



BERGESON & CAMPBELL, P.C.

1203 Nineteenth Street, NW | Suite 300 | Washington, DC | 20036-2401 | tel 202.557.3800 | fax 202.557.3836 | web www.lawbc.com

MEMORANDUM

Via E-Mail

DATE: November 27, 2002
TO: Firm Clients and Friends
FROM: Bergeson & Campbell, P.C.
RE: OSHA Standards Improvement Project -- Phase II

On October 31, 2002, the Occupational Safety and Health Administration (OSHA) issued a proposed rule that would revise a number of health provisions in its standards for general industry, shipyard employment, and construction. According to the *Federal Register* notice, OSHA believes that the proposed revisions would streamline these provisions; in some cases, OSHA is making substantive revisions to provisions that would reduce regulatory requirements for employers while maintaining employee protection. Comments and requests for a hearing are due by **December 30, 2002**.

In the *Federal Register* notice, OSHA states that it “is continuing to remove and revise provisions of its standards that are outdated, duplicative, unnecessary, or inconsistent.” OSHA completed the first phase of this process with the publication of a final rule in the *Federal Register* in June 1998. During and after this rulemaking, OSHA identified several other regulatory provisions in its safety and health standards involving notification of use, frequency of exposure monitoring and medical surveillance, and similar provisions that it believes are unnecessary or ineffective in protecting employee safety and health. The October 31, 2002, proposed rule would make substantive revisions to a number of the health standard provisions identified in this process. OSHA intends to propose similar revisions to several of its safety and other standards in a future *Federal Register* notice. In addition, OSHA requests comments on possible similar revisions to outdated provisions in safety or health standards that could be included in its next or subsequent standards improvement proposal.

The *Federal Register* notice states: “[OSHA] has made a preliminary finding that the revisions to the health standards proposed herein would reduce the regulatory burden of employers without reducing the health protection that these standards currently provide to employees.” OSHA believes that the changes set forth in this proposal would simplify and clarify the requirements of these



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provisions, thereby facilitating employer compliance, improving employee protection, and reducing paperwork. According to the *Federal Register* notice, OSHA will base its final decisions regarding these proposed revisions on the record developed in this rulemaking through public comment. The proposed revisions address the following standards:

- Methods of communicating illness outbreaks (temporary labor camps standard (Section 1910.142));
- First-aid kits for the general industry (standards for medical services and first aid (Section 1910.151) and telecommunications (Section 1910.268));
- Laboratory licensing (vinyl chloride standard (Section 1910.1017));
- Periodic exposure monitoring (vinyl chloride, 1,2-dibromo-3-chloropropane (DBCP) (Section 1910.1044), and acrylonitrile (Section 1910.1045) standards);
- Reporting the use of alternative control methods (asbestos standards for shipyards and construction (Sections 1915.1001 and 1926.1101, respectively));
- Evaluating chest x-rays (inorganic arsenic and coke oven emissions standards (Sections 1910.1018 and 1910.1029, respectively));
- Signing medical opinions (asbestos standards for general industry and the cadmium standards for general industry and construction (Sections 1910.1027 and 1926.1127, respectively)); and semiannual medical examinations (vinyl chloride, inorganic arsenic, and coke oven emissions standards).

Also included in the proposed revisions are requirements to notify OSHA of the following:

- Certain events (13 carcinogens (Section 1910.1003), vinyl chloride, inorganic arsenic, DBCP, and acrylonitrile standards);
- Semiannual updating of compliance plans (vinyl chloride, inorganic arsenic, lead for general industry and construction (Sections 1910.1025 and 1926.62, respectively), DBCP, and acrylonitrile standards); and



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- Employee-notification requirements in general-industry standards (asbestos, vinyl chloride, inorganic arsenic, lead, cadmium, benzene, coke oven emissions, cotton dust (Section 1910.1043), DBCP, acrylonitrile, ethylene oxide (Section 1910.1047), formaldehyde (Section 1910.1048), methylenedianiline (Section 1910.1050), butadiene (Section 1910.1051), and methylene chloride (Section 1910.1052)), and construction standards (methylenedianiline (Section 1910.1051), and methylene chloride (Section 1910.1052)), and construction standards (methylenedianiline (Section 1926.60), lead, asbestos, and cadmium).

OSHA is also seeking comment on the need to include social security numbers in the exposure-monitoring and medical-surveillance records required by a number of its substance-specific standards.

In the *Federal Register*, OSHA emphasizes that the scope of this rulemaking is limited to revising provisions that are outdated, duplicative, unnecessary, or inconsistent with the provisions in other standards. In regard to the last item, OSHA is specifically proposing to revise a number of OSHA's older standards (vinyl chloride, acrylonitrile, coke ovens, arsenic, DBCP) to be consistent with the frequencies of exposure monitoring, medical surveillance, and compliance plan updates that are required in the majority of more recently promulgated rules. OSHA is seeking comment on whether it is appropriate to revise these older standards to be consistent with the newer standards. The scope of the rulemaking does not include a review of the appropriateness of the frequencies in exposure monitoring, medical surveillance, and compliance plan updating that is required by the newer standards.

OSHA notes that certain sections in 29 C.F.R. Part 1910 that are being addressed in the proposed rule are incorporated by reference in 29 C.F.R. Parts 1915 and 1926. Thus, changes to those sections in Part 1910 will also apply to Parts 1915 and 1926.

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We hope this information is helpful. As always, please call if you have any questions.