Protecting Everyone Involved

Product Liability and the Effect of OSHA and Workers' Compensation Laws

By Kenneth Ross and Gregory N. Dale

Case law reveals various justifications and different results when litigants attempt to secure or oppose admission of OSHA standards or citations in third-party litigation.

When lawyers defend product liability cases and provide preventive advice to manufacturers that manufacture products used in regulated workplace environments, the lawyers face some extremely sensitive challenges. There are practical limitations when the employer involved is not a party to a lawsuit as a result of workers' compensation exclusivity rules. Moreover, having to deal with issues of Occupational Safety and Health Act (OSH Act) compliance or noncompliance exacerbates the litigation and discovery issues when defending these cases. And when offering preventive and compliance advice to manufacturers, it can be challenging to achieve a manufacturers' risk-management objectives due to the possible interplay and effect of OSH Act compliance issues.

This article will discuss aspects of the interrelationship between product liability and workplace safety laws and the admissibility of citations and standards under the OSH Act in product liability and third-party actions. It will also provide some preventive advice to manufacturers and other product sellers.

Basic Law

Workers' compensation laws, created in the early 1900s, were based on absolute liability against the employer without the need to prove negligence with some limited exceptions. In exchange for this near absolute liability, the laws provided limitations and guidelines regarding financial recovery for injuries or death from workplace incidents. However, such laws often also provided generally that employers could not be sued either directly by an injured employee, or in some cases, by the manufacturer as a third-party defendant. This exclusivity was meant to protect an employer from paying more than the amount that it would owe under such workers' compensation laws.

With the passage of the OSH Act, employers became subject to a range of new compliance requirements. However, in some product liability cases, a manufacturer was disadvantaged because it could

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not assign liability to an employer for an accident by showing that the employer was negligent and violated OSH Act regulations. Instead, a manufacturer sometimes had to try to fix responsibility on an injured employee who, in some cases, may have been poorly trained, provided with inappropriately guarded machinery or inadequate personal protective equipment, improperly supervised, or in some extreme cases, coerced into unsafely using a product.

The workers' compensation laws also affected manufacturers in certain ways. Limited by financial ceilings for worker's compensation benefits, employees would often sue the manufacturer of the product involved in the accident. Another factor contributing to the rise in product liability litigation was that workers' compensation insurance carriers could bring lawsuits in the name of employees to recover the money paid to the employees as workers' compensation benefits.

In addition to workers' compensation laws, standards promulgated by the Occupational Safety and Health Administration (OSHA) also had an effect on product liability litigation, despite the fact that OSHA cannot make a manufacturer design a product that complies with the OSH Act. When considering the interrelationship of the OSH Act and workers' compensation, the OSH Act states:

> Nothing in this chapter shall be construed to supersede or in any manner affect any workmen's compensation law or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, diseases, or death of employees arising out of, or in the course of, employment.

29 U.S. Code §653(b)(4).

This segmentation between product liability, the OSH Act, workers' compensation laws, and other laws can create an awkward interplay between employers and manufacturers. This interplay is exacerbated by the workers' compensation exclusivity rules and the belief of some employers that less than full compliance with the OSH Act may only yield a fairly small fine for such noncompliance. Further, some employers may believe that if an employee becomes injured, they or their workers' compensation carrier may be reimbursed by bringing a subrogation type of lawsuit against a manufacturer.

Admissibility of OSHA Citations and Standards

As stated above, OSHA is focused on regulating workplace safety, primarily employer obligations to furnish a safe place of employment. While it is true that provisions of the OSH Act or its regulations address a few employee and some contractor responsibilities, it is fair to state that most of the compliance and enforcement focus is on employers.

Thus, when such employer-focused regulation is offered for admission in third-party litigation, it can raise "fit" and relevance issues. Moreover, those issues can present real challenges for litigants because the imprimatur of government regulations in such cases may have considerable sway with fact finders. Accordingly, one frequently litigated issue is whether an OSH Act regulation or standard or an OSHA citation has sufficient relevance and probative value to be admitted in product liability litigation.

A review of case law reveals a variety of justifications and different results when parties attempt to secure or to oppose admission of OSHA standards or citations:

- **The fact-sensitive nature of cases in relation to the standards or citations that parties propose to admit:** A result in one case may be quite different in another case within the same jurisdiction, depending on the facts or the product at issue and the particular OSH Act standards or citations that a party seeks to admit. Further, issues regarding admission of actual citations can vary from those concerning admission of standards.
- **The range of differences in laws across jurisdictions regarding admissibility of such evidence:** For example, comparative fault provisions (including attribution of fault to certain nonparties) and statutory product liability and rebuttable presumption language can certainly differ from state to state.
- **The theory or theories of liability being adjudicated:** Strict liability or negligence per se cases may present a different range of admissibility challenges than other claims.
- **The method chosen to seek admission:** Different theories of evidentiary admission presented by plaintiffs and defendants influence courts' willingness to admit evidence. Even within a category of proof, such as intervening or superseding cause, there can be differences in whether the proposed admission of OSHA-related evidence is successful.

Accordingly, one frequently litigated issue is whether an OSH Act regulation or standard or an OSHA citation has sufficient relevance and probative value to be admitted in product liability litigation.

Moreover, evidence that is inadmissible to prove certain points may be admissible for other purposes.

Both Plaintiffs and Defendants Have Sought Admission of Such Evidence

Plaintiffs have sought to introduce OSHA citations or standards as evidence to prove certain case elements including, among others,

- That a product is unreasonably dangerous or defective;
- That a product's design is hazardous;
- To support expert testimony;
- To establish a standard of care; and/or
- That a defendant or defendants breached a duty or standard of care.

Defendants have also sought admission of OSHA standards or information to prove certain elements, among others,

- To establish an intervening or superseding cause;
- To help establish comparative fault;
- To support expert testimony;
- To counter claims that an alternative design would be safer;
- To try to establish preemption defenses; and/or

- To establish a presumption of safety or an absence of defect.

Case Examples

Below are samples of cases from various jurisdictions to illustrate key admissibility points.

Evidence of Intervening or Superseding Cause

Litigants often proffer OSHA citations or standards related to inadequate training or unsafe employer practices as evidence to support intervening or superseding cause arguments.

Alleged Inadequate Training and Training Standards

In *Brodsky v. Mile High Equip. Co.*, 69 Fed. App'x 53 (3d Cir. 2003), the decedent employee was electrocuted while repairing a machine manufactured by the defendant. OSHA cited the decedent's employer for alleged inadequate training of its employees, including the decedent, in electrical safety matters. The defendant argued that the OSHA citations and fines against the employer were relevant to the employer's responsibility for failing to train its employees and were the superseding cause of the accident.

The court held that because the claim against the defendant was one based on strict liability, it would be improper for the defendant's alleged negligence to be "injected throughout the lawsuit" by the introduction of OSHA safety standards. However, the effort to admit evidence did *not* relate directly to *OSHA standards*, but to the *OSHA citations and fines*. The fact that OSHA determined that the decedent's employer failed properly to train its employees was deemed to be relevant and admissible.

In *Brown v. Crown Equip. Co.*, 445 F. Supp. 2d 59 (D. Me. 2006), however, the defendant's effort to introduce OSHA training standards was rejected. The defendant attempted to introduce an OSHA regulation setting mandatory training requirements for powered industrial truck operators. At issue was whether the plaintiff participated in OSHA-mandated training. In relation to its defense regarding comparative fault, the defendant argued that the decedent's accident was caused by operator error.

The court held that such information was not admissible because (1) the standard applied to employers of the operators of powered industrial trucks, not to the operators themselves; and (2) there was an absence of evidence that the employer's violation of the standard reasonably could be construed to have caused the accident at issue.

Even when such evidence might be relevant to establish negligence in an employer's training of employees, it may still be inadmissible. For example, in *Custer v. Terex Corp.*, 196 Fed. App'x 733 (11th Cir. 2006), a worker died after an accident involving a forklift designed and manufactured by the defendant. The defendant attempted to admit an OSHA investigation letter to demonstrate that OSHA had concluded that the employer had failed to adequately train the forklift operator. The district admitted the letter, but the circuit court rejected the proffer of the letter because, among other reasons, state law prohibited the allocation of fault to a nonparty.

As noted above, OSHA-related evidence may be inadmissible for one purpose, such as to prove that a product is not defective, but fully admissible as evidence relating to causation. For example, in *Nesbitt v. Sears, Roebuck & Co.*, 415 F. Supp. 2d 530 (E.D. PA. 2005), a product's alleged compliance with OSHA standards was inadmissible to prove that it was not defective. However, the court then admitted evidence of the alleged failure of the plaintiff's employer to comply with OSHA standards regarding training and removal of certain safety devices as relevant to causation.

Alleged Employer Actions or Omissions Other Than Alleged Training Deficiencies

Defendants have raised superseding or intervening cause defenses not only based on alleged host employer training inadequacies, but also with respect to other alleged unsafe employer practices. In *Masello v. Stanley Works, Inc.*, 825 F. Supp. 2d 308 (D.N.H. 2011), a stepstool manufactured by the defendant collapsed while an employee was standing on it. The defendant successfully admitted evidence of an OSHA report concluding that the employer violated OSHA standards by allowing employees to work on damaged stepstools. The report was admissible as an exception to the hearsay rule as a report setting forth "factual findings made pursuant to authority granted by law."

On occasion, defendants have asserted that an employer's changes to a product were the proximate cause of an injury. In one accident case involving a meat tenderizing machine, the defendant manufacturer alleged that the employee's employer made numerous modifications to the machine and provided inadequate employee training. *Porchia v. Design Equip. Co.*, 113 F.3d 877 (8th Cir. 1997). The modifications allegedly included removal of a guard designed to prevent contact with the machine's blades. The defendant's expert witness was allowed to reference an OSHA report to show that the employer's negligence was the sole proximate cause of the employee's injury. The OSHA report, settlement, and citations were prepared after an investigation into the working conditions at the time of the plaintiff's injury. The court held that OSHA standards, investigations, and citations may be relevant if the fault of the employer is an issue. Because the OSHA investigation occurred within a month of the accident and the production line at issue had undergone significant changes since that time, the court held that information in the OSHA report was especially probative.

In *Mark v. Mellott Mfg. Co.*, 666 N.E.2d 631(Ohio Ct. App. 1995), an employer's record of prior citations related to equipment guards, an OSHA investigation report, and citations to the employer were held to be admissible by the defendant to raise a superseding or intervening cause defense:

> We find no abuse of discretion in the trial court's allowing the jury to consider the fact that OSHA regulations exist that, if followed by the employer, would negate the allegedly defective design of the product. The OSHA regulations are relevant to the risk-benefit analysis. We also find no abuse of discretion in the trial court's allowing the jury to consider the fact that appellant's employer failed to follow the OSHA regulations.… [T]he OSHA records are relevant to a consideration of whether an intervening or superseding cause, rather than a defec-

tively designed product, proximately caused appellant's injuries.

Evidence of the Existence or the Absence of Defect

OSHA standards or citations or both may be offered to prove the defective nature or to rebut the alleged defective nature of a product. Whether such efforts are successful highly depend on the product and the OSHA information at issue. For instance, in *Minichello v. U.S. Indus., Inc.*, 756 F.2d 26 (6th Cir. 1985), the defendant attempted to admit OSHA standards to prove that a lack of a guardrail was not a violation of OSHA standards, and therefore the product was not unreasonably dangerous. The circuit court rejected this effort, holding that use of OSHA regulations to establish whether a product is unreasonably dangerous was improper. The court noted that OSHA regulations cannot provide a basis for liability because Congress specified that they should not.

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A similar ruling occurred in a case in which a plaintiff attempted to introduce evidence of an OSHA inspection and safety records. *Behanan v. Desco Distribut. Co.*, 647 N.E.2d 830 (Ohio Ct. App. 1994). The court ruled that such information was inadmissible because "the use of OSHA regulations to establish that a product was unreasonably dangerous is improper. Congress mandated that OSHA should not provide a basis for civil liability.… Moreover, the application of OSHA provisions in this case is inappropriate because those regulations pertain only to the employer's conduct."

Likewise, in *Byrne v. Liquid Asphalt Sys., Inc.*, 238 F. Supp. 2d 491 (E.D.N.Y. 2002), the plaintiff attempted to introduce OSHA standards in an effort to prove the existence of a product defect. The court held that such standards were not admissible because OSHA standards were not intended to impose duties upon manufacturers and have no application against manufacturers of products. The court determined that such standards would not assist a jury with its decision making. The court noted that OSHA standards have federal backing and are widely known by lay people. Accordingly, a jury would likely give OSHA evidence great weight. Therefore, the court ruled that the OSHA standards were inadmissible against the defendant, noting that the standards would likely be greatly prejudicial and minimally probative because they did not apply to manufacturers.

Although this line of cases holds that OSHA regulations are not to be used as the basis for civil liability of third parties, there is case authority to the contrary. In *Bunn v. Caterpillar Tractor Co.*, 415 F. Supp. 286 (W.D. Pa. 1976), the deceased was struck by a front wheel loader. The estate alleged that the machine was defectively designed because it was not equipped with adequate safety features, specifically rear view mirrors and a backup alarm), and the exhaust pipe and air precleaner obstructed the view to the rear of the driver. The court held that OSHA regulations were admissible by the plaintiff to support a claim that a given design was hazardous, even though the regulations were not binding on the manufacturer: "[S]afety codes are admissible in evidence to support a claim that a given design is hazardous, even though the codes have no binding effect on the Defendant.… [T]he regulations could be used to set up a standard if [the jury] so decided to use it…."

Interestingly, an OSHA regulation that was not yet effective when a product was manufactured was nonetheless offered by the plaintiff and admitted into evidence to prove the existence of a defect in one case. *Hammond v. Int'l Harvester Co.*, 691 F.2d 646 (3d Cir. 1982). In *Hammond*, the widow of a deceased tractor driver brought a products liability action against a tractor manufacturer. The decedent's employer had directed the manufacturer to deliver the tractor without a rollover protective structure (ROPS). Even though the OSHA regulation at issue was not effective until six months after the tractor was manufactured, the court held that the regulation was admissible to show that the machine was defective for not coming equipped with a ROPS, despite the fact that the removal of the safety device had been specifically requested by the employer:

> We recognize that these OSHA regulations do not directly govern the instant case because the tractor in question was manufactured at least six months prior to the effective date of the regulations. Nevertheless, OSHA's very decision to promulgate these regulations provides strong support for the proposition that a loader tractor—even one which must frequently pass through a low door—does not possess every element necessary to make it safe for use unless it comes equipped with a ROPS.

But it is not only plaintiffs who have successfully sought to use OSHA regulations in third-party litigation in which product safety or designs are at issue. In *Costilla v. Crown Equip. Corp.*, 148 S.W.3d 736 (Tex. Ct. App. 2004), a forklift operator was injured while operating a forklift manufactured by the defendant. In this case, the defendant sought to admit an OSHA regulation to counter the plaintiff's claim that a safer alternative design existed. The court permitted the defendant to admit the OSHA regulation to show that the plaintiff's proposed alternative design would prevent the operator from following OSHA's recommended course of conduct.

In another case in which a defendant successfully introduced evidence of OSHA standards, the court held such evidence was a relevant factor in analyzing whether the risks of the product outweighed its benefits:

> [OSHA] regulations are admissible when they are used to establish the feasibility of a product design and/or to establish the availability of alternative safeguards.… OSHA standards were effectuated on the basis of feasibility, and since feasibility is a relevant factor in the determination of whether a product is unreasonably dangerous, then OSHA standards are a relevant factor in the determination of the product's defectiveness.

Knitz v. Minster Mach. Co., 1987 WL 6486 (Ohio Ct. App. 1987).

Establishing a Standard or Duty

Parties sometimes attempt to introduce OSHA information to present evidence of

an alleged standard or duty. In *Hansen v. Abrasive Eng'g & Mfg., Inc.*, 856 P.2d 625 (Or. 1993), the plaintiff was injured while cleaning a machine. The plaintiff sought to introduce OSHA regulations to establish a standard of care. The Supreme Court of Oregon held that such evidence should have been admitted by the trial court, holding that OSHA regulations should be treated similarly to industry standards (such as ANSI standards) because they provide some relevant information regarding a standard of care.

In *Jordan v. Kelly-Springfield Tire & Rubber Co.*, 624 F.2d 674 (5th Cir. 1980), the plaintiff suffered injuries after falling from a ladder designed, manufactured, and installed by the defendant. In upholding the trial court's entry of a directed verdict for defendant, the Fifth Circuit noted that the plaintiff's own expert testified that the design of the ladder rungs complied with OSHA standards but held that compliance with a safety standard is only "some" evidence that the defendant satisfied the required standard of care.

But other defendants have had less success admitting evidence regarding a duty of care or safety. In *Scott v. Dreis & Krump Mfg. Co.*, 326 N.E.2d 74 (Ill. Ct. App. 1975), the defendant attempted to admit OSHA standards to show that it was the responsibility of the press owner, not the manufacturer, to provide and to ensure use of safety devices. The defendant believed that this information was relevant and admissible. The court disagreed, holding that a manufacturer has a nondelegable duty to produce products that are reasonably safe and that a manufacturer cannot introduce evidence to show that it is the duty of the purchaser to incorporate safety devices.

Likewise, in *Sheehan v. Cincinnati Shaper Co.*, 555 A.2d 1352 (Pa. Super. Ct. 1989), the court held that OSHA standards were not admissible by the defendant to show that the buyer of the equipment had a duty to provide safety mechanisms. The court noted that a manufacturer bears liability in a strict liability case when the manufacturer distributes a defective product and the defect is a substantial factor in the cause of injury.

Another case involving a court's determination that OSHA standards were inadmissible to shift the duty of safety to the plaintiff's employer is *Smith v. Eaton Corp.*, 456 F. Supp. 505 (E.D. Tenn. 1976). In *Smith*, the defendant attempted to introduce OSHA regulations to show that the duty to make a press brake safe shifted to the employer, and the employer should have modified the brake to make it safer. The court held that the manufacturer could not delegate its duty to make the brake in a reasonably safe condition. However, the court did permit the manufacturer to demonstrate the manner in which the employer had modified the brake. But the manufacturer could not use OSHA standards to allege how the employer should have made such modifications.

Rebuttable Presumption Issues

In some jurisdictions, statutes create rebuttable presumptions of product safety once a defendant shows that a product complies with applicable codes, standards and regulations, or specifications adopted, established, or approved by governmental agencies. In such jurisdictions, OSHA standards are sometimes offered as evidence of compliance.

Again, a review of cases indicates varying levels of success with such efforts. In the case of a construction worker who suffered injuries in an accident involving use of a pneumatic nailer, the court permitted the defendant manufacturer's admission of OSHA standards to show compliance with such standards. *Slisze v. Stanley-Bostitch*, 979 P.2d 317 (Utah 1999).

Decisions to offer such evidence must be made carefully. In one case, a defendant introduced OSHA standards to establish the rebuttable presumption, but the Indiana Court of Appeals found that the trial court erred when it admitted the evidence because the standards were silent on the matter at issue. Accordingly, the Indiana Court of Appeals held that there was insufficient evidence to support the defendant's contention that the product complied with the applicable government regulations. *Wade v. Terex-Telelect, Inc.*, 966 N.E.2d 186 (Ind. Ct. App. 2012).

In another case, the defendant was unable to admit OSHA regulations to create a rebuttable presumption of product safety. *Hughes v. Lumbermens Mut. Cas. Co.*, 2 S.W.3d 218 (Tenn. Ct. App. 1999). In *Hughes,* as in *Wade*, an appellate court reversed a trial court's admission of such evidence. The *Hughes* court held that OSHA standards cover an employer's conduct, not a manufacturer's conduct. Because a manufacturer could not comply with standards that did not govern its conduct, the rebuttable presumption was not applicable.

Preemption

A somewhat rarer line of cases involve preemption, generally whether OSHA standards preempt some aspect of a case. An interesting example of preemption is found in *Gonzalez v. Ideal Tile Importing Co.*, 877 A.2d 1247 (N.J. 2005). In that case, the defendant successfully admitted OSHA standards to prove preemption of state tort claims for workplace injuries sustained when the plaintiff was struck by a forklift manufactured by the defendant. The defendant asserted that its product complied with such standards. The court was careful, however, to limit its holding:

> In short, the result of ANSI's expertise in this area—which OSHA co-opted—was its conclusion that the 'other' warning devices, which plaintiff alleges were required to render the forklift safe, actually may tend to create additional dangers in the workplace.… Although a state tort action involving a third party and a work place injury could survive an OSHA conflict analysis, this one simply does not.

The court disagreed, holding that a manufacturer has a nondelegable duty to produce products that are reasonably safe and that a manufacturer cannot introduce evidence to show that it is the duty of the purchaser to incorporate safety devices.

A more common result is found in cases such as *Lindsey v. Caterpillar, Inc.*, 480 F.3d 202 (3d Cir. 2007), in which the court held that a state product liability claim was *not* preempted by federal law, although OSHA standards were admitted as part of the analysis. The court noted that its holding was not unique:

> The [OSH] Act's savings clause means that a regulation that neither requires nor forbids workplace equipment to have a protective structure cannot stand as a preemptive force against an employee's right to recover against a third-party manufacturer of that product for defective design. We join with those courts whose holdings have formed a 'solid consensus that [the savings clause] operates to save state tort rules from preemption.'

Manufacturers should carefully assess requests for safety improvements or upgrades as a result of OSHA or insurance carrier activities.

Expert Opinion

Some cases involve the use of OSHA information in relation to expert testimony. *Sprankle v. Bower Ammonia & Chem. Co.*, 824 F.2d 409 (5th Cir. 1987), is another example of how a party gained admission of OSHA regulations in one manner when it was not admissible in another context. In *Sprankle*, the court denied the plaintiff's effort to introduce the OSHA regulations directly into evidence to prove that certain storage tanks were unsafe. The court determined that the danger of a jury placing undue emphasis on the OSHA regulations substantially outweighed their probative value, so they should be excluded in accordance with Fed. R. Evid. 403. However, the court did permit the plaintiff's expert to use the OSHA standards and violations as underlying data in support of the expert's opinion.

The absence of OSHA citations was at issue in the proffer of expert testimony in *Wallis v. Townsend Vision, Inc.*, 648 F. Supp. 2d 1075 (C.D. Ill. 2009). There, the defendant's expert attempted to introduce the absence of OSHA citations regarding similar machines as the basis of an opinion that the type of injury sustained by the plaintiff was rare and not likely caused by a product defect. The court denied that effort, unless the defendant could show that the machines at issue in the statistical analysis were "substantially identical."

Although there is considerable variability in the case law regarding admission of OSHA standards or citations, what is clear is that admissibility will be determined by a combination of factors including the following: the jurisdiction at issue; the theory of recovery; the method and the purpose of the proposed admission; the standards or citations at issue; and, of course, the specific fact pattern. The preceding tour of cases presents a few of the considerations involved in making arguments either for or against admitting such OSHA-related evidence in third-party cases.

Preventive Advice

Given the above, what should a good preventive counselor do when dealing with these kinds of problems? Below are a few thoughts.

First, manufacturers should consider OSHA requirements when designing and manufacturing their product. However, they clearly should not fully rely on these requirements as a defense in the event of a future accident. They should consider exceeding the requirements to provide a reasonably safe product. For example, depending on the product at issue, providing a Safety Data Sheet (SDS) that minimally complies with the OSHA Hazard Communication Standard may not be considered an adequate warning and liability likely would not be preempted by this regulation. And it should be noted that the OSHA Hazard Communication standard is one of very few standards that can be enforced by OSHA against a product manufacturer with respect to items such as the proper content of the SDS and chemical or material labels.

Second, manufacturers should encourage employers to follow OSHA. They should provide enough information to the employer about what OSHA requires—if anything—in the equipment's design, during operation, and maintenance but not be so specific about detailed safety procedures on the job so as to allow the employer to believe that it can merely rely on the manufacturer's advice for compliance.

Third, manufacturers should carefully assess requests for safety improvements or upgrades as a result of OSHA or insurance carrier activities. In some cases, they may be required to prove to OSHA or an insurance carrier that a product is reasonably safe and that any safety problem was created by an employer or an employee. In other cases, some adjustments or modifications to the product may be necessary. The requests and the manufacturer's response must be carefully documented in case there is a future accident, litigation, or regulatory activity.

Fourth, if a manufacturer becomes aware of an employer's failure to properly maintain a machine, an employee removing safety devices or otherwise using the machine unsafely, it should communicate in writing to the employer pointing out the problem and requesting that the safety hazard be rectified.

Finally, manufacturers should not warrant in their contracts that their machinery complies with OSHA. Given the vague nature (and potential inapplicability) of OSHA requirements, they could be responsible for a warranty claim for a violation when one may not exist. For the same reason, manufacturers' marketing literature should not promote a product as OSHA compliant.

Conclusion

Manufacturers cannot ignore OSHA requirements when designing and manufacturing products. However, manufacturers should not assume duties that they do not have. They should try to help their customers and their employees protect themselves, but manufacturers also should protect themselves in the event of an accident. Given the division of legal liability between manufacturers and employers, this can be very difficult to do.

Analyzing potential liability for themselves and employers can be helpful in protecting everyone involved. Preventing accidents is the only sure way to prevent liability. FD