

New OSHA Ergonomics Rule will impose significant requirements on employers

February 9, 2001

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The new Occupational Safety and Health Administration ("OSHA") Final Ergonomics Rule went into effect on January 16, 2001. The Ergonomics Rule requires employers to comply with a series of provisions designed to reduce musculoskeletal disorders ("MSD") caused by repetitive motion, awkward or heavy lifting and similar workplace motions and movements.

This new workplace rule is applicable to all employers in the general industry category. This would not include construction, maritime and agriculture but will include most every other type of business including offices, manufacturing, retail, shipping, service and maintenance.

Business groups such as the National Association of Manufacturers and the U.S. Chamber of Commerce are continuing to fight the new Ergonomics Rule through lawsuits and political avenues. The new Ergonomics Rule has however gone into effect in all states in which federal OSHA administers health and safety laws and regulations.

Michigan and other states that administer their own health and safety laws and regulations will need to adopt a "substantially similar" ergonomics rule. Often states with their own programs adopt new federal rules word for word. The process for adopting the OSHA Ergonomics Rule in Michigan and other states that administer their own health and safety programs will probably take up to six months.

While business groups may be able to effect some changes, the Ergonomics Rule is unlikely to disappear. Prudent employers should immediately begin to gain an understanding of the new Ergonomics Rule and determine how it applies to their workplace. Some of the requirements imposed on a covered employer are:- An employer must provide all current and future employees with basic information regarding MSDs, their signs and symptoms. The employer must also inform employees: how to report MSDs and the importance of doing so; the kinds of risk factors, jobs and work activities associated with MSD hazards; and provide a short description of the requirements of OSHA's ergonomics program standard. This information must be provided in written form or, if all employees have access, in electronic form. - An employer must determine whether the reported MSD, signs or symptoms qualify as a MSD incident. (An "MSD incident" means it is work-related and (a) requires days away from work, restricted work or medical treatment or (b) the signs or symptoms last for seven consecutive days after being reported). - An employer must determine if employee's job meets OSHA' s "Action Trigger" (

i.e., does the job routinely involve exposure to one or more risk factors identified by OSHA). If the job does, the employer may either employ the "Quick Fix" or a full ergonomic program as described below. A. The "Quick Fix" may be used for a job if employees have experienced no more than one MSD incident in that job and there have been no more than two MSD incidents in the employer's entire establishment during the last 18 months. If eligible for the "Quick Fix", the employer must act quickly to identify the likely causes of the MSD and develop measures to reduce exposure using where necessary a health care professional or temporary work restrictions together with work restriction protection (see below). B. Where the "Quick Fix" is not applicable, the employer must implement an ergonomics

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program for that job (and all other jobs in that establishment that are the same). An ergonomics program would include: - must include employee access to a Health Care Professional (at no cost to the employee), any necessary work restrictions (including time off to recover), work restriction protection (

i.e., maintenance of earnings and of other employment rights and benefits), evaluation and follow-up. - employer must use feasible engineering, work practice or administrative controls to reduce MSD hazards (with engineering controls being preferred). Personal protective equipment (PPE) may be used to supplement engineering, work practice or administrative controls; but PPE may be used alone only where other controls are not feasible. Where PPE is used, it must be provided at no cost to employee. - must cover all employees who perform the same job and include talking with employees or their representatives regarding MSD risks, observing employees at work to evaluate risk factors and consulting, where necessary, with a professional trained in ergonomics. - initial training and follow-up training every three years for each employee in a job that meets the Action Trigger, their supervisors or team leaders, and other employees involved in setting up and managing the employer's ergonomics program. It should cover such things as the standard's requirements, the employer's ergonomics program, the signs and symptoms of MSDs, how to report them and so forth.

- employers with ergonomics programs that were implemented before November 14, 2000 and demonstrate management leadership, employee participation, job hazard analysis and control, training, and program evaluation (i.e. the program's effectiveness must have been reviewed at least once before January 16, 2001) would not have to comply with the full ergonomics standard until January 16, 2002. However, an employer who has policies or procedures that discourage employees from participating in the program or reporting signs or symptoms of MSDs or the presence of MSD hazards do not qualify for grandfather status.

Suggestions to Employers for Preparing

for the New OSHA Ergonomics Rule 1. Determine if your company has existing ergonomic issues. Review injury and illness logs, talk with supervisors and employees and review your workplace. 2. Determine whether your company is adequately addressing ergonomic issues or whether more could/should be done. 3. Be proactive.

a. Train employees and supervisors to recognize ergonomic issues and risks.

b. Implement engineering and procedural controls to address ergonomic issues and risks before injuries occur.

4. Obtain management support. Explain the Ergonomics Rules requirements to management. There is a consensus that a good ergonomics program is cost effective. Money spent on an ergonomics program can reduce workers' compensation and employee lost time.

This article is for general information only and should not be used as a basis for specific action without obtaining further legal advice.