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Sequence Number: 09-18-20  
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# Notice of Rulemaking Hearing

*Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.*

<b>Agency/Board/Commission:</b>	Department of Labor and Workforce Development
<b>Division:</b>	Division of Occupational Safety and Health
<b>Contact Person:</b>	Larry Hunt
<b>Address:</b>	220 French Landing Drive
<b>Phone:</b>	37243-1002
<b>Email:</b>	(615) 741-7036

*Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:*

<b>ADA Contact:</b>	Evelyn Gaines Guzman
<b>Address:</b>	220 French Landing Drive, Nashville, TN 37243-1002
<b>Phone:</b>	615-253-1331
<b>Email:</b>	<a href="mailto:Evelyn.Gaines.Guzman@tn.gov">Evelyn.Gaines.Guzman@tn.gov</a>

## Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	220 French Landing Drive
Address 2:	
City:	Nashville
Zip:	37243
Hearing Date:	11/10/2020
Hearing Time:	9:00 AM <input checked="" type="checkbox"/> CST/CDT <input type="checkbox"/> EST/EDT

## Additional Hearing Information:

**Currently, Governor Lee's Emergency Order pertaining to COVID-19 that allows State Boards to hold their meetings electronically is set to expire October 28, 2020. If it does expire on that date then this meeting will be an in-person meeting at the location and time denoted just above. If the Emergency Order is extended beyond the scheduled date of this meeting then this meeting will be held electronically via WebEx. Below is the information regarding accessing this meeting via WebEx:**

WebEx Link: <https://tn.gov.webex.com/tn.gov/i.php?MTID=m0ee6c27d8f727d734dd14b0a8ab2d91f>

Meeting Password: 28682359

## Revision Type (check all that apply):

- Amendment  
 New  
 Repeal

**Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to SS-7037 (March 2020)**

accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

<b>Chapter Number</b>	<b>Chapter Title</b>
0800-01-01	Occupational Safety and Health Standards for General Industry
<b>Rule Number</b>	<b>Rule Title</b>
0800-01-01-06	Adoption and Citation of Federal Standards
0800-01-01-07	Exceptions to Adoption of Federal Standards in 29 CFR Part 1910

<b>Chapter Number</b>	<b>Chapter Title</b>
0800-01-03	Occupational Safety and Health Standards Record-Keeping and Reporting
<b>Rule Number</b>	<b>Rule Title</b>
0800-01-03-05	Reporting Fatality, Injury and Illness Information

<b>Chapter Number</b>	<b>Chapter Title</b>
0800-01-06	Occupational Safety and Health Standards for Construction
<b>Rule Number</b>	<b>Rule Title</b>
0800-01-06-02	Adoption and Citation of Federal Standards

<b>Chapter Number</b>	<b>Chapter Title</b>
0800-01-07	Occupational Safety and Health Standards for Agriculture
<b>Rule Number</b>	<b>Rule Title</b>
0800-01-07-01	Adoption and Citation of Federal Standards
0800-01-07-02	Exceptions to Adoption of Federal Standards

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to  
<https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter 0800-01-01  
Occupational Safety and Health Standards for General Industry

Amendments

Paragraph (2) of Rule 0800-01-01-.06 Adoption and Citation of Federal Standards is amended by changing the date from "November 1, 2019" to "January 1, 2021" so as amended the paragraph shall read:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1910, as of January 1, 2021 except as provided in Rule 0800-01-01-.07 of this chapter.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201.

Paragraph (3), Table Z-1-A Limits for Air Contaminants of Rule 0800-01-01-.07 Exceptions to Adoption of Federal Standards in 29 CFR 1910, is amended by removing the line for Zinc chromate (as CrO<sub>3</sub>) and editing the lines for Beryllium and beryllium Compounds (as Be), Tert-Butyl chromate (as CrO<sub>3</sub>), Chromic acid and chromates (as CrO<sub>3</sub>) so that as amended those lines of the table read:

Substance	CAS No.	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m <sup>3</sup>	ppm	mg/m <sup>3</sup>	ppm	mg/m <sup>3</sup>	
Beryllium and beryllium Compounds (as Be) (STEL – 30 minutes) Applicable where the exposure limits or any operations or sectors where the exposure limits in § 1910.1024 are stayed or otherwise not in effect.	7440-41-7	—	0.002	—	0.005	—	0.025	—
Tert-Butyl chromate (as CrO <sub>3</sub> ) If the exposure limit in §1910.1026 is stayed or is otherwise not in effect, the exposure limit is a ceiling of 0.1 mg/m <sup>3</sup> .	1189-85-1	—	—	—	—	—	0.1	X
Chromic acid and chromates (as CrO <sub>3</sub> ) This standard applies to any operations or sectors for which the exposure limit in the Chromium (VI) standard, §1910.1026, is stayed or is otherwise not in effect.	Varies with compound	—	—	—	—	—	0.1	—

Authority: T.C.A. §§ 4-3-1411 and 50-3-201.

Chapter 0800-01-03  
Occupational Safety and Health Standards Record-keeping and Reporting

Amendments

Paragraph (3) of Rule 0800-01-03-.05 Reporting Fatality, Injury and Illness Information is amended by changing the title, so that as amended the title shall read:

- (3) Electronic submission of Employer Identification Number (EIN) and injury and illness records to OSHA.

Paragraph (3) subparagraph (a) part 1 of Rule 0800-01-03-.05 is amended by changing the text to read as follows:

(3)(a)1: Annual electronic submission of OSHA Form 300A Summary of Work-Related Injuries and Illnesses by establishments with 250 or more employees. If your establishment had 250 or more employees at any time during the previous calendar year, and this part requires your establishment to keep records, then you must electronically submit information from OSHA Form 300A Summary of Work-Related Injuries and Illnesses to OSHA or OSHA's designee. You must submit the information once a year, no later than the date listed in paragraph (c) of this section of the year after the calendar year covered by the form (for example, 2019 for the 2018 form).

Paragraph (3) subparagraph (a) part 4 is added:

(3)(a)4: Electronic submission of the Employer Identification Number (EIN). For each establishment that is subject to these reporting requirements, you must provide the EIN used by the establishment.

Paragraph (3) subparagraph (b) of 0800-01-03-.05 is amended by removing the existing text and replacing it with the text below:

(b) Implementation

1. Does every employer have to routinely submit this information to OSHA? No, only two categories of employers must routinely submit this information. First, if your establishment had 250 or more employees at any time during the previous calendar year, and this part requires your establishment to keep records, then you must submit the required information to OSHA once a year. Second, if your establishment had 20 or more employees but fewer than 250 employees at any time during the previous calendar year, and your establishment is classified in an industry listed in appendix A to this subpart, then you must submit the required information to OSHA once a year. Employers in these two categories must submit the required information by the date listed in paragraph (c) of this section of the year after the calendar year covered by the form (for example, 2019 for the 2018 form). If you are not in either of these two categories, then you must submit the information to OSHA only if OSHA notifies you to do so for an individual data collection.
2. Do part-time, seasonal, or temporary workers count as employees in the criteria for number of employees in paragraph (a) of this section? Yes, each individual employed in the establishment at any time during the calendar year counts as one employee, including full-time, part-time, seasonal, and temporary workers.
3. How will OSHA notify me that I must submit information as part of an individual data collection under paragraph (a)3 of this section? OSHA will notify you by mail if you will have to submit information as part of an individual data collection under paragraph (a)3. OSHA will also announce individual data collections through publication in the Federal Register and the OSHA newsletter, and announcements on the OSHA website. If you are an employer who must routinely submit the information, then OSHA will not notify you about your routine submittal.
4. When do I have to submit the information? If you are required to submit information under paragraph (a)1 or 2 of this section, then you must submit the information once a year, by

the date listed in paragraph (c) of this section of the year after the calendar year covered by the form (for example, 2019 for the 2018 form). If you are submitting information because OSHA notified you to submit information as part of an individual data collection under paragraph (a)3 of this section, then you must submit the information as specified in the notification.

5. How do I submit the information? You must submit the information electronically. OSHA will provide a secure website for the electronic submission of information. For individual data collections under paragraph (a)3 of this section, OSHA will include the website's location in the notification for the data collection.
6. Do I have to submit information if my establishment is partially exempt from keeping OSHA injury and illness records? If you are partially exempt from keeping injury and illness records under 0800-01-03-.02(2) and/or 0800-01-03-.02(3), then you do not have to routinely submit information under paragraphs (a)1 and 2 of this section. You will have to submit information under paragraph (a)3 of this section if OSHA informs you in writing that it will collect injury and illness information from you. If you receive such a notification, then you must keep the injury and illness records required by this part and submit information as directed.
7. Do I have to submit information if I am located in a State Plan State? Yes, the requirements apply to employers located in State Plan States.
8. May an enterprise or corporate office electronically submit information for its establishment(s)? Yes, if your enterprise or corporate office had ownership of or control over one or more establishments required to submit information under paragraph (a) of this section, then the enterprise or corporate office may collect and electronically submit the information for the establishment(s).

Authority: T.C.A. §§ 4-3-1411 and 50-3-201.

Chapter 0800-01-06  
Occupational Safety and Health Standards for Construction

Amendments

Paragraph (2) of Rule 0800-01-06-.02 Adoption and Citation of Federal Standards is amended by changing the date from "November 1, 2019" to "January 1, 2021" so as amended the paragraph shall read:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1926, as of January 1, 2021 except as provided in Rule 0800-01-06-.03 of this chapter.

Authority: T.C.A. §§ 4-3-1411, 50-3-103 and 50-3-201.

Chapter 0800-01-07  
Occupational Safety and Health Standards for Agriculture

Amendments

Paragraph (2) of Rule 0800-01-07-.01 Adoption and Citation of Federal Standards is amended by changing the date from "November 1, 2019" to "January 1, 2021" so as amended the paragraph shall read:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1928, as of January 1, 2021 except as provided in Rule 0800-01-07-.02 of this chapter.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201.

Paragraph (1) of Rule 0800-01-07-.02 Exceptions to Adoption of Federal Standards in 29 CFR Part 1928 is amended by changing the date from "November 1, 2019" to "January 1, 2021" so as amended the paragraph shall read:

- (1) As of January 1, 2021, there are no exceptions.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 9/17/2020

Signature: 

Name of Officer: Larry Hunt

Title of Officer: Assistant Administrator, TOSHA

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Filed with the Department of State on: 9/17/2020



Tre Hargett  
Secretary of State

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