

*Caves to business lobby*

# OSHA pulls rule on reporting ergonomics injuries

By **DON McINTOSH**  
Associate Editor

OSHA — the federal agency in charge of making workplaces safer — announced Jan. 25 that it will hold off asking employers to record musculoskeletal disorders like carpal tunnel on a form they already fill out for work-related injuries. OSHA (which stands for Occupational Safety and Health Administration) said it was taking the action to “seek greater input from small businesses on the impact of the proposal.”

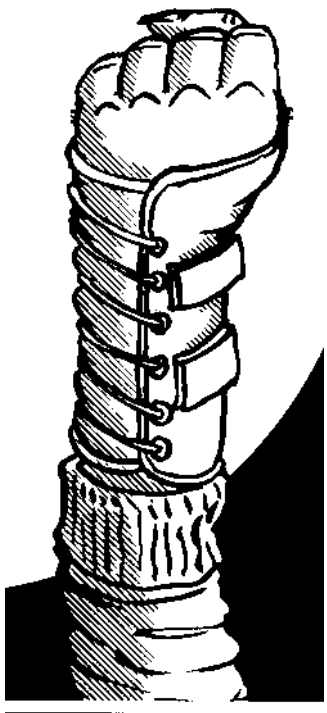
But small business groups already weighed in extensively with hearing testimony and written comments. They were critical of the change, even though it doesn’t affect small businesses for the most part. OSHA spokesperson Diana Petterson says less than 15 percent of small businesses are required to fill out the form. Businesses with under 10 employees — and businesses in low-hazard industries or office environments — aren’t required to fill out the form.

Peg Seminario, director of the Safety and Health Department of the national AFL-CIO labor federation, says there’s no merit to business groups’ claim that reporting musculoskeletal disorders (MSDs) would be burdensome. She says the groups’ real fear is that if they start counting MSDs, they may at some later stage have to spend money to prevent them.

MSDs — which can be caused by repetitive motion or overexertion — afflict the muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs of millions of workers. Examples include carpal tunnel syndrome, sciatica, tendinitis, herniated spinal discs, and lower back pain. MSDs accounted for 28 percent of all reported workplace injuries and illnesses in 2009, according to an annual survey conducted by the Bureau of Labor Statistics.

Organized labor has fought for decades to get employers to take MSDs seriously, but business groups have resisted government intervention.

This latest fight is about OSHA’s



Form 300, a log that is filled out by employers whenever a work-related injury or illness causes a worker to seek medical treatment, lose work time or restrict the kinds of tasks they can perform. For decades, the log included a box indicating that the injury was caused by “cumulative trauma.” But the box didn’t

distinguish between hearing loss and musculoskeletal disorders (MSDs). In January 2001, OSHA gave noise-related illness and MSDs their own separate columns. Then the newly-installed administration of George W. Bush stepped in and eliminated the MSD column.

The administration of Barack Obama has taken its time reversing that move. OSHA proposed to restore the MSD column, held a March 2010 hearing, took comment, finalized a draft rule change, and sent it in July 2010 to the Office of Management and Budget for review. Now OSHA says it’s temporarily withdrawing the change from OMB review until it can have “an active dialogue between the agency and the small business community.”

“We were stunned,” said the AFL-CIO’s Seminario. “This is basically a tool to use in the workplace to identify which of these injuries are MSDs, which hopefully will focus attention by employers on how to prevent them. If they’re responding this way to a small rule with a minimal impact, we’re quite concerned how they’ll respond to rules that have a bigger impact.”

Seminario said the U.S. Chamber of Commerce and other groups have been vocally opposing this rule and others for many months — with ideological, not substantive objections.

The Chamber argues that MSDs aren’t well enough defined, that they rely on workers’ unverifiable claims of pain and discomfort, and that it’s too hard to determine the precise cause, including whether an MSD is work-related or pre-existing.

OSHA’s announcement that it’s withdrawing the proposed rule change came one week after President Obama issued an executive order that all federal regulatory agencies must review new and existing rules to make sure they’re the least burdensome.

“I am directing federal agencies to do more to account for — and reduce — the burdens regulations may place on small businesses,” Obama wrote in a Wall Street Journal op-ed piece explaining the order.

To put all this in context: OSHA has been studying MSDs for 31 years. MSDs are often brought about by workspaces that are not designed with ergonomic considerations in mind. The White House is in charge of executive branch agencies like OSHA. In November 2000, just as President Bill Clinton wrapped up his eight years in office, OSHA announced a new rule that would have required employers to implement ergonomics programs if they had musculoskeletal injuries in a workplace. But the U.S. Chamber of

Commerce declared it a top priority to repeal the rule, and a Republican-led Congress obliged, overturning the rule in March 2001, before it took effect.

In short, the Obama Administration has not sought to require employers to do anything about MSDs, and now it’s backing off requiring employers even to report them ... at least until OSHA has a chance to hear some more from small business groups about the impact of adding a check box to an existing form.

To get more small business feedback on the proposal to add an MSD column to Form 300, OSHA and the U.S. Small Business Administration’s Office of Advocacy will be jointly hosting a meeting, details of which will be announced by the end of February.

“After this small business meeting,” said Petterson, the OSHA spokesperson, “OSHA will review the comments and concerns regarding the proposed rule, prior to submitting it back to the OMB.”

*(Editor’s Note: Oregon and Washington are two of 25 states that develop and operate their own job safety and health programs. Federal OSHA approves and monitors all state plans. Neither state has an ergonomics standard or separate reporting requirement for musculoskeletal disorders.)*



(International Standard Serial Number 0894-444X)  
Established in 1900 at Portland, Oregon  
as a voice of the labor movement.

4275 NE Halsey St., P.O. Box 13150,  
Portland, Ore. 97213  
Telephone: (503) 288-3311

Editor: Michael Gutwig  
Staff: Don McIntosh, Cheri Rice

Published on a semi-monthly basis on the first and third Fridays of each month by the Oregon Labor Press Publishing Co. Inc., a non-profit corporation owned by 20 unions and councils including the Oregon AFL-CIO. Serving more than 120 union organizations in Oregon and SW Washington. Subscriptions \$13.75 per year for union members.

Group rates available to trade union organizations.

PERIODICALS POSTAGE PAID  
AT PORTLAND, OREGON.

CHANGE OF ADDRESS NOTICE: Three weeks are required for a change of address. When ordering a change, please give your old and new addresses and the name and number of your local union.

POSTMASTER: Send address changes to  
NORTHWEST LABOR PRESS, P.O. BOX 13150,  
PORTLAND, OR 97213-0150



25

Carpenters, Electricians, Laborers, Glaziers, Sheetmetal Workers, Floorcoverers, Bricklayers, Cement Masons, Roofers, Asbestos Workers, Millwrights, Painters, Elevators, Plasterers, Family

You love your new car...

But do you love the interest rate?

If not, drive on over to IBEW & United Workers FCU to speak with one of our experienced Relationship Officers about your financing options!

Contact the Relationship Department at (503) 253-8193 ext. 340 or apply online at [www.ibewuwfcu.com](http://www.ibewuwfcu.com).

**9955 SE Washington Street**  
**Portland, OR 97216**

**(503) 253-8193 \* (800) 356-6507**  
**[www.ibewuwfcu.com](http://www.ibewuwfcu.com)**

Carpenters, Electricians, Laborers, Glaziers, Sheetmetal Workers, Floorcoverers, Bricklayers, Cement Masons, Roofers, Asbestos Workers, Millwrights, Painters, Elevators, Plasterers, Family