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INTEROFFICE MEMORANDUM  
Department of Insurance and Finance

November 18, 1992

TO: Marc Snook  
FROM: Marilyn Schuster *Marilyn Schuster*  
SUBJECT: Amount of Time for a New Business to Comply with the OSHA Rules

BACKGROUND:

There are some standards that due to their complex nature and organizational requirements cannot be fully met the first day that a business is in operation.

The formation of a safety committee is an example. Members must be selected, a safety program developed and meetings held; all of which takes time.

Another example would be a hazard communication program. You need a written program, employees trained and Material Safety Data Sheets for all chemicals on the premises, all of which takes time.

QUESTION:

Is there a grace period to allow a new business to get all of their OSHA programs on line before there is a violation of the standard?

ANSWER:

The rules do not explicitly address such exigencies, however, it is envisioned that there is a period necessary to come into compliance with a standard at the time that it is promulgated. Employers are often given a period of 90 days to come into compliance.

Likewise, when a new rule is enacted, an employer may be granted a temporary variance to comply with the new rule if they need to purchase materials or train people and it will require additional time.

A new employer would normally not be on our inspection list and therefore would not be inspected for some time except for non-scheduled inspections. It is expected that a new business during this time period will get their programs on line.

Certain rules can be complied with on day one and should be implemented on day one such as guards, working space, fire protection, etc.

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OSHA requirements that by their nature take time to implement should be weighed as to their safety requirements and implemented in that order.

To use a hazard communication program as an example, The Material Safety Data Sheets should be gathered on the most hazardous chemicals used on a day-to-day basis first, with the other sheets collected over the first 30 to 60 days of start up.

Next, training should be set up and employees trained in those first 60 days. After that, containers should be checked and properly marked, and last, the written program should be finished -- all within the first 90 days of start up.

Where an employer starting a new business is in diligent pursuit to complete their programs, in the proper sequence of hazards and within a reasonable timeframe the lack of complete programs should be considered a de-minimus violation.

In conclusion, the determination of compliance with OR-OSHA rules for a new business must be weighed against a reasonable amount of time needed to comply with the rules much the same as would be done for the promulgation of a new standard.

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