



MID-ATLANTIC OSHA TRAINING INSTITUTE EDUCATION CENTER

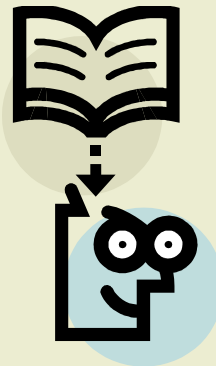
MAINTENANCE V/S CONSTRUCTION

Presented by: Rod Markley, CSP, CHST, CET

Maintenance v/s Construction

□ Goal:

- All participants will gain the knowledge to understand OSHA's explanation of **Maintenance** and **Construction** activities and how these terms apply to workplace activities.



Maintenance v/s Construction

□ Objectives:

▣ All participants will be able to:

- State the Title and Parts of the Code of Federal Regulations (CFR) that cover OSHA Standards for General Industry and Construction activities.
- Explain Horizontal Standards and Vertical Standards.
- Identify key “*Letters of Interpretation*” that explain Maintenance and Construction activities.
- Explain key terms including Maintenance and Construction.
- Describe workplace activities involving Maintenance tasks.
- Describe workplace activities involving Construction tasks.

Code of Federal Regulations (CFR)

- A system of organization for the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government
- The CFR is divided into 50 titles which cover broad areas subject to Federal regulation



Code of Federal Regulations (CFR)

□ Titles include:

- Title 3 The President
- Title 10 Energy
- Title 21 Food and Drugs
- **Title 29** **Labor**
- Title 40 Protection of Environment
- Title 49 Transportation



Code of Federal Regulations (CFR)

- **Title 29** reserved for **Labor**
- Titles divided into **chapters** which bear the name of the issuing agency
- OSHA is designated Title 29-Labor, Chapter XVII



- Each chapter subdivided into parts covering specific regulatory areas

Important Parts of 29 CFR

- Part 1903 - Inspections, Citations and Proposed Penalties
- Part 1904 - Recording and Reporting Occupational Injuries and Illnesses
- **Part 1910 - General Industry Standards (Maintenance)**
- **Part 1926 - Construction Standards**

Horizontal and Vertical Standards

- Some standards are horizontal meaning “general”, or “across the board”
- Horizontal standards could apply to *any employer in any industry*
- Examples of horizontal standard:
 - ▣ GHS Hazard Communication Standard
 - ▣ Respiratory Protection Standard

Horizontal and Vertical Standards

- Vertical standards are specific only to a particular industry:
- Examples of Vertical Standards:
 - Pulp, paper, and paperboard mills (1910.261)
 - Textiles (1910.262)
 - Sawmills (1910.265)
 - Logging operations (1910.266)
 - **Part 1926 - Construction Standards**

Horizontal and Vertical Standards

- ❑ **Application – what standard applies?**
 - ❑ According to the work activity itself
 - ❑ According to which standard most specifically applies to the work activity
 - ❑ Typically Vertical Standards are more specific than Horizontal Standards
 - ❑ Not determined by the SIC or NAICS of company

OSHA's Letters of Interpretation

- ❑ August 11, 1994
- ❑ February 1, 1999
- ❑ May 11, 1999
- ❑ August 14, 2000
- ❑ November 18, 2003



OSHA Definitions/Explanations

(August 11, 1994)

- ❑ **Construction** (according to 29 CFR 1926.32(g) and 29 CFR 1910.12(b)) – Means work for *construction, alteration, and/or repair, including painting and decorating.*
 - ❑ In order for work to be construction work, the employer need not itself be a construction company.
 - ❑ Construction work is not limited to new construction.
 - ❑ It includes the repair of existing facilities. The replacement of structures and their components is also considered construction work.

OSHA Definitions/Explanations

(August 11, 1994) cont.

- ▣ Repairs of highways are construction
- ▣ Repairs of railroad tracks & related structures are construction
- ▣ Where activity cannot be easily classified, enforce the most stringent standard.

OSHA Definitions/Explanations

(February 1, 1999)

- **Maintenance (as provided in Letter of Interpretation)** - *means keeping equipment or a structure in proper condition through routine, scheduled or anticipated measures without having to significantly alter the structure or equipment in the process. For equipment, this generally means keeping the equipment working properly by taking steps to prevent its failure or degradation.*

OSHA Definitions/Explanations

(February 1, 1999) cont.

□ **Example No 1: Maintenance**

- Valve replacement is part of the routine maintenance of the system and removing and replacing the valve is done without making major alterations to the heating system.

□ **Example No. 2: Construction**

- Major portion of the equipment or system must be moved or altered in the process of doing the job.
- To do the job , 50% of all parts in the system have to be cut, unbolted, moved, or otherwise altered or replaced

OSHA Definitions/Explanations

(May 11, 1999)

- ▣ If painting the pole is an anticipated, routine, and periodic event to keep from degrading and maintain in their original condition, then the painting is **Maintenance**.
- ▣ Following do not determine the type of work:
 - Who performs the work
 - Live parts
 - Painting is regular part of employees job
 - Configuration of the pole

OSHA Definitions/Explanations

(August 14, 2000)

- Type of work is determined by the activity to be performed, not the company's SIC or NAICS code.
- Defines **Maintenance**
- Whether repairs are **Maintenance** or **Construction** depends on the extent of the repair and whether the equipment is upgraded in the process.

OSHA Definitions/Explanations

(August 14, 2000) cont.

□ Example No. 1: **Maintenance**

- Five percent of a company's utility lines are down.

□ Example No. 2: **Construction**

- Three quarters of a company's utility lines are down.

□ Example No. 3: **Construction**

- A few lines are changed to upgrade service.

OSHA Definitions/Explanations

(August 14, 2000) cont.

□ Example No. 4: **Maintenance**

- A small water shut-off valve in a large, complex chemical processing system.

□ Example No. 5: **Construction**

- A 36-inch valve that is one of three major components in a processing system is removed and replaced. **About 50% of all parts have to be cut, unbolted, moved, or otherwise altered or replaced.**

OSHA Definitions/Explanations

(November 18, 2003)

- ❑ Defines **Construction**
- ❑ Defines **Maintenance**
- ❑ **Construction** work is not limited to new construction.
- ❑ Replace one utility pole with identical pole would be **Maintenance**.
- ❑ Replace one utility pole with improved pole or equipment would be **Construction**.

OSHA Definitions/Explanations

(November 18, 2003) cont.

- When determining **Construction** or **Maintenance**:
 - Scale and complexity of the project is relevant such as amount of time and materials to complete project.
 - Not the classification of what you are working on as “equipment” or “structure”, but rather the project’s scale and complexity.
 - Work performed in-house or by an outside contractor is not a factor.

OSHA Definitions/Explanations Summary

□ Construction v/s Maintenance:

- Determinations of whether a contractor is engaged in maintenance operations rather than construction activities must be made on a case-by-case basis, taking into account all information available at a particular site.

OSHA Definitions/Explanations Summary

- **Construction v/s Maintenance:**
 - Read and understand OSHA's Letters of Interpretations.
 - Understand the definitions and explanations of the terms “**Construction**” and “**Maintenance**”.
 - Where activity cannot be easily classified, follow the most stringent standard.

Maintenance v/s Construction

□ Review of Objectives:

▣ During this training we:

- Stated the Title and Parts of the Code of Federal Regulations (CFR) that cover OSHA Standards for General Industry and Construction activities.
- Explained Horizontal Standards and Vertical Standards.
- Identified key “*Letters of Interpretation*” that explain Maintenance and Construction activities.
- Explained key terms including Maintenance and Construction.
- Described workplace activities involving Maintenance tasks.
- Described workplace activities involving Construction tasks.



Questions ?

Thank You !

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