

Disclaimer

- This information is intended to assist employers, workers, and others as they strive to improve workplace health and safety. While we attempt to thoroughly address specific topics, it is not possible to include discussion of everything necessary to ensure a healthy and safe working environment in presentation of this nature. Thus, this information must be understood as a tool for addressing workplace hazards, rather than an exhaustive statement of an employer's legal obligations, which are defined by statute, regulations, and standards. Likewise, to the extent that this information references practices or procedures that may enhance health or safety, but which are not required by a statute, regulation, or standard, it cannot, and does not, create additional legal obligations. Finally, over time, OSHA may modify rules and interpretations in light of new technology, information, or circumstances; to keep apprised of such developments, or to review information on a wide range of occupational safety and health topics, you can visit OSHA's website at www.osha.gov.



Presentation Outline

- Background
- Reporting Incidents
- Involvement / Discrimination / Electronic Reporting
- Penalty Changes
- Inspection Procedures
- Areas of Concern
- OSHA's Top Violations in Healthcare
- Outreach Resources
- Temporary Workers



5. Updates to the OSHA Recordkeeping Reporting Rule, Status.

WARNING: - The U.S. Department of Labor's Occupational Safety and Health Administration today announced a final rule requiring employers to notify OSHA when an employee is killed on the job or suffers a work-related hospitalization, amputation or loss of an eye. The rule, which also updates the list of employers partially exempt from OSHA recordkeeping requirements, will go into effect on Jan. 1, 2015, the regulations under Federal OSHA jurisdiction.

The announcement follows preliminary results from the Bureau of Labor Statistics' 2013 National Census of Fatal Occupational Injuries.

"Today, the Bureau of Labor Statistics reported that 4,697 workers were killed on the job in 2013. We aim and want to keep America's workers safe and healthy," said U.S. Secretary of Labor Thomas E. Perez. "Workplace injuries and illnesses are absolutely preventable, and these new requirements will help OSHA focus its resources and help employers accountable for preventing them."

Under the current rule, employers will be required to notify OSHA of work-related fatalities within eight hours, and work-related inpatient hospitalizations, amputations or losses of an eye within 24 hours.

Previously, OSHA's regulations required an employer to report only work-related fatalities and inpatient hospitalizations of three or more employees. Reporting single hospitalizations, amputations or loss of an eye was not required under the previous rule.

All employers covered by the Occupational Safety and Health Act, across the manufacturing injury and illness records, are required to comply with OSHA's new recordkeeping requirements. To assist employers in fulfilling these requirements, OSHA is developing a Web portal for employers to report incidents electronically, in addition to the phone reporting system.

Hospitalizations and amputations are critical events, indicating that serious health conditions exist and that an intervention is warranted to protect the other workers at a workplace and that an intervention is warranted to protect the other workers at a workplace.

In addition to the new reporting requirements, OSHA has also updated the list of relatively low occupational injury and illness rates, are exempt from the requirements and illness records. The previous list of exempt industries was based on the 2002 Bureau of Labor Statistics' National Census of Fatal Occupational Injuries. Classification criteria to identify establishments by industry. The new list is based on updated injury and illness data from the Bureau of Labor Statistics. The new list will update the exemption for the new calendar year 2015 at the establishment, regardless of their industry classification, from the requirement to routinely keep records of worker injuries and illnesses.

U.S. Department of Labor
Sept. 11, 2014

New Standard Effective January 1, 2015

<http://www.osha.gov/recordkeeping/2014/NAICSReporting.pdf>

<http://content.govdelivery.com/accounts/USDOL/bulletins/cee625>



Subpart A, Purpose

- To require employers to **record and report** work-related fatalities, certain injuries and illnesses
 - Note: Recording or reporting a work-related injury, illness, or fatality does not mean the the employer or employee was at fault, an OSHA rule has been violated, or that the employee is eligible for workers' compensation or other benefits.
- OSHA injury and illness recordkeeping and Workers' Compensation are independent of each other

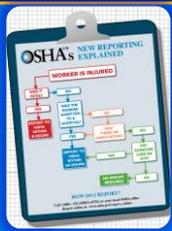


Subpart B – Scope, Recording

- 1904.1 – Small employer partial exemptions ≤ 10 employees at all times
- 1904.2 – Industry partial exemptions (see Appendix A to Subpart B for complete list)
- 1904.3 – Keeping records for other Federal agencies



Change, Second Part: Recordkeeping System, Reporting



- **Reporting v/s Recording**
- The rule requires an employer to report to OSHA, within eight hours, all work-related fatalities and within 24 hours, all work-related in-patient hospitalizations, amputations and loss of an eye.



What if the fatality, in-patient hospitalization, amputation, or loss of an eye does not occur during or right after the work-related incident?

- If a **fatality** occurs within **30 days** of the work-related incident, or if **an in-patient hospitalization, amputation, or loss of an eye** occurs within **24 hours** of the work-related incident, then you must report the event to OSHA. If the fatality occurs **after** more than 30 days of the work-related incident, or if the in-patient hospitalization, amputation, or loss of an eye occurs **after** more than 24 hours after the work-related incident, then you do not have to report the event to OSHA. However, you must record the event on your OSHA injury and illness records, if you are required to keep OSHA injury and illness records.



Source: FAQ

Not aware of a work-related incident

1904.39(b)(8): *What if I don't learn right away that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident?*

If you do not learn right away that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident, you must make the report to OSHA within the following time period after you or any of your agent(s) learn that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident: Eight (8) hours for a fatality, and twenty-four (24) hours for an inpatient hospitalization, an amputation, or a loss of an eye.



Reporting Q: Do I have to report the fatality, in-patient hospitalization, amputation, or loss of an eye if it resulted from a motor vehicle accident on a public street or highway?

- If the motor vehicle accident occurred in a **construction work zone**, then you must report the fatality, in-patient hospitalization, amputation, or loss of an eye to OSHA. If the motor vehicle accident occurred on a public street or highway, but not in a construction work zone, then you do not have to report the fatality, in-patient hospitalization, amputation, or loss of an eye to OSHA. However, you must record the event on your OSHA injury and illness records, if you are required to keep OSHA injury and illness records.

Source: FAQ



Note: Employers do not have to report an event if it:

- Is not work-related.
- Resulted from a motor vehicle accident on a public street or highway, except in a construction work zone; employers must report events occurring in construction zones.
- Occurred on a commercial or public transportation system (airplane, subway, bus, ferry, street car, light rail, train).
- Occurred more than 30 days after the work-related incident in the case of a fatality or more than 24 hours after the work-related incident in the case of an in-patient hospitalization, amputation, or loss of an eye.



How do I report these events to OSHA?

You have three options for reporting the event:

- By telephone to the OSHA Area Office nearest to the site of the work-related incident, during normal business hours.
- By telephone to the 24-hour OSHA hotline (1-800-321-OSHA or 1-800-321-6742).
- Electronically, using the event reporting application located on OSHA's public website.

<http://www.osha.gov/pls/ser/serform.html>



What information do I have to give to OSHA when I report the fatality, in-patient hospitalization, amputation, or loss of an eye?

You must give OSHA the following information for each fatality, in-patient hospitalization, amputation, or loss of an eye:

1. The establishment name;
2. The location of the work-related incident;
3. The date and time of the work-related incident;
4. The type of reportable event (i.e., fatality, in-patient hospitalization, amputation, or loss of an eye);



What information do I have to give to OSHA when I report the fatality, in-patient hospitalization, amputation, or loss of an eye?

5. The number of employees who suffered a fatality, in-patient hospitalization, amputation, or loss of an eye;
6. The names of the employees who suffered a fatality, in-patient hospitalization, amputation, or loss of an eye;
7. Are there any temporary workers involved;
8. Name and address for temporary agency;
9. Union information;



What information do I have to give to OSHA when I report the fatality, in-patient hospitalization, amputation, or loss of an eye?

- 10. Your contact person and his or her phone number; and
- 11. A brief description of the work-related incident, including specific location, materials equipment involved, routine task? Frequency of task, does hazard still exist, are employees still exposed, steps taken toward abatement, any previous incidents or near misses.
- 12. What is being done to prevent a reoccurrence?



Who Records a Temporary Worker Injury?

- 1904.31(a) Basic requirement. You must record on the OSHA 300 Log the recordable injuries and illnesses of all employees on your payroll, whether they are labor, executive, hourly, salary, part-time, seasonal, or migrant workers. You also must record the recordable injuries and illnesses that occur to employees who are not on your payroll if you supervise these employees on a day-to-day basis. If your business is organized as a sole proprietorship or partnership, the owner or partners are not considered employees for recordkeeping purposes.
- 1904.31(b)Implementation.
- 1904.31(b)(1)If a self-employed person is injured or becomes ill while doing work at my business, do I need to record the injury or illness? No, self-employed individuals are not covered by the OSH Act or this regulation.

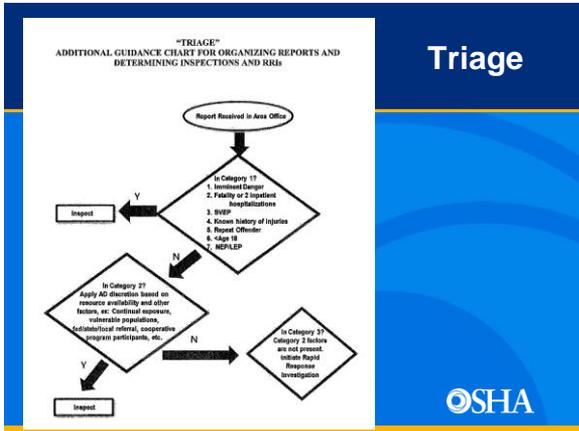


Who should Report a fatality or in-patient hospitalization of a temporary worker?

- Similar to the requirements in section 1904.31 for recording injuries and illnesses, the employer that provides the day-to-day supervision of the worker must report to OSHA any work-related incident resulting in a fatality, in-patient hospitalization, amputation or loss of an eye.

Source: Q&A





- ### OSHA's National Emphasis Program
- **COMBUSTIBLE DUST:** [OSHA Instruction CPL 03-00-008](#)
 - **FEDERAL AGENCIES:** [OSHA Notice 14-01 \(FAP 01\)](#) Federal Agency Targeting Inspection Program for 2014 (FEDTARG14)
 - **HAZARDOUS MACHINERY:** [OSHA Instruction CPL 03-00-003](#)
 - **HEXAVALENT CHROMIUM:** [OSHA Instruction CPL 02-02-076](#)
 - **ISOCYANATES:** [OSHA Instruction CPL 03-00-017](#)
 - **LEAD:** [OSHA Instruction CPL 03-00-009](#)
 - **PRIMARY METAL INDUSTRIES:** [OSHA Instruction CPL 03-00-018](#)
 - **PROCESS SAFETY MANAGEMENT:** [CPL 03-00-014](#) - PSM Covered Chemical Facilities National Emphasis Program [OSHA Instruction CPL 03-00-010](#) - Petroleum Refinery Process Safety Management National Emphasis Program
 - **SHIPBREAKING:** [OSHA Instruction CPL 03-00-012](#)
 - **SILICA:** [OSHA Instruction CPL 03-00-007](#)
 - **TRENCHING & EXCAVATION:** [OSHA Instruction CPL 02-00-069](#)
- As of April 5, 2016

- ### Region III Local Emphasis Program (LEP) (DE, DC, MD,** PA, VA,** WV)
- 2016-01 (CPL 04) Regional Emphasis Program for the Oil and Gas Service Industry
 - 2016-02 (CPL 04) Regional Emphasis Program for High Level Noise
 - 2016-03 (CPL 04) Regional Emphasis Program for Fall Hazards in the Construction Industry.
 - 2016-04 (CPL 04) Regional Emphasis Program- Silica
 - 2016-05 (CPL 04) Regional Emphasis Program for Tree Trimming and Clearing Operations
 - 2016-06 (CPL 04) Local Emphasis Program for Programmed Maritime Inspections
 - 2016-07 (CPL 04) Regional Emphasis Program for Demolition Activities and Gut Rehabilitation
 - 2016-10 (CPL 04) Regional Emphasis Program for the Retail Industry
 - 2016-12 (CPL 04) Local Emphasis Program for Logging in West Virginia
 - 2016-14 (CPL 04) Local Emphasis Program for Health Hazards in Metal Fabrication
 - 2016-15 (CPL 04) Local Emphasis Program for Bloodborne Pathogens
- As of: April 6, 2016
- OSHA

Recordkeeping / Reporting Rule

Triaging employer reports:

1. OSHA performs an inspection.
2. No inspection, but conducting Rapid Response Investigation (RRI) based on the Area Office's discretion.



Note: An RRI encourages the employer to conduct a root cause analysis of what led to the injury.



2

Rapid Response Investigation (RRI) Expectations:

- Conduct an Internal Investigation (within 5 working days)
- Provide abatement verification to OSHA within 5 working days.
- Provide a copy of the RRI letter and abatement verification to the employee representative/ S&H committee.
- Post a copy of the RRI letter from OSHA for employee review.
- Return a signed copy of the posting certification back to OSHA.
- Request additional time for abatement / interim abatement of the condition, if needed.



Failing to Report an Incident

- Previous an other-than-serious citation carried an unadjusted penalty of \$5000, but could have been as high as \$7000.
- With the new penalty increases, an unadjusted penalty of: \$8,908.



Improve Tracking of Workplace Injuries and Illnesses

Key elements to the rule:

- Employee Involvement (1904.35).
- Prohibition against discrimination (1904.36).
- Electronic submission of injury and illness records to OSHA (1904.41).



Employee Rights

- Be trained in a language you understand
- Work on machines that are safe
- Be provided required safety gear, such as gloves or a harness and lifeline for falls
- Be protected from toxic chemicals
- Request an OSHA inspection, and speak to the inspector
- Report an injury or illness, and get copies of your medical records
- See copies of the workplace injury and illness log
- Review records of work-related injuries and illnesses
- Get copies of test results done to find hazards in the workplace



Employee Rights

- Modifications to 1904.35 make it a violation for an employer to discourage employee reporting of injuries and illnesses.
- Employers must inform employees of their right to report work-related injuries and illnesses free from retaliation. This obligation may be met by posting the OSHA "It's The Law" worker rights poster v. April 2015 or later.

All workers have the right to:

- Raise a safety or health concern with your employer or OSHA, or report a work-related injury or illness, without being retaliated against.



Employee Rights

- An employer's **procedure for reporting** work-related injuries and illnesses must be **reasonable**.
 - A procedure is not reasonable if it would deter or discourage an employee from accurately reporting a workplace injury or illness
 - Example: Procedures that do not allow a reasonable amount of **time** for an employee to realize that they have suffered a work-related injury or illness. The employer reporting procedure must account for work-related injuries and illnesses that build up over time, have latency periods, or do not initially appear serious enough to be reportable.



Employee Rights

- An employer may not retaliate against employees for reporting work-related injuries or illnesses. OSHA will be able to cite an employer for retaliation even if the employee does not file a complaint under 11(c) of the act, or if the employer has a program that deters or discourages reporting through the threat of retaliation
 - This rule does not ban incentive programs. However, employers must not create **incentive programs** that deter or discourage an employee from reporting an injury or illness. Incentive programs should encourage safe work practices and promote worker participation in safety-related activities.
 - The rule does not ban drug testing of employees. It only bans employers from using drug testing, or the threat of drug testing, as a form of retaliation against employees who report injuries or illnesses. In addition, employers cannot create drug testing policies or practices that deter or discourage an employee from reporting an injury or illness.



Remarks from Dr. David Michaels, Assistant Secretary of Labor for Occupational Safety and Health

presented at the 2010 Pennsylvania Governor's
Occupational Safety & Health Conference

If injuries are not recorded, they will not be investigated -- which is why OSHA is very concerned about the existence of incentive programs in some workplaces that appear to encourage working safely but in fact discourage workers from reporting their injuries.

http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=SPEECHES&p_id=2314



Remarks from Dr. David Michaels, (continued)

We strongly disapprove of programs that offer workers parties and raffle prizes for not reporting injuries, or programs that award managers large bonuses for driving down their injury rates, or programs where workers are disciplined for reporting an injury. The immediate effect of these programs is to discourage injured workers from reporting their injuries. This affects not only the injured worker who may not be eligible for workers' compensation benefits unless filing a claim, but all workers -- because the causes of an unreported injury will not be investigated and nothing can be learned to prevent future injuries.



Remarks from Dr. David Michaels, (continued)

Not all safety incentive programs are bad. Some employers have programs that reward workers for demonstrating safe work practices, reporting hazards or near misses, or participating in health and safety training or on a health and safety committee. These employers have a better understanding of injury and illness prevention programs. They recognize that focusing on positive behavior will be more productive for a company than punishing workers who report injuries.

http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=SPEECHES&p_id=2314



UNITED STATES DEPARTMENT OF LABOR
Occupational Safety & Health Administration
Washington, D.C. 20210
Reply to the attention of:

MAY 12 2012
MEMORANDUM FOR: REGIONAL ADMINISTRATORS, WHISTLEBLOWER PROGRAM MANAGERS
FROM: RICHARD E. FARFAX, Deputy Assistant Secretary
SUBJECT: Employer Safety Incentive and Disincentive Policies and Practices

Section 11(c) of the OSHA Act prohibits an employer from discriminating against an employee because the employee reports an injury or illness. 29 CFR 1904.34. This memorandum is intended to provide guidance to both field compliance officers and whistleblower investigative staff on several employer practices that can discourage employee reports of injuries and violate section 11(c), or other whistleblower statutes.

Reporting a work-related injury or illness is a core employee right, and retaliating against a worker for reporting an injury or illness is illegal discrimination under section 11(c). Other whistleblower statutes enforced by OSHA also may protect employees who report workplace injuries. In particular, the Federal Railroad Safety Act (FRSIA) prohibits railroad carriers, their contractors and subcontractors from discriminating against employees for reporting injuries. 49 U.S.C. 20009(a)(4).

Employees do not feel free to report injuries or illnesses, the employer's entire workforce is put at risk. Employers do not learn of and correct dangerous conditions that have resulted in injuries, and injured employees may not receive the proper medical attention, or the workers' compensation benefits to which they are entitled. Ensuring that employees can report injuries or illnesses without fear of retaliation is therefore crucial to protecting worker safety and health.

There are several types of workplace policies and practices that could discourage reporting and could constitute unlawful discrimination and a

<https://www.osha.gov/as/opa/whistleblowermemo.html>

Incentives That Promote Injury and Illness Reporting and Worker Involvement:

- Focus on a positive incentive program that encourages or rewards workers for reporting injuries, illnesses, near-misses, or hazards;
- Recognizing, rewarding, and encouraging workers for being involved in the company safety and health management system.



Incentives That Promote Injury and Illness Reporting and Worker Involvement:

Examples:

- Providing tee shirts to workers serving on safety and health committees;
- Offering modest rewards for suggesting ways to strengthen the company safety and health program.
- Giving a recognition party at the successful completion of company-wide safety and health training.
- Offer rewards for identifying hazards.
- Or participating in investigations of injuries, incidents or "near misses".
- What have you seen?



Drug Testing, from the final FR

Some commenters stated their belief that drug testing of employees is important for a safe workplace; some expressed concern that OSHA planned a wholesale ban on drug testing (Exs. 1667, 1674). To the contrary, this final rule does not ban drug testing of employees. However, the final rule does prohibit employers from using drug testing (or the threat of drug testing) as a form of adverse action against employees who report injuries or illnesses. To strike the appropriate balance here, drug testing policies should limit post-incident testing to situations in which employee drug use is likely to have contributed to the incident, and for which the drug test can accurately identify impairment caused by drug use. For example, it would likely not be reasonable to drug-test an employee who reports a bee sting, a repetitive strain injury, or an injury caused by a lack of machine guarding or a machine or tool malfunction. Such a policy is likely only to deter reporting without contributing to the employer's understanding of why the injury occurred, or in any other way contributing to workplace safety. Employers need not specifically suspect drug use before testing, but there should be a reasonable possibility that drug use by the reporting employee was a contributing factor to the reported injury or illness in order for an employer to require drug testing. In addition, drug testing that is designed in a way that may be perceived as punitive or embarrassing to the employee is likely to deter injury reporting.

Electronic Reporting

- 1904.41(a)(2) – Establishments with 20 to 249 employees in certain industries:
 - Must provide, on an annual basis, data from the Summary Form 300A
 - This replaces the OSHA Data Initiative (ODI)



Electronic Reporting

- 1904.41(a)(2) covered Industries
 - Ag., forestry and fishing (NAICS 11)
 - Utilities (NAICS 22)
 - Construction (NAICS 23)
 - Manufacturing (NAICS 31-33)
 - Wholesale Trade (NAICS 42)
 - Industry groups (4-digit NAICS) with a three year average DART rate of 2.0 or greater in the Retail, Transportation, Information, Finance, Real Estate and Service sectors.



1902.7 Injury and illness recording and reporting requirements

- *1902.7(d)* As provided in section 18(g)(7) of the Act, **State Plan States** must adopt requirements identical to those in 29 CFR 1904.41 in their recordkeeping and reporting regulations as enforceable State requirements. The data collected by OSHA as authorized by § 1904.41 will be made available to the State Plan States. Nothing in any State plan shall affect the duties of employers to comply with § 1904.41.
- **FAQ 11. Does this rule apply to employers in State Plan states?** Yes, within six months after publication of this final rule, State Plan states will have to adopt requirements that are substantially identical to the requirements in this final rule. Some states may choose to allow employers in their state to use the federal OSHA data collection website to meet the new reporting obligations. Other states may provide their own data collection sites. OSHA will provide further information and guidance as the States decide how to implement these new reporting requirements.



Improve Tracking of Workplace Injuries and Illnesses: Final rule

- The rule does not add to or change any employer's obligation to complete and retain the injury and illness records or change the recording criteria or definitions for these records. The rule only modifies employers' obligations to transmit information from these records to OSHA.



How do I submit the information?

- You must submit the information **electronically**. OSHA will provide a secure Web site for the electronic submission of information.



The screenshot shows the OSHA website with the following content:

- Header: UNITED STATES DEPARTMENT OF LABOR, Occupational Safety & Health Administration
- Navigation: Home, Recordkeeping, Final Rule to Improve Tracking of Workplace Injuries and Illnesses
- Main Title: Final Rule Issued to Improve Tracking of Workplace Injuries and Illnesses
- Image: A person working on a laptop displaying the OSHA website.
- Related Links: About, Read the Rule, Regulatory Text for Recordkeeping Standard - Part 1904 - (Amended), Fact Sheet, Frequently Asked Questions, Press Release, Blog by Deputy Secretary Chris Liu, Blog by Paul O'Neill
- Related Links (continued): Recordkeeping Webpage, Recordkeeping Forms, Examples of Rate-Based Incentive Programs Submitted to OSHA Regulatory Docket
- Provisions: <http://www.osha.gov/recordkeeping/finalrule/index.html>

OSHA FactSheet

Final Rule to Improve Tracking of Workplace Injuries and Illnesses

As the Occupational Safety and Health Administration (OSHA) under the Federal Occupational Safety and Health Act, we have made it our priority to ensure that the nation's workplaces are safe and healthy. One of our key priorities is to ensure that employers are able to track and prevent workplace injuries and illnesses. This fact sheet provides information on the final rule that OSHA issued on August 1, 2015, to improve the tracking of workplace injuries and illnesses.

The rule will allow employers to track and report workplace injuries and illnesses in a more timely and accurate manner. It also allows employers to track and report workplace injuries and illnesses in a more consistent manner across different types of workplaces. This will help OSHA to better understand the nature and extent of workplace injuries and illnesses, and to develop more effective strategies to prevent them.

The rule also allows employers to track and report workplace injuries and illnesses in a more consistent manner across different types of workplaces. This will help OSHA to better understand the nature and extent of workplace injuries and illnesses, and to develop more effective strategies to prevent them.

<http://www.osha.gov/Publications/OSHA3862.pdf> OSHA

7. New Penalty Structure

- For the first time in 25 years, the Occupational Safety and Health Administration (OSHA) is poised to increase the civil monetary penalties issued for violations of OSHA's health and safety regulations.
- On November 2, 2015, President Obama signed the Federal government's bipartisan budget bill, permitting OSHA to issue a "catch up adjustment" to be effective August 1, 2016, and subsequent annual adjustments based on the Consumer Price Index (CPI).

OSHA

Important Legislation

Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015

OSHA

Affected DOL Agencies

- EBSA
- MSHA
- OSHA
- OWCP
- WHD



55

Key Changes

- 78% Increase in Penalties
- New Size Category



56

Maximum Penalties

Level	Current Maximum Penalty	Proposed Maximum Penalty
Serious	\$7,000 per violation	\$12,471 per violation
Other-Than-Serious	\$7,000 per violation	\$12,471 per violation
Willful or Repeated	\$70,000 per violation	\$124,709 per violation
Posting Requirements	\$7,000 per violation	\$12,471 per violation
Failure to Abate	\$7,000 per day unabated beyond the abatement date [generally limited to 30 days maximum]	\$12,471 per day unabated beyond the abatement date [generally limited to 30 days maximum]



57

Change in GBP Amounts

Severity	Probability	Gravity	Current GBP	New GBP
High	Greater	High	\$7,000	\$12,471
Medium	Greater	Moderate	\$6,000	\$10,689
Low	Greater	Moderate	\$5,000	\$8,908
High	Lesser	Moderate	\$5,000	\$8,908
Medium	Lesser	Moderate	\$4,000	\$7,126
Low	Lesser	Low	\$3,000	\$5,345

58



Size Adjustment

# Employees	Current Percent Reduction	New Percent Reduction
1-10	60	70
11-25		60
26-100	30	30
101-250	10	10
251 or more	None	None

59



Penalty Factors:

- Type of Citation (OTS, Serious, Repeat, Willful)
- The Gravity of the violation (severity and probability)
- Employer's History of previous violations.
- The Good Faith of the employer, and
- Quick Fix
- The Size of the employers business
- Applied serially for each factor.



https://www.osha.gov/OshDoc/Directive_pdf/CPL_02-00-160.pdf

60



NAICS Codes

- Site Selection – Targeting Source
 - a) Establishments in the following NAICS codes:
 - 623110 – Nursing Care Facilities
 - 623210 – Residential mental retardation, mental health and substance abuse facilities
 - 623311 – Community care facilities for the elderly



NAICS Codes

6231 Nursing Care Facilities

623110 Nursing Care Facilities

This industry comprises establishments primarily engaged in providing inpatient nursing and rehabilitative services. The care is generally provided for an extended period of time to individuals requiring nursing care. These establishments have a permanent core staff of registered or licensed practical nurses who, along with other staff, provide nursing and continuous personal care services.



NAICS Codes

623311 Continuing Care Retirement Communities

This U.S. industry comprises establishments primarily engaged in providing a range of residential and personal care services with on-site nursing care facilities for (1) the elderly and other persons who are unable to fully care for themselves and/or (2) the elderly and other persons who do not desire to live independently. Individuals live in a variety of residential settings with meals, housekeeping, social, leisure, and other services available to assist residents in daily living. Assisted-living facilities with on-site nursing care facilities are included in this industry.



NAICS Codes

- **623312 Assisted Living Facilities for the Elderly**

This U.S. industry comprises establishments primarily engaged in providing residential and personal care services (i.e., without on-site nursing care facilities) for (1) the elderly or other persons who are unable to fully care for themselves and/or (2) the elderly or other persons who do not desire to live independently. The care typically includes room, board, supervision, and assistance in daily living, such as housekeeping services.

NOT PART OF THE NEP/Your main group 

Rate Background

- Nursing and residential care facilities continue to have one of the highest rates of injuries and illnesses resulting in days away, restricted work activity and job transfer (DART)
- 2010 BLS data showed:
 - Average DART rate for private industry was **1.8**
 - Average DART rate for nursing and residential care facilities targeted by the NEP (i.e., within NAICS 6231, 6232 and 6233) were **5.6, 3.9, and 4.8**, respectively



Rate Background

- 2013 BLS data showed:
 - Average DART rate for private industry was **1.7**
 - Average DART rate for nursing and residential care facilities targeted by the NEP (i.e., within NAICS 6231, 6232, 6233 and 6239) were **5.0, 3.7, 4.3 and 3.4** respectively



OSHA's National Emphasis Program

- **COMBUSTIBLE DUST:** [OSHA Instruction CPL 03-00-008](#)
- **FEDERAL AGENCIES:** [OSHA Notice 14-01 \(FAP 01\)](#) Federal Agency Targeting Inspection Program for 2014 (FEDTARG14)
- **HAZARDOUS MACHINERY:** [OSHA Instruction CPL 03-00-003](#)
- **HEXAVALENT CHROMIUM:** [OSHA Instruction CPL 02-02-076](#)
- **ISOCYANATES:** [OSHA Instruction CPL 03-00-017](#)
- **LEAD:** [OSHA Instruction CPL 03-00-009](#)
- **PRIMARY METAL INDUSTRIES:** [OSHA Instruction CPL 03-00-018](#)
- **PROCESS SAFETY MANAGEMENT:** [CPL 03-00-014](#) - PSM Covered Chemical Facilities National Emphasis Program [OSHA Instruction CPL 03-00-010](#) - Petroleum Refinery Process Safety Management National Emphasis Program
- **SHIPBREAKING:** [OSHA Instruction CPL 03-00-012](#)
- **SILICA:** [OSHA Instruction CPL 03-00-007](#)
- **TRENCHING & EXCAVATION:** [OSHA Instruction CPL 02-00-069](#)

As of April 5, 2016



Region III Local Emphasis Program (LEP)

(DE, DC, MD,** PA, VA,** WV)

- 2016-01 (CPL 04) Regional Emphasis Program for the Oil and Gas Service Industry
- 2016-02 (CPL 04) Regional Emphasis Program for High Level Noise
- 2016-03 (CPL 04) Regional Emphasis Program for Fall Hazards in the Construction Industry.
- 2016-04 (CPL 04) Regional Emphasis Program- Silica
- 2016-05 (CPL 04) Regional Emphasis Program for Tree Trimming and Clearing Operations
- 2016-06 (CPL 04) Local Emphasis Program for Programmed Maritime Inspections
- 2016-07 (CPL 04) Regional Emphasis Program for Demolition Activities and Gut Rehabilitation
- 2016-10 (CPL 04) Regional Emphasis Program for the Retail Industry
- 2016-12 (CPL 04) Local Emphasis Program for Logging in West Virginia
- 2016-14 (CPL 04) Local Emphasis Program for Health Hazards in Metal Fabrication
- 2016-15 (CPL 04) Local Emphasis Program for Bloodborne Pathogens

As of: April 6, 2016



OSHA INSPECTIONS

- Preparing for the Inspection
 - Inspector's Credentials
 - Opening Conference
 - Walk Around
 - Employee interviews
 - Closing Conference
 - Citations
 - Appeals
 - Review



Inspection Procedures (cont'd)

- Privacy
 - Respect for residents' privacy must be a priority for any inspection
 - Respect the confidentiality of employee medical records
 - Submit requests for Medical Access Orders when needed



Areas of Concern

- Recordkeeping
- Ergonomics: MSD Risk Factors Relating to Resident Handling
- Slips, Trips and Falls (STF)
- Bloodborne Pathogens (BBP)
- Tuberculosis (TB)
- Workplace Violence (WPV)
- Other Hazards
 - Methicillin-resistant Staphylococcus aureus (MRSA) and other multi-drug resistant organisms (MDROs)
 - Hazard Communication



Ergonomics: MSD Risk Factors

Establishment Evaluation

Inspections of MSD risk factors will begin with an initial process designed to determine:

- The extent of all MSD hazards
- The extent of hazards related to resident handling
- The manner in which the hazards are addressed



Ergonomics: MSD Risk Factors

When assessing the employer's efforts to address resident handling hazards, you should evaluate program elements such as:

- Program Management
- Program Implementation
- Employee Training



Ergonomics: MSD Risk Factors

Occupational Health Management

Whether there is a process to ensure that work-related disorders are identified and treated early to prevent the occurrence of more serious problems and whether this process includes restricted or accommodated work assignments



Slips, Trips and Falls

- Evaluate the general work environment are there hazards likely to cause slips, trips, and falls



Refer to STD 01-01-013, did: Apr 16, 1984)



Slips, Trips and Falls

- Evaluate the general work environments (e.g., kitchens, dining rooms, hallways, laundries, shower/bathing areas, points of access and egress) and document hazards likely to cause slips, trips, and falls, such as but not limited to:
 - Slippery or wet floors, uneven floor surfaces, cluttered or obstructed work areas/passageways, poorly maintained walkways, broken equipment, or inadequate lighting.
 - Unguarded floor openings and holes.
 - Damaged or inadequate stairs and/or stairways.
 - Elevated work surfaces which do not have standard guardrails.
 - Inadequate aisles for moving residents.
 - Improper use of ladders and/or stepstools.



Bloodborne Pathogens

- Written Exposure Control Plan (ECP)
- Implementation of appropriate engineering and work practice controls
- Ensure proper work practices and personal protective equipment are in place
- Evaluate vaccination and post-exposure procedures



Refer to CPL 02-02-069 (BBP directive, November 27, 2001)



Tuberculosis (TB)

- Do you have:
 - Establishment has had suspected or confirmed TB case among residents
 - Establishment has procedures in place to promptly isolate and manage the care of a resident with suspected or confirmed TB
 - Establishment has medical testing of employees with potential TB exposure



Refer to CPL 02-02-078 (TB directive, June 30, 2015)



Workplace Violence (WPV)

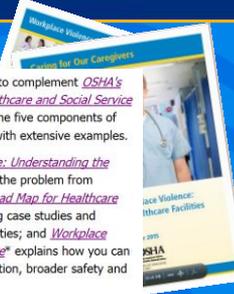
- WPV is a recognized hazard in nursing and residential care facilities
- NIOSH defines WPV as violent acts (including physical assaults and threats of assaults) directed toward persons at work or on duty.



Refer to CPL 02-01-052 (WPV directive, September 8, 2011)



Workplace Violence (WPV) Resources



The strategies and tools presented here are intended to complement *OSHA's Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers*, updated in 2015. *The Guidelines* describe the five components of an effective workplace violence prevention program, with extensive examples.

The products below: *Workplace Violence in Healthcare: Understanding the Challenge*, presents some estimates of the extent of the problem from various sources; *Preventing Workplace Violence: A Road Map for Healthcare Facilities* expands on OSHA's guidelines by presenting case studies and successful strategies from a variety of healthcare facilities; and *Workplace Violence Prevention and Related Goals: The Big Picture* explains how you can achieve synergies between workplace violence prevention, broader safety and health objectives, and a "culture of safety."



Other Hazards

- Multi-drug resistant organisms, such as methicillin-resistant *Staphylococcus aureus* (MRSA)
- Hazardous chemicals such as pesticides, disinfectants and hazardous drugs



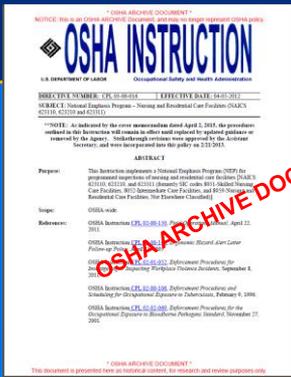
Purpose of OSHA's Hazard Communication (HCS-2012) Standard

To ensure that employers and employees know about work hazards and how to protect themselves so that the incidence of illnesses and injuries due to hazardous chemicals is reduced.



EMPLOYEE TRAINING





National Emphasis Program – Nursing and Residential Care Facilities (NAICS 623310, 623210 and 623311)

• Appendix C – Reference Material for Nursing Home National Emphasis Program



OSHA's Top Violations in Healthcare



Inspection Data (October 2014 through September 2015)

NAICS	Standard	Citations	Inspections	Penalty	Description
623110	Total	257	94	\$303,859	All Standards cited for Nursing Care Facilities (Skilled Nursing Facilities)
623311	Total	60	18	\$87,745	All Standards cited for Continuing Care Retirement Communities
623312	Total	80	14	\$128,295	All Standards cited for Assisted Living Facilities for the Elderly



Top Violations (October 2014 through September 2015)

Standard	Citations	Inspections	Penalty
		54	\$142,331
BBP	124	45	\$93,111
Electrical	51	41	\$60,271
Personal Protect	53	18	\$40,176
Med Svc	18	24	\$37,416
Hole / Egress	25	30	\$33,939
HAZCOM	43	10	\$26,206
Machinery	12		
General Duty		4	\$25,750
Clause	4	28	\$16,740
Recordkeeping	37	6	\$10,903
CSE LOTO	7	3	\$8,950
Fire Exting	3	3	\$7,200
Asbestos	7	3	\$7,020
Sign / Tag	3	3	\$5,088
Construction	4	4	\$4,800
HazMat	3	3	\$0
Medical Record	3	1	\$0



“Other Stuff”
OSHA on the world-wide web

www.osha.gov



4. Protecting Temporary Workers



Rise of temp and contract workers

- 3 million people are employed by staffing companies every week.
- 11 million temporary and contract employees are hired by U.S. staffing firms over the course of a year.

Source: American Staffing Association



Why Are Temp Workers At High Risk of Injury?

- New workers are at **increased risk** of injury
- Host employers don't have the same **commitment** to temporary employees as to permanent ones
- Employer who **bears the risk** of the injury (temp agency) **does not control** safety and health investment



Protecting Temporary Workers: A joint responsibility

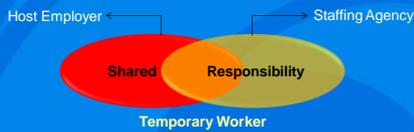
- Both host employers and staffing agencies have roles in complying with workplace health and safety requirements and they share responsibility for ensuring worker safety and health
- Legally, both the host employer and the staffing agency are employers of the temporary worker

Shared control over worker = Shared responsibility for worker



Who is responsible for what?

- Both the host employer and the staffing agency are employers of the temporary worker
 - Share control over worker
 - Share responsibility for worker



Temporary Workers: Recent Cases

Schwann's Global Supply Chain / Adecco USA:

- Temp workers were exposed to ammonia
- Both employers cited for exposure & lack of training
- Total fines: \$78,660

HP Pelzer Automotive Systems/ Sizemore Staffing:

- Temp workers exposed to formaldehyde
- Both employers cited for lack of training
- Total Fines: \$207,100



Most Frequent Violations

- Electrical
- Control of Hazardous Energy
- Machine Guarding
- Fall Protection
- Hazard Communication
- Powered Industrial Trucks



Best Practices

Staffing agency & host employer should both:



- Have an Injury and Illness Prevention Program
- Perform a hazard assessment of the worksite
- Define scope of work in the contract
- Conduct new project orientation and safety training that addresses hazards to which temporary workers may be potentially exposed
- Maintain communication with the worker and each other



Temporary Workers: Outreach & Education

- Alliance with American Staffing Association
- Issued Temporary Worker Recommended Practices
- Developing Compliance Assistance Bulletins



<https://www.osha.gov/Publications/OSHA3735.pdf>

Pennsylvania OSHA Area Offices



Main OSHA Number:
1-800-321-OSHA,
1-800-321-6742

Allentown Area Office
(267) 429-7542
Erie Area Office
(814) 874-5150
Harrisburg Area Office
(717) 782-3902
Philadelphia Area Office
(215) 597-4955
Pittsburgh Area Office
(412) 395-4903
Wilkes-Barre Area Office
(570) 826-6538

Rev. 2014 April 4

Questions?



OSHA

OSHA[®]

Occupational Safety
and Health Administration

www.osha.gov
800-321-OSHA



UNITED STATES DEPARTMENT OF LABOR
