

# CINCINNATI SAFETY COUNCIL

## OSHA UPDATE

MAY 8, 2024

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# New Maximum Penalty Structure

## ***Other than Serious***

From \$15,625 to \$16,131

## ***Repeat Willful***

From \$156,259 to \$161,323

# OSHA Top Ten for 2023

Title	Standard	# of Violations
<b>1. Fall Protection</b>	<b>1926.501</b>	<b>7121</b>
2. Hazard Communication	1910.1200	3213
<b>3. Ladder Safety</b>	<b>1926.1053</b>	<b>2978</b>
<b>4. Scaffolding</b>	<b>1926.451</b>	<b>2859</b>
5. Powered Industrial Trucks	1910.178	2561
6. Logout/Tagout	1910.147	2554
7. Respiratory Protection	1910.134	2481
<b>8. Fall Protection Training</b>	<b>1926.503</b>	<b>2112</b>
<b>9. Eye &amp; Face Protection</b>	<b>1926.102</b>	<b>2074</b>
10. Machine Guarding	1910.212	1611

# Instance by Instance Inseptions

Up to the Area or Regional Director

- Employer has received a willful, repeat or failure to abate violation within the past five years; or
- Employer failed to report an injury or fatality as required by 1904; or
- Proposed citation is related to a fatality or catastrophic injury; or
- Proposed recordkeeping citations are related to an injury or illness that was the result of a serious hazard.

# Focus on High-Gravity Serious Violations Specific to:

- Falls
- Trenching
- Machine guarding
- Respiratory protection
- Permit required confined spaces
- Logout/tagout

And OSHA violations for recordkeeping

# Electronic Recordkeeping Rule

Effective – January 1, 2024

Impacts establishments with 100 or more employees in the preceding year in certain high-hazard industries such as construction and manufacturing

Electronically file

OSHA 300

OSHA 301

# Electronic Recordkeeping Rule

Submissions will be due by March 2, 2024

Some of the data filed will be published on the OSHA website and will be open for public view

OSHA is still working on details, such as format for submissions

Establishments with 20 – 249 employees electronically file OSHA 300A if in high-hazard industries listed in Appendix A to Subpart E of 1904



# OSHA 301 Incident Report

Name of Physician

Location employee received treatment

Was employee treated in ER and/or hospitalized and treated overnight?

What was employee doing just before incident?

What happened?

What was injury or illness?

What object or substance directly harmed the employee?

# NEP on Falls

Issued on May 1, 2023

Includes guidance for Compliance Officers (CSHO) to open an inspection **WHENEVER** they see anyone working at heights

# NEP on Falls (cont.)

This NEP also includes an outreach component to educate employers about effective ways to keep employees safe when working at heights.

# NEP on Falls (cont.)

- Applies to all industries
- Does not require a CSHO to observe a fall protection violation
- Can be conducted by a CSHO at any time, even when traveling to work in the morning or home at the end of the day
- If, after observing work activities and no inspection is warranted, the CSHO will conduct outreach activity and leave (LOOK OUT HERE)!!!
- The CSHO can expand the inspection beyond falls if there are violations in plain sight or he/she see evidence from the OSHA 300 logs.

# 3-Year NEP for Warehousing

Calls for comprehensive safety inspection

Will apply to, among others, NAICS codes:

493110 – General warehousing & storage

493190 – Other warehousing & storage

Focus will be on

- Powered industrial vehicles
- Material handling & storage
- Walking/working surfaces
- Means of egress
- Fire protection
- Heat & ergonomic hazards

# 3-Year NEP for Warehousing (cont.)

How may this affect you?

Sets focus for inspections for companies with warehouses to support their business

# Heat Illness Prevention

## TAKE THIS SERIOUSLY

- We already have a NEP
- Still a General Duty Clause violation
  - ✓ Cannot get one of these reclassified to “other than serious
  - ✓ State plan states
- Mix signals from OSHA
  - ✓ Water/Rest/Shade
  - ✓ NIOSH Criteria Document
  - ✓ OSHA Heat Tool App

# Heat Illness Prevention

## STATUS

- October 27, 2021 – Advance Notice of Proposed Rule Making (ANPRM)
- OSHA received 965 unique comments
- May 3, 2022 – Virtual public stakeholder meeting – OSHA established a work group
- May 31, 2023 – Recommendations presented by work group
- August 2023 – Small Business Advocacy Review (SBAR) Panel. Heard from Small Entity Representatives (SERs)
- Today – OSHA is engaged in the Rule Making Process. This is the second of seven steps to promulgating a final rule



# Heat Illness Prevention

## CURRENTLY

Initial heat trigger at 80° heat index

Possible requirements:

- Drinking water
- Break areas
- Indoor work area controls
- Acclimatization plan
- Rest breaks
- Communication

# Heat Illness Prevention

Possible additional requirements at high heat trigger  
(90°F Heat Index)

- Rest breaks – minimum 15 minutes every two hours
- Observation / Supervision
- Hazard alert

# Summary

Provision	All Covered Employers (see Scope)	At or Above Initial Heat Trigger	At or Above High Heat Trigger
Identifying heat hazards	•	•	•
Heat illness and emergency response procedures	•	•	•
Training for employees and supervisors	•	•	•
Heat injury and illness prevention plan (HIIPP)	•	•	•
Recordkeeping	•	•	•
Drinking water		•	•
Break area		•	•
Indoor work area controls		•	•
Acclimatization plan for new or returning workers		•	•
Rest breaks (if needed)		•	•
Effective communication means with employees		•	•
Rest breaks (minimum 15 min every 2 hours)			•
Supervisor or buddy system to observe for signs and symptoms			•
Hazard alert			•

To follow OSHA's progress, go to:

[www.osha.gov/heat-exposure/rulemaking](http://www.osha.gov/heat-exposure/rulemaking)

# Heat Illness Prevention

- NIOSH Criteria Document
  - ✓ Acclimatization
  - ✓ Work/Rest Regimen
    - NOAA Chart
    - Heat Tool App
  - ✓ Adequate Hydration
    - Water
    - Electrolytes
  - ✓ Cooling Off Areas
  - ✓ Training
    - Types of Heat Illnesses
    - Symptoms
    - First Aid
    - Alcohol/Caffeine
    - Underlying physical/medical conditions

Road rage is considered by OSHA to be workplace violence when employee is engaged in work for employer for OSHA 1904 recording and reporting (?)

# Current OSHA Standard 1903.8

Employee Representative shall be an employee of employer

But, CSHO can allow a third-party representative, such as  
an industrial hygienist or safety engineer

# Proposed Rule

“Employee Representative may be an employee of employer, or, when they are reasonably necessary to aid in the inspection, a third-party.”



# OSHA's Plans for 2024

## *Douglas Parker*

- Focus on warehousing and NEPs
- Fall protection in both construction and general industry
- Silica hazards
- Prevent employers from passing burden of safety compliance to employees – So increased interest in whistleblower protections and 11(c) allegations
- Increase of penalty amounts and use of willful and egregious violations

# OSHA's Plans for 2024

## *Seema Nanda – Solicitor of Labor for OSHA*

- Prioritize retaliation and protecting immigrant workers
- Repeat offenders
- Use of debt collection initiatives
- Enhanced abatement
- Coordinate with Department of Justice re: civil and criminal penalties

# OSHA's Plans for 2024

***Dionne Williams – Deputy Dir., Directorate of Enforcement***

“Key enforcement initiatives”

- Focus on NEPs – Heat hazards, warehousing, and distribution centers
- Silica
- Severe violator enforcement programs
- Increase heat inspections by 100%
- When heat index reaches 95°, engage in targeted inspections – indoors and outdoors

# OSHA's Plans for 2024

***Peter Vassalo – Counsel for Special Litigation,  
Division of Occupational Safety and Health***

- Use all tools in toolbox, including criminal enforcement mechanisms
- Partner with Department of Justice and State Attorneys General

# April 2024 NSC

## Safety & Health

Five reasons why falls in construction keep happening

*Information drawn from The Center for Construction Research and Training*

1. Not making time for safety
2. Not wearing PPE
3. Not focusing on leading edges
4. Not having sufficient or effective pre-work task planning
5. Not engineering out hazards

# Practical Advice

- OSHA reportable accidents
- Involvement of counsel in any accident investigation
- Settlement with OSHA

# What a Safety Director Should Know

- Reality of safety on jobsite
  - ✓ Pictures
  - ✓ Drones
  - ✓ Training
- OSHA
- Accidents/investigations

**THANK YOU**

**QUESTIONS?**

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