

# **Exhibit B**

MEMORANDUM FOR:

REGIONAL ADMINISTRATORS

FROM:

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DEPUTY ASSISTANT SECRETARY

THOMAS GALASSI  
DIRECTOR, DIRECTORATE OF  
ENFORCEMENT PROGRAMS

JAMES MADDUX  
DIRECTOR, DIRECTORATE OF  
CONSTRUCTION

SUBJECT:

29 CFR 1910.269 and 29 CFR Part 1926,  
Subpart V– Fall protection

On April 11, 2014, OSHA promulgated a final rule revising 29 CFR 1910.269 and 29 CFR Part 1926, Subpart V, the general industry and construction standards for work on electric power generation, transmission and distribution installations. This memorandum establishes enforcement policies for some of the fall protection requirements applicable to work covered by 29 CFR 1910.269 and 29 CFR Part 1926, Subpart V. The policies stated in this memorandum are based on OSHA's understanding of the specific conditions present during electric power generation, transmission, and distribution work and thus do not apply to work outside the scope of 29 CFR 1910.269 and 29 CFR Part 1926, Subpart V.

#### **A. Fall Protection in Aerial Lifts**

Under 29 CFR 1910.269(g)(2)(iv)(C)(1) and 29 CFR 1926.954(b)(3)(iii)(A), employees working from aerial lifts must use either a fall restraint system or a personal fall arrest system. OSHA is not aware of any fall restraint systems available today that can be used in a bucket-type aerial lift that does not have an anchorage built into the bucket. Thus, the Agency expects that for employers to meet the requirements in the standards, they will have employees working from such aerial lift buckets using fall arrest equipment. Paragraph (g)(2)(i) of 29 CFR 1910.269 and paragraph (b)(1)(i) of 29 CFR 1926.954 require that personal fall arrest systems meet the requirements of Subpart M of Part 1926. Furthermore, 29 CFR 1910.269(g)(2)(iv)(B) and 29 CFR 1926.954(b)(3)(ii) specifically provide that personal fall arrest systems must be used in accordance with section 1926.502(d) in Subpart M, which specifies, in part, that personal fall arrest systems must "be rigged such that an employee can neither free fall more than 6 feet (1.8m), nor contact any lower level." (See 29 CFR 1926.502(d)(16)(iii).)

OSHA requires employers to ensure that employees in aerial lifts are fully protected from falls while the aerial lift bucket or platform is moving or in a stationary position at any height at which work subject to 29 CFR 1910.269 or 29 CFR Part 1926, Subpart V, is to be performed. Except as specifically provided in the following enforcement policies, any fall arrest system used to protect employees must comply fully with the requirements of Subpart M, including the requirement, in 29 CFR 1926.502(d)(16)(iii), that the fall arrest system be rigged to prevent the employee from contacting any lower level. Note that in separate guidance, OSHA has clarified that the Agency does not treat tree branches or utility line conductors or cables as lower levels for purposes of 29 CFR 1926.502(d)(16)(iii).

Until further notice, for work covered by 29 CFR 1910.269 and 29 CFR Part 1926, Subpart V, the following enforcement policies apply to any bucket-type aerial lift that does not have a suitable anchorage built into the bucket.

- 1. No citation will be issued under 29 CFR 1910.269, 29 CFR Part 1926, Subpart V, or 29 CFR 1926.502(d)(16)(iii), because a fall arrest system being used by an employee in a bucket-type aerial lift could permit the employee to contact a lower level while the bucket is ascending from the cradle position to a working level or descending from a working level to the cradle position provided:**
  - a) The fall arrest system complies in all other respects with 29 CFR Part 1926, Subpart M; and**
  - b) The aerial lift is parked with the brakes set and with the outriggers extended as required by 29 CFR 1910.269(p)(2) and 29 CFR 1926.959(b); and**
  - c) The employer has taken reasonable precautions to address any ejection hazards present that could result in injury to the employee in the bucket during this ascent and descent. (For any aerial lift positioned in an active roadway, reasonable precautions to address ejection hazards include the precautions described in the Manual on Uniform Traffic Control Devices for Streets and Highways, Chapter 6 (Temporary Traffic Control), 2009 edition, including Revisions 1 and 2 dated May 2012, published by the Federal Highway Administration. See also 29 CFR 1910.269(w)(6) and 29 CFR 1926.967(g).)**
  
- 2. No citation will be issued under 29 CFR 1910.269, 29 CFR Part 1926, Subpart V, or 29 CFR 1926.502(d)(16)(iii), because a fall arrest system being used by an employee in a bucket-type aerial lift could permit the employee to strike a structure in the event of a fall provided:**
  - a) The employer can demonstrate that it is not possible (considering factors such as the location of the anchorage and the employee's need to move around the bucket) to perform the work using a bucket position and fully**

**compliant fall arrest equipment that together would prevent the employee from striking a structure in the event of a fall;**

- b) The fall arrest system complies in all other respects with 29 CFR Part 1926, Subpart M;**
- c) The aerial lift is parked with the brakes set and outriggers extended; and**
- d) The employer has taken other reasonable precautions to address any ejection hazards present that could result in injury to the employee in the bucket while the employee is above the structure. (For any aerial lift positioned in an active roadway, reasonable precautions to address ejection hazards include the precautions described in the Manual on Uniform Traffic Control Devices for Streets and Highways, Chapter 6 (Temporary Traffic Control), 2009 edition, including Revisions 1 and 2 dated May 2012, published by the Federal Highway Administration. See also 29 CFR 1910.269(w)(6) and 29 CFR 1926.967(g).)**

**3. For work covered by 29 CFR 1910.269, no citations related to fall protection in aerial lifts will be issued under 29 CFR 1910.132.**

OSHA believes that developing technology will eventually permit more employers doing work covered by 29 CFR 1910.269 and 29 CFR Part 1926, Subpart V to use fall restraint systems in bucket-type aerial lifts. In particular, OSHA is aware that manufacturers of this type of aerial lift are developing buckets with built-in anchorages and that manufacturers of fall protection equipment are developing fall restraint systems that can be used in buckets that do not have built-in anchorages. Thus, OSHA believes that suitable fall restraint systems will eventually become a common practice for protecting employees in bucket-type aerial lifts from falls in all situations, including during ascent and descent and while the bucket is over a structure. Moreover, OSHA recommends that employees using fall arrest systems in any bucket-type or other aerial lifts use the shortest lanyard practicable during ascent and descent, and when working over structures, to maximize worker protection. OSHA intends to monitor the development of fall protection technology for bucket-type aerial lifts and may modify these policies, or adopt additional guidance, in the future.

**B. Fall Protection for Work on Towers**

Paragraph (g)(2)(iv)(C)(2) of 29 CFR 1910.269 and paragraph (b)(3)(iii)(B) of 29 CFR 1926.954 generally provide that employees in elevated locations more than 1.2 meters (4 feet) above the ground on poles, towers, or similar structures use a personal fall arrest system, work-positioning equipment, or fall restraint system, as appropriate. Paragraph (g)(2)(i) of 29 CFR 1910.269 and paragraph (b)(1)(i) of 29 CFR 1926.954 require that personal fall arrest systems meet the requirements of Subpart M of 29 CFR Part 1926. Furthermore, 29 CFR 1910.269(g)(2)(iv)(B) and 29 CFR 1926.954(b)(3)(ii) specifically provide that personal fall arrest systems must be used

in accordance with 29 CFR 1926.502(d) in Subpart M, which specifies that personal fall arrest systems must “be rigged such that an employee can neither free fall more than 6 feet (1.8m), nor contact any lower level.” (See 29 CFR 1926.502(d)(16)(iii).)

**Until further notice, no citation will be issued under 29 CFR 1910.269, 29 CFR Part 1926, Subpart V, or 29 CFR 1926.502(d)(16)(iii), because a fall arrest system being used by an employee working on a tower could, in the event of a fall, permit the employee to strike a tower arm that is a lower level, provided:**

- a) The employer can demonstrate that it is not possible to perform the work using a work position and fully compliant fall protection equipment that together would prevent the employee from striking the tower arm in the event of a fall; and**
- b) The fall arrest system complies in all other respects with 29 CFR Part 1926, Subpart M.**

### **C. National Office Resources**

Questions regarding these policies should be forwarded through the Regional Office to the Directorate of Enforcement Programs or the Directorate of Construction, as appropriate.