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Via Electronic Submission to Regulations.gov

Amanda Wood Laihow
Acting Assistant Secretary of Labor for Occupational Safety and Health
Occupational Safety and Health Administration
U.S. Department of Labor
200 Constitution Ave. NW
Washington, DC 20210

Re: OSHA Proposed Rescission of Construction Illumination Requirements (Docket No. OSHA-2025-0040)

Dear Ms. Wood Laihow:

Public Citizen, a consumer advocacy organization with more than one million members in every state, writes to urge the Occupational Safety and Health Administration (OSHA) not to proceed to a final rule to rescind its longstanding construction illumination requirements at 29 C.F.R. 1926.26 and 1926.56.

As explained below, OSHA's proposed rule lacks evidentiary support, defies logic, and exposes workers to increased risk of injury. The agency's action is inconsistent with the Occupational Safety and Health (OSH) Act and the Administrative Procedure Act, 5 U.S.C. § 706(a), given the flawed reasoning and unsupported factual assertions.

Background

The construction illumination requirements at 29 C.F.R. 1926.26 and 1926.56 are straightforward, setting forth minimum illumination requirements for construction areas, aisles, stairs, ramps, runways, corridors, offices, shops, and storage areas. These requirements were first promulgated as an OSHA standard in 1971, incorporating the American National Standards Institute (ANSI) consensus standard, ANSI A11.1-1965, R1970.¹

The agency's notice of proposed rulemaking (NPRM) proposes to rescind the construction illumination standard, asserting that it "is not reasonably necessary or appropriate under section

¹ Safety and Health Regulations for Construction, 36 Fed. Reg. 7340 (Apr. 17, 1971); U.S. Occupational Safety & Health Admin, Letter of Interpretation (May 8, 1991) (regarding requirements for minimum illumination at construction sites), <https://www.osha.gov/laws-regs/standardinterpretations/1991-05-08-1>.

3(8) of the OSH Act, 29 U.S.C. 652, because it does not reduce a significant risk to workers.”² The agency adds that, “[t]he OSHA standard does not provide significant protection beyond what would exist without the standard because the hazard—lack of illumination—is obvious to employers and employees, as is the means to address it.”³

OSHA’s Proposal Offers No Support for Rescinding the Standard

Lack of illumination in the workplace can cause falls and trips, ranging from scrapes, to sprains and fractures, or even to fatalities.⁴ In the NPRM, the agency acknowledges that lack of illumination in modern workplaces is an “obvious” hazard. OSHA also acknowledges that the hazard presents a significant risk of harm,⁵ asserting that it may cite employers who fail to mitigate the hazard under the General Duty Clause, which requires the Secretary of Labor to prove that the hazard can cause death or serious physical harm (i.e., that it is significant).⁶

OSHA does not assert, however, that rescinding the rule mitigates the hazard or reduces its significant risk. Rather, OSHA’s decision to rescind is based on an unsupported statement that the current standard is not necessary or appropriate under section 3(8) of the Act because the hazard posed by lack of illumination is “obvious.” That is, OSHA asserts that the illumination standard is not necessary to abate the hazard because employers will proactively mitigate the hazard. But OSHA offers, without basis or support for its assumption, that employers will take the same precautionary actions to reduce a workplace hazard without standards and enforcement as they would with the standard in place. Moreover, in tension with this assertion, OSHA states that, when employers do not do so, the agency can cite employers for failure to illuminate under the General Duty Clause.

OSHA further states that its citation history related to the standard—79 citations since October 1, 2012—supports the proposition that employers regulate themselves. That number, though, suggests that imposition of the standard has had the intended effect of prompting employer compliance and, in that way, protecting worker safety. The history of compliance in no way supports the conclusion that the standard is unnecessary. In addition, issuing 79 citations shows that some employers are not complying, contrary to OSHA’s assertion that the hazard is so obvious that employers need no standard to prompt mitigation. Moreover, given critical

² 90 Fed. Reg. 28,366, 28,367 (proposed July 1, 2025).

³ 90 Fed. Reg. at 28,368.

⁴ *E.g., Durco Contractors, Inc.*, 26 BNA OSHC 1090, 2016 WL 3537209 (No. 15-0693, 2016) (ALJ) (upholding a citation against an employer for a serious violation of 1926.56(a) when an employee fell while moving furniture in an unlit stairwell); *see also Illumination*, NC DEP’T OF LABOR, <https://www.labor.nc.gov/illumination> (last visited Oct. 30, 2025) (“Poor or insufficient illumination increases the likelihood for injuries due to slips, trips, and falls. It can also create eye strain, headaches and lead to lower productivity. In addition, poor lighting can lead to assaults and vandalism.”).

⁵ *Indus. Union Dep’t v. Am. Petrol. Inst.*, 448 U.S. 607 (1980).

⁶ 90 Fed. Reg. at 28,368; *see Beverly Enters., Inc.*, 19 BNA OSHC 1161, 2000 WL 34012177 (No. 91-3144, et al., 2000) (discussing significant risk under sections 6 and 5(a)(1) of the Occupational Safety and Health Act).

underfunding and understaffing,⁷ the number of enforcement actions cannot reasonably be used as evidence that the standard is no longer necessary.

Rescinding the Illumination Rule Does Not Effectuate the Purpose of the OSH Act

The purpose of the OSH Act is “to assure so far as possible every working man and woman in the Nation safe and healthful working conditions”⁸ Further, the Act requires that, “[w]henever a rule promulgated by the Secretary differs substantially from an existing national consensus standard, the Secretary shall, at the same time, publish in the Federal Register a statement of the reasons why the rule as adopted will better effectuate the purposes of this chapter than the national consensus standard.”⁹

OSHA has not acknowledged that the rule differs from the existing national consensus standard, much less explained how a rule that affords workers less protection than that consensus standard better effectuates the purposes of the OSH Act.

OSHA’s Cost-Savings Estimate Is Facially Flawed

OSHA’s claim in the proposal that this rescission is a cost-saving measure is inadequately supported. OSHA claims that new establishments and newly hired occupational health and safety specialists at existing establishments will no longer need to familiarize themselves with the standard.¹⁰ Both new establishments and newly hired specialists, however, will still need to understand the hazard and take steps to mitigate the hazard to avoid a General Duty Clause citation and keep workers safe. Rescinding the standard for adequate illumination does not reduce the need for adequate illumination; it simply eliminates direction as to the proper way to achieve adequate illumination.

OSHA Ties Its Own Hands with General Duty Clause

Eliminating a specific standard in favor of citing an employer for a General Duty Clause violation has never been done in OSHA’s history, and for good reason. General Duty Clause cases impose a higher bar on the agency, utilizing additional agency resources.

Conclusion

Public Citizen urges OSHA to withdraw this proposed rule and keep the existing construction illumination standards in place. Having a specific standard provides employers clarity on what is required of them, which makes compliance easier, which makes workplaces safer. OSHA has failed to provide a reasoned explanation for rescinding the rule or assurances that workers will not be at an increased risk of serious injury or death if the standard is rescinded.

⁷ AFL-CIO, DEATH ON THE JOB: THE TOLL OF NEGLECT (2025), <https://aflcio.org/dotj-2025> (finding it would take OSHA 187 years to inspect each workplace just one time).

⁸ Occupational Safety and Health Act, Pub. L. No. 91-596, § 2(a), 4 Stat. 1590 (1970).

⁹ 29 U.S.C. § 655(b)(8).

¹⁰ 90 Fed. Reg. at 28,368.

Respectfully submitted,

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