

OSHA Updates

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OSHA continues to be very active in updating safety rules and regulations. The following is a list of updates coming in the near future:

- **Fines being increased**

As of August 1, 2016 fines will be increased for serious violations from \$7,000 to \$12,000 and from \$70,000 to \$120,000 for willful violations. This increase is part of a Federal spending bill that includes a measure to hike federal OSHA penalties.

- **New rule to report workplace injuries and illnesses**

OSHA issued a final rule on May 11, 2016 that will, according to OSHA, greatly enhance injury and illness data collection from employers.

Establishments with over 250 employees that are currently required to keep the OSHA injury and illness records and establishments with over 20 employees that are classified in 67 specific industries that have historically high rates of occupational injuries and illness will be required to electronically submit their OSHA 300A Summary to OSHA for the 2016 calendar year by July 1, 2017. As of July 1, 2018, the above companies will be required to submit the 300A Summary, the OSHA 300 Log and each first report of injury form 301. Beginning in 2019, the submission deadline will be changed from July 1st to March 1st.

OSHA intends to post this information on its public website. OSHA believes the new reporting requirements will provide public health researchers the unprecedented opportunity to advance the field of injury and illness causation and prevention research.

- **Anti-retaliation Protection**

Under the above rule, the agency outlined 3 new provisions to protect employees from retaliation for reporting workplace injuries.

In the first provision, employers will be required to inform employees of their right to report work related injuries and illnesses free from retaliation.

In the second provision, reporting procedures must be reasonable and must not deter or discourage employees from reporting.

In the third provision, OSHA can now cite employers for retaliation under the recordkeeping standard and employees may also file a no retaliation complaint.

- **OSHA finalizes rules for Drug Testing and Safety Incentive Programs**

OSHA has determined that blanket application of post injury drug testing may not be legal because it may deter employees from reporting an injury. Employees will now be prohibited from using drug testing as a threat to employees who may want to report and be treated for an injury. OSHA noted that under the new rule, supervisors can't advise employees that they will be required to take a drug test and if the employee fails the test he/she will be fired. According to OSHA that is a threat and is illegal. Supervisors need to know that statements like this will expose your company to major fines.

Also under the new rule, the injury must be connected to an action that is directly related to alcohol or drug impairment. Testing should only be done when it can accurately identify impairment caused by drug use. The Department of Transportation regulations for drivers require post-accident testing and, in most cases, will meet the standard.

On August 10, 2016, the new rule governing Safety Incentive Programs goes into effect. The new rule specifically prohibits employers from using incentive programs that discourage injury reporting. OSHA is concerned that employees could be under increased peer pressure not to report an injury and that is unacceptable. OSHA has advised they are NOT banning all incentive programs. They provide the following examples:

- Providing t-shirts to workers on a safety committee or to celebrate a goal being reached (the goal hasn't been defined).
- Offering modest rewards for suggesting ways to strengthen safety and health programs.
- Throwing a company or department wide recognition party after the successful completion of safety training

Again, incentive programs are not being banned but you need to ensure they don't discriminate against an individual employee and the program does discourage employees from reporting injuries.

Changes keep coming. I will keep you up to date as they happen. In the meantime if you have any question or need assistance with your Safety Program, please give me a call at 1-330-854-4577 (Office) or 1-330-495-3437 (Cell Phone).