

**§ 1910.8**

**29 CFR Ch. XVII (7-1-03 Edition)**

within its letter of recognition, or has materially misrepresented itself in its applications or misrepresented the scope or conditions of its recognition, the Assistant Secretary may revoke the recognition of a recognized NRTL, in whole or in part. OSHA may initiate revocation procedures on the basis of information provided by any interested person.

2. *Procedure.* a. Before proposing to revoke recognition, the Agency will notify the recognized NRTL in writing, giving it the opportunity to rebut or correct the alleged deficiencies which would form the basis of the proposed revocation, within a reasonable period.

b. If the alleged deficiencies are not corrected or reconciled within a reasonable period, OSHA will propose, in writing to the recognized NRTL, to revoke recognition. If deemed appropriate, no other announcement need be made by OSHA.

c. The revocation shall be effective in 60 days unless within that period the recognized NRTL corrects the deficiencies or requests a hearing in writing.

d. If a hearing is requested, it shall be held before an administrative law judge of the Department of Labor pursuant to the rules specified in 29 CFR part 1905, subpart C.

e. The parties shall be OSHA and the recognized NRTL. The Assistant Secretary may allow other interested persons to participate in these hearings if such participation would contribute to the resolution of issues germane to the proceeding and not cause undue delay.

f. The burden of proof shall be on OSHA to demonstrate by a preponderance of the evidence that the recognition should be revoked because the NRTL is not meeting the requirements for recognition, has not been reasonably performing the product testing functions as required by §1910.7, this appendix A, or the letter of recognition, or has materially misrepresented itself in its applications or publicity.

3. *Final decision.* a. After the hearing, the Administrative Law Judge shall issue a decision stating the reasons based on the record as to whether it has been demonstrated, based on a preponderance of evidence, that the applicant does not continue to meet the requirements for its current recognition.

b. Upon issuance of the decision, any party to the hearing may file exceptions within 20 days pursuant to 29 CFR 1905.28. If no exceptions are filed, this decision is the final decision of the Assistant Secretary. If objections are filed, the Administrative Law Judge shall forward the decision, exceptions and record to the Assistant Secretary for the final decision on the proposed revocation.

c. The Assistant Secretary will review the record, the decision by the Administrative Law Judge, and the exceptions filed. Based on this, the Assistant Secretary shall issue

the final decision as to whether it has been demonstrated, by a preponderance of evidence, that the recognized NRTL has not continued to meet the requirements for OSHA recognition. If the Assistant Secretary finds that the NRTL does not meet the NRTL recognition requirements, the recognition will be revoked.

4. *Public announcement.* A copy of the Assistant Secretary's final decision will be provided to the applicant, and a notification will be published in the FEDERAL REGISTER announcing the decision, and the availability of the complete record of this proceeding at OSHA. The effective date of any revocation will be the date the final decision copy is sent to the NRTL.

5. *Review of final decision.* There will be no further review activity available within the Department of Labor from the final decision of the Assistant Secretary.

[53 FR 12120, Apr. 12, 1988; 53 FR 16838, May 11, 1988, as amended at 54 FR 24333, June 7, 1989; 65 FR 46818, 46819, July 31, 2000]

**§ 1910.8 OMB control numbers under the Paperwork Reduction Act.**

The following sections or paragraphs each contain a collection of information requirement which has been approved by the Office of Management and Budget under the control number listed.

29 CFR citation	OMB control No.
1910.7 .....	1218-0147
1910.23 .....	1218-0199
1910.66 .....	1218-0121
1910.67(b) .....	1218-0230
1910.68 .....	1218-0226
1910.95 .....	1218-0048
1910.111 .....	1218-0208
1910.119 .....	1218-0200
1910.120 .....	1218-0202
1910.132 .....	1218-0205
1910.134 .....	1218-0099
1910.137 .....	1218-0190
1910.142 .....	1218-0096
1910.145 .....	1218-0132
1910.146 .....	1218-0203
1910.147 .....	1218-0150
1910.156 .....	1218-0075
1910.157(e)(3) .....	1218-0210
1910.157(f)(16) .....	1218-0218
1910.177(d)(3)(iv) .....	1218-0219
1910.179(j)(2)(iii) and (iv) .....	1218-0224
1910.179(m)(1) and (m)(2) .....	1218-0224
1910.180(d)(6) .....	1218-0221
1910.180(g)(1) and (g)(2)(ii) .....	1218-0221
1910.181(g)(1) and (g)(3) .....	1218-0222
1910.184(e)(4), (f)(4) and (i)(8)(ii) .....	1218-0223
1910.217(e)(1)(i) and (ii) .....	1218-0229
1910.217(g) .....	1218-0070
1910.217(h) .....	1218-0143
1910.218(a)(2)(i) and (ii) .....	1218-0228
1910.252(a)(2)(xiii)(c) .....	1218-0207
1910.255(e) .....	1218-0207
1910.266 .....	1218-0198

29 CFR citation	OMB con- trol No.
1910.268 .....	1218-0225
1910.269 .....	1218-0190
1910.272 .....	1218-0206
1910.420 .....	1218-0069
1910.421 .....	1218-0069
1910.423 .....	1218-0069
1910.430 .....	1218-0069
1910.440 .....	1218-0069
1910.1001 .....	1218-0133
1910.1003 .....	1218-0085
1910.1004 .....	1218-0084
1910.1006 .....	1218-0086
1910.1007 .....	1218-0083
1910.1008 .....	1218-0087
1910.1009 .....	1218-0089
1910.1010 .....	1218-0082
1910.1011 .....	1218-0090
1910.1012 .....	1218-0080
1910.1013 .....	1218-0079
1910.1014 .....	1218-0088
1910.1015 .....	1218-0044
1910.1016 .....	1218-0081
1910.1017 .....	1218-0010
1910.1018 .....	1218-0104
1910.1020 .....	1218-0065
1910.1025 .....	1218-0092
1910.1027 .....	1218-0185
1910.1028 .....	1218-0129
1910.1029 .....	1218-0128
1910.1030 .....	1218-0180
1910.1043 .....	1218-0061
1910.1044 .....	1218-0101
1910.1045 .....	1218-0126
1910.1047 .....	1218-0108
1910.1048 .....	1218-0145
1910.1050 .....	1218-0184
1910.1051 .....	1218-0170
1910.1052 .....	1218-0179
1910.1096 .....	1218-0103
1910.1200 .....	1218-0072
1910.1450 .....	1218-0131

[61 FR 5508, Feb. 13, 1996, as amended at 62 FR 29668, June 2, 1997; 62 FR 42666, Aug. 8, 1997; 62 FR 43581, Aug. 14, 1997; 62 FR 65203, Dec. 11, 1997; 63 FR 13340, Mar. 19, 1998; 63 FR 17093, Apr. 8, 1998]

### Subpart B—Adoption and Extension of Established Federal Standards

**AUTHORITY:** Secs. 4, 6, and 8 of the Occupational Safety and Health Act, 29 U.S.C. 653, 655, 657; Walsh-Healey Act, 41 U.S.C. 35 *et seq.*; Service Contract Act of 1965, 41 U.S.C. 351 *et seq.*; Sec.107, Contract Work Hours and Safety Standards Act (Construction Safety Act), 40 U.S.C. 333; Sec. 41, Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 941; National Foundation of Arts and Humanities Act, 20 U.S.C. 951 *et seq.*; Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 1911), 9-83 (48 FR 35736), 1-90 (55 FR 9033), or 6-96 (62 FR 111), as applicable.

#### § 1910.11 Scope and purpose.

(a) The provisions of this subpart B adopt and extend the applicability of, established Federal standards in effect on April 28, 1971, with respect to every employer, employee, and employment covered by the Act.

(b) It bears emphasis that only standards (i.e., substantive rules) relating to safety or health are adopted by any incorporations by reference of standards prescribed elsewhere in this chapter or this title. Other materials contained in the referenced parties are not adopted. Illustrations of the types of materials which are not adopted are these. The incorporations by reference of parts 1915, 1916, 1917, 1918 in §§ 1910.13, 1910.14, 1910.15, and 1910.16 are not intended to include the discussion in those parts of the coverage of the Longshoremen's and Harbor Workers' Compensation Act or the penalty provisions of the Act. Similarly, the incorporation by reference of part 1926 in § 1910.12 is not intended to include references to interpretative rules having relevance to the application of the Construction Safety Act, but having no relevance to the application to the Occupational Safety and Health Act.

#### § 1910.12 Construction work.

(a) *Standards.* The standards prescribed in part 1926 of this chapter are adopted as occupational safety and health standards under section 6 of the Act and shall apply, according to the provisions thereof, to every employment and place of employment of every employee engaged in construction work. Each employer shall protect the employment and places of employment of each of his employees engaged in construction work by complying with the appropriate standards prescribed in this paragraph.

(b) *Definition.* For purposes of this section, *Construction work* means work for construction, alteration, and/or repair, including painting and decorating. See discussion of these terms in § 1926.13 of this title.

(c) *Construction Safety Act distinguished.* This section adopts as occupational safety and health standards under section 6 of the Act the standards which are prescribed in part 1926 of this chapter. Thus, the standards