

## 2014 OSHA Initiatives: Temporary Workers, Combustible Dust, Silica and Fall Prevention

2014 is a busy year for the Occupational Safety and Health Administration of the U.S. Department of Labor (OSHA) and workplaces regulated by the agency. Programs emphasized by OSHA include:

Temporary workers	Nursing homes	Dairy farms
Fall prevention	Lead	Grain handling
Combustible dust	Silica	<a href="#">Isocyanates</a>

This e-alert focuses on four of these initiatives: temporary workers, combustible dust, silica and fall prevention.

### Temporary Workers

Temporary workers include those who work under a host employer or under a staffing agency employment structure. According to OSHA, there are 3 million temporary workers in the nation's workforce today and "[a]t least 14 temporary workers have died during their **first** day at a new worksite in the past 12 months." (*June 2013 Statement by Dr. David Michaels, Assistant Secretary of Labor, emphasis added.*)

OSHA is concerned that some employers may use temporary workers as a way to skirt around OSHA's employee training, chemical hazard communication and on-the-job injury and illness recordkeeping requirements. Therefore, the agency is focusing on this category of workers in 2014. An April 29, 2014 memorandum to agency administrators directs field inspectors to assess whether employers who use temporary workers are complying with the Occupational Safety and Health Act. OSHA requires its compliance officers to determine during inspections whether temporary workers on the site have received the safety training and protection required by the OSHA Act for the job. For example, OSHA inspectors will focus on whether temporary workers are trained and communicated with in a language and vocabulary that the temporary workers understand.

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According to OSHA, "[s]taffing agencies and their client employers who host temporary workers share the legal obligations to provide workplaces free of recognized hazards." In other words, OSHA believes that employers and staffing agencies are jointly responsible for the safety of their temporary workers.

In OSHA's eyes, host employer responsibilities include:

- communicating with the staffing agency at the beginning of the workers' engagement to set out their respective responsibilities for compliance with applicable OSHA standards;
- evaluating hazards to temporary workers (because the employer is in the best position to prevent and correct hazards); and
- recording occupational injuries and illnesses, as long as the employer maintains day-to-day supervision over the worker.

OSHA contends that staffing agency responsibilities include:

- inquiring about the conditions of the worker's workplace;
- ensuring that the workplace is safe; and
- auditing the host employer's worksite to determine what conditions exist at the employer's workplace, what hazards may be encountered and how best to ensure protection for the temporary workers.

If a temporary worker sustains an on-the-job injury or illness and the host employer knows about it, the staffing agency should be informed so that the staffing agency knows the hazards facing its workers. The Temporary Worker Initiative (TWI) – Bulletin No. 1 can be accessed on [OSHA's](#) website. This is the first in a series of guidance documents issued by OSHA's TWI.

## Combustible Dust

Combustible dusts are finely sized particles that can explode when suspended in air under certain conditions. Since 1980, multiple explosions related to combustible dust have killed well over 100 workers and injured many more. The recent mine disaster in Turkey is likely related to a combustible dust explosion.

Types of dusts susceptible to potential explosions include metal dust, plastic dust, biosolids, coal dust and organic dust (such as flour, sugar and paper). However, all five of the following elements must be present in order for a combustible dust explosion to occur:

- Fuel (*i.e.*, combustible dust);

- Heat (*i.e.*, the ignition source);
- Oxygen;
- Dispersion of dust particles in sufficient quantity and concentration; and
- Confinement of the dust cloud.

Furthermore, an initial explosion may dislodge additional accumulated dust into the air. If ignited, the air-entrained dust may cause one or more secondary explosions, which may be more damaging than the initial explosion.

Employers with potential combustible dust risks should take all necessary steps to prevent an explosion and thus eliminate the hazard it can create. See [OSHA Fact Sheet](#) regarding Combustible Dust Explosions and recommendations to prevent such explosions.

## Silica

OSHA is working to establish a more stringent permissible exposure limit (PEL) for silica in the air. The current PEL for silica is 100 micrograms of respirable crystalline silica per cubic meter of air (100  $\mu\text{g}/\text{m}^3$ ) for general industry. OSHA is proposing a PEL of 50  $\mu\text{g}/\text{m}^3$ . Numerous comments were provided during the rule's comment period, delaying promulgation of the proposed regulation. We will update you on OSHA's progress toward promulgating the new standard, how it is implemented, and whether it affects the frac sand mining currently being conducted in western Wisconsin.

## Fall Protection

For several years, falls have been in the top ten OSHA violations. In fact, three of the top ten recent common OSHA violations are related to [working at heights](#), and roughly one third of construction fatalities result from falls. This high percentage does not even include all the injuries related to falls. Thus, OSHA has targeted fall prevention as an enforcement priority.

OSHA has prepared several guidelines, fact sheets and videos regarding fall protection. The agency also has partnered with other institutions to create an outreach program to raise awareness among workers and employers about hazards from falls in construction. OSHA's fall protection campaign consists of three elements:

- Plan ahead to get the job done safely.
- Provide the right equipment.



- Train everyone to use the equipment safely.

OSHA is sponsoring the [National Fall Prevention Stand-Down](#) during the week of June 2 through June 6, 2014. The Stand Down is a voluntary opportunity for employers to talk directly with their employees about "Fall Hazards" and to reinforce "Fall Prevention." Employers and workers are asked to pause during their workday to talk about fall prevention in construction and discuss ladder safety, scaffolding safety, roof working safety and other related topics.

Please contact us with your questions or to address any concerns you might have regarding OSHA compliance issues or OSHA's enforcement efforts.

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