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INSAFE

SAFETY AND HEALTH CONSULTATION

Protecting Temporary Workers

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Objectives

Summarize OSHA's Temporary Worker Initiative

- Roles and responsibilities of the staffing agency and the host employer
- Training requirements:
 - PPE, Training, Blood Borne Pathogens, Powered Industrial Trucks, and Recordkeeping
- Best practices to ensure each employer is providing adequate protection for temporary workers
- Case studies

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Terms to know

- **Host Employer**- dictates, supervises, and oversees the employees work
- **Staffing Agency**- Pays and supplies the worker to the host employer
- **Temporary Worker**- paid by and supplied by the staffing agency and commonly supervised by the host employer
- **Joint Employers**- term used to describe the joint-responsibility both parties have to protect temporary workers

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BLS Statistics for temporary workers

- More than **2.8 million** temporary workers in the United States
- More than **380,000** temporary workers in the state of Indiana alone.
- 708 temporary workers were killed on the job in 2012
- That is 17% of ALL workplace fatalities
- Many of these fatalities occur on an employees first day of work.

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OSHA's Temporary Worker Initiative

- April 29, 2013 OSHA launched a temporary worker initiative (TWI) to ensure temporary workers are being protected from occupational health and safety hazards.
- The lack of information on the responsibilities and roles of the staffing agency and host employers has put temporary workers at increased risk for injuries, illnesses, and fatalities in the work place.
- OSHA has identified a number of responsibilities for both the temporary staffing agency and the host employer.

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"A worker's first day at work shouldn't be their last day on earth"

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Why use temporary workers?

- Reduced labor costs from avoiding responsibility for the workers compensation insurance
- Time and cost savings for pre-employment responsibilities
- Short- term job assignments
- Give employers a chance to try out an employee before hiring full time

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Host employers should provide temporary workers with safety training that is identical or equivalent to that provided to the host employers' own employees performing the same or similar work.



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The role of the temporary agency

- The role of the temporary staffing agency is to provide employee to employers
- Paying the employee
- Providing general safety training
- Overseeing the workers compensation for the employee
- Communicating with the host employer to ensure training has been completed
- Conducting accident investigations

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Temporary agency responsibilities

- Assess the workplace and inquire about safety conditions
 - * Safety Reviews
 - * Job Descriptions
 - * OSHA establishment search
 - * DART/TRC Rates
 - * EMR
- Provide general safety information and training
- Identify a way to ensure the host employer is providing adequate site-specific training to temporary workers
- Provide Workers Compensation insurance contact information to employees
- Provide a way for employees to report work related injuries and illnesses

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The role of the host employer

- ...where the work is...
- Provide specific training as it pertains the employees role
- Maintaining the OSHA 300 log for injured employees
- Communicating with the staffing agency to ensure training has been completed
- Conducting accident investigations

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Host employer responsibilities

- Provide appropriate PPE (personal protective equipment) for site specific hazards, and train employees on how to fit and use PPE
- Record injuries/illnesses for temporary workers
- Provide site-specific safety training to temporary workers including:
 - * safe operating procedures of equipment
 - * how to implement lockout/tagout procedures
 - * safe handling of chemicals
 - * site specific emergency procedures

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Temporary Worker's Rights

- A safe and healthful workplace
- Know about hazardous chemicals
- Information about injuries and illnesses in your workplace
- Complain or request hazard correction from employer
- Training
- Hazard exposure and medical records
- File a complaint with OSHA
- Participate in an OSHA inspection
- Be free from retaliation for exercising safety and health rights

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Case Study

- A temporary worker assigned as a welder for a host employer suffered serious hand burns resulting in an overnight hospitalization.
- The employee was given an air purifying respirator by the host employer.
- no medical evaluation or training on the use of PPE including hand protection and respirators.
- Neither party called OSHA within 24 hours to report the incident.
- According to a contract between the staffing agency and the host employer, the staffing agency was obligated to keep the OSHA 300 log for the temporary employees.

<http://www.nsc.org/WorkplaceTrainingDocuments/ASA-NSC%20Case%20Study.pdf>

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Case Study Cont. - What OSHA did

Host Employer Violations

- Failure to provide medical evaluation
- Failure to provide training on the use of an air purifying respirator
- Failure to provide necessary PPE
- Failure to report the incident to OSHA within appropriate time frame
- Failure to keep a log of injuries for temporary employees

Staffing Agency Violations

- Failure to conduct a pre-assignment assessment

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Cambridge Brands incident

- candy-wrapping machine surgically amputated part of a temporary worker's left index finger at a subsidiary of Tootsie Roll Industries Inc. of Chicago on Jan. 6, 2016, an incident that his employer might have prevented by meeting federal safety and health standards. Neither party disclosed this information to OSHA within the 24 hrs.
- "This was a joint employment situation in which the staffing agency supplied and paid the worker and Cambridge Brands, as host employer, supervised and dictated temporary employees' work. Both employers had a responsibility to adequately train temporary workers about hazards and safeguards associated with their work duties and both failed to do so,"

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Cambridge Brands incident Findings and penalties

- Temporary workers did not receive the same level of training as permanent employees at Cambridge Brands. Adequate and effective training is essential so employees can identify and avoid work-related hazards and injuries."
- Cambridge Brands faced a total of \$46,000 in proposed penalties while staffing agency faced \$9,000 in penalties.

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Cambridge Brands Incident What did we learn?

- Complete breakdown in communication
- Both parties were cited for failure to train
- Both parties were to blame for the incident

<https://www.osha.gov/news/newsreleases/region1/05242016>



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Workers Compensation

- The staffing agency will assume the responsibility for Workers Compensation.
 - Why?
They are on the payroll of the staffing agency and therefore fall under the agencies Workers Compensation insurance

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Recordkeeping

"These employees **aren't** technically "my" employees so I shouldn't have to record the injury."

WRONG

The employer who directly oversees the employees day-to-day functions must record the injury on his/her OSHA logs and OSHA 300A.

FYI: Just because a representative from the staffing agency is onsite does not necessarily mean the host employer is exempt from recordkeeping duties.

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Medical Surveillance

- When necessary it is the responsibility of the host employer to provide medical surveillance or monitoring
 - i.e., dosimetry, air sampling, noise monitoring, medical evaluation
- Both parties should ensure that the records of the required medical surveillance are maintained in accordance with appropriate OSHA standards

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Injury Reporting & Emergencies

- Since the Staffing Agency will hold the Workers Compensation for the employee they must train employees on what to do when an injury occurs.
 - The staffing agency holds the right to dictate care in the state of Indiana so its important that injuries are reported in a timely manner
- The host employer should also be aware of the agencies reporting requirements to ensure the injured employee receives timely care
- Both employers should agree upon the proper reporting requirements that satisfy the needs of everybody involved.

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Safety and Health Training

Staffing Agency

Generic

- Safe lifting practices
- Ergonomics
- Electrical safety
- Machine guarding
- Personal Protective equipment
- Fall hazards and protection
- Chemical hazard communication

Host Employer

Site-Specific

- Certify that required training has been provided
- Individual equipment training
- Site specific emergency preparedness
- Chemical's onsite

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Powered Industrial Truck Training

e.g.: Pallet Jacks, Forklifts, fork trucks etc.

- Both parties are responsible for ensuring training has been completed.
- Both Employers should be aware of the present hazards and type of equipment that is necessary for the employee to perform their job duties

Generally, the staffing agency will provide a generic training and the host employer will provide a more site specific training.

Each employer should communicate and ensure training has been completed on both ends.

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Powered Industrial Truck Training

Training must consist of a combination of the following:

- Formal instruction (e.g., lecture, discussion, interactive computer learning, video training, documents);
- Practical training (demonstrations and exercises performed by the trainee);
- Refresher training;
- Evaluation of the operator's performance in the workplace; and
- Certification of training and evaluation.

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Personal Protective Equipment

- The host employer is often best suited to provide workers with PPE for site-specific hazards, and train workers on how to properly fit and use
- Since the employee will be spending the majority of their time at the host employer facility, the host employer would be the better option for maintaining, providing, and training on the use of PPE.
- The staffing agency can provide a more general training on the use of PPE and provide disposable items such as ear plugs, and safety glasses.

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Hazard Assessment

The **host employer** is responsible for conducting a hazard assessment for all job processes to determine training and PPE requirements.

The **staffing agency** is responsible for ensuring a hazard assessment has taken place and appropriate training and PPE has been provided.

Hazard Assessment 29 CFR 1910.132 (d)(1)
Instructions: Photocopy this form and keep the original for future hazard assessments. Use the copy as a guide for your walk-through survey. It will help you identify the hazards in each functional work area. Once you've completed the form, review the Guidelines for Selection Personal Protective Equipment on page 2.

Date: _____ Job Classification: _____
Area: _____ Shift: _____ Dept.: _____ Group: _____ Team: _____
Job Name: _____ Job Description: _____
Task Number: _____ Description: _____
Assessor: _____



Body Parts at Risk
____ Head
____ Eye
____ Hand
____ Finger
____ Palm
____ Arm
____ Ankle
____ Foot
____ Toe

Personal Protective Equipment List

____ Hard Hat
____ Impervious Gloves
____ Bump cap
____ Cut Resistant Gloves
____ Safety Glasses
____ Safety Shoes
____ Splash Goggles
____ Metatarsal Guards
____ Faceshield
____ Welding Hood
____ Other _____
Type: _____

HEAD HAZARDS: Task that can cause head hazards include: Working below other workers who are using tools and materials which could fall, working on energized electrical equipment, working with chemicals, and working under machinery or processes which might cause materials or objects to fall.

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Hazard Communication

- At a minimum the staffing agency is responsible for training the employee on hazard communication requirements that apply to settings they are likely to encounter. Including but not limited to labeling, Safety Data Sheets, hazard identification.
- The host employer is primarily responsible for training employees on the hazardous chemicals specific to their business, and the employees line of work.
- The Staffing agency must ensure the training took place.

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Blood Borne Pathogens

- The host employer is primarily responsible for training employees on the hazardous chemicals specific to their business, and the employees line of work.
- The Staffing agency must ensure the training took place.

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Whistleblower Protection Rights

- As joint employers both the staffing agency and host employers can face legal repercussions for retaliating against an employee for engaging in protective activity.
- Retaliation can include: blacklisting, denial of benefits, firing, denying overtime, making threats, reducing pay, reassignment to a less desirable position etc.
- EX: if the host employer asks the agency to remove the employee and the staffing agency complies both parties can be investigated for possible retaliation against that employee.

<https://www.in.gov/dol/2391.htm>

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Accident Investigations

- Side by Side investigation

The staffing agency will want to be apart of these investigations for workers compensation and to work with the host employer to prevent reoccurrence.

The host employer should be conducting an investigation to prevent reoccurrence and find the root cause analysis.

Make this apart of the contract that both parties are present for these types of investigations

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Contracts

- Contracts between the host employer and temporary agency should outline the safety aspects that each party are responsible
- Describe who is responsible for providing general and site-specific training
- List any work related tasks and personal protective equipment necessary to perform the job duties safely

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Contracts

- Describe who is responsible for providing, maintaining and training employees of the use of PPE
- List agency and worksite points of contact with phone numbers for easy contact shall issues arise.
- Ensure procedures for providing medical care is established

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FAQ

- What if the host employer is not cooperating?
- What if the temporary agency provides a supervisor?
- Why should I waste time providing training when its likely the temporary worker wont last very long?

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Industry Best Practices

- Staffing Agency should be well aware of the hazards associated with the job duties that are performed by temporary workers
- Both employers should come up with a written agreement on each parties responsibilities
- Communication is key!
- Host employers should treat temporary employees the exact same as they would full time employees

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Review of Objectives

- Define the role of the staffing agency and host employer
- Describe the difference in responsibilities between the staffing agency and the host employer
- Describe each parties specific responsibilities for areas such as PPE, Training, Blood Borne Pathogens, Powered Industrial Trucks, and Recordkeeping
- Discuss best practices to ensure both parties are providing adequate protection for temporary workers

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- **Indiana Safety and Health Achievement Recognition Program**
- Federally recognized program
- Similar to Voluntary Protection Program (VPP)
- Certification = Exemption from random IOSHA inspections
- To learn more:

www.in.gov/dol/insharp

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Social Media



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