



CHERIE K. BERRY
COMMISSIONER

SCOTT MABRY
ASSISTANT DEPUTY COMMISSIONER
OCCUPATIONAL SAFETY AND HEALTH DIVISION

MEMO

To: OSH Division
From: Scott Mabry, Assistant Deputy Commissioner
Date: September 28, 2017
Re: Exemption of Variable Boom Reach Equipment ("Reach Stackers") from the 29 CFR 1917.50 Certification Requirement for Marine Terminals

On March 17, 2017, the Occupational Safety and Health Administration (OSHA) issued a memorandum on the "Exemption of Variable Boom Reach Equipment ("Reach Stackers") from the 29 CFR 1917.50 Certification Requirement for Marine Terminals." This memorandum exempts variable boom reach equipment ("reach stackers") from the certification requirements for marine terminals in 29 CFR 1917.50 since they have been classified as powered industrial trucks. Variable boom reach equipment is still subject to the requirements of 29 CFR 1917.43 and the training requirements of 29 CFR 1910.178(l) as referenced in 29 CFR 1917.1(a)[(2)](xiv). (Please note: the original memorandum issued by OSHA references 29 CFR 1917.1(a)(1)(xiv); however, the correct standard number is 29 CFR 1917.1(a)(2)(xiv)).

Per this memorandum, the Occupational Safety and Health (OSH) Division of the North Carolina Department of Labor adopts the above mentioned OSHA enforcement procedure for use in North Carolina. The document is attached.

MAR 17 2017



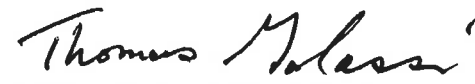
Reply to the attention of:

MEMORANDUM FOR: REGIONAL ADMINISTRATORS

THROUGH:


DOROTHY DOUGHERTY
Deputy Assistant Secretary

FROM:


THOMAS GALASSI, Director
Directorate of Enforcement Programs

SUBJECT:

Exemption of Variable Boom Reach Equipment ("Reach Stackers") from the 29 CFR 1917.50 Certification Requirement for Marine Terminals

PURPOSE:

This memo is to inform all Occupational Safety and Health Administration (OSHA) Field Offices that reach stackers are exempt from complying with the certification requirement set forth in 29 CFR 1917.50.

BACKGROUND:

On August 9, 2016, during the meeting of the Longshoring Workgroup, of the Maritime Advisory Committee on Occupational Safety and Health (MACOSH) and at a follow-up conference call on September 22, 2016, industry representatives expressed concern about OSHA's consideration requiring that reach stackers (Figure 1), be certificated pursuant to 29 CFR 1917.50. That provision requires certain material handling devices used in marine terminals, listed in paragraph (c), be certificated. However, there are exceptions to this provision. 29 CFR 1917.50(j)(1) provides that the certification requirement does not apply to: "1) Small industrial crane trucks as described on page 8 and illustrated on page 13 of ASME B56.1, 1959, 'Safety Code for Powered Industrial Trucks', and powered industrial trucks."



Figure 1

For the following reasons we conclude that reach stackers are powered industrial trucks and therefore fall within this exception. ASME B56.1, 1959, "Safety Code for Powered Industrial Trucks," p. 7, referred to in subparagraph (j)(1), defines a "powered industrial truck" as "a mobile, power-driven truck or tractor, as specifically defined below, used to carry, push, pull, lift, stack or tier material." A reach stacker is a mobile, power-driven truck, which moves loads both vertically and horizontally, used to handle and stack material. Therefore, a reach stacker is a powered industrial truck and thus falls within the subparagraph (j)(1) exception to the certification requirement of 29 CFR 1917.50. Furthermore, manufacturers of reach stackers have classified reach stackers as powered industrial trucks, just as they and OSHA classified top loaders (see Figure 2), which also stack materials, albeit only vertically.



Figure 2

Thus, a plain reading of 29 CFR 1917.50(j)(1)) indicates that reach stackers used in marine terminals to load, unload, and move maritime cargo are exempt from the 29 CFR 1917.50 certification requirement because they are powered industrial trucks. However, powered industrial trucks used at marine terminals are subject to 29 CFR 1917.43 and to the powered industrial truck training requirements in 29 CFR 1910.178(l), as referenced in 29 CFR 1917.1(a)(1)(xiv).

If you have any questions, please contact Nicholas DeAngelis in the Office of Maritime Enforcement at Nicholas.DeAngelis@dol.gov or 202-693-2186.