

§ 1904.44

(3) You must post the 2001 summary from February 1, 2002 to March 1, 2002.

§ 1904.44 Retention and updating of old forms.

You must save your copies of the OSHA 200 and 101 forms for five years following the year to which they relate and continue to provide access to the data as though these forms were the OSHA 300 and 301 forms. You are not required to update your old 200 and 101 forms.

§ 1904.45 OMB control numbers under the Paperwork Reduction Act

The following sections each contain a collection of information requirement which has been approved by the Office of Management and Budget under the control number listed

29 CFR citation	OMB Control No.
1904.4-35	1218-0176
1904.39-41	1218-0176
1904.42	1220-0045
1904.43-44	1218-0176

Subpart G—Definitions

§ 1904.46 Definitions.

The Act. The Act means the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*). The definitions contained in section 3 of the Act (29 U.S.C. 652) and related interpretations apply to such terms when used in this Part 1904.

Establishment. An establishment is a single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location, such as construction; transportation; communications, electric, gas and sanitary services; and similar operations, the establishment is represented by main or branch offices, terminals, stations, etc. that either supervise such activities or are the base from which personnel carry out these activities.

(1) *Can one business location include two or more establishments?* Normally, one business location has only one establishment. Under limited conditions, the employer may consider two or more separate businesses that share a

29 CFR Ch. XVII (7-1-07 Edition)

single location to be separate establishments. An employer may divide one location into two or more establishments only when:

- (i) Each of the establishments represents a distinctly separate business;
- (ii) Each business is engaged in a different economic activity;
- (iii) No one industry description in the Standard Industrial Classification Manual (1987) applies to the joint activities of the establishments; and
- (iv) Separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information. For example, if an employer operates a construction company at the same location as a lumber yard, the employer may consider each business to be a separate establishment.

(2) *Can an establishment include more than one physical location?* Yes, but only under certain conditions. An employer may combine two or more physical locations into a single establishment only when:

- (i) The employer operates the locations as a single business operation under common management;
- (ii) The locations are all located in close proximity to each other; and
- (iii) The employer keeps one set of business records for the locations, such as records on the number of employees, their wages and salaries, sales or receipts, and other kinds of business information. For example, one manufacturing establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street.

(3) *If an employee telecommutes from home, is his or her home considered a separate establishment?* No, for employees who telecommute from home, the employee's home is not a business establishment and a separate 300 Log is not required. Employees who telecommute must be linked to one of your establishments under § 1904.30(b)(3).

Injury or illness. An injury or illness is an abnormal condition or disorder. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as,

but not limited to, a skin disease, respiratory disorder, or poisoning. (Note: Injuries and illnesses are recordable only if they are new, work-related cases that meet one or more of the Part 1904 recording criteria.)

Physician or Other Licensed Health Care Professional. A physician or other licensed health care professional is an individual whose legally permitted scope of practice (*i.e.*, license, registration, or certification) allows him or her to independently perform, or be delegated the responsibility to perform, the activities described by this regulation.

You. “You” means an employer as defined in Section 3 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 652).

PART 1905—RULES OF PRACTICE FOR VARIANCES, LIMITATIONS, VARIATIONS, TOLERANCES, AND EXEMPTIONS UNDER THE WILLIAMS-STEIGER OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Subpart A—General

Sec.

- 1905.1 Purpose and scope.
- 1905.2 Definitions.
- 1905.3 Petitions for amendments to this part.
- 1905.4 Amendments to this part.
- 1905.5 Effect of variances.
- 1905.6 Public notice of a granted variance, limitation, variation, tolerance, or exemption.
- 1905.7 Form of documents; subscription; copies.

Subpart B—Applications for Variances, Limitations, Variations, Tolerances, Exemptions and Other Relief

- 1905.10 Variances and other relief under section 6(b)(6)(A).
- 1905.11 Variances and other relief under section 6(d).
- 1905.12 Limitations, variations, tolerances, or exemptions under section 16.
- 1905.13 Modification, revocation, and renewal of rules or orders.
- 1905.14 Action on applications.
- 1905.15 Requests for hearings on applications.
- 1905.16 Consolidation of proceedings.

Subpart C—Hearings

- 1905.20 Notice of hearing.

- 1905.21 Manner of service.
- 1905.22 Hearing examiners; powers and duties.
- 1905.23 Prehearing conferences.
- 1905.24 Consent findings and rules or orders.
- 1905.25 Discovery.
- 1905.26 Hearings.
- 1905.27 Decisions of hearing examiners.
- 1905.28 Exceptions.
- 1905.29 Transmission of record.
- 1905.30 Decision of the Assistant Secretary.

Subpart D—Summary Decisions

- 1905.40 Motion for summary decision.
- 1905.41 Summary decision.

Subpart E—Effect of Initial Decisions

- 1905.50 Effect of appeal of a hearing examiner’s decision.
- 1905.51 Finality for purposes of judicial review.

AUTHORITY: Secs. 6, 8, 16, Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 657, 665), Secretary of Labor’s Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), or 9-83 (48 FR 35736) as applicable.

SOURCE: 36 FR 12290, June 30, 1971, unless otherwise noted.

Subpart A—General

§ 1905.1 Purpose and scope.

(a) This part contains rules of practice for administrative proceedings

(1) To grant variances and other relief under sections 6(b)(6)(A) and 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, and

(2) To provide limitations, variations, tolerances, and exemptions under section 16 of the Act.

(b) These rules shall be construed to secure a prompt and just conclusion of proceedings subject thereto.

(c) The rules of practice in this part do not apply to the granting of variances under section 6(b)(6)(C). Whenever appropriate, the procedure for granting such a variance shall be published in the FEDERAL REGISTER.

§ 1905.2 Definitions.

As used in this part, unless the context clearly requires otherwise—

(a) *Act* means the Williams-Steiger Occupational Safety and Health Act of 1970.

(b) *Secretary* means the Secretary of Labor.