OSHA “Hot” Topics

Timothy E. Maley
Deputy Commissioner of Labor

Deputy Commissioner’s Background

• Bachelor of science from Purdue University
• Safety management at Eli Lilly and Company (1979-2008)
  • VPP Merit – 2000
  • VPP STAR – 2003
  • VPP Recertification – 2006
• VPPPA Region V Board of Directors
  • Director at Large
  • Vice Chairperson
• Senior Consultant for Advanced Worksite Solutions
• Indiana Department of Labor IOSHA
Carrot or the Stick?

- MICCS
- ICA
- ABC
- CI-ASSE
- Dow AgroScience
- INSafe/SHARP
- VPP
- 40 compliance officers
- 1,500-1,600 inspections/year
- Fines
- Whistleblower unit
- Emphasis areas
- Negotiated settlement agreements – *gaining safety ground*

Indiana Workplace Fatalities

Number of Fatal Injuries Per Year

- 1990: 148
- 1991: 150
- 1992: 152
- 1993: 153
- 1994: 154
- 1995: 155
- 1996: 156
- 1997: 157
- 1998: 158
- 1999: 159
- 2000: 160
- 2001: 161
- 2002: 162
- 2003: 163
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- 2007: 167
- 2008: 168
- 2009: 169
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- 2011: 171
- 2012: 172
- 2013: 173
- 2014: 174
- 2015: 175
- 2016: 176
- 2017: 177
- 2018: 178
- 2019: 179
- 2020: 180
- 2021: 181
- 2022: 182
- 2023: 183
- 2024: 184
- 2025: 185
- 2026: 186
- 2027: 187
- 2028: 188
- 2029: 189
- 2030: 190

Monday, March 23, 2015

Indiana Department of Labor
OSHA “Hot” Topics

- Temporary Workers?
- Multi Employer Workers?
- Recordkeeping?
- Vulnerable Workers?
- Anti-retaliation?
- Incentive Programs?
Updates to OSHA’s Recordkeeping and Reporting Rule

• Events that must be reported to OSHA
• Which employers are required to keep records

Expanded reporting requirements

The rule expands the list of severe work-related injuries and illnesses that all covered employers must report to OSHA.

Starting March 1, 2015 employers must report the following to IOSHA:
• All work-related fatalities within 8 hours (same as current requirement)
• All work-related in-patient hospitalizations of one or more employees within 24 hours
• All work-related amputations within 24 hours
• All work-related losses of an eye within 24 hours
Expanded Reporting Requirements

- If the injury or illness resulted in a fatality, hospitalization, amputation or loss of an eye, report to OSHA.
- If you are in an industry covered by OSHA's updated recordkeeping requirements, also make a record of the injury or illness in the OSHA 300 Log.

Reporting to IOSHA

- Telephone: (317) 232-2693
- 24-hour OSHA Hotline: 1 (800) 321-OSHA
- Online: www.osha.gov/report_online
Industry Exemptions

• The rule also updates the list of industries that are partially exempt from the requirement to routinely keep OSHA injury & illness records (e.g. the OSHA 300 log), due to relatively low occupational injury & illness rates.

• The new rule retains the exemption for any firm with ten or fewer employees, regardless of their industry classification, from the requirement to routinely keep records.

• Reminder: All employers, even those exempt from recordkeeping requirements, must report a work-related fatality, in-patient hospitalization, amputation, or loss of an eye to OSHA.

Owner versus Employee?
Independent Contractor versus Employee?

Do we use the definition under:

OSHA act?
Or
A Control Definition?
Multi Employer Worksites

Multi-employer Worksites: A worksite at which two or more entities are performing tasks that will contribute to the completion of a common project. The entities may or may not be related contractually. The contractual relationship may or may not be in writing. On multi-employer worksites, both in construction and industry, more than one employer may be citable for the same condition. The following employers are potentially citable.

Responsibility and Control of the Worksite

- The exposing employer
- The creating employer
- The correcting employer
- The controlling employer
Workers Rights

Workers have the right to:

- Working conditions that do not pose a risk of serious harm.
- File a confidential complaint with OSHA to have their workplace inspected.
- Receive information and training about hazards, methods to prevent harm, and the OSHA standards that apply to their workplace. The training must be done in a language and vocabulary workers can understand.
- Receive copies of records of work-related injuries and illnesses that occur in their workplace.
- Receive copies of the results from tests and monitoring done to find and measure hazards in their workplace.
- Receive copies of their workplace medical records.
- Participate in an OSHA inspection and speak in private with the inspector.
- File a complaint with OSHA if they have been retaliated against by their employer as the result of requesting an inspection or using any of their other rights under the OSH Act.
- File a complaint if punished or retaliated against for acting as a “whistleblower” under the 21 additional federal laws for which OSHA has jurisdiction.

Protecting Temporary Workers

- Evaluate the Host Employer’s Worksite
- Train Agency Staff to Recognize Safety and Health Hazards
- Ensure the Employer Meets or Exceeds the Other Employer’s Standards
- Assign OH&S Responsibilities and Define Scope of Work in the Contract
- Injury and Illness Tracking 29 CFR 1904.31(b)(2)
- Conduct H&S Training and New Project Orientation
  - First Aid
  - Medical Treatment
  - Emergencies
- Injury and Illness Prevention Programs
  - Injury and Illness Prevention Program Assessments
  - Incident Investigation
- Maintain Contact with Workers
Vulnerable Workers

- Immigrants and non English speaking workers
- The nation’s workers speak many languages and a sizable percentage of them speak little or no English.
- Assure that when training is required by OSHA standards, it is conducted in a language that workers can understand.
- Ties with OSHA and community based organizations
  - Spanish general industry digest
    - Spanish speaking operators
    - Conversion dictionaries
    - Standards in Spanish
    - Hand out training materials
    - Slide presentations
    - Training Videos
    - Spanish outreach trainers

Whistleblower Protection

- Protected Activity
  - filing safety and health complaints with IOSHA,
  - participating in an IOSHA inspection,
  - testifying in occupational safety or health proceedings,
  - filing a complaint with another regulatory entity (e.g. IDEM, State Department of Health, etc.),
  - raising safety and health concerns with employee management,
  - complaints to coworkers, and/or
  - work refusal (if a reasonable person would agree that work conditions pose an imminent danger that would result in serious injury or death).
Whistleblower Protection

• Adverse Action
  • firing or laying off,
  • demoting,
  • denying overtime or promotion,
  • disciplining,
  • denial of benefits,
  • intimidation/harassment,
  • reassignment affecting prospects of promotion, and/or
  • reducing pay or hours.

Incentive Programs

• Unintentional impacts of well-intended programs
  • Entering uninjured employees in a drawing for a door prize.
  • Rewarding workers if a certain incident rate is achieved
    • Bonus
    • Day off with pay
    • New car
    • Free vacation cruise
  • Don’t allow your well-intended program to discourage employees from reporting
Incentive Programs

- Incentive programs are not mandatory.
- Incentive programs may not discourage or discipline employees for:
  - Reporting injuries or illnesses
  - Reporting hazards
  - Filing a complaint with IOSHA
  - Participating in an IOSHA inspection or investigation

Cooperative Programs

- Management Commitment
- Employee Involvement
- Safety & Health Training
- Hazard Prevention & Control
- Worksite Analysis

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Safety and Health Consultation

• Free
  • No charge for workplace safety and health consultation
  • No citations or fines for safety and health violations

• Confidential
  • Consultation findings are not made public
  • Information is not shared with IOSHA enforcement

• Expert
  • Technical report issued
  • Recommendations for continuous improvement
  • Safety and Health Program Assessment Worksheet
    • Management commitment
    • Employee involvement
    • Worksite analysis
    • Hazard prevention and control
    • Employee training

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• Email us your workplace safety and health question or comment
  • insafe@dol.in.gov

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