

Current OSHA Enforcement Initiatives

The new mantra of the Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor – "The Sheriff is Back" – should serve as a wake-up call to businesses that do not take their employees' on-the-job safety and health seriously enough, as far as OSHA is concerned. Enforcement is on the rise, and OSHA's initiatives are aggressive.

Site-Specific Targeting Inspection Plans for 2010

Each year, OSHA targets establishments for inspection based on job-related injury and illness information obtained from its Data Initiative survey. The 2009 survey was sent to approximately 100,000 establishments that OSHA believes typically have higher than average occupational injury and illness rates. Based on 2009 survey results, OSHA recently released its Site-Specific Targeting Plan for 2010 (SST 10 Plan), which focuses heavily on manufacturing establishments that employ 40 or more people. OSHA will also randomly inspect establishments that did not respond to the 2009 Data Initiative survey.

The SST 10 Plan uses Days Away, Restricted and Transfer (DART) and Days Away From Work Injury and Illness (DAFWII) rates to select establishments for potential inspection by OSHA. DART rates refer to cases involving days away from work, restricted work activity, and job transfers. The DAFWII rate is the number of cases that involve days away from work per 100 full-time equivalent employees. Establishments with the following DART and DAFWII rates are the primary focus for potential OSHA inspections:

- Manufacturing establishments with a DART rate at or above 7.0, or a DAFWII rate at or above 5.0 (approximately 3,300 sites initially selected).
- Non-manufacturing establishments (except for nursing and personal care facilities) with a DART rate at or above 15.0, or a DAFWII rate at or above 14.0 (approximately 500 sites initially selected).
- Nursing and personal care facilities – Establishments in SIC code 805 with a DART rate at or above 16.0, or a DAFWII rate at or above 13.0 (approximately 300 sites initially selected).

Although 2009 survey results are already being reviewed by OSHA, employers should get their workplace safety affairs in order for future surveys by decreasing their DART and DAFWII rates. Doing so will benefit both employers and

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employees.

Business Safety and Health Practices Survey

In addition to targeting employers with higher injury and illness rates "after the fact," OSHA is engaging in rulemaking (Docket No. OSHA 2010 0033) to require employers to establish on-the-job injury and illness prevention programs. The programs will monitor and more effectively implement "best practices" to mitigate workplace hazards and reduce the incidence of employee injuries and illness. OSHA believes that widespread implementation of such programs will substantially improve overall workplace safety. To support this rulemaking effort, OSHA proposes to survey private sector establishments in non agricultural industries. The goal is to develop industry-specific, statistically accurate estimates of current baseline safety and health practices among establishments that may identify the key elements of effective injury and illness prevention programs.

Additionally, OSHA is proposing to conduct up to 50 on-site visits to employers. During its onsite visits, OSHA will collect information on current employer practices and solicit information from employers on how they would comply with such a regulation and what time or expense would be required to comply. These employers could potentially be affected by a new OSHA regulatory standard that could require a management program or system to address workplace hazards.

OSHA would like to receive public comments on the following issues:

- The necessity and usefulness of the proposed information collection requirements for the proper performance of OSHA enforcement functions.
- The accuracy of OSHA's estimate of the burden (time and cost) of the information collection requirements.
- The quality, utility, and clarity of the information collected.
- The ways to minimize the burden on employers that must comply.

Comments on the proposed information collection request must be submitted to OSHA by October 12, 2010.

Globally Harmonized Hazard Communication System (GHS)

OSHA's proposed rule to revise its Chemical Hazard Communication Standard in accordance with the GHS will be published in the Federal Register on September



30, 2010, as mentioned in the February 2, 2010 edition of [Reinhart's Headlines in Labor and Employment Law](#). The GHS was developed to provide a single harmonized system to classify chemicals, labels and material safety data sheets on a consistent quality basis for workers, employers and chemical users. According to OSHA, "(F)ollowing the GHS approach will increase workspace safety, facilitate international trade in chemicals and generate cost savings from production efficiencies for firms that manufacture and use hazardous chemicals."

Please contact your Reinhart attorney or a member of the Labor and Employment team if you have questions about these OSHA enforcement initiatives or other OSHA-related matters.

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