

Public Law 91 - 596

The Occupational Safety and Health Act

Questions and Answers for Michigan

Farmers Who Employ Labor

Michigan State University

Cooperative Extension Service

EVERY FARMER who hires labor is now legally responsible for assuring safe and healthful working conditions.

Effective since April 28, 1971, U. S. Public Law 91-596 (the Williams-Steiger Occupational Safety and Health Act) sets forth four general employer responsibilities regarding workers' safety. These are:

--compliance with Federal agricultural safety standards (currently the slow moving vehicle emblem, anhydrous ammonia application equipment, pulpwood logging and temporary labor housing).

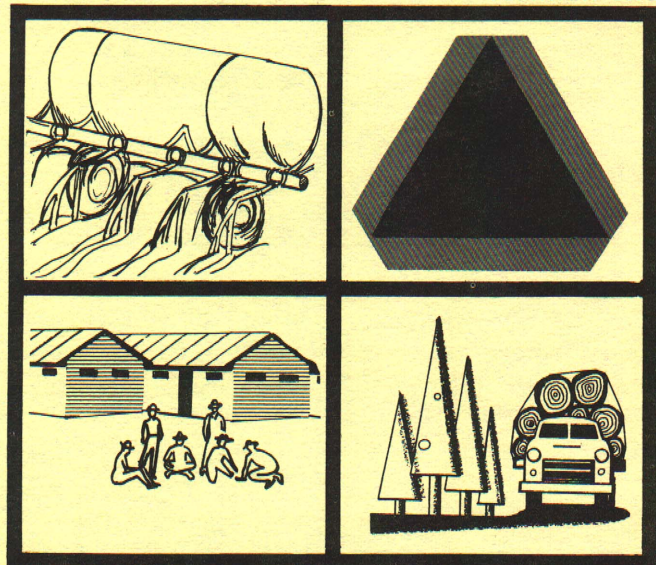
--keeping records on occupational accidents and illness.

--providing safety information to employees.

--cooperating with U. S. Department of Labor safety inspectors.

Revisions in the federal Occupational Safety and Health Act (OSHA) can be expected as the U. S. Department of Labor and farmers gain experience in working under OSHA provisions. Also, farmers can expect more safety standards for agricultural labor.

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Below are 34 questions with answers based on information as of **February 1, 1972**. Check with your County Extension Office for the latest information on OSHA. This information is intended to serve as general guidelines and should not be considered as advice in connection with a specific situation.

1. What is the purpose of OSHA?

To assure safe and healthful working conditions for employees.

2. Who is covered by OSHA?

Farmers who employ one or more persons, part time or full time, are definitely covered. The law applies to every employer engaged in a business that affects commerce. It excludes only federal, state or other political subdivision employees.

3. What general safety duties does a farmer have?

The farmer who employs labor is responsible for furnishing work and work places free from recognized hazards likely to cause serious physical harm; and he must comply with the safety and health standards issued for agriculture. Most farmers have been concerned with this duty but OSHA demands responsibility as well as concern and subjects the employer to penalties if he fails to comply.

4. What are the employee's responsibilities?

Each employee has the duty to comply with safety and health standards and all rules, regulations, and orders issued relative to creating a safe work place. However, he is not subject to fines for non-compliance, as is the employer.

5. What are the standards established under OSHA?

Occupational safety and health standards consist of rules that help safeguard the worker by listing equipment and practices associated with accident prevention. At the present time the U. S. Secretary of Labor has declared four specific OSHA standards that apply to agriculture.

6. What are the four OSHA standards for agriculture?

The four OSHA standards in agriculture are concerned with, (1) the SMV emblem, (2) anhydrous ammonia, (3) pulpwood logging and (4) housing in labor camps.

7. What is the SMV emblem standard?

The SMV (slow moving vehicle) emblem must be displayed on all slow moving machinery operated on the public road. Michigan law requires this emblem on farm machinery whether used by farm employees or family members. Most farmers have made the proper placement of SMV emblems on their machinery when it is on the roadway and therefore are now in compliance with OSHA standards.

8. What is the anhydrous ammonia standard?

The OSHA standard on anhydrous ammonia handling is largely an equipment standard. In Michigan, dealers supply most of the anhydrous ammonia application equipment. Compliance with this standard is required when employees are using application equipment, but safety is just as important to the farmer and his family. Therefore, farmers should ask suppliers to certify that equipment meets occupational safety and health standards set by the U. S. Department of Labor. If a supplier has application equipment that does not meet the standard, he would appear to be somewhat negligent by providing sub-standard equipment for use by farmers.

9. What about using sub-standard equipment?

You violate federal law if you allow employees to use anhydrous ammonia equipment that does not meet OSHA standards. Find a supplier who has equipment that meets OSHA standards.

10. What if I own my own equipment?

Check to see that your anhydrous ammonia application equipment meets the OSHA standard. If it does, then employees can use it. If it does not meet standards, you must bring it up to standard or use it only yourself on your own farm.

11. What is the pulpwood logging standard?

Whenever a farmer employs labor in pulpwood logging operations, he must comply with standards. OSHA specifications are set forth in the Safety and Health Standards for Agriculture booklet of the U. S. Department of Labor.¹ Michigan also has an occupational safety law covering pulpwood logging.² Michigan farmers who hire labor for pulpwood logging must meet these standards.

12. What is the standard for housing in labor camps?

You must get a license from the Michigan Department of Health to operate a labor camp. Requirements for licensing are based on a 1968 U. S. Department of Labor standard on housing agricultural workers. On Jan. 18, 1972, the Federal Register proposed that this standard be an acceptable OSHA standard and invited written responses to this proposal. If this proposal is accepted without alteration, housing which meets requirements of the 1968 U. S. Department of Labor standard and is licensed by the Michigan Department of Health would comply with OSHA standards.

An alternative course of action would be to comply with Labor Camp Standards published in "Safety and Health Standards for Agriculture" referred to in Question 11, as well as to meet licensing requirements of the Michigan Department of Health.

13. Can my farm be inspected?

Yes. U. S. Labor Department Compliance Offices may inspect any industry, including farms. Inspectors may inspect buildings, machines or work areas on any farm employing labor. The inspector may also privately question the employer or employees. The farmer and an employee representative can accompany the inspector during the inspection. Conscientious farmers are on the lookout for unsafe conditions and correct them for their own personal safety as well as their families and employees. The possibility of inspection should not be as intimidating to farmers who are doing their best to make agriculture a safe place to work.

¹See Question 33 for address.

²Available from the Michigan Department of Labor, Department of Labor Building, 300 E. Michigan, Lansing, Michigan 48913.

14. What if an inspector finds something unsafe on my farm?

If he discovers a safety violation or a condition of imminent danger, he will issue a written citation describing the violation and the proposed penalty, if any (not to exceed \$1,000). A citation sets a specific time for correction and it must be posted where all employees will see it. For example, a piece of machinery that did not have the slow moving vehicle (SMV) emblem on it while being used on the roadway by an employee could be cited as a violation and a fine could be levied against the employer (farmer, contractor, etc.).

15. What is an imminent danger?

This is a situation which could reasonably be expected to cause death or serious physical harm. This might include such things as a man working near an unguarded PTO or cleaning a corn picker while it is running. If imminent dangers exist and accidents are likely to happen, the Federal Safety Inspector can inform employees of this danger and all such work may be stopped by order of a U. S. District Court.

16. Can I appeal a citation issued by an inspector?

Yes. Farmers can appeal a citation by notifying the Department of Labor Office, listed in Question 34, within 15 working days after receiving the citation.

17. What happens if I don't correct an unsafe condition that I have been cited for?

If you fail to correct the situation in the time provided, the Department of Labor may notify you by certified mail of such failure and of the additional fine or penalty (not to exceed \$1,000 for each day the failure to comply continues). In addition, willful violation (i. e., failure to use the slow moving vehicle emblem, after being cited for the violation) by an employer which results in the death of any employee is punishable by a fine of up to \$10,000 or imprisonment up to 6 months.

18. Who will be cited if an inspector observes an employee flagrantly disregarding instructions to use the protective devices provided?

The employer. It is his responsibility to see that the employee complies with regulations. An employer can specify safety practices as a condition of employment based on the employee's duties noted in Question 4.

19. When can farmers expect inspectors to begin visiting farms?

No definite date is set. U. S. Labor Department

inspectors may enter without delay and at any reasonable time.

20. Can I invite a state department of labor consultant to my farm to help identify and correct potential hazards?

Not at this time, as they have no jurisdiction under OSHA. (A proposal has been made that the Michigan Department of Labor administer the federal OSHA.)

21. Can employees file safety complaints?

Yes. Any employee who believes that a violation of a job safety or health standard exists may request an inspection by sending a signed written notice to the U. S. Department of Labor. The farmer must not harass an employee who files a complaint and request. Action can be brought against an employer by the U. S. District Court for appropriate relief to an employee who has been harassed.

22. What are the recordkeeping requirements?

Every farmer who employs labor is required to keep certain records and make them available upon request of the U. S. Department of Labor or Department of Health, Education and Welfare. Farmers must maintain accurate records of work-related deaths, injuries and illnesses.

23. What is a work-related injury or illness?

This is any injury to an employee involving medical treatment, loss of consciousness, restriction of work or motion or transfer to another job. The employer must keep a record of this type of injury. Minor injuries requiring only first aid treatment need not be recorded. Accidents to family members need not be recorded unless they are paid cash wages.

24. How many records must I keep?

There are three recordkeeping areas: (1) log of recordable occupational injuries and illnesses,³ (2) a supplementary record of each injury and illness, and (3) a yearly summary. Details of how these are kept are outlined in the bulletin, "Recordkeeping Requirements" from the U. S. Department of Labor. These records are designed primarily for non-agricultural industries.

25. If the recordkeeping forms are designed primarily for industry, why must farmers keep them?

Hearings are being held concerning these record-

³See sample on next page.

LOG OF OCCUPATIONAL INJURIES AND ILLNESSES

Case or file no.	Date of injury or initial diagnosis of illness. If illness was made after first day of absence enter first day of absence. (mo./day/yr.)	Employee's Name (First name, middle initial, last name)	Occupation of injured employee at time of injury or illness	Department to which employee was assigned at time of injury or illness	DESCRIPTION OF INJURY OR ILLNESS		EXTENT OF AND OUTCOME OF INJURY OR ILLNESS				
					Nature of injury or illness and part(s) of body affected (Typical entries for this column might be: Sprain of right forearm; Contact dermatitis on both hands; Electrocution—body)	Injury or illness code See codes at bottom of page.	Fatalities Enter date of death (mo./day/yr.)	Lost Workday Cases If, after, last work day was permanently transferred to another job or was terminated, enter a check in the column below	Nonfatal Cases Without Lost Workdays If no entry was made in columns 8, 9, or 10, enter a check in column 11 If a check in column 11 represented a transfer or termination, other than first aid, or treatment, other than first aid, or diagnosis of occupational illness, enter another check in column 12		
1	2	3	4	5	6	7	8	9	10	11	12

SAMPLE FORM

Company Name -----

Establishment Name -----

Establishment Location -----

Injury Code
10 All occupational injuries

Illness Codes
21 Occupational skin diseases or disorders
22 Dust diseases of the lungs (pneumoconioses)
23 Respiratory conditions due to toxic agents
24 Poisoning (Systemic effects of toxic materials)
25 Disorders due to physical agents (other than toxic materials)
26 Disorders due to repeated trauma
28 All other occupational illnesses

keeping forms for agriculture and there is a possibility improvements will be made in design or use. But at this time farmers are required to use the forms used by other businesses.

26. Who is responsible for recordkeeping on a rented or leased farm?

The tenant must keep records if he hires employees. However, if the tenant is an employee of the land owner, the land owner would keep accident records.

27. If I exchange labor with my neighbor by sending my hired man to help him, do we both have to keep records?

If you turn over control of the employee to your neighbor, the neighbor must keep records. If you maintain control and direct your employees for your neighbor, you continue to keep records.

28. Who reports and records injuries or illnesses of persons doing custom work?

Where a custom operator agrees to do a specific job for a specific price, he is a contractor and must do the recordkeeping for his employees.

29. What future standards should farmers expect?

The following general categories will probably be considered: (a) Tractor and machinery noise limits (ear protection may be required); (b) Tractor overturn protection; (c) Structures, stairways, ladders, scaffolds, platforms, etc.; and (d) Guards and shields around belts, chains and all other power transmissions.

30. What are some common safety precautions that will eliminate farm hazards?

- a. Read and follow safety practices listed in operator's manuals.
- b. Establish work safety policies for all employees, such as:
 - (1) No riders on machinery except the operator.
 - (2) All shields kept in place and operative.
 - (3) Every machine stopped before it is repaired, adjusted, lubricated or unplugged.
 - (4) SMV emblem always used on tractors or machinery on public roads.
- c. Maintain ladders, stairways, power tools, and other equipment in safe working order.

d. Pick up and clean up on all junk and debris in and around buildings. This not only prevents accidents, but reduces fire loss possibilities.

e. Install grounded 110-volt outlets in the shop, garage, and other locations so that the 3-prong grounded 110-volt plugs can be used. This will help prevent shock from portable tools and equipment.

31. Why should I be concerned about safety on my farm?

A program that decreases the number of accidental injuries and illnesses also reduces the need for more safety and health standards imposed by the government. It also reduces workman's compensation insurance premiums. Safety pays dividends in many ways in addition to avoiding fines for non-compliance!

32. How do I inform employees about OSHA?

The poster entitled "Safety and Health Protection on the Job"⁴ located in the center of the "Recordkeeping Requirements" booklet must be put up where employees can see it. This might be in the farm shop, machinery storage area or some other place where employees work or report for work. Simply remove the poster from the center of the book and nail it to the wall or put it on a bulletin board.

33. Where can I get the forms and booklets?

The bulletin entitled, "Safety and Health Standards for Agriculture" containing the four OSHA standards that apply to agriculture and the booklet on "Recordkeeping Requirements" are available by writing:

U. S. Department of Labor
Bureau of Labor Statistics
300 South Wacker Drive
Chicago, Illinois 60606
(Phone (312) 353-7253)

34. To whom can I write a specific question about my farming situation?

Additional information concerning OSHA may be obtained by writing to either of the following:

E. E. Estkowski
Region V, OSHA
U. S. Dept. of Labor
300 S. Wacker Dr.
Chicago, Ill. 60606
(Ph. (312) 353-4716)

Earl Krotzer
Area Director, OSHA
U. S. Dept. of Labor
220 Bagley Ave.
Detroit, Mich. 48226
(Ph. (313) 226-6720)

⁴See sample on the back of this bulletin

SAFETY AND HEALTH PROTECTION ON THE JOB

The Williams-Steiger Occupational Safety and Health Act of 1970 provides job safety and health protection for workers. The purpose of the Federal law is to assure safe and healthful working conditions throughout the Nation.

The U.S. Department of Labor has primary responsibility for administering the Act. The Department issues job safety and health standards, and employers and employees are required to comply with these standards.

BY LAW: SAFETY ON THE JOB IS EVERYBODY'S RESPONSIBILITY!

EMPLOYERS: The Williams-Steiger Act requires that each employer furnish his employees a place of employment free from recognized hazards that might cause serious injury or death; and the Act further requires that employers comply with the specific safety and health standards issued by the Department of Labor.

EMPLOYEES: The Williams-Steiger Act also requires that each employee comply with safety and health standards, rules, regulations, and orders issued under the Act and applicable to his conduct.

COMPLIANCE WITH SAFETY AND HEALTH REQUIREMENTS

To ensure compliance with safety and health requirements, the U.S. Department of Labor conducts periodic job-site inspections. The inspections are conducted by trained safety and health compliance officers. The law requires that an authorized representative of the employer and a representative of the workers be given an opportunity to accompany the inspector for the purpose of aiding the inspection. Workers also have the right to notify the Department of Labor and request an inspection if they believe that unsafe and unhealthful conditions exist at their work-site. In addition, employees have the right to bring unsafe conditions to the attention of the safety and health compliance officer making the inspection. If upon inspection the Department of Labor believes that the Act has been violated, a citation of violation and a proposed penalty is issued to the employer.

Citations of violation issued by the Department of Labor must be prominently displayed at or near the place of violation.

The Act provides for mandatory penalties of up to \$1,000 for each serious violation and for optional penalties of up to \$1,000 for each non-serious violation. Penalties of up to \$1,000 are required for each day during which an employer fails to correct a violation within the period set in the citation. Also, any employer who willfully or repeatedly violates the Act is to be assessed civil penalties of not more than \$10,000 for each violation.

Criminal penalties are also provided for in the Act. Any willful violation resulting in death of an employee, upon conviction, is punishable by a fine of not more than \$10,000 or by imprisonment for not more than six months, or by both. Conviction of an employer after a first conviction doubles these maximum penalties.

The Act provides that employees may not be discharged or discriminated against in any way for filing safety and health complaints or otherwise exercising their rights under the Act.

For assistance and information, including copies of the Act and of specific safety and health standards, contact the employer or the nearest office of the Department of Labor.



A. B. Hodgson
Secretary of Labor