

OSHA Regulation Current Status

**AIR & WASTE MANAGE ASSOCIATION GEORGIA
CHAPTER**

ANNUAL CONFERENCE – May 11, 2017

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OSHA under Trump: A closer look

- Labor-law experts predict a move away from an enforcement-based strategy and toward compliance assistance and cooperative programs for employers.
- OSHA's funding decrease.
- Recent regulations such as the injury and illness recordkeeping rule, the silica rule and the so-called "blacklisting rule" all could be in jeopardy under the Trump administration.

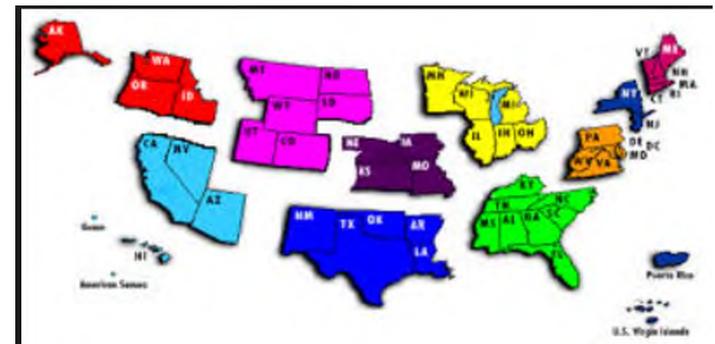
Employers Are Operating In an Unusual OSHA Environment

- With no Trump appointees yet running the US DOL, OSHA is operating under the Obama Administration's Rules, Procedures and Interpretations.
- There are limits to what can be changed.



Employers Are Operating In an Unusual OSHA Environment

- Fed-OSHA Regional and Area Office management are operating in near autonomy, but don't expect OSHA to simply roll over.
- Lot's of speculation but few solid answers.



What is Gone

- Volks rule, which authorized the Occupational Safety and Health Administration to extend its enforcement authority of recordkeeping violations from 6 months to 5 years was eliminated the rule in March.
- Companies must still maintain logs of injuries and illnesses for the previous five years (now cannot be cited by OSHA for incidents beyond the six-month mark).

**OSHA tells companies to report injuries. There's
no website for that yet**

Electronic Submission of Records

OSHA is not accepting electronic submissions of injury and illness logs at this time. Updates will be posted to this webpage when they are available.

What to Continue to Expect

- Inspections based on Call in Reports (amputations and overnight hospitalizations) continue to trigger the most inspections.
- Continued emphasis on corporate wide analysis and using Repeats.
- Focus on the entire corporate entity. (Repeat citations, Agreements, Enhancements);

What to Continue to Expect

- Broaden employer responsibility - temps, joint employer, multiemployer
- Not just traditional “hazardous” industries; visit worksites rarely before inspected.

Mo Money!

- Penalties were increased by 78% from their previous levels to adjust for inflation in 2016

(note in the 90's OSHA raised fines from \$1000 to \$7000 and no one screamed).

- New penalty revisions that took effect on **January 13, 2017.**





Violation	August 2016 penalty levels	Penalties as of January 13, 2017
Any willful violation of OSHA rules or standards (29 CFR 1903.15(d)(1))	Minimum of \$8,908 up to \$124,709	Minimum of \$9,054 up to \$126,749
Any repeated violation of OSHA rules or standards (29 CFR 1903.15(d)(2))	Up to \$124,709	Up to \$126,749
Any serious violation of OSHA rules or standards (29 CFR 1903.15(d)(3))	Up to \$12,471	Up to \$12,675
OSHA violation deemed other-than-serious (29 CFR 1903.15(d)(4))	Up to \$12,471	Up to \$12,675
Failure to correct a violation (29 CFR 1903.15(d)(5))	Up to \$12,471	Up to \$12,675
Violation of posting requirements (29 CFR 1903.15(d)(6))	Up to \$12,471	Up to \$12,675

Walking and Working Surfaces

- 29 CFR 1910 Subpart D and I standards include new technology (including personal fall protection systems) and industry methods. (The revisions reorganize the rule in a clearer, more logical manner, and provide greater compliance flexibility).
- This will consistency between construction, general industry and maritime standards, and eliminate duplication.



Walking and Working Surfaces

Inspections



- Walking-working surfaces must be inspected “regularly and as necessary” by the employer to ensure they are safe and **well maintained**. (If hazardous conditions are identified, they must be immediately repaired or the area must be guarded to prevent worker use of the area until it is repaired).

Walking and Working Surfaces

Scaffolding

- Employers who have workers who utilize scaffolds in general industry should be following requirements in the construction industry standards found in section 1926, Subpart L (Scaffolds).



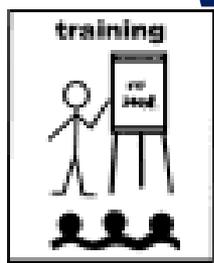
Walking and Working Surfaces

Dock boards



- Must have a means to prevent equipment from running off the edge unless it can be shown no such hazard exists.
- Portable dock boards must have a means for anchoring to prevent it from moving out of a safe position.

Walking and Working Surfaces



Workers exposed to fall hazards must be trained to recognize fall hazards, how to minimize the hazards, and how to correctly use personal fall protection systems/equipment.

- Training must include correct procedures for installing, inspecting, operating, maintaining, and disassembling the personal fall protection system used.
- Regarding the specific use of PFAS, workers must be trained on proper hook-up, anchoring, tie-off techniques, methods of equipment inspection and storage as specified by the manufacturer.

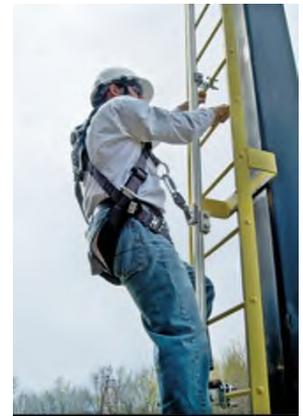
Walking and Working Surfaces/ Fall Protection

Rope Decent Systems

- Requires building owners to affirm (**in writing**) that permanent building anchorages used for RDS have been inspected, tested, certified, and maintained as capable of supporting 5,000 pounds for each worker attached.

RDSs usually consist of a roof anchorage, support rope, descent device, carabiners or shackles, and a chair or seat board. These systems are typically used throughout North America to perform elevated work, such as window washing.

Fall Protection



Ladders (Fixed Ladders)

- Installation of personal fall arrest or ladder safety systems on **new fixed ladders** over 24 feet must be completed.
- Employers must ensure existing fixed ladders over 24 feet, including those on outdoor advertising structures, are equipped with a cage, well, personal fall arrest system, or ladder safety system.



Fall Protection

Ladders (Portable)



The new revisions require employers to ensure that:

- slip resistant rungs and steps;
- portable ladders secured and stabilized;
- portable ladders are not moved, shifted, or extended while a worker is on them;
- top steps and caps of stepladders are not used as steps;
- ladders are not fastened together to provide added length unless designed for such use; and
- ladders are not placed on boxes, barrels, or other unstable bases to obtain added height.

Fall Protection

Replacing Cages & Wells On Fixed Ladders



- By **November 17, 2036**, cages and wells on general industry fixed ladders must be phased out as the primary means of fall protection. (Fixed ladders that currently feature a cage or well will have to be equipped with a ladder safety system or personal fall arrest system).

Fall Protection

Links To More Information

- [OSHA's Walking-Working web page](#)
- [Walking-Working Surfaces in the Federal Register](#)
- [Walking-Working Surfaces Press Release](#)
- [Walking-Working Surfaces Regulatory Text](#)
- [OSHA Fact Sheet on Walking-Working Surfaces](#)
- [Q&A – Walking-Working Surfaces](#)

Silica



Key Provisions

- Reduced the permissible exposure limit (PEL) for respirable crystalline silica to 50 micrograms per cubic meter of air, averaged over an 8-hour shift.
- Requires employers use engineering controls (such as water or ventilation) to limit worker exposure to the PEL; provide respirators when engineering controls cannot adequately limit exposure; limit worker access to high exposure areas; develop a written exposure control plan, offer medical exams to highly exposed workers, and train workers on silica risks and how to limit exposures.

Silica



Key Provisions

- Provides medical exams to monitor highly exposed workers and gives them information about their lung health.
- Provides flexibility to help employers — especially small businesses — protect workers from silica exposure.

Silica

Compliance Schedule

- Both standards took effect on June 23, 2016 (most industries have one to five years to comply with most requirements, based on the following schedule:
- ***Construction*** - June 23, 2017, one year after the effective date. **Delayed until September**
- ***General Industry and Maritime*** - June 23, 2018, two years after the effective date.

Beryllium Rule

- Scheduled to take effect March 10, 2017.
- OSHA further postponed the effective date of the rule until May 20, 2017
- The compliance date for the bulk of the obligations under the rule currently remains March 12, 2018.
- Current Status: **Still Postponed**

Anti-retaliation protections

New rule changes allow OSHA to cite an employer for retaliation even if the employee does not file a complaint, or if the employer has a program that deters or discourages injury or illness reporting.

These provisions went into effect on **August 10**, but OSHA is delaying enforcement of these provisions until **November 1** to give employers time and guidance to put themselves in compliance, as well as educate employees on their rights under these rules.

Updated Eye and Face Protection Rule

- On March 25, 2015, OSHA updated its eye and face protection rules for general industry, maritime, and construction employers with the intent of making compliance easier for employers.
- The updated standards incorporate the latest ANSI/ISEA standard on Occupational and Educational Eye and Face Protection Devices, ANSI/ISEA Z87.1-2010, by reference.

Draft Safety and Health Program Management Guidelines

Here's what OSHA highlights in its updated guidelines:

- ***A proactive approach to finding and fixing hazards.*** The emphasis is no longer on examining the worksite **but on *identifying hazards*** – an ongoing process that seeks to identify hazards before a worker becomes ill or is injured or killed. OSHA recommends that employers:
 - Collect information about the workplace that can be used to identify hazards, such as the types of equipment and chemicals that are in use.
 - Inspect the workplace periodically for the purpose of identifying hazards.
 - Investigate not just accidents but also near misses and close calls to identify underlying hazards.
 - Think in advance about the sorts of hazards workers might face in emergency or non-routine situations.

Draft Safety and Health Program Management Guidelines

Improved safety and health in all types of workplaces.

- OSHA admits that these guidelines may not be a good fit for construction industry employers, and it plans to issue a separate set of guidelines for them.
- OSHA states that the revised guidelines are specifically designed and intended to be useful to employers in a range of industries, including manufacturing, hospitals and healthcare facilities, offices, and service industries.

Draft Safety and Health Program Management Guidelines

Help for small- and medium-sized businesses to effectively protect their workers.

- OSHA has tried to design guidelines that can be implemented in any size business; in part, they have done so by emphasizing that communication in small businesses can be effectively done orally, and it need not always be done in formal written documents.
- OSHA also recommends that small and medium-sized employers take advantage of its free on-site consultation program to identify hazards and implement the program.

Draft Safety and Health Program Management Guidelines

- ***Program evaluation and improvement.*** (new section, emphasizing that OSHA does not see a safety and health management program as a “fix it and forget it” recipe).

OSHA recommends that employers ***periodically evaluate control measures for effectiveness, establish processes to monitor program performance, verify program implementation, identify program deficiencies and opportunities for improvement, and take actions necessary to improve the program*** and overall safety and health performance.

Draft Safety and Health Program Management Guidelines

- ***Better communication and coordination on multiemployer worksites.*** This is a new section, reflecting OSHA's recent emphasis on multiemployer worksites and contract and temporary employees. OSHA recommends that:
 - Host employers and all contract employers coordinate on work planning and scheduling to identify and resolve any conflicts that could impact safety or health.
 - Workers from both the host and contract employer are informed about the hazards present at the worksite and the hazards that the work of the contract employer may create on-site.

Employer Responsibilities to Protect Temporary Workers

- To ensure that there is a clear understanding of each employer's role in protecting employees, OSHA recommends that the **temporary staffing agency and the host employer set out their respective responsibilities for compliance** with applicable OSHA standards in their contract. Including such terms in a contract will ensure that each employer complies with all relevant regulatory requirements, thereby avoiding confusion as to the employer's obligations.

Temporary Employee Focus

- "Host employers need to treat temporary workers as they treat existing employees.
- Temporary staffing agencies and host employers share control over the employee, and are therefore jointly responsible for temp employee's safety and health.
- It is essential that *both* employers comply with all relevant OSHA requirements."

– David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health

Temporary Employee Focus

Employer Responsibilities

- The host employer and the staffing firm are joint employers of the worker, and therefore have a *shared responsibility*
- Effective communication and common understanding of the division of responsibilities
- Preplanning and ongoing communication

Temporary Employee Focus

Employer Responsibilities

- Host employer generally has ***primary responsibility*** for identifying hazards and complying with work site-specific health and safety requirements
- Staffing firm employer must ensure its workers are equipped with protections and have the necessary training

Temporary Employee Focus

- ***Evaluate the Host Employer's Work site***

Before an employer hires a staffing agency, **both** should work together to review all work sites in which the temporary worker might be sent. Task assignments and job hazards should also be identified by the host employer to eliminate any safety hazards, and the staffing agency should provide a document to the host employer that specifies each temporary worker's training and competencies.

- ***Ensure the Employer Meets or Exceeds the Other Employer's Standards***

A host employer and staffing agency should exchange and review each other's injury and illness prevention program, when feasible. This way, an employer knows whether or not the agency they are hiring meets or exceeds their own hiring standards.

Temporary Employee Focus

- ***Assign Occupational Safety and Health Responsibilities and Define the Scope of Work in the Contract***

Responsibilities between the staffing agency and host employer should be described in their agreement, as one or the other might be better suited to handle a task. Job responsibilities, work equipment and work hazards should all be included in the agreement to protect all parties of involved.

- ***Injury and Illness Tracking***

On most occasions, all workplace injuries should be tracked by the host employer. Once an injury has been reported, the staffing agency should then be promptly notified. Procedures should be in place before an agreement is executed for the exchange of information regarding injuries to temporary workers.

- ***Conduct Safety and Health Training and New Project Orientation***

Host employers should provide temporary workers with safety training that is identical or equivalent to the training provided to the host employers' own employees performing the same work. Again, all training provided by either the host employer and staffing agency should be communicated to one another.

Who's Responsible for What?

OSHA/NIOSH *Recommended Practices*

		Staffing Agency	Host Employer
Safety Program	✓	YES	YES
General Safety Training	✓	YES	Maybe
Educate Temp Agency Staff on Hazard Identification	✓	YES	NO
Hazard Identification (Jobsite)	✓	YES	YES
Job-Specific Safety Training	✓	Maybe (on-site)	YES
Defined Assignment for EE	✓	YES	YES
Injury Reporting Process	✓	YES	YES
Follow up with EE	✓	YES	Maybe
Recordkeeping (OSHA 300 Log)	✓	Maybe (on-site)	YES

Temporary Employee Focus

[Temporary Worker Initiative \(TWI\) Bulletin No. 1 - Injury and Illness Recordkeeping Requirements**](#)

[Temporary Worker Initiative \(TWI\) Bulletin No. 2 – Personal Protective Equipment**](#)

[Temporary Worker Initiative \(TWI\) Bulletin No. 3 – Whistleblower Protection Rights**](#)

NEW [Temporary Worker Initiative \(TWI\) Bulletin No. 4 - Safety and Health Training**](#)

NEW [Temporary Worker Initiative \(TWI\) Bulletin No. 5 - Hazard Communication**](#)