

Document: Proposed Rule, **Register Page Number:** 26 IR 2464

Source: April 1, 2003, Indiana Register, Volume 26, Number 7

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TITLE 610 DEPARTMENT OF LABOR

Proposed Rule LSA Document #03-37

DIGEST

Amends 610 IAC 4-6-11 to comply with amended federal Occupational Safety and Health Administration requirements for recording criteria for cases involving occupational hearing loss. Effective 30 days after filing with the secretary of state.

610 IAC 4-6-11

SECTION 1. 610 IAC 4-6-11, AS ADDED AT 26 IR 361, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

610 IAC 4-6-11 Recording criteria for cases involving occupational hearing loss

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1

Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 11. (a) ~~Beginning on January 1, 2003~~; If an employee's hearing test (audiogram) reveals that a **work related** standard threshold shift (STS) has occurred **in one (1) or both ears, and the employee's total hearing level is twenty-five (25) decibels or more above audiometric zero in the same ear as the STS (averaged at two thousand (2,000), three thousand (3,000), and four thousand (4,000) hertz)**, the employer must record the case on the Occupational Safety and Health Administration (OSHA) 300 Log. ~~by checking the "hearing loss" column.~~

(b) ~~Beginning on January 1, 2003~~; Implementation of this section shall be as follows:

(1) As used in this rule, "STS" has the meaning as set forth in the occupational noise exposure standard at 29 CFR 1910.95(g)(10)(i) as a change in hearing threshold, relative to the ~~most recent~~ **baseline** audiogram ~~for that employee~~, of an average of ten (10) decibels or more at two thousand (2,000), three thousand (3,000), and four thousand (4,000) hertz in one (1) or both ears.

(2) **Employers shall evaluate the current audiogram to determine whether an employee has an STS and a twenty-five (25) decibels hearing level as follows:**

(A) If the employee has never previously experienced a recordable hearing loss, the employer must compare the employee's current audiogram with that employee's baseline audiogram. If the employee has previously experienced a recordable hearing loss, the employer must compare the employee's current audiogram with the employee's revised baseline audiogram (the audiogram reflecting the employee's previous recordable hearing loss case).

(B) **Audiometric test results reflect the employee's overall hearing ability in comparison to audiometric zero. Therefore, using the employee's current audiogram, the employer must use the average hearing level at two thousand (2,000), three thousand (3,000), and four thousand (4,000) hertz to determine whether or not the employee's total hearing level is twenty-five (25) decibels or more.**

(3) When comparing audiogram results, the employer may adjust the results for the employee's age when the audiogram was taken using Table F-1 or F-2, as appropriate, in Appendix F of 29 CFR 1910.95. **The employer may not use an age adjustment when determining whether the employee's total hearing level is twenty-five (25) decibels or more above audiometric zero.**

(4) If the employer retests the employee's hearing within thirty (30) days of the first test, and the retest does not confirm the **recordable** STS, the employer is not required to record the hearing loss case on the OSHA 300 Log. If the retest confirms the STS, the employer must record the hearing loss illness within seven (7) calendar days of the retest. **If subsequent audiometric testing performed under the testing requirements of the noise standard indicates that an STS is not persistent, the employer may erase or strike out the recorded entry.**

(5) Hearing loss is presumed to be work related if ~~the employee is exposed to noise in the workplace at an eight (8) hour time-~~

weighted average of eighty-five (85) decibels or greater, or to a total noise dose of fifty percent (50%), as defined in 29 CFR 1910.95. For hearing loss cases where the employee is not exposed to this level of noise, the employer an event or exposure in the work environment either caused or contributed to the hearing loss, or significantly aggravated a preexisting hearing loss. Employers must use the criteria rules contained in section 6 of this rule to determine if the whether hearing loss is work related.

(6) If a physician or other licensed health care professional determines that the hearing loss is not work related or has not been significantly aggravated by occupational noise exposure, the employer is not required to consider the case work related or to record the case on the OSHA 300 Log.

(7) Employers must check the 300 Log column for hearing loss when entering a recordable hearing loss case on the OSHA 300 Log.

(e) Until December 31, 2002, employers are required to record a work related hearing loss averaging twenty-five (25) decibels or more at two thousand (2,000), three thousand (3,000), and four thousand (4,000) hertz in either ear on the OSHA 300 Log. When comparing audiogram results, the employer must use the employee's original baseline audiogram for comparison. The employer may make a correction for presbycusis (aging) by using the tables in Appendix F of 29 CFR 1910.95. (Department of Labor; 610 IAC 4-6-11; filed Sep 26, 2002, 11:22 a.m.: 26 IR 361)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on April 22, 2003 at 9:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W195, Indianapolis, Indiana the Department of Labor will hold a public hearing on proposed new rules governing the regulations for reporting and recording work place injuries and illnesses. Parties interested in participating in the public hearing are invited to attend and submit written statements expressing their concerns, any suggestions, and any documentation that may serve to support, clarify, or supplement their concerns and suggestions. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W195 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Nancy J. Guyott
Commissioner
Department of Labor