

## § 1960.2

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Secretary), under section 19, is to report to the President certain evaluations and recommendations with respect to the programs of the various agencies, and the duties which section 24 of the Act imposes on the Secretary of Labor necessarily extend to the collection, compilation and analysis of occupational safety and health statistics from the Federal Government. The role of the General Services Administration in this area stems from its duties as the Government's principal landlord and from its specific safety and health responsibilities under 41 CFR part 101, subchapter D, Federal Property Management Regulations.

(b) Executive Order 12196, Occupational Safety and Health Programs for Federal Employees, issued February 26, 1980, prescribes additional responsibilities for the heads of agencies, the Secretary, and the General Services Administrator. Among other duties, the Secretary is required to issue basic program elements in accordance with which the heads of agencies shall operate their safety and health programs. The purpose of this part is to issue these basic program elements. Although agency heads are required to operate a program in accordance with the basic program elements, those elements contain numerous provisions which, by their terms, permit agency heads the flexibility necessary to implement their programs in a manner consistent with their respective missions, sizes, and organizations. Moreover, an agency head, after consultation with agency employees or their representatives and with appropriate safety and health committees may request the Secretary to consider approval of alternate program elements; the Secretary, after consultation with the Federal Advisory Council on Occupational Safety and Health, may approve such alternate program elements.

(c) Under Executive Order 12196, the Secretary is required to perform various services for the agencies, including consultation, training, record-keeping, inspections, and evaluations. Agencies are encouraged to seek such assistance from the Secretary as well as advice on how to comply with the basic program elements and operate eff-

fective occupational safety and health programs. Upon the request of an Agency, the Office of Federal Agency Safety and Health Programs will review proposed agency plans for the implementation of program elements.

(d) Section 19 of the Act and the Executive Order require specific opportunities for employee participation in the operation of agency safety and health programs. The manner of fulfilling these requirements is set forth in part in these program elements. These requirements are separate from but consistent with the Federal Service Labor Management Relations Statute (5 U.S.C. 71) and regulations dealing with labor-management relations within the Federal Government.

(e) Executive Order 12196 and these basic program elements apply to all agencies of the Executive Branch. They apply to all Federal employees. They apply to all working conditions of Federal employees except those involving uniquely military equipment, systems, and operations.

(f) No provision of the Executive Order or this part shall be construed in any manner to relieve any private employer, including Federal contractors, or their employees of any rights or responsibilities under the provisions of the Act, including compliance activities conducted by the Department of Labor or other appropriate authority.

(g) Federal employees who work in establishments of private employers are covered by their agencies' occupational safety and health programs. Although an agency may not have the authority to require abatement of hazardous conditions in a private sector workplace, the agency head must assure safe and healthful working conditions for his/her employees. This shall be accomplished by administrative controls, personal protective equipment, or withdrawal of Federal employees from the private sector facility to the extent necessary to assure that the employees are protected.

[45 FR 69798, Oct. 21, 1980, as amended at 60 FR 34852, July 5, 1995]

### § 1960.2 Definitions.

(a) The term *Act* means the Occupational Safety and Health Act of 1970 (84 Stat. 1590 *et seq.*, 29 U.S.C. 651 *et seq.*).

(b) The term *agency* for the purposes of this part means an Executive Department, as defined in 5 U.S.C. 101, or any employing unit or authority of the Executive Branch of the Government. For the purposes of this part to the extent it implements section 19 of the Act, the term *agency* includes the United States Postal Service. By agreement between the Secretary of Labor and the head of an agency of the Legislative or Judicial Branches of the Government, these regulations may be applicable to such agencies.

(c) The term *agency liaison* means an agency person appointed with full authority and responsibility to represent the occupant agency management with the official in charge of a facility or installation such as a GSA Building Manager.

(d) The term *building manager* means the person who manages one or several buildings under the authority of a Federal agency. For example, a building manager may be the GSA person who manages building(s) for GSA.

(e) As used in Executive Order 12196, the term *consultation with representatives of the employees thereof* shall include such consultation, conference, or negotiation with representatives of agency employees as is consistent with the Federal Service Labor Management Relations Statute (5 U.S.C. 71), or collective bargaining or other labor-management arrangements. As used in this part, the term *representative of employees* shall be interpreted with due regard for any obligation imposed by the aforementioned statute and any other labor-management arrangement that may cover the employees involved.

(f) The term *Designated Agency Safety and Health Official* means the individual who is responsible for the management of the safety and health program within an agency, and is so designated or appointed by the head of the agency pursuant to § 1960.6 and the provisions of Executive Order 12196.

(g) The term *employee* as used in this part means any person, other than members of the Armed Forces, employed or otherwise suffered, permitted, or required to work by an agency as the latter term is defined in paragraph (b) of this section.

(h) The term *establishment* means a single physical location where business is conducted or where services or operations are performed. Where distinctly separate activities are performed at a single physical location, each activity shall be treated as a separate *establishment*. Typically, an *establishment* as used in this part refers to a field activity, regional office, area office, installation, or facility.

(i) The term *uniquely military equipment, systems, and operations* excludes from the scope of the order the design of Department of Defense equipment and systems that are unique to the national defense mission, such as military aircraft, ships, submarines, missiles, and missile sites, early warning systems, military space systems, artillery, tanks, and tactical vehicles; and excludes operations that are uniquely military such as field maneuvers, naval operations, military flight operations, associated research test and development activities, and actions required under emergency conditions. The term includes within the scope of the Order Department of Defense workplaces and operations comparable to those of industry in the private sector such as: Vessel, aircraft, and vehicle repair, overhaul, and modification (except for equipment trials); construction; supply services; civil engineering or public works; medical services; and office work.

(j) The term *incidence rates* means the number of injuries and illnesses, or lost workdays, per 100 full-time workers. Rates are calculated as

$$N \times 200,000 \div EH$$

N = number of injuries and illnesses, or number of lost workdays.

EH = total hours worked by all employees during a month, a quarter, or fiscal year.

200,000 = base for 100 full-time equivalent workers (working 40 hours per week, 50 weeks per year).

(k) The term *inspection* means a comprehensive survey of all or part of a workplace in order to detect safety and health hazards. Inspections are normally performed during the regular work hours of the agency, except as special circumstances may require. Inspections do not include routine, day-to-day visits by agency occupational safety and health personnel, or routine

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workplace surveillance of occupational health conditions.

(1) *Categories of injuries/illnesses/fatalities*—(1) *Injury (Traumatic)*. A wound or other condition of the body caused by external force, including stress or strain. The injury is identifiable as to time and place of occurrence and member or function of the body affected, and is caused by a specific event or incident or series of events or incidents within a single day or work shift.

(2) *Illness/disease (occupational)*. A physiological harm or loss of capacity produced by systemic infection; continued or repeated stress or strain; exposure to toxins, poisons, fumes, etc.; or other continued and repeated exposures to conditions of the work environment over a long period of time. For practical purposes, an occupational illness/disease is any reported condition which does not meet the definition of injury (traumatic).

(3) *Fatality*. Death resulting from an injury (traumatic) or illness/disease (occupational).

(4) The term *lost time case* means a nonfatal traumatic injury that causes any loss of time from work beyond the day or shift it occurred; or a nonfatal nontraumatic illness/disease that causes disability at any time.

(5) *No-lost time case*. A nonfatal injury (traumatic) or illness/disease (occupational) that does not meet the definition of lost time case.

(6) *Catastrophe*. An accident resulting in five or more agency and/or non-agency people being hospitalized for in-patient care.

(m) The term *representative of management* means a supervisor or management official as defined in the applicable labor-management relations program covering the affected employees.

(n)–(p) [Reserved]

(q) The term *Safety and Health Inspector* means a safety and/or occupational health specialist or other person authorized pursuant to Executive Order 12196, section 1-201(g), to carry out inspections for the purpose of subpart D of this part, a person having equipment and competence to recognize safety and/or health hazards in the workplace.

(r) The term *Safety and Health Official* means an individual who manages the occupational safety and/or occupa-

tional health program at organizational levels below the Designated Agency Safety and Health Official.

(s) The term *Safety and Health Specialist* means a person or persons meeting the Office of Personnel Management standards for such occupations, which include but are not limited to:

Safety and Occupational Health Manager/  
Specialist GS-018  
Safety Engineer GS-803  
Fire Prevention Engineer GS-804  
Industrial Hygienist GS-690  
Fire Protection and Prevention Specialist/  
Marshal GS-081  
Health Physicist GS-1306  
Occupational Medicine Physician GS-602  
Occupational Health Nurse GS-610  
Safety Technician GS-019  
Physical Science Technician GS-1311  
Environmental Health Technician GS-699  
Air Safety Investigation Officer GS-1815  
Aviation Safety Specialist GS-1825  
Chemist GS-1320  
Health Technician GS-645  
Highway Safety Manager GS-2125

or equally qualified military, agency, or nongovernment personnel. The agency head shall be responsible for determination and certification of equally qualified personnel.

(t) The term *workplace* means a physical location where the agency's work or operations are performed.

(u) The term *imminent danger* means any conditions or practices in any workplace which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through normal procedures.

(v) The word *serious* as used in *serious hazard*, *serious violation* or *serious condition* means a hazard, violation or condition such that there is a substantial probability that death or serious physical harm could result.

(w) The term *certified safety and health committee* means an agency safety and health committee that meets the provisions of section 1-3 of Executive Order 12196 and of this part, as listed and attested to by the head of each agency in writing to the Secretary.

(x) The term *reprisal* as used in this part means any act of restraint, interference, coercion or discrimination against an employee for exercising his or her rights under Executive Order

12196 and this part, or for participating in the agency's safety and health program.

[45 FR 69798, Oct. 21, 1980, as amended at 49 FR 3078, Jan. 25, 1984; 50 FR 40269, Oct. 2, 1985; 51 FR 28378, Aug. 7, 1986]

### Subpart B—Administration

#### § 1960.6 Designation of agency safety and health officials.

(a) The head of each agency shall designate an official with sufficient authority and responsibility to represent effectively the interest and support of the agency head in the management and administration of the agency occupational safety and health program. This Designated Agency Safety and Health Official should be of the rank of Assistant Secretary, or of equivalent rank, or equivalent degree of responsibility, and shall have sufficient headquarters staff with the necessary training and experience. The headquarters staff should report directly to, or have appropriate access to, the Designated Agency Safety and Health Official, in order to carry out the responsibilities under this part.

(b) The Designated Agency Safety and Health Official shall assist the agency head in establishing:

(1) An agency occupational safety and health policy and program to carry out the provisions of section 19 of the Act, Executive Order 12196, and this part;

(2) An organization, including provision for the designation of safety and health officials at appropriate levels, with adequate budgets and staffs to implement the occupational safety and health program at all operational levels;

(3) A set of procedures that ensures effective implementation of the agency policy and program as required by section 19 of the Act, Executive Order 12196, and the program elements of this part, considering the mission, size, and organization of the agency;

(4) Goals and objectives for reducing and eliminating occupational accidents, injuries, and illnesses;

(5) Plans and procedures for evaluating the agency's occupational safety and health program effectiveness at all operational levels; and

(6) Priorities with respect to the factors which cause occupational accidents, injuries, and illnesses in the agency's workplaces so that appropriate corrective actions can be taken.

(c) The agency head shall assure that safety and health officials are designated at each appropriate level with sufficient authority and responsibility to plan for and assure funds for necessary safety and health staff, equipment, materials, and training required to ensure implementation of an effective occupational safety and health program.

#### § 1960.7 Financial management.

(a) The head of each agency shall ensure that the agency budget submission includes appropriate financial and other resources to effectively implement and administer the agency's occupational safety and health program.

(b) The Designated Agency Safety and Health Official, management officials in charge of each establishment, safety and health officials at all appropriate levels, and other management officials shall be responsible for planning, requesting resources, implementing, and evaluating the occupational safety and health program budget in accordance with the regulations of the Office of Management and Budget Circular A-11 (sections 13.2(f) and 13.5(f)) and other relevant documents.

(c) Appropriate resources for an agency's occupational safety and health program shall include, but not be limited to:

(1) Sufficient personnel to implement and administer the program at all levels, including necessary administrative costs such as training, travel, and personal protective equipment;

(2) Abatement of unsafe or unhealthful working conditions related to agency operations or facilities;

(3) Safety and health sampling, testing, and diagnostic and analytical tools and equipment, including laboratory analyses;

(4) Any necessary contracts to identify, analyze, or evaluate unsafe or unhealthful working conditions and operations;

(5) Program promotional costs such as publications, posters, or films;