

**DEPARTMENT OF LABOR****Occupational Safety and Health Administration****29 CFR Part 1910****[Docket No. H-117C]****RIN 1218-AB73****Grain Handling Facilities Standard****AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.**ACTION:** Completion of regulatory review.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA), has completed a section 610 ("lookback") review of its Grain Handling Facilities Standard, 29 CFR 1910.272, pursuant to section 610 of the Regulatory Flexibility Act and section 5 of Executive Order 12866. That review, "Regulatory Review of OSHA's Grain Handling Standard, February 2003," demonstrates that the Standard has reduced injuries 55% and deaths 70% from grain explosions and reduced deaths from grain suffocations by 44%. On average, the Standard has prevented 9.4 deaths per year. The review indicates that the standard does not impose a significant economic impact on small businesses and that public commenters agree that the standard should remain in effect. Based on comments, OSHA will issue several clarifications and will consider several possible improvements. Based on this review, OSHA concludes that the Grain Handling Facilities Standard should be continued without major change.

**DATES:** Effective March 14, 2003.**FOR FURTHER INFORMATION CONTACT:**

Joanna Dizikes Friedrich, Directorate of Policy Rm. N3641, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693-1939. Direct technical inquiries about the Grain Handling Standard to: Alcmena Haloftis, Directorate of Compliance, Rm. 3603, telephone (202) 693-1850, or visit the OSHA Homepage at [www.OSHA.dol.gov](http://www.OSHA.dol.gov). Direct press inquiries to Bonnie Friedman, Director of Information and Consumer Affairs, Rm. N-3647, telephone (202) 693-1999.

**ADDRESSES:** Copies of the entire report may be obtained from the OSHA Publication Office, Rm. N-3101, 200 Constitution Avenue, NW., Washington, DC 20210, tel., (202) 693-1888, Fax (202) 693-2498. The full report, comments, and referenced documents are available for review at the OSHA Docket Office, Docket No. H-117C Rm. 2625, 200 Constitution Avenue, NW.,

Washington, DC 20210, tel. (202) 693-2119.

**SUPPLEMENTARY INFORMATION:** The Occupational Safety and Health Administration (OSHA) issued its final Grain Handling Facilities Standard December 31, 1987, at 52 FR 49592. OSHA published supplemental statements of reasons on December 4, 1989, at 54 FR 49971 and on April 1, 1994, at 54 FR 15339. On March 8, 1996, OSHA amended the Standard to clarify requirements for entry into flat storage structures (61 FR 9577). The standard is codified at 29 CFR 1910.272.

The Grain Handling Facilities Standard contains requirements for the control of grain dust fires and explosions, and certain other safety hazards associated with grain handling facilities. It applies in addition to all other relevant provisions of part 1910 (or part 1917 at marine terminals).

The Grain Handling Facilities Standard applies to the following types of grain handling facilities: grain elevators, feed mills, flour mills, rice mills, dust pelletizing plants, dry corn mills, soybean flaking operations, and the dry grinding operations of soycake.

The Grain Handling Facilities Standard contains provisions that address several safety hazards. The hazards these provisions address include: Fires; explosions; toxic substance and oxygen deficiencies from entry into bins, silos, or tanks; release of hazardous energy from equipment; and engulfment by grain in bins, silos, or tanks.

This section 610 review for the Grain Handling Facilities Standard focused on two endpoints for its risk reduction analyses: (1) Injuries and fatalities from grain dust explosions; and (2) suffocations which result when a worker is engulfed or crushed by grain. These endpoints were selected because accessible data existed for these endpoints. Furthermore, a reduction in fatalities from suffocations and reductions in both injuries and fatalities from explosions are primary and substantial benefits anticipated from the promulgation of the Standard.

In 1998, the Occupational Safety and Health Administration (OSHA) began a review of its Grain Handling Facility Standard, under section 610 of the Regulatory Flexibility Act (5 U.S.C. 601, 610) and section 5 of Executive Order (EO) 12866 on Regulatory Planning and Review. OSHA has completed this review of the Grain Handling Facilities Standard, and it is presented in the document titled "Regulatory Review of OSHA's Grain Handling Facilities Standard, February 2003." This **Federal**

**Register** document announces the availability of that review document and briefly summarizes it.

The purpose of a review under section 610 of the Regulatory Flexibility Act (RFA);

(S)hall be to determine whether such rule should be continued without change, or should be rescinded, or amended consistent with the stated objectives of applicable statutes to minimize any significant impact of the rules on a substantial number of small entities.

The Agency shall consider the following factors:

- (1) The continued need for the rule;
- (2) The nature of complaints or comments received concerning the rule from the public;
- (3) The complexity of the rule;
- (4) The extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and to the extent feasible, with State and local governmental rules; and
- (5) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

The review requirements of section 5 of EO 12866 require agencies:

To reduce the regulatory burden on the American people, their families, their communities, their State, local, and tribal governments and their industries; to determine whether regulations promulgated by the [agency] have become unjustified or unnecessary as a result of changed circumstances; to confirm that regulations are both compatible with each other and not duplicative or inappropriately burdensome in the aggregate; to ensure that all regulations are consistent with the President's priorities and the principles set forth in this Executive Order, within applicable law; and to otherwise improve the effectiveness of existing regulations.

To carry out these reviews, on June 23, 1998, OSHA asked the public for comments on all issued raised by these provisions (63 FR 34139). Among other things, OSHA requested comments on: The benefits and utility of the rule in its current form; the continued need for the rule; the complexity of the rule; and whether, and to what extent, the rule overlaps, duplicates, or conflicts with other Federal, State, and local government rules. OSHA asked for comments on new developments in technology, economic conditions, or other factors affecting the ability of covered firms to comply with the Grain Handling Facilities Standard. OSHA also requested information on the