt**

Under the [General Duty Clause](#), OSHA expects employers to ensure that their employees wear seat belts while operating any vehicle that is equipped with them. Employees are required to wear seat belts even if their motor vehicle is only used on a work site. If an equipment manufacturer installs seat belts and recommends using them, [OSHA](#) can enforce that expectation even if it does not have a specific regulation on the issue.

[OSHA's](#) PPE Standard, [1910.132](#), requires that employers must provide [personal protective equipment \(PPE\)](#) to their employees as needed to address hazards. The OSH Review Commission has recognized seat belts as PPE, per a Letters of Interpretation dated 2-4-2004. This holding applies to both Construction and General Industry employers.

### **Seatbelt safety 101**

Top five things employees should know about seat belts:

- Wearing your seat belt is the most effective means to protect yourself from an injury during an accident;
- Airbags are not a replacement for a seat belt. Rather, airbags work with seat belts to cushion you from impact and to keep you positioned properly during the accident;
- Wear the seat belt the way the manufacturer designed it to be worn. Don't place the shoulder strap behind your back;
- Make sure that the seat belt fits you properly. Manufacturer approved devices are available to adjust the seat belt properly to fit your needs; and
- Take special precautions when children and pregnant women are using a seat belt. Follow the manufacturer's recommendations.

### **Seatbelts saves lives**

The [National Highway Traffic Safety Administration](#) estimates that 13,941 lives were saved in 2015 from drivers and passengers who properly wore a seat belt while operating a motor vehicle. Another 2,804 more lives could have been saved if those passengers and drivers had properly worn one. In 2016, 90 percent of all passengers and drivers in motor vehicles wore a seat belt.

The Center for Disease Control and Prevention estimates that non-fatal crash injuries to drivers and passengers resulted in more than \$48 billion in lifetime medical and work loss costs in 2010.

### **Click it or Ticket**

Many states use the "Click it or Ticket" seat belt safety campaign to educate drivers and passengers about the hazards of not wearing a seat belt in a motor vehicle. The campaign also educates passengers and drivers about primary and secondary seat belt laws.

Primary enforcement seat belt laws encourage people to wear their seat belts. A primary enforcement seat belt law means a police officer can pull a vehicle over and issue a ticket just because a driver or passenger is not wearing a seat belt.

A secondary enforcement law only allows a police officer to issue a ticket for someone not wearing a seat belt if the driver was pulled over for some other offense. As of May 2017, 32 states did not have a primary enforcement law covering all seating positions.

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