

North Carolina PSM Compliance Inspections to Quadruple

Process Safety Management (PSM) rules have been in place for approximately one year. A recent review of North Carolina OSHA's compliance inspection activities has found that PSM compliance varies widely among companies. Some employers have completed PSM plans with only minor deficiencies, while others that have completed PSM plans have not yet implemented them. In addition, numerous facilities have attempted to claim ignorance regarding PSM rules and the standard's application towards improving worker safety associated with the use of "highly hazardous chemicals."

Through May 1998, NC OSHA has focused its PSM compliance efforts on chemical and related industries. However, **enforcement and inspection efforts associated with PSM compliance** are projected to **quadruple** in North Carolina within the next year alone. NC OSHA will soon be targeting **all industries** impacted by PSM regulations. These industries will be identified by utilizing publicly available hazardous chemical inventory information generated annually under SARA Title III Section 311. NC OSHA will attempt to visit **all** employers requiring a PSM permit **before the end of 1998**.

NC OSHA compliance officers **are no longer accepting ignorance** of the PSM standard as an excuse. NC OSHA contends that the generous four-year PSM phase-in period which ended over a year ago (with 25% of Process Hazard Analyses to be completed each year of the phased implementation period beginning in 1993 and ending in 1997) has provided more than adequate time to understand and implement PSM compliance. Penalties for exceeding threshold pollutant levels without the preparation/ implementation of a workable PSM program are approaching \$500,000.

NC OSHA has found that operations with especially poor PSM compliance tend to be smaller employers. Representative examples include small communities that utilize bulk chlorine for disinfection of their own water or wastewater and organizations utilizing anhydrous ammonia in large refrigeration units, such as poultry, hog and other food processors.

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NC OSHA officials offer several tips for developing a successful PSM Plan:

- Develop accurate Piping and Instrumentation Diagrams (P & IDs) – these are the cornerstones in the assessment of a process regulated under PSM.
- Keep the PSM plan simple - the Mechanical Integrity Program and Management of Change can quickly become cumbersome, making improvement in safety practices and PSM compliance unnecessarily difficult to achieve.
- Obtain adequate support for PSM implementation from the management of your organization. PSM compliance must have a strong commitment from top management.

For additional information on PSM regulations, or for a list of highly hazardous chemicals regulated by PSM, see EI Alert Articles Vol. 5, No. 11 “Beginning Compliance with PSM”, Vol. 6, No. 1 “OSHA 29 CFR 1910.119 - Utilizing Process Information to Develop a Comprehensive Hazard Analysis”, and Vol. 6, No. 5 “PSM – An Inclusive Regulation Encompassing Numerous OSHA Standards”.

OSHA Proceeds with Aggressive Alternative Inspection Strategy

While the U.S. Occupational Safety and Health Administration (OSHA) awaits the court's decision on its Cooperative Compliance Program (CCP), the agency has temporarily returned to an aggressive program of traditional workplace inspections - 3,300 worksites in 99 industries have been targeted based on injury and illness data, and inspections of these worksites have begun. OSHA's Head, Charles Jeffress, called this interim strategy a “second-best, but necessary step” for the continued protection of American workers.

Under the CCP, targeted sites are not notified prior to a wall-to-wall inspection under the interim plan. The inspection, which may be conducted by a team of health and safety experts, is composed of a visual inspection of each section of the facility and an examination of equipment maintenance, followed by the issuance of citations and penalties for any violations.

OSHA Directive Clarifies HAZCOM Inspection Procedures

An article in a previous *EI Alert* Vol. 8, No. 5 discusses electronic access to material safety data sheets (MSDSs), as addressed by OSHA's recent HAZCOM directive. Other problem areas in the HAZCOM standard for example, OSHA's policy on citing consumer product violations, have been clarified as follows:

- When a consumer product is used in a manner that is inconsistent with the manufacturer's intended use, a citation will be issued.
- When personal exposure to a consumer product is found to be excessive in frequency and/or duration, as compared to use by the average consumer, a citation will be issued.
- A citation will list the specific substance in the consumer product that is hazardous, rather than listing the finished product.

The directive's appendices also contain guidance for employers on compliance issues, such as labeling, MSDS preparation, as well as written hazard communication and training programs.

OSHA's HAZCOM standard is the most **frequently cited standard**, with citations **most often** being issued for **failure to have a written program**. Other frequently cited HAZCOM violations include inadequate training, the lack of a written emergency plan and the absence of a personal protective equipment hazard assessment. OSHA officials hope the new directive will help reduce HAZCOM violations and improve safety.

OSHA Broadens Preparedness Requirements for HAZWOPER - Is your Facility Ready for a Compliance Inspection?

OSHA's latest effort to improve worker health and safety places a heightened emphasis on preparedness. The directive to the HAZWOPER (Hazardous Waste Operations & Emergency Response) standard strengthens protection for firefighters and other responders to hazardous substance emergencies through a stricter, more adequate training and planning requirement.

During an inspection for HAZWOPER compliance, OSHA officers must **now contact the company's local fire department** to confirm notification by the employer concerning the company's emergency response plan. The new directive also requires the coordination of two backup personnel outside each hazardous area in an emergency response, similar to requirements in the revised respiratory protection standard.

It is essential for an employer to coordinate with firefighters and other local emergency response personnel to ensure preparedness on both sides in the event of an emergency. Without awareness of the proper training and equipment necessary to combat potential hazardous substance emergencies, an emergency situation is likely to prove even more detrimental to both the company and the response workers.

This directive clarifies a memorandum regarding compliance with the HAZWOPER standard that was issued on October 30, 1996, in response to a chemical plant emergency in which five emergency response workers, some of whom were inadequately trained and equipped, were killed.

Low Spending by DAQ Leads to Rebates for NC's Title V Facilities

After operating an efficient air quality program last year, the North Carolina Division of Air Quality (DAQ) is now refunding 21 percent of its 1997 collection of air quality permit fees. Rebates will total more than \$1.6 million, ranging from

\$1,100 to \$49,000 for the state's largest sources of air pollution, required under the federal Clean Air Act to maintain Title V permits.

DAQ Title V expenditures, which include facility compliance inspections, permitting, and complaint investigation, totaled approximately \$6.6 million in 1997, while about \$7.7 million was collected. North Carolina's Title V fee rate is about 22 percent less than that recommended by the Clean Air Act. Thus, the DAQ is pleased with its program's performance.

Facilities are required to maintain Title V permits if:

- The facility emits at least 100 tons per year of criteria air pollutants; or
- The facility emits at least 10 tons per year of any one hazardous air pollutant; or
- The facility emits at least 25 tons per year of any combination of hazardous air pollutants.

New Analytical Requirements For Surface Releases

As of June 1, 1998, the new sampling requirements are in effect for releases to the ground surface (not UST related) of petroleum and hazardous substances. This change only affects releases reported after June 1, 1998. Releases reported prior to this date are still covered under former sampling requirements outlined in the March 1997 guidance document. This change has been executed in order to implement Risk-Based Corrective Action (RBCA) standards for site remedial activities.

Additional information concerning this change and other regulatory requirements for soil and groundwater assessment and remedial activities may be found in *EI Alert Vol. 8, No. 4 "New RBCA Rules for Petroleum USTs"*.

Four Tips for Avoiding OSHA Lockout/ Tagout Fines

- Establish a formal, written lockout/tagout procedure for each piece of machinery.
- Apply the lock at the exact best location. Consider all possible alternative locations, because you may have to justify your choice to the next OSHA inspection team.
- Train your workers to follow established written procedures exactly. OSHA inspectors have been known to interrogate maintenance workers to check their familiarity with established procedures.
- Consider lockout/tagout for alternate energy sources, including mechanical, hydraulic, thermal, pneumatic, chemical, water under pressure, gravity, and even stored energy.

NC May Be Model for Tougher Federal Whistleblower Regs

Federal OSHA administrator Charles Jeffress is on a mission to strengthen federal regulations meant to protect workers known as “whistleblowers,” who report safety hazards. He believes that North Carolina’s safeguards for whistleblowers resulted in lower injury and illness rates during his former tenure while overseeing North Carolina’s OSHA program. Jeffress is determined to generate similar results nationwide.

Jeffress asserts that present federal standards are ineffectual when it comes to protecting workers who report safety hazards, as many of these employees are ultimately discharged from their jobs. He says that not only do stricter laws need to be developed, but current laws must also be better enforced.

North Carolina’s whistleblower laws were revised in 1993 to make it easier for employees to take legal action against employers and continue to be compensated.

Governor Hunt Puts Water Quality 1st in 1998

Governor Hunt has made water quality his top environmental priority with a \$34.9 million clean water initiative as pfiesteria and water pollution continue to threaten North Carolina’s waters. In addition to the state’s current issues surrounding water quality comes the latest threat – scientists have predicted this summer and next fall to be a particularly harsh season for fish as a result of excessive rainfall, creating conditions in which oxygen-depleting algae can flourish.

Governor Hunt’s plan to restore and protect North Carolina’s rivers, streams and estuaries focuses on methods of prevention, detection and response. The clean water budget constitutes more than one-third of the total environmental budget. Funds will be distributed as follows:

\$3.1 million – River Basin Management

\$8.1 million – Monitoring, Research, and Fish Kill Response

\$8.3 million – Reduce Nonpoint Pollution

\$11.5 million – Improve Compliance with Water Quality Laws

\$4.1 million – Improve Marine Fisheries Management

North Carolina & California among the First to Develop State Ergonomics Standard

While it is uncertain when a Federal ergonomics standard will be implemented, the North Carolina Department of Labor has declared its intention to develop a state standard. The NC Ergonomics Center has already provided the agency with large quantities of ergonomic data, and the aggressive planning process has begun. NC OSHA is currently in the preliminary stages of developing a state ergonomics program, modeled after ANSI guidelines.

Federal OSHA's proposed basis for a future ergonomics standard was first unveiled in February 1998. The strengths of their proposed outline focused on a less formal standard, with employers and employees working together, thereby creating the freedom for employers to tailor ergonomic programs to their particular workplace. Unfortunately, this flexibility may not provide enough guidance, making interpretation of compliance measures by employers with ergonomic guidelines unnecessarily difficult.

It is certain, however, that Federal OSHA has kept its promise to narrow the scope of the rule. Only three processes will fall under the standard:

- Manufacturing
- Intensive keyboarding
- Manual handling of materials in general industry and handling of patients in health care.

Unfortunately, these activities are broadly used in many industrial, institutional and business settings. The inclusion of intensive keyboarding is especially controversial, because it is required for the operation of almost all companies. Repetitive stress injuries (RSIs) frequently occur during intensive and chronic word processing, and are exacerbated by poor sitting posture and hand position over extended periods of time.

The Center for Office Technology, representatives for keyboard manufacturers, opposes this new proposed standard. They feel that keyboard operations are unfairly targeted, because if keyboards caused injuries, then the explosion in home computers and Internet use would contribute to excessive ergonomic claims.

According to OSHA, ergonomics programs are the best way to reduce RSIs. OSHA requires the following basic elements for the reduction of RSIs:

- Hazard identification and assessment
- Hazard prevention/control training
- Medical management
- Management commitment and employee participation
- Program evaluation

North Carolina companies have had successful ergonomics programs in place for years. In 1991, Perdue Farms started an ergonomics program that was so successful that it was later expanded to all of its facilities nationwide. Companies across the state can benefit from similar ergonomics programs that prevent injuries and save millions in workers' compensation claims.

Confined Space Regs Are About to Get Tighter: What are Your Options?

OSHA will be issuing tougher standards for permit-required confined spaces in the coming months. Here are three ways to comply with OSHA's new rules:

- **Develop a Written Permit - Required Confined Space Program** - This includes written procedures, permits, and provisions for sufficient employee training, an attendant, an entry supervisor, and testing and rescue procedures.
- **Mitigate for the Hazards** - Safety improvements that help control hazards must be documented; write a mini-program to establish procedures and employee guidelines; ensure that employees complete the necessary training and certification.
- **Limit Access to the Confined Spaces** - As a last resort, companies can avoid the new standards by closing off employee access to a confined space. As long as employees do not enter a confined space, OSHA does not require any programs.

Stormwater Permit Fees to Change

In an effort to simplify the fee structure for annual stormwater discharge permits, the North Carolina Department of Environment and Natural Resources (NCDENR), Division of Water Quality (DWQ) has proposed the following increased fee structure:

- Annual fees for all Major Individual NPDES Permits increased to \$2,865 (current fees range from \$900 to \$1,500)
- Annual fees for all Minor Individual NPDES Permits will be set at \$715 (current fees range from \$450 to \$800)
- Annual fees for Stormwater and Wastewater Discharge General Permits remain at \$80
- Annual fees for Major Nondischarge Permits will be set at \$1,090 (current fees range from \$450 to \$1,500)
- Annual fees for Minor Nondischarge Permits increased to \$675 (current fees range from \$300 to \$600)

Fees are currently assessed every five years. The annual amount is shown for comparison purposes.

Responsibility for North Carolina's UST Programs Transferred to DWM

As of July 1, 1998, North Carolina's underground storage tank (UST) program has been transferred from the Division of Water Quality (DWQ) to the Division of Waste Management (DWM). DWM has indicated that regulations and procedures related to the registration of USTs and

the assessment and remediation of releases from USTs will remain unchanged.

Ozone Forecasts Begun in NC

Similar to other metropolitan areas across the US, ozone forecasts are now being issued for Charlotte and the Triangle area as part of the Division of Air Quality's Air Awareness Program. Residents of these areas are asked to participate in an effort to limit air pollution on high ozone days by carpooling or using public transportation to get to work, limiting driving in general and utilizing other methods such as conserving electricity and postponing lawn mowing until evening hours.

Ozone levels are forecasted using four code categories - green, yellow, orange, and red. Code green signifies low ozone, while code red signifies high ozone. Those most likely to be affected by ozone include children and adults who are active outside, the elderly and individuals with respiratory ailments, such as asthma and emphysema. However, everyone should limit outdoor activity on high ozone levels days, which are most likely to occur on hot, sunny days with little to no wind activity.

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