



**TOWN OF ROCKY HILL:**  
2021 Hearing Conservation Program

## Purpose:

The purpose of this plan is to establish a program and procedures for hearing conservation for the Town of Rocky Hill. This program applies to all areas that have operations that produce employee noise exposures equal to or in excess of 85 dBA, as an 8-hour time-weighted average.

The Occupational Safety and Health Administration Occupational Noise Exposure Standards **29 CFR 1910.95** (General Industry) call for the development, implementation and maintenance of a hearing conservation program when employee exposure to noise is equal to or exceeds an 8-hour TWA of 85 dBA.

This written hearing conservation program will include and address the following categories in order to satisfy the **minimum requirements of the applicable Occupational Noise Exposure Standard:**

- Noise exposure monitoring (area and/or personal)
- Audiometric testing for exposed employees<sup>1</sup>
- Hearing protection provided and utilized
- Employee training
- Record keeping

**The hearing conservation program will include the following:**

- Identification of personnel responsible for the program.
- How noise levels and employee exposures will be measured.
- How audiometric testing will be performed.
- How hearing protection will be selected, provided, replaced and use enforced.
- How training will be performed.
- Procedures to evaluate and update the program.
- How records will be maintained.

## Responsibilities:

The **Director of Human Resources and Legal Compliance** is responsible for administering the hearing conservation program. This person is also responsible for:

- Monitoring noise via sound-level measurements or dosimetry in order to determine employee exposure to noise.
- Making available to employees copies of the applicable Occupational Noise Exposure Standard and posting a copy of the standard in the workplace, such as on the employee bulletin board.

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<sup>1</sup> In accordance with the Town's commitment to workplace health and safety and proactive hearing conservation efforts, department Directors *may* decide to include employees in the Town's Hearing Conservation Program even where noise exposures have not been deemed hazardous under OSHA standards.

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## Town of Rocky Hill Hearing Conservation Program

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(Rev. 05/18/2021)

- Administering the audiometric testing program.
- Providing annual training for employees.
- Maintaining noise exposure monitoring, audiometric testing and training records.
- Reviewing the effectiveness of the hearing conservation program and making sure that it satisfies the requirements of all applicable federal, state or local hearing conservation requirements.

**Department Directors** are responsible for the following aspects of the hearing conservation program:

- Notifying employees of noise monitoring and audiometric testing results.
- Enforcing the use of hearing protection by employees required to wear it.
- Ensuring that the hearing protectors are in good condition and are fitted and used correctly.
- Ensuring that hearing protectors provide adequate attenuation (i.e., the noise reduction rating is adequate).
- Enforcing administrative and engineering controls within the department to reduce employee noise exposure.
- Proper care of hearing protection, including location of supply, and proper use and replacement of hearing protection equipment.

**Employees** are responsible for the following aspects of the hearing conservation program:

- Wearing hearing protection in work areas requiring it.
- Knowledge and understanding of the consequences associated with not following the Town's policies concerning the proper use of hearing protection.
- Proper care of hearing protection, including proper use, routine care and cleaning, storage, and replacement.

### **Determination of Sound Levels:**

To determine employee exposure, noise monitoring will be conducted and repeated whenever there is a change in the work environment, such as changes in production, process, equipment and/or controls.

Noise exposure monitoring will be conducted using the following methods:

- **Area monitoring** — Measuring the noise levels in an area by use of a sound-level meter.
- **Personal monitoring** — Measuring an employee's noise exposure by use of a dosimeter. A dosimeter is worn by an employee for a representative time frame in order to evaluate noise levels that the employee is exposed to when doing his or her particular job.

### **Audiometric Testing:**

The purpose of audiometric testing is to determine each employee's hearing threshold by determining the employee's response to noise at several frequencies. A baseline audiogram will be conducted within six months of hire, or within one year if a mobile test van is used. The initial audiogram will be used as a baseline measurement to which all subsequent audiograms will be compared. Audiometric testing will be completed annually for all employees whose exposures equal or exceed an 8-hour TWA of 85 dBA.

Audiometric testing will be performed by the Town's designated medical provider, or by a contracted and accredited audiometric testing company. The audiometric testing will be performed at no cost to the employee.

Employees who are to receive audiograms during a workday must wear hearing protection prior to their tests or have been exempt from workplace noise for a period of 14 hours prior to the testing procedures. During the 14 hours prior to the testing, the employees shall refrain from any noisy non-work exposures such as listening to loud music, mowing the lawn, target practice and woodworking.

The annual audiogram will be compared to the baseline audiogram to determine if the audiogram is valid and if a standard threshold shift (STS) has occurred. An STS is defined as the average hearing loss of 10 dB or more at the tested frequencies of 2,000, 3,000 and 4,000 Hz in either ear.

If an STS is identified, the following steps will be taken:

1. Employees will be notified of the results in writing within 21 days of the determination. Employees will also be fitted and trained in the use of hearing protection equipment.
2. Employees already wearing hearing protection will be refitted and retrained in the proper use of hearing protection. Hearing protection offering greater noise reduction will be provided to the affected employees.
3. An employee may be referred for a clinical Audiological Evaluation or an otological examination for additional testing.
4. The safety coordinator, along with management, will review the effectiveness of any engineering and administrative controls to identify and correct any deficiencies.

Evaluation of the results of the audiograms will be performed by either the designated medical provider or the contracted company. The Town of Rocky Hill will review all recommendations made for each employee by the tester. If the results of the audiogram demonstrate an STS, the Town reserves the right to conduct a second audiogram within 30 days and consider these results as the annual audiogram.

### **Hearing Protection:**

Employees included in the hearing conservation program will be provided with hearing protection as follows:

- Hearing protection will be provided at no cost to employees.
- Employees will be able to select their hearing protection from a variety of suitable hearing protectors.
- Employees will receive training in the use and care of hearing protection.
- The use of hearing protection will be required for employees who have not yet had a baseline audiogram, who have experienced an STS, or whose exposures exceed an 8-hour TWA of 85 dBA.

### **Training:**

Employees included in the hearing conservation program will receive the following annual training:

- The effects of noise on the human ear and hearing.
- The purpose of hearing protection, including the advantages and disadvantages of various types of hearing protection.
- The proper selection, fitting, use and care of hearing protection.
- The purpose and value of noise exposure monitoring and audiometric testing and a summary of the procedures.
- The company's and employees' respective tasks for maintaining noise controls.

### **Recordkeeping:**

The Director of Human Resources and Legal Compliance will maintain records pertaining to the hearing conservation program in a confidential manner. Any requests for records should be directed to him or her. The Director of Human Resources and Legal Compliance will keep the following records:

- Noise exposure monitoring results.
- Audiometric testing records.
- Certificates of training.
- Warnings issued to employees for not following the hearing conservation program.

## [29 CFR 1910.95](#)

This document is current through the June 19, 2017 issue of the Federal Register. Pursuant to 82 FR 8346 ("Regulatory Freeze Pending Review"), certain regulations will be delayed pending further review. See Publisher's Note under affected rules. Title 3 is current through June 2, 2017.

***Code of Federal Regulations > TITLE 29 -- LABOR > SUBTITLE B -- REGULATIONS RELATING TO LABOR > CHAPTER XVII -- OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR > PART 1910 -- OCCUPATIONAL SAFETY AND HEALTH STANDARDS > SUBPART G -- OCCUPATIONAL HEALTH AND ENVIRONMENTAL CONTROL***

### § 1910.95 Occupational noise exposure.

(a) Protection against the effects of noise exposure shall be provided when the sound levels exceed those shown in Table G-16 when measured on the A scale of a standard sound level meter at slow response. When noise levels are determined by octave band analysis, the equivalent A-weighted sound level may be determined as follows:

Display Image

Equivalent sound level contours. Octave band sound pressure levels may be converted to the equivalent A-weighted sound level by plotting them on this graph and noting the A-weighted sound level corresponding to the point of highest penetration into the sound level contours. This equivalent A-weighted sound level, which may differ from the actual A-weighted sound level of the noise, is used to determine exposure limits from Table 1.G-16.

(b)

(1) When employees are subjected to sound exceeding those listed in Table G-16, feasible administrative or engineering controls shall be utilized. If such controls fail to reduce sound levels within the levels of Table G-16, personal protective equipment shall be provided and used to reduce sound levels within the levels of the table.

(2) If the variations in noise level involve maxima at intervals of 1 second or less, it is to be considered continuous.

**Table G-16 -- Permissible Noise Exposures fn1**

Duration per day, hours	Sound level
	dBA slow response
8	90
6	92
4	95
3	97
2	100
1 1/2	102

**Table G-16 -- Permissible Noise Exposures fn1**

<b>Duration per day, hours</b>	<b>Sound level</b>
	<b>dBA slow response</b>
1	105
1/2	110
1/4 or less	115

fn1 When the daily noise exposure is composed of two or more periods of noise exposure of different levels, their combined effect should be considered, rather than the individual effect of each. If the sum of the following fractions:  $C_1/T_1 + C_2/T_2 + \dots + C_n/T_n$  exceeds unity, then, the mixed exposure should be considered to exceed the limit value.  $C_n$  indicates the total time of exposure at a specified noise level, and  $T_n$  indicates the total time of exposure permitted at that level. Exposure to impulsive or impact noise should not exceed 140 dB peak sound pressure level.

**(c) Hearing conservation program.**

**(1)**The employer shall administer a continuing, effective hearing conservation program, as described in paragraphs (c) through (o) of this section, whenever employee noise exposures equal or exceed an 8-hour time-weighted average sound level (TWA) of 85 decibels measured on the A scale (slow response) or, equivalently, a dose of fifty percent. For purposes of the hearing conservation program, employee noise exposures shall be computed in accordance with appendix A and Table G-16a, and without regard to any attenuation provided by the use of personal protective equipment.

**(2)**For purposes of paragraphs (c) through (n) of this section, an 8-hour time-weighted average of 85 decibels or a dose of fifty percent shall also be referred to as the action level.

**(d) Monitoring.** (1) When information indicates that any employee's exposure may equal or exceed an 8-hour time-weighted average of 85 decibels, the employer shall develop and implement a monitoring program.

**(i)**The sampling strategy shall be designed to identify employees for inclusion in the hearing conservation program and to enable the proper selection of hearing protectors.

**(ii)**Where circumstances such as high worker mobility, significant variations in sound level, or a significant component of impulse noise make area monitoring generally inappropriate, the employer shall use representative personal sampling to comply with the monitoring requirements of this paragraph unless the employer can show that area sampling produces equivalent results.

**(2)**

**(i)**All continuous, intermittent and impulsive sound levels from 80 decibels to 130 decibels shall be integrated into the noise measurements.

**(ii)**Instruments used to measure employee noise exposure shall be calibrated to ensure measurement accuracy.

**(3)**Monitoring shall be repeated whenever a change in production, process, equipment or controls increases noise exposures to the extent that:

**(i)**Additional employees may be exposed at or above the action level; or

**(ii)**The attenuation provided by hearing protectors being used by employees may be rendered inadequate to meet the requirements of paragraph (j) of this section.

**(e)**Employee notification. The employer shall notify each employee exposed at or above an 8-hour time-weighted average of 85 decibels of the results of the monitoring.

**(f)**Observation of monitoring. The employer shall provide affected employees or their representatives with an opportunity to observe any noise measurements conducted pursuant to this section.

**(g) Audiometric testing program.**

**(1)**The employer shall establish and maintain an audiometric testing program as provided in this paragraph by making audiometric testing available to all employees whose exposures equal or exceed an 8-hour time-weighted average of 85 decibels.

**(2)**The program shall be provided at no cost to employees.

**(3)**Audiometric tests shall be performed by a licensed or certified audiologist, otolaryngologist, or other physician, or by a technician who is certified by the Council of Accreditation in Occupational Hearing Conservation, or who has satisfactorily demonstrated competence in administering audiometric examinations, obtaining valid audiograms, and properly using, maintaining and checking calibration and proper functioning of the audiometers being used. A technician who operates microprocessor audiometers does not need to be certified. A technician who performs audiometric tests must be responsible to an audiologist, otolaryngologist or physician.

**(4)**All audiograms obtained pursuant to this section shall meet the requirements of Appendix C: Audiometric Measuring Instruments.

**(5) Baseline audiogram.**

**(i)**Within 6 months of an employee's first exposure at or above the action level, the employer shall establish a valid baseline audiogram against which subsequent audiograms can be compared.

**(ii)**Mobile test van exception. Where mobile test vans are used to meet the audiometric testing obligation, the employer shall obtain a valid baseline audiogram within 1 year of an employee's first exposure at or above the action level. Where baseline audiograms are obtained more than 6 months after the employee's first exposure at or above the action level, employees shall wear hearing protectors for any period exceeding six months after first exposure until the baseline audiogram is obtained.

**(iii)**Testing to establish a baseline audiogram shall be preceded by at least 14 hours without exposure to workplace noise. Hearing protectors may be used as a substitute for the requirement that baseline audiograms be preceded by 14 hours without exposure to workplace noise.

**(iv)**The employer shall notify employees of the need to avoid high levels of non-occupational noise exposure during the 14-hour period immediately preceding the audiometric examination.

**(6)**Annual audiogram. At least annually after obtaining the baseline audiogram, the employer shall obtain a new audiogram for each employee exposed at or above an 8-hour time-weighted average of 85 decibels.

**(7) Evaluation of audiogram.**

**(i)**Each employee's annual audiogram shall be compared to that employee's baseline audiogram to determine if the audiogram is valid and if a standard threshold shift as defined in paragraph (g)(10) of this section has occurred. This comparison may be done by a technician.

**(ii)**If the annual audiogram shows that an employee has suffered a standard threshold shift, the employer may obtain a retest within 30 days and consider the results of the retest as the annual audiogram.

**(iii)**The audiologist, otolaryngologist, or physician shall review problem audiograms and shall determine whether there is a need for further evaluation. The employer shall provide to the person performing this evaluation the following information:



## 29 CFR 1910.95

- (A) A copy of the requirements for hearing conservation as set forth in paragraphs (c) through (n) of this section;
- (B) The baseline audiogram and most recent audiogram of the employee to be evaluated;
- (C) Measurements of background sound pressure levels in the audiometric test room as required in Appendix D: Audiometric Test Rooms.
- (D) Records of audiometer calibrations required by paragraph (h)(5) of this section.

**(8) Follow-up procedures.**

(i) If a comparison of the annual audiogram to the baseline audiogram indicates a standard threshold shift as defined in paragraph (g)(10) of this section has occurred, the employee shall be informed of this fact in writing, within 21 days of the determination.

(ii) Unless a physician determines that the standard threshold shift is not work related or aggravated by occupational noise exposure, the employer shall ensure that the following steps are taken when a standard threshold shift occurs:

(A) Employees not using hearing protectors shall be fitted with hearing protectors, trained in their use and care, and required to use them.

(B) Employees already using hearing protectors shall be refitted and retrained in the use of hearing protectors and provided with hearing protectors offering greater attenuation if necessary.

(C) The employee shall be referred for a clinical audiological evaluation or an otological examination, as appropriate, if additional testing is necessary or if the employer suspects that a medical pathology of the ear is caused or aggravated by the wearing of hearing protectors.

(D) The employee is informed of the need for an otological examination if a medical pathology of the ear that is unrelated to the use of hearing protectors is suspected.

(iii) If subsequent audiometric testing of an employee whose exposure to noise is less than an 8-hour TWA of 90 decibels indicates that a standard threshold shift is not persistent, the employer:

(A) Shall inform the employee of the new audiometric interpretation; and

(B) May discontinue the required use of hearing protectors for that employee.

(9) Revised baseline. An annual audiogram may be substituted for the baseline audiogram when, in the judgment of the audiologist, otolaryngologist or physician who is evaluating the audiogram:

(i) The standard threshold shift revealed by the audiogram is persistent; or

(ii) The hearing threshold shown in the annual audiogram indicates significant improvement over the baseline audiogram.

**(10) Standard threshold shift.**

(i) As used in this section, a standard threshold shift is a change in hearing threshold relative to the baseline audiogram of an average of 10 dB or more at 2000, 3000, and 4000 Hz in either ear.

(ii) In determining whether a standard threshold shift has occurred, allowance may be made for the contribution of aging (presbycusis) to the change in hearing level by correcting the annual audiogram according to the procedure described in Appendix F: Calculation and Application of Age Correction to Audiograms.

**(h) Audiometric test requirements.**

(1) Audiometric tests shall be pure tone, air conduction, hearing threshold examinations, with test frequencies including as a minimum 500, 1000, 2000, 3000, 4000, and 6000 Hz. Tests at each frequency shall be taken separately for each ear.

(2) Audiometric tests shall be conducted with audiometers (including microprocessor audiometers) that meet the specifications of, and are maintained and used in accordance with, American National Standard Specification for Audiometers, S3.6-1969, which is incorporated by reference as specified in § 1910.6.

(3) Pulsed-tone and self-recording audiometers, if used, shall meet the requirements specified in Appendix C: Audiometric Measuring Instruments.

(4) Audiometric examinations shall be administered in a room meeting the requirements listed in Appendix D: Audiometric Test Rooms.

**(5) Audiometer calibration.**

(i) The functional operation of the audiometer shall be checked before each day's use by testing a person with known, stable hearing thresholds, and by listening to the audiometer's output to make sure that the output is free from distorted or unwanted sounds. Deviations of 10 decibels or greater require an acoustic calibration.

(ii) Audiometer calibration shall be checked acoustically at least annually in accordance with Appendix E: Acoustic Calibration of Audiometers. Test frequencies below 500 Hz and above 6000 Hz may be omitted from this check. Deviations of 15 decibels or greater require an exhaustive calibration.

(iii) An exhaustive calibration shall be performed at least every two years in accordance with sections 4.1.2; 4.1.3.; 4.1.4.3; 4.2; 4.4.1; 4.4.2; 4.4.3; and 4.5 of the American National Standard Specification for Audiometers, S3.6-1969. Test frequencies below 500 Hz and above 6000 Hz may be omitted from this calibration.

**(i) Hearing protectors.**

(1) Employers shall make hearing protectors available to all employees exposed to an 8-hour time-weighted average of 85 decibels or greater at no cost to the employees. Hearing protectors shall be replaced as necessary.

(2) Employers shall ensure that hearing protectors are worn:

(i) By an employee who is required by paragraph (b)(1) of this section to wear personal protective equipment; and

(ii) By any employee who is exposed to an 8-hour time-weighted average of 85 decibels or greater, and who:

(A) Has not yet had a baseline audiogram established pursuant to paragraph (g)(5)(ii); or

(B) Has experienced a standard threshold shift.

(3) Employees shall be given the opportunity to select their hearing protectors from a variety of suitable hearing protectors provided by the employer.

(4) The employer shall provide training in the use and care of all hearing protectors provided to employees.

(5) The employer shall ensure proper initial fitting and supervise the correct use of all hearing protectors.

**(j) Hearing protector attenuation.**

(1) The employer shall evaluate hearing protector attenuation for the specific noise environments in which the protector will be used. The employer shall use one of the evaluation methods described in Appendix B: Methods for Estimating the Adequacy of Hearing Protection Attenuation.

(2) Hearing protectors must attenuate employee exposure at least to an 8-hour time-weighted average of 90 decibels as required by paragraph (b) of this section.

(3) For employees who have experienced a standard threshold shift, hearing protectors must attenuate employee exposure to an 8-hour time-weighted average of 85 decibels or below.

(4) The adequacy of hearing protector attenuation shall be re-evaluated whenever employee noise exposures increase to the extent that the hearing protectors provided may no longer provide adequate attenuation. The employer shall provide more effective hearing protectors where necessary.

**(k) Training program.**

(1) The employer shall train each employee who is exposed to noise at or above an 8-hour time weighted average of 85 decibels in accordance with the requirements of this section. The employer shall institute a training program and ensure employee participation in the program.

(2) The training program shall be repeated annually for each employee included in the hearing conservation program. Information provided in the training program shall be updated to be consistent with changes in protective equipment and work processes.

(3) The employer shall ensure that each employee is informed of the following:

(i) The effects of noise on hearing;

(ii) The purpose of hearing protectors, the advantages, disadvantages, and attenuation of various types, and instructions on selection, fitting, use, and care; and

(iii) The purpose of audiometric testing, and an explanation of the test procedures.

**(l) Access to information and training materials.**

(1) The employer shall make available to affected employees or their representatives copies of this standard and shall also post a copy in the workplace.

(2) The employer shall provide to affected employees any informational materials pertaining to the standard that are supplied to the employer by the Assistant Secretary.

(3) The employer shall provide, upon request, all materials related to the employer's training and education program pertaining to this standard to the Assistant Secretary and the Director.

**(m) Recordkeeping --**

(1) Exposure measurements. The employer shall maintain an accurate record of all employee exposure measurements required by paragraph (d) of this section.

**(2) Audiometric tests.**

(i) The employer shall retain all employee audiometric test records obtained pursuant to paragraph (g) of this section:

(ii) This record shall include:

(A) Name and job classification of the employee;

(B) Date of the audiogram;

(C) The examiner's name;

(D) Date of the last acoustic or exhaustive calibration of the audiometer; and

(E) Employee's most recent noise exposure assessment.

(F) The employer shall maintain accurate records of the measurements of the background sound pressure levels in audiometric test rooms.

(3) Record retention. The employer shall retain records required in this paragraph (m) for at least the following periods.

(i) Noise exposure measurement records shall be retained for two years.

## 29 CFR 1910.95

(ii) Audiometric test records shall be retained for the duration of the affected employee's employment.

(4) Access to records. All records required by this section shall be provided upon request to employees, former employees, representatives designated by the individual employee, and the Assistant Secretary. The provisions of [29 CFR 1910.1020 \(a\)](#)-(e) and (g)-(i) apply to access to records under this section.

(5) Transfer of records. If the employer ceases to do business, the employer shall transfer to the successor employer all records required to be maintained by this section, and the successor employer shall retain them for the remainder of the period prescribed in paragraph (m) (3) of this section.

**(n) Appendices.**

(1) Appendices A, B, C, D, and E to this section are incorporated as part of this section and the contents of these appendices are mandatory.

(2) Appendices F and G to this section are informational and are not intended to create any additional obligations not otherwise imposed or to detract from any existing obligations.

(o) Exemptions. Paragraphs (c) through (n) of this section shall not apply to employers engaged in oil and gas well drilling and servicing operations.

Appendix A to § 1910.95 -- Noise Exposure Computation

This Appendix is Mandatory

**I. Computation of Employee Noise Exposure**

(1) Noise dose is computed using Table G-16a as follows:

(i) When the sound level, L, is constant over the entire work shift, the noise dose, D, in percent, is given by:  $D=100 C/T$  where C is the total length of the work day, in hours, and T is the reference duration corresponding to the measured sound level, L, as given in Table G-16a or by the formula shown as a footnote to that table.

(ii) When the workshift noise exposure is composed of two or more periods of noise at different levels, the total noise dose over the work day is given by:

$$D=100 (C_1/T_1 + C_2/T_2 + \dots + C_n/T_n),$$

where  $C_n$  indicates the total time of exposure at a specific noise level, and  $T_n$  indicates the reference duration for that level as given by Table G-16a.

(2) The eight-hour time-weighted average sound level (TWA), in decibels, may be computed from the dose, in percent, by means of the formula:  $TWA=16.61 \log_{10} (D/100)+90$ . For an eight-hour workshift with the noise level constant over the entire shift, the TWA is equal to the measured sound level.

(3) A table relating dose and TWA is given in Section II.

**Table G-16a**

A-weighted sound level, L (decibel)	Reference duration, T (hour)
80	32
81	27.9

Table G-16a

A-weighted sound level, L (decibel)	Reference duration, T (hour)
82	24.3
83	21.1
84	18.4
85	16
86	13.9
87	12.1
88	10.6
89	9.2
90	8
91	7.0
92	6.1
93	5.3
94	4.6
95	4
96	3.5
97	3.0
98	2.6
99	2.3
100	2
101	1.7
102	1.5
103	1.3
104	1.1
105	1
106	0.87
107	0.76
108	0.66
109	0.57
110	0.5

Table G-16a

A-weighted sound level, L (decibel)	Reference duration, T (hour)
111	0.44
112	0.38
113	0.33
114	0.29
115	0.25
116	0.22
117	0.19
118	0.16
119	0.14
120	0.125
121	0.11
122	0.095
123	0.082
124	0.072
125	0.063
126	0.054
127	0.047
128	0.041
129	0.036
130	0.031

In the above table the reference duration, T, is computed by

$$T = \frac{8}{2^{\sup(L - 90)/5}}$$

where L is the measured A-weighted sound level.

## II. Conversion Between "Dose" and "8-Hour Time-Weighted Average" Sound Level

Compliance with paragraphs (c)-(r) of this regulation is determined by the amount of exposure to noise in the workplace. The amount of such exposure is usually measured with an audiodosimeter which gives a readout in terms of "dose." In order to better understand the requirements of the amendment, dosimeter readings can be converted to an "8-hour time-weighted average sound level." (TWA).

## 29 CFR 1910.95

In order to convert the reading of a dosimeter into TWA, see Table A-1, below. This table applies to dosimeters that are set by the manufacturer to calculate dose or percent exposure according to the relationships in Table G-16a. So, for example, a dose of 91 percent over an eight hour day results in a TWA of 89.3 dB, and, a dose of 50 percent corresponds to a TWA of 85 dB.

If the dose as read on the dosimeter is less than or greater than the values found in Table A-1, the TWA may be calculated by using the formula:  $TWA = 16.61 \log_{10} (D/100) + 90$  where TWA=8-hour time-weighted average sound level and D=accumulated dose in percent exposure.

**Table A-1 -- Conversion From "Percent Noise Exposure" or "Dose" to "8-Hour Time-Weighted Average Sound Level" (TWA)**

<b>Dose or percent noise exposure</b>	<b>TWA</b>
10	73.4
15	76.3
20	78.4
25	80.0
30	81.3
35	82.4
40	83.4
45	84.2
50	85.0
55	85.7
60	86.3
65	86.9
70	87.4
75	87.9
80	88.4
81	88.5
82	88.6
83	88.7
84	88.7
85	88.8
86	88.9
87	89.0
88	89.1
89	89.2
90	89.2
91	89.3

**Table A-1 -- Conversion From "Percent Noise  
Exposure" or "Dose" to "8-Hour Time-Weighted  
Average Sound Level" (TWA)**

<b>Dose or percent noise exposure</b>	<b>TWA</b>
92	89.4
93	89.5
94	89.6
95	89.6
96	89.7
97	89.8
98	89.9
99	89.9
100	90.0
101	90.1
102	90.1
103	90.2
104	90.3
105	90.4
106	90.4
107	90.5
108	90.6
109	90.6
110	90.7
111	90.8
112	90.8
113	90.9
114	90.9
115	91.1
116	91.1
117	91.1
118	91.2
119	91.3
120	91.3
125	91.6



**Table A-1 -- Conversion From "Percent Noise  
Exposure" or "Dose" to "8-Hour Time-Weighted  
Average Sound Level" (TWA)**

<b>Dose or percent noise exposure</b>	<b>TWA</b>
130	91.9
135	92.2
140	92.4
145	92.7
150	92.9
155	93.2
160	93.4
165	93.6
170	93.8
175	94.0
180	94.2
185	94.4
190	94.6
195	94.8
200	95.0
210	95.4
220	95.7
230	96.0
240	96.3
250	96.6
260	96.9
270	97.2
280	97.4
290	97.7
300	97.9
310	98.2
320	98.4
330	98.6
340	98.8
350	99.0

**Table A-1 -- Conversion From "Percent Noise  
Exposure" or "Dose" to "8-Hour Time-Weighted  
Average Sound Level" (TWA)**

<b>Dose or percent noise exposure</b>	<b>TWA</b>
360	99.2
370	99.4
380	99.6
390	99.8
400	100.0
410	100.2
420	100.4
430	100.5
440	100.7
450	100.8
460	101.0
470	101.2
480	101.3
490	101.5
500	101.6
510	101.8
520	101.9
530	102.0
540	102.2
550	102.3
560	102.4
570	102.6
580	102.7
590	102.8
600	102.9
610	103.0
620	103.2
630	103.3
640	103.4
650	103.5

**Table A-1 -- Conversion From "Percent Noise  
Exposure" or "Dose" to "8-Hour Time-Weighted  
Average Sound Level" (TWA)**

<b>Dose or percent noise exposure</b>	<b>TWA</b>
660	103.6
670	103.7
680	103.8
690	103.9
700	104.0
710	104.1
720	104.2
730	104.3
740	104.4
750	104.5
760	104.6
770	104.7
780	104.8
790	104.9
800	105.0
810	105.1
820	105.2
830	105.3
840	105.4
850	105.4
860	105.5
870	105.6
880	105.7
890	105.8
900	105.8
910	105.9
920	106.0
930	106.1
940	106.2
950	106.2

**Table A-1 -- Conversion From "Percent Noise  
Exposure" or "Dose" to "8-Hour Time-Weighted  
Average Sound Level" (TWA)**

Dose or percent noise exposure	TWA
960	106.3
970	106.4
980	106.5
990	106.5
999	106.6

Appendix B to § 1910.95 -- Methods for Estimating the Adequacy of Hearing Protector Attenuation

This Appendix is Mandatory

For employees who have experienced a significant threshold shift, hearing protector attenuation must be sufficient to reduce employee exposure to a TWA of 85 dB. Employers must select one of the following methods by which to estimate the adequacy of hearing protector attenuation.

The most convenient method is the Noise Reduction Rating (NRR) developed by the Environmental Protection Agency (EPA). According to EPA regulation, the NRR must be shown on the hearing protector package. The NRR is then related to an individual worker's noise environment in order to assess the adequacy of the attenuation of a given hearing protector. This appendix describes four methods of using the NRR to determine whether a particular hearing protector provides adequate protection within a given exposure environment. Selection among the four procedures is dependent upon the employer's noise measuring instruments.

Instead of using the NRR, employers may evaluate the adequacy of hearing protector attenuation by using one of the three methods developed by the National Institute for Occupational Safety and Health (NIOSH), which are described in the "List of Personal Hearing Protectors and Attenuation Data," HEW Publication No. 76-120, 1975, pages 21-37. These methods are known as NIOSH methods #1, #2 and #3. The NRR described below is a simplification of NIOSH method #2. The most complex method is NIOSH method #1, which is probably the most accurate method since it uses the largest amount of spectral information from the individual employee's noise environment. As in the case of the NRR method described below, if one of the NIOSH methods is used, the selected method must be applied to an individual's noise environment to assess the adequacy of the attenuation. Employers should be careful to take a sufficient number of measurements in order to achieve a representative sample for each time segment.

NOTE: The employer must remember that calculated attenuation values reflect realistic values only to the extent that the protectors are properly fitted and worn.

When using the NRR to assess hearing protector adequacy, one of the following methods must be used:

- (i) When using a dosimeter that is capable of C-weighted measurements:
  - (A) Obtain the employee's C-weighted dose for the entire workshift, and convert to TWA (see appendix A, II).
  - (B) Subtract the NRR from the C-weighted TWA to obtain the estimated A-weighted TWA under the ear protector.
- (ii) When using a dosimeter that is not capable of C-weighted measurements, the following method may be used:

## 29 CFR 1910.95

- (A) Convert the A-weighted dose to TWA (see appendix A).
  - (B) Subtract 7 dB from the NRR.
  - (C) Subtract the remainder from the A-weighted TWA to obtain the estimated A-weighted TWA under the ear protector.
- (iii) When using a sound level meter set to the A-weighting network:
- (A) Obtain the employee's A-weighted TWA.
  - (B) Subtract 7 dB from the NRR, and subtract the remainder from the A-weighted TWA to obtain the estimated A-weighted TWA under the ear protector.
- (iv) When using a sound level meter set on the C-weighting network:
- (A) Obtain a representative sample of the C-weighted sound levels in the employee's environment.
  - (B) Subtract the NRR from the C-weighted average sound level to obtain the estimated A-weighted TWA under the ear protector.
- (v) When using area monitoring procedures and a sound level meter set to the A-weighting network.
- (A) Obtain a representative sound level for the area in question.
  - (B) Subtract 7 dB from the NRR and subtract the remainder from the A-weighted sound level for that area.
- (vi) When using area monitoring procedures and a sound level meter set to the C-weighting network:
- (A) Obtain a representative sound level for the area in question.
  - (B) Subtract the NRR from the C-weighted sound level for that area.

Appendix C to § 1910.95 -- Audiometric Measuring Instruments

This Appendix is Mandatory

1. In the event that pulsed-tone audiometers are used, they shall have a tone on-time of at least 200 milliseconds.

2. Self-recording audiometers shall comply with the following requirements:

(A) The chart upon which the audiogram is traced shall have lines at positions corresponding to all multiples of 10 dB hearing level within the intensity range spanned by the audiometer. The lines shall be equally spaced and shall be separated by at least 1/4 inch. Additional increments are optional. The audiogram pen tracings shall not exceed 2 dB in width.

(B) It shall be possible to set the stylus manually at the 10-dB increment lines for calibration purposes.

(C) The slewing rate for the audiometer attenuator shall not be more than 6 dB/sec except that an initial slewing rate greater than 6 dB/sec is permitted at the beginning of each new test frequency, but only until the second subject response.

(D) The audiometer shall remain at each required test frequency for 30 seconds (+/- 3 seconds). The audiogram shall be clearly marked at each change of frequency and the actual frequency change of the audiometer shall not deviate from the frequency boundaries marked on the audiogram by more than +/- 3 seconds.

(E) It must be possible at each test frequency to place a horizontal line segment parallel to the time axis on the audiogram, such that the audiometric tracing crosses the line

## 29 CFR 1910.95

segment at least six times at that test frequency. At each test frequency the threshold shall be the average of the midpoints of the tracing excursions.

#### Appendix D to § 1910.95 -- Audiometric Test Rooms

This Appendix is Mandatory

Rooms used for audiometric testing shall not have background sound pressure levels exceeding those in Table D-1 when measured by equipment conforming at least to the Type 2 requirements of American National Standard Specification for Sound Level Meters, S1.4-1971 (R1976), and to the Class II requirements of American National Standard Specification for Octave, Half-Octave, and Third-Octave Band Filter Sets, S1.11-1971 (R1976).

**Table D-1 -- Maximum Allowable Octave-Band Sound Pressure Levels for**

#### Audiometric Test Rooms

Octave-band center frequency (Hz)	500	1000	2000	4000	8000
			0	0	0
Sound pressure level (dB)	40	40	47	57	62

#### Appendix E to § 1910.95 -- Acoustic Calibration of Audiometers

This Appendix is Mandatory

Audiometer calibration shall be checked acoustically, at least annually, according to the procedures described in this appendix. The equipment necessary to perform these measurements is a sound level meter, octave-band filter set, and a National Bureau of Standards 9A coupler. In making these measurements, the accuracy of the calibrating equipment shall be sufficient to determine that the audiometer is within the tolerances permitted by American Standard Specification for Audiometers, S3.6-1969.

#### (1) Sound Pressure Output Check

- A.** Place the earphone coupler over the microphone of the sound level meter and place the earphone on the coupler.
- B.** Set the audiometer's hearing threshold level (HTL) dial to 70 dB.
- C.** Measure the sound pressure level of the tones at each test frequency from 500 Hz through 6000 Hz for each earphone.
- D.** At each frequency the readout on the sound level meter should correspond to the levels in Table E-1 or Table E-2, as appropriate, for the type of earphone, in the column entitled "sound level meter reading."

#### (2) Linearity Check

- A.** With the earphone in place, set the frequency to 1000 Hz and the HTL dial on the audiometer to 70 dB.
- B.** Measure the sound levels in the coupler at each 10-dB decrement from 70 dB to 10 dB, noting the sound level meter reading at each setting.
- C.** For each 10-dB decrement on the audiometer the sound level meter should indicate a corresponding 10 dB decrease.
- D.** This measurement may be made electrically with a voltmeter connected to the earphone terminals.

#### (3) Tolerances

## 29 CFR 1910.95

When any of the measured sound levels deviate from the levels in Table E-1 or Table E-2 by +/- 3 dB at any test frequency between 500 and 3000 Hz, 4 dB at 4000 Hz, or 5 dB at 6000 Hz, an exhaustive calibration is advised. An exhaustive calibration is required if the deviations are greater than 15 dB or greater at any test frequency.

**Table E-1 -- Reference Threshold Levels for Telephonics -- TDH-39 Earphones**

Frequency, Hz	Reference threshold	Sound level
	level for TDH-39 earphones, dB	meter reading, dB
500	11.5	81.5
1000	7	77
2000	9	79
3000	10	80
4000	9.5	79.5
6000	15.5	85.5

**Table E-2 -- Reference Threshold Levels for Telephonics -- TDH-49 Earphones**

Frequency, Hz	Reference threshold	Sound level
	level for TDH-49 earphones, dB	meter reading, db
500	13.5	83.5
1000	7.5	77.5
2000	11	81.0
3000	9.5	79.5
4000	10.5	80.5
6000	13.5	83.5

#### Appendix F to § 1910.95 -- Calculations and Application of Age Corrections to Audiograms

##### This Appendix Is Non-Mandatory

In determining whether a standard threshold shift has occurred, allowance may be made for the contribution of aging to the change in hearing level by adjusting the most recent audiogram. If the employer chooses to adjust the audiogram, the employer shall follow the procedure described below. This procedure and the age correction tables were developed by the National Institute for Occupational Safety and Health in the criteria document entitled "Criteria for a Recommended Standard . . . Occupational Exposure to Noise," ((HSM)-11001).

For each audiometric test frequency;

## 29 CFR 1910.95

(i) Determine from Tables F-1 or F-2 the age correction values for the employee by:

(A) Finding the age at which the most recent audiogram was taken and recording the corresponding values of age corrections at 1000 Hz through 6000 Hz;

(B) Finding the age at which the baseline audiogram was taken and recording the corresponding values of age corrections at 1000 Hz through 6000 Hz.

(ii) Subtract the values found in step (i)(B) from the value found in step (i)(A).

(iii) The differences calculated in step (ii) represented that portion of the change in hearing that may be due to aging.

Example: Employee is a 32-year-old male. The audiometric history for his right ear is shown in decibels below.

Employee's age	Audiometric test frequency (Hz)				
	1000	2000	3000	4000	6000
26	10	5	5	10	5
* 27	0	0	0	5	5
28	0	0	0	10	5
29	5	0	5	15	5
30	0	5	10	20	10
31	5	10	20	15	15
* 32	5	10	10	25	20

The audiogram at age 27 is considered the baseline since it shows the best hearing threshold levels. Asterisks have been used to identify the baseline and most recent audiogram. A threshold shift of 20 dB exists at 4000 Hz between the audiograms taken at ages 27 and 32.

(The threshold shift is computed by subtracting the hearing threshold at age 27, which was 5, from the hearing threshold at age 32, which is 25). A retest audiogram has confirmed this shift. The contribution of aging to this change in hearing may be estimated in the following manner:

Go to Table F-1 and find the age correction values (in dB) for 4000 Hz at age 27 and age 32.

	Frequency (Hz)				
	1000	2000	3000	4000	6000
Age 32	6	5	7	10	14
Age 27	5	4	6	7	11
Difference	1	1	1	3	3

The difference represents the amount of hearing loss that may be attributed to aging in the time period between the baseline audiogram and the most recent audiogram. In this example, the difference at 4000 Hz is 3 dB. This value is subtracted from the hearing level at 4000 Hz, which in the most recent



## 29 CFR 1910.95

audiogram is 25, yielding 22 after adjustment. Then the hearing threshold in the baseline audiogram at 4000 Hz (5) is subtracted from the adjusted annual audiogram hearing threshold at 4000 Hz (22). Thus the age-corrected threshold shift would be 17 dB (as opposed to a threshold shift of 20 dB without age correction).

**Table F-1 -- Age Correction Values in Decibels for Males**

Years	Audiometric Test Frequencies (Hz)				
	1000	2000	3000	4000	6000
20 or younger	5	3	4	5	8
21	5	3	4	5	8
22	5	3	4	5	8
23	5	3	4	6	9
24	5	3	5	6	9
25	5	3	5	7	10
26	5	4	5	7	10
27	5	4	6	7	11
28	6	4	6	8	11
29	6	4	6	8	12
30	6	4	6	9	12
31	6	4	7	9	13
32	6	5	7	10	14
33	6	5	7	10	14
34	6	5	8	11	15
35	7	5	8	11	15
36	7	5	9	12	16
37	7	6	9	12	17
38	7	6	9	13	17
39	7	6	10	14	18
40	7	6	10	14	19
41	7	6	10	14	20
42	8	7	11	16	20
43	8	7	12	16	21
44	8	7	12	17	22
45	8	7	13	18	23
46	8	8	13	19	24
47	8	8	14	19	24

**Table F-1 -- Age Correction Values in Decibels for Males**

Years	Audiometric Test Frequencies (Hz)				
	1000	2000	3000	4000	6000
48	9	8	14	20	25
49	9	9	15	21	26
50	9	9	16	22	27
51	9	9	16	23	28
52	9	10	17	24	29
53	9	10	18	25	30
54	10	10	18	26	31
55	10	11	19	27	32
56	10	11	20	28	34
57	10	11	21	29	35
58	10	12	22	31	36
59	11	12	22	32	37
60 or older	11	13	23	33	38

**Table F-2 -- Age Correction Values in Decibels for Females**

Years	Audiometric Test Frequencies (Hz)				
	1000	2000	3000	4000	6000
20 or younger	7	4	3	3	6
21	7	4	4	3	6
22	7	4	4	4	6
23	7	5	4	4	7
24	7	5	4	4	7
25	8	5	4	4	7
26	8	5	5	4	8
27	8	5	5	5	8
28	8	5	5	5	8
29	8	5	5	5	9
30	8	6	5	5	9
31	8	6	6	5	9
32	9	6	6	6	10
33	9	6	6	6	10

**Table F-2 -- Age Correction Values in Decibels for Females**

Years	Audiometric Test Frequencies (Hz)				
	1000	2000	3000	4000	6000
34	9	6	6	6	10
35	9	6	7	7	11
36	9	7	7	7	11
37	9	7	7	7	12
38	10	7	7	7	12
39	10	7	8	8	12
40	10	7	8	8	13
41	10	8	8	8	13
42	10	8	9	9	13
43	11	8	9	9	14
44	11	8	9	9	14
45	11	8	10	10	15
46	11	9	10	10	15
47	11	9	10	11	16
48	12	9	11	11	16
49	12	9	11	11	16
50	12	10	11	12	17
51	12	10	12	12	17
52	12	10	12	13	18
53	13	10	13	13	18
54	13	11	13	14	19
55	13	11	14	14	19
56	13	11	14	15	20
57	13	11	15	15	20
58	14	12	15	16	21
59	14	12	16	16	21
60 or older	14	12	16	17	22

Appendix G to § 1910.95 -- Monitoring Noise Levels Non-Mandatory  
Informational Appendix

This appendix provides information to help employers comply with the noise monitoring obligations that are part of the hearing conservation amendment.

What is the purpose of noise monitoring?

## 29 CFR 1910.95

This revised amendment requires that employees be placed in a hearing conservation program if they are exposed to average noise levels of 85 dB or greater during an 8 hour workday. In order to determine if exposures are at or above this level, it may be necessary to measure or monitor the actual noise levels in the workplace and to estimate the noise exposure or "dose" received by employees during the workday.

When is it necessary to implement a noise monitoring program?

It is not necessary for every employer to measure workplace noise. Noise monitoring or measuring must be conducted only when exposures are at or above 85 dB. Factors which suggest that noise exposures in the workplace may be at this level include employee complaints about the loudness of noise, indications that employees are losing their hearing, or noisy conditions which make normal conversation difficult. The employer should also consider any information available regarding noise emitted from specific machines. In addition, actual workplace noise measurements can suggest whether or not a monitoring program should be initiated.

How is noise measured?

Basically, there are two different instruments to measure noise exposures: the sound level meter and the dosimeter. A sound level meter is a device that measures the intensity of sound at a given moment. Since sound level meters provide a measure of sound intensity at only one point in time, it is generally necessary to take a number of measurements at different times during the day to estimate noise exposure over a workday. If noise levels fluctuate, the amount of time noise remains at each of the various measured levels must be determined.

To estimate employee noise exposures with a sound level meter it is also generally necessary to take several measurements at different locations within the workplace. After appropriate sound level meter readings are obtained, people sometimes draw "maps" of the sound levels within different areas of the workplace. By using a sound level "map" and information on employee locations throughout the day, estimates of individual exposure levels can be developed. This measurement method is generally referred to as area noise monitoring.

A dosimeter is like a sound level meter except that it stores sound level measurements and integrates these measurements over time, providing an average noise exposure reading for a given period of time, such as an 8-hour workday. With a dosimeter, a microphone is attached to the employee's clothing and the exposure measurement is simply read at the end of the desired time period. A reader may be used to read-out the dosimeter's measurements. Since the dosimeter is worn by the employee, it measures noise levels in those locations in which the employee travels. A sound level meter can also be positioned within the immediate vicinity of the exposed worker to obtain an individual exposure estimate. Such procedures are generally referred to as personal noise monitoring.

Area monitoring can be used to estimate noise exposure when the noise levels are relatively constant and employees are not mobile. In workplaces where employees move about in different areas or where the noise intensity tends to fluctuate over time, noise exposure is generally more accurately estimated by the personal monitoring approach.

In situations where personal monitoring is appropriate, proper positioning of the microphone is necessary to obtain accurate measurements. With a

## 29 CFR 1910.95

dosimeter, the microphone is generally located on the shoulder and remains in that position for the entire workday. With a sound level meter, the microphone is stationed near the employee's head, and the instrument is usually held by an individual who follows the employee as he or she moves about.

Manufacturer's instructions, contained in dosimeter and sound level meter operating manuals, should be followed for calibration and maintenance. To ensure accurate results, it is considered good professional practice to calibrate instruments before and after each use.

How often is it necessary to monitor noise levels?

The amendment requires that when there are significant changes in machinery or production processes that may result in increased noise levels, remonitoring must be conducted to determine whether additional employees need to be included in the hearing conservation program. Many companies choose to remonitor periodically (once every year or two) to ensure that all exposed employees are included in their hearing conservation programs.

Where can equipment and technical advice be obtained?

Noise monitoring equipment may be either purchased or rented. Sound level meters cost about \$ 500 to \$ 1,000, while dosimeters range in price from about \$ 750 to \$ 1,500. Smaller companies may find it more economical to rent equipment rather than to purchase it. Names of equipment suppliers may be found in the telephone book (Yellow Pages) under headings such as: "Safety Equipment," "Industrial Hygiene," or "Engineers-Acoustical." In addition to providing information on obtaining noise monitoring equipment, many companies and individuals included under such listings can provide professional advice on how to conduct a valid noise monitoring program. Some audiological testing firms and industrial hygiene firms also provide noise monitoring services. Universities with audiology, industrial hygiene, or acoustical engineering departments may also provide information or may be able to help employers meet their obligations under this amendment.

Free, on-site assistance may be obtained from OSHA-supported state and private consultation organizations. These safety and health consultative entities generally give priority to the needs of small businesses.

OSHA ONSITE CONSULTATION PROJECT DELIVERY [This table was removed. See [61 FR 9228, 9236](#), March 7, 1996.]

Appendix H to § 1910.95 -- Availability of Referenced Documents

Paragraphs (c) through (o) of [29 CFR 1910.95](#) and the accompanying appendices contain provisions which incorporate publications by reference. Generally, the publications provide criteria for instruments to be used in monitoring and audiometric testing. These criteria are intended to be mandatory when so indicated in the applicable paragraphs of § 1910.95 and appendices.

It should be noted that OSHA does not require that employers purchase a copy of the referenced publications. Employers, however, may desire to obtain a copy of the referenced publications for their own information.

The designation of the paragraph of the standard in which the referenced publications appear, the titles of the publications, and the availability of the publications are as follows:

## 29 CFR 1910.95

Paragraph designation	Referenced publication	Available from --
Appendix B	"List of Personal Hearing Protectors and Attenuation Data," HEW Pub. No. 76-120, 1975. NTIS-PB267461	National Technical Information Service, Port Royal Road, Springfield, VA 22161.
Appendix D	"Specification for Sound Level Meters," S1.4-1971 (R1976)	American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018.
§ 1910.95(k)(2), appendix E	"Specifications for Audiometers," S3.6-1969	American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018.
Appendix D	"Specification for Octave, Half-Octave and Third-Octave Band Filter Sets," S1.11-1971 (R1976)	Back Numbers Department, Dept. STD, American Institute of Physics 333 E. 45th St., New York, NY 10017; American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018.

The referenced publications (or a microfiche of the publications) are available for review at many universities and public libraries throughout the country. These publications may also be examined at the OSHA Technical Data Center, Room N2439, United States Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 219-7500 or at any OSHA Regional Office (see telephone directories under United States Government -- Labor Department).

#### Appendix I to § 1910.95 -- Definitions

These definitions apply to the following terms as used in paragraphs (c) through (n) of [29 CFR 1910.95](#).

**Action level**--An 8-hour time-weighted average of 85 decibels measured on the A-scale, slow response, or equivalently, a dose of fifty percent.

**Audiogram** -- A chart, graph, or table resulting from an audiometric test showing an individual's hearing threshold levels as a function of frequency.

**Audiologist** -- A professional, specializing in the study and rehabilitation of hearing, who is certified by the American Speech-Language-Hearing Association or licensed by a state board of examiners.

## 29 CFR 1910.95

Baseline audiogram -- The audiogram against which future audiograms are compared.

Criterion sound level -- A sound level of 90 decibels.

Decibel (dB) -- Unit of measurement of sound level.

Hertz (Hz) -- Unit of measurement of frequency, numerically equal to cycles per second.

Medical pathology -- A disorder or disease. For purposes of this regulation, a condition or disease affecting the ear, which should be treated by a physician specialist.

Noise dose -- The ratio, expressed as a percentage, of (1) the time integral, over a stated time or event, of the 0.6 power of the measured SLOW exponential time-averaged, squared A-weighted sound pressure and (2) the product of the criterion duration (8 hours) and the 0.6 power of the squared sound pressure corresponding to the criterion sound level (90 dB).

Noise dosimeter -- An instrument that integrates a function of sound pressure over a period of time in such a manner that it directly indicates a noise dose.

Otolaryngologist -- A physician specializing in diagnosis and treatment of disorders of the ear, nose and throat.

Representative exposure -- Measurements of an employee's noise dose or 8-hour time-weighted average sound level that the employers deem to be representative of the exposures of other employees in the workplace.

Sound level -- Ten times the common logarithm of the ratio of the square of the measured A-weighted sound pressure to the square of the standard reference pressure of 20 micropascals. Unit: decibels (dB). For use with this regulation, SLOW time response, in accordance with ANSI S1.4-1971 (R1976), is required.

Sound level meter -- An instrument for the measurement of sound level.

Time-weighted average sound level -- That sound level, which if constant over an 8-hour exposure, would result in the same noise dose as is measured.

## Statutory Authority

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### AUTHORITY NOTE APPLICABLE TO ENTIRE SUBPART:

[29 U.S.C. 653](#), 655, 657; Secretary of Labor's Order No. 12-71 ([36 FR 8754](#)), [8-76 \(41 FR 25059\)](#), [9-83 \(48 FR 35736\)](#), [1-90 \(55 FR 9033\)](#), [6-96 \(62 FR 111\)](#), [3-2000 \(65 FR 50017\)](#), [5-2002 \(67 FR 50017\)](#), [5-2007 \(72 FR 31159\)](#), [4-2010 \(75 FR 55355\)](#), or 1-2012 ([77 FR 3912](#)), as applicable; and 29 CFR part 1911.

## History

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[[39 FR 23502](#), June 27, 1974, as amended at [46 FR 4161](#), Jan. 16, 1981; [46 FR 62845](#), Dec. 29, 1981; [48 FR 9776](#), Mar. 8, 1983; [48 FR 29687](#), June 28, 1983; [54 FR 24333](#), June 7, 1989; [61 FR 9228](#), [9236](#), Mar. 7, 1996; [71 FR 16669](#), [16672](#), Apr. 3, 2006; [73 FR 75568](#), [75584](#), Dec. 12, 2008]

Annotations

## Notes

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### [EFFECTIVE DATE NOTE:

[73 FR 75568, 75584](#), Dec. 12, 2008, revised paragraph (k)(1), effective Jan. 12, 2009.]

## Case Notes

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### NOTES TO DECISIONS: COURT AND ADMINISTRATIVE DECISIONS SIGNIFICANTLY DISCUSSING SECTION --

[Topco, Inc. \(1999, OSHRC ALJ\) 18 BNA OSHC 1744, 1998 CCH OSHD P31730](#)

[GE v Workers' Compensation Appeal Bd. \(Bower\) \(1999, Pa Cmwlth\) 734 A2d 492](#), app den (2000) 561 Pa 679, 749 A2d 473

### LexisNexis® Notes

Case Notes Applicable to Entire Part

Civil Procedure : Appeals : Standards of Review : Reversible Errors

Environmental Law : Noise

Evidence : Procedural Considerations : Burdens of Production

Governments : Agriculture & Food : Packers & Stockyards Act

Governments : Agriculture & Food : Poultry Products

Governments : Agriculture & Food : Processing, Storage & Distribution

Governments : Legislation : Effect & Operation : Amendments

Labor & Employment Law : Occupational Safety & Health : Administrative Proceedings : General Overview

Labor & Employment Law : Occupational Safety & Health : Administrative Proceedings : Citations & Inspections

Labor & Employment Law : Occupational Safety & Health : Administrative Proceedings : Rulemaking

Labor & Employment Law : Occupational Safety & Health : Administrative Proceedings : Standards of Review

Labor & Employment Law : Occupational Safety & Health : Compliance & Defenses

Labor & Employment Law : Occupational Safety & Health : Duties & Rights

Labor & Employment Law : Occupational Safety & Health : Industry Standards

Labor & Employment Law : Wage & Hour Laws : Statutory Application : General Overview

Labor & Employment Law : Wage & Hour Laws : Statutory Application : Portal-to-Portal Act

Military & Veterans Law : Veterans : Benefits : Disability Benefits

Transportation Law : Air Transportation : Noise Control

Workers' Compensation & SSDI : Remedies Under Other Laws : Occupational Safety & Health Act

### Case Notes Applicable to Entire Part

[Part Note](#)

### Civil Procedure : Appeals : Standards of Review : Reversible Errors

[Forging Industry Asso. v. Secretary of Labor, 773 F.2d 1436, 1985 U.S. App. LEXIS 21696](#) (4th Cir Sept. 23, 1985).



## 29 CFR 1910.95

**Overview:** *The hearing conversation amendment to the occupational noise standard was directed toward workplace noise, would reduce employee's risk of a material health impairment, and was reasonably related to the purposes of the enabling legislation.*

- The employee's right to observe monitoring in connection with the amendment to [29 C.F.R. § 1910.95 \(1984\)](#), [29 C.F.R. §§ 1910.95\(c\)-\(p\)](#), must be tempered with a standard of reasonableness, and observation which seriously disrupts production or the sampling itself is not permitted. *46 Fed. Reg. 4156.* [Go To Headnote](#)

### Environmental Law : Noise

[Forging Industry Asso. v. Secretary of Labor, 773 F.2d 1436, 1985 U.S. App. LEXIS 21696](#) (4th Cir Sept. 23, 1985).

**Overview:** *The hearing conversation amendment to the occupational noise standard was directed toward workplace noise, would reduce employee's risk of a material health impairment, and was reasonably related to the purposes of the enabling legislation.*

- [29 C.F.R. § 1910.95\(d\)](#) requires an employer to monitor workplace noise whenever information indicates that an employee's exposure may equal or exceed an 8-hour time-weighted average (TWA) of 85 db. [29 C.F.R. § 1910.95\(d\)\(2\)\(1\)](#) directs that noise at 80 db be integrated into the noise measurements. [29 C.F.R. § 1910.95\(e\)](#) provides that the employer notify each employee exposed at or above the 8-hour TWA of 85 db of the results of the monitoring while [29 C.F.R. § 1910.95\(f\)](#) directs that employees or their representatives be provided with an opportunity to observe noise measurements. [Go To Headnote](#)

[Donovan v. Castle & Cooke Foods, Etc., 692 F.2d 641, 1982 U.S. App. LEXIS 23943](#) (9th Cir Nov. 19, 1982).

**Overview:** *In OSHA case, Secretary of Labor had initial burden to prove that proposed noise abatement method was technologically feasible; if employer claimed that resulting cost was unjustified, secretary also had burden to show cost-benefit justification.*

- [29 C.F.R. § 1910.95\(b\) \(1\)](#) contemplates three types of noise controls. Engineering controls are those that reduce the sound intensity at the source of the noise. This is achieved by insulation of the machine, by substituting quieter machines and processes, or by isolating the machine or its operator. Administrative controls attempt to reduce workers' exposure to excess noise through use of variable work schedules, variable assignments, or limiting machine use. Personal protective equipment includes such devices as ear plugs and ear muffs provided by the employer and fitted to individual workers. [Go To Headnote](#)
- In an enforcement action relating to a citation alleging a violation of [29 C.F.R. § 1910.95\(b\)\(1\)](#), once the Secretary of Labor meets his initial burden, the burden must shift to the employer, who may raise the issue of economic feasibility. The employer may satisfy this burden of production with evidence of the relative cost to him of various methods of noise control; and may compare the costs of implementing engineering controls, administrative controls, or personal protective equipment at a specific employment location. [Go To Headnote](#)

[Carnation Co. v. Secretary of Labor, 641 F.2d 801, 1981 U.S. App. LEXIS 14463](#) (9th Cir Apr. 9, 1981).

**Overview:** *Administrative noise violation imposed upon employer was remanded for evidentiary hearing because principles of due process were violated when employer was not allowed to rebut evidence offered by Secretary of Labor with its own relevant evidence.*

- Violators of the noise standard must correct violations if to do so is economically feasible. [29 C.F.R. § 1910.95](#). The Secretary of Labor has the burden of proof of showing economic feasibility. [29 C.F.R. § 2200.73.](#) [Go To Headnote](#)

[Continental Can Co. v. Marshall, 455 F. Supp. 1015, 1978 U.S. Dist. LEXIS 16112](#) (SD Ill Aug. 8, 1978).

**Overview:** A company maintaining metal can-manufacturing plants could not be cited for violating sound level regulations because the issue of economic feasibility of machine enclosures was litigated and determined in favor of the company by prior litigation.

- Economic feasibility is required, on a comparison basis with personal protective alternatives, in the enforcement of [29 C.F.R. § 1910.95\(b\)\(1\)](#). [Go To Headnote](#)

#### **Evidence : Procedural Considerations : Burdens of Production**

*Donovan v. Castle & Cooke Foods, Etc.*, 692 F.2d 641, 1982 U.S. App. LEXIS 23943 (9th Cir Nov. 19, 1982).

**Overview:** In OSHA case, Secretary of Labor had initial burden to prove that proposed noise abatement method was technologically feasible; if employer claimed that resulting cost was unjustified, secretary also had burden to show cost-benefit justification.

- In an enforcement action relating to a citation alleging a violation of [29 C.F.R. § 1910.95\(b\)\(1\)](#), once the Secretary of Labor meets his initial burden, the burden must shift to the employer, who may raise the issue of economic feasibility. The employer may satisfy this burden of production with evidence of the relative cost to him of various methods of noise control; and may compare the costs of implementing engineering controls, administrative controls, or personal protective equipment at a specific employment location. [Go To Headnote](#)

#### **Governments : Agriculture & Food : Packers & Stockyards Act**

[Anderson v. Perdue Farms, Inc., 604 F. Supp. 2d 1339, 2009 U.S. Dist. LEXIS 19243](#) (MD Ala Mar. 10, 2009).

**Overview:** Because an employer poultry processor was benefited by the workers' donning and doffing Personal Protective Equipment in that it was required under federal regulations and the workers also benefited in protecting their clothing, those disputed issues precluded summary judgment as to compensability under [29 U.S.C.S. § 254\(a\)](#).

- Federal regulations require poultry processing employees to wear Personal Protective Equipment (PPE) when processing poultry. [21 C.F.R. § 110.10\(b\)\(6\)](#) requires hair nets and beard nets. [9 C.F.R. § 416.5\(b\)](#), [29 C.F.R. § 1910.136](#), and [21 C.F.R. § 110.10\(b\)\(1\)](#) requires boots. [21 C.F.R. § 110.10\(b\)\(6\)](#) and [29 C.F.R. § 1910.134](#) require bump caps. [29 C.F.R. § 1910.95](#) requires earplugs. [29 C.F.R. § 1910.133](#) requires safety glasses. One meaning of "necessary" is required by obligation, compulsion, or convention. Under this definition, these regulations, no doubt obligatory and compulsory, clearly render donning, doffing, and sanitizing of PPE "necessary." [Go To Headnote](#)

#### **Governments : Agriculture & Food : Poultry Products**

[Anderson v. Perdue Farms, Inc., 604 F. Supp. 2d 1339, 2009 U.S. Dist. LEXIS 19243](#) (MD Ala Mar. 10, 2009).

**Overview:** Because an employer poultry processor was benefited by the workers' donning and doffing Personal Protective Equipment in that it was required under federal regulations and the workers also benefited in protecting their clothing, those disputed issues precluded summary judgment as to compensability under [29 U.S.C.S. § 254\(a\)](#).

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[29 C.F.R. § 1910.136](#), and [21 C.F.R. § 110.10\(b\)\(1\)](#) requires boots. [21 C.F.R. § 110.10\(b\)\(6\)](#) and [29 C.F.R. § 1910.134](#) require bump caps. [29 C.F.R. § 1910.95](#) requires earplugs. [29 C.F.R. § 1910.133](#) requires safety glasses. One meaning of "necessary" is required by obligation, compulsion, or convention. Under this definition, these regulations, no doubt obligatory and compulsory, clearly render donning, doffing, and sanitizing of PPE "necessary." [Go To Headnote](#)

### **Governments : Agriculture & Food : Processing, Storage & Distribution**

[Anderson v. Perdue Farms, Inc., 604 F. Supp. 2d 1339, 2009 U.S. Dist. LEXIS 19243](#) (MD Ala Mar. 10, 2009).

**Overview:** *Because an employer poultry processor was benefited by the workers' donning and doffing Personal Protective Equipment in that it was required under federal regulations and the workers also benefited in protecting their clothing, those disputed issues precluded summary judgment as to compensability under [29 U.S.C.S. § 254\(a\)](#).*

- Federal regulations require poultry processing employees to wear Personal Protective Equipment (PPE) when processing poultry. [21 C.F.R. § 110.10\(b\)\(6\)](#) requires hair nets and beard nets. [9 C.F.R. § 416.5\(b\)](#), [29 C.F.R. § 1910.136](#), and [21 C.F.R. § 110.10\(b\)\(1\)](#) requires boots. [21 C.F.R. § 110.10\(b\)\(6\)](#) and [29 C.F.R. § 1910.134](#) require bump caps. [29 C.F.R. § 1910.95](#) requires earplugs. [29 C.F.R. § 1910.133](#) requires safety glasses. One meaning of "necessary" is required by obligation, compulsion, or convention. Under this definition, these regulations, no doubt obligatory and compulsory, clearly render donning, doffing, and sanitizing of PPE "necessary." [Go To Headnote](#)

### **Governments : Legislation : Effect & Operation : Amendments**

[Forging Industry Asso. v. Secretary of Labor, 773 F.2d 1436, 1985 U.S. App. LEXIS 21696](#) (4th Cir Sept. 23, 1985).

**Overview:** *The hearing conversation amendment to the occupational noise standard was directed toward workplace noise, would reduce employee's risk of a material health impairment, and was reasonably related to the purposes of the enabling legislation.*

- The hearing conversation amendment to [29 C.F.R. § 1910.95 \(1984\)](#) does nothing more than ensure that a hearing-endangered worker is provided with protection in the workplace in order to decrease the risk of a hearing impairment. Having identified employee susceptibility to noise, the Occupational Safety and Health Act of 1970 does not wait for an employee to become injured. It authorizes the promulgation of health and safety standards in the hope that these will act to prevent injuries from ever occurring. [Go To Headnote](#)
- The hearing conversation amendment to [29 C.F.R. § 1910.95 \(1984\)](#), provides that non-occupationally caused hearing loss be excluded from its regulation. [29 C.F.R. §§ 1910.95\(g\) \(8\) \(ii\), 1910.95\(g\)\(10\)\(ii\) \(1984\)](#). Assuming that some loss caused by aging or smaller amounts of noise sustained for shorter periods also aggravates the hearing loss incurred by an individual employed in a high noise-producing industry, that is scant reason to characterize the primary risk factor as non-occupational. [Go To Headnote](#)
- The hearing conversation amendment to [29 C.F.R. § 1910.95 \(1984\)](#), while leaving temporarily unchanged the 90 db PEL, establishes requirements whose aim is to reduce the level of noise that reaches the ears of particularly susceptible employees. As such, it satisfies the mandate of [29 U.S.C.S. § 655\(b\)\(5\)](#) of the Occupational Safety and Health Act of 1970 by assuring, to the extent feasible, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. [Go To Headnote](#)
- Substantial evidence exists to support the Occupational Safety and Health Administration's conclusion that the requirements of the hearing conversation amendment to [29 C.F.R. § 1910.95 \(1984\)](#), will eliminate or reduce employees' risk of suffering a material health impairment. [Go To Headnote](#)

## 29 CFR 1910.95

- The requirements of the amendment to [29 C.F.R. § 1910.95 \(1984\)](#), [29 C.F.R. §§ 1910.95\(c\)-\(p\)](#), are technologically feasible. [Go To Headnote](#)

### Labor & Employment Law : Occupational Safety & Health : Administrative Proceedings : General Overview

*Donovan v. Castle & Cooke Foods, Etc.*, 692 F.2d 641, 1982 U.S. App. LEXIS 23943 (9th Cir Nov. 19, 1982).

**Overview:** *In OSHA case, Secretary of Labor had initial burden to prove that proposed noise abatement method was technologically feasible; if employer claimed that resulting cost was unjustified, secretary also had burden to show cost-benefit justification.*

- When the Secretary of Labor seeks to enforce a citation alleging a violation of [29 C.F.R. § 1910.95\(b\)\(1\)](#), he bears an initial burden of showing that technologically feasible engineering controls are available to the cited employer. [Go To Headnote](#)
- If an employer in an enforcement action relating to a citation alleging a violation of [29 C.F.R. § 1910.95\(b\)\(1\)](#) raises the question of economic feasibility, the burden of proof returns to the Secretary of Labor, who then must establish that the benefit of the proposed engineering controls justifies their relative cost in comparison to other abatement methods. [Go To Headnote](#)

### Labor & Employment Law : Occupational Safety & Health : Administrative Proceedings : Citations & Inspections

[Forging Industry Asso. v. Secretary of Labor](#), 773 F.2d 1436, 1985 U.S. App. LEXIS 21696 (4th Cir Sept. 23, 1985).

**Overview:** *The hearing conversation amendment to the occupational noise standard was directed toward workplace noise, would reduce employee's risk of a material health impairment, and was reasonably related to the purposes of the enabling legislation.*

- The employee's right to observe monitoring in connection with the amendment to [29 C.F.R. § 1910.95 \(1984\)](#), [29 C.F.R. §§ 1910.95\(c\)-\(p\)](#), must be tempered with a standard of reasonableness, and observation which seriously disrupts production or the sampling itself is not permitted. 46 Fed. Reg. 4156. [Go To Headnote](#)

### Labor & Employment Law : Occupational Safety & Health : Administrative Proceedings : Rulemaking

[Forging Industry Asso. v. Secretary of Labor](#), 773 F.2d 1436, 1985 U.S. App. LEXIS 21696 (4th Cir Sept. 23, 1985).

**Overview:** *The hearing conversation amendment to the occupational noise standard was directed toward workplace noise, would reduce employee's risk of a material health impairment, and was reasonably related to the purposes of the enabling legislation.*

- The hearing conversation amendment to [29 C.F.R. § 1910.95 \(1984\)](#) does nothing more than ensure that a hearing-endangered worker is provided with protection in the workplace in order to decrease the risk of a hearing impairment. Having identified employee susceptibility to noise, the Occupational Safety and Health Act of 1970 does not wait for an employee to become injured. It authorizes the promulgation of health and safety standards in the hope that these will act to prevent injuries from ever occurring. [Go To Headnote](#)
- The hearing conversation amendment to [29 C.F.R. § 1910.95 \(1984\)](#), while leaving temporarily unchanged the 90 db PEL, establishes requirements whose aim is to reduce the level of noise that reaches the ears of particularly susceptible employees. As such, it satisfies the mandate of [29 U.S.C.S. § 655\(b\)\(5\)](#) of the Occupational Safety and Health Act of 1970 by assuring, to the extent feasible, that no employee will suffer

## 29 CFR 1910.95

material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. [Go To Headnote](#)

### Labor & Employment Law : Occupational Safety & Health : Administrative Proceedings : Standards of Review

[Forging Industry Asso. v. Secretary of Labor, 773 F.2d 1436, 1985 U.S. App. LEXIS 21696](#) (4th Cir Sept. 23, 1985).

**Overview:** *The hearing conversation amendment to the occupational noise standard was directed toward workplace noise, would reduce employee's risk of a material health impairment, and was reasonably related to the purposes of the enabling legislation.*

- The hearing conversation amendment to [29 C.F.R. § 1910.95 \(1984\)](#), while leaving temporarily unchanged the 90 db PEL, establishes requirements whose aim is to reduce the level of noise that reaches the ears of particularly susceptible employees. As such, it satisfies the mandate of [29 U.S.C.S. § 655\(b\)\(5\)](#) of the Occupational Safety and Health Act of 1970 by assuring, to the extent feasible, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. [Go To Headnote](#)
- Substantial evidence exists to support the Occupational Safety and Health Administration's conclusion that the requirements of the hearing conversation amendment to [29 C.F.R. § 1910.95 \(1984\)](#), will eliminate or reduce employees' risk of suffering a material health impairment. [Go To Headnote](#)

### Labor & Employment Law : Occupational Safety & Health : Compliance & Defenses

[Reich v. Trinity Indus., 16 F.3d 1149, 1994 U.S. App. LEXIS 5184](#) (11th Cir Mar. 22, 1994).

**Overview:** *Corporation was in violation of the applicable safety and health standards regarding noise where corporation knew of the standard but chose not to comply.*

- The secretary of labor, pursuant to [29 U.S.C.S. §§ 654\(a\)](#) and 655, requires that employers establish and maintain a hearing conservation program when information indicates that employee noise exposures equal or exceed an eight hour time-weighted average sound level of eighty-five decibels. [29 C.F.R. § 1910.95\(c\) \(1992\)](#). [Go To Headnote](#)

[Donovan v. Castle & Cooke Foods, Etc., 692 F.2d 641, 1982 U.S. App. LEXIS 23943](#) (9th Cir Nov. 19, 1982).

**Overview:** *In OSHA case, Secretary of Labor had initial burden to prove that proposed noise abatement method was technologically feasible; if employer claimed that resulting cost was unjustified, secretary also had burden to show cost-benefit justification.*

- [29 C.F.R. § 1910.95\(b\) \(1\)](#) contemplates three types of noise controls. Engineering controls are those that reduce the sound intensity at the source of the noise. This is achieved by insulation of the machine, by substituting quieter machines and processes, or by isolating the machine or its operator. Administrative controls attempt to reduce workers' exposure to excess noise through use of variable work schedules, variable assignments, or limiting machine use. Personal protective equipment includes such devices as ear plugs and ear muffs provided by the employer and fitted to individual workers. [Go To Headnote](#)

### Labor & Employment Law : Occupational Safety & Health : Duties & Rights

[Reich v. Trinity Indus., 16 F.3d 1149, 1994 U.S. App. LEXIS 5184](#) (11th Cir Mar. 22, 1994).

**Overview:** Corporation was in violation of the applicable safety and health standards regarding noise where corporation knew of the standard but chose not to comply.

- The secretary of labor, pursuant to [29 U.S.C.S. §§ 654\(a\)](#) and 655, requires that employers establish and maintain a hearing conservation program when information indicates that employee noise exposures equal or exceed an eight hour time-weighted average sound level of eighty-five decibels. [29 C.F.R. § 1910.95\(c\) \(1992\)](#). [Go To Headnote](#)

[Forging Industry Asso. v. Secretary of Labor, 773 F.2d 1436, 1985 U.S. App. LEXIS 21696](#) (4th Cir Sept. 23, 1985).

**Overview:** The hearing conversation amendment to the occupational noise standard was directed toward workplace noise, would reduce employee's risk of a material health impairment, and was reasonably related to the purposes of the enabling legislation.

- The hearing conservation amendment to replace the general conservation program requirement requires employers to determine, through implementation of a monitoring program, which employees are exposed to an "action level" of 85 db or above measured as an 8-hour time-weighted average. [29 C.F.R. § 1910.95\(d\)](#). Such employees must be notified of the amount of sound they are exposed to and be provided with an audiometric test to determine their hearing level. [29 C.F.R. §§ 1910.95\(e\)](#), (g)(1). At least annually thereafter, the employer must provide the exposed employee with an additional audiometric test to determine whether the employee has suffered an average loss of hearing of 10 db or more in either ear known as a standard threshold shift (STS). [29 C.F.R. § 1910.95\(g\)\(6\)](#). [Go To Headnote](#)
- If an employee has suffered a standard threshold shift, the employer must take follow-up measures to prevent the employee from reaching the material impairment state. These measures include fitting the employee with hearing protectors, providing training, and requiring the employee to use the protectors. [29 C.F.R. § 1910.95\(g\)\(8\)](#). The protectors must reduce the employee's exposure to an 8-hour time-weighted average of 85 db or less. [29 C.F.R. § 1910.95\(j\)\(3\)](#). [Go To Headnote](#)
- The employer must institute a training program on audiometric testing, hearing protectors, and effects of noise on hearing for all employees who are exposed to noise at or above an 8-hour time-weighted average of 85 db. [29 C.F.R. § 1910.95\(k\)](#). The employer must also retain records of employee exposure measurements and audiometric tests. [29 C.F.R. § 1910.95\(m\)](#). [Go To Headnote](#)
- The provisions of the amendment apply to all employees covered by the Occupational Safety and Health Act of 1970, except those in construction, agriculture, and oil and gas well drilling and servicing. [46 Fed. Reg. 42622](#); [29 C.F.R. § 1910.95\(o\)](#). [Go To Headnote](#)
- [29 C.F.R. §§ 1910.95\(g\)](#), (h), require employers to establish and maintain an audiometric testing program for all employees exposed to an 8-hour time-weighted average of 85 db or more. [Go To Headnote](#)
- [29 C.F.R. § 1910.95\(d\)](#) requires an employer to monitor workplace noise whenever information indicates that an employee's exposure may equal or exceed an 8-hour time-weighted average (TWA) of 85 db. [29 C.F.R. § 1910.95\(d\)\(2\)\(1\)](#) directs that noise at 80 db be integrated into the noise measurements. [29 C.F.R. § 1910.95\(e\)](#) provides that the employer notify each employee exposed at or above the 8-hour TWA of 85 db of the results of the monitoring while [29 C.F.R. § 1910.95\(f\)](#) directs that employees or their representatives be provided with an opportunity to observe noise measurements. [Go To Headnote](#)
- The hearing conversation amendment to [29 C.F.R. § 1910.95 \(1984\)](#) requires that employers inform all employees of the effects of noise on hearing, the purpose and characteristics of various types of hearing protectors, and the purpose and methods of audiometric testing. [29 C.F.R. § 1910.95\(k\)\(3\)](#). [Go To Headnote](#)
- [29 C.F.R. § 1910.95\(k\)](#) is entitled "Training program" and [29 C.F.R. § 1910.95\(k\)\(1\)](#) specifically states that the training program is limited to those employees who are exposed to noise at or above an 8-hour time-weighted average of 85 db. Thus, [29 C.F.R. § 1910.95\(k\)\(3\)](#) merely provides one aspect of that training program and, when read in conjunction with [29 C.F.R. § 1910.95\(k\)](#), indicates that it is limited to workers exposed to significant occupational noise. [Go To Headnote](#)

## 29 CFR 1910.95

- Various provisions of the amendment to [29 C.F.R. § 1910.95 \(1984\)](#), [29 C.F.R. §§ 1910.95\(c\)-\(p\)](#), state that employers shall ensure compliance with its requirements. [29 C.F.R. §§ 1910.95\(i\)\(2\)](#), (i)(5), (k)(1), (k)(3). [Go To Headnote](#)
- [29 C.F.R. § 1910.95\(d\)\(2\)\(i\)](#) provides that, in measuring noise for purposes of monitoring, all continuous, intermittent, and impulsive sound levels from 80 decibels to 130 decibels shall be integrated into the noise measurements. [Go To Headnote](#)
- In view of the evidence indicating the hazard of exposure to impulse noise, over and above exposure to continuous noise, the inclusion of impulse noise in [29 C.F.R. § 1910.95\(d\)\(2\)\(i\)](#) is reasonably related to the purpose of ensuring safe and healthful employment. [Go To Headnote](#)
- [29 C.F.R. § 1910.95\(i\)\(1\)](#) of the amendment provides that employers must provide hearing protectors at no charge to all employees exposed to an 8-hour time-weighted average 85 db or more. [29 C.F.R. § 1910.95\(i\)\(1\)](#). [Go To Headnote](#)
- The employee's right to observe monitoring in connection with the amendment to [29 C.F.R. § 1910.95 \(1984\)](#), [29 C.F.R. §§ 1910.95\(c\)-\(p\)](#), must be tempered with a standard of reasonableness, and observation which seriously disrupts production or the sampling itself is not permitted. *46 Fed. Reg. 4156*. [Go To Headnote](#)

[Alexandria v. Helms, 728 F.2d 643, 1984 U.S. App. LEXIS 25040](#) (4th Cir Feb. 28, 1984).

**Overview:** *The district court lacked jurisdiction to issue a preliminary injunction where the FAA's plan to change flight paths in an effort to distribute noise was a final order. The action was exempt from APA rulemaking procedures.*

- OSHA standards allow a worker to spend eight hours per day exposed to 90 dBA or two hours per day at 100 dBA. [29 C.F.R. § 1910.95](#). [Go To Headnote](#)

[Carnation Co. v. Secretary of Labor, 641 F.2d 801, 1981 U.S. App. LEXIS 14463](#) (9th Cir Apr. 9, 1981).

**Overview:** *Administrative noise violation imposed upon employer was remanded for evidentiary hearing because principles of due process were violated when employer was not allowed to rebut evidence offered by Secretary of Labor with its own relevant evidence.*

- Violators of the noise standard must correct violations if to do so is economically feasible. [29 C.F.R. § 1910.95](#). The Secretary of Labor has the burden of proof of showing economic feasibility. [29 C.F.R. § 2200.73](#). [Go To Headnote](#)

## Labor & Employment Law : Occupational Safety & Health : Industry Standards

[Reich v. Trinity Indus., 16 F.3d 1149, 1994 U.S. App. LEXIS 5184](#) (11th Cir Mar. 22, 1994).

**Overview:** *Corporation was in violation of the applicable safety and health standards regarding noise where corporation knew of the standard but chose not to comply.*

- The secretary of labor, pursuant to [29 U.S.C.S. §§ 654\(a\)](#) and 655, requires that employers establish and maintain a hearing conservation program when information indicates that employee noise exposures equal or exceed an eight hour time-weighted average sound level of eighty-five decibels. [29 C.F.R. § 1910.95\(c\) \(1992\)](#). [Go To Headnote](#)

[Forging Industry Asso. v. Secretary of Labor, 773 F.2d 1436, 1985 U.S. App. LEXIS 21696](#) (4th Cir Sept. 23, 1985).

**Overview:** *The hearing conversation amendment to the occupational noise standard was directed toward workplace noise, would reduce employee's risk of a material health impairment, and was reasonably related to the purposes of the enabling legislation.*

- The hearing conservation amendment to replace the general conservation program requirement requires employers to determine, through implementation of a monitoring program, which employees are exposed to an "action level" of 85 db or above measured as an 8-hour time-weighted average. [29 C.F.R. § 1910.95\(d\)](#). Such employees must be notified of the amount of sound they are exposed to and be provided with an audiometric test to determine their hearing level. [29 C.F.R. §§ 1910.95\(e\)](#), (g)(1). At least annually thereafter, the employer must provide the exposed employee with an additional audiometric test to determine whether the employee has suffered an average loss of hearing of 10 db or more in either ear known as a standard threshold shift (STS). [29 C.F.R. § 1910.95\(g\)\(6\)](#). [Go To Headnote](#)
- If an employee has suffered a standard threshold shift, the employer must take follow-up measures to prevent the employee from reaching the material impairment state. These measures include fitting the employee with hearing protectors, providing training, and requiring the employee to use the protectors. [29 C.F.R. § 1910.95\(g\)\(8\)](#). The protectors must reduce the employee's exposure to an 8-hour time-weighted average of 85 db or less. [29 C.F.R. § 1910.95\(j\)\(3\)](#). [Go To Headnote](#)
- The employer must institute a training program on audiometric testing, hearing protectors, and effects of noise on hearing for all employees who are exposed to noise at or above an 8-hour time-weighted average of 85 db. [29 C.F.R. § 1910.95\(k\)](#). The employer must also retain records of employee exposure measurements and audiometric tests. [29 C.F.R. § 1910.95\(m\)](#). [Go To Headnote](#)
- The provisions of the amendment apply to all employees covered by the Occupational Safety and Health Act of 1970, except those in construction, agriculture, and oil and gas well drilling and servicing. [46 Fed. Reg. 42622; 29 C.F.R. § 1910.95\(o\)](#). [Go To Headnote](#)
- The hearing conversation amendment to [29 C.F.R. § 1910.95 \(1984\)](#) does nothing more than ensure that a hearing-endangered worker is provided with protection in the workplace in order to decrease the risk of a hearing impairment. Having identified employee susceptibility to noise, the Occupational Safety and Health Act of 1970 does not wait for an employee to become injured. It authorizes the promulgation of health and safety standards in the hope that these will act to prevent injuries from ever occurring. [Go To Headnote](#)
- The hearing conversation amendment to [29 C.F.R. § 1910.95 \(1984\)](#), provides that non-occupationally caused hearing loss be excluded from its regulation. [29 C.F.R. §§ 1910.95\(g\) \(8\) \(ii\), 1910.95\(g\)\(10\)\(ii\) \(1984\)](#). Assuming that some loss caused by aging or smaller amounts of noise sustained for shorter periods also aggravates the hearing loss incurred by an individual employed in a high noise-producing industry, that is scant reason to characterize the primary risk factor as non-occupational. [Go To Headnote](#)
- Substantial evidence exists to support the Occupational Safety and Health Administration's conclusion that the requirements of the hearing conversation amendment to [29 C.F.R. § 1910.95 \(1984\)](#), will eliminate or reduce employees' risk of suffering a material health impairment. [Go To Headnote](#)
- [29 C.F.R. §§ 1910.95\(g\)](#), (h), require employers to establish and maintain an audiometric testing program for all employees exposed to an 8-hour time-weighted average of 85 db or more. [Go To Headnote](#)
- [29 C.F.R. § 1910.95\(d\)](#) requires an employer to monitor workplace noise whenever information indicates that an employee's exposure may equal or exceed an 8-hour time-weighted average (TWA) of 85 db. [29 C.F.R. § 1910.95\(d\)\(2\)\(1\)](#) directs that noise at 80 db be integrated into the noise measurements. [29 C.F.R. § 1910.95\(e\)](#) provides that the employer notify each employee exposed at or above the 8-hour TWA of 85 db of the results of the monitoring while [29 C.F.R. § 1910.95\(f\)](#) directs that employees or their representatives be provided with an opportunity to observe noise measurements. [Go To Headnote](#)
- A standard threshold shift is defined as a change in hearing threshold relative to the baseline audiogram of an average of 10 db or more at 2000, 3000, and 4000 Hz in either ear. [29 C.F.R. § 1910.95\(g\)\(10\)](#). [Go To Headnote](#)



## 29 CFR 1910.95

- The hearing conversation amendment to [29 C.F.R. § 1910.95 \(1984\)](#) requires that employers inform all employees of the effects of noise on hearing, the purpose and characteristics of various types of hearing protectors, and the purpose and methods of audiometric testing. [29 C.F.R. § 1910.95\(k\)\(3\)](#). [Go To Headnote](#)
- [29 C.F.R. § 1910.95\(k\)](#) is entitled "Training program" and [29 C.F.R. § 1910.95\(k\)\(1\)](#) specifically states that the training program is limited to those employees who are exposed to noise at or above an 8-hour time-weighted average of 85 db. Thus, [29 C.F.R. § 1910.95\(k\)\(3\)](#) merely provides one aspect of that training program and, when read in conjunction with [29 C.F.R. § 1910.95\(k\)](#), indicates that it is limited to workers exposed to significant occupational noise. [Go To Headnote](#)
- Various provisions of the amendment to [29 C.F.R. § 1910.95 \(1984\)](#), [29 C.F.R. §§ 1910.95\(c\)-\(p\)](#), state that employers shall ensure compliance with its requirements. [29 C.F.R. §§ 1910.95\(i\)\(2\)](#), (i)(5), (k)(1), (k)(3). [Go To Headnote](#)
- [29 C.F.R. § 1910.95\(d\)\(2\)\(i\)](#) provides that, in measuring noise for purposes of monitoring, all continuous, intermittent, and impulsive sound levels from 80 decibels to 130 decibels shall be integrated into the noise measurements. [Go To Headnote](#)
- In view of the evidence indicating the hazard of exposure to impulse noise, over and above exposure to continuous noise, the inclusion of impulse noise in [29 C.F.R. § 1910.95\(d\)\(2\)\(i\)](#) is reasonably related to the purpose of ensuring safe and healthful employment. [Go To Headnote](#)
- [29 C.F.R. § 1910.95\(i\)\(1\)](#) of the amendment provides that employers must provide hearing protectors at no charge to all employees exposed to an 8-hour time-weighted average 85 db or more. [29 C.F.R. § 1910.95\(i\)\(1\)](#). [Go To Headnote](#)
- The requirements of the amendment to [29 C.F.R. § 1910.95 \(1984\)](#), [29 C.F.R. §§ 1910.95\(c\)-\(p\)](#), are technologically feasible. [Go To Headnote](#)

[Forging Industry Asso. v. Secretary of Labor, 748 F.2d 210, 1984 U.S. App. LEXIS 16897](#) (4th Cir Nov. 7, 1984).

**Overview:** *A regulation promulgated by the Occupational Health and Safety Administration was invalid because that agency's statutory authority was only permitted to regulate working conditions and occupational safety and health hazards.*

- The Walsh-Healey Public standard establishes a permissible workplace limit of 90 decibels (db) calculated using an 8-hour time-weighted average. [29 C.F.R. § 1910.95 \(a\)](#). If the 90 db exposure limit is exceeded, the employer must reduce noise to or below this level by using feasible engineering or administrative controls. [29 C.F.R. § 1910.95 \(b\) \(1\)](#). If such controls are infeasible, employers may use hearing protectors, such as ear muffs or plugs, to reduce employee noise exposure to permissible limits. [Go To Headnote](#)
- [29 C.F.R. § 1910.95 \(d\)](#) requires employers to determine which employees are exposed to or above an "action level" of 85 db measured as an 8-hour time-weighted average. Such employees must be notified of the amount of sound they are exposed to and provided with an audiometric test to determine their hearing level. [29 C.F.R. § 1910.95\(e\)](#), (g)(1). At least annually thereafter, the employer must provide the exposed employee with an additional test to determine whether the employee has suffered an average loss of hearing of 10 db, known as a standard threshold shift, or "STS." [29 C.F.R. § 1910.95\(g\)\(6\)](#). If there has been an STS, the employer must take follow-up measures to prevent the employee from reaching the material impairment stage. These measures include fitting the employee with hearing protectors, providing training, and requiring the employee to use the protectors. [29 C.F.R. § 1910.95\(g\)\(8\)](#). The protectors must reduce the employee's exposure to an 8-hour TWA of 85 db or below. [29 C.F.R. § 1910.95\(j\)\(3\)](#). [Go To Headnote](#)
- [29 C.F.R. § 1910.95](#) requires an employer to institute a training program on audiometric testing, hearing protectors, and effects of noise on hearing for all employees who are exposed to noise at or above an 8-

## 29 CFR 1910.95

hour TWA of 85 db. [29 C.F.R. § 1910.95\(k\)](#). The employer must also retain records of employee exposure measurements and audiometric tests. [29 C.F.R. § 1910.95\(m\)](#). The provisions of § 1910.95 apply to all employees covered by Occupational Safety and Health Act of 1970, except those in construction, agriculture, and oil and gas well drilling and servicing. [46 Fed. Reg. 42622](#). [Go To Headnote](#)

[Alexandria v. Helms, 728 F.2d 643, 1984 U.S. App. LEXIS 25040](#) (4th Cir Feb. 28, 1984).

**Overview:** *The district court lacked jurisdiction to issue a preliminary injunction where the FAA's plan to change flight paths in an effort to distribute noise was a final order. The action was exempt from APA rulemaking procedures.*

- OSHA standards allow a worker to spend eight hours per day exposed to 90 dBA or two hours per day at 100 dBA. [29 C.F.R. § 1910.95](#). [Go To Headnote](#)

[Donovan v. Castle & Cooke Foods, Etc., 692 F.2d 641, 1982 U.S. App. LEXIS 23943](#) (9th Cir Nov. 19, 1982).

**Overview:** *In OSHA case, Secretary of Labor had initial burden to prove that proposed noise abatement method was technologically feasible; if employer claimed that resulting cost was unjustified, secretary also had burden to show cost-benefit justification.*

- [29 C.F.R. § 1910.95\(b\) \(1\)](#) contemplates three types of noise controls. Engineering controls are those that reduce the sound intensity at the source of the noise. This is achieved by insulation of the machine, by substituting quieter machines and processes, or by isolating the machine or its operator. Administrative controls attempt to reduce workers' exposure to excess noise through use of variable work schedules, variable assignments, or limiting machine use. Personal protective equipment includes such devices as ear plugs and ear muffs provided by the employer and fitted to individual workers. [Go To Headnote](#)
- When the Secretary of Labor seeks to enforce a citation alleging a violation of [29 C.F.R. § 1910.95\(b\)\(1\)](#), he bears an initial burden of showing that technologically feasible engineering controls are available to the cited employer. [Go To Headnote](#)
- In an enforcement action relating to a citation alleging a violation of [29 C.F.R. § 1910.95\(b\)\(1\)](#), once the Secretary of Labor meets his initial burden, the burden must shift to the employer, who may raise the issue of economic feasibility. The employer may satisfy this burden of production with evidence of the relative cost to him of various methods of noise control; and may compare the costs of implementing engineering controls, administrative controls, or personal protective equipment at a specific employment location. [Go To Headnote](#)
- If an employer in an enforcement action relating to a citation alleging a violation of [29 C.F.R. § 1910.95\(b\)\(1\)](#) raises the question of economic feasibility, the burden of proof returns to the Secretary of Labor, who then must establish that the benefit of the proposed engineering controls justifies their relative cost in comparison to other abatement methods. [Go To Headnote](#)

[Carnation Co. v. Secretary of Labor, 641 F.2d 801, 1981 U.S. App. LEXIS 14463](#) (9th Cir Apr. 9, 1981).

**Overview:** *Administrative noise violation imposed upon employer was remanded for evidentiary hearing because principles of due process were violated when employer was not allowed to rebut evidence offered by Secretary of Labor with its own relevant evidence.*

- Violators of the noise standard must correct violations if to do so is economically feasible. [29 C.F.R. § 1910.95](#). The Secretary of Labor has the burden of proof of showing economic feasibility. [29 C.F.R. § 2200.73](#). [Go To Headnote](#)

[Continental Can Co. v. Marshall, 455 F. Supp. 1015, 1978 U.S. Dist. LEXIS 16112](#) (SD Ill Aug. 8, 1978).

## 29 CFR 1910.95

**Overview:** *A company maintaining metal can-manufacturing plants could not be cited for violating sound level regulations because the issue of economic feasibility of machine enclosures was litigated and determined in favor of the company by prior litigation.*

- Economic feasibility is required, on a comparison basis with personal protective alternatives, in the enforcement of [29 C.F.R. § 1910.95\(b\)\(1\)](#). [Go To Headnote](#)

### **Labor & Employment Law : Wage & Hour Laws : Statutory Application : General Overview**

[Forging Industry Asso. v. Secretary of Labor, 748 F.2d 210, 1984 U.S. App. LEXIS 16897](#) (4th Cir Nov. 7, 1984).

**Overview:** *A regulation promulgated by the Occupational Health and Safety Administration was invalid because that agency's statutory authority was only permitted to regulate working conditions and occupational safety and health hazards.*

- The Walsh-Healey Public standard establishes a permissible workplace limit of 90 decibels (db) calculated using an 8-hour time-weighted average. [29 C.F.R. § 1910.95 \(a\)](#). If the 90 db exposure limit is exceeded, the employer must reduce noise to or below this level by using feasible engineering or administrative controls. [29 C.F.R. § 1910.95 \(b\) \(1\)](#). If such controls are infeasible, employers may use hearing protectors, such as ear muffs or plugs, to reduce employee noise exposure to permissible limits. [Go To Headnote](#)

### **Labor & Employment Law : Wage & Hour Laws : Statutory Application : Portal-to-Portal Act**

[Anderson v. Perdue Farms, Inc., 604 F. Supp. 2d 1339, 2009 U.S. Dist. LEXIS 19243](#) (MD Ala Mar. 10, 2009).

**Overview:** *Because an employer poultry processor was benefited by the workers' donning and doffing Personal Protective Equipment in that it was required under federal regulations and the workers also benefited in protecting their clothing, those disputed issues precluded summary judgment as to compensability under [29 U.S.C.S. § 254\(a\)](#).*

- Federal regulations require poultry processing employees to wear Personal Protective Equipment (PPE) when processing poultry. [21 C.F.R. § 110.10\(b\)\(6\)](#) requires hair nets and beard nets. [9 C.F.R. § 416.5\(b\)](#), [29 C.F.R. § 1910.136](#), and [21 C.F.R. § 110.10\(b\)\(1\)](#) requires boots. [21 C.F.R. § 110.10\(b\)\(6\)](#) and [29 C.F.R. § 1910.134](#) require bump caps. [29 C.F.R. § 1910.95](#) requires earplugs. [29 C.F.R. § 1910.133](#) requires safety glasses. One meaning of "necessary" is required by obligation, compulsion, or convention. Under this definition, these regulations, no doubt obligatory and compulsory, clearly render donning, doffing, and sanitizing of PPE "necessary." [Go To Headnote](#)

### **Military & Veterans Law : Veterans : Benefits : Disability Benefits**

[Wallis v. Shinseki, 2011 U.S. App. Vet. Claims LEXIS 583](#) (Mar. 22, 2011).

**Overview:** *Board of Veterans' Appeals decision declining to refer a veteran's service-connected hearing loss disability claim for consideration of an extraschedular disability rating had to be set aside because the Board failed to provide an adequate statement of reasons or bases for its decision, including whether tests and procedure were adequate.*

- Occupational Safety and Health Administration (OSHA) regulations require hearing protection for any employee exposed to 115 dB for any longer than 15 minutes per day, and require employers to monitor the hearing of employees exposed to a time weighted average noise exposure of 85 dB per day. [29 C.F.R. § 1910.95 \(2010\)](#). [Go To Headnote](#)

## Transportation Law : Air Transportation : Noise Control

[Alexandria v. Helms, 728 F.2d 643, 1984 U.S. App. LEXIS 25040](#) (4th Cir Feb. 28, 1984).

**Overview:** *The district court lacked jurisdiction to issue a preliminary injunction where the FAA's plan to change flight paths in an effort to distribute noise was a final order. The action was exempt from APA rulemaking procedures.*

- OSHA standards allow a worker to spend eight hours per day exposed to 90 dBA or two hours per day at 100 dBA. [29 C.F.R. § 1910.95](#). [Go To Headnote](#)

## Workers' Compensation & SSDI : Remedies Under Other Laws : Occupational Safety & Health Act

[Forging Industry Asso. v. Secretary of Labor, 748 F.2d 210, 1984 U.S. App. LEXIS 16897](#) (4th Cir Nov. 7, 1984).

**Overview:** *A regulation promulgated by the Occupational Health and Safety Administration was invalid because that agency's statutory authority was only permitted to regulate working conditions and occupational safety and health hazards.*

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- [29 C.F.R. § 1910.95](#) requires an employer to institute a training program on audiometric testing, hearing protectors, and effects of noise on hearing for all employees who are exposed to noise at or above an 8-hour TWA of 85 db. [29 C.F.R. § 1910.95\(k\)](#). The employer must also retain records of employee exposure measurements and audiometric tests. [29 C.F.R. § 1910.95\(m\)](#). The provisions of § 1910.95 apply to all employees covered by Occupational Safety and Health Act of 1970, except those in construction, agriculture, and oil and gas well drilling and servicing. [46 Fed. Reg. 42622](#). [Go To Headnote](#)

## Research References & Practice Aids

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### NOTES APPLICABLE TO ENTIRE SUBTITLE:

CROSS REFERENCES: Railroad Retirement Board: See Employees' Benefits, 20 CFR chapter II.

Social Security Administration: See Employees' Benefits, 20 CFR chapter III.

EDITORIAL NOTE: Other regulations issued by the Department of Labor appear in 20 CFR chapters I, IV, V, VI, VII; 30 CFR chapter I; 41 CFR chapters 50, 60, and 61; and 48 CFR chapter 29.

**NOTES APPLICABLE TO ENTIRE CHAPTER:**

Railroad Retirement Board, See Employees' Benefits, 20 CFR Chapter II.

Social Security Administration, Department of Health and Human Services:

EDITORIAL NOTE: Other regulations issued by the Department of Labor appear in 20 CFR chapters 1, IV and V, VI, VII; 29 CFR subtitle A, chapters II, IV, V, XXV; 41 CFR chapters 50, 60, and 61. For Standards for a Merit System of Personnel Administration: See 5 CFR part 900.

**NOTES APPLICABLE TO ENTIRE PART:**

[PUBLISHER'S NOTE: For Federal Register citations concerning Part 1910 Grain Handling Facilities; Standards, see: [52 FR 49592](#), [49610](#), [49611](#), [49622](#), Dec. 31, 1987; [54 FR 49971](#), Dec. 4, 1989; [55 FR 50722](#), Dec. 10, 1990; [55 FR 9033](#), (1990); [59 FR 15339](#), Apr. 1, 1994; [68 FR 12301](#), Mar. 14, 2003.]

[PUBLISHER'S NOTE: For Federal Register citations concerning Part 1910 Notice of availability, see: [70 FR 20807](#), Apr. 22, 2005.]

[PUBLISHER'S NOTE: For Federal Register citations concerning Part 1910 Interpretations, see: [72 FR 31453](#), June 7, 2007.]

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