

April 22, 2008

Dear DBA Producer Members,

If you have hired employees on your dairy, be certain to understand the Occupational Safety and Health Administration Act (OSHA) regulations. Recently, a Wisconsin dairy was reported for violating OSHA standards. It is important to understand in which particular instances these regulations apply to your dairy operation. In general, dairies with fewer than 10 employees are not affected, but the *General Duty Clause* can extend to include even those operations. Exemption and non-exemption circumstances are outlined below:

Non-Exempt Farming Operations

A farming operation with 10 or fewer employees that maintains or has maintained a “temporary labor camp” (*definition below*) within the last twelve months is subject to OSHA regulation. An operation which has more than 10 employees is not exempt from inspection, regulation and citations for violations of applicable rules.

Exempt Farming Operation

If your operation has 10 or fewer employees and no temporary labor camp activity you are an “Exempt Farming Operation,” and OSHA has limited conditional regulatory authority over your operation. The rule states: “Some of the Appropriations Act exemptions and limitations apply to small farming operations.” Specifically, OSHA shall not inspect farming operations that have 10 or fewer employees and have no temporary labor camp activity within the prior 12 months.

General Duty Clause

OSHA may investigate and issue citations to both **Exempt and Non Exempt Farming Operations** under the General Duty Clause of their rules which states: “Under the General Duty Clause, the employer has an obligation to protect workers from serious and recognized workplace hazards even where there is no standard. Employers must take whatever abatement actions are feasible to eliminate these hazards. If an employer fails to do this, OSHA can inspect and issue a citation under the General Duty Clause.” Examples of hazardous situations that resulted in citations under the General Duty Clause are provided on the last sheet of this letter.

The “Table of Contents” for Occupational Safety and Health Standards for Agriculture and the Website address are on page 3 of this letter. The complete standards which apply to non-exempt agriculture operations can be obtained on OSHA’s website, on DBA’s website or by contacting DBA Staff via phone, fax or e-mail and requesting the standards be mailed, e-mailed or faxed to you.



Laurie Fischer, Executive Director

“Migrant labor camp” means the site and all structures maintained as living quarters by, for or under the control and supervision of any person for:

1. Any migrant worker; or
2. Any other person who is not related by blood or marriage to his or her employer and who occasionally or habitually leaves an established place of residence to travel to another locality to accept seasonal employment in the planting, cultivating, raising, harvesting, handling, drying, packing, packaging, processing, freezing, grading or storing of any agricultural or horticultural commodity in its unmanufactured state.

(b) “Migrant labor camp” does not include:

1. Premises occupied by the employer as a personal residence and by no more than 2 migrant workers.
2. Any accommodation subject to Chapter 50.

(Note Chapter 50, applies to Care and Service Residential Facilities such as Adult Family homes for individuals with developmental disabilities. It does not regulate Migrant Labor Camps)

Be wary of these hazardous situations where employers were cited under the General Duty Clause and ordered by OSHA to abate the hazard:

- repeated lifting above shoulder height
- frequent twisting of the body while shifting a load
- no immediate means to summon medical aid or assistance while working alone
- exposure to the chemical Glutaraldehyde (common in disinfectants) at levels exceeding safe levels
- hoists without load ratings, with missing or damaged hook latches, unlabeled or damaged controls, improperly adjusted limit switches, and/or inadequate inspections
- pipe threading machine with no automatic shut-off
- conveyor system with no functioning emergency stop devices
- below-the-hook lifting devices that have not been inspected and/or without rated load markings
- forklift truck used to support employees at heights without adequate securing or fall protection
- improper storage of highly reactive chemicals
- standing for long periods without adequate support
- exposure to mercury vapors from improper housekeeping and without monitoring
- hydraulic auto lifts used without adequate locking devices in place
- risk of violence against community workers

This list is not meant to represent all situations which OSHA deems hazardous situations.

OSHA's Criteria for Issuing a General Duty Clause Citation

OSHA can issue a 5(a)(1) citation but a number of conditions must be satisfied.

These conditions are:

- there must be a hazard
- the hazard must be recognized
- the hazard causes or is likely to cause serious harm or death
- the hazard must be correctable

DEFINITIONS

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Occupational Safety and Health Standards (OSHA) for Agriculture

Website:

http://www.osha.gov/pls/oshaweb/owastand.display_standard_group?p_toc_level=1&p_part_number=1928

Table of Contents/Authority for 1928 - 1928

Regulations (Standards - 29 CFR) - Table of Contents

• Part Number:	1928
• Part Title:	Occup. Safety and Health Standards for Agriculture
• Subpart:	A
• Subpart Title:	General
• Standard Number:	1928
• Title:	Table of Contents/Authority for 1928

PART 1928 -- OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR AGRICULTURE

Subpart A -- General

Sec. 1928.1 Purpose and scope.

Subpart B -- Applicability of Standards

1928.21 Applicable standards in 29 CFR Part 1910.

Subpart C -- Roll-Over Protective Structures

1928.51 Roll-over protective structures (ROPS) for tractors, used in agricultural tractors - test procedures and performance requirements.

1928.52 Protective frames for wheel-type agricultural tractors -- test procedures and performance requirements.

1928.53 Protective enclosures for wheel-type agricultural tractors -- test procedures and performance requirements.

APPENDICES TO SUBPART C

APPENDIX A - EMPLOYEE OPERATING INSTRUCTIONS

APPENDIX B - Figures C-1 through C-16

Subpart D -- Safety for Agricultural Equipment

1928.57 Guarding of farm field equipment, farmstead equipment, and cotton gins.

Subpart E-H -- [Reserved]

Subpart I -- General Environmental Controls

1928.110 Field Sanitation.

Subpart J-L [Reserved]

Subpart M -- Occupational Health

1928.1027 Cadmium