

The Safety & Health Advisor

Winter 2016



OSHA Fines Increasing Significantly

For the first time in a quarter century, OSHA fines will increase under a provision in the recently signed congressional budget deal. OSHA is directed by amendment to issue an interim final rule increasing its penalties to account for current inflation levels, which would raise proposed fines by 80 percent. As a result, maximum penalty changes might include:

- Willful and repeat violations increasing to about \$127,000 from \$70,000
- Serious violations increasing to about \$12,700 from \$7,000

The adjustment must occur before August 1, 2016. Thereafter, OSHA also will be allowed, for the first time, to adjust its penalty levels based on inflation.

Researchers from the Toronto-based Institute for Work & Health found “strong evidence” that specific consequences from actual citations help reduce the frequency and severity of injuries. However, study results showed only “mixed evidence” regarding the effectiveness of general deterrence, which refers to the potential for inspections, citations, and fines. See [The effectiveness of targeted labour inspections in occupational health and safety](#) for details.

A study of workers’ compensation claims between 1999 and 2008 by the Washington State Department of Labor and Industries’ Safety and Health Assessment and Research for Prevention Program found a decrease in claims at locations where an inspection had occurred. Another study, published in the *National Safety Council’s Journal of Safety Research* (Vol. 41, No. 4: August 2010), found that OSHA inspections with penalties led to reduced injury and illness rates. See [OSHA enforcement: Does it help improve workplace safety?](#)

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OSHA 300A Summary Posting Due February 1st.

After completing and validating the information on your OSHA 300 log for calendar year 2015, the next step is to complete the OSHA 300A summary form. On February 1, 2016, employers must post a summary of the total number of work-related injuries and illnesses that occurred in 2015. Employers are required to post only the Log Summary (OSHA Form 300A) from February 1, 2016 to April 30, 2016. They must retain logs and summaries for 5 years.

The summary must list the total number of work-related injury and illness cases that occurred in 2015 and were logged on the OSHA 300 form. Company information about annual average number of employees and total hours worked during the calendar year is also required to assist in calculating incidence rates. Companies with no recordable cases in 2015 must also post the form with zeros on the total line.

All establishment summaries must be certified by a company executive. The form is to be displayed in a common area wherever notices to employees are usually posted.

Employers with ten (10) or fewer employees and employers in certain industry groups are normally exempt from federal OSHA injury and illness recordkeeping and posting requirements. A complete list of exempt industries in the retail, services, finance and real estate is posted on OSHA's website at: <http://www.osha.gov/recordkeeping/ppt1/RK1exempttable.html> However, if your organization is selected to participate in the annual OSHA survey, the exemption does not apply.

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Temporary Worker Safety

Workers that were identified as “temporary-help agency workers” accounted for about 1.2 million people in February 2005 – a number that more than doubled by 2013, when BLS reported 2.8 million temporary-help agency workers. The number of jobs in the temporary help services industry reached an all-time high of 2.9 million in May 2015, accounting for 2.4 percent of all private sector jobs in the U.S. economy.

In April of 2013, OSHA created its Temporary Worker Initiative (TWI). The primary impetus was the increasing number of investigations that OSHA was conducting of temporary workers suffering serious or fatal injuries, some in their first days on the job. Numerous studies have shown that new workers are at increased risk for work-related injury, and most temporary workers start as “new” workers multiple times a year by the very nature of temporary staffing work.

David Michaels, OSHA’s Assistant Secretary of Labor for Occupational Safety and Health, stated “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.”

OSHA has created a Temporary Workers webpage at https://www.osha.gov/temp_workers. It highlights the roles and responsibilities of host employers and staffing agencies. Best practices include:

- Evaluate the Host Employer’s Worksite;
- Ensure the Employer Meets or Exceeds the Other Employer’s Standards;
- Assign Occupational Safety and Health Responsibilities and Define the Scope of Work in the Contract;
- Injury and Illness Tracking;
- Conduct Safety and Health Training and New Project Orientation;
- Injury and Illness Prevention Program;

- Incidents, Injury and Illness Investigation; and
- Maintain Contact with Workers.

OSHA has cited host employers and staffing agencies for accidents involving temporary workers. A review of OSHA News Releases on their website revealed that most citations have been issued to manufacturing companies for uncontrolled hazards such as machine, noise, fire, electrical, and inhalation.

It is strongly recommended that businesses that use temporary staffing agencies obtain a certificate of insurance from the agency before the temporary employees begin work. The following are some things to pay close attention to when you receive a certificate of insurance:

- Confirm that the name of the insured on the form is an exact match for the name of the person or company you are hiring.
- Check the policy coverage dates to ensure that they are valid. If the policy is due to expire before the job will be completed, you will need to be sure to get another certificate of insurance at that time.
- Ensure that the certificate holder has, at a minimum, both general liability insurance, to protect against damages, and workers compensation insurance, to protect you in the event that the temporary worker is injured on the job.

Construction Confined Spaces

On August 3, 2015 OSHA implemented the new Construction Confined Space Safety standard 29 CFR 1926.1200 – .1213. There are five (5) key differences between the General Industry and Construction standards that are explained in detail on the website with respect to employer responsibilities, competent person, monitoring and permit suspension as well as additional clarifications.

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Unlike the General Industry standard, this rule understands the dynamic nature of a construction site and the various entities that may be working there. As such, **Employer Responsibilities** identify three (3) categories of employers that must be considered. They are the “Entry Employer” (directs the entry employee), “Controlling Contractor” (overall responsibility for construction at worksite) and “Host Employer” (owns or manages the property). You will need to determine which type of employer you are on the site and comply with those designated responsibilities.

The most important activity for any job site is to first have a “**Competent Person**” determine if there are any “confined spaces”, i.e. a space large enough for someone to bodily enter, have limited entry/exit and is not designed for continuous occupancy. Second, would be to determine if that space would be classified as “permit-required”, i.e. if there is an atmospheric, engulfment or entanglement hazard or any other serious safety or health hazard. If classified as a non-permit space, normal activities could be conducted; if classified as a “permit” space, safety measures outlined in the standard would need to be followed.

OSHA’s definition of a **competent person** is “one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has the authority to take prompt corrective measures to eliminate them.

” **The competent person need not be an employee of any particular employer.** The various contractors on a site may use a single individual to perform the duties required of a competent person.

Each employer should have a formal Permit Space Program to ensure that all requirements are followed. These include entry permits, coordination with other employers that are involved or have responsibilities, worker training and provisions for rescue should it be needed.

A reader friendly version of the standard may be found at:

https://www.osha.gov/confinedspaces/1926_subpart_aa.pdf. The standard, frequently asked questions (FAQ) and other resources may be found on the OSHA topic webpage at:

<https://www.osha.gov/confinedspaces/index.html>.

Businesses may also be interested in the Small Entity Compliance Guide: Protecting Construction Workers in Confined Spaces at the following link

<https://www.osha.gov/Publications/OSHA3825.pdf>

First Aid and AED’s in the Workplace

First aid supplies are required to be readily available by OSHA as specified in 29 Code of Federal Regulations (CFR) 1910.151(b). There are also specific OSHA standards, directives (instructions for compliance officers), and standard interpretations related to medical and first aid for several specific industries including the Construction Industry ([29 CFR 1926](#)), Logging operations [1910.266](#), Electric power generation, transmission, and distribution [1910.269](#), Shipyard Employment ([29 CFR 1915](#)), Marine Terminals ([29 CFR 1917](#)), and Longshoring ([29 CFR 1918](#)).

In June 2015, the American National Standards Institute (ANSI), which is a voluntary consensus standard, approved the latest edition of ANSI/ISEA Z308.1-2015, which specifies two different classes of first aid kits (Class A or Class B) based on whether the expected workplace hazards are basic or more complex (e.g., high-risk environments). First aid kits are classified based on the assortment and quantity of first aid supplies intended to deal with most types of injuries and sudden illnesses that may be encountered in the workplace. These may include major and minor wounds; minor burns; sprains and strains; and eye injuries.

The Class A first aid kits specify 18 items from adhesive bandages to burn treatments. There are recommended quantities for each item. The Class B kits include these same 18 items in addition to a 4” roller bandage, a split, and a tourniquet.

Over-the-counter medicine can be put in first aid kits if they are packaged in single-dose, tamper-evident packaging and properly labeled as required by Food and Drug Administration (FDA) regulations. However, over-the-counter drug products should not contain ingredients known to cause drowsiness.

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If it is reasonably anticipated that employees will be exposed to blood or other potentially infectious materials while using first aid supplies, employers are also required to provide appropriate personal protective equipment (PPE) in compliance with the Occupational Exposure to Blood borne Pathogens Standard, 1910.1030(d)(3). This standard lists appropriate PPE for this type of exposure, such as gloves, face shields, masks, eye protection, and gowns.

In addition to first-aid requirements of 29 CFR 1910.151, several OSHA standards also require training in cardiopulmonary resuscitation (CPR) because sudden cardiac arrest from asphyxiation, electrocution, or exertion may occur. One specific standard requiring CPR training is 1910.146 Permit-Required Confined Spaces. On the OSHA website you can download the 28 page [Best Practices Guide, Fundamentals of a workplace first aid program.](#)

We recommend that first aid kits be inspected monthly to ensure supplies are in good condition and are not depleted. Keep in mind that some supplies may have expiration dates as well so regular inspections should also address these items and replace them as necessary. The contents list for should be periodically reviewed as well to ensure that it meets the needs of the workplace and possible hazards faced at all times.

Automated External Defibrillators (AED's)

Sudden cardiac arrest is one of the leading causes of death in the U.S. Over 350,000 people will suffer from sudden cardiac arrest this year. It can happen to anyone, anytime, anywhere and at any age. An AED is the only effective treatment for restoring a regular heart rhythm during sudden cardiac arrest and is an easy to operate tool for someone with no medical background.

With recent advances in technology, AED's are now widely available, safe, effective, portable, and easy to use. They provide the critical and necessary treatment for sudden cardiac arrest (SCA) caused by ventricular fibrillation, the uncoordinated beating of the heart leading to collapse and death. Using AEDs as soon as

possible after sudden cardiac arrest, within 3-4 minutes, can lead to a 60% survival rate.

All worksites are potential candidates for AED programs because of the possibility of SCA and the need for timely defibrillation. Each workplace should assess its own requirements for an AED program as part of its first-aid response.

A number of issues should be considered in setting up a worksite AED program: physician oversight; compliance with local, state and federal regulations; coordination with local EMS; a quality assurance program; and a periodic review, among others.

Check out the OSHA website at www.osha.gov or the websites of the American College of Occupational and Environmental Medicine at www.ocoem.org, the American Heart Association at www.americanheart.org, and the American Red Cross at www.redcross.org. Federal Occupational Health at <http://www.foh.hhs.gov/>, and the National Center for Early Defibrillation at <http://www.early-defib.org/> can provide additional information as well about AED program development.

Here are some additional links regarding the use of AEDs in the workplace.

- [Automated External Defibrillators Can Save Lives During Cardiac Emergencies](#) (PDF*). OSHA Publication 3174, (2001). Stresses the need for AEDs in the workplace to save lives. States that AEDs are effective, easy to use, and relatively inexpensive.
- [Saving Sudden Cardiac Arrest Victims in the Workplace: Automated External Defibrillators](#) (PDF). OSHA Publication 3185, (2003). Provides information on the importance of readily-available AEDs, and encourages the installation of the devices in workplaces. It also includes a list of resources for more detailed guidance on the use of AEDs as well as how to obtain qualified training.
- [Cardiac Arrest and Automated External Defibrillators](#) (PDF). OSHA Technical Information Bulletin (December 17, 2001).

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- [Best Practices Guide: Fundamentals of a Workplace First-Aid Program](#) (PDF). OSHA Publication 3317, (2006). Presents a summary of the basic elements for a first-aid program at the workplace and includes information on automated external defibrillators and programs.
- [Automated External Defibrillation in the Occupational Setting](#) (PDF). American College of Occupational and Environmental Medicine (ACOEM) Position Statement, *J Occup Environ Med*. Volume 54, Number 9, (September 2012). Provides position statement of ACOEM written by Larry M. Starr, PhD, and guidance for the use of AEDs in occupational settings.
- [Learn About Automated External Defibrillators](#) American Red Cross. Includes information on AED training programs, and the benefits of having an AED at your facility.
- [Occupational Heart Disease](#). National Institute for Occupational Safety and Health (NIOSH) Workplace Safety and Health Topic. Addresses many of the hazards associated with occupational risks of coronary heart disease.

Reporting Serious Injuries or Fatalities to OSHA

Last January, OSHA updated the recordkeeping rule to expand the list of severe injuries and illnesses that employers must report to them. As of Jan. 1, 2015, all employers under OSHA jurisdiction must report:

- All work-related fatalities within 8 hours.
- All work-related inpatient hospitalizations, amputations and losses of an eye within 24 hours.

Employers have the option to file online reports of fatalities and severe injuries and illnesses using a special link from the OSHA website:

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

You can also call OSHA's confidential number at 1-800-321-OSHA (6742).

The third option is to call or visit the nearest area office during normal business hours. Offices in Massachusetts and New Hampshire include:

North Boston Area Office

Shattuck Office Center
138 River Road, Suite 102
Andover, MA 01810
(978) 837-4460

South Boston Area Office

639 Granite Street, 4th Floor
Braintree, MA 02184
(617) 565-6924

Springfield MA Area Office

1441 Main Street, Room 550
Springfield, MA 01103-1493
(413) 785-0123

Concord NH Area Office

J.C. Cleveland Federal Bldg
53 Pleasant Street, Room 3901
Concord, New Hampshire 03301
(603) 225-1629

Be prepared to supply: Business name; names of employees affected; location and time of the incident, brief description of the incident; contact person and phone number. All employers covered by the Occupational Safety and Health Act, even those who are exempt from maintaining injury and illness records, are required to comply with OSHA's severe injury and illness reporting requirements.

Distracted Driving

According to the National Highway Traffic Safety Administration, each day in the United States, more than nine (9) people are killed and more than 1,153 people are injured in crashes that are reported to involve a distracted driver. Distracted driving is driving while doing another activity that takes your attention away from driving.

There are three main types of distraction:

- Visual: taking your eyes off the road;
- Manual: taking your hands off the wheel; and
- Cognitive: taking your mind off of driving.

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Some of the most common types of distracted driving activities include using a cell phone, texting, and eating. Using in-vehicle technologies (such as navigation systems) can also be sources of distraction. While any of these distractions can endanger the driver and others, texting while driving is especially dangerous because it combines all three types of distraction.

What can be done? Many states have enacted laws such as banning texting while driving. For Massachusetts drivers, except for novice drivers and bus drivers, there is no prohibition on cell phone use while driving. However, all Massachusetts drivers are prohibited from texting. As of this year, this may change as the Massachusetts Senate has approved a hands-free bill. This bill will need to go to the House for approval.

For New Hampshire drivers, hand-held cell phone use was banned for all drivers and all cell phone use was banned for drivers under age 18 as of July 1, 2015. Text messaging outlawed for all drivers as well.

Although- legislation, is essential other action is needed as well. Companies need to educate employees regarding the risks and remind them that distracted driving is unsafe, in a split second, its consequences can be devastating. Companies should also develop a written policy banning the use of cell phones and other devices while driving.

Please see the following link for a sample policy www.nsc.org. When considering a policy, be sure it:

- Clearly emphasizes “safety first” and limits cell phone use while driving;
- Requires employees to familiarize themselves with any applicable state or local law governing cell phone use while driving;
- Limits cell phone use while driving to hands-free operation and,
- Instruct employees to avoid or discontinue use in adverse weather or traffic conditions.

April is National Distracted Driving Awareness Month. This is a great opportunity for companies to educate employees and bring increased awareness about the dangers of Distracted Driving. National Highway Traffic Safety Administration (NHTSA) has planned a

number of activities. The Agency will be kicking off its second national highly visible enforcement campaign for distracted driving: *U Drive. U Text. U Pay.*, which is supported by English and Spanish language television, radio and digital advertising.

Some helpful links to more resources related to distracted driving include:

<http://www.nsc.org/learn/NSC-Initiatives/Pages/distracted-driving-awareness-month.aspx>
<http://www.trafficsafetymarketing.gov/DistractedDrivingEnforcement>
<https://www.osha.gov/distracted-driving/index.html>
<http://trafficsafety.org/safety/risk/distracted-driving-resources>

OSHA Hazard Alert – Scissor Lifts

OSHA recently issued a Hazard Alert highlighting specific hazards present in workplaces where scissor lifts are used and controls employers must implement to prevent injuries or fatalities.

OSHA’s investigations revealed that most injuries and fatalities involving scissor lifts were the result of employers not addressing fall protection, stabilization and positioning so these topics are covered as well as scissor lift maintenance and worker training. The publication can be viewed at

<https://www.osha.gov/Publications/OSHA3842.pdf>.

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