

Public Health Service, HHS

§ 85.7

(4) The physical form of the substance or physical agent, number of people exposed, length of exposure (hours per day), and occupations of exposed employees.

NOTE: NIOSH has developed two forms entitled "Request for Health Hazard Evaluation" and "Request for Mining Health Hazard Evaluation" to assist persons in requesting evaluations. The forms are available upon request from the offices listed in § 85.3(a) (1) and (2) or from the Regional Consultant for Occupational Safety and Health in any Regional Office of the Department of Health and Human Services.

[45 FR 2653, Jan. 14, 1980]

§ 85.4 Acting on requests.

(a) Upon receipt of a request for health hazard evaluation submitted under this part, NIOSH will determine whether or not there is reasonable cause to justify conducting an investigation.

(b) If NIOSH determines that an investigation is justified, a NIOSH officer will inspect the place of employment, collect samples where appropriate, and perform tests necessary to the conduct of a health hazard evaluation, including medical examinations of employees.

(c) If NIOSH determines that an investigation is not justified, the requester will be notified in writing of the decision.

[45 FR 2653, Jan. 14, 1980]

§ 85.5 Authority for investigations.

(a) NIOSH officers who have been issued official NIOSH credentials (Form No. CDC/NIOSH 2.93) are authorized by the Director, NIOSH, under sections 20(a) (6) and 8 of the OSH Act and sections 501(a)(11) and 103 of the FMSH Act: To enter without delay any place of employment for the purpose of conducting investigations of all pertinent processes, conditions, structures, machines, apparatus, devices, equipment, records, and materials within the place of employment; and to conduct medical examinations, anthropometric measurements, and functional tests of employees within the place of employment as may be directly related to the specific health hazard evaluation being conducted. Investigations will be conducted in a reasonable manner, during

regular working hours or at other reasonable times and within reasonable limits. In connection with any investigation, the NIOSH officers may question privately any employer, owner, operator, agent, or employee from the place of employment; and review, abstract, and duplicate records required by the Acts and regulations and any other related records.

(b) Areas under investigation which contain information classified by any agency of the United States Government in the interest of national security will be investigated only by NIOSH officers who have obtained the proper security clearance and authorization.

[45 FR 2653, Jan. 14, 1980]

§ 85.6 Advance notice of visits.

(a) Advance notice of visits to the place of employment may be given to expedite a thorough and effective investigation. Advance notice will not be given when, in the judgment of the NIOSH officer, giving such notice would adversely affect the validity and effectiveness of the investigation.

(b) Where a request in accordance with this part has been made by an authorized representative of employees, advance notice in accordance with paragraph (a) of this section will be given by NIOSH to the requester, the representative of the employees for purposes of collective bargaining if such representative is other than the requester, and to the employer.

(c) Where a request in accordance with this part has been made by any employer, advance notice will be given by NIOSH to the employer. Upon the request of the employer, NIOSH will inform the authorized representative of employees of the visit: *Provided*, The employer furnishes NIOSH in writing with the identity of such representative and with such information as is necessary to enable NIOSH promptly to inform such representative of the visit.

§ 85.7 Conduct of investigations.

(a) Prior to beginning an investigation, NIOSH officers shall present their credentials to the owner, operator, or agent in charge at the place of employment, explain the nature, purpose, and scope of the investigation and the