

provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 24, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02-16407 Filed 6-28-02; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1904

[Docket No. R-02B]

RIN 1218-AC06

Occupational Injury and Illness Recording and Reporting Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Proposed delay of effective dates; request for comment.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is proposing to delay the effective dates of three provisions of the Occupational Injury and Illness Recording and Reporting Requirements rule that are presently scheduled to take effect on January 1, 2003 until January 1, 2004. The first defines "musculoskeletal disorder (MSD)" and requires employers to check the MSD column on the OSHA Log if an employee experiences a recordable musculoskeletal disorder. The second provision states that musculoskeletal disorders (MSDs) are not considered "privacy concern cases." The third provision requires employers to enter a check mark in the hearing loss column on the 300 Log for cases involving occupational hearing loss. OSHA is requesting comment on these proposed delays.

DATES: Written comments must be received by August 30, 2002.

ADDRESSES: Because of security-related problems in receiving regular mail service in a timely manner, OSHA is requiring that comments be submitted by one of the following means: (1) Hard copy hand-delivered to the Docket Office; (2) hard copy delivered by Express Mail or other overnight delivery service; (3) electronic mail through OSHA's website; or (4) facsimile (fax) transmission. If you are submitting comments, please do not send them by more than one of these media (except as noted under "submitting comments electronically"). The following requirements apply to submission of comments on this proposal:

Submitting comments in hard copy: Written comments are to be submitted in triplicate. Comments may be hand-delivered, or sent by U.S. Postal Service Express Mail or other overnight delivery service, to: Docket Officer, Docket No. R-02B, Occupational Safety and Health Administration, Room N-2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693-2350 (OSHA's TTY number is (877) 889-5627).

Submitting comments electronically: Comments may be sent electronically from the OSHA website at <http://ecommments.osha.gov>. Please note that you may not attach materials such as studies or journal articles to your electronic statement. If you wish to include such materials, you must submit three copies to the OSHA Docket Office at the address listed above. When submitting such materials to the OSHA Docket Office, you must clearly identify your electronic statement by name, date, and subject, so that we can attach the materials to your electronically-submitted statement.

Submitting comments by fax: Comments of 10 pages or less may be faxed to the OSHA Docket Office at (202) 693-1648.

FOR FURTHER INFORMATION CONTACT: Jim Maddux, Occupational Safety and Health Administration, U.S. Department of Labor, Directorate of Safety Standards Programs, Room N-3609, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 693-2222.

SUPPLEMENTARY INFORMATION:

I. The MSD Provisions

In January, 2001 OSHA published revisions to its rule on recording and reporting occupational injuries and illnesses (66 FR 5916-6135) to take effect on January 1, 2002. On July 3, 2001, OSHA proposed to delay the effective date of 29 CFR 1904.12

Recording criteria for cases involving work-related musculoskeletal disorders until January 1, 2003. OSHA explained that it was reconsidering the requirement in 29 CFR 1904.12 that employers check the MSD column on the OSHA Log for a case involving a "musculoskeletal disorder" as defined in that section. This action was taken in light of the Secretary of Labor's decision to develop a comprehensive plan to address ergonomic hazards, and to schedule a series of forums to consider key issues relating to the plan, including the approach to defining ergonomic injuries.

After considering the views of interested parties, OSHA published a final rule on October 12, 2001 delaying the effective date of 29 CFR 1904.12 until January 1, 2003. OSHA also added a note to 29 CFR 1904.29(b)(7)(vi) explaining that the second sentence of that section, which provides that MSDs are not "privacy concern cases," would not become effective until January 1, 2003.

OSHA concluded that delaying the effective date of the MSD definition in Section 1904.12 was appropriate because the Secretary was considering a related definitional question in the context of her comprehensive ergonomics plan. The Agency found that it would be premature to implement § 1904.12 before considering the views of business, labor and the public health community on the problem of ergonomic hazards. It also found that it would create confusion and uncertainty to require employers to implement the new definition of MSD contained in § 1904.12 while the Secretary was considering how to define an ergonomic injury under the comprehensive plan.

On April 5, 2002, OSHA announced a comprehensive plan to address ergonomic injuries through a combination of industry-targeted guidelines, enforcement measures, workplace outreach, research, and dedicated efforts to protect Hispanic and other immigrant workers. OSHA found that no single definition of "ergonomic injury" was appropriate for all contexts. The Agency stated that it would work closely with stakeholders to develop definitions for MSDs as part of its overall effort to develop industry- or task specific guidance materials.

Reasons for Delay

OSHA must now determine whether a single definition of MSD is appropriate and useful for recordkeeping purposes, and if so, whether the new definition in § 1904.12 is the appropriate one. OSHA has preliminarily concluded that

delaying the effective date of § 1910.12 until January 1, 2004 will give the Agency the time necessary to resolve whether and how MSDs should be defined for recordkeeping purposes and will cause the least disruption to employers, employees and the Bureau of Labor Statistics (BLS)—the federal agency responsible for compiling and publishing occupational injury and illness statistics.

In these circumstances, OSHA believes that delaying the effective date of § 1910.12 for an additional year is preferable to allowing the section to take effect on January 1, 2003 as scheduled. To implement the section beginning in 2003, OSHA would have to issue new forms containing the MSD column and definition, and employers would have to train their personnel to apply the new requirements. If OSHA finally decides to revoke or modify the definition of MSD beginning in calendar year 2004, these efforts by employers and others to implement the definition during calendar year 2003 would be wasted and employees would have to be retrained. MSD statistics produced for 2003 would have little value because they would not be comparable to data for prior years, or to data for 2004 and subsequent years. OSHA therefore believes that the one-year proposed delay in implementation of § 1910.12 is appropriate while the Agency continues to consider the issue of whether and how to define MSDs for recordkeeping purposes.

If the effective date of § 1904.12 is finally delayed, and OSHA then decides that the definition in that section is the appropriate one, the definition will automatically take effect on January 1, 2004 without the need for further action by the Agency. If, on the other hand, OSHA decides that no definition, or a different definition, is warranted, the Agency would complete the necessary rulemaking procedures to revoke or modify § 1901.12 as of January 1, 2004.

Effect of the Proposed Delay of the Effective Date of § 1904.12 on Employers' Recordkeeping Obligations in Calendar Year 2003

This proposal to delay the effective date of § 1904.12 does not affect the employer's obligation to record all injuries and illnesses that meet the criteria set out in §§ 1904.4–1904.7. Employers must continue to record soft-tissue disorders, including those involving subjective symptoms such as pain, as injuries or illnesses if they meet the general recording criteria that apply to all injuries and illnesses. The proposed delay simply means that employers will not have to determine

which injuries and illnesses should be classified under the category of “MSDs” or “ergonomic injuries” during the calendar year 2003.

During 2003, employers would record disorders affecting the muscles, nerves, tendons, ligaments and other soft tissue areas of the body in accordance with the general criteria in §§ 1904.4–1904.7 applicable to any injury or illness. Employers would also treat the symptoms of soft-tissue disorders the same as symptoms of any other injury or illness. Soft-tissue cases would be recordable only if they are work-related (§ 1904.5), are a new case (§ 1904.6), and meet one or more of the general recording criteria (§ 1904.7). Employers would continue to check either the “injury” or the “all other illness” column, as appropriate.

The MSD Definition and 300 Form Column

The definition of MSD was a topic in the forums held in 2001 to elicit information about how to deal with ergonomics problems. Information received during the forums relative to the definition of an ergonomics injury has been included in this rulemaking record (Exhibit 2) and may be used to develop and support a final rule.

Some of the forum participants supported the MSD definition published in the 2001 rule. These participants contended generally that the definition is similar to definitions used by other government agencies, consensus standards committees, the National Academy of Sciences, and other countries; that the definition has a sound scientific basis; and that the definition is easily understood by employers, unions, workers and the government.

Other participants argued that to define MSD, as § 1904.12 does, to include all soft-tissue disorders except those resulting from slips trips or falls, lumps together a broad range of ill-defined and unrelated health conditions. They contended that this approach serves no useful purpose and could be counter-productive. Some holding this view pointed out that the § 1904.12 definition includes at least two distinct categories of disorders which should be addressed separately. One class of disorders are those caused by a single event, such as a heavy lift, a particularly awkward motion, or some other one-time event. The other class includes disorders caused by repetitive or cumulative events, such as repetitive lifting, typing, or assembly line work. Some types of disorders may be caused by either type of event.

By narrowing the definition of MSD in § 1904.12 to focus on a group of similar or related health conditions, some forum participants maintained, OSHA would produce more useful statistics. For example, it was argued that data on disorders caused by repetitive or cumulative activity would be more relevant for purposes of developing ergonomics programs than would data that included disorders caused by one-time events. Alternatively, more relevant data might be produced if the MSD definition were limited in its application to employment conditions involving regular or routine exposure to the activity that resulted in the injury.

On the other hand, some forum participants urged that the § 1904.12 definition is widely recognized as appropriate for scientific and statistical purposes, and that limiting the definition might lead to a loss of useful data. Some holding this view argued that the existing definition is also the most relevant one for purposes of developing ergonomics programs because, among other things, it is often difficult to determine if an MSD was caused by a single event or if a single event was merely the last in a series of events that led to the injury. Some even argued that the existing definition should be expanded to include additional disorders.

In 2002, OSHA announced a comprehensive four-part strategy for dealing with the ergonomics issue. The strategy did not include a single definition of MSD, recognizing that MSD is a term of art in scientific literature that refers collectively to a group of injuries and illnesses that affect the musculoskeletal system and that there is no single diagnosis for MSDs. The frequently asked questions (FAQs) issued with the comprehensive approach noted that, as OSHA develops guidance material for specific industries, the agency may narrow the definition as appropriate to address the specific workplace hazards covered, and that OSHA will work closely with stakeholders to develop definitions for MSDs as part of its overall effort to develop guidance materials.

OSHA believes that additional study is needed to determine whether the MSD definition in Section 1904.12 captures an overly diverse group of health outcomes. Some evidence submitted during the ergonomics forums suggests that the definition would be more useful for occupational safety and health purposes if it addressed only soft-tissue disorders having certain key factors in common. This approach argues against

combining, for example, back pain and tendinitis in a single definition, because the causes and treatment of these disorders are often very different. At the same time, OSHA recognizes that much needs to be learned about soft tissue disorders and that the § 1904.12 definition, or one similar to it, may be the most appropriate one for some purposes.

At this time there appear to be three approaches to defining MSDs for recordkeeping purposes. OSHA could allow the existing definition in § 1904.12 to take effect, which, in turn, could result in the production of corresponding statistical data by the BLS. OSHA could decide that the existing definition is too broad to be useful, and delete it from the rule. Finally, OSHA could develop a new definition for the recordkeeping rule, which BLS could also adopt for statistical purposes. For example, the definition could focus on repetitive or cumulative hazards by defining MSDs as “musculoskeletal disorders associated with repetitive motion and/or stress.” Alternatively, OSHA might link the definition to exposure to hazards by defining MSDs to include only cases in which there was regular or routine exposure to the activity that resulted in the injury.

II. The Hearing Loss Column

Section 1904.10 of the January 2001 final rule required employers to check the “hearing loss” column on the 300 Log for each case in which an audiogram revealed that a Standard Threshold Shift (STS) had occurred. On July 3, 2001, OSHA proposed to delay the effective date of Section 1904.10 for one year so that it could reconsider whether the occurrence of an STS is the appropriate criteria for recording hearing loss cases (66 FR 35114). OSHA asked for comment on the proposed decision to delay the effective date and on alternative criteria for recording occupational hearing loss (*id.* at 35115).

On October 12, 2001, OSHA issued a final rule delaying the effective date of Section 1904.10 until January 1, 2003 and establishing criteria for recording hearing loss cases to be used in calendar year 2002 (66 FR 52031–52034). The October 12 final rule also stated that new OSHA 300 Log forms would be issued for use in 2002 that did not contain the MSD or hearing loss columns (*id.* at 52034).

After considering the comments submitted pursuant to the July 2001 notice, OSHA decided to revise the criteria for recording occupational hearing loss. The amended hearing loss criteria, now designated 29 CFR

1904.10(a) and 1904.10(b)(1)–(7), are contained in a separate **Federal Register** document published today. The amended rule revises in part the criterion for determining which shifts in hearing are recordable, eliminates the presumption of work-relationship, and retains other elements of the January 2001 rule. Section 1904.10(b)(7) contains the requirement stated in the January 2001 rule to check the hearing loss column on the Log for cases that meet the criteria for recording occupational hearing loss.

Reasons for Delay

OSHA stated that it included a separate hearing loss column in the January 2001 rule to improve the national statistics on the subject of occupational hearing loss. OSHA noted in the preamble that the Bureau of Labor Statistics (BLS) collects only the relatively small fraction of recorded hearing loss cases that result in days away from work (66 FR 6004, 6005). Adding a hearing loss column to the 300 Log would improve the national statistics, OSHA concluded, “[b]ecause BLS will collect hearing loss data in future years both for cases with and without days away from work, which will allow for more reliable published statistics concerning this widespread occupational disorder” (66 FR 6005).

OSHA believes that this rationale for requiring a hearing loss column on the Log should be reconsidered, and that public comment on the advantages and disadvantages of the column should be weighed, before the requirement becomes effective. OSHA did not include a hearing loss column in the 1996 proposed recordkeeping rule, and did not ask for comment on whether a column should be required in the final rule. The July 3, 2001 proposal to reconsider the § 1904.10 criteria for recording hearing loss cases also did not give clear notice that the column requirement was under review. Therefore, OSHA’s decision to require a hearing loss column in the January 2001 final rule, and subsequently to include the column requirement in the amendment to § 1904.10, was made without considering the views of all interested parties. OSHA believes that it should have the benefit of all viewpoints, including those of employers who would be subject to the requirement, and those of scientists, statisticians and others who would gather and interpret the data, before finally resolving this matter.

In addition, the agency itself has concerns about whether requiring a hearing loss column is necessary, or is the best way, to produce more reliable

national statistics on occupational hearing loss. OSHA is working with the BLS, the agency primarily responsible for producing national occupational injury and illness statistics, to investigate alternative survey methods that could be used to produce more reliable hearing loss statistics without the need for a column. Both government and employer resources could be conserved by delaying implementation of § 1904.10(b)(7) for a year while alternative approaches for improving hearing loss statistics are explored.

Finally, OSHA notes that it is reconsidering the need for an MSD column, and that resolution of that question may require a change in the OSHA 300 Log form beginning in 2004. If 29 CFR 1904.10(b)(7) is to take effect on January 1, 2003, as scheduled, OSHA will have to issue revised forms for 2003 containing a hearing loss column. It would be beneficial to delay making changes in the forms until the MSD column issue is decided, so that only one further round of revisions will be required. It would be confusing and burdensome for the regulated community if OSHA were to issue revised forms for 2003 containing a hearing loss column, and then to issue further revised forms for 2004 reflecting a final decision on the MSD column. For these reasons, OSHA is proposing to delay the effective date of 29 CFR 1904.10(b)(7) for one year while the agency reconsiders the need for a separate hearing loss column on the 300 Log.

III. Issues for Public Comment

OSHA invites comment on the following issues:

Hearing Loss Column

Issue 1. OSHA requests comment on the proposed delay of the effective date of 29 CFR 1904.10(b)(7) until January 1, 2004, including any reasons for supporting or opposing the delayed effective date.

Issue 2. Is a hearing loss column needed on the OSHA 300 Log? Would the statistics generated by an additional column be superior to the statistics now generated by the BLS? For what purposes would the statistics be used? Are there other ways to produce occupational hearing loss statistics that do not require revision of the forms? Would there be additional costs or burdens associated with adding a hearing loss column to the 300 Log? Additional benefits?

MSD

Issue 1. OSHA requests comment on the proposed delay of the Section

1904.12 effective dates until January 1, 2004, including any reasons for supporting or opposing the delayed effective dates.

Issue 2. Is an MSD column needed on the OSHA 300 Log? Should the column be reinstated in § 1904.12 or should § 1904.12 be deleted? Would the statistics generated by an additional column be superior to the statistics now generated by the BLS? Are there other ways to produce statistics on MSDs that do not require revision of the forms? If the column is retained, should it include both injuries and illnesses, or should it be limited to MSD illnesses? Are there other problems associated with an MSD column on the 300 Log? Are there other advantages to the column?

Issue 3. If OSHA decides to include a separate column for MSD injuries and illnesses, what definition of MSD should be used? Should the definition include a broad class of disorders, or be limited by the type of injury (such as by excluding back cases)? Should the definition exclude injuries caused by one-time events? Should the definition exclude disorders caused by infrequently performed activities? In particular, what are the relative merits of the current § 1904.12 definition and an MSD definition that would focus on disorders associated with work-related repetitive motion and/or stress.

State Plans

26 States and territories operate their own OSHA-approved occupational safety and health plans. These states and territories are: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming. Connecticut, New Jersey, and New York have OSHA approved State Plans that apply to state and local government employees only. For requirements that determine which occupational injuries and illnesses are recorded and how they are recorded, the States must have the same requirements as Federal OSHA to ensure the uniformity of the collected information (See § 1904.37 and § 1952.4). Therefore, these States and territories will be required to adopt a regulation that is substantially identical to any final federal regulation issued pursuant to this proposal. A final regulation could include a delay of effective dates for specific provisions of §§ 1904.10 and 1904.12, the adoption of substantive requirements within §§ 1904.10 and 1904.12, or both.

Paperwork Reduction Act

The proposed rule will continue OSHA's current policies regarding the recording of soft tissue disorders and will not impose any new paperwork requirements.

Regulatory Flexibility Certification

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601), the Assistant Secretary certifies that the proposed rule will not have a significant adverse impact on a substantial number of small entities. The rule does not add any new requirements, but merely delays the effective date of Section 1904.12. The delay will not impose any additional costs on the regulated public.

Executive Order

This document has been deemed significant under Executive Order 12866 and has been reviewed by OMB.

Authority

This document was prepared under the direction of John L. Henshaw, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued pursuant to section 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657).

Signed at Washington, DC, this 25th day of June, 2002.

John L. Henshaw,

Assistant Secretary of Labor.

For the reasons stated in the preamble, OSHA proposes to amend 29 CFR part 1904 as set forth below:

PART 1904—[AMENDED]

1. The authority citation for part 1904 continues to read as follows:

Authority: 29 U.S.C. 657, 658, 660, 666, 669, 673, Secretary of Labor's Order No. 3–2000 (65 FR 50017), and 5 U.S.C. 533.

2. Revise § 1904.10(b)(7) to read as follows:

§ 1904.10 Recording criteria for cases involving occupational hearing loss.

* * * * *

(b) * * *
(7) *How do I complete the 300 Log for a hearing loss case?* When you enter a recordable hearing loss case on the OSHA 300 Log, you must check the 300 Log column for hearing loss.

Note: § 1904.10(b)(7) is effective beginning January 1, 2004.

3. Revise the note to § 1904.12 to read as follows:

§ 1904.12 Recording criteria for cases involving work-related musculoskeletal disorders.

This section is effective January 1, 2004. From January 1, 2002 until December 31, 2003, you are required to record work-related injuries and illnesses involving muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs in accordance with the requirements applicable to any injury or illness under §§ 1904.5, 1904.6, 1904.7, and 1904.29. For entry (M) on the OSHA 300 Log, you must check either the entry for "injury" or "all other illnesses."

4. Revise § 1904.29(b)(7)(vi) to read as follows:

§ 1904.29 Forms.

* * * * *

(b) * * *

(7) * * *

(vi) Other illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the log. Musculoskeletal disorders (MSDs) are not considered privacy concern cases.

Note: The first sentence of this § 1904.29(b)(7)(vi) is effective on January 1, 2002. The second sentence is effective beginning on January 1, 2004.

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BILLING CODE 4510–26–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 243–0357b; FRL–7232–7]

Revisions to the California State Implementation Plan; Bay Area Air Quality Management District; South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the portions of the California State Implementation Plan (SIP) that are associated with the Bay Area Air Quality Management District (BAAQMD) and South Coast Air Quality Management District (SCAQMD). These revisions concern volatile organic compound emissions from solid waste disposal sites. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by July 31, 2002.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–