

# OSHA Regulatory Update



October 2021



# OSHA OKLAHOMA CITY AREA OFFICE

5104 N. Francis Ave, Suite 200

Oklahoma City, OK 73118

(405) 608-4160

[www.osha.gov](http://www.osha.gov)

1-800-321-OSHA



# AREA OFFICE STAFF

- Steven Kirby, AD
- Meghan Christie, AAD
- Carmen Martinez, AAD
- Jorge Delucca, CAS, VPP Coordinator
- Renato Uribe, Whistleblower Investigator
- 12 CSHO's

# OSHA Updates:

- Region VI Regional Emphasis Program Update
- National Emphasis Program Update
- Emergency Temporary Standard Update
- COVID-19 Guidance Update
- Severe Injury Data Update
- Fatality Data Update
- Penalty Update



# The AREA OFFICE

## Enforcement

- Local Emphasis Programs (LEP)
- Regional Emphasis Programs (REP)
- National Emphasis Programs (NEP)
- Complaints
- Hospitalizations, Amputations, and Loss of an Eye
- Fatalities and Catastrophes

## Cooperative

- Alliances
- VPP
- National Initiatives
  - ❖ Fall Prevention Campaign
  - ❖ Heat Illness Prevention Campaign
  - ❖ Trenching and Excavation Safety Initiative
  - ❖ Safe + Sound



# COOPERATIVE PROGRAMS

## ALLIANCES

*A cooperative program that gives the industry, associations, and OSHA a means to address emerging issues to further prevent injuries, illnesses, and fatalities.*

### OKAO Alliances:

- Oklahoma Safety Council
- American Society of Safety Professionals (ASSP, Tulsa and OKC Chapters)
- MCEPS (Mid-Continent Exploration and Production Safety Network)
- Francis Tuttle Technology Center
- Oklahoma Section of the American Industrial Hygiene Association
- Mexican Consulate in Little Rock, AR
- Oklahoma Municipal Contractors Assoc.
- The Associated General Contractors of Oklahoma
- Latino Community Development Agency
- Associated Builders & Contractors of Oklahoma



# ENFORCEMENT PROGRAMS

## REGIONAL EMPHASIS PROGRAMS

- Falls in Construction & General Industry
- Cranes in Construction
- Upstream Oil & Gas Industry
- Fabricated Metal Products
- Construction
- Grain Handling Facilities
- High Noise in Manufacturing Industries
- Health Hazards in Healthcare Facilities
- Heat Illnesses
- Poultry Processing Facilities
- Fertilizer Grade Ammonium Nitrate (FGAN)
- **\*\*New\*\*** Transportation Tank Cleaning



# Region VI REP Update...

## Transportation Tank Cleaning Operations

CPL 2 02-00-032

- Went into effect July 23, 2021, with outreach till mid October
- Enforcement will begin the last week of October
- REP focuses on workers exposure to hazards while engaged in the cleaning, repair, and maintaining of transportation tanks.
- Transportation tanks meet the definition of a Confined Space as stated in 29 CFR 1910.146, Permit-Required Confined Spaces
- FY 2016 - 2021, Region VI initiated 165 inspection activities within the industry
  - ❖ Entrants and would be rescuers were incapacitated by an unidentified hazardous atmosphere inside the space.
  - ❖ This resulted in 318 violations. 36 were initiated as a result of a workplace fatality.





# ENFORCEMENT PROGRAMS

## NATIONAL EMPHASIS PROGRAMS

- Trenching and Excavation
- Hexavalent Chromium
- Lead
- PSM Covered Chemical Facilities
  - Category 1 – Petroleum Refineries
  - Category 2 – Ammonia facilities
  - Category 3 – Chemical Manufacturers
  - Category 4 – Facilities likely to be PSM covered not in Cat 1, 2, or 3.
- Primary Metal Industries
- Ship Breaking
- Combustible Dust
- Hazardous Machinery/Amputations



# NEP Update...

## Revised National Emphasis Program Protecting Workers from COVID-19 Exposure

- March 2021: OSHA first issued an NEP to protect workers from COVID-19.
- July 2021: OSHA issued a Revised NEP for COVID-19, canceling March NEP.
- Revised NEP is based on the latest scientific guidance, a review of enforcement data from the March NEP, and issuance of the ETS for COVID-19 in healthcare.



# NEP Update...

## Revised National Emphasis Program Protecting Workers from COVID-19 Exposure

### Focus:

- Specific high-hazard industries or activities where COVID-19 is prevalent.
- Healthcare and non-healthcare settings most commonly encountered in OSHA COVID-19 enforcement activities.
- Preventing retaliation against workers who complain about unsafe or unhealthful conditions or exercise other rights.



# NEP Update...

## Revised National Emphasis Program Protecting Workers from COVID-19 Exposure

**Revised NEP was adjusted to focus on industries within the predominant sectors with increased potential exposures.**

- Removed List of Secondary Target Industries (Appendix B from March NEP).
- Those industries will no longer be a targeting source for programmed inspections.



# NEP Update...

## Revised National Emphasis Program Protecting Workers from COVID-19 Exposure

- **Inspections will follow current priorities:**
  - Unprogrammed
  - Follow Up
  - Programmed
- **Healthcare inspections will follow the Compliance Directive, Inspection Procedures for the COVID-19 Emergency Temporary Standard.**
- **Non-healthcare inspections will follow the June 2021 Updated Interim Enforcement Response Plan.**



# NEP Update...

## Revised National Emphasis Program Protecting Workers from COVID-19 Exposure

### Programmed inspections

- Target list includes only industries in Appendix A.
- Area Offices may use discretion to delete establishments from targeting lists based on local knowledge.
- Two Master Lists for each Area Office to choose from:
  - ❖ Master List 1 includes all establishments with NAICS code listed in Appendix A
  - ❖ Master List 2 includes establishments based on ITA data, with NAICS listed in Appendix A and an elevated illness rate.



# NEP Update...

## Revised National Emphasis Program Protecting Workers from COVID-19 Exposure

- **Outreach and Compliance Assistance**
  - Nationwide outreach with industry, labor, and alliances upon issuance of NEP and throughout the duration of the pandemic.
  - Continued outreach using products and activities:
    - New information shared through letters, news releases, social media, and QuickTakes.
    - Seminars tailored to specific audiences.
    - Working with national and regional offices of federal agencies.



# Standard Update...

## **Emergency Temporary Standard (ETS) to Protect Healthcare Workers**

Issued June 10, 2021

The ETS provides protections for workers facing the highest COVID-19 hazards— those in healthcare settings where suspected or confirmed COVID-19 patients are treated.

### **ETS Regulatory Text (29 CFR 1910, Subpart U)**

- **1910.502 - Healthcare.**
- **1910.504 - Mini Respiratory Protection Program.**
- **1910.505 - Severability.**
- **1910.509 - Incorporation by Reference.**

### **Federal Register**

<https://www.osha.gov/coronavirus/ets>





# Standard Update...

## **Emergency Temporary Standard (ETS) to Protect Healthcare Workers**

### **Effective Dates:**

- Effective on June 21, 2021.
- Review the standard in its entirety for effective dates.

**OSHA will continue to monitor COVID-19 vaccination efforts, virus variants, and other factors as the pandemic continues, and will update the ETS as appropriate.**

[osha.gov/coronavirus/ets](https://osha.gov/coronavirus/ets)



# Guidance Update...

## Updated Guidance on COVID-19 for All Industries

- June 10, 2021: Updated guidance in conjunction with the ETS for healthcare.
  
- August 13, 2021: Guidance updated to reflect CDC recommendations for fully vaccinated people to reduce risk related to Delta variant, including:
  - Wearing a mask in public indoor settings in areas with high transmission.
  - Choosing to wear mask regardless of transmission.
  - Testing and masking in public indoor settings after known exposure.

<https://www.osha.gov/coronavirus>



# Guidance Update...

## Updated Guidance on COVID-19 for All Industries

Updated Guidance:

- Expands information on measures to protect workers in higher-risk workplaces with mixed-vaccination status workers.
- Places special emphasis on manufacturing, meat, poultry and seafood processing, and high-volume retail and grocery settings.
- Emphasizes vaccination as optimal step to protect workers.
- Encourages employers to engage with workers on multi-layered approaches.

<https://www.osha.gov/coronavirus>



# Severe Injury Reports in OK

## **FY2019**

### **244 Total Severe Injury Reports**

- 183 Hospitalizations
- 61 Amputations

### **188 Rapid Response Investigations**

### **56 Onsite Inspections**

- 16 amputations (26%)
- 40 hospitalizations (22%)

## **FY2020**

### **202 Total Severe Injury Reports**

- 150 Hospitalizations
- 52 Amputations

### **144 Rapid Response Investigations**

### **49 Onsite Inspections**

- 7 amputations (13 % of reported)
- 42 hospitalizations (28% of reported)



# FY 2021 year to date Severe Injury Reports in OK

## **248 Total Severe Injury Reports**

- 195 Hospitalizations
- 53 Amputations

## **201 Rapid Response Investigations**

### **Onsite Inspections**

- 39 hospitalizations (20% of reported)
- 8 amputations (15 % of reported)



# Fatalities in Oklahoma

## FY 2020:

- 28 Fatality Events
- 29 Worker Deaths
  
- 14 General Industry
- 14 Construction

## FY 2021:

- 39 Fatality Events
- 40 Worker Deaths
  
- 26 General Industry
- 8 Construction
- 5 Oil and Gas

# Fatality Event Types

## FY 2020:

- 9 Fall from Height
- 8 Struck by or Crushed by
- 1 Fire
- 1 Electrical Shock
- 1 Confined Space
- 3 Work Place Violence
- 2 Covid Related
- 1 Work Zone
- 1 Natural Causes
- 1 Heat related

## FY 2021:

- 1 Fall from Low Level
- 3 Fall from Height
- 16 Struck by or Crushed by
- 9 COVID Related
- 2 Natural Causes (Under investigation)
- 4 Fire and Explosion
- 3 Electrocution
- 1 Asphyxiation
- 1 Heat Related

# Citations and Penalties

- Penalties are tied to the consumer index.
- Each year the penalty increases based on this consumer index.
- It normally increases 2-3%, however, there is a potential significant increase the penalties for FY2022.



# Citations and Penalties

## VIOLATION TYPE

**WILLFUL:** OSHA may propose penalties of up to **\$136,532** for each willful violation.

**SERIOUS:** There is a mandatory penalty for serious violations which may be up to \$13,653.

**OTHER-THAN-SERIOUS:** OSHA may propose a penalty of up to \$13,653 for each other-than-serious violation.

**REPEATED:** Penalties based on the same criteria as SERIOUS or OTHER-THAN-SERIOUS with multipliers ranging from x2 to x10



# NEW PENALTY STRUCTURE

## Adjustment Factor for Size of Employer

Employees	Percent Reduction
1 – 10	70
11 - 25	60
26 - 100	30
101 – 250	10
251 or more	None

# Expanded reporting requirements

- **Method of reporting:**
  - ✓ By telephone to the [nearest OSHA Area Office](#) during normal business hours.
  - ✓ By telephone to the 24-hour OSHA hotline (1-800-321-OSHA or 1-800-321-6742).
  - ✓ Electronically through OSHA's website.
- Fatality reporting remains unchanged at 8 hours of the employer becoming aware



# How This Works:



Report the incident if the amputation, loss of eye, hospitalization occurred within 24 hrs. of the workplace incident

# Employees Have the Right to:

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



Questions??

**THANK YOU**

