

example, Treasury and the IRS are concerned that U.S. holders of foreign securities, including American Depositary Receipts ("ADRs"), may be claiming foreign tax credits in situations where an intermediary in the chain of ownership between the holder of a foreign security or an ADR and the issuer of the security (or the security underlying the ADR) has taken actions inconsistent with the ownership of the underlying security by the person claiming the credit, such as a disposition of such security. One approach to address this issue would involve modifying the substantiation, documentation and reporting rules with respect to payments on such securities and taxes withheld therefrom. For example, in order for a U.S. owner to be entitled to a credit for foreign taxes imposed on income with respect to a security, financial intermediaries (including custodians) could be required to substantiate that they have not taken any action inconsistent with beneficial ownership of the relevant security by such U.S. owner.

It should be noted that portfolio investors are not necessarily entitled to foreign tax credits for the full amount indicated on the Form 1099 as foreign taxes paid. Portfolio investors are only entitled to a foreign tax credit for the amount of tax that is legally owed, which may not be the same as the amount withheld. If, for example, a portfolio investor is entitled to a refund of foreign tax withheld because of a reduced treaty withholding rate, the investor is only entitled to a foreign tax credit for the reduced amount, whether or not the investor files a refund claim with the foreign tax authorities. The IRS has made changes to the Form 1116 Instructions and Publication 514 to clarify this point and intends to make similar changes to the Form 1118 Instructions.

#### Explanation of Provisions

*Section 1.905-2(a)(1), 1.905-2(b)(1), (2), and (3), and 1.905-2(c)*

Sections 1.905-2(a)(1), 1.905-2(b)(1), (2) and (3), and 1.905-2(c) are unchanged from the current final regulations.

*Section 1.905-2(a)(2)*

Under former § 1.905-2(a)(2), taxpayers generally were required to attach to their income tax returns either (1) the receipt for the foreign tax payment or (2) a foreign tax return for accrued foreign taxes. Section 1.905-2(a)(2) removes the requirement that the documentation be attached to the income tax return. The regulation now

provides that such evidence of payment of foreign taxes must be presented to the district director upon request.

#### Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedures Act (5 U.S.C. chapter 5) does not apply to this regulation, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Drafting Information:** The principal author of this regulation is Joan Thomsen of the Office of the Associate Chief Counsel (International), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

#### PART 1—INCOME TAXES

**Paragraph 1.** The authority citation for 26 CFR part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

**Par. 2.** Section 1.905-2 is amended by revising the second through fourth sentences in paragraph (a)(2) to read as follows:

#### § 1.905-2 Conditions of allowance of credit.

(a) \* \* \*

(2) \* \* \* Except where it is established to the satisfaction of the district director that it is impossible for the taxpayer to furnish such evidence, the taxpayer must provide upon request the receipt for each such tax payment if credit is sought for taxes already paid or the return on which each such accrued tax was based if credit is sought for taxes accrued. The receipt or return must be either the original, a duplicate original, or a duly certified or authenticated copy. The preceding two sentences are

applicable for returns whose original due date falls on or after January 1, 1988. \* \* \*

\* \* \* \* \*

**Michael P. Dolan,**

*Deputy Commissioner of Internal Revenue.*

Approved: January 13, 1998.

**Donald C. Lubick,**

*Acting Assistant Secretary of the Treasury.*

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1926

[Docket No. S-205]

RIN 1218-AA40

#### Safety Standards for Scaffolds Used in the Construction Industry (Aerial Lifts); Effective Date and Office of Management and Budget Control Numbers Under Paperwork Reduction Act

**AGENCY:** Occupational Safety and Health Administration, Labor.

**ACTION:** Final rule; amendment; announcement of effective date and OMB approval of information collection requirements.

**SUMMARY:** This document announces the effective date of a provision in the Occupational Safety and Health Administration's construction standard for scaffolds that addresses manufacturer certification of "field modified" aerial lifts. The document also adds an entry to display that the collection of information has been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

**EFFECTIVE DATE:** The amendment in this final rule and § 1926.453(a)(2), published at 61 FR 46026, are effective January 27, 1998.

#### FOR FURTHER INFORMATION CONTACT:

Laurence Davey, Directorate of Construction, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3621, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 219-7198.

**SUPPLEMENTARY INFORMATION:** In the August 30, 1996, **Federal Register** at 61 FR 46026, *et seq.*, OSHA revised the standards for scaffolds in construction, codified as subpart L of 29 CFR part 1926. The effective date for the revised subpart was November 29, 1996. However, in that same document, at 61

FR 46026 and 46103-46104, the Agency announced its intent to request Office of Management and Budget (OMB) approval for a provision addressing aerial lifts in § 1926.453(a)(2). OSHA stated that the effective date for § 1926.453(a)(2) would be announced in the **Federal Register** at a later date, once OSHA received approval for the information collection requirements in that provision from OMB. The aerial lift provisions contain a requirement for manufacturer certification of "field modified" aerial lifts, which was previously codified in § 1926.556, and which was redesignated at § 1926.453(a)(2) in the final rule.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), OMB has approved the information collection and assigned OMB control number 1218-0216, which expires on October 31, 2000. Under 5 CFR 1320.5(b), an Agency may not conduct or sponsor a collection of information unless: (1) The collection displays a valid control number, and (2) the agency informs potential persons who may respond to the collections of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number. Accordingly, now that OMB has approved the collections in § 1926.453(a)(2), OSHA is codifying the current OMB control number into § 1926.5, which is the central section in which OSHA displays its approved collections under the Paperwork Reduction Act. The effective date of § 1926.453(a)(2) is January 27, 1998.

#### Authority and Signature

This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210.

#### List of Subjects in 29 CFR Part 1926

Construction; Occupational safety and health; Reporting and recordkeeping requirements.

Signed at Washington, D.C., this 15th day of January, 1998.

**Charles N. Jeffress,**

*Assistant Secretary of Labor.*

Accordingly, the Occupational Safety and Health Administration amends 29 CFR part 1926 as set forth below.

#### PART 1926—[AMENDED]

1. The authority citation for subpart A of part 1926 continues to read as follows:

**Authority:** Section 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order 12-71 (36 FR 8754), 8-76 (41 FR 25059), or 1-90 (55 FR 9033), as applicable; 29 CFR part 1911.

#### § 1926.5 [Amended]

2. In § 1926.5, the table is amended by adding the entry  
"§ 1926.453(a)(2).....1218-0216"  
in numerical order.

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## POSTAL SERVICE

### 39 CFR Part 20

#### Expansion of Global Priority Mail

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** On March 29, 1996, the Postal Service published in the **Federal Register**, 61 FR 14025, an interim rule with a request for comments which expanded Global Priority Mail service by increasing the number of acceptance points, increasing the number of destination countries, and adding weight variable rates for items weighing up to 4 pounds. The Postal Service now adopts the interim regulations, with amendments, as final.

**EFFECTIVE DATE:** January 27, 1998.

**FOR FURTHER INFORMATION CONTACT:** R. Jay Thabet, (202) 268-2269.

**SUPPLEMENTARY INFORMATION:** On March 29, 1996, the Postal Service published an interim rule expanding Global Priority Mail and requesting comments, 61 FR 14025. Global Priority Mail is an expedited airmail letter service providing fast, reliable, and economical delivery of all items mailable as letters or merchandise up to 4 pounds. Global Priority Mail items receive priority handling in the United States and destination countries. Service is limited to the 34 destination countries identified in the International Mail Manual 226.2. Service is available from designated post offices identified in the International Mail Manual 226.32.

The weight limit for Global Priority Mail items is 4 pounds. The Postal Service offers two sizes of preprinted flat-rate envelopes. The rates for these envelopes are based on a geographic rate zone regardless of the actual weight. Although these envelopes are valid for weights of up to 4 pounds, the practical limitations of the envelopes limit the weight to less than 4 pounds.

The interim rule increased the number of post offices where Global Priority Mail would be available, increased the number of destination countries, and added variable weight-based rates to increase customer convenience.

The Postal Service received one letter containing nine comments on the interim rule.

Comment one suggests that, for those states where all post offices within the state are on the list of acceptance sites, just the state should be listed without showing the different facilities. This suggestion does not take into account that there may arise a case where a post office within a state may not be able to accept Global Priority Mail at some time in the future. The present system of listing the acceptance facilities allows the Postal Service to delete post offices when appropriate.

Comment two suggests that ZIP Codes be listed in numerical order rather than in alphabetical order of the acceptance facility. While both numerical and alphabetical listings are valid, neither is more valid than the other. The Postal Service elects to retain the alphabetical listing.

Comment three states that, in New York State, Postal Codes 117/118 are no longer listed as acceptance sites, whereas they were listed as acceptance sites for the original test. This was a typographical error; ZIP Codes 117/118 are acceptance sites.

Comment four asks for an explanation of certain abnormalities in the rate structure for variable weights and the volume rates. The differences between weight steps does not have to be equal or linear or based totally on cost changes. The competitors' rates for similar products are a factor. The size and weight of the volume the USPS most wants to attract is another factor in the determination of weight level increases.

Comment five asks for an explanation for the relationship between rates for Canadian and European destinations. The expected traffic to each country group, the competition that we face going to that country group, and the cost to get into each country group were factors used to determine rates. In the example cited, competitors' rates and delivery costs in the country were the most influential.

Comment six states that the relationship between the flat rate envelopes and the variable weight rate should be clarified and the relationship between the flat rate envelope and the volume rate should be clarified. The flat rate developed for envelopes that the Postal Service provides is independent