



Annual Workplace Safety and Health Conference



OSHA Update, August 2016

*Joann Natarajan
Occupational Safety and Health Administration
Austin Area Office*



OSHA's New Severe Injury Reporting Rule Changes to reportable events

- Retains current requirement to report work-related fatalities within 8 hours
- Adds requirement to report **in-patient hospitalizations** of one or more employees, **amputations** and **eye losses** within 24 hours
- Required of **all covered employers**, regardless of industry or size
- Went into effect **1/1/15** (in states)



<http://www.osha.gov/report.html>



Severe Injury Reporting Rule

- Calendar year 2015 received between 200 and 250 reports a week
 - Resulted in nearly 12,000 reports annually
 - **>11,802** reports to date
- Approximately 45 percent of reports have resulted in inspections
 - Resulted in more than 5,000 inspections
- Remainder of reports resulted in RRIs or were determined NOT to be work-related



What Is an RRI

- A rapid-response investigation is an enhanced phone and fax type investigation.
- After a severe injury report has been filed, OSHA may call the employer to discuss the incident.
- The employer is asked to perform a root cause analysis and report to OSHA the findings and response.



Outreach Materials

- Improve tracking web page at <http://www.osha.gov/recordkeeping/finalrule/index.html>.
 - Link to rule
 - FAQs
 - Fact sheet
 - Press release
 - List of covered industries



Electronic Submission of OSHA 300 Data

- Regulation issued May 12, 2016.
- Effective January 1, 2017.
- Employers with 20 or more employees who already are required to keep the OSHA 300 will submit data annually to an OSHA database.
- Rule also covers incentive programs and anti-discrimination provisions for injured workers.



Timeline for Online Reporting

- Final Rule Federal Register Notice – May 12, 2016
- Employee Rights effective date – August 10, 2016
- Electronic Reporting effective Date – January 1, 2017

Submission year	Establishments with 250 or more employees in industries covered by the recordkeeping rule	Establishments with 20-249 employees In select industries	Submission deadline
2017	CY 2016 300A Form	CY 2016 300A Form	July 1, 2017
2018	CY 2017 300A, 300, 301 Forms	CY 2017 300A Form	July 1, 2018
2019 and beyond	300A, 300, 301 Forms	300A Form	March 2



Electronic Reporting

- 1904.41(a)(2)-covered industries:
 - Agriculture, forestry, and fishing (NAICS 11)
 - Utilities (NAICS 22)
 - Construction (NAICS 23)
 - Manufacturing (NAICS 31-33)
 - Wholesale trade (NAICS 42)
 - Industry groups (four-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

- **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 must adopt requirements that are substantially identical to the requirements in this final rule. Some states may allow employers to use the federal OSHA data collection website. Other states may provide their own data collection websites.



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, without retaliation, work-related injuries and illnesses. This obligation may be met by posting the OSHA “It’s The Law” worker rights poster, version April 2015 or later.



Employee Rights

- An employer's procedure for reporting work-related injuries and illnesses must be **reasonable**.
 - *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.
 - 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.



Employee Rights

- Drug testing may be done to determine impairment (drug testing for probable cause).
- If the method of drug testing does not identify impairment but only drug use at some time in the recent past, requiring the employee to be drug-tested may inappropriately deter reporting.
- Blanket post-injury drug testing policies deter proper reporting.
- 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.



Drug Testing

- If an employer conducts drug testing to comply with the requirements of a state or federal law or regulation, the employer's motive would not be retaliatory and the final rule would not prohibit such testing.



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.



Confined Spaces in Construction

- Publish date: May 4, 2015
- Effective date: August 3, 2015
- Closely aligned with general industry rule
- Find more info at <http://osha.gov/confinedspaces/index.html>



Confined Space

- Large enough to enter.
- Not designed for continuous employee occupancy.
- Have restricted means of entry or egress.
- **Permit-Required Confined Space**
 - A confined space WITH
 - hazardous or potentially hazardous atmosphere;
 - engulfment hazard;
 - physical hazard;
 - other serious safety or health hazard.

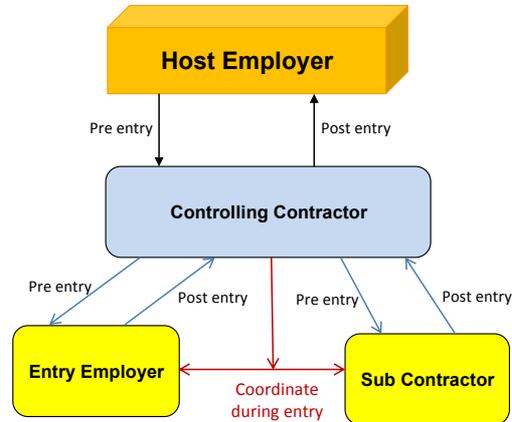


What's Different?

- General industry plus
 - Mostly the same requirements as 1910.146, with some additions:
 - continuous monitoring of atmospheric and engulfment hazards,
 - specific information exchange requirements for multi-employer work sites,
 - competent person to evaluate all potential/actual confined spaces, and
 - entry supervisor is a qualified person.



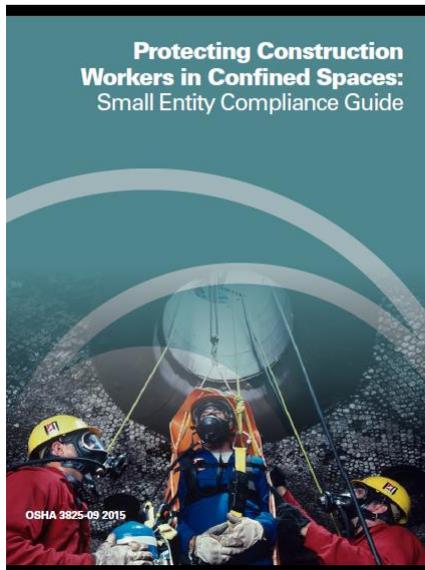
Information Exchange



What's Different

- Relying on 911 or local emergency responders for entry rescue.
 - The construction rule explicitly states that the emergency responders must agree to notify the employer in the event that the rescue service becomes unavailable.
- A competent person must conduct worksite evaluation.





Read the
OSHA
3825
pamphlet
for a good
overview.



Communication Towers



- Number of fatal accidents:
 - 3 fatalities in 2015
 - 12 fatalities in 2014
 - Not just about falls – two-thirds of tower fatalities are related to rigging or collapse.
- OSHA continues addressing hazardous conditions through outreach and enforcement.
 - Working with the regions and State Plan states.
- OSHA Office of Engineering
 - Several investigations ongoing.
 - Three investigations posted on OSHA's web page.



Crane Operator Qualification

- OSHA presented a draft proposed standard to define “qualification” and require employers to qualify crane operators.



Crane Amendments

- Proposed revisions to the final construction crane standard include:
 - clarifying applicability to multi-purpose machines and forklifts,
 - revising requirements for insulating links and proximity detectors near power lines, and
 - reconsidering the feasibility of a requirement for instruments for stabilizers on small articulating cranes.



OSHA Backover Prevention Page

UNITED STATES DEPARTMENT OF LABOR

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back to CONSTRUCTION INDUSTRY

Preventing BACKOVERS

Dump Truck	67
Semi/Tractor Trailer	40
Truck	30
Forklift	21
Garbage Truck	20
Pick-up Truck	16

*OSHA Integrated Management Information System data

Regulations Standard Interpretations Backing Safety Solutions Other Resources

HIGHLIGHTS

Related Topics

- Preventing Backovers, Safety Clearinghouses. Provides links to information relating to backover incidents in highway work zones.
- Motor Vehicle Safety, OSHA Safety and Health Topics Page.
- Prevention Video (y-Tool): Struck-by Accidents in Construction, OSHA Video.

A backover incident occurs when a backing vehicle strikes a worker who is standing, walking, or kneeling behind the vehicle. These incidents can be prevented. According to the Bureau of Labor Statistics, over 70 workers died from backover incidents in 2011. These kinds of incidents can occur in different ways. For example:

On June 18, 2009, an employee was working inside a work zone wearing his reflective safety vest. A dump truck operating in the work zone backed up and struck the employee with the rear passenger side wheels. The employee was killed. The dump truck had an audible back up alarm and operating lights. (OSHA Inspection Number 313225377)

On June 9, 2010, an employee was standing on the ground in front of a loading dock facing into the building while a tractor trailer was backing into the same dock. The trailer crushed the employee between the trailer and the dock. (OSHA Inspection Number 314460940)

Local intranet |

Eye and Face Protection

- Incorporation by reference of the latest ANSI/ISEA Z87.1-2010 and removal of the oldest ANSI (Z87.1-1989) version.
- Amended the language in the construction law to align with the general industry law.
- Issued 3-25-16; becomes effective 4-25-16.



Silica Final Rule

- Issued March 25, 2016.
- Law became effective June 23, 2016.
- Covers general industry, construction, and maritime.



Silica Rule

- Permissible exposure limit (PEL) is 50 $\mu\text{g}/\text{m}^3$ averaged over an 8-hour day.
- Requires employers to use wet methods or ventilation to reduce exposure.
- Provide respirators if exposure remains.
- Restrict access to exposure areas.
- Develop a written exposure-control plan.
- Offer medical exams to highly exposed workers.



Silica Rule - Construction

- Employers who follow Table 1 for 18 job tasks are not required to conduct air samples to determine exposure to silica or comply with other provisions of the standard for use of engineering and work practice controls.
- Table 1 lists tasks, engineering and work practice controls, and respiratory protection.
- Employers who fully and properly implement the exposure control methods for tasks listed on Table 1 are not subject to the PEL.



General Industry

- Conduct air sampling to determine worst-case-scenario worker exposures to silica.
- If air samples are less than action limit of 25 $\mu\text{g}/\text{m}^3$, you can discontinue.
- If air samples are between action limit and PEL, repeat within six months.
- If samples are over PEL, repeat every three months and institute engineering controls.



Silica - Other Provisions

- Written exposure control plan required when exposures are above the PEL.
- The final construction standard requires procedures to restrict access to work areas in the written exposure control plan.
- Medical surveillance to be made available to employees required by the standard to use a respirator for 30 or more days per year.



Other Hazards on OSHA's Radar

- combustible dust
- permissible exposure limits
- tree care
- styrene
- workplace violence in health care
- infectious diseases
- beryllium
- modernization of process safety management law
- noise in construction



DOL and DOJ

- The Department of Labor and the Department of Justice have established a **memorandum of understanding** to prevent and deter crimes that jeopardize the lives and health of workers.
- The initiative strengthens the ability of the two departments to investigate and prosecute employers who fail to provide a safe workplace for their employees.



OSHA Penalties Increase August 1

- OSHA penalties have not increased since 1990.
- Congress mandated OSHA to adjust penalties for inflation in November 2015.
- New base fine for serious, other, repeat, posting, and failure to abate is \$12,471.
- New base fine for willful is \$124,709.
- OSHA will adjust base fines for size, history, and good faith per the *Field Operations Manual*.



Temporary Workers

- Temporary staffing agencies and host employers share control over the worker and are therefore jointly responsible for temporary workers' safety and health.
- Staffing agencies – general safety and health training.
- Host employers provide training tailored to the particular workplace equipment/hazards.
- Host employers are primarily responsible for temporary worker safety and health.



Walking and Working Surfaces

- Updates the General Industry Subpart D to align with new consensus standards and construction laws for scaffolds and fall protection.
- Expected August 2016.



Want to Keep Up with OSHA Laws?

- Sign up for QuickTakes, a twice-monthly email with updated OSHA information:

<http://www.osha.gov/as/opa/quicktakes/subscribe.html>



Questions?

- Natarajan.joann@dol.gov
- 512-374-0271 x 232

