

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) REGULATORY UPDATES

FINAL STATUTES AND RULEMAKINGS

Citations	Summary
	No final rules issued during the 2 nd quarter of 2011.

Letters of Interpretation:

OSHA issued the following letters of interpretation during the 2nd quarter of 2011. Links to the letters are provided below each reference.

- Therapeutic exercise is considered medical treatment for recordkeeping purposes. [1904.7; 1904.7(b)(5)(ii)(M)]. Issued May 21, 2011.
 - http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=27674
- Clarification of the applicability of 29 CFR 1910.272(g) or (h) during grain storage structure entry operations. [1910.272;1910.272(g);1910.272(h)]. Issued May 16, 2011.
 - http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=27662
- Recording an absence as days away when PLHCP recommends the employee return to work. [1904.7; 1904.7(b)(3); 1904.7(b)(3)(iii); 1904.7(b)(4)(i)]. Issued March 22, 2011.
 - http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=27680

Other Recent Developments:

New report on carcinogens may affect employers Hazard Communication Programs

The U.S. Department of Health and Human Services recently released the National Toxicology Program's (NTP) 12th Report on Carcinogens (RoC), one of the two cancer lists referenced in OSHA's Hazard Communication Standard (HCS). As a result, employers that manufacture, distribute, or use any of the eight chemicals with new or updated listings in the 12th RoC need to determine if the changes have any impact on their existing hazard communications programs.

The 12th RoC added two substances: formaldehyde and aristolochic acids - to its list of known human carcinogens, and six substances: captafol, cobalt-tungsten carbide (in powder or hard metal form),

certain inhalable glass wool fibers, o-nitrotoluene, riddelliine (a botanical, not be confused with the drug Ritalin) and styrene - to its list of chemicals and biological agents that are reasonably anticipated to be human carcinogens.

For chemicals like styrene and formaldehyde, which are already listed as carcinogens by the NTP or other organizations, the impact of the listings in the 12th RoC is likely to be minimal because many of the HCS requirements have already been triggered by the previous listings.

Chemicals listed in the RoC are considered carcinogens under OSHA's Hazard Communication Standard. Therefore, manufacturers and importers of a chemical or a product containing a chemical listed in the RoC must list the chemical on Material Safety Data Sheets (MSDSs) if it is present at a concentration of 0.1% or greater when the product has not been tested as a whole, and they must include warning information about cancer in the MSDS. Chemicals listed on the RoC that are present at less than 0.1% must also be listed if they could be released from the product in concentrations that could present a health risk to workers. The MSDS must also indicate that the NTP lists the chemical as a carcinogen.

Employers that use chemicals with new or updated cancer listings in the RoC or products that contain these chemicals should review incoming MSDSs for new information and must train workers about any new chemical or product hazards. Employers must also look at how the chemical or product is used in their workplaces and make sure that the precautions and protective equipment they require are sufficient to protect workers from anticipated exposures. More information about the 12th Report on Carcinogens is available at: <http://www.niehs.nih.gov/news/releases/2011/roc/>

New Injury and Illness Prevention Programs Web page now online

OSHA has a new Injury and Illness Prevention Programs Web page to provide easy to use, informative and useful guidance on how to implement an effective system for finding and fixing workplace safety and health hazards. The web page is available at: <http://www.osha.gov/dsg/topics/safetyhealth/index.html>. Injury and illness prevention programs are universal interventions that can substantially reduce the number and severity of workplace injuries.

New OSHA educational booklet discusses indoor air quality in commercial and institutional buildings

A new OSHA educational booklet addresses concerns about poor indoor air quality and the impact it has to the health of office workers and other building occupants. *Indoor Air Quality in Commercial and Institutional Buildings* provides building owners, managers, employers and workers with recommendations to prevent or minimize IAQ problems in commercial and institutional buildings. The Environmental Protection Agency identified IAQ as one of the top five environmental risks to public health. The document is available at: <http://www.osha.gov/Publications/3430indoor-air-quality-sm.pdf>.

US Labor Department launches national outreach campaign to protect workers from heat-related illnesses

Each year, thousands of outdoor workers experience heat illness, which often manifests as heat exhaustion. If not quickly addressed, heat exhaustion can become heat stroke, which killed more than 30 workers last year. OSHA has developed heat illness educational materials in English and Spanish, as well as a curriculum to be used for workplace training. Additionally, a new Web page provides information and resources on heat illness – including how to prevent it and what to do in case of an emergency – for workers and employers. The page is available at <http://www.osha.gov/SLTC/heatillness/index.html>.

OSHA announces forthcoming final rule to reduce employer burdens by removing outdated requirements, streamlining and simplifying standards

OSHA announced the forthcoming release of a final rule that streamlines and simplifies standards while reducing employer burdens. The rule, which soon will be published in the Federal Register, will help keep OSHA standards up-to-date and better enable employers to comply with their regulatory obligations. "The final rule is the third in OSHA's Standards Improvement Projects initiative that periodically reviews OSHA regulations with the goal of improving and eliminating those that are confusing, outdated, duplicative or inconsistent. These updates will be in line with the goals of the president's Executive Order 13563, "Improving Regulation and Regulatory Review," issued Jan. 18 to simplify standards and reduce unnecessary regulatory burdens.

The rule will update OSHA's standards and identify requirements for revision based on an agency review, comments from the public and recommendations from an Office of Management and Budget report (Regulatory Reform of the U.S. Manufacturing Sector, 2005). It builds on the success of SIP-Phase I published June 18, 1998, and SIP-Phase II published Jan. 5, 2005.

The new rule will result in several changes to OSHA's existing respiratory protection standard, including aligning air cylinder testing requirements for self-contained breathing apparatuses with U.S. Department of Transportation regulations, clarifying that aftermarket cylinders meet National Institute for Occupational Safety and Health quality assurance requirements and clarifying that the provisions of Appendix D, which contains information for employees using respirators when not required under the standard, are mandatory if the employee chooses to use a respirator.

Other changes to result from the new rule will include updating the definition of the term "potable water" to be consistent with the current Environmental Protection Agency standards instead of the former and outdated Public Health Service Corps definition, removing the outdated requirement that hand dryers use warm air because new technology allows employers to use hand-drying products that do not involve hot or warm air and removing two medical record requirements from the commercial-diving standard because that standard no longer requires medical examinations. Updates also will include deleting a number of requirements for employers to transmit exposure and medical records to NIOSH. The slings standards also will be updated and streamlined by requiring that employers use only slings marked with manufacturers' loading information.

There will not be any new requirements set by this rule, so employers will be able to comply with it immediately. Regulatory text on the SIP-Phase III final rule will be published in the Federal Register.

New web tool helps employers understand OSHA recordkeeping rules

The OSHA Recordkeeping Adviser is a new Web tool that helps employers understand their responsibilities to report and record work-related injuries and illnesses under the Occupational Safety and Health Administration's regulations. A set of questions assists in determining quickly whether an injury or illness is work-related, whether it needs to be recorded and which provisions of the regulations apply. The Recordkeeping Adviser is available at:
<http://www.dol.gov/elaws/OSHARecordkeeping.htm>.

National emphasis program to protect workers from chemical and physical hazards in the primary metals industries

OSHA issued a new directive establishing a National Emphasis Program (NEP) for the Primary Metals Industries. The purpose of this NEP is to identify and reduce or eliminate worker exposures to harmful chemical and physical hazards in primary metals industries that extract and refine metals. Among these establishments are those that manufacture nails, insulated wires and cables, steel piping, and copper and aluminum products. Workers exposed to various substances found in these industries can suffer damage to the eyes, nose, throat and skin and can experience difficulty breathing and chest and joint pain. The NEP document is available at: http://osha.gov/OshDoc/Directive_pdf/CPL_03-00-013.pdf

OSHA requests comments on proposed updates to occupational injury and illness recording and reporting requirements

OSHA is requesting public comments on a Notice of Proposed Rulemaking announced in the June 22 Federal Register that updates two aspects of the agency's recordkeeping and reporting requirements for work-related injuries and illnesses. Comments must be submitted by Sept. 20, 2011. Under the proposal, employers would be required to report to OSHA any work-related fatalities and in-patient hospitalizations within eight hours, and work-related amputations within 24 hours. Under the current regulation, employers are required to report any work-related fatality and only work-related in-patient hospitalizations of three or more workers and are not required to report amputations.