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

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

New Standard Effective January 1, 2015


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 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);

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
Triage

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

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
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.

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.
Severe Injury Reporting:
YEAR ONE FINDINGS

- **10,388** severe injuries reported, including **2,644** amputations and **7,636** hospitalizations
- This is an average of **30** worker injuries every day of the year
- Most reported injuries (62%) were addressed by employer investigation (RRI), not OSHA inspection

First year of OSHA injury reporting requirement

<table>
<thead>
<tr>
<th>Severe Injury Reports 2015</th>
<th>RRI (%)</th>
<th>Inspection (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amputation</td>
<td>41.34%</td>
<td>58.66%</td>
</tr>
<tr>
<td>Hospitalization</td>
<td>69.46%</td>
<td>30.54%</td>
</tr>
<tr>
<td>Total</td>
<td>62.13%</td>
<td>37.87%</td>
</tr>
</tbody>
</table>

First year of OSHA injury reporting requirement

6. Improve Tracking Of Workplace Injuries and Illnesses

https://www.osha.gov/recordkeeping/finalrule/index.html

Timeline

- Final Rule Federal Register Notice – May 12, 2016
- Correction to 1904.35b2 – May 20, 2016
- Employee Rights (anti-retaliation provisions), changed effective date until – November 1, 2016
- Electronic Reporting effective Date - January 1, 2017
- Phase-in data submission due dates:

<table>
<thead>
<tr>
<th>Submission year</th>
<th>Establishments with 250 or more employees in industries covered by the recordkeeping rule</th>
<th>Establishments with 20-249 employees in select industries</th>
<th>Submission deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>CY 2016 300A Form</td>
<td>CY 2016 300A Form</td>
<td>July 1, 2017</td>
</tr>
<tr>
<td>2018</td>
<td>CY 2017 300A, 300, 301 Forms</td>
<td>CY 2017 300A Form</td>
<td>July 1, 2018</td>
</tr>
<tr>
<td>2019 and beyond</td>
<td>300A, 300, 301 Forms</td>
<td>300A Form</td>
<td>March 2</td>
</tr>
</tbody>
</table>

Outreach Materials

- Improve Tracking Webpage at:
  - Link to Rule
  - FAQs
  - Fact sheet
  - Press release
  - List of covered industries
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 deter 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.

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.

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.
OSHA delays effective date for enforcing employees’ rights to report workplace injuries, illnesses

OSHA Trade News Release
U.S. Department of Labor
OSHA, Office of Communications
June 11, 2018
Contact: Office of Communications
Phone: 202-693-1999

PHOTOGRAPH CREDIT: OSHA/Chris Duggan

OSHA delays effective date for enforcing employees’ rights to report workplace injuries, illnesses

BACKGROUND: The Occupational Safety and Health Administration is delaying enforcement of the anti-retaliation provisions in its new injury and illness reporting rule to conduct additional outreach and provide educational materials and guidance for employers. Originally scheduled to begin Aug. 20, 2018, enforcement will now begin Nov. 1, 2018.

Under the rule, employers are required to inform workers of their right to report work-related injuries and illnesses without fear of retaliation, implement procedures for reporting injuries and illnesses that are reasonable and do not deter workers from reporting, and incorporate the existing statutory prohibition on retaliating against workers for reporting injuries and illnesses.

In the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. OSHA’s role is to ensure these conditions for America’s working men and women by setting and enforcing standards, and providing training, education and assistance. For more information, visit www.osha.gov.

Electronic Reporting

• 1904.41(a)(1) – Establishments with 250 or more employees in industries covered by the recordkeeping rule:
  – Must, on an annual basis, provide data from the:
    • Summary Form 300A
    • Log Form 300
    • Incident Report 301
      – Does not include the injured worker’s name and address
      – Does not include the physician’s name and address
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(c)(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.

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).

**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).

**Important Legislation**

- Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015
Affected DOL Agencies

- EBSA
- MSHA
- OSHA
- OWCP
- WHD

Key Changes

- 78% Increase in Penalties
- New Size Category

Maximum Penalties

<table>
<thead>
<tr>
<th>Level</th>
<th>Current Maximum Penalty</th>
<th>Proposed Maximum Penalty</th>
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</thead>
<tbody>
<tr>
<td>Serious</td>
<td>$7,000 per violation</td>
<td>$12,471 per violation</td>
</tr>
<tr>
<td>Other-Than-Serious</td>
<td>$7,000 per violation</td>
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<tr>
<td>Willful or Repeated</td>
<td>$70,000 per violation</td>
<td>$124,709 per violation</td>
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<tr>
<td>Posting Requirements</td>
<td>$7,000 per violation</td>
<td>$12,471 per violation</td>
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<tr>
<td>Failure to Abate</td>
<td>$7,000 per day unabated beyond the abatement date [generally limited to 30 days maximum]</td>
<td>$12,471 per day unabated beyond the abatement date [generally limited to 30 days maximum]</td>
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### Change in GBP Amounts

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<tr>
<th>Severity</th>
<th>Probability</th>
<th>Gravity</th>
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<th>New GBP</th>
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<td>Greater</td>
<td>High</td>
<td>$7,000</td>
<td>$12,471</td>
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<td>Medium</td>
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<td>$5,345</td>
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### Size Adjustment

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<th># Employees</th>
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<tbody>
<tr>
<td>1-10</td>
<td>60</td>
<td>70</td>
</tr>
<tr>
<td>11-25</td>
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<tr>
<td>26-100</td>
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<tr>
<td>101-250</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>251 or more</td>
<td>None</td>
<td>None</td>
</tr>
</tbody>
</table>

### 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.

Described policies and procedures for targeting enforcement and outreach efforts to reduce occupational illnesses and injuries in nursing and residential care facilities in North American Industrial Classification System (NAICS) codes 623110, 623210, and 623311.

• NAICS codes for CASHE LTC facilities are 623311 and 623110.
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
Incident Rates / OSHA Logs

- Recalculate DART
  - The OSHA 300 logs for the previous 3 years will be reviewed
  - DART rates

Calculating your Accident Rates

DAFWII Calculation: Days Away From Work Injury and Illness Rate

DART Calculation: Days Away, Restricted or Transferred

TCIR Calculation: Total Case Incidence Rate

DART Calculation
(DART = Days Away, Restricted, or Transferred Rate)

\[ \text{DART} = \frac{N \times 200,000}{EH} \]

- \( N \) = number of cases involving days away and/or restricted work activity and job transfer (Columns “H” & “I”)
- 200,000 = base number of hours worked for 100 full-time equivalent employees
- \( EH \) = total hours worked by all employees

Note: Number of cases, not the number of days away.
Calculation Example

Col H = Days away = 2
Col I = Job Transfer or Restriction = 4
Col J = Other Recordable Cases = 5
EH = 436,000 Hours

DAFWII = (Col H) x 200,000 divided by EH
DAFWII = (2) * 200,000 / 436,000 = 0.917

DART = (Cols H&I) x 200,000 divided by EH
DART = (2 + 4) * 200,000 / 436,000 = 2.75

TCIR = (Cols H, I&J) x 200,000 divided by EH
TCIR = (2 + 4 + 5) * 200,000 / 436,000 = 5.05

How Does OSHA Decide Who to Inspect?

OSHA cannot inspect all workplaces it covers each year. The agency seeks to focus its inspection resources on the most hazardous workplaces.
OSHA INSPECTIONS
Inspection/Investigation Types

Inspection Priorities:
• Unprogrammed inspections:
  – Imminent Danger
  – Fatality
  – Complaints and Referrals (Possibly including Hospitalization/Amputation/Loss of an Eye)
• Programmed Inspections

• Programmed Inspections:
  – Site-Specific Targeting (SST),
  – Construction
  – Scheduling for Maritime Inspections
  – Special Emphasis Programs (SEPs),
  – National Emphasis Programs (NEP),
  – Regional (REP) & Local Emphasis Programs (LEP),
  – Other Special Programs.
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
- **HEXA Valent CHROMIUM:** OSHA Instruction CPL 02-02-076
- **ISO CYANATES:** 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 01-00-010 - 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

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

As of April 6, 2016
• 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, dd: 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 Challenges, 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

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

OSHA INSTRUCTION

National Emphasis Program – Nursing and Residential Care Facilities (NAICS codes 623110, 623210, and 623311)

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

OSHA’s Top Violations in Healthcare

OSHA INSTRUCTION

National Emphasis Program – Nursing and Residential Care Facilities (NAICS codes 623110, 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)

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<thead>
<tr>
<th>NAICS Standard</th>
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<th>Inspections</th>
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## Top Violations
(October 2014 through September 2015)

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## “Other Stuff”
OSHA on the world-wide web

www.osha.gov
Currently Updating the Guidelines for Health Care Workers

- Management Commitment
- Employee Involvement
- Worksite Analysis
- Hazard Prevention & Control
- Recordkeeping
- Evaluations
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

Source: American Staffing Association
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.

Sharing 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

- 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

Staffing agency & host employer should both:

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

Temporary Workers: Outreach & Education

Pennsylvania OSHA Area Offices

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

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

Questions?

OSHA

Occupational Safety and Health Administration

United States Department of Labor