

WorkSmarts Virtual Seminar

Compliance, Compliance, Compliance!

MAY 8, 2024

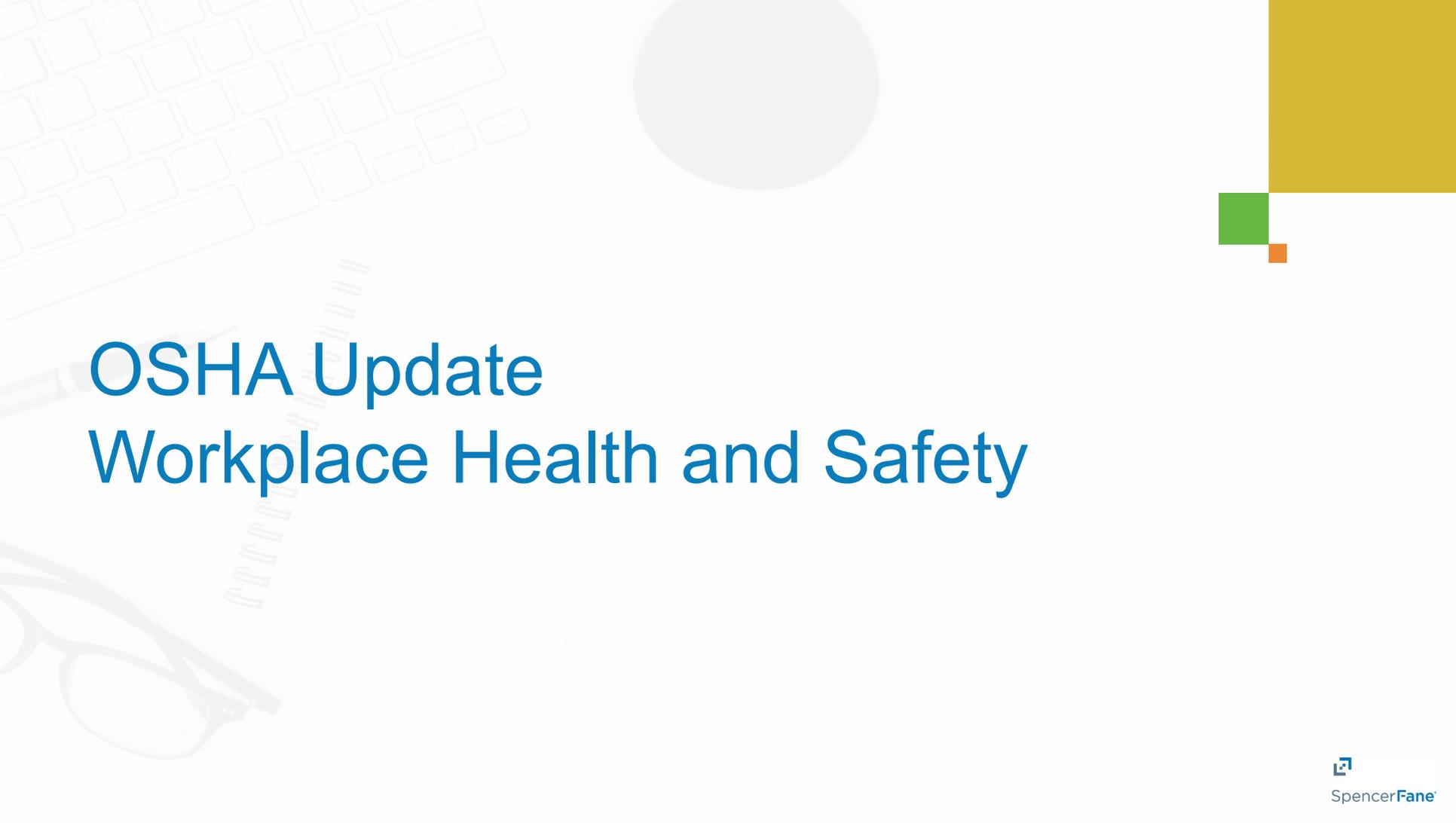
Andrew Brought and Elaisha Nandrajog



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Agenda

- OSHA Update
- Workplace Violence Update
 - Federal OSHA Update
 - California's New Workplace Violence Prevention Law



OSHA Update Workplace Health and Safety



2024 OSHA Update

- Employee Representation During OSHA Inspection
- Heat-Related Hazards (Outdoor and Indoor Heat)
- Most-Frequently Cited Standards
- Increased Civil and Criminal Enforcement
- Injury and Illness Recordkeeping – ITA Annual Electronic Submittal

Employee Representation During Inspection

- Section 8(e) of OSH Act, 29 USC 657(e):
 - Subject to regulations issued by the Secretary, a representative of the employer and a representative authorized by his employees shall be given an opportunity to accompany the Secretary or his authorized representative during the physical inspection of any workplace under subsection (a) for the purpose of aiding such inspection. Where there is no authorized employee representative, the Secretary or his authorized representative shall consult with a reasonable number of employees concerning matters of health and safety in the workplace.

Employee Representation During Inspection

- New Final Rule - 89 Fed. Reg. 22558
- Issued April 1 - Effective May 31, 2024
- Amends 29 CFR 1903.8

 **22558** Federal Register / Vol. 89, No. 63 / Monday, April 1, 2024 / Rules and Regulations

DEPARTMENT OF LABOR
Occupational Safety and Health Administration

29 CFR Part 1903
[Docket No. OSHA-2023-0008]
RIN 1218-ADMS

Worker Walkaround Representative Designation Process

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.
ACTION: Final rule.

SUMMARY: In this final rule, OSHA is amending its Representatives of Employers and Employees regulation to clarify that the representative(s) authorized by employees may be an employee of the employer or a third party; such third-party employee representative(s) may accompany the OSHA Compliance Safety and Health Officer (CSHO) when, in the judgment of the CSHO, good cause has been shown why they are reasonably necessary to aid in the inspection. In the final rule, OSHA also clarified that a third party may be reasonably necessary because of their relevant knowledge, skills, or experience with hazards or conditions in the workplace or similar workplaces, or language or communication skills. OSHA concluded that these clarifications aid OSHA's workplace inspections by better enabling employees to select representative(s) of their choice to accompany the CSHO during a physical workplace inspection. Employee representation during the inspection is critically important to ensuring OSHA obtains the necessary information about worksite conditions and hazards.

DATES:
Effective date: This final rule is effective on May 31, 2024.
Docket: To read or download comments or other information in the docket, go to Docket No. OSHA-2023-0008 at <https://www.regulations.gov>. All comments and submissions are listed in the <https://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through that website. All comments and submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693-2356 (TTY number 877-489-5627) for assistance in locating docket submissions.

When citing exhibits in the docket in this final rule, OSHA includes the term

"Document ID" followed by the last four digits of the Document ID number. Citations also include, if applicable, page numbers (designated "p."), and in a limited number of cases a footnote number (designated "Fn."). In a citation that contains two or more Document ID numbers, the Document ID numbers are separated by semi-colons (e.g., 0001; 0002).

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Copies of this Federal Register notice and news releases: Electronic copies of these documents are available at OSHA's web page at <https://www.osha.gov>.

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I. Executive Summary

Since the Occupational Safety and Health Act of 1970 (OSH Act or Act) was passed in 1970, section 8(e) of the OSH Act has required that, subject to regulations issued by the Secretary of Labor (via OSHA), a representative of the employer and a representative authorized by employees "shall" each have the opportunity to accompany OSHA during the physical inspection of the workplace (i.e., "the walkaround") for the purpose of aiding OSHA's inspection. One of section 8(e)'s implementing regulations, at 29 CFR 1903.8(c), provided that a representative authorized by employees "shall be an employee(s) of the employer." However, that regulation also created an exception for "a third party who is not an employee of the employer" when, "in the judgment of the Compliance Safety and Health Officer, good cause has been shown" why the third party was "reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace." 29 CFR 1903.8(c) (1971). The regulation pointed to two non-exhaustive examples—a safety engineer and an industrial hygienist.

While OSHA has long permitted employee representatives to be third parties pursuant to 29 CFR 1903.8(c), in

Employee Representation During Inspection

Previous 29 CFR 1903.8(c)

The representative(s) authorized by employees shall be an employee(s) of the employer. However, if in the judgment of the Compliance Safety and Health Officer, good cause has been shown why accompaniment by a third party who is not an employee of the employer (such as an industrial hygienist or a safety engineer) is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace, such third party may accompany the Compliance Safety and Health Officer during the inspection.

New 29 CFR 1903.8(c)

The representative(s) authorized by employees may be an employee of the employer or a third party. When the representative(s) authorized by employees is not an employee of the employer, they may accompany the Compliance Safety and Health Officer during the inspection if, in the judgment of the Compliance Safety and Health Officer, good cause has been shown why accompaniment by a third party is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace (including but not limited to because of their relevant knowledge, skills, or experience with hazards or conditions in the workplace or similar workplaces, or language or communication skills).

“Good Cause” and “Reasonably Necessary”

- Union representative(s) at non-Union worksite
- Interviews of employees?
- Records review?

them. Further, the CSHO must find good cause has been shown that a third party is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace. This requirement ensures that the representative will aid the inspection. Additionally, if a third party engages in conduct that is unrelated to the inspection, the CSHO has the authority to terminate the third party's accompaniment.

Heat-Related Hazards - OSHA Industry Focus

Outdoors	Indoors
Agriculture	Bakeries, kitchens, and laundries (sources with indoor heat-generating appliances)
Construction – especially, road, roofing, and other outdoor work	Electrical utilities (particularly boiler rooms)
Construction – roofing work	Fire Service
Landscaping	Iron and steel mills and foundries
Mail and package delivery	Manufacturing with hot local heat sources, like furnaces (e.g., paper products or concrete)
Oil and gas well operations	Warehousing

Heat-Related Hazards – OSHA

- Final standard not yet promulgated, BUT:
- “Hazard Alert” issued & enforcement initiative
- National Emphasis Program CPL 03-00-024 2022
- National Advisory Committee - Heat Injury and Illness Prevention Work Group.
- Heat Illness Prevention campaign



OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 03-00-024 **EFFECTIVE DATE:** April 8, 2022

SUBJECT: National Emphasis Program – Outdoor and Indoor Heat-Related Hazards

ABSTRACT

Purpose: This Instruction describes policies and procedures for implementing a National Emphasis Program (NEP) to protect employees from heat-related hazards and resulting injuries and illnesses in outdoor and indoor workplaces. This NEP expands on the agency’s ongoing heat-related illness prevention initiative and campaign by setting forth a targeted enforcement component and reiterating its compliance assistance and outreach efforts. This approach is intended to encourage early interventions by employers to prevent illnesses and deaths among workers during high heat conditions, such as working outdoors in a local area experiencing a heat wave, as announced by the National Weather Service. Early interventions include, but are not limited to, implementing water, rest, shade, training, and acclimatization procedures for new or returning employees.

Scope: This Instruction applies OSHA-wide.

References: Section 5(a)(1) of the Occupational Safety and Health Act (OSH Act), 29 U.S.C. § 654.
OSHA Instruction, CPL 02-00-164, *Field Operations Manual (FOM)*, April 14, 2020.
(See [Section III](#) for additional references.)

Cancellations: None.

State Plan Impact: Notice of Intent Required, Adoption Encouraged. Federal Program Change, Notice of Intent Required, Equivalency Required. See [Section VI](#).

Action Offices: OSHA Regional and Area Offices, State Plan and OSHA On-Site Consultation programs

Originating Office: Directorate of Enforcement Programs, Office of Health Enforcement

Employers are Responsible for Protecting Workers from Heat Illness

By law employers are responsible for providing workplaces free of known safety hazards, including extreme heat.

It is your responsibility to:

- Provide workers with water, rest and shade.
- Allow new or returning workers to gradually increase workloads and take more frequent breaks during the first week of work as they build a tolerance for working in the heat.
- Plan for emergencies and train workers on prevention.
- Monitor workers for signs of illness.



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[osha.gov/heat](https://www.osha.gov/heat)

Heat-Related Hazards - OSHA

12 Elements of a Heat Illness Prevention Program

A heat illness prevention program is an ongoing system that plans for and ensures workplace heat safety. Employers conduct routine workplace inspections to identify heat hazards, control the identified hazards, and monitor and evaluate the hazard controls to verify they are effective. Use the following elements in your heat illness prevention program.

Create a Plan and Provide Training



1. Have a Heat Plan

Develop a plan that includes monitoring, acclimatization, work/rest schedules, a buddy system, and protocols for emergencies and first aid. Communicate the plan to supervisors and workers.



2. Designate Someone to Oversee the Heat Safety Program

Identify someone trained or to-be-trained in heat hazards, heat illness symptoms, and heat controls. If possible, select or train multiple people to always have a designated Heat Safety Representative on-site. The Heat Safety Representative can develop, implement, and manage the program.



3. Provide Training on Heat Illness

Provide training on a regular basis (at least annually) for all workers on heat illness risks, symptoms, and response procedures, as well as prevention methods. Train workers in a language and format they understand.

Plan Work Schedules

Nearly 3 out of 4 fatalities from heat illness occur in the first week of work.



4. Acclimatize Workers

Acclimatization is a physical change that allows the body to build tolerance to working in the heat. Acclimatize new and returning workers by gradually increasing workload and exposure by following the 20% Rule.

Allow new or returning workers to gradually increase duration of exposure and take more frequent breaks during the first week of work as they build a tolerance to working in the heat. Begin with a 20% exposure on the first day, increasing by no more than 20% each following day. Full acclimatization may take up to 14 days or longer.



5. Modify Work Schedules to Reduce Heat Exposure

There are several ways employers can modify schedules to address heat risks:

- Reschedule non-essential outdoor or indoor work for days with a reduced heat index.
- Shift physically demanding work to cooler times of the day.
- Rotate workers, add extra workers, or split shifts to reduce exposure to heat and ease workloads.
- Stop work if needed due to heat risk.

Employers should be aware that early morning start times may increase fatigue if schedules shift significantly. Monitor accordingly, as morning temperatures may also have higher humidity levels.



6. Allow Frequent Rest Breaks

Breaks should be long enough to allow workers enough time to recover from heat given the temperature, humidity, activity level, and other conditions.

Set Controls and Monitor On-Site Activity



7. Identify Heat Hazards

Hazard identification is recognizing heat hazards and the risk of heat illness due to high temperature, humidity, sun and other thermal exposures, work demands, clothing or PPE, and personal risk factors. Use this [checklist](#) to identify potential sources of heat hazards.



8. Check the Temperature in the Space Before Work

Use apps and tools to track heat hazards.

- For outdoor work, use the OSHA-NIOSH Heat Safety Tool App ([Apple Store](#) or [Google Play](#)) to plan activities based on how hot it feels throughout the day. Consult the National Weather Service Heat Index and watch for high temperature weather alerts.
- For indoor work, use a combination thermometer and hygrometer to identify the heat index in the work area. Post signage of actions to take based on the work area's heat index.



9. Monitor for Heat Illness Symptoms

Establish a monitoring system for the signs and symptoms of heat illness. Also train workers to monitor each other. A buddy system can help supervisors watch for signs of heat illness.

More robust heat illness prevention programs establish a medical monitoring program. This should include medical evaluations before a worker starts (pre-placement) and periodic medical evaluations. The program should also include a plan for monitoring worker heat strain (e.g., core temperature, hydration, pulse, and/or blood pressure) on the job.



10. Designate a Break Area and Encourage Hydration

Remember: Water, Rest, Shade. Designate a shady or cool area for breaks and provide cool drinking water. Portable tents and shelters can be a solution for areas without natural shade. Ensure drinking water is available and accessible and encourage workers to drink 1 liter per hour (about 1 cup every 15 to 20 minutes). Remind workers to not drink more than 48 oz (1½ quarts) per hour! Drinking too much water or other fluids (sports drinks, energy drinks, etc.) can cause a medical emergency because the concentration of salt in the blood becomes too low.



11. Have Workers Dress for the Heat

Workers should wear a hat outside and loose-fitting, breathable clothing where possible.



12. Be prepared for an Emergency

Have an emergency plan in place for each worksite and communicate it to supervisors and workers.

This should include:

- What to do when someone is showing signs of heat illness.
- How to contact emergency services.
- How long it takes for emergency services to arrive.
- Appropriate first-aid measures until medical help arrives.

Heat-Related Hazard - States

- Washington, Minnesota, California, Oregon, and Colorado have specific laws governing occupational heat exposure.
 - Maryland working on draft regulations
- Florida and Texas ban local governments from enforcing their own heat regulations.

OSHA – Most Frequently Cited Standards



OSHA - Most Frequently Cited Standards



OSHA – Increased Civil and Criminal Enforcement

Table 1: Maximum and Minimum Amounts for Civil Penalties

Type of Violation	Penalty Minimum	Penalty Maximum
Serious	\$1,190** per violation	\$16,131 per violation
Other-Than-Serious	\$0 per violation	\$16,131 per violation
Willful or Repeated	\$11,524* per violation	\$161,323 per violation
Posting Requirements	\$0 per violation	\$16,131 per violation
Failure to Abate	N/A	\$16,131 per day unabated beyond the abatement date [generally limited to 30 days maximum]

* For a repeated other-than-serious violation that otherwise would have no initial penalty, a GBP penalty of \$460 shall be proposed for the first repeated violation, \$1,152 for the second repeated violation, and \$2,304 for a third repetition.

**This amount reflects the actual minimum penalty with all penalty reductions which rectifies error in the previous years' serious minimum penalty posted.

OSHA – Increased Civil and Criminal Enforcement

- Civil Enforcement
 - April 2024 – Auto Recycler and Parts Supplier - \$868,628
 - April 2024 – Food Manufacturer - \$761,876
 - April 2024 – Construction Contractor - \$1,038,918
 - March 2024 – Frozen Food Manufacturer - \$551,719
 - February 2024 – Wood Products Manufacturer - \$2,471,683
 - February 2024 – Construction Contractor - \$1,017,248

OSHA Increased Civil and Criminal Enforcement

- Instance-by-Instance Policy
 - Falls, trenching, machine guarding, respiratory protection, permit required confined spaces, lockout tagout, and recordkeeping
- “Grouping” Policy
- Enhanced settlement requirements
 - Third-party audits
 - Compliance programs
 - Increased employee and worker participation

OSHA Increased Civil and Criminal Enforcement

- Temp. Workers and Contract Hires
 - Supervision on day-to-day basis
 - Contract provisions critical
 - Must both employers record?

Criminal Enforcement of Workplace Safety Rules

- OSH Act Crimes Not Historically Prosecuted
- Section 17
 - Willful violation of OSHA standard and said violation causes death of employee
 - Providing advance notice of an inspection
 - Knowing false statements, representations, or certifications
 - Misdemeanor – a fine no more than \$10,000 and/or incarceration for no more than 6 mos.

Criminal Enforcement of Workplace Safety Rules

- **US Justice Department and OSHA**
 - February 2024 – Jose Lema - Roofing Company – fall from roof
 - February 2024 – Didion Milling – Manager, VP of Operations, and Food Safety manager sentenced to two years in prison
 - August 2023 – Skinner Tank – Deferred Prosecution Agreement
- **State Prosecutions**
 - February 2024 – NY construction supervisor charged with criminally negligent homicide and reckless endangerment
 - January 2023 - A4S LLC – Owner charged with felony manslaughter in Colorado based on OSHA referral for trenching violations

Injury and Illness Recordkeeping

- What is an “Establishment”?
- Employers must keep a separate OSHA 300 Log for each establishment that is expected to be in operation for one year or longer.
- An establishment is a single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location, such as construction; transportation; communications, electric, gas and sanitary services; and similar operations, the establishment is represented by main or branch offices, terminals, stations, etc. that either supervise such activities or are the base from which personnel carry out these activities.

Injury and Illness Recordkeeping

- Can an establishment include more than one physical location?
- Are remote or WFH employees considered a separate establishment?
- What about employees that work at several different locations or do not work at any of my establishments at all?
- What if employee of one of my establishments is injured or becomes ill while visiting or working at another of my establishments, or while working away from any of my establishments?
- Can records for all of my establishments at HQ or at central location?

Injury and Illness Recordkeeping

- Should part-time workers be included?
- Should contract hires or temp. agency hires be included?
- Does employer include vacation time?
- Does employer include sick leave?
- Can holidays be included?

Injury Tracking Application Annual Electronic Submittal

- Annual submittal by March 2 – If you missed deadline, OSHA still requires submittal
- What has to be submitted?
 - **300A Submission:**
 - Establishments with 250+ employees not listed in Exempt Industries list and
 - **Establishments with 20-249 employees listed in the 300A Table.**
 - 300/301 Submission:
 - Establishments with 100+ employees listed in Appendix B to Subpart E of Part 1904, that OSHA refers to as designated “High-Hazard Industries”

Annual Electronic Submittal

- How to Submit? – OSHA's Injury Tracking Application



Injury Tracking Application

[Sign in with](#)  LOGIN.GOV

[Create an ITA Account](#)

[FAQs](#)

Injury Tracking Application (ITA)

Certain establishments must electronically submit to OSHA information about recordable injuries and illnesses entered on their previous calendar year's OSHA Form 300A Summary of Work-Related Injuries and Illnesses, OSHA Form 300 Log of Work-Related Injuries and Illnesses, and 301 Injury and Illness Incident Report [29 CFR 1904.41](#). The Injury Tracking Application (ITA) is a secure website for electronically submitting your data to OSHA.

Covered Establishments

Only certain establishments are required to electronically submit information to OSHA from their injury and illness recordkeeping forms. In 2023, OSHA published a Final Rule that revised the recordkeeping regulation to require certain establishments with 100 or more employees in high-hazard industries, which were already required to submit information from the OSHA Form 300A Annual Summary, to also submit information from the OSHA Form 300 Log and the OSHA Form 301 Incident Report. The determination as to whether an employer must electronically submit recordkeeping data to OSHA is based on the number of employees and industry classification at an establishment, rather than at the firm as a whole. Establishments covered by Federal OSHA can use the [ITA Coverage Application](#) to determine if they are required to electronically submit their injury and illness information to OSHA. Establishments covered by an OSHA-approved State Plan should directly contact their [State Plan](#).

Establishments that meet **any** of the following criteria during the previous calendar year do not need to electronically submit their information to OSHA:

- The establishment's peak employment during the previous calendar year was **19 or fewer employees**, regardless of the establishment's industry.
- The establishment's industry is **listed on Appendix A to Subpart B** of OSHA's recordkeeping regulation, regardless of the number of employees working at the establishment.
- The establishment had a peak employment **between 20 and 249 employees** during the previous calendar year AND the establishment's industry is **not on Appendix A to Subpart E** of OSHA's recordkeeping regulation.



Workplace Violence Federal OSHA Update



OSHA Definition of Workplace Violence

- Any *act* or *threat* of physical violence, harassment, intimidation or other threatening disruptive behavior that occurs at the workplace
- Workplace = any location where employees perform work related activities
- *Examples:*
 - Active shooters
 - Assault
 - Battery
 - Bullying
 - Physical or verbal intimidation or threats
- *Sources:*
 - Disgruntled employees
 - Third parties, including clients, vendors, employees' spouses, actors with criminal intent (robbery, gang violence)

Workplace Violence Rulemaking Efforts

- In July 2016, several labor groups petitioned federal OSHA for a standard on workplace violence prevention
- In January 2017, OSHA granted the groups' petition to establish a federal OSHA workplace violence prevention standard applicable to healthcare and social assistance settings.
 - Pre-rule stage
 - Re-opened for comments in July 2023
 - No specific timeline for next steps

Workplace Violence Rulemaking Efforts

- HR 1195 (*Workplace Violence Prevention for Health Care and Social Service Workers' Act*) passed by the House on April 16, 2021
- Would have required OSHA to:
 - issue interim final rule requiring employers in health care and social service settings to develop workplace violence prevention plans
 - Issue final standard in 42 months
- Bill never found its way to Senate

OSHA Workplace Violence Enforcement

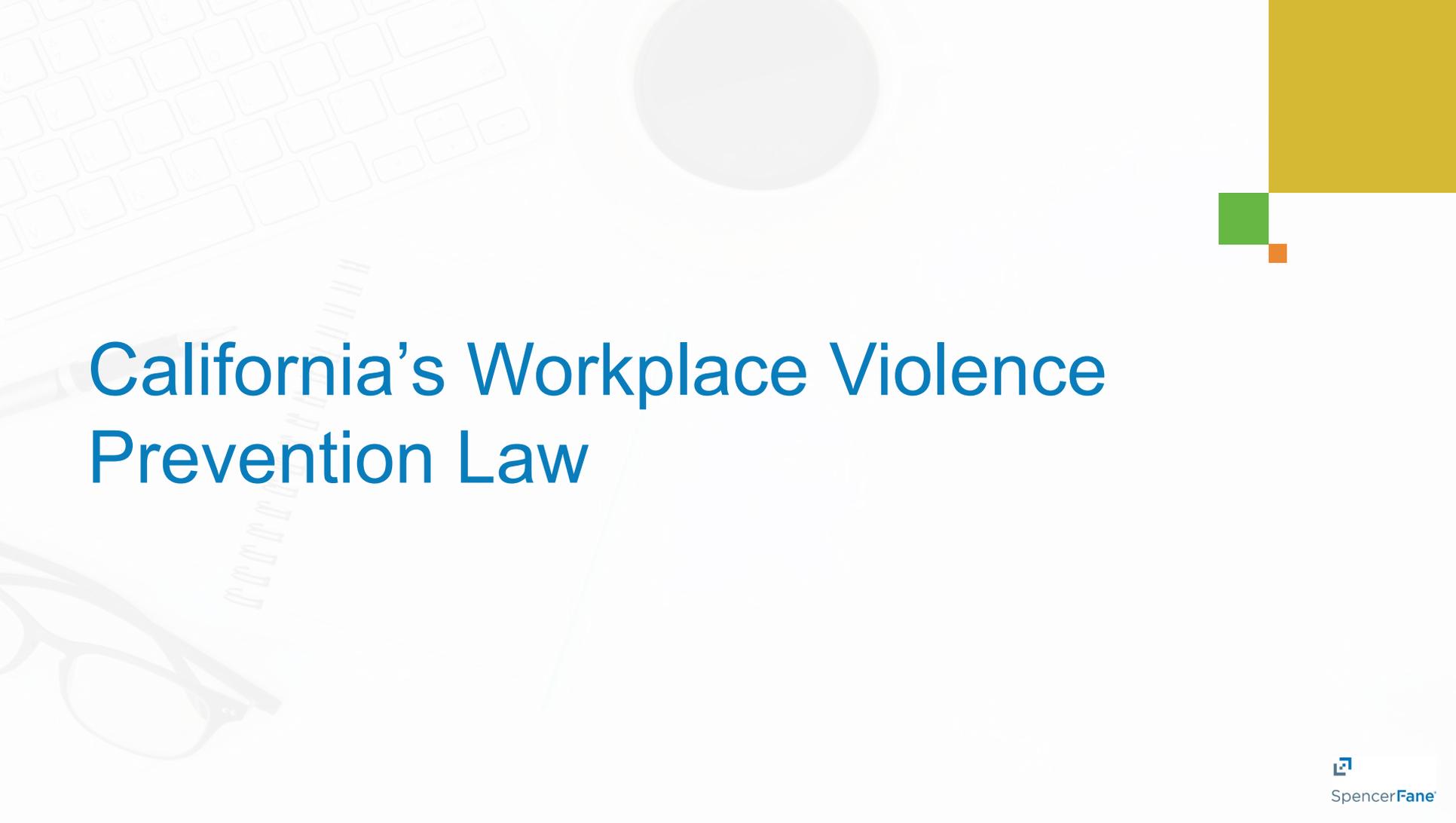
- No specific workplace violence standard/regulation
- OSHA exercises enforcement power under a catch-all “General Duty Clause”
- *Section 5(a)(1) of OSH Act, 29 USC 654(a)(1), requires that each employer “furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or likely to cause health or serious physical harm”*

OSHA Workplace Violence Enforcement

- For enforcement, OSHA establishes hazard was *recognized* by referencing:
 - Industry guidance or practice
 - Employer's policies or practices
 - Employer's records (i.e., injury and illness data and reports)
 - OSHA's standard:
 - Employer *knew or should have known* about hazard and *failed to abate* it by *feasible recognized methods*
- Workplace violence is a known and recognized hazard in several industries (e.g., retail, education, health services)

OSHA Workplace Violence Enforcement

- OSHA's workplace violence prevention guidance includes:
 - Workplace violence prevention fact sheet
 - Industry-specific workplace violence prevention guidelines
 - Late-night retail
 - Healthcare and social services
 - Taxi drivers



California's Workplace Violence Prevention Law



Senate Bill 533: California's Workplace Violence Law

- Codified at Labor Code section 6401.9
- Requires employers to establish, implement and maintain a Workplace Violence Prevention Plan (WVPP) by **July 1, 2024**
- **Almost all employers and employees in CA covered**
- Exempted workplaces include:
 - Health care facilities and employers covered by California's existing healthcare workplace prevention standard;
 - Facilities operated by the Department of Corrections and Rehabilitation;
 - Certain law enforcement agencies;
 - Teleworkers; and
 - Workplaces that are not publicly accessible and have less than 10 employees present at once

California's Definition of Workplace Violence

- Any *act* or *threat* of violence that occurs in a workplace, including but not limited to:
 - Threat or use of physical force against an employee that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress
 - Incident involving a threat or use of a firearm or other dangerous weapon, including use of common objects as weapons
- Regardless of whether employee sustains an injury
- Does *not include* lawful acts of self-defense or defense of others
- “*Threat*” includes any:
 - verbal or written statement; and/or
 - behavioral or physical conductthat conveys or reasonably could be perceived to convey intent to cause or place someone in fear of physical harm, and that serves no legitimate purpose

California's Definition of Workplace Violence

Type 1: committed by a person who has no legitimate business at the worksite and includes violent acts by anyone who enters the workplace or approaches workers with the intent to commit a crime.

- *Examples:* Robberies (retail and ride-hailing/taxi-cab settings); directed at maintenance workers, janitors, security guards

Type 2: directed at employees by customers, clients, patients, students, inmates, or visitors

Type 3: against an employee by a present or former employee, supervisor, or manager

Type 4: committed in the workplace by person who does not work there but has or is known to have had personal relationship with an employee

11 Components of Written WVPPs

- Names or job titles of people responsible for plan
- Procedures to obtain active involvement of employees and union representatives
- Methods employer will use to coordinate implementation of plan with other employers
- Procedures for employer to respond to workplace violence reports and prohibit retaliation for reporting
- Procedures to ensure that employees comply with plan
- Procedures to communicate with employees regarding workplace violence matters
- Procedures to respond to actual workplace emergencies
- Procedures to develop and provide training
- Procedures to *identify, evaluate and correct* workplace violence hazards
- Procedures for post-incident response and investigation
- Procedures for reviewing the effectiveness of the plan and revising plan

California's WVPP Requirements

- WVPP may be a part of existing IIPP or separate document
- Core requirements of new law:
 - Workplace violence hazard *identification, evaluation and correction*
 - Violent Incident Log
 - Training
 - Recordkeeping

California's WVPP Requirements: Violent Incident Log

- Employers are to record information in a violent incident log for every workplace violence incident
- The log shall include the following information:
 - Date and time of the incident
 - Location of the incident
 - Classification of who committed the violence
 - Circumstances at the time of the incident
 - Type of incident
 - Consequences of the incident
 - Information about the person completing the log

California's WVPP Requirements: Training



- All WVPP trainings must:
 - Discuss in detail the entire WVPP
 - Discuss key definitions in the law
 - Address how to seek assistance to prevent and respond to violent incidents as they are occurring
 - Address how employees must report incidents without fear of retaliation
 - Address hazards specific to employees' jobs
 - Outline corrective measures the employer has implemented
 - Provide strategies for avoiding physical and other harm
 - Cover how employees can participate in developing and implementing the WVPP
 - Discuss violent incident logs and how to obtain copies of records
 - Discuss how and where employees can obtain a copy of the WVPP

California's WVPP Requirements: Training

- Employers required to provide training when WVPP is first established (i.e., by July 1, 2024)
- Annual trainings required each year following initial training
- Additional training required when:
 - a new or previously unrecognized hazard has been identified
 - changes are made to WVPP
- Trainings must include opportunity for interactive questions and answers

California's WVPP Requirements: Recordkeeping

- For 5 years, employers must maintain:
 - *Records for hazard identification, evaluation and correction*
 - *Violent Incident Logs*
 - *Incident investigation related documentation*
 - *Cal/OSHA form 300*
- For 1 year:
 - *Training records*
- Training records, violent incident logs and records of hazard identification, evaluation and correction must be made available to employees and their representatives within *15 calendar days* of their request to the employer

California's WVPP Requirements: Enforcement

- Cal/OSHA will enforce the new law through its standard inspection, citation, and penalty framework
- Penalties could range between \$25,000 (for violations classified as "serious") or \$153,744 (for violations classified as "willful")
- Cal/OSHA will also require employers deemed out of compliance to abate alleged violations, including changes to employers' policies and procedures

Workplace Violence: Closing Considerations

- In addition to federal OSHA and/or Cal-OSHA enforcement related liability, workplace violence has the potential to create employment liability with respect to other areas:
 - Negligent hiring claims
 - Negligent supervision and retention claims
 - Discrimination, harassment, retaliation, whistleblower and wrongful termination claims
 - Claims under the FMLA/CFRA
 - Invasion of privacy and related claims

WVPP Resources for California Employers

- Cal/OSHA recently published a fillable model WVPP template
- Cal/OSHA also released two fact sheets: one for employers and one for employees



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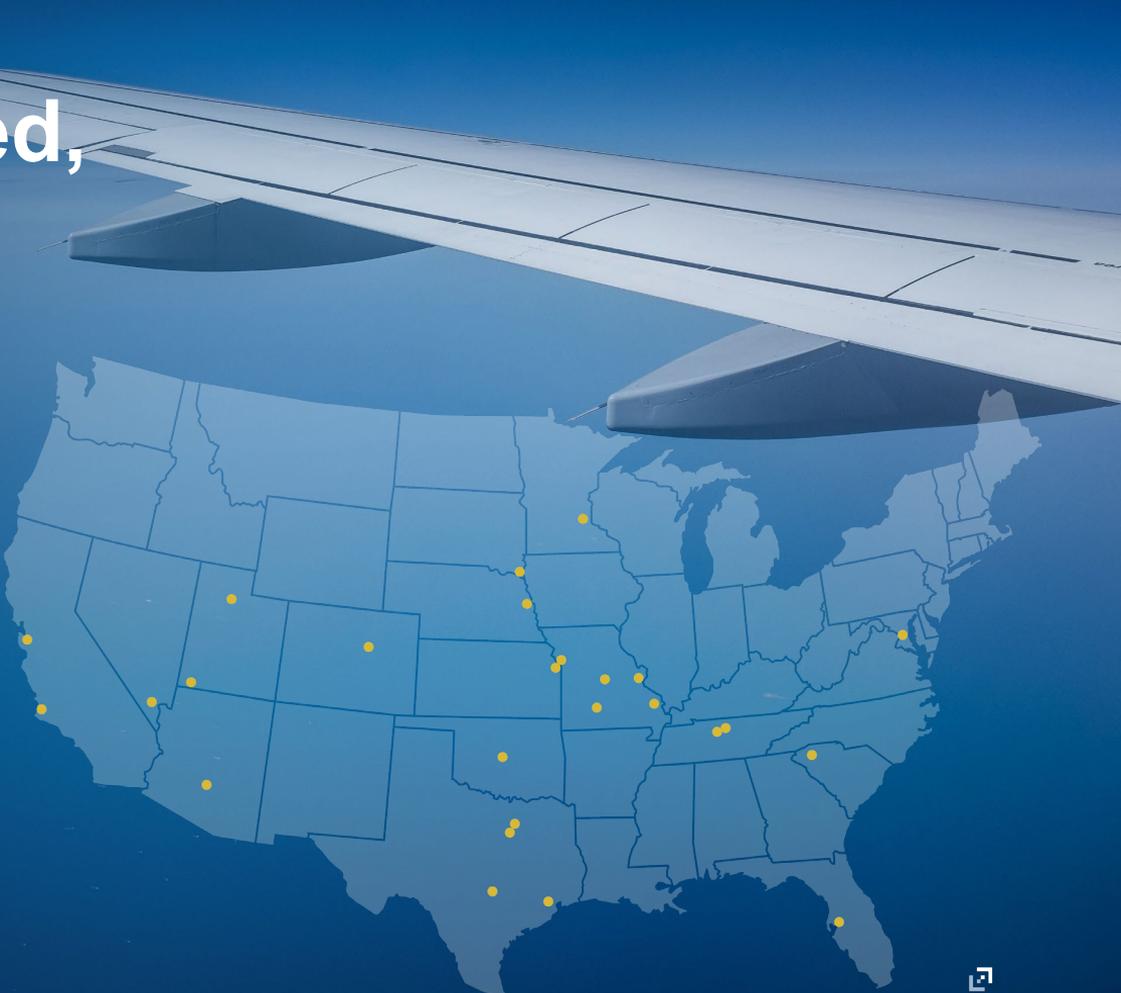
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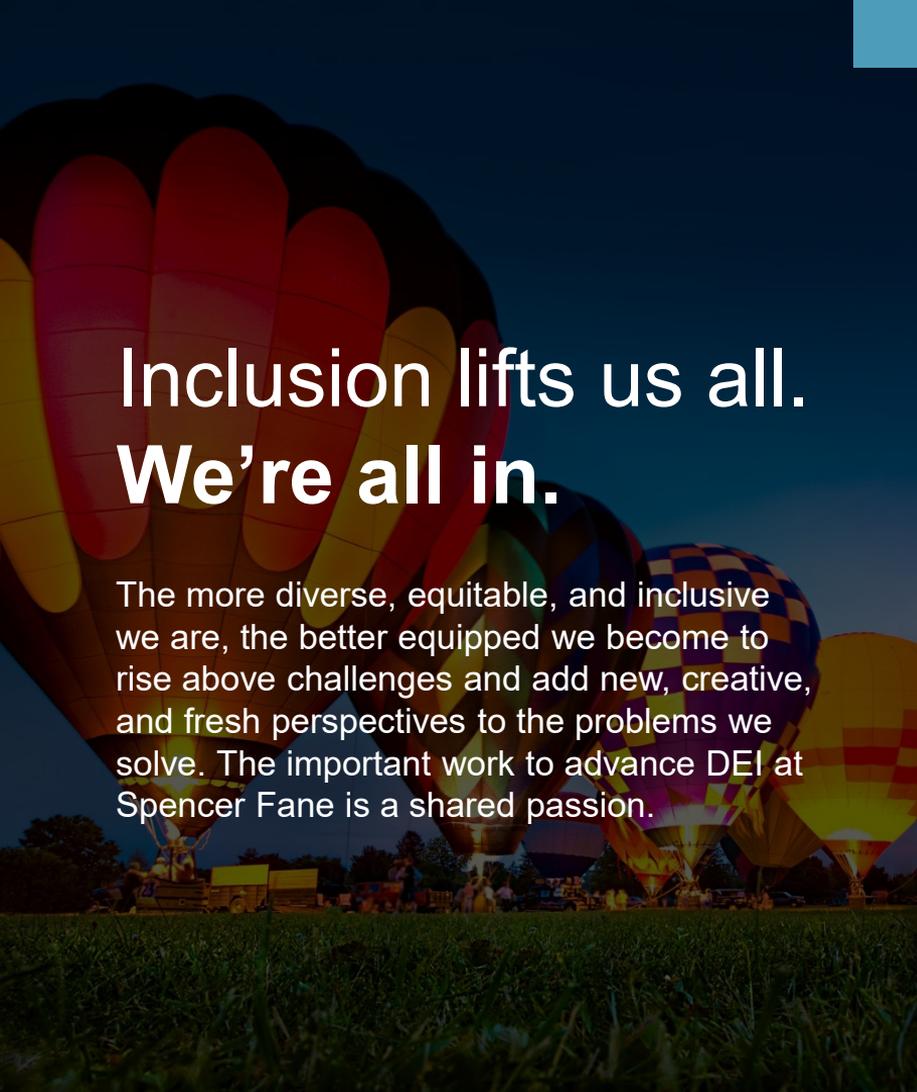
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