**What’s a Recordable Injury/Illness? Making Sure Your OSHA Logs Are Correct**

**by iSi Environmental**

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Once again it’s time to pull together your OSHA 300 and 300A logs for last year. These are due at the end of the month and the OSHA 300A must be posted at your facility from February 1 through April 30.

To help you fill out your logs for 2015 and tighten up your reporting practices for this year, here’s a review of the 9 recordable criteria:

1. Work-Related

Injuries/illnesses are recordable is if the event was in the work environment and the work environment caused, contributed to, or reaggravated an injury/illness.

Exceptions (where the injury/illness would **NOT** be work-related):

* The employee was there as a member of the general public;
* Signs or symptoms surface at work but result solely from a non-work-related event that occurs outside of the work environment;
* It occurs from voluntary participation in a wellness program or a medical, fitness or recreational activity. For example, a strained back from the company Zumba class or an incident from a flu shot wouldn’t count;
* If it resulted solely from eating, drinking, or preparing food/drink for personal consumption. For example, a hand burn from using the stove or a struck-by with the microwave door wouldn’t count;
* It occurs solely as a result of the employee doing personal tasks outside of the assigned working hours; or,
* It’s solely the result of a personal grooming, a self-medication for a non-work-related condition or is from self-infliction.

2. New Cases

An injury/illness is a new case if the employee has not previously experienced a recorded injury/illness of the same type that affects the same body part. If they have experienced one of the same type to the same body part, it’s recordable only if those symptoms had completely went away and an event caused those symptoms to come back.

3. Deaths

By now you should be following OSHA’s immediate reporting requirements for deaths that were enacted at the beginning of 2015. All deaths must be reported to OSHA within 8 hours and in-patient hospitalizations, amputations, and losses of an eye are to be reported within 24 hours.

4. Days Away From Work

For days away from work, don’t count the day of the injury. Count the calendar days, regardless of whether the employee was scheduled to work that day or not, up to a maximum of 180 days for your OSHA 300 log. If the injury/illness occurred within one calendar year and the lost work days occurred in the next calendar year, only record it once (in the year that it occurred).

5. Restricted Work/Transfer

Restricted work is when you keep the employee from working the full workday that they’d otherwise work or when a physician/licensed health care professional recommends that the employee not perform one or more of their routine functions (where “routine” means an activity performed at least once per week). Job transfer work is when you assign an injured employee to a job other than their regular job for a day(s) or part of a day. Again, the day of the injury is not counted in either case.

To help minimize these numbers of days, give job descriptions to your company physician and have them go through that list and see if the employee can indeed work those routine job functions. There’s a possibility that once reviewed, the employee may actually be ok to perform those tasks, saving you some extra days on your logs.

6. Medical Treatment Beyond First Aid

Activities such as IVs, chiropractic visits, stitches/sutures/staples, physical therapy and Hepatitis B vaccines would all be considered recordable medical treatments.

There are, however, a number of exceptions. You would NOT count visits to a physician for observation, counseling, or diagnostic procedures such as X-rays, blood tests or eye drops. Allowable first aid treatments that also would NOT count as a recordable may include:

* Non-prescription medication at non-prescription strength;
* Tetanus shots;
* Cleaning/flushing/soaking a skin wound;
* Bandages, gauze pads, wraps and non-rigid back belts;
* Hot/cold therapy;
* Eye patches;
* Temporary immobilization devices while transporting an accident victim (neck collars, back boards, splints);
* Drilling of fingernails or toenails to relieve pressure;
* Draining fluid from a blister;
* Removing foreign bodies from the eye using only irrigation or a cotton swab;
* Removing splinters/foreign material from areas other than the eye by irrigation, tweezers or cotton swabs;
* Finger guards;
* Massages; and,
* Drinking fluids for heat stress.

7. Loss of Consciousness (Any Length of Time)

8. Significant Injury/Illness Diagnosed by a Physician or Health Care Professional

These would include work-related cancer, chronic irreversible diseases, fractured/cracked bones and punctured eardrums.

9. Other Specific Cases

These are recordable:

* Needlestick injuries and cuts from sharp objects that are contaminated with another person’s blood or other potentially infectious material;
* Audiograms in which there’s a standard threshold shift in one or both ears; and,
* Exposure to Tuberculosis (TB) where a TB infection was developed.

For more information, visit [OSHA’s recordkeeping website](https://www.osha.gov/recordkeeping/index.html) or contact Dickey Watson at iSi Environmental [(678) 712-4705; [dwatson@isienvironmental.com](mailto:dwatson@isienvironmental.com)] for help in determining hard-to-categorize cases.

**Heads Up: OSHA Electronic Posting Regulation Scheduled for March,   
Including Public Access to Your Logs**

In March, OSHA is expected to issue a final rule which will require employers with 20 or more employees to submit their annual OSHA 300 and 300A log information electronically to OSHA. From there, OSHA will be posting that information on its website, making your data publicly available for anyone to review.

Employers with 250 or more employees will be required to submit injury and illness information on a quarterly basis.

There is also a potential for this rule to also contain language that forbids certain practices and incentive programs companies use which single out and discourage workers from reporting injuries/illnesses.

There are no guidelines yet as to how this information will be submitted electronically. Electronic forms are available on the OSHA website in both Adobe and Excel formats. If you’re not completing your forms electronically, you may want to start with those forms or find a product which helps track of your recordables electronically and then prints them on the forms for you.

As a best practice, you may also want to consider tracking your injuries and illnesses on a monthly or quarterly basis. This will not only help you track trends but it’ll make it easier to compile the information annually. Third-party safety tracking programs such as ISNetworld or PEC Safety already require quarterly tracking.

**OSHA Recordkeeping Site Open August 1**

In our last blog, we told of OSHA's postponement of the electronic injury reporting deadline until December 1. This week, OSHA announced the website for reporting and the method for posting.

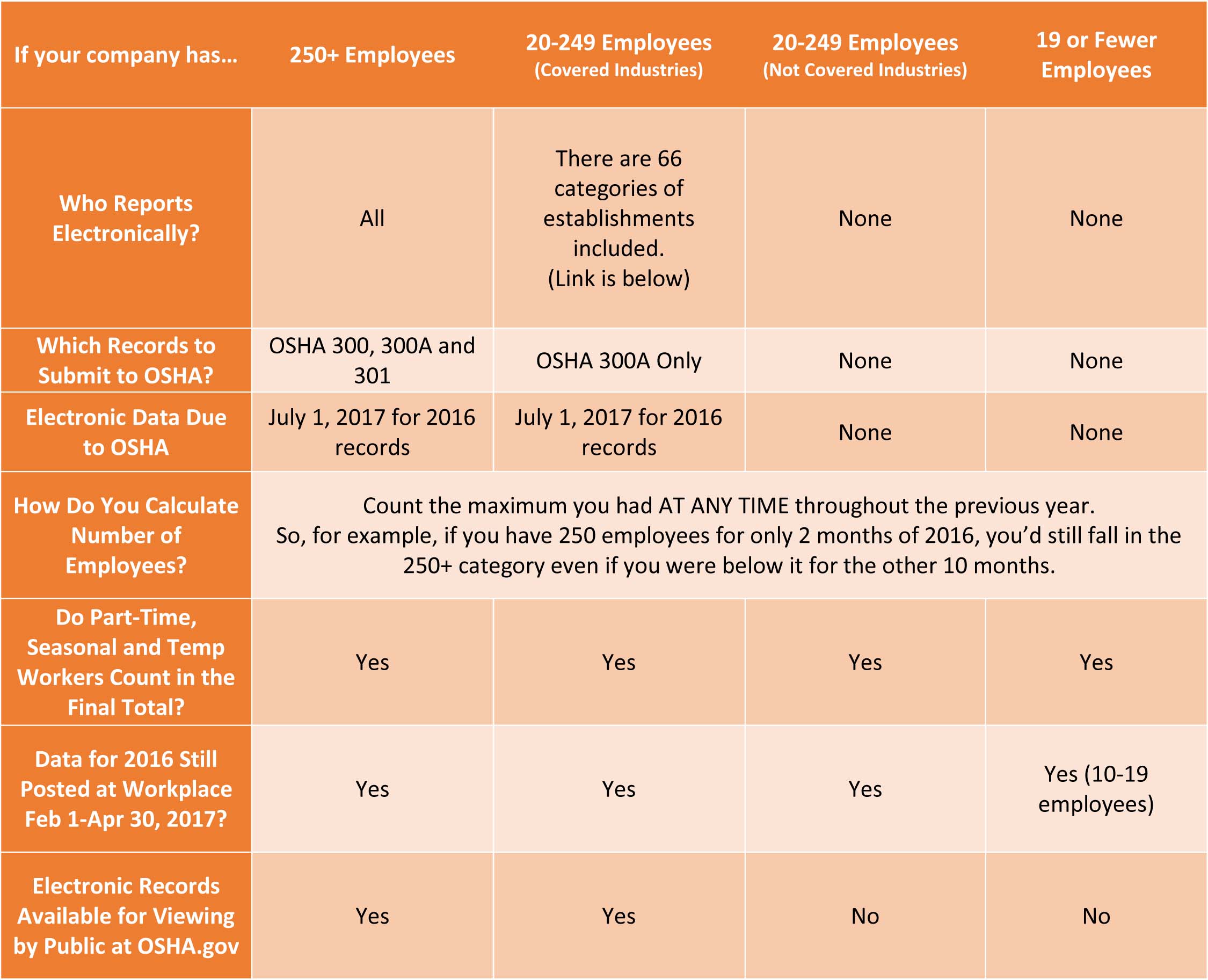
Beginning August 1, injury reporting will need to be completed through OSHA's Injury Tracking Application website. All data will be due December 1. You'll be able to enter your data through three different methods.

First, you'll be able to enter data in manually through a web form.

If you have multiple records and multiple establishments, the second option will allow you to upload a database file to the system. It will need to be saved as a csv file. You can create csv files from Microsoft Excel spreadsheets. OSHA has csv templates on their site, but these templates are more or less a list of the column names for your spreadsheet and examples of what needs to go into each.

The third option is for those of you who use automated recordkeeping systems. For those systems, OSHA will have the ability for you to transmit that data electronically through an application programming interface (API).

Now that the system is ready to go, let's review again if your company will need to submit. The following table describes the requirements of who is supposed to submit. If you need help submitting, or help in determining if you need to, please contact us and we'll be happy to help you.



**OSHA Memo to Affect Way Agency Issues Certain Penalties, With Potential for Significant Increases**

OSHA’s Director of Enforcement and Director of Construction have joined together to issue two memos to its Regional Administrators and State Plan Designees to alert them on how to interpret penalties in certain cases.

**Instance-by-Instance Citations**

First, the memo “[Application of Instance-by-Instance Penalty Adjustments](https://www.osha.gov/memos/2023-01-26/application-of-instance-by-instance-penalty-adjustments)” adds more circumstances in which these types of penalties can be charged. Instance-by-Instance penalties are fines for every single instance that the violation occurs, such as penalties by machine, by entry, by location, or by employee.

The memo says that high-gravity serious violations of the following standards can now be subject to Instance-by-Instance penalties:

* Fall Protection
* Trenching
* Machine Guarding
* Respiratory Protection
* Permit-Required Confined Spaces
* Lockout/Tagout
* Other-than-serious violations of the recordkeeping standard

Only those standards that have text which allows for violations of individualized duties rather than general course of conduct can be used to find incident-by-incident penalties. For example, if machines are missing guards or if employees do not put lockout/tagout devices on each energy isolating device, you could be fined per instance because they are needed on each machine.

Memo guidance says discretion can be used for Instance-by-Instance penalties when penalty adjustments don’t advance the deterrent goal. The following factors are to be considered:

* Willful, repeat, or failure to abate violations within the past five years where that classification is current;
* Failure to report a fatality, inpatient hospitalization, amputation, or loss of an eye;
* The proposed citations are related to a fatality/catastrophe; or
* The proposed recordkeeping citations are related to injury or illness(es) that occurred as a result of a serious hazard.

Penalty evidence and justification must be documented and the Regional Office of the Solicitor must be consulted before these will be issued.

**Grouping Penalties**

Next, the memo “[Exercising Discretion When Not to Group Violations](https://www.osha.gov/memos/2023-01-26/exercising-discretion-when-not-to-group-violations)” reminds Regional Administrators and Area Directors that they have the discretion to NOT group violations together in instances where it could help create a deterrent. Grouping is allowed when:

* Two or more serious or other-than-serious violations are so closely related they constitute a single hazardous condition (then they are grouped based on the most serious item);
* Two or more violations are found which, if considered individually, represent other-than-serious violations but together could create a substantial probability of death or serious physical harm (then the violations are grouped as a serious violation); and,
* When several other-than-serious violations are found (then they are grouped to create a high gravity other-than serious violation).

The memo is reminding that violations don’t have to be grouped if it doesn’t elevate the gravity/classification of the citation when the evidence could allow for multiple citations. That is, if OSHA can find evidence that the violations could have different abatement methods, if each one could have resulted in death or serious harm, or if each violation condition could expose workers to different hazards, then they can charge each violation separately without grouping them.

In addition, guidance in the OSHA Field Operations Manual says violations are not to be grouped when:

* Violations are found in separate inspections on more than one day;
* The same violations are found at multiple sites, but at different locations. If your company is inspected at different branches/locations/sites and you violate the same standard at each place, then you are fined separately at each place;
* Separate sections of the General Duty Clause are violated. Separate sections of the General Duty Clause cannot be grouped together, but a General Duty Clause section can be grouped with a related regulation; and,
* Violations are so egregious that they trigger OSHA’s Instance-by-Instance Penalties.

**OSHA Fines Increased**

Dollar amounts on OSHA fines also were increased at the beginning of the year. The maximum penalty amounts in 2023 are $15,625 per violation for serious, other-than-serious, posting requirement, and failure to abate violations, and $156,259 per violation for willful and repeat violations. This is an increase in 7.5%, which is the biggest year to year increase since 2016.

**Do You Know Where You Stand?**

iSi’s safety audit team can help you determine where you stand on compliance with OSHA regulations and provide a prioritized list of findings. [Contact us today](https://isienvironmental.com/contact-us/) to learn more about our audits!

**What is OSHA’s National Emphasis Program on Heat Hazards?**

Heat plays a large part in how we plan our day. We often put off work that creates heat or highly strenuous tasks to a time when the weather is more conducive to our needs. However, that cannot always be done. Sometimes a task must be done on a rigid schedule or is of an emergency nature so that work cannot be put off to a later, cooler, time of day. To that end, OSHA has developed a National Emphasis Program (NEP) to give some guidance to companies on how to work in the heat and keep employees safe.

**What is the NEP on Heat?**

OSHA will conduct programmed (pre-planned) inspections in targeted high-risk industries on any day that the National Weather Service has announced a heat warning or advisory for the local area.

The NEP went effective on April 8, 2022 and will remain in effect for 3 years unless canceled or extended by a superseding directive.

The NEP establishes heat priority days when the heat index is expected to be 80 degrees Fahrenheit or higher. During these days OSHA will:

* Initiate compliance assistance in the list of targeted high-risk industries; and,
* Inspect any alleged heat-related fatality/catastrophe, complaint or referral regardless of whether the worksite is within the list of targeted high-risk industries.

**What are the Targeted High-Risk Industries?**

The NEP targets over 70 high-risk industries based on:

* Bureau of Labor Statistics (BLS) on incidence rates of heat-related illnesses
* Elevated numbers of fatalities or hospitalizations reported to OSHA
* Highest number of heat-related General Duty Clause violations over the last 5 years

These include but are not limited to:

**General industries that are likely to have heat-related hazards**

**NAICS NAICS Industry Sector Title**

1121 Cattle Ranching and Farming

1151 Support Activities for Crop Production

2131 Support Activities for Mining

3118 Bakeries and Tortilla Manufacturing

3211 Sawmills and Wood Preservation

3241 Petroleum and Coal Products Manufacturing

3251 Basic Chemical Manufacturing

3272 Glass and Glass Product Manufacturing

3311 Iron and Steel Mills and Ferroalloy Manufacturing

3314 Nonferrous Metal (except Aluminum) Production and Processing

3315 Foundries

3323 Architectural and Structural Metals Manufacturing

3329 Other Fabricated Metal Product Manufacturing

3361 Motor Vehicle Manufacturing

3362 Motor Vehicle Body and Trailer Manufacturing

3363 Motor Vehicle Parts Manufacturing

3364 Aerospace Product and Parts Manufacturing

3365 Railroad Rolling Stock Manufacturing

3366 Ship and Boat Building

3369 Other Transportation Equipment Manufacturing

3371 Household and Institutional Furniture and Kitchen Cabinet Manufacturing

4239 Miscellaneous Durable Goods Merchant Wholesalers

4241 Paper and Paper Product Merchant Wholesalers

4242 Drugs and Druggists’ Sundries Merchant Wholesalers

4243 Apparel, Piece Goods, and Notions Merchant Wholesalers

4244 Grocery and Related Product Merchant Wholesalers

4245 Farm Product Raw Material Merchant Wholesalers

4246 Chemical and Allied Products Merchant Wholesalers

4247 Petroleum and Petroleum Products Merchant Wholesalers

4248 Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers

4249 Miscellaneous Nondurable Goods Merchant Wholesalers

4413 Automotive Parts, Accessories, and Tire Stores

4442 Lawn and Garden Equipment and Supplies Stores

4881 Support Activities for Air Transportation

4882 Support Activities for Rail Transportation

4883 Support Activities for Water Transportation

4884 Support Activities for Road Transportation

4889 Other Support Activities for Transportation

4921 Couriers and Express Delivery Services

4922 Local Messengers and Local Delivery

4931 Warehousing and Storage

5311 Lessors of Real Estate

5617 Services to Buildings and Dwellings (includes landscaping services, tree removal and tree trimming services)

5621 Waste Collection

5622 Waste Treatment and Disposal

5629 Remediation and Other Waste Management Services

6231 Nursing Care Facilities (Skilled Nursing Facilities)

7211 Traveler Accommodation

8111 Automotive Repair and Maintenance

8113 Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance

8114 Personal and Household Goods Repair and Maintenance

**Construction industries that are likely to have heat-related hazards**

**NAICS NAICS Industry Sector Title**

2361 Residential Building Construction

2362 Nonresidential Building Construction

2371 Utility System Construction

2372 Land Subdivision

2373 Highway, Street, and Bridge Construction

2379 Other Heavy and Civil Engineering Construction

2381 Foundation, Structure, and Building Exterior Contractors

2382 Building Equipment Contractors

2383 Building Finishing Contractors

2389 Other Specialty Trade Contractors

**Industries not included in General industries or Construction that are likely to have heat-related hazards**

**NAICS Code NAICS Industry Sector Title**

1112 Vegetable and Melon Farming

1113 Fruit and Tree Nut Farming

2213 Water, Sewage and Other Systems (may be State or local jurisdiction)

4411 Automobile Dealers

4412 Other Motor Vehicle Dealers

4821 Rail Transportation (may be Federal jurisdiction)

4885 Freight Transportation Arrangement

4911 Postal Service

5611 Office Administrative Services

5612 Facilities Support Services

5613 Employment Services

5614 Business Support Services

5616 Investigation and Security Services

5619 Other Support Services

6117 Educational Support Services

7225 Restaurants and Other Eating Places

8112 Electronic and Precision Equipment Repair and Maintenance

9281 National Security and International Affairs (includes Customs and Border Patrol, and Transportation Security Administration)

**What Will the OSHA Auditors Be Inspecting When They Come to My Facility?**

During heat-related inspections, inspectors will:

* Review OSHA 300 Logs and 301 Incident Reports for any entries indicating heat-related illness(es).
* Review any records of heat-related emergency room visits and/or ambulance transport, even if hospitalizations did not occur. This may require the use of a Medical Access Order.
* Interview workers for symptoms of headache, dizziness, fainting, dehydration, or other conditions that may indicate heat-related illnesses, including both new employees and any employees who have recently returned to work.
* Determine if the employer has a heat illness and injury program addressing heat exposure, considering the following:
  + Is there a written program?
  + How did the employer monitor ambient temperature(s) and levels of work exertion at the worksite?
  + Was there unlimited cool water that was easily accessible to the employees?
  + Did the employer require additional breaks for hydration?
  + Were there scheduled rest breaks?
  + Was there access to a shaded or cool area?
  + Did the employer provide time for acclimatization of new and returning workers?
  + Was a “buddy” system in place on hot days?
  + Were administrative controls used (earlier start times, and employee/job rotation) to limit heat exposures?
  + Did the employer provide training on heat illness signs, how to report signs and symptoms, first aid, how to contact emergency personnel, prevention, and the importance of hydration?
* Document conditions relevant to heat-related hazards, including:
  + The heat index and additional weather data from that day, e.g., heat alerts from the NWS, data from the OSHA-NIOSH Heat Safety Tool App, saving a screenshot on a mobile phone or tablet. Additional information may be needed for indoor heat investigations.
  + Observe and document current conditions and those at the time the incident occurred (for unprogrammed inspections), including:
    - Observed wind speed
    - Relative humidity
    - Dry bulb temperature at the workplace and in the shaded rest area
    - Wet-bulb globe temperature at the workplace, (ensure the equipment has been properly calibrated prior to use)
    - Cloud cover (no clouds, 25%, 50%, 75%, 100%)
    - The existence of any heat advisories, warning or alerts the previous days
* Identify activities relevant to heat-related hazards. These can include, but are not limited to:
  + Potential sources of heat-related illnesses (e.g., working in direct sunlight, a hot vehicle, or areas with hot air, near a gas engine, furnace, boiler or steam lines).
  + The use of heavy or bulky clothing or equipment, including personal protective equipment.
  + Estimate workload exertions by observing the types of job tasks performed by employees and whether those activities can be categorized as moderate, heavy or very heavy work, considering both average workload and peak workload.
  + Duration of exposure during which a worker is continuously or repeatedly performing moderate to strenuous activities.
* OSHA believes a review of any potential heat-related hazards should be included in any programmed or unprogrammed inspection where radiant heat sources exist in indoor work areas or at outdoor work areas on heat priority days. OSHA advises inspectors to conduct compliance assistance and document it where heat-related hazards do not warrant issuing citations.
* Inspectors can use the OSHA-NIOSH Heat Safety Tool App as a resource.

**How Do I Prevent Heat Illness at Work?**

Dangerous heat exposure can occur indoors or outdoors, in any season. Employers can keep workers safe by following these simple safety practices:

* Follow the 20% Rule — on the 1st day, don’t allow employees to work more than 20% of a shift at full intensity in the heat. Increase their time by no more than 20% a day until they are used to working in the heat.
* Provide cool drinking water – encourage workers to drink at least one cup every 20 minutes, even if they are not thirsty.
* Rest breaks — allow workers time to recover from heat in a shady or cool location.
* Dress for the heat — have workers wear a hat and light-colored, loosefitting, breathable clothing if possible.
* Watch out for each other — encourage workers to monitor themselves and others for signs of heat illness.
* Look for any signs of heat illness, including fainting, dizziness, nausea, and muscle spasms, and act quickly — when in doubt, call 911.
* Offer training on the hazards of heat exposure and how to prevent illness.
* Develop an Emergency Action Plan on what to do if a worker shows signs of heat-related illness.

**Need Help in Getting Your Documentation in Order?**

Do you need assistance in developing a formal heat illness and injury program compliant with this initiative? Do you need assistance in determining your potential heat exposures? iSi can help! Contact us today!

OSHA Makes Changes to Recordkeeping Rules

OSHA has announced changes to its recordkeeping regulations which make changes to the types of injuries which get reported directly to OSHA and when they’re required to be reported. There are other changes to the rule which also revise the list of industries exempt from keeping OSHA logs. All changes to these rules, 29 CFR 1904, go into effect January 1, 2015.

Change 1: What Needs to Be Reported to OSHA and When

As an employer, you currently are required to report to OSHA all work-related fatalities and work-related hospitalizations of 3 or more employees. Starting January 1, 2015 you will now be required to report:

* All work-related fatalities (within 8 hours of notification)
* All work-related in-patient hospitalizations of 1 or more employees (within 24 hours of notification)
* All work-related amputations or losses of an eye (within 24 hours of notification)

The hospitalizations need to be in-patient, that is, a formal admission to the in-patient service of a hospital or clinic for care/treatment. An amputation is defined as a traumatic loss of a limb or external body part, so a lost arm, fingertip, or other appendage would count under this rule.

If any of these occur, you will need to report to OSHA using one of the following methods: calling the local OSHA office, calling the 24-hour OSHA hotline, or filling out a new online form within the time frames dictated above. When you make your report, you will need to provide:

* Company Name
* Location and Time of Incident
* Type of Reportable Event
* Number and Names of Employees Affected and Which are Fatalities, In-Patient Hospitalizations, Amputations or Eye Losses
* Your Contact Person and Their Phone Number
* Brief Description of the Incident

However, with all regulations, there are some exceptions.

There are time exceptions. For instance, if the fatality occurs more than 30 days after the incident, direct reporting to OSHA is NOT required. Reporting will only be required within those 30 days. Also, if the hospitalization, amputation or loss of an eye occurred more than 24 hours after the incident, it’s NOT necessary to report it to OSHA. In this case, the hospitalization, amputation or loss of an eye needs to occur within 24 hours of the workplace incident. However, regardless of when it occurs, these incidents would still need to be recorded on your injury/illness logs.

There are situational exceptions as well. If the event occurs as a result of an accident on a public highway, reporting is NOT required unless it occurred within a construction zone. If it occurred on public transportation, such as an airplane, train, bus, ferry, etc., it doesn’t need to be reported. If the in-patient hospitalization is for testing or observation only, it’s not necessary to report to OSHA and if the hospitalization was for a heart attack, only a heart attack caused by a work-related incident would count under this reporting rule.

Change 2: Some Industries Now are Exempt From OSHA Recordkeeping While Others Have Lost Their Exemption

Some companies have been exempt from routinely keeping track of OSHA injury and illness records. These have included two categories of companies. The first is companies with 10 or fewer employees. These companies are going to remain exempt under the new rules.

The other group of companies considered partially exempt were in industries with historically low occupational injury and illness rates and were chosen based on the primary Standard Industrial Classification (SIC) code they fell under.

OSHA has revised their regulations to incorporate the North American Industry Classification System (NAICS) codes of 2007-2009 rather than using the old SIC codes of 1996-1998. They’ve taken into account more recent Bureau of Labor data as well. As a result, some industries are now required to keep records. These include (terminology taken from SIC Code description):

|  |  |  |  |
| --- | --- | --- | --- |
| Industries Which Lost the Exemption and Now Are Required to Keep OSHA Logs | | | |
| **Food/Retail**   * Bakeries and Tortilla Manufacturing * Specialty Food Stores * Beer, Wine and Liquor Stores * Special Food Services * Other Miscellaneous Store Retailers * Direct Selling Establishments | **Entertainment**   * Performing Arts Companies * Promoters of Performing Arts, Sports and Similar Events * Museums, Historical Sites, and Similar Institutions * Other Amusement and Recreation Industries | **Professional Services**   * Facilities Support Services * Other Professional, Scientific and Technical Services * Other Support Services | **Health/Human Services**   * Other Ambulatory Health Care Services * Individual and Family Services * Community Food and Housing and Other Emergency and Other Relief Services * Other Personal Services |
| **Equipment**   * Consumer Goods Rental * Commercial and Industrial Machinery and Equipment Rental and Leasing | **Construction**   * Building Material and Supplies Dealers * Services to Buildings and Dwellings | **Real Estate**   * Lessors of Real Estate * Activities Related to Real Estate | **Automotive**   * Automobile Dealers * Automotive Parts, Accessories and Tire Stores |



As there have been industries who now are required to record their OSHA injuries and illnesses, there is a list of 37 industries who will now become exempt from reporting requirements in 2015. These include:

|  |  |  |  |
| --- | --- | --- | --- |
| Industries Who Gained an Exemption and No Longer Need to Keep OSHA Logs | | | |
| **Transportation  and Travel**   * Scenic and Sightseeing Transportation * Freight Transportation Arrangement; * Travel Arrangement and Reservation Services; * Rooming and Boarding Houses; * Other Motor Vehicle Dealers; * Gas Stations | **Communication  and Tech**   * Radio and TV Broadcasting; Wireless Telecommunications Carriers (Except Satellite); * Other Telecommunications; * Other Information Services; * Computer Systems Design and Related Services; * Electronic and Precision Equipment Repair and Maintenance; * Sound Recording Industries | **Professional Services**   * Architectural, Engineering and Related Services * Advertising and Related Services * Management, Scientific and Technical Consulting Services * Management of Companies and Enterprises * Business Support Services * Business Support Services * Investigation and Security Services | **Retail and Personal**   * Electronics and Appliance Stores * Health and Personal Care Stores * Sporting Goods, Hobby, and Musical Instrument Stores * Shoe Stores * Office Supplies, Stationery, and Gift Stores * Death Care Services * Personal and Household Goods Repair and Maintenance |
| **Financial**   * Depository and Credit Institutions * Depository Credit Intermediation * Other Investment Pools and Funds * Insurance Carriers * Other Financial Investment Activities | **Organizational**   * Civic and Social Organizations * Business, Professional, Labor, Political, and Similar Organizations * Other Schools and Institutions | **Industrial**   * Pipeline Transportation  of Crude Oil * Pipeline Transportation  of Natural Gas * Other Pipeline Transportation |  |

Although these companies are not required to keep routine records of injuries and illnesses, they are still required to follow the new fatality, hospitalization, and amputation rules.

For more information, or for a list of affected industries, please read OSHA’s fact sheets or visit the OSHA’s webpage about these new rules (www.osha.gov/recordkeeping2014/index.html). Download OSHA’s fact sheet about the notification requirements at https://www.osha.gov/recordkeeping2014/OSHA3745.pdf and who’s required to now do (or not do) routine reporting at https://www.osha.gov/ recordkeeping2014/OSHA3744.pdf.

If you are a company who now is required to keep OSHA logs and would like to learn how to do so, if you are required to report and want to learn more about what is and isn’t recordable, or if you have any questions, please contact iSi at training@iSienvironmental.com. 

**OSHA’s New Weighted System for Inspection Priorities**

OSHA’s fiscal year has started and with the new year comes a new system for weighting their priorities for inspections. This system is aimed to help them track inspection activity and give regional administrators a guide for prioritizing resources. Inspection weighting has been around since 2015, and prior to that, OSHA would use numbers of inspections to count activity. This led to some inspectors loading up on shorter inspections in order to gain quantity while not giving as much credit to those who were doing the long, complex inspections. So, in 2015, a weighting system based on time of completion was developed. However, OSHA found that this was not as ideal as needed.

The new system factors in agency priorities, inspection impact, and the most hazardous workplaces and operations. Each category of inspection is assigned a numerical value. The most time intensive, complex and high priority inspections gain the most points.

The following is the new points system, from highest value to least value. The points are listed in terms of Enforcement Units, or EUs.

1. **Group A: High-Priority, Time-Intense, Complex Cases [7 EUs]**
   * Criminal Cases
   * Significant Cases
2. **Group B: High-Priority Hazards, More Complex Than Average [5 EUs]**
   * Fatalities and Catastrophes
   * Chemical Plant National Emphasis Program Inspections
   * Process Safety Management Inspections
3. **Group C: Focus Four Emphasis Program**
   * Caught-In Hazards (trenching, equipment operations, oil & gas)
   * Electrical Hazards (overhead power lines, electrical wriring methods)
   * Fall Hazards (scaffolds, elevated walking and working surfaces)
   * Struck-By Hazards (highway work zones, material handling, landscaping)
4. **Group D: Programmed and National Emphasis Program Inspections [3 EUs]**
   * Amputation Hazards
   * Combustible Dust
   * Ergonomics
   * Federal Agency Inspections
   * Heat Hazards
   * Non-PEL Overexposures
   * Workplace Violence
   * Permit Required Confined Space Hazards
   * Personal Occupational Exposure Sampling
   * Site-Specific Targeting
5. **Other Regional/Local Emphasis Programs Not Already Covered (2-3 EUs)**
6. **Group E: All Other Inspections Not Listed (1 EU)**

**Please note, that OSHA can and will still add on any program area to an inspection if they are already at your facility for another issue.**

**Phone/fax/email investigations (e.g., complaints) and rapid response investigations** now earn “activity points.” Once listed as a number 3 priority on the list, now each one of these will **earn 1 activity unit for every 9 completed**.Additional enforcement support activities such as responses to Freedom of Information Act requests, electronic correspondence responses, state plan monitoring and interventions have not gotten units assigned yet.

OSHA has weighted their compliance assistance activities as well, with the following hierarchy from most important to least: 1. Voluntary Protection Program (VPP) evaluations, 2. OSHA Strategic Partnerships activities, 3. OSHA Alliances activities, and 4. Compliance Assistance activities such as making presentations and staffing informational booths.

How would your facility do if it was inspected by OSHA tomorrow? Let iSi help you find out! We can conduct safety audits and mock/test run inspections and then help you prioritize the list starting with your most critical. Contact us for a price quote!

**OSHA Injury Posting Requirements**

It's that time of year again when employers need to post and submit last year's injury and illness data.  Here is a list of timeframes and more information about which companies this affects:

**Posting Injury and Illness Data**

All employers with 11 or more employees must post a copy of their OSHA 300A log from February 1 through April 30.  This needs to be placed in a common area where an employee can easily see it.  Make sure you have a company executive sign and certify it before posting.

**Electronic Submittals to OSHA**

Employers with more than 250 employees and employers with 20-249 employees under certain NAICS codes are required to submit their 300As to OSHA's Injury Tracking Application (ITA) website.  Here's a list of those special industries covered by the recordkeeping rule:  [Covered Industries](https://www.osha.gov/recordkeeping/presentations/covered).

In order to post to the website, you'll need two separate accounts.  First is an account with the Injury Tracking Application website.  The other, new as of October 2022, you'll have to have an account at Login.gov, a secure website the federal government uses for many different applications.   You need to make sure you use the same email address for both so that the records can be connected.

Information can be manually uploaded, uploaded via a CSV file (available as a template from the OSHA ITA website), or transmit it electronically through an API.

If your company has multiple locations, or establishments as they are referred to, you need to report for each establishment, but can use the same ITA account to do it.  A third party can help do this for you, but accuracy and completeness of data is still your company's responsibility.

Even if you have 0 recordables, you still need to report, and if you miss the March 2 deadline, you can still submit at any time of the year.  Just be aware you're not compliant until you do.  If you submit early and find out there was an injury last year that became recordable, they would like for you to update the information, but it's not required.

**What's Recordable, What's Not?**

If you have questions or need help in determining what's recordable and what's not, iSi can help.  We can advise on a case-by-case basis, and we have conducted presentations that cover some of the trickier examples that we can provide through our training program.  [Contact us for pricing](https://isienvironmental.com/pricing/) on either of those.

**Electronic Requirements - Summarized**

Below is a summarized table of requirements.  Are you required to submit OSHA electronic reports?  If you have questions, please contact us!

Table

Description automatically generated

[Click here for a list of NAICS Codes covered industries applicable to this regulation.](https://isienvironmental.com/wp-content/uploads/2017/07/Electronic_Recordkeeping_Companies.pdf)

**Example General Duty Clause Citations to Look for in Your Workplace**

OSHA has a number of regulations that govern many aspects of the workplace. When there is not a specific regulation reference, they will often cite the General Duty Clause.

**What is the General Duty Clause?**

The General Duty Clause is found in Section 5(a)(1) of the Occupational Safety and Health Act. The General Duty Clause requires an employer to furnish to its 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.”*

Employers can be cited for violation of the General Duty Clause if a recognized serious hazard exists in their workplace and the employer does not take reasonable steps to prevent or abate the hazard. The General Duty Clause is used only where there is no OSHA standard that applies to the particular hazard. The following elements are necessary to prove a violation of the General Duty Clause:

1. The employer failed to keep the workplace free of a hazard to which employees of that employer were exposed;
2. The hazard was recognized;
3. The hazard was causing or was likely to cause death or serious physical harm; and
4. There was a feasible and useful method to correct the hazard.

OSHA cannot just cite anything under the clause, but there is a lot of room for interpretation of the effects of the hazard. The hazard needs to be recognized by that industry, another industry, or another entity as a hazard. It can be something that would be considered a common sense hazard or is something that could cause or likely cause serious harm or death. It must be correctible, and if injuries have been documented related to it, it can be cited.

**Examples of General Duty Clause Citations**

While OSHA has issued citations under the General Duty Clause for a wide variety of issues including risk of lightning strikes to employees, there are a number of situations OSHA has cited that have been consistent and steady over the years.

Some common violations that OSHA would use the General Duty Clause:

* Boilers not inspected and maintained
* Cell phone use while driving
* Combustible dust hazards
* Ergonomic hazards
* High visibility clothing not provided where struck by hazard exists with vehicular traffic
* Industrial storage racking not:
  + Having maximum permissible load amount posted,
  + Not secured in place where there is potential to be tipped over, or
  + Significant damage
* Personal fall protection equipment not inspected on annual basis
* Powered Industrial Truck (forklift) drivers not wearing a seatbelt while operating
* Respiratory hazards from an air contaminant that is not covered by an OSHA permissible exposure limit (PEL)
* Safety latch not in use on crane
* Storing incompatible chemicals together
* Structural damage to building causing struck by hazard
* Thermal stress (high heat and cold)
* Workplace violence risk that goes unmitigated

**Explaining How OSHA Fines are Calculated, as OSHA Raises Penalty Prices for 2021**

OSHA raised its maximum and minimum penalty dollar amounts with a cost of living adjustment.

These new rates go into effect January 15, 2021:

|  |  |  |
| --- | --- | --- |
| **Violation** | **Minimum $ Penalty** | **Maximum $ Penalty** |
| Serious | $964/violation | $13,653/violation |
| Other-Than-Serious | $0/violation |
| Willful or Repeated | $9,639/violation |
| Posting Requirements | $0/violation |
| Failure to Abate | N/A | $13,653/day unabated beyond the abatement date (~30 days maximum) |

*Note: These are the federal limits. State programs are required adopt maximum levels*

*that are at least as effective as Federal OSHA*.

There are maximum and minimum amounts, but most fall somewhere in between. How are OSHA fines calculated?

**The Violation Categories**

**Serious** violations are considered high, medium or low severity. **Other-Than-Serious** violations are minimal severity.

**Willful** violations are cited when employers knowingly fail to comply or when they act with indifference to employee safety.

**Repeated** violations occur when an employer has been previously cited for the same or substantially similar condition. For serious violations, these are ones that have been a part of OSHA’s regionwide inspection history where an OSHA Notice was issued within the past 5 years. For other-than-serious violations, it’s for those where the establishment being inspected received an OSHA Notice within the past 5 years.

The **Posting Requirements** violation is issued when you fail to follow through on your requirement to post your OSHA Notice at or near the place where each violation occurred for 3 working days, or until the hazard is abated (whichever is longer).

**Failure to Abate** violations occur when you receive a Notice of Unsafe or Unhealthful Working Conditions and a follow-up inspection finds that you did not do your required posting, did not correct the violation and/or did not adequately protect employees and make appropriate progress in correcting the hazard before the abatement date that was listed on your notice.

**Calculating Violation Amounts**

There are a number of factors that actually can determine how much your penalty will be. There are four major categories of factors that go into the calculation:

* Gravity of violation
* History of violations
* Good faith efforts of the employer
* Business size

***Gravity Based Penalty Amounts***

First, the gravity of the violation is calculated. The Gravity Based Penalty (GBP) Amount looks at the level of severity (low, medium and high) and the probability, that is likelihood an injury or illness will occur (greater or lesser).

**Severity + Probability = Gravity Based Penalty Amount**

Here are the Gravity Based Penalty Amounts for 2021:

| **Severity** | **Probability** | **GBP** | **Gravity** |
| --- | --- | --- | --- |
| **Serious Violations** | | | |
| High | Greater | $13,653 | High |
| Medium | Greater | $11,703 | Moderate |
| Low | Greater | $9,753 | Moderate |
| High | Lesser | $9,753 | Moderate |
| Medium | Lesser | $7,802 | Moderate |
| Low | Lesser | $5,851 | Low |
| **Other-Than-Serious** | | | |
| Minimal | Greater | $1,000-$13,653 |  |
| Minimal | Lesser | $0 |

Combined or grouped violations can be considered one citation item. Multiple violations of the same standard can also be combined into one citation item. Expect the one with the highest gravity factor (severity or probability) to be used to determine the GBP.

***History Reductions***

A 10% reduction in penalty costs can be given to companies who have been inspected by OSHA and have had no serious, willful, repeat or failure-to-abate violations. If your company hasn’t been inspected within 5 years, you’re not eligible for this discount. If you’ve had a serious high gravity citation that became a final order, you could actually see a 10% increase in your costs.

***Good Faith Reductions***

A maximum discount of 25% can be given for good faith efforts. The maximum 25% discount requires you to have a written health and safety management system. This would include a system outlining:

* Management commitment and employee involvement
* Hazard identification worksite analyses
* Hazard prevention and control measures
* Safety and health training
* Addressing needs of workers less than 18 years old (if applicable)
* Addressing needs of workers who speak limited or no English (if applicable)

A 15% reduction may be given if the employer has a documented and effective safety and health management system with only incidental deficiencies.

Good faith discounts will NOT be given for high gravity, willful, repeated, and failure to abate violations, or if you’ve reported a fatality, inpatient hospitalization, amputation or an eye loss.

***Business Size Reductions***

A maximum 70% reduction can be gained based on your company size. OSHA wanted to create a scale where they could minimize the impact to small businesses. This reduction applies to businesses with 250 or less employees total nationwide. Companies with 1-10 employees can get the 70% reduction, 11-25 employees a 60% reduction, 26-100 is 30%, and 101-250 is 10%.

***Quick Fix Reductions***

If you’re able to make an immediate correction to an individual violation and that correction is (1) permanent or substantial (e.g., not just moving someone out of the way), not blatantly obvious (e.g., wearing a hard hat or safety glasses), and not a high gravity serious/willful/repeat/failure to abate violation, you can get a 15% Quick Fix reduction. This one is applied after the good faith and history adjustments are made.

**Limits of Discounts**

Different discounts can be rescinded or altered depending on the circumstance or type of violation.

Repeated violations will only be reduced for size. Repeated violations can actually have their penalties increased, and those increases are also based on size.

Willful violations are only eligible for a size and history discount. Willful violations have their own size chart of reduction percentages.

Serious violations classified as higher severity/greater probability are only eligible for the size and history.

**Other Penalties**

OSHA has additional calculation guidelines for a number of other circumstances including:

* Unabated violations;
* Daily penalty multipliers;
* Partial abatements;
* Violation-by-violation egregious penalties;
* Multi-employer worksites;
* Federal Agency significant cases;
* Failure to post citations;
* Failure to notify authorized employees of an advance notice of inspection;
* Injury and illness reporting and recordkeeping;
* Failure to provide access to medical and exposure records;
* Failure to notify and tag; and,
* Failing to certify abatement.

You can find all of the details about these penalties and reductions in OSHA’s [Field Operations Manual section on penalties](https://www.osha.gov/enforcement/directives/cpl-02-00-164/chapter-6).

2021 adjustments and rates can be found in [OSHA’s Enforcement Memo](https://www.osha.gov/memos/2021-01-11/2021-annual-adjustments-osha-civil-penalties) dated January 8, 2021.

If you find yourself needing help sorting these out, or if you’d like to get started on a safety and health management system to get started on a potential good faith discount, contact us!

|  |  |  |  |
| --- | --- | --- | --- |
| DOL/OSHA | Prerule Stage | Process Safety Management and Prevention of Major Chemical Accidents | [1218-AC82](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AC82) |
| DOL/OSHA | Prerule Stage | Emergency Response | [1218-AC91](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AC91) |
| DOL/OSHA | Prerule Stage | Mechanical Power Presses Update | [1218-AC98](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AC98) |
| DOL/OSHA | Prerule Stage | Prevention of Workplace Violence in Health Care and Social Assistance | [1218-AD08](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AD08) |
| DOL/OSHA | Prerule Stage | Blood Lead Level for Medical Removal | [1218-AD10](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AD10) |
| DOL/OSHA | Prerule Stage | Heat Illness Prevention in Outdoor and Indoor Work Settings | [1218-AD39](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AD39) |
| DOL/OSHA | Proposed Rule Stage | Infectious Diseases | [1218-AC46](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AC46) |
| DOL/OSHA | Proposed Rule Stage | Amendments to the Cranes and Derricks in Construction Standard | [1218-AC81](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AC81) |
| DOL/OSHA | Proposed Rule Stage | Shipyard Fall Protection--Scaffolds, Ladders and Other Working Surfaces | [1218-AC85](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AC85) |
| DOL/OSHA | Proposed Rule Stage | Communication Tower Safety | [1218-AC90](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AC90) |
| DOL/OSHA | Proposed Rule Stage | Update to the Hazard Communication Standard | [1218-AC93](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AC93) |
| DOL/OSHA | Proposed Rule Stage | Lock-Out/Tag-Out Update | [1218-AD00](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AD00) |
| DOL/OSHA | Proposed Rule Stage | Tree Care Standard | [1218-AD04](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AD04) |
| DOL/OSHA | Proposed Rule Stage | Occupational Exposure to Crystalline Silica; Revisions to Table 1 in the Standard for Construction | [1218-AD18](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AD18) |
| DOL/OSHA | Proposed Rule Stage | Welding in Construction Confined Spaces | [1218-AD23](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AD23) |
| DOL/OSHA | Proposed Rule Stage | Personal Protective Equipment in Construction | [1218-AD25](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AD25) |
| DOL/OSHA | Proposed Rule Stage | Powered Industrial Trucks Design Standard Update | [1218-AD26](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AD26) |
| DOL/OSHA | Proposed Rule Stage | Occupational Exposure to Crystalline Silica: Revisions to Medical Surveillance Provisions for Medical Removal Protection | [1218-AD31](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AD31) |
| DOL/OSHA | Proposed Rule Stage | Improve Tracking of Workplace Injuries and Illnesses | [1218-AD40](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AD40) |
| DOL/OSHA | Proposed Rule Stage | Massachusetts State and Local Government Only State Plan--Initial State Plan Approval | [1218-AD41](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AD41) |
| DOL/OSHA | Proposed Rule Stage | Arizona State Plan for Occupational Safety and Health | [1218-AD43](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AD43) |
| DOL/OSHA | Final Rule Stage | Procedures for the Handling of Retaliation Complaints Under the Taxpayer First Act | [1218-AD27](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AD27) |
| DOL/OSHA | Final Rule Stage | Walking Working Surfaces | [1218-AD28](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AD28) |
| DOL/OSHA | Final Rule Stage | Procedures for Handling of Retaliation Complaints Under the Whistleblower Protection Statutes | [1218-AD30](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AD30) |
| DOL/OSHA | Final Rule Stage | Subpart U--Emergency Temporary Standard--COVID-19 | [1218-AD36](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AD36) |
| DOL/OSHA | Final Rule Stage | Procedures for the Handling of Retaliation Complaints Under the Anti-Money Laundering Act | [1218-AD37](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AD37) |
| DOL/OSHA | Final Rule Stage | Procedures for the Handling of Retaliation Complaints under the Criminal Antitrust Anti-Retaliation Act | [1218-AD38](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AD38) |
| DOL/OSHA | Final Rule Stage | COVID-19 Vaccination and Testing Emergency Temporary Standard Rulemaking | [1218-AD42](https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=1218-AD42) |