

DEPARTMENT OF LABOR**Occupational Safety and Health Administration****29 CFR Part 1960****[Docket No. F-002]****Basic Program Elements for Federal Employee Occupational Safety and Health Programs; Final Rule****AGENCY:** Occupational Safety and Health Administration, U.S. Department of Labor.**ACTION:** Final rule.

SUMMARY: Executive Order 12196, issued to provide direction for the implementation of Section 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 668), directs the Secretary of Labor to issue a set of basic program elements to assist the various Federal agencies in carrying out their responsibilities under the act and Executive Order 12196. Executive Order 12196 went into effect October 1, 1980 and supersedes Executive Order 11807. In order to provide occupational safety and health protection for Federal employees, Section 19 imposes on the head of each Federal agency the responsibility to "establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standards promulgated under Section 6." This document revises 29 CFR Part 1960, entitled Safety and Health Provisions for Federal Employees, to reflect the requirements of Executive Order 12196 and to carry out the Secretary's responsibilities under Sections 19 and 24 of the Act.

DATES: This final rule is effective October 21, 1980. For information on other related dates, see the discussion of "Effective Date" set forth in the Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Ms. Clinton M. Wright, Director, Directorate of Training, Education, Consultation and Federal Agency Programs, Room N3476, U.S. Department of Labor, Washington, D.C. 20210 (202-523-7251).

SUPPLEMENTARY INFORMATION:**1. Background**

On March 12, 1980, a draft revision of 29 CFR Part 1960, newly entitled "Basic Program Elements for Federal Employee Occupational Safety and Health Programs and Related Matters" was submitted to a task group of the Federal Advisory Council on Occupational Safety and Health (FACOSH) for

consideration. On March 21 and March 28, 1980, the draft proposal of Part 1960 was submitted by the task group to all members of FACOSH for consideration and advice. This proposal was prepared by the Agency after full consideration of the views and advice of FACOSH. On May 21, 1980, in accordance with Section 1-401(c) of Executive Order 12196, the Secretary of Labor submitted this proposed revision to the Office of Management and Budget (OMB). OMB, on June 17, 1980, distributed the proposal to selected agencies for comment.

In addition, on August 15, 1980, notice was published (45 FR 54355) inviting public comment on the proposed revision of 29 CFR Part 1960. A period for receipt of written comments on the proposed revision was provided, ending September 15, 1980.

The purpose of this revision of Part 1960 is to set forth the basic program elements that each Federal agency head is to follow in establishing and maintaining an effective and comprehensive occupational safety and health program for an agency's employees. Section 1-401(c) of Executive Order 12196 requires the Secretary of Labor to promulgate these basic program elements to provide guidance to the heads of Federal agencies to carry out the terms of the Executive Order. The final rule establishes procedures and guidance, among other things, for the administration of Federal occupational safety and health programs (Subpart B), for compliance with OSHA standards (Subpart C), for inspection of agency workplaces for hazardous conditions and the abatement of such conditions where they are found to exist (Subpart D), for effective coordination and cooperation between Federal agencies in achieving a safe and healthful Federal work environment (Subpart E), for the establishment and operation of occupational safety and health committees (Subpart F), for dealing with employee allegations of reprisal (Subpart G), for training of various individuals in occupational safety and health (Subpart H), for recordkeeping and reporting (Subpart I), for evaluating Federal safety and health programs (Subpart J), and for forming and operating Field Federal Safety and Health Councils (Subpart K).

This final rule is, in most respects, the same as the proposal. Most changes are not substantive; they are largely technical or editorial in nature. In some provisions dealing with the details of agency programs, the word "should" has been substituted for the word "shall."

However, it is OSHA's position that those alterations do not detract from the efficacy of the program elements and do provide the flexibility required by Section 1-401 of the Executive Order. Following is a discussion of the major issues identified in agency responses to OMB's solicitation of views and in public comments on OSHA's notice of rulemaking and OSHA's response thereto, including any major changes in the proposal.

2. Discussion

A. Agencies noted that § 1960.1(b) contained no provision for consultation with employees or their representatives prior to requesting approval from the Secretary of alternate program elements. OSHA believes that employees and employee representatives, as well as safety and health committees where established, should play a role in the development of alternate program elements. Therefore, we have changed § 1960.1(b) to require such consultation where alternate program elements are contemplated. A request that an opportunity for hearing be provided has been rejected as being inconsistent with the tenor of the Federal occupational safety and health program, with the requirement of maintaining flexibility set forth in the Executive Order, and with the basic statutory scheme of Section 19 of the Act that vests primary authority for assuring Federal employee safety and health in the heads of the separate Federal agencies. We believe employee participation is amply assured through the committee structure. Moreover, OSHA's agency evaluation program will identify any agency which does not afford adequate opportunity for employee participation.

B. Several agencies criticized Subpart G of the proposal, dealing with employee allegations of discrimination, as duplicative of existing agency and Office of Personnel Management procedures for the disposition of personnel matters. It is not our intention to impose procedures which would duplicate any efficient procedures that presently exist. Therefore, we have substantially revised Subpart G to require agency heads to have procedures to assure that employees are not subject to reprisals for participating in agency safety and health activities. The rule permits agency heads a degree of flexibility as to the details of the procedures. However, § 1960.46(b) provides that, should OSHA find through its evaluation of agency occupational safety and health programs that employee rights under the Executive Order are not being adequately protected by existing

procedures, the Secretary shall report such findings to the President by September 30, 1982, and shall recommend improvements in procedures for the investigation and resolution of allegations of reprisal. Section 1960.47 has been revised to require that safety and health committees be advised of agency activity regarding allegations of reprisal.

Finally, there was criticism of the broad language of § 1960.46 which permits an employee to refuse to work under certain circumstances. That language has been made more precise to reflect the concept that an employee may refuse to work where he or she has a reasonable belief that the task involved poses an imminent risk of death or serious physical harm coupled with a reasonable belief that there is insufficient time to seek effective redress through normal hazard reporting and abatement procedures.

C. Several agencies requested that the basic program elements include a reference to Section 4(b)(1) of the OSH Act. That section, in effect, precludes the application of OSHA standards to working conditions that are addressed by other Federal agencies' standards or regulations affecting occupational safety and health. One of the purposes of Section 4(b)(1) is to avoid duplication of effort by OSHA and other Federal agencies. For example, if this request were accepted, where a Federal agency must comply with standards or regulations affecting occupational safety and health issued by another Federal agency, then OSHA standards, otherwise applicable to Federal employees under Executive Order 12196, would, by virtue of Section 4(b)(1), not be applicable to the working conditions addressed by other Federal standards.

The suggestion to include a reference to Section 4(b)(1) of the OSH Act in the basic program elements was rejected because the OSH Act and its legislative history make it clear that the provisions of the OSH Act applicable to Federal employees are Section 19 and Section 24 (statistics). Thus, OSHA is precluded from making any other provision of the OSH Act expressly applicable to the Federal employee programs.

The proposal was changed, however, to make it clear that OSHA recognizes that Federal agencies must, in certain circumstances, comply with both OSHA standards and those of other Federal agencies such as the Department of Energy (DOE). We have included in the final program elements an expressed recognition of this fact. We do not believe, however, that conflicts between OSHA standards and those of other agencies are at all common. For

example, OSHA's radiation standards are identical to those of DOE. In most other cases, OSHA does not have standards dealing with hazards already addressed by the agencies' standards; for example, OSHA would have no standards dealing with flight safety of aircraft that is addressed by Federal Aviation Administration's standards and regulations.

Nevertheless, to deal with the rare case where there may be a conflict between an OSHA standard and a regulation of another agency, the final rule provides a mechanism for resolving that conflict; that is, informal coordination between the Secretary of Labor and the other affected agencies. Because conflicts of this type are rare, there is no need to include in the program elements the approach of Section 4(b)(1).

D. A question was raised concerning the definition of "employee" in § 1960.2(g), which is:

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" * * *

The question is whether the intention is to cover prisoners in Federal prisons and to give them the same recourse as Federal civilian employees. In that respect, the definition of "employee" is unchanged from the definition contained in the existing Part 1960. We purposely used a broad definition so that people like volunteers and prisoners would be protected under the safety and health program. The definition of employee with regard to the occupational safety and health program does not mean that prisoners are to be treated as employees for any other purpose. The occupational safety and health program is intended to deal with hazardous working conditions, and it is OSHA's opinion that where prisoners are employed in work similar to that outside prisons e.g., farming, laundries, machine operations, etc., all the protections open to anyone else in similar situations should apply, including the right to file a report of hazards with appropriate safety and health officials. The definition remains unchanged.

E. The Executive Order requires that agency heads shall comply with all standards issued under Section 6 of the Act, except where the Secretary approves compliance with alternative standards. Section 1960.17 of this part prescribes procedures for submitting an alternate standard to the Secretary, along with certain supporting materials, for consideration and approval. Several agencies suggested that there should be

a mechanism to bypass the procedures for alternative standards where an agency chooses to apply a standard that is more stringent and, therefore, more protective of employees. We agree that in certain circumstances, where it is clear that a standard differs from a Section 6 standard only in a specific, quantitative element and provides employees greater protection, the justifications and supporting materials required in § 1960.17 should not be required as a matter of course. We have added language to § 1960.16 to omit, in certain specific and limited circumstances, automatic recourse to the approval procedures in § 1960.17. The most common situations involving limited differences are where an agency wishes to set a *lower* permissible exposure level (or threshold limit value) or where the agency wishes to monitor workplace exposures *more* frequently than the Section 6 standard requires. The third situation is where the agency wishes to apply a more recent edition of a reference standard; one newer than the existing standard incorporated into Section 6 standards (e.g., the National Electrical Code). This last exception is less clear-cut than the other examples because a reference standard in a newer edition is not always a more stringent or more protective standard; the protection may actually be weakened. Therefore, the revision to § 1960.16 requires that the Secretary be notified of these situations for several reasons. First, the Secretary's knowledge that a Federal agency is applying a stricter standard would be essential if the Secretary was making an inspection under the authority of the Executive Order. Second, the ability of an agency to comply with a more stringent standard may provide valuable information for our own standards-setting or revision processes. Also, since the newer reference-standards may, in fact, be less stringent, prior notification to the Secretary and consultation with employees will help prevent inadvertent lessening of employee protection. Finally, we have added language permitting the Secretary to require an agency to utilize the approval procedures when, after notification, by the agency, the Secretary determines that the protection afforded by the alternate standard may be inadequate. A similar approval process has also been added to § 1960.18 dealing with supplementary standards.

F. The Executive Order permits agency heads to voluntarily establish safety and health committees but requires only that, if established, the committees shall be established at the

national level and "other appropriate levels." The proposal, after consultation with the FACOSH, provided that in addition to the national level committee, committees shall be organized at individual establishments (or groupings of small establishments) and further provides that if an agency chooses to set up committees, it must establish them at all establishments and effectively cover all employees. Thus, if committees were not organized to cover all establishments within an agency—e.g., at every DOD installation—every establishment of that agency would be subject to unannounced inspections by the Secretary. Several agencies protested this "all or nothing" approach essentially on the grounds that it is inconsistent with the mandate of Executive Order 12196 to provide flexibility in the implementation of the agency program and it would inhibit the formation of committees. We believe that Federal employees will be adequately protected through either an establishment committee or unannounced inspections by the Secretary. Therefore, the "all or nothing" approach has been modified to preserve flexibility by permitting committees to be organized on an establishment basis with the result that only those establishments with committees will be largely free from OSHA unannounced inspections.

G. Several agencies expressed a concern that § 190.28(b), which stated that employee reports of unsafe or unhealthful working conditions are not grievances, could be interpreted as interfering with existing collective bargaining agreements and grievance procedures. The intent of the provisions of this part is to provide workplace protection for the Federal workers as comparable as possible to that of private sector employees. The OSH Act, in the private sector, places primary responsibility for complying with OSHA standards on employers, not on employees. In the private sector, employee complaints of unsafe and unhealthful working conditions are essentially informational in nature. This information facilitates the Secretary's efforts to insure that employers comply with OSHA requirements. That principle of employer responsibility for complying with OSHA standards is carried over to the Federal employment sector. Because nothing should be included or construed as disturbing or altering that basic employer responsibility (agency-head responsibility), employee reports of unsafe or unhealthful working conditions must be treated as informational in nature. Whether or not

an employee may also grieve on health and safety issues is a separate matter that does not alter the basic principle of employer responsibility to correct unsafe and unhealthful working conditions. This principle of comparability of protection is the historical basis for Executive Order 12196 and, therefore, constitutes the underlying theme for these regulations.

Therefore, our position remains unchanged in that a report of a hazardous working condition is not a grievance. However, to avoid possible confusion of a report with a grievance, we have deleted as superfluous, those references in paragraph (b) dealing with grievances.

3. Effective Date

This final rule is effective upon publication. However, agencies are given 30 days from the date of publication in which to determine whether or not to establish occupational safety and health committees pursuant to Executive Order 12196 and this Part. Within the 30 days, each agency head shall inform the Secretary, in writing, of the agency's decision to form committees or not to form committees. For those agencies which decide to establish committees, an additional period of 60 days is given in which to institute the committee structure. Within the 60 days, each agency head shall inform the Secretary, in writing, of the location and coverage of each committee. During the above time (30 days for all agencies and an additional 60 days for agencies choosing to utilize the committee system), the Secretary of Labor will not conduct unannounced inspections as provided in Section 1-401(i) of Executive Order 12196 except where the Secretary deems it necessary in the case of an imminent danger. Because Executive Order 12196 became effective October 1, 1980, and because this final rule provides the basic program elements needed by Federal agencies to implement occupational safety and health programs pursuant to the Order, it is necessary to make this final rule effective upon publication.

I find that the reasons stated above constitute good cause for making this rule effective immediately. This rule is therefore, effective on October 21, 1980.

4. Authority

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third and Constitution Avenue, NW., Washington, D.C. 20210.

Accordingly, pursuant to Sections 19 and 24 of the Occupational Safety and

Health Act of 1970 (84 Stat. 1609, 1614, 29 U.S.C. 668, 673), Secretary of Labor's Order No. 8-76 (41 FR 25059), and Executive Order 12196, Occupational Safety and Health Programs for Federal Employees, Part 1960, Chapter XVII of Title 29, Code of Federal Regulations is revised to read as follows.

Signed at Washington, D.C., this 15th day of October, 1980.

Eula Bingham,

Assistant Secretary of Labor for Occupational Safety and Health.

PART 1960—BASIC PROGRAM ELEMENTS FOR FEDERAL EMPLOYEE OCCUPATIONAL SAFETY AND HEALTH PROGRAMS AND RELATED MATTERS

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Authority: Secs. 19 and 24 of the Occupational Safety and Health Act of 1970 (84 Stat. 1609, 1614, (29 U.S.C. 668, 673)); Secretary of Labor's Order No. 8-76 (41 FR 25059); E.O. 12196.

Subpart A—General

§ 1960.1 Purpose and scope.

(a) Section 19 of the Occupational Safety and Health Act (the Act) contains special provisions to assure safe and healthful working conditions for Federal

employees. Under that section, it is the responsibility of the head of each Federal agency to establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standards promulgated under section 6 of the Act. The Secretary of Labor (the 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, recordkeeping, 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 effective 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) The Executive Order and this part do not apply to employees or working conditions of employees of private contractors performing work under government contracts, regardless of whether such privately employed workers perform their duties in government owned or leased facilities with government equipment or together with government personnel. Protection of employees of private contractors is assured under the other provisions of the Act, not under Section 19. 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.

§ 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

$$\frac{N \times 200,000}{EH}$$

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

EH=total hours worked by all employees during a month, a quarter, or a calendar 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 workplace surveillance of occupational health conditions.

(l) The term "lost workday cases" means injuries and illnesses which involve days away from work and/or days of restricted work activity. "Lost workdays—away from work" means the number of workdays (consecutive or not) during which the employee would have worked but could not because of an occupational injury or illness. "Lost

workdays—restricted work activity" means the number of workdays (consecutive or not) during which, because of injury or illness:

- (1) The employee was assigned to another job on a temporary basis;
- (2) The employee worked at a permanent job less than full time; or
- (3) The employee worked at a permanently assigned job but could not perform all duties normally connected with the job.

(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) The term "medical treatment" includes treatment administered by a physician, or by licensed or registered professional personnel under standing orders of a physician, for an occupational injury or illness which does not result in days away from work or days of restricted work activity. "Medical treatment" does not include first aid treatment, even though provided by a physician or licensed or registered professional personnel. For further details and specific examples of what is considered first aid treatment versus medical treatment, see OSHA 2014, Recordkeeping and Reporting Guidelines for Federal Agencies.

(o) The term "recordable occupational injuries or illnesses" means any occupational injuries or illnesses which result in:

- (1) Occupation-related deaths regardless of the time between injury and death, or the length of illness;
- (2) Nonfatal occupational illnesses; or
- (3) Nonfatal occupational injuries which involve one or more of the following: days away from work or days of restricted work activity; loss of consciousness; restriction of work or motion; transfer to another job; or medical treatment.

(p) The term "reporting unit" means an establishment, except as otherwise agreed between the agency and the Office of Federal Agency Safety and Health Programs, U.S. Department of Labor, as provided in § 1960.74.

(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

occupational 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 Manager/Specialist GS-018
 Safety Engineer GS-803
 Fire Protection Engineer GS-804
 Industrial Hygienist GS-690
 Fire Protection 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.

§ 1960.3-1960.5 [Reserved]

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;

(6) Technical information, documents, books, standards, codes, periodicals, and publications; and

(7) Medical surveillance programs for employees.

§ 1960.8 Agency responsibilities.

(a) The head of each agency shall furnish to each employee employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm.

(b) The head of each agency shall comply with the Occupational Safety and Health Administration standards applicable to the agency.

(c) The head of each agency shall develop, implement, and evaluate an occupational safety and health program in accordance with the requirements of section 19 of the Act, Executive Order 12196, and the basic program elements prescribed in this part, or approved alternate program elements.

(d) The head of each agency shall acquire, maintain, and require the use of approved personal protective equipment, approved safety equipment, and other devices necessary to protect employees.

(e) In order to provide essential specialized expertise, agency heads shall authorize safety and health personnel to utilize such expertise from whatever source available, including but not limited to other agencies, professional groups, consultants, universities, labor organizations, and safety and health committees.

§ 1960.9 Supervisory responsibilities.

Employees who exercise supervisory functions shall, to the extent of their authority, furnish employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm. They shall also comply with the occupational safety and health standards applicable to their agency and with all rules, regulations, and orders issued by the head of the agency with respect to the agency occupational safety and health program.

§ 1960.10 Employee responsibilities and rights.

(a) Each employee shall comply with the standards, rules, regulations, and orders issued by his/her agency in accordance with section 19 of the Act, Executive Order 12196, and this part which are applicable to his/her own actions and conduct.

(b) Employees shall use safety equipment, personal protective equipment, and other devices and procedures provided or directed by the agency and necessary for their protection.

(c) Employees shall have the right to report unsafe and unhealthful working conditions to appropriate officials.

(d) Employees shall be authorized official time to participate in the activities provided for in section 19 of the Act, Executive Order 12196, this part, and the agency occupational safety and health program.

§ 1960.11 Evaluation of occupational safety and health performance.

Each agency head shall ensure that any performance evaluation of any management official in charge of an establishment, any supervisory employee, or other appropriate management official, measures that employee's performance in meeting requirements of the agency occupational safety and health program, consistent with the employee's assigned

responsibilities and authority, and taking into consideration any applicable regulations of the Office of Personnel Management or other appropriate authority. The recognition of superior performance in discharging safety and health responsibilities by an individual or group should be encouraged and noted.

§ 1960.12 Dissemination of occupational safety and health program information.

(a) Copies of the Act, Executive Order 12196, program elements published in this part, details of the agency's occupational safety and health program, and applicable safety and health standards shall be made available upon request to employees or employee representatives for review.

(b) A copy of the agency's written occupational safety and health program applicable to the establishment shall be made available to each supervisor, each occupational safety and health committee member, and to employee representatives.

(c) Each agency shall post conspicuously in each establishment, and keep posted, a poster informing employees of the provisions of the Act, Executive Order 12196, and the agency occupational safety and health program under this part. The Department of Labor will furnish the core text of a poster to agencies. Each agency shall add the following items: (1) Details of the agency's procedures for responding to reports by employees of unsafe or unhealthful working conditions, and to allegations of discrimination or reprisal due to participation in safety and/or health activities; (2) the location where employees may obtain information about the agency's occupational safety and health program, including the full text of agency occupational safety and health standards, and (3) relevant information about any agency safety and health committees. Such posters and additions shall not be altered, defaced, or covered by other material.

(d) A copy of the agency's poster shall be provided to the Secretary. If the agency needs assistance and advice on the content and development of the poster, such shall be requested of the Secretary prior to printing and distribution.

(e) Agency heads shall promote employee awareness of occupational safety and health matters through their ordinary information channels, such as newsletters, bulletins and handbooks.

§§ 1960.13-1960.15 [Reserved]

Subpart C—Standards

§ 1960.16 Compliance with OSHA standards.

Each agency head shall comply with all occupational safety and health standards issued under section 6 of the Act, or with alternate standards issued pursuant to this subpart. In complying with section 6 standards, an agency may, upon prior notification to the Secretary, prescribe and enforce more stringent permissible exposure levels or threshold limit values and may require more frequent monitoring of exposures without recourse to the approval procedures for alternate standards described in § 1960.17. In addition, after consultation with employees and safety and health committees and prior notification to the Secretary, an agency may utilize the latest edition of a reference standard if it is more stringent than the section 6 standard. After notification, the Secretary may require the use of the approval procedures for alternate standards for any of the situations described in this paragraph.

§ 1960.17 Alternate standards.

An agency head may apply an alternate standard where deemed necessary, and shall, after consultation with employees or their representatives, including appropriate occupational safety and health committees, notify the Secretary and request approval of such alternate standards.

(a) Any request by the head of the agency for an alternate standard shall be transmitted to the Secretary.

(b) Any such request for an alternate standard shall not be approved by the Secretary unless it provides equivalent or greater protection for affected employees. Any such request shall include:

(1) A statement of why the agency cannot comply with the OSHA standard or wants to adopt an alternate standard;

(2) A description of the alternate standard;

(3) An explanation of how the alternate standard provides equivalent or greater protection for the affected employees;

(4) A description of interim protective measures afforded employees until a decision is rendered by the Secretary of Labor; and

(5) A summary of written comments, if any, from interested employees, employee representatives, and occupational safety and health committees.

§ 1960.18 Supplementary standards.

(a) In addition to complying with emergency temporary standards issued under section 6 of the Act, an agency head shall adopt such emergency temporary and permanent supplementary standards as necessary and appropriate for application to working conditions of agency employees for which there exists no appropriate OSHA standards. In order to avoid any possible duplication of effort, the agency head should notify the Secretary of the subject matter of such standard when the development of the standard begins.

(b) The agency head shall send a copy of the final draft of the permanent supplementary standard to the Secretary prior to official adoption by the agency, along with any written comments on the standard from interested employees, employee representatives, and occupational safety and health committees. If the Secretary finds the permanent supplementary standard to be adopted inconsistent with OSHA standards, or inconsistent with OSHA enforcement practices under section 5(a)(1) of the Act, the Secretary shall have 15 working days in which to notify the head of the agency of this finding. In such a case, the supplementary standard shall not be adopted, but the agency will be afforded an opportunity to resubmit a revised standard that is designed to provide adequate protection and is consistent with OSHA standards. Upon request of the agency head, the Secretary shall offer to the agency technical assistance in the development of the supplemental standard.

§ 1960.19 Other Federal agency standards affecting occupational safety and health.

(a) Where employees of different agencies engage in joint operations, and/or primarily report to work or carry out operations in the same establishment, the standards adopted under § 1960.17 or § 1960.18 of the host agency shall govern.

(b) There are situations in which the head of an agency is required to comply with standards affecting occupational safety and health issued by a Federal agency other than OSHA. For example, standards issued by the Federal Aviation Administration, the Department of Energy, or the General Services Administration may be applicable to certain Federal workplaces. Nothing in this subpart affects the duty of any agency head to comply with such standards. In addition, agency heads should comply with other standards issued by Federal agencies which deal with hazardous working conditions, but for which OSHA has no standards.

(c) Although it is not anticipated that standards of other Federal agencies will conflict with OSHA standards, should such conflict occur, the head of the agency shall inform the other Federal agency and the Secretary so that joint efforts to resolve the issues may be undertaken. However, until conflicts are resolved, agencies shall comply with the more protective of the conflicting standards.

§§ 1960.20-1960.24 [Reserved]**Subpart D—Inspection and Abatement****§ 1960.25 Qualifications of safety and health inspectors and agency inspections.**

(a) Executive Order 12196 requires that each agency utilize as inspectors "personnel with equipment and competence to recognize hazards." Inspections shall be conducted by inspectors qualified to recognize and evaluate hazards of the working environment and to suggest general abatement procedures. Safety and health specialists as defined in § 1960.2(s), with experience and/or up-to-date training in occupational safety and health hazard recognition and evaluation are considered as meeting the qualifications of safety and health inspectors. For those working environments where there are less complex hazards, such safety and health specializations as cited above may not be required, but inspectors in such environments shall have sufficient documented training and/or experience in the safety and health hazards of the workplace involved to recognize and evaluate those particular hazards and to suggest general abatement procedures. All inspection personnel must be provided the equipment necessary to conduct a thorough inspection of the workplace involved.

(b) Each agency which has workplaces containing information classified in the interest of national security shall provide access to safety and health inspectors who have obtained the appropriate security clearance.

(c) All areas and operations of each workplace, including office operations, shall be inspected at least annually. More frequent inspections shall be conducted in all workplaces where there is an increased risk of accident, injury, or illness due to the nature of the work performed. Sufficient unannounced inspections and unannounced follow-up inspections should be conducted by the agency to ensure the identification and abatement of hazardous conditions.

(d) When situations arise involving multiple agencies' responsibilities for

conditions affecting employee safety and health, coordination of inspection functions is encouraged.

§ 1960.26 Conduct of inspections.

(a) *Preparation.* (1) Prior to commencement of the inspection, the Safety and Health Inspector shall be provided all available relevant information which pertains to the occupational safety and health of the workplace to be inspected, including safety and health hazard reports, injury and illness records, previous inspection reports, and reports of unsafe and unhealthful working conditions.

(2) The Safety and Health Inspector shall determine in advance, where possible, the actual work procedures and conditions to be inspected, in order to have the proper equipment available to conduct an effective inspection.

(b) *Inspection.* (1) For the purpose of assuring safe and healthful working conditions for employees of agencies, the head of the agency shall authorize safety and/or health inspectors: To enter without delay, and at reasonable times, any building, installation, facility, construction site, or other area, workplace, or environment where work is performed by employees of the agency; to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any agency employee, and/or any agency supervisory employee, and/or any official in charge of an establishment.

(2) If there are no authorized representatives of employees, the inspector shall consult with a reasonable number of employees during the walkaround.

(3) When, in the opinion of the inspector, it is necessary to conduct personal monitoring (sampling) of employee's work environments, the inspector may request employees to wear reasonable and necessary personal monitoring devices, e.g., noise dosimeters and air sampling pumps, for periods determined by the inspector to be necessary for complete and effective sampling of the environment.

(4) Upon request of the inspector, the employer shall encourage employees to wear the personal environmental monitoring devices during an inspection.

(5) Whenever and as soon as it is concluded on the basis of an inspection that a danger exists which could reasonably be expected to cause death or serious physical harm immediately,

the inspector shall inform the affected employees and official in charge of the workplace of the danger. The official in charge of the workplace, or a person empowered to act for that official, shall undertake immediate abatement and the withdrawal of employees who are not necessary for abatement of the dangerous conditions. In the event the official in charge of the workplace needs assistance to undertake full abatement, that official shall promptly contact the Designated Agency Safety and Health Official and other responsible agency officials, who shall assist the abatement effort. Safety and health committees shall be informed of all relevant actions and representatives of the employees shall be so informed.

(6) At the conclusion of an inspection, the Safety and Health Inspector shall confer with the official in charge of the workplace or that official's representative, and with an appropriate representative of the employees of the establishment, and informally advise them of any apparent unsafe or unhealthful working conditions disclosed by the inspection. During any such conference, the official in charge of the workplace and the employee representative shall be afforded an opportunity to bring to the attention of the Safety and Health Inspector any pertinent information regarding conditions in the workplace.

(c) *Written reports and notices of unsafe or unhealthful working conditions.* (1) The inspector shall, in writing, describe with particularity the procedures followed in the inspection and the findings which form the basis for the issuance of any Notice of Unsafe or Unhealthful Working Conditions.

(2) Each agency shall establish a procedure for the prompt issuance of a Notice of Unsafe or Unhealthful Working Conditions. Such notices shall be issued not later than 15 days after completion of the inspection for safety violations or not later than 30 days for health violations. If there are compelling reasons why such notice cannot be issued within the 15 days or 30 days indicated, the persons described in paragraph (c)(1)(iii) of this section shall be informed of the reasons for the delay. Such procedure shall include the following: (i) Notices shall be in writing and shall describe with particularity the nature and degree of seriousness of the unsafe or unhealthful working condition, including a reference to the standard or other requirement involved; (ii) the notice shall fix a reasonable time for the abatement of the unsafe or unhealthful working condition; and (iii) a copy of the notice shall be sent to the official in

charge of the workplace, the employee representative who participated in the closing conference, and/or the safety and health committee of the workplace, if any.

(3) Upon receipt of any notice of an unsafe or unhealthful working condition, the official in charge of a workplace shall immediately post such notice, or copy thereof, unedited, except for reason of national security, at or near each place an unsafe or unhealthful working condition referred to in the notice exists or existed. In addition, a notice shall be posted if any special procedures are in effect. Where, because of the nature of the workplace operations, it is not practicable to post the notice at or near each such place, such notice shall be posted, unedited, except for reason of national security, in a prominent place where it will be readily observable by all affected employees. For example, where workplace activities are physically dispersed, the notice may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the notice may be posted at the location from which the employees operate to carry out their activities.

(4) Each notice of an unsafe or unhealthful working condition, or a copy thereof, shall remain posted until the unsafe or unhealthful working condition has been abated or for 3 working days whichever is later. A copy of the notice will be filed and maintained for a period of five years after abatement at the establishment and made available to the Secretary upon request.

§ 1960.27 Representatives of officials in charge and representatives of employees.

(a) Safety and health inspectors shall be in charge of inspections and may interview any employee in private if the inspector deems it necessary. A representative of the official in charge of a workplace and a representative of employees shall be given an opportunity to accompany Safety and Health Inspectors during the physical inspection of any workplace, both to aid the inspection and to provide such representatives with more detailed knowledge of any existing or potential unsafe or unhealthful working conditions. The representative of employees shall be selected by the employees. Additional representatives of the official in charge and additional representatives of employees may accompany the Safety and Health Inspectors if it is determined by the inspector that such additional representatives will further aid the inspection. Different representatives of

the employer and employees may be allowed to accompany the Inspector during each different phase of an inspection.

(b) Safety and health inspectors shall be authorized to deny the right of accompaniment under this section to any person whose participation interferes with a fair and orderly inspection.

(c) With regard to facilities classified in the interest of national security, only persons authorized to have access to such facilities shall be allowed to accompany a Safety and Health Inspector in such areas.

(d) Safety and health inspectors shall consult with employees concerning matters of occupational safety and health to the extent deemed necessary for the conduct of an effective and thorough inspection. During the course of an inspection, any employee shall be afforded an opportunity to bring to the attention of the Safety and Health Inspector any unsafe or unhealthful working condition which the employee has reason to believe exists in the workplace.

§ 1960.28 Employee reports of unsafe or unhealthful working conditions.

(a) The purpose of employee reports is to inform agencies of the existence of, or potential for, unsafe or unhealthful working conditions. A report under this part is not a grievance.

(b) This section provides guidance in establishing a channel of communication between agency employees and those with responsibilities for safety and health matters, e.g., their supervisor, the agency safety and health officials, safety and health committees, safety and health inspectors, the head of the agency, or the Secretary. These channels of communication are intended to assure prompt analysis and response to reports of unsafe or unhealthful working conditions in accordance with the requirements of Executive Order 12196. Since many safety and health problems can be eliminated as soon as they are identified, the existence of a formal channel of communication shall not preclude immediate corrective action by an employee's supervisor in response to oral reports of unsafe or unhealthful working conditions where such action is possible. Nor should an employee be required to await the outcome of such an oral report before filing a written report pursuant to the provisions of this section.

(c) Any employee or representative of employees, who believes that an unsafe or unhealthful working condition exists in any workplace where such employee

is employed, shall have the right and is encouraged to make a report of the unsafe or unhealthful working condition to an appropriate agency safety and health official and request an inspection of such workplace for this purpose. The report shall be reduced to writing either by the individual submitting the report or, in the case of an oral notification, by the above official or other person designated to receive the reports in the workplace. Any such report shall set forth the grounds for the report and shall contain the name of the employee or representative of employees. Upon the request of the individual making such report, no person shall disclose the name of the individual making the report or the names of individual employees referred to in the report, to anyone other than authorized representatives of the Secretary. In the case of imminent danger situations, employees shall make reports by the most expeditious means available.

(d) *Reports received by the agency.*

(1) Each report of an existing or potential unsafe or unhealthful working condition should be recorded on a log maintained at the establishment. If an agency finds it inappropriate to maintain a log of written reports at the establishment level, it may avail itself of procedures set forth in § 1960.71. A copy of each report received shall be sent to the appropriate establishment safety and health committee.

(2) A sequentially numbered case file, coded for identification, should be assigned for purposes of maintaining an accurate record of the report and the response thereto. As a minimum, each establishment's log should contain the following information: date, time, code/reference/file number, location of condition, brief description of the condition, classification (imminent danger, serious or other), and date and nature of action taken.

(3) Executive Order 12196 requires that agency inspections be conducted within 24 hours for employee reports of imminent danger conditions, within three working days for potentially serious conditions, and within 20 working days for other than serious safety and health conditions. However, an inspection may not be necessary if, through normal management action and with prompt notification to employees and safety and health committees, the hazardous condition(s) identified can be abated immediately.

(4) An employee submitting a report of unsafe or unhealthful conditions shall be notified in writing within 15 days if the official receiving the report determines there are not reasonable grounds to believe such a hazard exists and does

not plan to make an inspection based on such report. A copy of each such notification shall be provided by the agency to the appropriate certified safety and health committee, where established under Executive Order 12196. An agency's inspection or investigation report, if any, shall be made available to the employee making the report within 15 days after completion of the inspection, for safety violations or within 30 days for health violations, unless there are compelling reasons, and shall be made available to the Secretary or the Secretary's authorized representative on request.

(e) *Reports received by the Secretary of Labor.* (1) Agency safety and health programs must have provisions for responding to employees' reports of unsafe or unhealthful working conditions and the Secretary encourages employees to use agency procedures as the most expeditious means of achieving abatement of hazardous conditions. It is recognized, however, that employee reports may be received directly by the Secretary.

(2) When such reports are received directly from an employee or employee representative, the Secretary shall, where a certified safety and health committee exists, forward the report to the agency for handling in accordance with procedures outlined in § 1960.28(d). A copy of the response to the originator shall be sent to the Secretary.

(3) Where there is no certified safety and health committee, or when requested by half the members of a committee, the Secretary may initiate an inspection or other appropriate action. When the Secretary determines that an inspection is warranted, the Secretary shall observe the same response times as required of the agencies under the Executive Order and § 1960.28(d)(3). When the Secretary determines not to make an inspection, the report shall be forwarded to the agency for handling in accordance with procedures outlined in § 1960.28(d). A copy of the response to the originator shall be sent to the Secretary.

§ 1960.29 **Accident investigation.**

(a) While all accidents should be investigated, including accidents involving property damage only, the extent of such investigation shall be reflective of the seriousness of the accident.

(b) In any case, each accident which results in a fatality or the hospitalization of five or more employees shall be investigated to determine the causal factors involved. Except to the extent necessary to protect employees and the public, evidence at the scene of an

accident shall be left untouched until inspectors have an opportunity to examine it.

(c) Any information or evidence uncovered during accident investigations which would be of benefit in developing a new OSHA standard or in modifying or revoking an existing standard should be promptly transmitted to the Secretary.

(d) The investigative report of the accident shall include appropriate documentation on date, time, location, description of operations, description of accident, photographs, interviews of employees and witnesses, measurements, and other pertinent information. A copy of the investigative report required by this section shall be forwarded to the official in charge of the workplace, the appropriate safety and health committee, and the exclusive employee representative, if any. The investigative report shall be made available to the Secretary or his authorized representative on request.

§ 1960.30 **Abatement of unsafe or unhealthful working conditions.**

(a) The agency shall ensure the prompt abatement of unsafe and unhealthful conditions. Where a Notice of an Unsafe or Unhealthful Working Condition has been issued, abatement shall be within the time set forth in the notice, or in accordance with the established abatement plan.

(b) The procedures for correcting unsafe or unhealthful working conditions shall include a follow-up, to the extent necessary, to determine whether the correction was made. If, upon the follow-up, it appears that the correction was not made, or was not carried out in accordance with an abatement plan prepared pursuant to paragraph (c) of this section, the official in charge of the establishment and the appropriate safety and health committee shall be notified of the failure to abate.

(c) The official in charge of the establishment shall promptly prepare an abatement plan with the appropriate participation of the establishment's Safety and Health Official or a designee, if in the judgment of the establishment official the abatement of an unsafe or unhealthful working condition will not be possible within 30 calendar days. Such plan shall contain an explanation of the circumstances of the delay in abatement, a proposed timetable for the abatement, and a summary of steps being taken in the interim to protect employees from being injured as a result of the unsafe or unhealthful working condition. A copy of the plan shall be sent to the safety and health committee, and, if no committee exists, to the

representative of the employees. Any changes in an abatement plan will require the preparation of a new plan in accordance with the provisions of this section.

(d) When a hazard cannot be abated within the authority and resources of the official in charge of the establishment, that official shall request assistance from appropriate higher authority. The local safety and health official, any established committee and/or employee representatives, and all personnel subject to the hazard shall be advised of this action and of interim protective measures in effect, and shall be kept informed of subsequent progress on the abatement plan.

(e) When a hazard cannot be abated without assistance of the General Services Administration or other Federal lessor agency, the occupant agency shall act with the lessor agency to secure abatement. Procedures for coordination with the General Services Administration are contained in Subpart E of this part.

§ 1960.31 Inspections by OSHA.

(a) The Secretary or the Secretary's representatives are authorized to conduct, when the Secretary deems necessary, announced or unannounced inspections in the following situations:

(1) Where an agency has not established occupational safety and health committees or where committees no longer operate in conformance to the requirements of subpart F of this part;

(2) In response to a request from half the membership of record of any certified safety and health committee; and

(3) In response to an employee's report of an imminent danger situation, where there is a certified committee, but where the Secretary determines that neither the agency nor the committee has responded to the employee.

(b) The Secretary's inspectors or evaluators are authorized: to enter without delay, and at reasonable times, any building, installation, facility, construction site, or other area, workplace, or environment where work is performed by employees of the agency; to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment, and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any employee, any supervisory employee, and/or any official in charge of an establishment.

(c) The Secretary may also make scheduled inspections as an integral

part of OSHA's evaluation of an agency's safety and health program in accordance with Subpart J of this part.

(d) OSHA inspections shall follow the general format set forth for agency inspections in other applicable parts of this subpart.

§§ 1960.32-1960.33 [Reserved]

Subpart E—General Services Administration and Other Federal Agencies

§ 1960.34 General provisions.

Within six months of the effective date of this part, the Secretary of Labor and the Administrator of the General Services Administration (GSA) shall initiate a study of conflicts that may exist in their standards concerning Federal buildings, leased space, products purchased or supplied, and other requirements affecting Federal employee safety and health. Both agencies shall establish and publish a joint procedure for resolving conflicting standards. All other Federal agencies that have authority for purchasing equipment, supplies, and materials, and for controlling Government space, as well as the leasing of space, shall also be subject to the requirements of this subpart, including publication of a procedure for resolving conflicting standards.

(a) In order to assist agencies in carrying out their duties under section 19 of the Act, Executive Order 12196, and this part, the Administrator or the Administrator's designee shall:

(1) Upon an agency's request, furnish for any owned or leased space offered to a Federal agency for occupancy: (i) A report of a recent pre-occupancy inspection to identify serious hazards or serious violations of OSHA standards or approved alternate standards, and (ii) a plan for abatement of the hazards and violations discovered;

(2) Provide space which: (i) meets any special safety and health requirements submitted by the requesting agency, and (ii) does not contain either serious hazards or serious violations of OSHA standards or approved alternate standards which cannot be abated;

(3) Repair, renovate, or alter, upon an agency's request, owned or leased space in a planned and controlled manner to reduce or eliminate, whenever possible, any hazardous exposure to the occupant agency's employees;

(4) Accompany, upon request, the Secretary or the Secretary's designee on any inspection or investigation of a facility subject to the authority of the General Services Administration. Requests made for this purpose shall,

whenever possible, be made at the GSA regional level in order to facilitate prompt assistance;

(5) Investigate, upon an official agency request, reports of unsafe or unhealthful conditions within the scope of GSA's responsibility. Such investigation, when requiring an on-site inspection, shall be completed within 24 hours for imminent danger situations, within three working days for potentially serious conditions, and within 20 working days for other safety and health risk conditions;

(6) Abate unsafe or unhealthful conditions disclosed by reports, investigation or inspection within 30 calendar days or submit to the occupant agency's designated liaison official an abatement plan. Such abatement plan shall give priority to the allocation of resources to bring about prompt abatement of the conditions. (GSA shall publish procedures for abatement of hazards in the Federal Property Management Regulations—41 CFR Part 101);

(7) Establish an occupancy permit program which will regulate the types of activities and occupancies in facilities in order to avoid incompatible groupings, e.g., chemical or biological laboratories in office space. GSA shall seek to consolidate Federal laboratory operations in facilities designed for such purposes;

(8) Ensure, insofar as possible, that agency safety and health problems still outstanding are resolved, or otherwise answered by acceptable alternatives prior to renegotiation of leases; and

(9) Ensure that GSA or other Federal lessor agencies' building managers maintain a log of reports of unsafe or unhealthful conditions submitted by tenants to include: date of receipt of report, action taken, and final resolution.

(b) *Product safety.* Agencies such as GSA, DOD, and others which procure and provide supplies, equipment, devices, and material for their own use or use by other agencies, except for the design of uniquely military products as set forth in § 1960.2(i), shall establish and maintain a product safety program which:

(1) Ensures that items procured will allow user agencies to use such products safely for their designed purpose and will facilitate user compliance with all applicable standards.

(2) Requires that products meet the applicable safety and health requirements of Federal law and regulations issued thereunder;

(3) Ensures that hazardous material will be labelled in accordance with current law or regulation to alert users, shippers, occupational safety and

health, and emergency action personnel, and others, to basic information concerning flammability, toxicity, compatibility, first aid procedures, and normal as well as emergency handling and disposal procedures;

(4) Ensures availability of appropriate safety rescue and personal protective equipment to supply user agencies. The writing of Federal procurement specifications will be coordinated by GSA with OSHA/NIOSH as needed to assure purchase of approved products;

(5) Ensures that products recalled by the manufacturer, either voluntarily or by order from a regulatory authority, are removed from inventory. Each recall notice or order shall be forwarded to all agencies which have ordered such product from or through the procuring/supplying Federal agency, e.g., GSA, DOD, etc.;

(6) Includes preparation of FEDSTD 313, Material Safety Data Sheets (MSDS), involving all interested agencies in review to keep the standard current. MSDS provided by agencies or contractors shall meet the requirements of FEDSTD 313 and be furnished to DOD for filing and distribution.

(c) In order to assist agencies in carrying out their duties under section 19 of the Act, Executive Order 12196, and this part, the DOD operates and maintains an automated system to receive, file, reproduce, and make available MSDS data to other Federal agencies through the Government Printing Office or the National Technical Information Services.

(d) All Federal agencies shall use MSDS either provided by DOD, or acquired directly from suppliers, when purchasing hazardous materials (as defined in FEDSTD 313) for local use. These data will be used to develop detailed procedures to advise employees in the workplace of the hazards involved with the materials and to protect them therefrom.

(e) *Safety and health services.* GSA will operate and maintain for user agencies the following services:

(1) Listings in the "Federal Supply Schedule" of safety and health services and equipment which are approved for use by agencies when needed. Examples of such services are: workplace inspections, training, industrial hygiene surveys, asbestos bulk sampling, and mobile health testing; examples of such equipment are: personal protective equipment and apparel, safety devices, and environmental monitoring equipment;

(2) Rules for assistance in the preparation of agency "Occupant Emergency Plans" (formerly called

"Facility Self-Protection Plans"), to be published by GSA at 41 CFR Part 101;

(3) An effective maintenance program in the Interagency Motorpool System which will ensure the safety and health of Federal employees utilizing the vehicles. Critical items to be included are: Exhaust systems, brakes, tires, lights, steering, and passenger restraint or other crash protection systems; and

(4) A rapid response system whereby agencies can alert GSA to unsafe or unhealthful items purchased or contracted for by GSA, which in turn will evaluate the reports, initiate corrective action, as appropriate, and advise use agencies of interim protective measures.

§ 1960.35 National Institute for Occupational Safety and Health.

(a) The Director of the National Institute for Occupational Safety and Health (NIOSH) shall, upon request by the Secretary, assist in: (1) Evaluations of Federal agency safety and health programs; (2) investigations of possible safety and health hazards and (3) inspections resulting from employee or committee reports of unsafe or unhealthful working conditions.

(b) The Director of NIOSH shall provide a Hazard Evaluation (HE) program for Federal agencies. This program shall be designed to respond to requests for assistance in determining whether or not safety or health hazards are present in a Federal workplace.

Requests for such Hazard Evaluations may be submitted to the Director by:

- (1) The Secretary of Labor;
- (2) The Head of a Federal agency;
- (3) An agency safety and health committee if half the committee requests such service; and

(4) Employees who are not covered by a certified safety and health committee.

(c) The Director of NIOSH may assist agencies by providing hazard alerts, technical services, training materials and conducting training programs upon request by an agency and with reimbursement.

Subpart F—Occupational Safety and Health Committees

§ 1960.36 General provisions.

(a) The occupational safety and health committees described in this subpart are organized and maintained basically to monitor and assist an agency's safety and health program. These committees assist agencies to maintain an open channel of communication between employees and management concerning safety and health matters in agency workplaces. The committees provide a method by which employees can utilize

their knowledge of workplace operations to assist agency management to improve policies, conditions, and practices.

(b) Agencies may elect to establish safety and health committees meeting the minimum requirements contained in this subpart. Where such committees are not established or fail to meet the minimum requirements established by the Secretary, the Secretary is authorized by section 1-401(i) of Executive Order 12196 to conduct unannounced inspections of agency workplaces when the Secretary determines them necessary.

§ 1960.37 Committee organization.

(a) For agencies which elect to utilize the committee concept, safety and health committees shall be formed at both the national level and, for agencies with field or regional offices, at appropriate levels within the agency. To realize exemption from unannounced OSHA inspections, an agency must form a committee at the national level and at any establishment or grouping of establishments that is to be exempt, keeping the Secretary advised of the locations and activities where such committees are functioning.

(1) The principal function of the national level committee shall be to consult and provide policy advice on, and monitor the performance of, the agency-wide safety and health program.

(2) Committees at other appropriate levels shall be established at agency establishments or groupings of establishments consistent with the mission, size and organization of the agency and its collective bargaining configuration. The agency shall form committees at the lowest practicable local level. The principal function of the establishment (or local) committees is to monitor and assist in the execution of the agency's safety and health policies and program at the workplaces within their jurisdiction. Any dispute over the meaning of the term "appropriate levels" shall be resolved by the Secretary.

(b) Committees shall have equal representation of management and nonmanagement employees, who shall be members of record.

(1) Management members of both national level and establishment level committees shall be appointed in writing by the person empowered to make such appointments.

(2) Nonmanagement members of establishment level committees shall represent all employees of the establishment and shall be determined according to the following rules:

(i) Where employees are represented under collective bargaining

arrangements, members shall be appointed from among those recommended by the exclusive bargaining representative;

(ii) Where employees are not represented under collective bargaining arrangements, members shall be determined through procedures devised by the agency which provide for effective representation of all employees; and

(iii) Where some employees of an establishment are covered under collective bargaining arrangements and others are not, members shall be representative of both groups.

(3) Nonmanagement members of national level committees shall be determined according to the following rules:

(i) Where employees are represented by organizations having exclusive recognition on an agency basis or by organizations having national consultation rights, some members shall be determined in accordance with the terms of collective bargaining agreements and some members shall be selected from those organizations having consultation rights, and

(ii) Where employees are not represented by organizations meeting the criteria of paragraph (b)(3)(i) of this section, members shall be determined through procedures devised by the agency which provide for effective representation of all employees.

(c) Committee members should serve overlapping terms. Such terms should be of at least two years duration, except when the committee is initially organized.

(d) The committee chairperson shall be nominated from among the committee's members and shall be elected by the committee members. Management and nonmanagement members should alternate in this position. Maximum service time as chairperson should be two consecutive years.

(e) Committees shall establish a regular schedule of meetings and special meetings shall be held as necessary; establishment level committees shall meet at least quarterly and national committees shall meet at least annually.

(f) Adequate advance notice of committee meetings shall be furnished to employees and each meeting shall be conducted pursuant to a prepared agenda.

(g) Written minutes of each committee meeting shall be maintained and distributed to each committee member, and upon request, shall be made available to employees and to the Secretary.

§ 1960.37 Committee formation.

(a) Upon forming such committees, heads of agencies shall submit information to the Secretary concerning the existence, location, and coverage, in terms of establishments and population, of such committees, certifying to the Secretary that such committees meet the requirements of this subpart. The information submitted should include the name and telephone numbers of the chairperson of each committee, and should be updated annually as part of the annual report required by § 1960.75 to reflect any changes that may have occurred.

(b) If, upon evaluation, the Secretary determines that the operations of a committee do not meet the requirements of this subpart, the Secretary shall notify the agency and identify the deficiencies to be remedied. If the agency does not satisfy the Secretary within 90 days that the committee meets the requirements of this subpart, the committee shall not be deemed a committee under Executive Order 12196 and this part.

§ 1960.39 Agency responsibilities.

(a) Agencies shall make available to committees all agency information relevant and necessary to their duties, except where prohibited by law. Examples of such information include, but are not limited to: The agency's safety and health policies and program; human and financial resources available to implement the program; accident, injury, and illness data; epidemiological data; employee exposure monitoring data; Material Safety Data Sheets; inspection reports; reprisal investigation reports; abatement plans; NIOSH hazard evaluation reports; and internal and external evaluation reports.

(b) Agencies shall provide all committee members appropriate training as required by subpart H of this part.

§ 1960.40 Establishment committee duties.

(a) The safety and health committee is an integral part of the safety and health program, and helps ensure effective implementation of the program at the establishment level.

(b) An establishment committee formed under this subpart shall, except where prohibited by law:

(1) Monitor and assist the safety and health program at establishments under its jurisdiction and make recommendations to the official in charge on the operation of the program;

(2) Monitor findings and reports of workplace inspections to confirm that appropriate corrective measures are implemented;

(3) When requested by the agency Safety and Health Official, or when the committee deems it necessary for effective monitoring of agency establishment inspection procedures, participate in inspections of the establishment;

(4) Review internal and external evaluation reports and make recommendations concerning the establishment safety and health program;

(5) Review, and recommend changes, as appropriate, to procedures for handling safety and health suggestions and recommendations from employees;

(6) When requested by the Designated Agency Safety and Health Official, or when the committee deems it necessary, comment on standards proposed pursuant to the provisions of Subpart C of this part;

(7) Monitor and recommend changes, as required, in the level of resources allocated and spent on the establishment safety and health program;

(8) Review agency responses to reports of hazardous conditions, safety and health program deficiencies, and allegations of reprisal;

(9) Report their dissatisfaction to the Secretary if half a committee determines there are deficiencies in the establishment's safety and health program or is not satisfied with the agency's reports of reprisal investigations; and

(10) Request the Secretary to conduct an evaluation or inspection if half the members of record are not satisfied with an agency's response to a report of hazardous working conditions.

§ 1960.41 National committee duties.

National committees established under this subpart shall, except where prohibited by law:

(a) Monitor performance of the agency safety and health program and make policy recommendations to the head of the agency on the operation of the program;

(b) Monitor and assist in the development and operation of the agency's establishment committees. As the committee deems appropriate, monitor and review: Reports of inspections; internal and external evaluation reports; agency safety and health training programs; proposed agency standards; agency plans for abating hazards; and responses to reports of hazardous conditions; safety and health program deficiencies; and allegations of reprisal;

(c) Monitor and recommend changes in the resources allocated to the entire agency safety and health program;

(d) Report their dissatisfaction to the Secretary if half a committee determines there are deficiencies in the agency's safety and health program or is not satisfied with the agency's reports of reprisal investigations; and

(e) Request the Secretary to conduct an evaluation or inspection if half the members of record are not satisfied with an agency's response to a report of hazardous working conditions.

§§ 1960.42-1960.45 [Reserved]

Subpart G—Allegations of Reprisal

§ 1960.46 **Agency responsibility.**

(a) The head of each agency shall establish procedures to assure that no employee is subject to restraint, interference, coercion, discrimination or reprisal for filing a report of an unsafe or unhealthful working condition, or other participation in agency occupational safety and health program activities, or because of the exercise by such employee on behalf of himself or herself or others of any right afforded by section 19 of the Act, Executive Order 12196, or this part. These rights include, among other, the right of an employee to decline to perform his or her assigned task because of a reasonable belief that, under the circumstances the task poses an imminent risk of death or serious bodily harm coupled with a reasonable belief that there is insufficient time to seek effective redress through normal hazard reporting and abatement procedures established in accordance with this part.

(b) Based on the Secretary's evaluation of agencies' procedures for protecting employees from reprisal, the Secretary shall report to the President by September 30, 1982 his findings and recommendations for improvements in procedures for the investigation and resolution of allegations of reprisal.

§ 1960.47 **Results of Investigations.**

Each agency shall keep occupational safety and health committees advised of agency activity regarding allegations of reprisal and any agency determinations thereof. Agency officials shall provide copies of reprisal investigation findings, if any, to the Secretary and to the appropriate safety and health committee.

§§ 1960.48-1960.53 [Reserved]

Subpart H—Training

§ 1960.54 **Training of top management officials.**

Each agency shall provide top management officials with orientation and other learning experiences which

will enable them to manage the occupational safety and health programs of their agencies. Such orientation should include coverage of section 19 of the Act, Executive Order 12196, the requirements of this part, and the agency safety and health program.

§ 1960.55 **Training of supervisors.**

(a) Each agency shall provide occupational safety and health training for supervisory employees that includes: supervisory responsibility for providing and maintaining safe and healthful working conditions for employees, the agency occupational safety and health program, section 19 of the Act, Executive Order 12196, this part, occupational safety and health standards applicable to the assigned workplaces, agency procedures for reporting hazards, agency procedures for reporting and investigating allegations of reprisal, and agency procedures for the abatement of hazards, as well as other appropriate rules and regulations.

(b) This supervisory training should include introductory and specialized courses and materials which will enable supervisors to recognize and eliminate, or reduce, occupational safety and health hazards in their working units. Such training shall also include the development of requisite skills in managing the agency's safety and health program within the work unit, including the training and motivation of subordinates toward assuring safe and healthful work practices.

§ 1960.56 **Training of safety and health specialists.**

(a) Each agency shall provide occupational safety and health training for safety and health specialists through courses, laboratory experiences, field study, and other formal learning experiences to prepare them to perform the necessary technical monitoring, consulting, testing, inspecting, designing, and other tasks related to program development and implementation, as well as hazard recognition, evaluation and control, equipment and facility design, standards, analysis of accident, injury, and illness data, and other related tasks.

(b) Each agency shall implement career development programs for their occupational safety and health specialists to enable the staff to meet present and future program needs of the agency.

§ 1960.57 **Training of safety and health inspectors.**

Each agency shall provide training for safety and health inspectors with

respect to appropriate standards, and the use of appropriate equipment and testing procedures necessary to identify and evaluate hazards and suggest general abatement procedures during or following their assigned inspections, as well as preparation of reports and other documentation to support the inspection findings.

§ 1960.58 **Training of collateral duty safety and health personnel and committee members.**

Within six months after October 1, 1980, or on appointment of an employee to a collateral duty position or to a committee, each agency shall provide training for collateral duty safety and health personnel and all members of certified occupational safety and health committees commensurate with the scope of their assigned responsibilities. Such training shall include: The agency occupational safety and health program; section 19 of the Act; Executive Order 12196; this part; agency procedures for the reporting, evaluation and abatement of hazards; agency procedures for reporting and investigating allegations of reprisal, the recognition of hazardous conditions and environments; identification and use of occupational safety and health standards, and other appropriate rules and regulations.

§ 1960.59 **Training of employees and employee representatives.**

(a) Each agency shall provide appropriate safety and health training for employees including specialized job safety and health training appropriate to the work performed by the employee, for example: Clerical; printing; welding; crane operation; chemical analysis, and computer operations. Such training also shall inform employees of the agency occupational safety and health program, with emphasis on their rights and responsibilities.

(b) Occupational safety and health training for employees of the agency who are representatives of employee groups, such as labor organizations which are recognized by the agency, shall include both introductory and specialized courses and materials that will enable such groups to function appropriately in ensuring safe and healthful working conditions and practices in the workplace and enable them to effectively assist in conducting workplace safety and health inspections. Nothing in this paragraph shall be construed to alter training provisions provided by law, Executive Order, or collective bargaining arrangements.

§ 1960.60 Training assistance.

(a) Agency heads may seek training assistance from the Secretary of Labor, the National Institute for Occupational Safety and Health and other appropriate sources.

(b) After the effective date of Executive Order 12196, the Secretary shall, upon request and with reimbursement, conduct orientation for Designated Agency Safety and Health Officials and/or their designees which will enable them to manage the occupational safety and health programs of their agencies. Such orientation shall include coverage of section 19 of the Act, Executive Order 12196, and the requirements of this part.

(c) Upon request and with reimbursement, the Department of Labor shall provide each agency with training materials to assist in fulfilling the training needs of this subpart, including resident and field training courses designed to meet selected training needs of agency safety and health specialists, safety and health inspectors, and collateral duty safety and health personnel. These materials and courses in no way reduce each agency's responsibility to provide whatever specialized training is required by the unique characteristics of its work.

(d) In cooperation with OPM, the Secretary will develop guidelines and/or provide materials for the safety and health training programs for high-level managers, supervisors, members of committees, and employee representatives.

§§ 1960.61-1960.65 [Reserved]**Subpart I—Recordkeeping and Reporting Requirements****§ 1960.66 Purpose, scope and general provisions.**

(a) The purpose of this subpart is to establish uniform requirements for the collection and compilation by agencies of occupational safety and health data, for proper evaluation and necessary corrective action and to assist the Secretary in meeting the requirement to develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics. The term "incident" as hereinafter used in this subpart, shall include all occupational injuries and illnesses.

(b) In order to perform his duties under section 19 of the Act and Executive Order 12196, particularly with respect to providing the President with current information about the Federal agency safety and health program, it is necessary that the Secretary be

promptly informed of serious incidents involving agency employees as provided in § 1960.70. Assistance to agencies in the investigation of such incidents is available pursuant to the provisions of Executive Order 12196 and this subpart.

(c) Each agency shall utilize the information collected through its management information system to identify unsafe and unhealthful working conditions, and to establish program priorities.

(d) The Department of Labor shall provide Federal agencies with the forms and instructions for meeting the recordkeeping and reporting requirements specified in §§ 1960.67, 1960.68, and 1960.69.

(e) The provisions of this subpart are not intended to discourage agencies from utilizing recordkeeping and reporting forms which contain a more detailed breakdown of information than the forms provided by the Department of Labor.

(f) Information required to be submitted to the Department of Labor by this subpart may be submitted on media processable by electronic data processing equipment provided that such media comply with the requirements of the Office of Federal Agency Safety and Health Programs, U.S. Department of Labor.

(g) Information concerning occupational injuries and illnesses or accidents which, pursuant to statute or Executive Order, must be kept secret in the interest of national defense or foreign policy, shall be recorded on separate forms. Such records shall not be submitted to the Department of Labor, but may be used by the appropriate Federal agency in evaluating the agency's program to reduce occupational injuries, illnesses and accidents.

§ 1960.67 Record or log of Federal occupational injuries and illnesses.

(a) Each Federal agency shall maintain a record or log of all recordable occupational injuries and illnesses for each establishment. Except as provided in § 1960.71 (b) and (c), the log is to be maintained at the establishment.

(b) Within six working days after receiving information on a recordable occupational injury or illness, appropriate information concerning such injury or illness shall be entered on the record or log. For this purpose, OSHA Form No. 100F, or its equivalent, shall be used and shall be completed in the detail required by that form and the instructions contained therein.

(c) As a minimum, any occupational injury or illness reported by an

employee on a Form CA-1 or CA-2 (except first aid cases) to the Office of Workers' Compensation Programs, Department of Labor, shall be considered recordable on the log.

§ 1960.68 Supplementary record of Federal occupational injuries and illnesses.

In addition to the record or log of Federal occupational injuries and illnesses provided for under § 1960.67, each Federal agency shall maintain a supplementary record for each occupational injury and illness. The record shall be completed within six working days after the receipt of information that a recordable occupational injury or illness has occurred. For this purpose, OSHA Form No. 101F, or its equivalent, shall be completed in the detail required by the form and the instructions therein.

§ 1960.69 Annual summaries of Federal occupational injuries and illnesses.

(a) Each Federal agency, on a calendar year basis, shall compile an annual summary of occupational injuries and illness for each reporting unit listed and submitted pursuant to § 1960.74. The summaries shall be based on the record or log of Federal occupational injuries and illnesses maintained pursuant to § 1960.67. OSHA Form No. 102F shall be used for this purpose, and shall be completed in the form and detail required by that form and the instructions contained therein.

(b) Each agency shall furnish the Department of Labor with a copy of its annual summaries compiled on the basis of reporting unit no later than 45 calendar days after the close of the calendar year.

§ 1960.70 Reporting of serious accidents.

(a) Within 48 hours after the occurrence of an employment accident, the head of the Federal agency shall report by telephone or telegraph to the Office of Federal Agency Safety and Health Programs:

(1) Any occupational accident which is fatal to one or more employees;

(2) Any occupational accident which results in the hospitalization of five or more employees;

(3) Any occupational illness which results in death;

(4) Any occupational accident involving both Federal and non-Federal employees which results in a fatality or the hospitalization of five or more such employees.

Accidents not immediately reportable, but which result in death within six months of the date of the accident, shall be reported within 48 hours of the time

the employer becomes aware of the death.

(b) The report shall relate the circumstances of the accident, names of individuals involved, any actions taken by the agency, the number of fatalities, and/or injuries and illnesses and the extent of any injuries. The Secretary may require such additional information in writing or otherwise, as he deems necessary.

§ 1960.71 Location and utilization of records and reports.

(a) The provisions of this section, dealing with the availability of information compiled pursuant to this subpart, are designed to guide agencies in providing agency employees and their representatives with the basic information necessary to assure that they can actively participate in an agency safety and health program. The provisions of this section are also designed to encourage agencies to allow agency safety and health inspectors to have direct access to the accident, injury and illness records of the establishments they are inspecting in order that they may better carry out their duties pursuant to subpart D of this part.

(b) The log and supplementary records required by §§ 1960.67 and 1960.68 shall be maintained at each establishment. Where, for reasons of efficient administration or practicality, an agency must maintain these records at a place other than at each establishment, such agency shall ensure that there is available at each establishment a copy of these records. These records shall be complete and as current as possible; in no case shall more than 45 days elapse after the recording of an illness or injury occurring in an establishment and the availability of records reflecting that injury or illness at that establishment.

(c)(1) For agencies engaged in activities such as agriculture, construction, transportation, communications, and electric, gas and sanitary services, which may be physically dispersed, the log and supplementary records, or copies thereof, may be maintained at a place to which employees report each day.

(2) For personnel who do not primarily report or work at a single establishment, and who are generally not supervised in their daily work, such as traveling employees, technicians, engineers, etc., the log and supplementary records, or copies thereof, may be maintained at the base from which personnel operate to carry out their activities.

(d) Each Federal agency shall post a copy of the annual summary of Federal

occupational injuries and illnesses for an establishment, as compiled pursuant to §§ 1960.67 or 1960.69, at such establishment, not later than 45 calendar days after the close of the calendar year, or otherwise disseminate a copy of the annual summary for an establishment in written form to all employees of the establishment. Copies of the annual summary shall be posted for a minimum of 30 consecutive days in a conspicuous place or places in the establishment where notices to employees are customarily posted. Where establishment activities are physically dispersed, the notice may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the notice may be posted at the location from which the employees operate to carry out their activities. Each Federal agency shall take necessary steps to ensure that such summary is not altered, defaced, or covered by other material.

(e) The head of each agency shall ensure access to establishment logs and annual summaries by establishment of Occupational Safety and Health Committees, and by that establishment's employees, former employees and employee representatives.

(f) Agency safety and health inspectors shall also have access to accident, injury and health records maintained under this subpart and in accordance with the provisions of § 1960.26(a)(1).

§ 1960.72 Access to records by Secretary.

The records required to be maintained under the provisions of this subpart shall also be available and made accessible to the Secretary or his authorized representative (including personnel of the National Institute for Occupational Safety and Health).

§ 1960.73 Retention of records.

The records and reports required to be maintained under the provisions of this subpart shall be retained by each agency for five years following the end of the calendar year to which they relate, at any location including a Federal record retention center, to which the Secretary or his authorized representative would have reasonable access. In addition, records required by OSHA standards shall be retained in accordance with those standards.

§ 1960.74 Identification of reporting units.

(a) Each Federal agency shall submit a new list identifying reporting units to the Department of Labor, ATTN: Office of Federal Agency Safety and Health Programs, no later than July 1, 1981, and

shall update the list as changes occur. The list shall contain the following information:

(1) The names and addresses of each Federal reporting unit which will be covered in the records and reports required by this subpart.

(2) A brief description of any differences between an agency's internal recordkeeping and reporting system and the recordkeeping and reporting system provided by this subpart, including differing forms.

(b) Any Federal agency created or reorganized after July 1, 1981 shall submit the above information within sixty working days of commencement of operations as a new entity.

§ 1960.75 Agency annual reports.

(a) The Act and E.O. 12196 require all Federal agency heads to submit to the Secretary an annual report on their agency's occupational safety and health program, containing such information as the Secretary prescribes.

(1) Each agency shall submit to the Secretary by April 1 of each year a report describing the agency occupational safety and health program of the previous calendar year, and objectives for the current year. The report shall include a summary of the agency's self-evaluation findings as required by § 1960.78(b).

(2) The Secretary shall furnish guidelines to agency heads by January 1 each year concerning the preparation of this report for the coming year.

(3) The agency reports shall be used in the preparation of the Secretary's report to the President.

(b) The Secretary shall submit to the President by October 1 of each year a summary report of the status of the occupational safety and health of Federal employees, based on agency reports, evaluations of individual agency progress and problems in correcting unsafe and unhealthful working conditions, and recommendations for improving their performance.

§ 1960.76-1960.77 [Reserved]

Subpart J—Evaluation of Federal Occupational Safety and Health Programs

§ 1960.78 Purpose and scope.

(a) The purpose of this subpart is to establish a comprehensive program for the evaluation of Federal employee occupational safety and health programs. This subpart includes the responsibilities of agency heads in conducting self-evaluations of the effectiveness of their occupational safety and health programs, and the responsibilities of the Secretary in

evaluating the extent to which each agency head has developed and implemented agency programs in accordance with the requirements of Executive Order 12196 and this part.

(b) Agency heads shall develop and implement a program for evaluating the effectiveness of their agency's occupational safety and health program. An annual summary report shall be submitted to the Secretary covering self-evaluations conducted during the previous year.

(c) The Secretary shall conduct a comprehensive evaluation of each Federal agency's occupational safety and health program. Evaluations shall be conducted on a regular schedule to determine the performance levels of each agency's program. The Secretary shall submit to the President each year: A summary report of the status of the occupational safety and health of Federal employees; Department of Labor evaluations, together with agency responses, of individual agency progress and problems in correcting unsafe and unhealthful working conditions, and recommendations for improving agency's performance.

§ 1960.79 Self-evaluations of occupational safety and health programs.

Agency heads shall develop and implement a program of self-evaluations to determine the effectiveness of their occupational safety and health programs. The self-evaluations are to include qualitative assessments of the extent to which their agency safety and health programs are:

(a) Developed in accordance with the requirements set forth in Executive Order 12196 and this part and,

(b) Implemented effectively in all agency field activities.

Agencies needing assistance in developing a self-evaluation program should contact the Secretary.

§ 1960.80 Secretary's evaluations of agency occupational safety and health programs.

(a) In accordance with section 1-401(h), the Secretary shall develop a comprehensive program for evaluation an agency's occupational safety and health program. To accomplish this, the Secretary shall conduct:

(1) A complete and extensive evaluation of all elements of an agency's occupational safety and health program on a regular basis;

(2) Special studies of limited areas of an agency's occupational safety and health program as deemed necessary by the Secretary; and

(3) Field reviews and scheduled inspections of agency workplaces as deemed necessary by the Secretary.

(b) The Secretary shall develop and distribute to Federal agencies detailed information on the Department of Labor's evaluation program. The information shall include, but is not limited to:

(1) The major program elements included in a complete and extensive evaluation of an agency's occupational safety and health program;

(2) The methods and factors used to determine the effectiveness of each element of an agency's program;

(3) The factors used to define "large" or "more hazardous" Federal agencies, establishments, or operations;

(4) The procedures for conducting evaluations including field visits and scheduled inspections; and

(5) The reporting format for agency heads in submitting annual summaries of their self-evaluation programs.

(c) Prior to the initiation of an agency evaluation, and Department of Labor will review the annual agency self-evaluation summary report. The Secretary will then develop a program evaluation plan before the initiation of an agency evaluation. A copy of the plan shall be furnished to the agency to be evaluated at the time of the notification of the evaluation.

(d) To facilitate the evaluation process and to insure full understanding of the procedures to be followed and the support required from the agency, the Secretary, or the Secretary's representative, shall conduct an opening conference with the agency head or designee. At the opening conference, the Secretary's authority and evaluation plan will be explained.

(e) The agency evaluation should be completed within 90 calendar days of the date of the opening conference.

(f) A report of the evaluation shall be submitted to the agency head by the Secretary within 90 calendar days from the date of the closing conference.

(g) Agency heads shall respond to the evaluation report within 60 calendar days of receipt of the report.

§ 1960.81-1960.83 [Reserved]

Subpart K—Field Federal Safety and Health Councils

§ 1960.84 Purpose.

(a) Executive Order 12196 provides that the Secretary shall "facilitate the exchange of ideas and information throughout the Government about occupational safety and health."

(b) Consistent with this objective, the Secretary will continue to sponsor and/

or provide guidance for those Field Federal Safety and Health Councils now established and in operation, and establish new field councils as necessary. The field councils will consist primarily of qualified representatives of local area Federal field activities whose duties pertain to occupational safety and health, and also of representatives of recognized local labor organizations, or other civilian employee organizations, at local area Federal field activities. For the purpose of this subpart the definition of field activity will be provided by each agency.

§ 1960.85 Role of the Secretary.

(a) The Secretary shall maintain liaison with agency heads to ensure that they encourage their field activities to participate actively in field council programs. To ensure maximum participation, the field councils' annual reports to the Secretary shall provide descriptions of the degree of management and employee participation by the defined Federal field activities. The Secretary shall annually furnish each agency head with a report consolidating the information received as to the participation of the agency's several field installations in field council activities.

(b) The Secretary shall provide leadership and guidance and make available necessary equipment, supplies, and staff services to the Field Federal Safety and Health Councils to assist them in carrying out their responsibilities. The Secretary shall also provide consultative and technical services to field councils. These services shall involve aid in any phase of developing and planning programs; and in sponsoring, conducting or supporting safety and health training courses.

§ 1960.86 Establishing councils.

(a) Those field councils established and in operation prior to the effective date of this subpart will continue to function without interruption provided they are operating in accordance with the provision of their charter and this subpart.

(b) The Secretary may establish a council in any area where ten or more Federal establishments totaling 300 or more employees are located within an area having a radius of 50 miles, and there is substantial agreement among the agencies that such a council would be useful. In any such area where there is no council already established, a field representative of the Secretary may, upon his own initiative or at the request of any establishment within the area, contact representatives of all

establishments within the area and encourage the organization of a field council.

(c) After a new council has been organized, officers elected, and articles of organization drafted and accepted by the council membership, a formal request for recognition as a field council shall be sent to the Secretary. Upon approval of the Articles of Organization, a charter will be issued.

(d) At the first general meeting of the council, committees should be appointed and the cooperation of all participants should be solicited to aid the functioning of committees and the successful accomplishment of the council's objectives.

§ 1960.87 Objectives.

The basic objective of field councils is to facilitate the exchange of ideas and information to assist agencies to reduce the incidence, severity and cost of occupational accidents, injuries, and illnesses. Field councils shall act on behalf of the Secretary or his designees on occupational safety and health activities in carrying out within their respective geographic areas the following functions:

(a) To act as a clearinghouse on information and data on occupational accidents, injuries, and illnesses and their prevention.

(b) To plan, organize and conduct field council meetings or programs which will give technical advice and information on occupational safety and health to representatives of participating agencies and employee organizations.

(c) To promote improvement of safety and health programs and organizations in each Federal agency represented or participating in council activities.

(d) To promote coordination, cooperation, and sharing of resources and expertise to aid agencies with inadequate or limited resources. These objectives can be accomplished in a variety of ways. For example, field councils could organize and conduct training programs for employee representatives, collateral duty and professional safety and health personnel, coordinate or promote programs for inspections, or, on request, conduct inspections and evaluations of the agencies' safety and health programs.

(e) To provide Federal Executive Boards, Federal Executive Associations, labor union organizations and other employee representatives with information on the administrative and technical aspects of safety and health programs.

(f) To evaluate the safety and health problems peculiar to local conditions

and facilitate solutions to these problems through council activities.

(g) To develop a cooperative relationship with local community leaders by informing them of the existing functions and objectives of the council and by calling on them for support and participation in council meetings and activities.

§ 1960.88 Membership and participation.

(a) Each field council shall consist of the designated representatives of local Federal activities appointed by their respective activity heads, after consultation with appropriate employee representatives and appropriate certified safety and health committees.

(b) Federal agency heads should encourage each field activity having responsibility for the safety and health of agency employees to participate in the programs of these councils.

(c) Each activity head shall appoint an equal number of officially designated representatives (with designated alternates), from management and from nonmanagement employees, consistent with applicable collective bargaining arrangements.

(d) Representatives shall be selected from individuals in the following categories:

(1) Federal occupational safety and health professionals.

(2) Related Federal professionals, or collateral duty personnel. This includes persons employed in professions or occupations related to or concerned with safety and health of employees.

(3) Line management officials.

(4) Representatives of recognized Federal labor or other employee organizations.

(i) Where certified occupational safety and health committees exist, nonmanagement members of the committees shall be given the opportunity to select one individual for official appointment to field councils by the activity head.

(ii) Where employees are represented by collective bargaining arrangements, but no committee exists, nonmanagement members of field councils shall be selected from among those recommended by the exclusive bargaining representatives for official appointment to field councils by the activity head.

(iii) Where some employees in an activity are represented by collective bargaining arrangements and others are not, the agency head should solicit nominations for the agency's designated nonmanagement representative and alternate both from lawful labor organization(s) with collective bargaining status and from employees

not represented through collective bargaining and should select from the nominees for official appointment as designated employee representatives on the field council.

(e) Representatives from non-Federal organizations. Associate membership may be granted to any non-Federally employed person who demonstrated interest in occupational safety and health. An associate member has no voting rights and may not hold any office.

(f) No maximum limitation shall be imposed by a council on itself, in regard to the numbers of personnel in any of the above categories that may attend meetings and/or participate in field council activities. An agency is free to have any number of individuals, in addition to the officially designated representatives participate in council activities.

(g) Only officially designated agency representatives or their alternates shall have voting privileges. All representatives and participants shall serve without additional compensation.

(h) Travel funds shall be made available equally to management and nonmanagement employee representatives.

§ 1960.89 Organization.

(a) Field council officers shall include, as a minimum, a chairperson, vice chairperson, and secretary. Officers shall be elected for a one or two-year term on a calendar year basis by a majority vote of the designated representatives. Election of officers shall be held at least 60 days before the beginning of a calendar year. The election may be conducted at a regularly scheduled meeting or by letter ballot.

(b) Each council shall notify the appropriate OSHA Regional Office and the Office of Federal Agency Safety and Health Programs of the name, agency address, and telephone number of each newly elected official.

(c) Each council shall have an Executive Committee consisting of all elected officers, chairpersons of appointed committees and the immediate past chairperson of the field council.

(d) In addition to the Executive Committee, each council shall have either a membership committee, a program committee and a finance committee, or a council official designated responsibility in these areas. Additional committees may be appointed by the chairperson for specific purposes as warranted.

§ 1960.90 Operating procedures.

(a) The Executive Committee of each council shall meet at least 45 days before the beginning of each calendar year to approve an annual program for the council designed to accomplish the objectives and functions stated in § 1960.87. In addition, the Executive Committee shall meet periodically to ensure that the meetings and other activities of the council are being conducted as outlined in the council schedule.

(b) The council program shall include at least four meetings or activities per year dealing with occupational safety and health issues.

(c) Each field council shall submit to the Secretary or his designee by March 15 of each year a report describing the activities and programs of the previous calendar year and plans for the current year. In addition, the report shall address the participation and attendance of designated representatives of the council. The Office of Federal Agency Safety and Health Programs, OSHA, shall furnish guidelines to field councils concerning the preparation of this report.

(d) Upon determination that a council is not operating in accordance with its charter and the provisions of this subpart, and after consultation with appropriate OSHA regional officials, the Secretary shall revoke the council's charter. Upon revocation of a charter, the council shall surrender all its government property to the appropriate OSHA regional official. Any continuing or future organization in the same geographical area shall not use the title Field Federal Safety and Health Council, or any derivation thereof, unless formally rechartered by the Secretary. Notification of revocation of a council's charter shall be sent to the chairperson, where identifiable, and to the appropriate OSHA Regional Office.

§ 1960.91 [Reserved]

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