

Public Health Service, HHS

§ 85a.8

(2) Prior to the conduct of medical examinations, anthropometric measurements or functional tests of any employees, the NIOSH authorized representatives will obtain approval of the procedures to be utilized from the NIOSH Institutional Review Board and no employee examination, measurement or test will be undertaken without the informed consent of such employee.

(e) NIOSH authorized representatives will comply with all safety and health rules and practices at the place of employment and all NIOSH, Occupational Safety and Health Administration, and Mine Safety and Health Administration regulations and policies during a site visit and will provide and use appropriate protective clothing and equipment. In situations requiring specialized or unique types of protective equipment, such equipment shall be furnished by the employer, owner, operator or agent in charge at the place of employment.

(f) The conduct of site visits will be such as to preclude unreasonable disruption of the operations of the place of employment.

[41 FR 45002, Oct. 14, 1976, as amended at 45 FR 2654, Jan. 14, 1980; 49 FR 4739, Feb. 8, 1984; 79 FR 2793, Jan. 16, 2014]

§ 85a.6 Provision of suitable space for employee interviews and examinations.

An employer, owner, operator or agent in charge at the place of employment shall, on request of the NIOSH authorized representatives, provide suitable space at the place of employment, if such space is reasonably available, to NIOSH to conduct private interviews with, and medical examinations, anthropometric measurements and functional tests of employees. NIOSH authorized representatives will consult with the employer, owner, operator or agent as to the time and place of the private interviews, medical examination, anthropometric measurements and functional tests and will schedule same so as to avoid undue disruption of work at the place of employment. NIOSH will conduct the medical interviews, measurements, examina-

tions and tests specified under this part at its own expense.

[41 FR 45002, Oct. 14, 1976]

§ 85a.7 Imminent dangers.

Whenever, during the course of, or as a result of, an investigation under this part, the NIOSH authorized representatives believe there is a reasonable basis for an allegation of an imminent danger, NIOSH will immediately advise the employer, owner, operator or agent in charge at the place of employment and those employees who appear to be in immediate danger of such allegation and will inform the agencies identified in § 85a.4(a) through (4).

[79 FR 2793, Jan. 16, 2014]

§ 85a.8 Reporting of results of investigations of places of employment.

(a)(1) Specific reports of investigations of each place of employment under this part, with identification of the place of employment, will be made available by NIOSH to the employer, owner, operator or agent in charge at the place of employment, with copies to the appropriate officials and Agencies notified pursuant to § 85a.4(a). Prior to release of such reports, a preliminary report will be sent by NIOSH to the employer, owner, operator or agent for review for trade secret information and technical inaccuracies that may inadvertently be presented in the report. If requested in writing, the data used to compile the reports will be made available by NIOSH to the employer, owner, operator or agent in charge at the place of employment, except that data will not be released in a form that is individually identifiable.

(2) All specific reports of investigations of each place of employment under this part will be available to the public from the NIOSH Education and Information Division, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

(3) In certain instances, specific reports of investigations of each place of employment will not be prepared. In such instances, a closing conference at the place of employment will be conducted by the NIOSH authorized representatives and those individuals participating in the site visit to discuss

the findings of the site visit and appropriate recommendations.

(b)(1) Any specific findings of individual employee medical examinations, anthropometric measurements and functional tests will be released by NIOSH authorized representatives to the company physician, private physician, or other person only pursuant to the written authorization of the employee; otherwise, the specific findings and other personal records concerning individuals will be maintained in accordance with 45 CFR part 5b and section 3 of the Privacy Act of 1974 (5 U.S.C. 552a). Notice of all NIOSH systems of records as defined in 45 CFR 5b.1(n) as a result of the investigations of places of employment pursuant to this part will be published in the FEDERAL REGISTER under Notices of Systems of Records for the Department of Health and Human Services.

(2) In cases where an employee shows positive significant medical findings, the employee and the physician(s) designated by the employee under §85a.8(b)(1) will be immediately notified by NIOSH.

(3) A summary of the findings of the examinations for each employee will be sent by NIOSH to the individual.

(c) The findings of a total investigation generally will be disseminated as part of NIOSH criteria documents, NIOSH technical reports, NIOSH information packets, scientific journals, presentations at technical meetings, or in other similar manners. These findings of a total investigation will be presented in a manner which does not identify any specific place of employment; however, it should be noted that the specific reports of investigations of each place of employment under this part are subject to mandatory disclosure, upon request, under the provisions of the Freedom of Information Act (5 U.S.C. 552).

[41 FR 45002, Oct. 14, 1976, as amended at 79 FR 2793, Jan. 16, 2014]

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AUTHORITY: Sec. 8(g), 84 Stat. 1600, 29 U.S.C. 657(g); sec. 21(a), 84 Stat. 1612, 29 U.S.C. 670(a).

SOURCE: 40 FR 29076, July 10, 1975, unless otherwise noted.

Subpart A—General

§ 86.1 Applicability.

The regulations of this part are applicable to the award of training grants and direct traineeships pursuant to section 21(a)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670(a)(1)) to assist in providing an adequate supply of qualified personnel to carry out the purposes of the Act.