OSHA’s Ergonomics Standard Questions and Answers

On January 16, 2001, OSHA’s new ergonomics standard officially went into effect. This standard targets the nation’s biggest job safety and health problem: work-related musculoskeletal disorders. Under development for more than 10 years, these new protections will prevent hundreds of thousands of injuries each year by requiring the employer to implement ergonomics programs and fix jobs where MSDs occur.

But these important new protections are being threatened. Despite the recent release of a major report supporting OSHA’s approach by the National Academy of Science and the Institute of Medicine on *Musculoskeletal Disorders and the Workplace*, these important protections came under immediate attack by business associations and conservative Republicans in Congress. Their campaign first to stop and now overturn this rule has distorted the truth about the scientific evidence, the requirements of the rule and the impact on employers and workers.

Below are questions and answers to set forth the facts about OSHA’s ergonomics standard.

1. Who is covered by the standard?

   The ergonomics standard covers all workers in General Industry. Workers in construction, agriculture, maritime and railroads are not covered by the standard.

2. When does the standard come into effect? When do employers have to start complying?

   The standard came into effect on January 16, 2001. Employers’ first compliance obligations begin October 15, 2001, by which time employers must distribute and post information about musculoskeletal disorders (MSDs), including common MSDs and their signs and symptoms. OSHA has developed information sheets that employers can simply distribute to employees and post in their workplace to comply with this requirement.

   Employers must also begin to respond to workers’ reports of MSDs or signs and symptoms of MSDs on October 15, 2001.
3. **Can Congress repeal the ergonomics standard?**

Congress can use the Congressional Review Act (CRA) to repeal the ergonomics standard through the introduction and passage of a Joint Resolution of Disapproval. A Resolution of Disapproval cannot be amended or filibustered. Using the CRA would be a drastic and unprecedented step. If a rule is overturned or repealed in Congress, OSHA would be prohibited from issuing another similar rule unless Congress votes to authorize the agency to issue such a regulation. This means that it would be extremely unlikely that OSHA would ever be able to act to set a strong standard to protect workers from ergonomic hazards. Unlike the normal process that agencies use to develop or change regulations, Congress can use the CRA to rescind these important protections *without any public hearings or input by affected workers or employers.*

Congress could also amend OSHA's FY 2002 budget to prohibit the agency from enforcing the ergonomics standard. Although Republicans in Congress have used this tactic before, with George W. Bush now in the White House, there would be no veto to stop such a provision.

4. **Can the Bush Administration repeal or change the rule?**

The Bush Administration cannot stay or put a hold on the ergonomics standard unless it goes through public notice and comment to change the effective date. To modify or repeal the rule, the Administration would have to issue a new proposal, go through notice and comment rulemaking, and base any changes on record evidence and testimony.

5. **When do employers have to take action to address MSDs and ergonomic hazards?**

Employers must take action if an employee experiences a work-related MSD and the employee has significant exposure to ergonomic risk factors. In response to an employee report of an MSD or MSD signs or symptoms, the employer must determine if the employee’s report constitutes an "MSD incident." An “MSD incident” means that the MSD is work-related and requires days away from work, restricted work, or medical treatment beyond first aid, or involves “MSD signs or symptoms” that last 7 consecutive days after the employee reports them to the employer. Employers are permitted to get assistance from a health care professional in determining whether the reported condition is a work-related incident or they can make this decision themselves.
To determine if the employee is exposed to ergonomic risk factors at levels that are high enough to pose a potential risk, the employer must do a quick check of the employee’s job. For example, for computer use, the action trigger is four or more hours of exposure per day. If the job poses a risk, the employer must provide MSD management for the injured employee (including any necessary work restrictions) and implement the management leadership and employee participation sections as well as the training section of the standard. The employer must then analyze the job to determine whether it poses an MSD hazard to employees. If an MSD hazard is found, the employer must implement control measures designed to reduce exposure to identified hazards.

6. What ergonomic risk factors does the standard cover?

The five risk factors the standard covers are repetition, force, awkward postures, contact stress, and hand-arm vibration. Exposures to these risk factors must be evaluated and controlled if they exceed certain specified levels. These are among the risk factors for which the NAS report found strong scientific evidence associating exposure with work-related MSDs.

7. Does the employer have to take action in all jobs in the establishment?

No. The employer only needs to take action in jobs in the establishment that are the same as the one in which the MSD incident was reported. "Same jobs" are ones that involve the same tasks and physical work activities.

8. What if there is just one isolated job or very few jobs in the workplace that have problems. Is it still necessary for the employer to implement an entire ergonomics program?

The standard addresses this in several ways. First, there is a “quick fix” option that can be used when there has been only one prior MSD incident in a job and only two prior MSD incidents in the workplace in the past 18 months. Employers can use the Quick Fix option if they can fix the job within 90 days. Under the Quick Fix option, the employer must talk to and train the directly affected workers about the implemented controls, and provide MSD management. The employer does not have to establish a comprehensive ergonomics program.

In addition, in situations where the employer determines that the MSD hazard only poses a problem for the injured employee, the employer is permitted to limit the response to that employee.
9. Do employers have to eliminate all MSDs to be in compliance with the standard?

No. OSHA has recognized that it may not be possible to eliminate MSDs in all jobs, and the occurrence of an MSD is not in itself a violation of the standard. The employer must:

- Reduce MSD hazards in accordance with the hazard identification tool (Appendix D) they used to do the job hazard analysis, or
- Reduce the magnitude, frequency or duration of risk factors so that they are not reasonably likely to cause MSDs that result in work restrictions or medical treatment beyond first aid, or
- Reduce MSD hazards to the extent feasible and reassess the job at least every three years.

10. What kinds of controls can employers use to fix jobs?

Employers may use any combination of engineering, administrative and work practice controls to reduce hazards. Employers are also free to supplement these controls with personal protective equipment (PPE), such as vibration-reduction gloves or palm pads, at no cost to employees. However, PPE can only be used alone where other controls are not feasible.

11. What is MSD Management?

MSD management requires only that the employer provide the injured employees with access to a health care professional (HCP) for evaluation and follow-up of the MSD. The employer or the HCP may also impose necessary work restrictions during the employee’s recovery period. The standard does not require employers to pay for medical treatment such as physical therapy, medication or surgery. When an employee must do alternative or light duty, or miss work completely due to a work-related MSD, he or she receives Work Restriction Protection.

12. What is Work Restriction Protection?

The standard provides 100% of pay and benefits to workers who are on restricted work, and 90% for workers who must be off of work due to a work-related MSD. The standard sets a maximum of 90 days for WRP payments. OSHA’s “work restriction protection” (WRP) provision does not supersede workers' compensation. WRP is necessary because, unlike most OSHA standards that require employer action when workers are exposed to hazards, the Ergonomics Program Standard only requires action after an injury has been reported. The standard’s success in protecting workers, therefore, depends on workers' willingness to report injuries as soon as they occur.

Early reporting and intervention are also essential to preventing permanent damage
or disability. There is substantial evidence in the record, however, that workers are reluctant to report MSD injuries because they fear losing pay, being fired, or being subjected to other forms of discrimination. Knowing that they will not lose pay as a result of a necessary work absence will make employees less reluctant to come forward to report their injuries and to participate in the MSD management process. Employers may deduct any workers' compensation payments the employee receives from the amount of WRP benefits paid to the worker. Similar procedures exist in other OSHA standards and have been upheld by the courts.

13. What did the National Academy of Sciences report say about the science behind the ergonomics standard?

The NAS report,\(^1\) requested by Republicans in Congress in 1998, finds that MSDs are an important and costly national health problem. The report finds that the science strongly supports the fact that workplace exposures cause MSDs and that workplace interventions can reduce MSDs. The NAS report also supports OSHA's approach to addressing MSD hazards, including strong management commitment and employee involvement, as well as the use of engineering and administrative controls to prevent MSDs. Specific major findings of the report include the following:

“\textit{There is no doubt that musculoskeletal disorders of the low back and upper extremities are an important and costly national health problem...In 1999, nearly 1 million people took time away from work to treat and recover from work-related musculoskeletal pain or impairment of function in the low back or upper extremities. Conservative estimates of the economic burden imposed, as measured by compensation costs, lost wages, and lost productivity, are between $45 and $54 billion annually.”} “ (Page ES-1)

“The panel’s review of the research literature in epidemiology, biomechanics, tissue mechanobiology, and workplace intervention strategies has identified a rich and consistent pattern of evidence that support a relationship between the workplace and the occurrence of MSDs of the low back and upper extremities.” (Page ES-3)

“The panel concludes that there is a clear relationship between back disorders and physical load; that is, manual material handling, load movement, frequent bending and twisting, heavy physical work, and whole-body vibration. For disorders of the upper extremities, repetition, force and vibration are particularly important work-related factors.” (Conclusion 3, Page 11-10)

“The weight of the evidence justifies the introduction of appropriate and selected interventions to reduce the risk of musculoskeletal disorders of the low back and upper extremities.” (Page 11-2)

“To be effective, intervention programs should include employee involvement, employer commitment and the development of integrated programs that address equipment design

\(^1\) Musculoskeletal Disorders and the Workplace: Low Back and Upper Extremities, National Research Council and Institute of Medicine, January 2001.
work procedures and organizational characteristics.” (Conclusion 8, Page ES-6 and 11-2)

The NAS report is the third comprehensive review of the scientific literature in the past four years that has come to the same conclusion. The National Institute for Occupational Safety and Health (NIOSH) published a comprehensive review of the data on the relationship between MSDs and the workplace in 1997. The NAS also came to similar conclusion in an earlier Congressionally mandated report published in 1998.

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