



NATIONAL SAFETY COUNCIL OSHA UP TO DATE

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OSHA Clarifies Recordkeeping Exemptions

OSHA has announced details of its recordkeeping exemption for certain businesses. The exemption was first announced in the *Federal Register* on December 28, 1982. It excuses employers in some specific industries in the private sector from the obligation to keep a log of workplace injuries and illnesses, to complete a supplementary record, and to fill out and post an annual summary. The log and summary of job injuries and illnesses are included on OSHA form number 200; the supplementary record is OSHA form number 101.

This action does not exempt any employer from coverage by OSHA, from compliance with all applicable safety and health standards (which may include recordkeeping requirements), or from other legal responsibilities under the OSHA Act. Moreover, this exemption does not excuse any employer from participating in the annual survey of injuries and illnesses conducted by the Labor Department's Bureau of Labor Statistics. Each year, BLS selects about 280,000 firms to take part in a survey to calculate the job injury and illness rates for various injuries.

Some of the employers selected for the survey would otherwise be exempt from job injury/illness recordkeeping. In December 1982, for example, BLS notified about 145,000 employers who would ordinarily be exempt from recordkeeping that they had been chosen for the 1983 survey. These employers must keep OSHA form 200 during 1983. In February 1984, BLS or the state agency will send participants a special form number 200 S to which employers will transfer the data they compiled during 1983. Then they will return the survey form to BLS or the state agency for tabulation. In November 1984, BLS will issue the nation's job injury, illness and fatality statistics for 1983.

Some employers have mistakenly assumed that OSHA's recordkeeping exemptions affects eligibility for the survey. It does not. Even firms exempt from general OSHA recordkeeping may be picked for the survey, and all workplaces selected are required by law to participate. There has also been some public confusion about which firms are eligible for the exemption from OSHA recordkeeping. To be exempt, an establishment must employ fewer than 11 workers or it must conduct business primarily in one of the Standard Industrial Classifications listed by OSHA. If a firm does more than one kind of business, it is classified in the category that generates the greatest dollar volume in sales.

To determine which SIC's are exempt, OSHA examined safety statistics for major industry groups. If an industry is among those not currently targeted for routine inspection and had a lost-workday case rate for injuries at or below 75 percent of the private sector average for 1978-1980 as published by BLS, OSHA exempted it. Only the worksites in these major industry groups are exempt. The fact that a worksite has an excellent safety record or that its workers have jobs that seem as safe as those listed by OSHA does not mean it is exempted.

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Any employers who cannot determine their SIC should ask the nearest BLS office for help. BLS regional offices are listed under "U.S. Labor Department" in the phone directories for Boston, New York, Philadelphia, Atlanta, Chicago, Dallas, Kansas City, and San Francisco. Some employers have written to OSHA requesting that the agency certify their exemption. OSHA says this is unnecessary and a waste of limited agency resources.

OSHA Announces Increased Availability of Technical Data Center Info

OSHA has announced increased emphasis on the availability of information from its Technical Data Center in line with the agency's management objectives for Fiscal Year 1983. "A main OSHA objective for the current year is to furnish the full range of safety and health services and information," OSHA head Thorne Auchter said. "To accomplish that objective, the Technical Data Center serves as a key resource with a wide range of data and information not only on occupational safety and health, but related aspects of chemistry, toxicology, biology, industrial medicine, and environmental engineering and science."

The materials are available in the form of reference books, technical and scientific journals, microfilm collection, government publications, translations and access to government and commercial computerized data bases. In addition, the TDC answers requests made for any of the following types of public information on OSHA rulemaking activities, microfilm editions of U.S. government publications, industry standards, products and vendors specifications and foreign standards. In some instances, a fee will be charged for the information and estimates will be provided.

To obtain information from the TDC, contact Mr. Thomas Towers, U.S. Department of Labor, OSHA Technical Data Center, Room N-2439-Rear, 200 Constitution Avenue, N.W., Washington, DC 20210; telephone (202) 523-9700.

OSHA Will Accelerate Rulemaking on Asbestos, Auchter Announces

OSHA head Thorne Auchter has told labor representatives that his agency will accelerate rulemaking on a 1975 proposal to lower the current exposure limit from 2.0 to 0.5 fibers per cubic centimeter. In two separate letters -- one to Sheldon Samuels, director of health, safety, and environment at the AFL-CIO Industrial Union Department, and the other to George H.R. Taylor, director of the union's safety and health department -- Auchter said OSHA will issue a public notice soon updating the 1975 proposal, hold rulemaking hearings, and publish a final rule by fall.

Auchter's letters came in response to a telephone call by Samuels and a letter by Taylor. In Taylor's letter, he charged that thousands of workers exposed at or below the present limit will die of asbestos-related disease. Auchter told the officials, "I fully agree with you that revision of the asbestos standard is a project which deserves high priority."

Limits on OSHA Explained to Agency Personnel

OSHA field personnel in April were given an explanation of exemptions and limitation placed on the agency by its fiscal 1983 continuing appropriations resolution. The FY 1983 restrictions are the same as those given in the continuing resolution for FY 1982, according to OSHA Instruction CPL 2.51A.

The FY 1983 resolution, as in previous years, contains the Byron Rider, which prohibits OSHA from conducting general schedule safety inspections involving employers which have 10 or fewer employees and are in an industry with a lost-workday rate

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lower than the national average, which the document places at 3.7. Compliance officers will have to determine that a workplace does not meet these criteria before conducting a general schedule inspection. If the number of employees cannot be determined prior to scheduling an inspection, it must be determined during the opening conference. If the number is 10 or fewer, the inspection should not be conducted, the directive said.

OSHA Issues Guide for Enforcement of Noise Standard

OSHA enforcement personnel have been given a revised Field Operations Manual which includes new instructions on when to cite violations of the new hearing conservation amendment to the noise exposure standard. OSHA head Thorne Auchter explained that the new manual was needed because the old FOM had become outdated.

The new manual says a citation for a violation of 29 CFR 1910.95(b)(1) will be issued when employee's noise exposure exceeds the limits specified in Table G-16, whether or not the employee was wearing hearing protection, if feasible engineering and/or administrative controls were not utilized. When hearing protection is required but not used and employee exposure exceeds the limits of Table G-16, a violation of 29 CFR 1910.95(i)(2)(i) will be cited, whether or not the employer has instituted a hearing conservation program. This violation will be classified as serious.

A violation of 1910.95(a) will not be cited in this situation. Violations of 1910.95(i)(2)(i) from the hearing conservation amendment will be grouped with violations of 29 CFR 1910.95(b)(1) and classified as serious when an employee is overexposed to the limits of Table G-16 and the following situation occurs: Hearing protection is not utilized or is not adequate to prevent overexposure to an employee; or if there is evidence of hearing loss which could reasonably be considered to be work-related, and to have been preventable, at least to some degree, if the employer had been in compliance with the cited provisions. If neither of the conditions listed above exists, any violation of 29 CFR 1910.95 will be classified as other-than-serious, OSHA says. Also, if an employer has instituted a hearing conservation program and a violation of the hearing conservation amendment [other than 1910.95(i)(2)(i)] is found, a citation will be issued and classified as other-than-serious if employee noise exposures equal or exceed an eight-hour TWA of 85 dB. If the employer has not instituted a hearing conservation program and employee noise exposures equal or exceed an eight-hour TWA of 85 dB, a citation for 1910.95(c) only will be issued and classified as other-than-serious.

The agency will not issue a citation if an employee is overexposed but effective hearing protection is being provided and used, an effective hearing conservation program has been implemented, and no feasible engineering or administrative controls exist.

OSHA Proposes 50-fold Reductions in Ethylene Oxide Exposure

OSHA has proposed a 50-fold reduction in the permissible worker exposure limit for ethylene oxide (EtO), a sterilant widely used by hospitals and medical products manufacturers. The proposed standard, which would cover about 80,000 directly exposed and 144,000 incidentally exposed workers, would lower the limit from 50 parts per one million parts of air averaged over eight hours (50 ppm) to 1 ppm.

"Current animal and human data show that the present 50 ppm level does not provide adequate protection for these workers," OSHA head Thorne Auchter said. "The proposed level, according to our risk assessment, will greatly reduce the mutagenic, reproductive and carcinogenic effects associated with EtO."

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The excess lifetime risk of cancer, based on animal studies, is expected to be reduced from an estimated 634 cases per 10,000 directly exposed workers at the 50 ppm level to 12 cases per 10,000 at the 1 ppm level. Quantitative risk analysis for mutagenic, chromosomal and reproductive effects is uncertain, but reduction in exposure levels is expected to reduce the risk for these effects as well. In addition to the 1 ppm exposure level, the proposal also would establish a 0.5 ppm "action level" at which monitoring and medical surveillance would begin. Though only about 2 percent of the 5 billion pounds of EtO produced annually is used as a sterilant of medical products (e.g., plastic tubes, bandages, etc.), by far the greatest number of workers directly exposed are in the health care facilities (62,370) and in the medical products industry (14,000).

The greatest volume (about 70 percent) of all the EtO produced is used to make ethylene glycol, a major component of automotive and other anti-freeze products, and as an intermediate in the production of polyester fibers, bottles and films. The number of workers directly exposed, however, in the processes is between 3,000 and 4,000.

The total annualized costs of the proposal for the major industries that use EtO were estimated at \$72.4 million, and thus the action was not classified as one with "major" economic consequences. Neither would it have any significant economic impact on small business as defined by the Regulatory Flexibility Act. The proposed standard would apply to all workplaces in all industries, including construction and maritime where EtO is produced, released, stored, handled, used or transported, and over which OSHA has jurisdiction.

It would require, among other things, certain methods of compliance, personal protective equipment, measurement of employee exposure, training, medical surveillance, signs and labels, regulated areas, emergency procedures, and recordkeeping. The proposal was published in the April 21 *Federal Register*.

OSHA Promotes Safety and Health Courses for Business Schools

OSHA, NIOSH, and the National Safety Management Society have embarked on a joint operation to encourage schools of business to offer job safety and health courses. It is estimated that at present, less than 1 percent of all business school graduates have any preparation for administering industrial safety programs.

For more information, academic institutions or potential corporate sponsors should write Dr. Charles F. Walters, Executive Director, Project Minerva, Drawer 246, Carrboro, NC 27510, or call Dr. Earl Heath, OSHA's Director of Training and Education, at (202) 523-7115.

OSHA Announces Expedited Action on Hoisting Workers by Crane

OSHA head Thorne Auchter has announced that his agency will propose a rule covering the hoisting or suspension of employees on lifting buckets or work platforms by August 1, 1983. Auchter said he was shocked when he returned to his home in Florida for the Easter holiday to learn that only that morning four men had died in a crane accident in Tampa stadium. He resolved then that he would expedite rulemaking on a regulation to prevent similar accidents and directed that a proposed provision to prevent such accidents be proposed by August 1. The provision will be part of an overall standard on cranes which will be promulgated later.

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National Safety Council 444 North Michigan Avenue, Chicago, Illinois 60611

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