

# The Safety & Health Advisor

## Winter 2021



### OSHA Citations in Long Term Care Facilities

Since the onset of the COVID-19 pandemic, [OSHA](#) and the [CDC](#) have instructed long term care facilities to provide personal protective equipment (PPE) to their employees. These provisions include use of N95 respirators which are regulated by OSHA under 29 CFR1910.134 Respiratory Protection standard, and can be viewed [here](#).

Many of these facilities may not have been previously aware of the requirements under these guidelines, and have been subject to OSHA citations following inspections. OSHA's [National News Release](#) of January 8, 2021 provides details on the 300 facility inspections that have been performed. As of this release date, these inspections have resulted in a total of \$3,930,381 in proposed penalties. These inspections have resulted in OSHA citing employers for violations, including failures to:

- Implement a [written respiratory protection program](#);
- Provide a medical evaluation, respirator fit test, training on the proper use of a respirator and personal protective equipment;
- [Report](#) an injury, illness or fatality;
- Record an injury or illness on OSHA [recordkeeping forms](#); and
- Comply with the [General Duty Clause](#) of the Occupational Safety and Health Act of 1970

Additional guidance can be found on OSHA's Coronavirus [webpage](#). Sample written respirator protection programs for N95 respirators are [available](#) as well. The [Connecticut Department of Labor](#) has posted excellent resources on respiratory protection compliance including a sample program. For additional information, please contact your Atlantic Charter Safety & Health Consultant.

#### **Highlights in this Issue**

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#### **OSHA Recordkeeping Reminder**

*OSHA 300 logs for calendar year 2020 should be completed during January 2021 in preparation for completing the OSHA 300A Summary form, including certification by a 'company executive' and posting in a conspicuous place, by February 1, 2021 (through April 30, 2021).*



*Select establishments also need to submit the OSHA 300A data electronically to OSHA's Injury Tracking Application (ITA) <https://www.osha.gov/injuryreporting/> by March 2, 2021.*

*If you need any assistance, or have further questions please contact your Safety and Health Consultant*

#### **OSHA 2021 Site Specific Targeting Program**

On December 16, 2020, OSHA announced that it updated its directive for targeted inspections in 2021 focusing on non-construction entities with more than 20 employees that had the highest injury and illness rates based on employer submitted OSHA 300A summary forms for CY's 2017-2019.

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The SST (coded as SSTARG171819) would be in addition to any OSHA national or local emphasis inspection programs (i.e. Hazardous Machinery Amputations, Powered Industrial Trucks, Silica, Combustible Dust).

The new directive replaces Site-Specific Targeting 2016, and includes the following significant changes:

- Creation of a new targeting category for establishments indicating consistent injury and illness rate increases over the three-year data collection period, and
- Allows records only inspections to occur when a compliance safety and health officer determines incorrect data led to an establishment's inclusion in the program. This change ensures OSHA will conduct a full inspection only when the employer has an actual elevated injury and illness experience.

The SST inspection list selection criteria will be based on the following:

- High-Rate Establishments - Individual establishments selected for inspection list based on CY 2019 Form 300A data.
  - Manufacturing: DART\* incidence rate at or above "TBD"
  - Non-Manufacturing: DART incidence rate at or above "TBD"

*\*DART incidence rate means the number of OSHA 300 recordable cases that result in "Days Away, Restricted and/or Transferred" for work duties. As of the date of this publication OSHA had not established the rates, so a follow-up communication will be sent when those rates have been set.*

- Upward Trending Establishments (had higher than industry rates in CY2017 and continued to increase in CY2018 and/or CY2019)
- Low-Rate Establishments (random for data reliability survey purposes only)
- Non-Responders (random check for any establishment that did not report during CY 2019 that OSHA felt should have based on reporting criteria)

The 16-page abstract of the program directive can be viewed at

<https://www.osha.gov/enforcement/directives/cpl-02-01-062>

The formal news release can be viewed at

<https://www.osha.gov/news/newsreleases/national/12162020>

Whether or not your company ends up on the planned SST inspection list, you should review your safety program now (including recordkeeping, procedures and training) to ensure regulatory compliance. Your Atlantic Charter Safety and Health Consultant can provide guidance in this area or can help you calculate your DART rates if you are having difficulty. To assist with compliance, you may also wish to contact your local OSHA Consultation office for assistance.

In Massachusetts, the OSHA Consultation office may be reached at:

**Massachusetts Department of Labor Standards  
OSHA Consultation Program**

Wall Experiment Station

37 Shattuck Street, Lawrence, MA 01843

Phone: 617-626-6504

<https://www.mass.gov/on-site-consultation-program>

In New Hampshire the OSHA Consultation office (through Keene State's WorkWISE NH program) may be reached at:

**WorkWISE NH**

Eliot Hall, MS - 3925

229 Main St.

Keene, New Hampshire 03435

Wayne Hartz, Project Manager

whartz@keene.edu

603-358-2411

<https://www.keene.edu/academics/conted/safety/workwise/>

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### OSHA Expectations Under The New Administration

Based on past history, it is speculated that employers can expect increased enforcement by the Occupational Safety and Health Administration (OSHA) under the incoming administration and possibly an emergency temporary standard (ETS) to combat COVID-19.

Virginia, California, and Michigan have already adopted a COVID-19 ETS.

If the California standard is used as a reference, a federal ETS from OSHA would require employers to develop a written COVID-19 Prevention Program and could include the following elements (many of these elements are already included in the Massachusetts' COVID-19 Control Plan requirements):

- Communication to employees about the employer's COVID-19 prevention procedures;
- Identify, evaluate and correct COVID-19 hazards;
- Physical distancing of at least six (6) feet unless it is not possible;
- Use of face coverings;
- Use engineering controls, administrative controls and personal protective equipment as required to reduce transmission risk;
- Procedures to investigate and respond to COVID-19 cases in the workplace;
- Provide COVID-19 training to employees;
- Provide testing to employees who are exposed to a COVID-19 case, and in the case of multiple infections or a major outbreak, implement regular workplace testing for employees in the exposed work areas;
- Exclusion of COVID-19 cases and exposed employees from the workplace until they are no longer an infection risk; and
- Maintain records of COVID-19 cases and report serious illnesses and fatality cases to OSHA.

An ETS may provide the impetus for a permanent infectious disease standard to be drafted. OSHA has tried and failed in prior efforts to complete rulemaking on a permanent infectious disease standard; however, the COVID-19 pandemic has created momentum for the agency to take another look at it.

Other priorities under the new administration could include: restoring the original electronic reporting rule; stronger whistleblower protections; and increasing General Duty Clause (GDC) citations for COVID-19 Violations of CDC Guidelines. The GDC is used only where there is no OSHA standard that applies to the particular hazard, like the COVID-19 pandemic.

Given the strong likelihood of a return to enhanced OSHA policies under the new administration, employers should carefully evaluate their workplace health and safety programs and make improvements where needed.

### Safe Winter Driving Tips

If you must drive during winter weather conditions, make sure you follow these important safety tips:

- **Do not tailgate.** Normal following distances on dry pavement should be extended to a minimum of 8 to 10 seconds when driving on slippery surfaces according to the National Safety Council. The extra time will provide additional braking room should a sudden stop become necessary.
- **Avoid Unnecessary Lane Changes.** Changing lanes increases your chances of hitting ice between lanes, which could cause a loss of traction and, potentially, a crash.
- **Never Crowd Snowplows.**



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The National Highway Traffic Safety Administration reminds drivers that snow plows travel slowly, make wide turns, stop often, overlap lanes, and exit the road frequently. However, the road behind an active snow plow is safer to drive on. If you find yourself behind a snow plow, stay behind it or use caution when passing.

- **Never use cruise control on slippery roads.** If your vehicle hydroplanes or skids, you will lose the ability to regain some traction simply by lifting off the accelerator. It will be harder to recover from the loss of traction if cruise control is active.
- **Slow down and adjust your speed to the road conditions.** Leave yourself ample room to stop. Accelerate, turn and brake as gradually and smoothly as you can.



- **Don't slam on the brakes.** If your car begins to skid, continue to steer in the direction you want the car to go. Slamming on the brakes will only make your vehicle harder to control.
- **Use extreme caution on bridges and overpasses.** Black ice typically forms first in shaded areas of the roadway and on bridges and overpasses that freeze first and melt last. Although the road leading up to a bridge may be fine, the bridge itself could be a sheet of ice.

AAA and the National Traffic Highway Administration suggests that drivers get their battery tested to ensure it's strong enough to endure cold weather, replace worn-out windshield wipers, make sure tires have adequate tread and assemble an emergency kit for winter weather, including sand or kitty litter, a small shovel, and blankets.

### Stock Your Vehicle

Carry items in your vehicle to handle common winter driving tasks and supplies you might need in an emergency, including:

- Snow shovel, broom, and ice scraper;
- Abrasive material such as sand or kitty litter, in case your vehicle gets stuck in the snow;
- Jumper cables, flashlight, and warning devices such as flares and emergency markers;
- Blankets for protection from the cold; and
- A charger or backup battery cell for your cell phone, water, food, and any necessary medicine (for longer trips or when driving in lightly populated areas).



### Winter Driving Safety Links:

<https://magazine.northeast.aaa.com/daily/life/cars-trucks/winter-driving-tips-from-aaa/>

<https://www.nhtsa.gov/winter-driving-tips>

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

*If you need assistance in evaluating your ergonomics or safety and health program, please contact Neal Freedman, John Cotnam, Mark Hickox or Rick Muller from Atlantic Charter's Safety and Health Department at (617) 488-6500.*