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# OSHA Enforcement Update

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**ERIC J. CONN** is Chair of the OSHA • Workplace Safety Practice Group at **Conn Maciel Carey**, where he focuses his practice on all aspects of occupational safety & health law:

- Represents employers in inspections, investigations & enforcement actions involving OSHA, CSB, MSHA, & EPA
- Responds to and manages investigations of catastrophic industrial, construction, and manufacturing workplace accidents, including explosions and chemical releases
- Handles all aspects of OSHA litigation, from criminal prosecutions to appeals of citations
- Writes & speaks regularly on safety & health law issues
- Conducts safety training & compliance counseling

# Agenda

- ✓ Top 4 OSHA Issues to Monitor in 2015
  - 1. New Injury & Fatality Reporting Rule
  - 2. OSHA's Temporary Worker Initiative
  - 3. GHS HazCom Implementation
  - 4. Distracted Driving



# NEW FATALITY & INJURY REPORTING RULE



## ***Updates to OSHA's Recordkeeping Rule: Reporting Fatalities and Severe Injuries***

OSHA's updated recordkeeping rule expands the list of severe injuries that all employers must report to OSHA. Establishments located in states under Federal OSHA jurisdiction must begin to comply with the new requirements on January 1, 2015. Establishments located in states that operate their own safety and health programs should check with their state plan for the implementation date of the new requirements.

### ***What am I required to report under the new rule?***

Previously, employers had to report the following to OSHA:

- All work-related fatalities
- Work-related hospitalizations of three or more employees

Starting in 2015, employers will have to report the following to OSHA:

- All work-related fatalities
- All work-related inpatient hospitalizations of one or more employees
- All work-related amputations
- All work-related losses of an eye

• Covered under the new rule?

Employers only have to report fatalities that occurred within 30 days of a work-related incident.

For any inpatient hospitalization, amputation, or eye loss **employers must report the incident within 24 hours of learning about it**. Employers only have to report an inpatient hospitalization, amputation or loss of an eye that occurs within 24 hours of a work-related incident.



# Injury & Fatality Reporting Rule

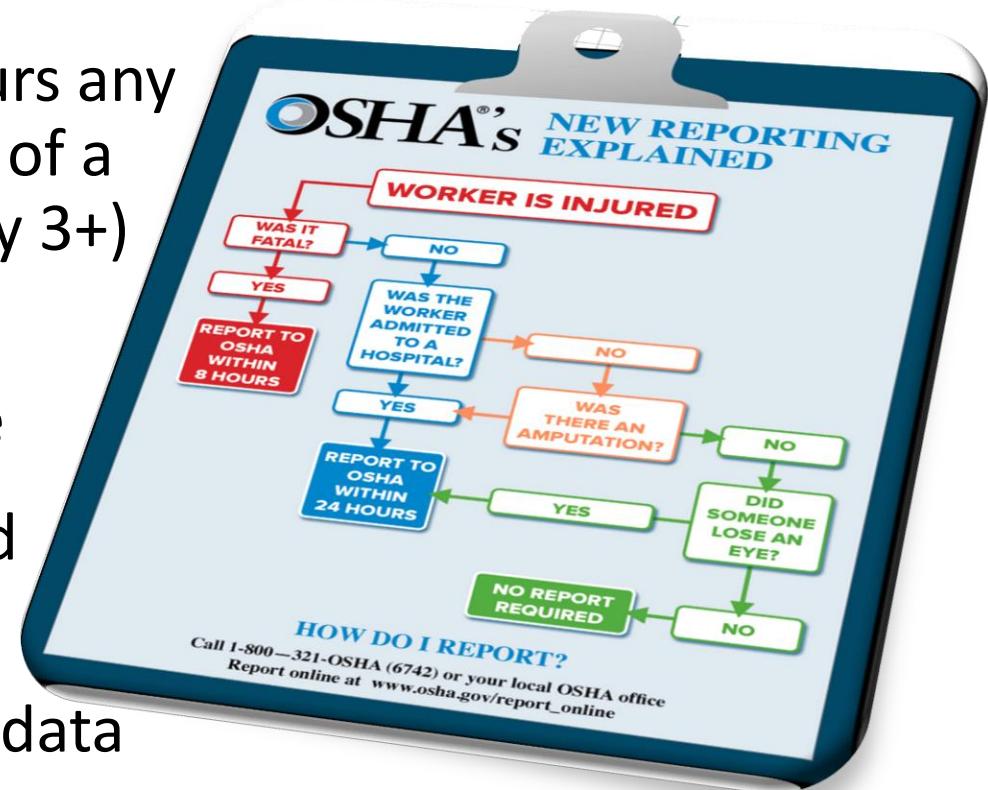
## Historic Revisions

Year	Report What?	By When?	How?
1971	Fatality; 5+ Hospitalizations	48 hours	Phone (nearest Area Office); Telegraph
1994	Fatality; 3+ Hospitalizations	8 hours	Telephone; Nearest Area Office -OR- New central 24-hour 800 #
2014	Fatality; 1+ Hospitalization; Amputation; Loss of eye	8 hours (fatality) 24 hours (others)	Telephone; -OR- New web-based portal

# Injury & Fatality Reporting Rule

On 9/11/14, OSHA amended its Injury and Illness Recordkeeping standard in five important ways:

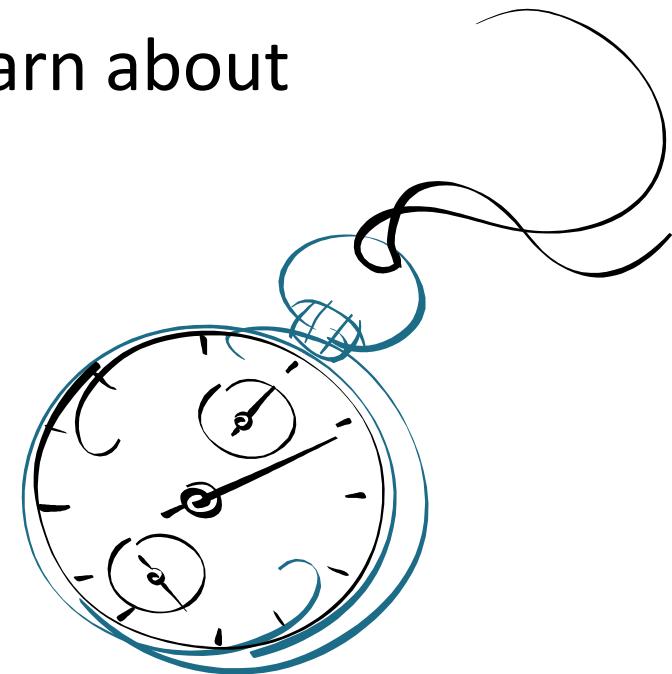
1. Report to OSHA in 24 hours any in-patient hospitalization of a single employee (formerly 3+)
2. Report w/in 24 hours any amputation or loss of eye
3. Report may be completed via new on-line portal
4. Plan to publish reporting data
5. Revise “low-hazard” recordkeeping criteria exemption



# Injury & Fatality Reporting Rule

## Important Time Periods?

- Within 8 hours of when you learn of the fatality
- Within 24 hours of when you learn about the serious injury
- Reportable only if:
  - Fatality results within 30 days of the day of the incident
  - Hospitalization occurs within 24 hours of the incident
  - Amputation and eye loss occurs within 24 hours of the incident (except medical amputations)



# What Constitutes an “In-Patient Hospitalization”?

- “Formal admission to the in-patient service of a hospital or clinic for care or treatment”
- Does not include admission for observation or testing
- No longer requires *overnight* stay
- OSHA recognizes confusion about the term “admission” (i.e., means something different to different groups (insurers, hospitals, patients, etc.)
- Medical treatment must be provided *after* admission (admission for observation post-em surgery ≠ reportable)



# What Constitutes an “Amputation”?

- The traumatic loss of a limb or appendage, that has been severed, cut off, amputated, either completely or partially
- Does not include avulsions, enucleations, deglovings, scalpings, severed ears, or broken or chipped teeth
- Does include fingertip amputations, with or without bone loss (how to distinguish from any other avulsion?)
- Also includes Medical amputations resulting from irreparable damage



# What Injuries Need Not Be Reported?

- Fatalities or Injuries that result from a motor vehicle incident on a public road (except in construction work zones)
- Fatalities or Injuries that occur on a commercial or public transportation system (e.g., airplanes, subways, buses, trains, etc.)
- In-patient hospitalization for diagnostic testing or observation only
- Out-patient care or care given in a hospital when the worker is not formally admitted as “in-patient”

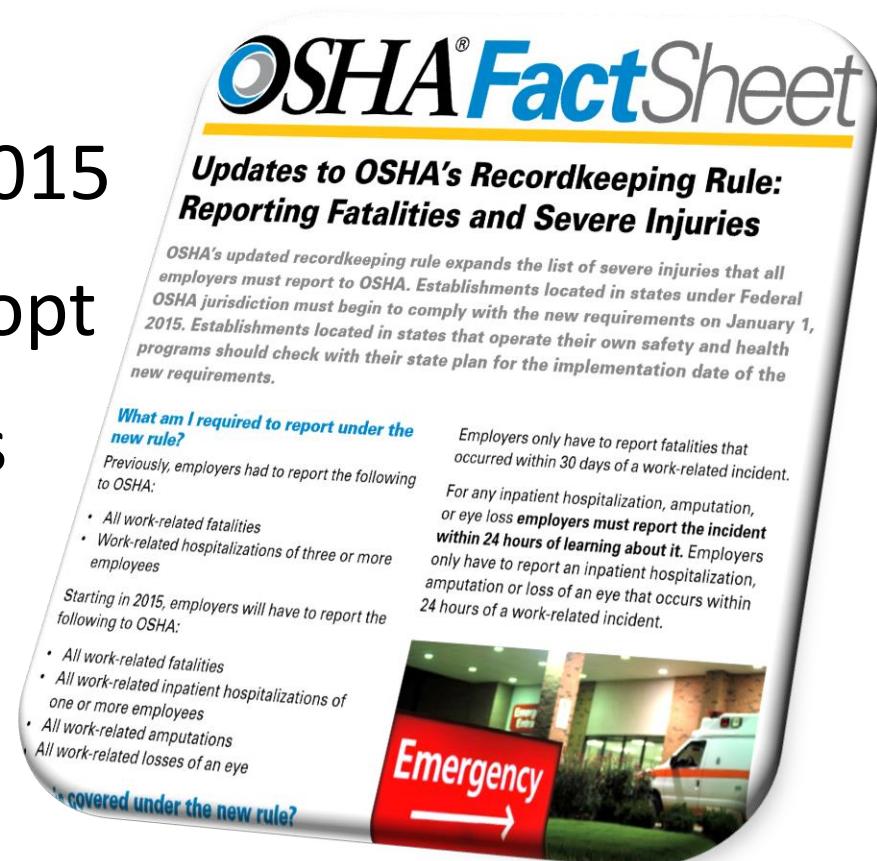
# What Information Must Be Reported?

- Establishment name
- Location of the work-related incident
- Type of reportable event (i.e., fatality, inpatient hospitalization, amputation or loss of an eye)
- Number of employees who suffered the event
- Names of the employee who suffered the event
- Employer contact person w/ contact information
- Brief description of the work-related incident

# Final Injury & Illness Recordkeeping Rule

## Impact of New Rule?

- Effective Date – Jan. 1, 2015
- State Plans must also adopt
- Sharp increase in reports to OSHA (25,000 more!)
- More reports = More Inspections/Citations
- Expand OSHA's public shaming campaign



# On-Line Reporting - CAUTION

- Use caution if considering reporting via the new web portal:
  - What you put in writing may be used against you later in enforcement proceedings or civil litigation
  - Too soon to know enough to commit to any version of the incident explanation in writing
  - Information will be publicly available
  - Electronic security risks

# What Happens After Your Report?

- OSHA will conduct on-site inspections for all fatalities and incidents involving the hospitalization of 2+ employees.
- Through Feb., 2,400 reports had already been made under the new reporting requirements.
  - OSHA initiated inspections for 35% of those
  - 20% were not work-related or not covered by the new reporting requirements
  - For the remaining 45%, OSHA utilized its “Rapid Response Investigation”

# What Happens After Your Report?

- Category 1 – Mandatory Field Inspection Required
  - All fatalities
  - In-patient hospitalizations of 2+ employees;
  - Injuries to employees younger than 18;
  - Known history of injuries (same or similar events in last year);
  - Repeat offenders (history of Willful, FTA or Repeat citations);
  - Issues related to a National or Local Emphasis Program;
  - Any report from an SVEP employer; or
  - Any imminent danger

# What Happens After Your Report?

- Category 2 – Area Director discretion based on various questions:
  - Are employees still exposed to the underlying hazard that caused injury?
  - Did incident result from safety program failure (e.g., PRCS, LO/TO, PSM, etc.)?
  - Was employee exposed to a very serious hazard (e.g., explosive materials, combustible dust, falls or extreme heat)?
  - Were temporary workers or other vulnerable worker populations injured?
  - Has another government agency made a referral?
  - Does the employer have prior OSHA inspection history?
  - Is there a Whistleblower complaint/inspection pending?
  - Is the employer a Cooperative Program Participant, e.g., VPP, OSHA Strategic partnerships, SHARP, or an active Alliance member?
  - Did incident involve chemical exposures, heat stress, or other health issues?

# Rapid Response Investigation

- Category 3 - Rapid Response Investigation (RRI) letter issued
  - If the injury report does not fit in Category 1 or 2, OSHA will send the employer an RRI letter.
  - RRI letters request employers:
    - Conduct a root cause accident investigation;
    - Document findings and corrective actions;
    - Post the letter
    - Provide copy of the letter to Union and/or the Safety Committee

"Attachment A"  
**NON-MANDATORY INVESTIGATIVE TOOL**

**A. NAME OF INVESTIGATOR:** \_\_\_\_\_ **TITLE:** \_\_\_\_\_

**B. INCIDENT DESCRIPTION/INJURY INFORMATION**

**1) Information about injured employee\***

- Name of injured worker: \_\_\_\_\_ Age: \_\_\_\_\_  
- Usual job title: \_\_\_\_\_  
- Job at time of incident: \_\_\_\_\_  
- Type of employment (check all that apply):  Full Time  Part Time  Seasonal  
   Temporary  Other  
- Amount of time with the company: \_\_\_\_\_  
- Amount of time in current position at time of incident: \_\_\_\_\_  
- Description and severity of the injury: \_\_\_\_\_

**2) Date and time of the incident:** \_\_\_\_\_

**3) Location of incident:** \_\_\_\_\_

**4) Detailed description of incident (include relevant events leading up to, during and after the incident), preferably with information provided by the injured worker:** \_\_\_\_\_

**5) Description of incident from eye witnesses, including relevant events leading up to, during and after the incident. Include names of persons interviewed, usual occupations and date/time of interviews.** \_\_\_\_\_

# OSHA's TEMPORARY WORKER INITIATIVE

TWI BULLETIN NO. 1



## Injury and Illness Recordkeeping Requirements

This is the first in a series of guidance documents issued under the Occupational Safety and Health Administration's (OSHA's) Temporary Worker Initiative (TWI). This Initiative focuses on compliance with safety and health requirements when **temporary workers** are employed under the joint (or dual) employment of a **staffing agency** and a **host employer**.

When a staffing agency supplies temporary workers to a business, typically, the staffing agency and the staffing firm client (also known as the **Host Employer**) are joint employers of those workers. Both employers are responsible to some degree for determining the conditions of employment and for complying with the law. In this joint employment structure, questions regarding which employer is responsible for particular safety and health protections are common. This bulletin addresses how to identify who is responsible for recording work-related injuries and illnesses of temporary workers on the OSHA 300 log.

Injuries and illnesses should be recorded on only one employer's injury and illness log, 29 CFR 1904.31(b)(4). In most cases, the **host employer** is the one responsible for recording the injuries and illnesses of temporary workers.

Injury and illness recordkeeping responsibility is determined by supervision. Employers must record the injuries and illnesses of temporary

be accomplished." See OSHA FAQ 31-1 at [www.osha.gov/recordkeeping](http://www.osha.gov/recordkeeping). (Essentially, an employer is performing day-to-day supervision when that employer controls conditions presenting potential hazards and directs the worker's activities around, and exposure to, those hazards.) In most cases, the host employer provides this supervision.

While the **staffing agency** may have a representative at the host employer's worksite, the presence of that representative does not necessarily transfer recordkeeping responsibilities to the staffing agency. As long as the host employer maintains day-to-day supervision over the worker, the host employer is responsible for recording injuries and illnesses.

The non-supervising employer (generally the staffing agency) still shares responsibility for its workers' safety and health. The staffing agency, therefore, should maintain frequent communication with its workers and the host employer to ensure that any injuries and illnesses are properly reported and recorded. Such

# Temporary Workers as Employees

*Froedtert Memorial Lutheran Hospital, Inc.*

- OSH Review Commission decision in 2004
- Determined temp workers were Hospital's employees because:
  - Controlled day-to-day activities
    - Ex: Hours, duties, behavior, and immediate supervision
  - Could remove temporary workers from premises at any time
  - Provided all PPE, equipment, uniforms, and tools to perform job
- Hospital responsible for protecting temporary employees' health and safety



# Recommendations for Compliance

Memorialize the terms and conditions of an independent contractor relationship in a contract

Establish policies to limit direct control over the work of independent contractors

Establish fixed, limited-duration employment relationship

Limit interaction between employees and independent contractors

Review policies to make sure they do not cover independent contractors

# ACA's Impact on Temporary Workers

- Heightens importance of complying with OSHA's regulations regarding temporary workers because
  - Requires employers with 50+ workers to provide health care coverage to employees who work at least 30 hours per week
  - Promotes use of part-time work and non-employee workers
- Ex: Temporary jobs increased 6x faster in MA than nationwide



# OSHA's General Concerns

- OSHA concerned that temporary workers are:
  - Used by employers to skirt OSHA obligations
  - Often placed in the most hazardous jobs
  - More vulnerable to workplace hazards and retaliation
  - Not given adequate safety training or explanations of their duties by host employer or staffing agency
  - Experiencing high rates of fatalities and serious injuries on “day one” of a job because of inadequate training on potential hazards and measures to prevent injury
  - The size of the Temporary Workforce is expected to explode in the wake of implementation of the ACA

# Temporary Worker Fatalities

- Recent fatalities involving:
  - Heat stress
  - Chemical and fall hazards without PPE;
  - Hazardous energy without LO/TO protections
- Fatalities often occur on “day one” of a job often because of inadequate training on:
  - Potential hazards at job site; and
  - Measures to prevent injuries

*Protecting the Safety and Health of Temporary Workers*

Webinar presented by the  
Occupational Safety and Health Administration  
and the American Staffing Association  
July 18, 2013

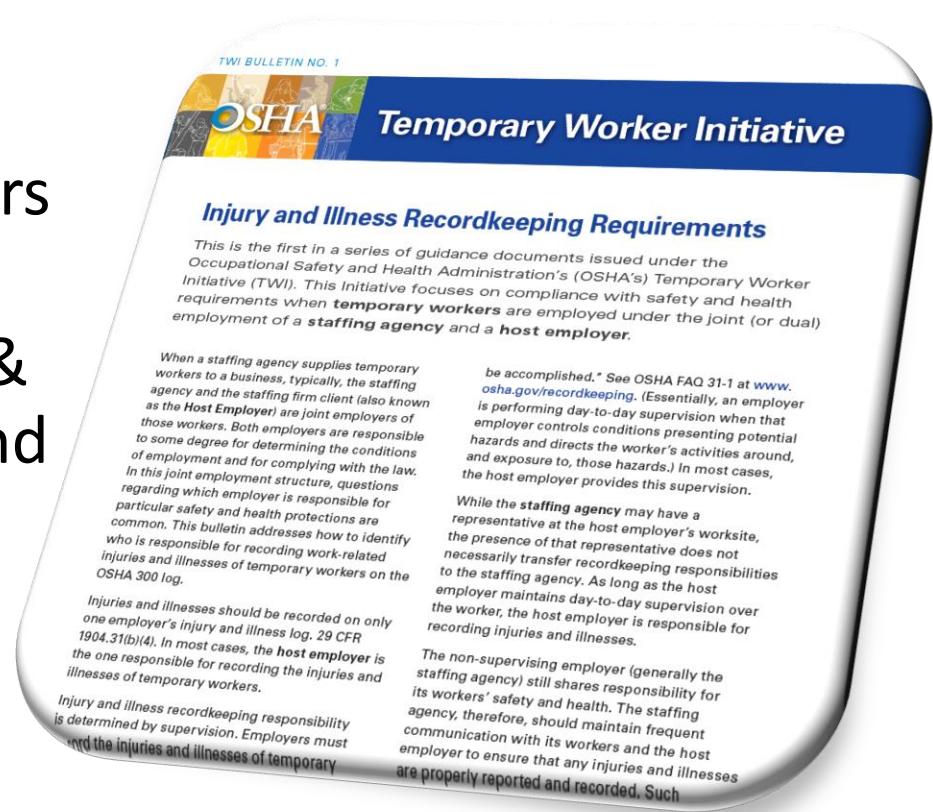
David Michaels  
Assistant Secretary of Labor  
for Occupational Safety and Health

Thank you for inviting me to today's Webinar. I'm especially grateful to Stephen Doyer and Carla Brathwaite of the American Staffing Association for hosting today's webinar, and I sincerely appreciate all your interest in protecting the health and safety of temporary workers.

- As you can see, the temporary workforce is one that is growing rapidly. In recent months, OSHA has received several reports of temporary workers suffering fatal injuries - some during their first days on the job.
- One of our most recent high-profile enforcement cases was with Bacardi Bottling Corp., following the death of a 21-year-old temporary worker, Lawrence "Day" Davis was crushed to death on his very first day at work while he was cleaning up glass inside a palletizing area of a bottling facility. Our investigation found that he and his co-workers were never trained in the simple lockout/tagout procedures that would have saved his life.
- January 22, 2013, was Samir Story's first day as a temporary worker at a paper mill in South Carolina. He was assigned to clean the inside of a tank. The local news reported that the two employees were given a brief training video and respirators to wear inside the tank, but when an alarm sounded and hydrogen sulfide started pouring into the tank, only two of the three workers were able to escape. News stories reported that Samir was left dangling by his harness and trapped inside the tank for hours. A few days ago, OSHA issued more than \$30,000 in fines to two employers involved in the tragedy. Mr. Story was 39 years old; he left a wife and two children.
- Last summer, on a day the thermometer reached 90 degrees, a temporary employee working for a garbage collection company in New Jersey, collapsed. He was rushed to the hospital where his internal body temperature was 106.9. He died of heat stroke. OSHA issued citations against both employers.
- Those are just three cases. We are currently investigating several other recent first-day fatalities among temporary workers, including heat fatalities. Just this morning, I signed a condolence letter to the family of another temp who died in June, apparently of heat stroke, while working as part of a garbage collecting crew. He left a 9-year-old daughter.
- We have known for decades that new workers, when they first start at a new job, are at greatly increased risk of injury - and we take steps to protect themselves.
- It's not surprising that there is a growing body of research showing that temps are at increased risk of workplace injury - after all, many temporary workers are new to a job site several times a year. And it is possible that some employers, thinking the temp may only be around a few days or a few weeks or even a few months, are less willing to devote the resources to fully train that worker.
- As all of you well aware, under the OSHA law, all of this nation's workers have the right to safe working conditions, and employers have the duty to provide necessary safety and health training to all workers in every workplace. In addition, it is against the law to retaliate against workers who raise safety concerns or who report injuries.
- Given all this - the enormous size of the temporary workforce, these reports of temp workers being killed on the job, and the data on increased injury rates - OSHA has launched a concerted initiative, using enforcement, outreach and training, to ensure that temporary workers are protected from workplace hazards.
- While the extent of responsibility under the law of staffing agencies and host employers is dependent on the specific facts of each case, staffing agencies and host employers are jointly responsible for maintaining a safe work environment for temporary workers - including, for example, ensuring that OSHA's training, hazard communication, and recordkeeping requirements are fulfilled.
- And OSHA could hold both the host and temporary employers responsible for the violative condition(s) - and that can include lack of adequate training regarding workplace hazards.
- I know every one of you listening to this webinar will do your best to ensure that all temporary workers are safe on the job. No one wants what happened to Day Davis or Samir Story to happen to any worker. You wouldn't be on this call if you didn't have that commitment.
- So I am pleased and gratified that you have joined this webinar to learn about best practices from OSHA and the American Staffing Association.

# OSHA's Temporary Worker Initiative

- Covers temporary workers supplied to host employer and paid by staffing agencies
- Goals of Initiative:
  - Protect temporary workers from workplace hazards
  - Ensure staffing agencies & host employers understand their safety obligations
  - Learn information re: hazards in workplaces that utilize temp workers



# Frequently Cited Violations

- Lock out/tag out
- Fall Protection
- Hazard Communication
- Powered Industrial Trucks
- Machine Guarding
- Electrical Hazards

# Joint Responsibility

**"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."**



# Summary of Applicable Standards

Training	Hazard Communication	Recordkeeping	PPE	Whistleblower Protection
<ul style="list-style-type: none"><li>• Staffing agency responsible for general training</li><li>• Host employer responsible for site and task-specific training</li></ul>	<ul style="list-style-type: none"><li>• Host employer principally responsible to inform and train temporary workers on hazardous chemicals exposure</li><li>• Staffing agency, <i>at minimum</i>, expected to inform employees of standard and ensure host employer meeting its responsibilities</li></ul>	<ul style="list-style-type: none"><li>• Employer supervising temporary workers on day-to-day basis is required to record injuries and illnesses</li><li>• When supervisory role shared, OSHA advises both employers to reach agreement on recordkeeping responsibilities</li></ul>	<ul style="list-style-type: none"><li>• Employer has primary responsibility providing, maintaining, ensuring use of, and training on PPE</li><li>• May agree staffing agency provides some or all PPE and training if host ensures PPE is appropriate</li></ul>	<ul style="list-style-type: none"><li>• Same rights and protections as all other workers under Section 11(c)</li><li>• Either the staffing agency, the host employer or both may be held liable for retaliation</li></ul>

# Best Practices

-  **Include contract language that specifically sets forth respective OSHA-related responsibilities**
-  **Conduct new hire/new project safety orientation training**
-  **Maintain open communications**
-  **Identify hazards and develop protective measures**
-  **Assess whether temporary workers could be deemed regular employees**
-  **Review policies, procedures, and training documents**

# GHS HAZCOM Implementation

The screenshot shows the official website of the United States Department of Labor's Occupational Safety & Health Administration (OSHA). The main header features the U.S. Department of Labor logo and the text "UNITED STATES DEPARTMENT OF LABOR". Below it, the OSHA logo is displayed with the text "Occupational Safety & Health Administration". The top navigation bar includes links for "Home", "Workers", "Regulations", "Enforcement", "Data & Statistics", "Training", "Publications", "Newsroom", "Small Business", and "About OSHA". A search bar is located in the top right corner.

The main content area features a large orange banner with the text "HAZARD COMMUNICATION" in bold black letters. Below the banner, a sub-headline reads "The standard that gave workers the right to know, now gives them the right to understand." A link to the "Safety & Health Topics Page: Hazard Communication" is provided. Below this, there are links for "Labeling", "Safety Data Sheets", "Pictograms", and "Effective Dates".

A sidebar on the left contains a portrait of Dr. David Michaels, a man in a suit and tie, with a speech bubble containing text about the publication of the final rule. Below his photo is a link to a video and statement.

The right side of the page features a "Highlights" box with a blue header. It lists several key points:

- HCS / GHS Final Rule**
  - Federal Register:** The Final Rule was filed on March 20th at the Office of the Federal Register and available for review on their Public Electronic Inspection Desk. The Federal Register published the final rule on March 26, 2012. The effective date of the final rule is 60 days after the date of publication.
    - [Federal Register \[PDF, 52 MB\]](#)
    - [Comparison of Existing and Revised HCS \[Side-by-side\]](#)
    - [Redline Strikeout of the Regulatory Text](#)
  - Press Release:** US Department of Labor's OSHA publishes final rule to update the Hazard Communication Standard (HCS)
  - Guidance**
    - [OSHA Briefs \[PDF, 263 KB\]](#)
    - [Fact Sheet](#)
    - [Quick Cards](#)

# Original HazCom Standard

- 1983 Final Rule applies to chemical manufacturers
- 1989 Revision expands coverage to all employers with exposed workers
- 1994 Minor Revisions

## 1983 Preamble –

*“Development of internationally agreed standards would make possible the broadest recognition of the identified hazards while avoiding the creation of technical barriers to trade and reducing the costs of dissemination of hazard information by elimination of duplicative requirements, which could otherwise apply to a chemical in commerce.”*

# Original HazCom Standard

## Five Element Program

- Determination of Chemical Hazards in Workplace
- Development of Written Hazard Communication Program
- Labeling of Hazardous Chemicals
- Development of Material Safety Data Sheets (SDSs)
- Training of Workers on Hazards and Precautions

Performance Standard with Broad Discretion Left to Chemical Manufacturer to Assess, Evaluate and Describe Hazards

# United Nations' GHS Goals & Benefits

- Reduce chemical-related injuries / illnesses by eliminating confusion and enabling employees to ID protective measures
- Facilitate employer selection of safer chemical alternatives
- Increase understanding of hazards by supervisory personnel
- Improve handling, storage and transport of hazardous substances
- Ensure employees take appropriate action during emergencies
- Improve recognition of symptoms
- Facilitate international trade



# U.N. Globally Harmonized System of Classification and Labelling of Chemicals

- Develop **systematic approach** for employers to evaluate workplace hazards and provide employees **consistent information** regarding chemical hazards they may encounter
- Adopted by U.N. in 2002
- Not a “model” standard
- Set of “building blocks” for countries to adopt into their own regulations



# OSHA Adopts GHS

- ANPR – September 2006
- NPRM – September 2009
- Final Rule – March 2012
- Based on UN GHS Revision 3

Stakeholder comments  
(both Industry Groups and  
Labor) overwhelmingly  
supported revision

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, and 1926

[Docket No. OSHA-H022K-2006-0062  
(formerly Docket No. H022K)]

RIN 1218-AC20

### Hazard Communication

**AGENCY:** Occupational Safety and Health Administration (OSHA), DOL.

**ACTION:** Final rule.

**SUMMARY:** In this final rule, OSHA is modifying its Hazard Communication Standard (HCS) to conform to the United Nations' Globally Harmonized System of Classification and Labelling of Chemicals (GHS). OSHA has determined that the modifications will significantly reduce costs and burdens while also improving the quality and consistency of information provided to employers and employees regarding chemical hazards and associated protective measures. Consistent with the requirements of Executive Order 13563, which calls for assessment and, where appropriate, modification and improvement of existing rules, the Agency has concluded this improved information will enhance the effectiveness of the HCS in ensuring that employees are apprised of the chemical hazards to which they may be exposed, and in reducing the incidence of chemical-related occupational illnesses and injuries.

# Revised HazCom Standard



“OSHA’s 1983 Hazard Communication Standard gave workers the right to know . . . this update will give them the right to understand.”

# Revised GHS HazCom

- Same Five Element Program as Original Standard
- Shift from performance to specification approach (define how to classify hazards of a chemical)
- Set of harmonized criteria for classifying chemicals
- Mandates specific format for SDSs and labels
- Mandates content / language for SDSs and labels

# Hazard Classification

- Specific criteria for classifying health & physical hazards into a hazard class (nature of hazard) and hazard category (degree of severity)
- Based on “weight of evidence” evaluated by “expert judgment”
- Eliminates “one study” rule
- Includes rules to determine hazard of mixtures

## ***Physical Hazards***

- Explosives
- Flammable Gases, Aerosols
- Oxidizing Gases
- Gases under Pressure
- Flammable Liquids, Solids
- Self-Reactive Chemicals
- Pyrophoric Liquids, Solids, Gases
- Self-heating Chemicals
- Chemicals (water contact) emit flammable gases
- Oxidizing Liquids, Solids
- Organic Peroxides
- Corrosive to Metals
- Combustible Dusts

# Safety Data Sheets

- Big Change is **Mandatory Format**; not Content (old standard required specific information)
- Consult Mandatory Appendix D
- ACGIH Threshold Limit Values (TLVs) and IARC and NTP carcinogenicity information is required
- New format is consistent with ANSI Z40.1 Standard so already widely used
- As new info developed, manufacturer/importer has **3 months from date of new information** to revise SDS

# Safety Data Sheets

## The New 16 Part Mandatory Format

- Section 1. Identification
- Section 2. Hazard(s) identification
- Section 3. Composition/information on ingredients
- Section 4. First-Aid measures
- Section 5. Fire-fighting measures
- Section 6. Accidental release measures
- Section 7. Handling and storage
- Section 8. Exposure controls/personal protection
- Section 9. Physical and chemical properties
- Section 10. Stability and reactivity
- Section 11. Toxicological information
- Section 12. Ecological information – OSHA does not enforce content
- Section 13. Disposal considerations – OSHA does not enforce content
- Section 14. Transport information – OSHA does not enforce content
- Section 15. Regulatory information – OSHA does not enforce content
- Section 16. Other information, including date of preparation or last revision

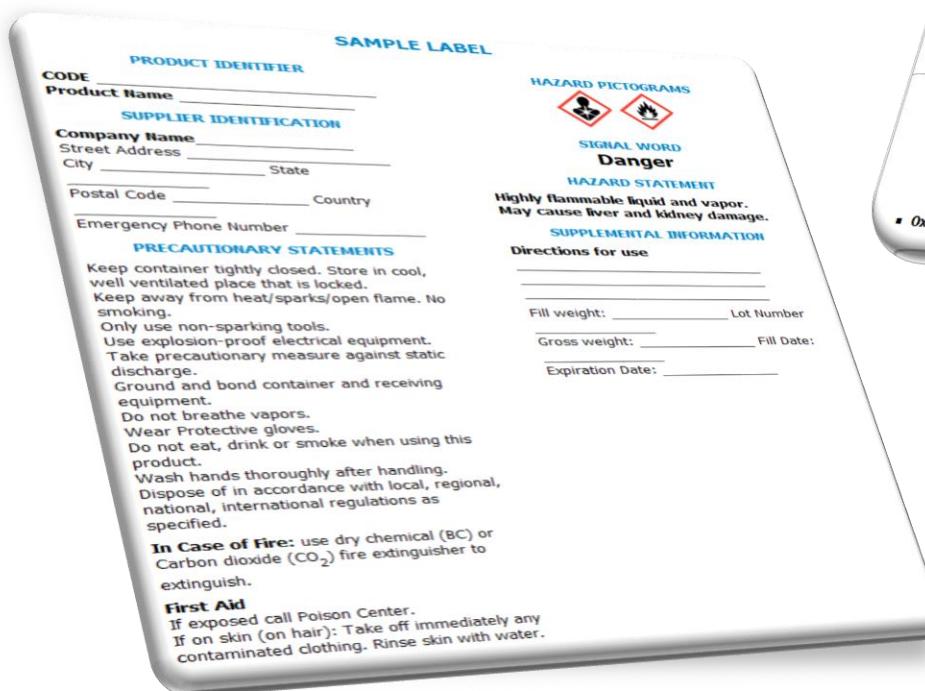


# New Labelling Requirements

- Look to Appendix C to determine required labelling elements
- As new hazard information is identified, manufacturer/importer has **six months from date of learning new information** to change label
- Alternative Workplace Labels - lesser standard - maintain some of discretion from Original HazCom Standard to generate workplace labels

# New Labels

- Common Signal Word
- Pictogram (red diamond)
- Hazard Statement



- Precautionary statements
- Product identifier
- Supplier identifier

# Compliance Deadlines

Deadline	Implementation Requirement
December 1, 2013	Train employees on new label elements and SDS format
<b>June 1, 2015</b>	<b>Comply with all modified provisions of Revised Standard</b> except alternative workplace labelling
December 1, 2015	Distributors may continue shipping products w/ old HazCom labels between June and November
<b>June 1, 2016</b>	<ul style="list-style-type: none"><li>• Alternative Workplace labels in place</li><li>• <b>Develop written Hazard Communication program</b></li><li>• Provide additional employee training for newly identified physical or health hazards</li></ul>
Limited Effective Deadline Extension	Manufacturer/importer/formulator who, w/ exercise of “reasonable diligence” & “good faith efforts” are unable to obtain sufficient info (SDSs) from upstream suppliers to classify their mixtures and develop SDSs and labels

# Application of the New Rule

- OSHA Compliance Directive & other Guidance
- Reliance on U.N. GHS Purple Book
- Application to and Definition of Combustible Dust
- Educate Industry by Enforcement



# DISTRACTED DRIVING



# Distracted Driving Data

3,154 people were killed in auto accidents involving distracted drivers

Approx. 424,000 people were injured in auto accidents involving distracted drivers

In 2013 in  
the U.S.

More than 153 Billion text messages were sent every month

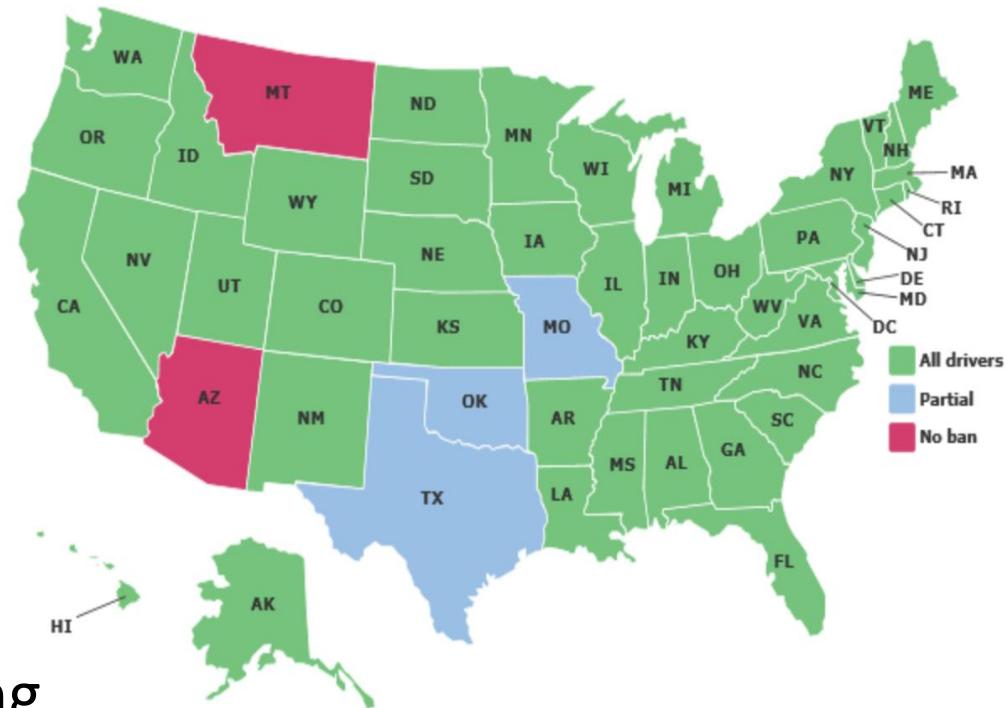
At any moment, 660,000 drivers are using cell phones or manipulating electronic devices while driving

# Distracted Driving Regulations?

- OSHA has regulations for the operation of powered industrial equipment in construction, general industry, logging, marine terminals and agriculture
- OSHA has not, however, regulated the operation of motor vehicles on public roadways
- OSHA's policy response to workplace motor vehicle hazards has been through guidance documents
- Operation of vehicles in the U.S. workplace is generally governed by state traffic laws

# State Distracted Driving Laws

- Passenger car driving behavior falls under the jurisdiction of individual states, so U.S. DOT and OSHA cannot ban distracted driving
- However, 46 states do have laws that ban texting for drivers of all ages (4 have bans for youth drivers)
- 15 states also prohibit drivers of all ages from using handheld cell phones while driving.



# OSHA's Distracted Driving Initiative

*"When OSHA receives a credible complaint that an employer requires texting while driving or who organizes work so that texting is a practical necessity, we will investigate & where necessary issue citations and penalties to end this practice."*

- Blog post by OSHA Head, Dr. David Michaels, on 10/20/11

UNITED STATES  
DEPARTMENT OF LABOR

HOME ABOUT COMMENT POLICY FEEDBACK

**(Work in Progress)**  
The Official Blog of the U.S. Department of Labor

*Eliminating the hazards of texting and other distractions while driving on the job*

by DR. DAVID MICHAELS on OCTOBER 20, 2011 · 0 COMMENTS

Distracted driving has become an epidemic in the United States. In 2009, distracted drivers contributed to more than 5,400 traffic fatalities, accounting for 16 percent of all traffic fatalities that year. In response, last October the Labor Department's Occupational Safety and Health Administration (OSHA), in partnership with the Department of Transportation (DOT), launched an initiative to combat this deadly practice.



# OSH Act - Sec. 5(a)(1)

## The General Duty Clause

*“Each employer shall furnish each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.”*

- OSHA has cited employers only where evidence of policies that effectively require employees to call or text while driving to complete their work
- Only surfaced in the context of delivery drivers

# Other Legal Risks: A Hypothetical

- While driving, a pizza delivery driver texts for a delivery address, and while distracted, crashes into a motorcyclist, who is killed.
- The driver makes a workers comp claim.
- Employer records a lost time incident on the OSHA 300 log.
- The police refer the incident to OSHA, which inspects and finds Employer implicitly encouraged drivers to use cell phones to effectuate deliveries, so OSHA issues a Willful general duty clause violation with a \$70,000 penalty.
- To make a point, a district attorney charges the driver w/ negligent homicide and the Employer as accessory.
- The motorcyclist's family also hires a lawyer and sues the employer and the driver for millions of dollars.

# OSHA's Recommended Best Practices

- Draft comprehensive policy
  - Cell phone use and texting by employees while driving on the job or in company vehicles
- Review existing operations policies
- Build workplace culture of safety
  - Clear, explicit policies, and
  - Sound practices
- Send clear message to workers and supervisors that your company neither *requires* or *condones* texting while driving

# OSHA's Recommended Best Practices

- Prohibit texting while driving
  - Declare vehicles “text-free” zones
  - Emphasize commitment to co-workers, customers, & community
- Draft workplace procedures so workers do not need to text while driving to perform their job duties
- Implement procedures, places and times for drivers’ to safely text for work; and
- Eliminate incentives that encourage communication by phone or text on the road



# QUESTIONS?



# Contact Information



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