Annual OSHA Update

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Aspen Risk Management Group
April 18, 2023

Content Disclaimer

The information presented is general in nature and is intended to present an overview of employment practices.

The written and verbal contents of the presentation are not intended to constitute consulting and/or advice and no client relationship is established between the presenter and attendees.

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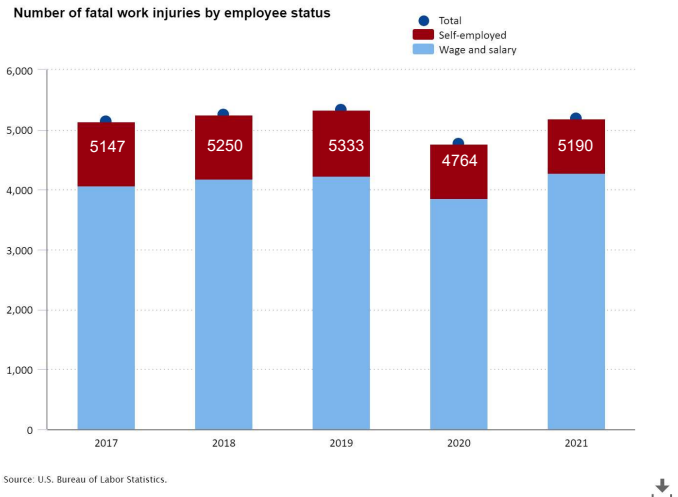
Agenda

- Review of recent National Injury Statistics
- OSHA's Top 10 Citations
- High Hazard Industries
- Federal and State Standards
  - Pre-Rule
  - Proposed
  - Final
- Next Steps
- Supporting Information
- Questions

Work-Related Fatal Injuries – 2021



Source: U.S. Bureau of Labor Statistics.

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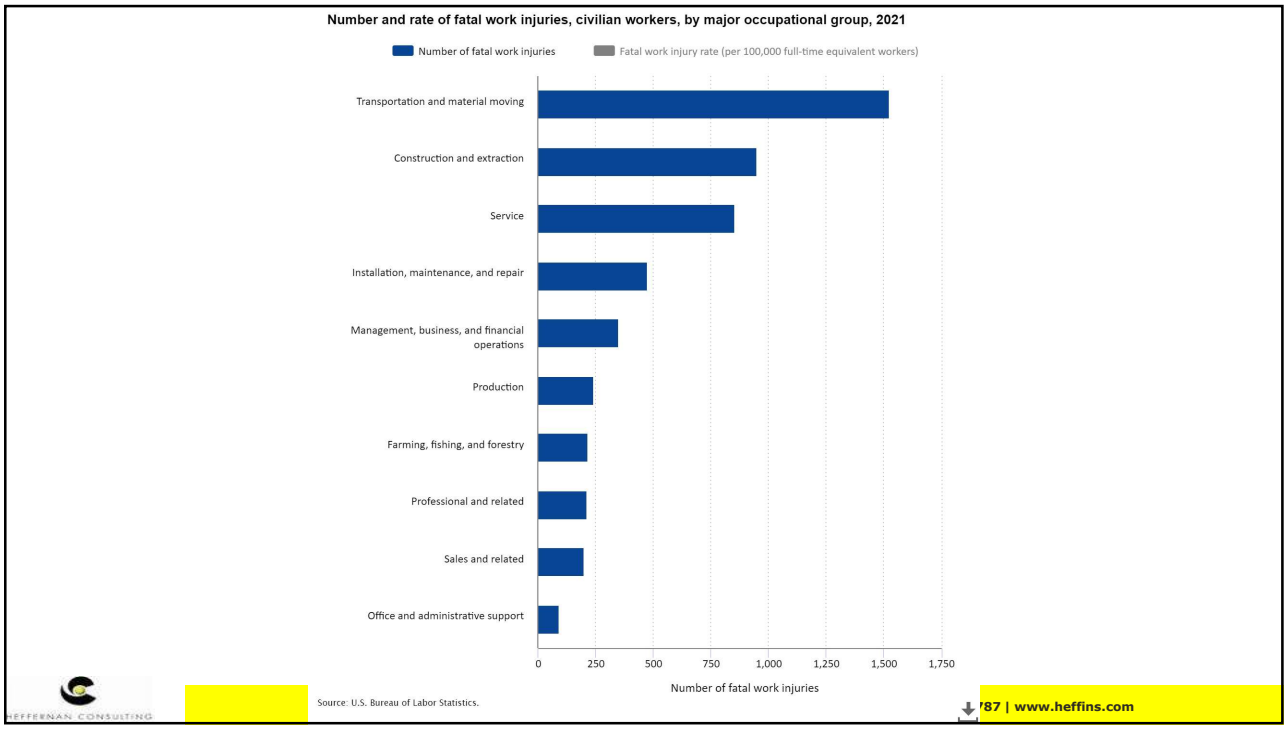
Number and rate of fatal work injuries, civilian workers, by major occupational group, 2021
Number of fatal work injuries
Fatal work injury rate (per 100,000 full-time equivalent workers)
Transportation and material moving
Construction and extraction
Service
Installation, maintenance, and repair
Management, business, and financial operations
Production
Farming, fishing, and forestry
Professional and related
Sales and related
Office and administrative support
0
250
500
750
1,000
1,250
1,500
1,750
Number of fatal work injuries
Source: U.S. Bureau of Labor Statistics.
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Poll Question
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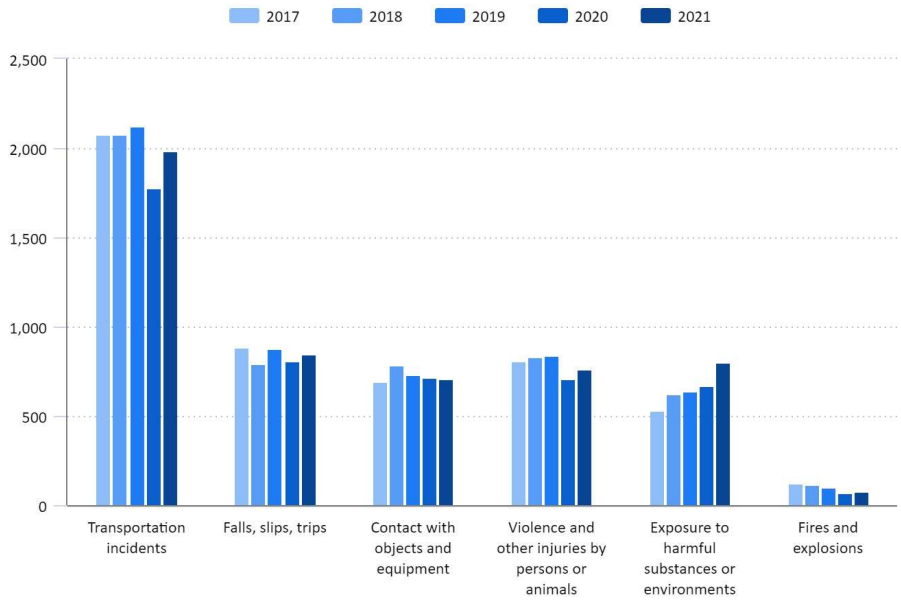
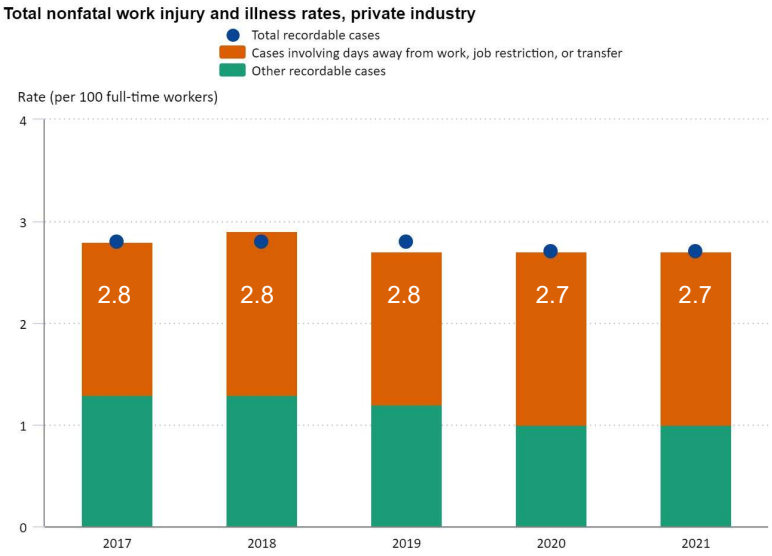
Fatal work injury counts by event or exposure



Source: U.S. Bureau of Labor Statistics.

Table 4: Fatal work injury rates[1] per 100,000 full-time equivalent workers by selected occupations, 2020-21

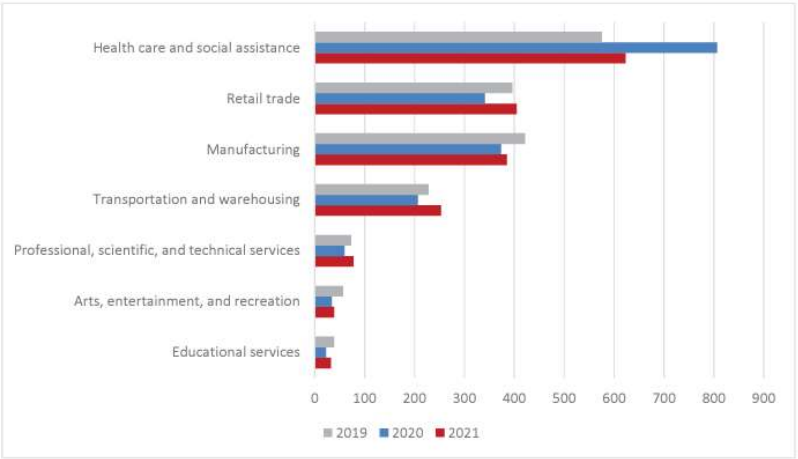
Characteristic	2020	2021
All workers[2]	3.4	3.6
Occupation (SOC)[3]		
Logging workers	91.7	82.2
Fishing and hunting workers	132.1	75.2
Roofers	47.0	59.0
Aircraft pilots and flight engineers	34.3	48.1
Structural iron and steel workers	32.5	36.1
Driver/sales workers and truck drivers	25.8	28.8
Refuse and recyclable material collectors	33.1	27.9
Underground mining machine operators	21.6	26.7



Source: U.S. Bureau of Labor Statistics.

Days Away from Work 2019-2021

Chart 3. Total injuries and illnesses in selected industry sectors, thousands, private industry, 2019-21



Non-Fatal Injury & Illness Data 2019-2021

Chart 1. Total reported, injury, and illness case counts, private industry, 2019-21

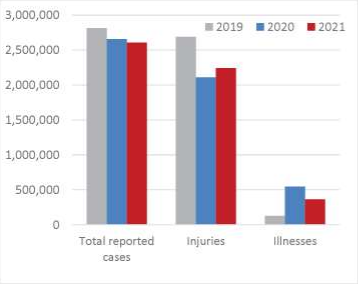
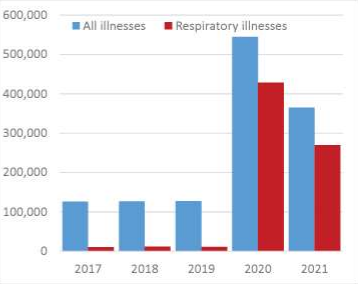


Chart 2. Counts of cases of all illnesses and respiratory illnesses, private industry, 2017-21



Coronavirus (COVID-19) Pandemic Impact in SOII Results

Occupational injuries and illnesses collected in the 2021 SOII include cases of COVID-19 when a worker was infected as a result of performing their work-related duties and met other recordkeeping criteria. COVID-19 is considered a respiratory illness under criteria established by the Occupational Safety and Health Administration (OSHA).

OSHA

- Occupational Safety and Health Administration
  - Enforcement Unit
  - Consultation Unit
  - Other units – for issuing permits, certifications, licenses, etc.
- Appeals Board
  - Decides on actions taken by the Enforcement Division
- Standards Board
  - Promulgates Safety & Health Regulations

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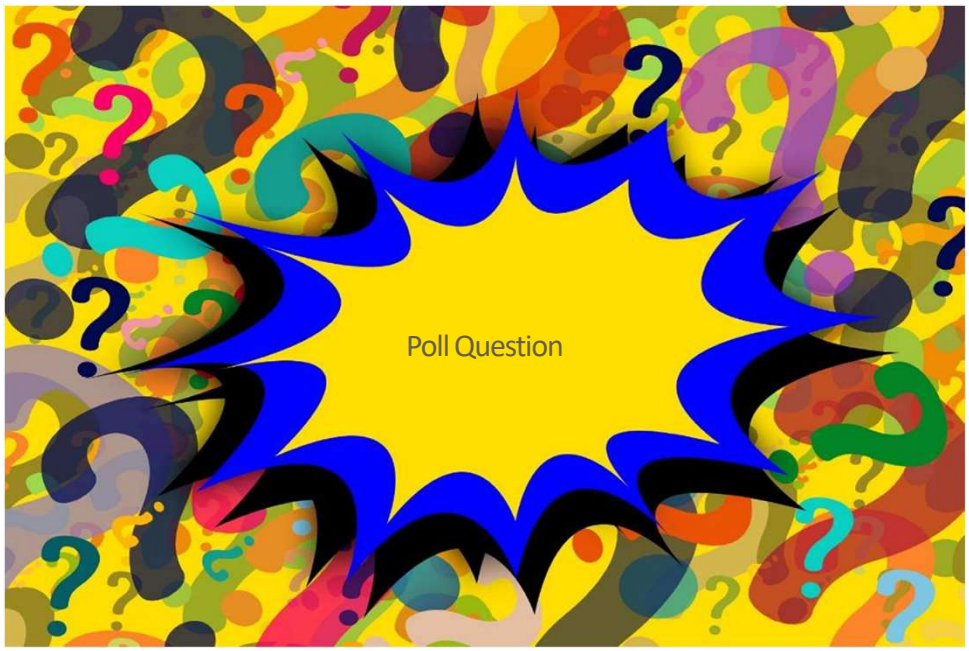

2022 Federal OSHA Top 10 Citations

1. Fall Protection (1926.501): 5,980
2. Hazard Communication (1910.1200): 2,682
3. Ladders (1926.1053): 2,471
4. Respiratory Protection (1910.134): 2,430
5. Scaffolding (1926.451): 2,285
6. Lockout/Tagout (1910.147): 2,175
7. Powered Industrial Trucks (1910.178): 1,922
8. Fall Protection Training (1926.503): 1,778
9. Eye and Face Protection(1926.102): 1,582
10. Machine Guarding (1910.212): 1,488

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OSHA Enforcement

- Death and Serious Injuries
- Imminent Danger
- Complaints
- Referrals
- Follow Up/Reinspection
- Programmed inspections

Common Employer Mistakes

- **Weak safety program**
  - Missing the basics
  - Not getting help (carrier, broker, captive, OSHA consultation, safety consultants, safety councils)
- **Not taking OSHA seriously**
  - Lackadaisical response
  - Missed deadlines (letters and requests)
  - Half-hearted responses
- **Providing too much information**
  - Providing programs and information when not needed
  - Responding when no response is required
    - Citation Notice letters

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Common Employer Mistakes

- **Lack of effective programs in place (see OSHA Top 10)**
  - Written
  - Hazard identification & correction
  - Incident investigation
  - Training
  - Records
- **Not asking for extensions (when it might be helpful)**
- **Not filing (district manager mtg, and appeal)**

Common Employer Mistakes

- **Missing the window to call in a serious incident**
  - Fed/OSHA
    - 8 hours: death
    - 24 hours: amputation, loss of eye, work-related in-patient hospitalization
  - Cal/OSHA
    - 8 hours: death or serious injury or illness (inpatient hospitalization, amputation, eye loss, permanent disfigurement)
  - Oregon OSHA
    - 8 hours: death or EE catastrophe (3 or more hospital admissions – same incident)
    - 24 hours: in-patient hospitalization, loss of an eye, amputation or avulsion resulting in bone loss
  - Washington Labor & Industries
    - 8 hours: death or inpatient hospitalization
    - 24 hours: non-hospitalized amputation or loss of an eye
- **Failing to post 300A or electronic submission**

Civil Penalties – Maximum and Minimum

Type of Violation	Penalty Minimum	Penalty Maximum
Serious	$1,116 per violation	$15,625 per violation
Other-Than-Serious	$0 per violation	$15,625 per violation
Willful or Repeated	$11,162* per violation	$156,259 per violation
Posting Requirements	$0 per violation	$15,625 per violation
Failure to Abate	N/A	$15,625 per day unabated beyond the abatement date [generally limited to 30 days maximum]

https://www.osha.gov/memos/2022-12-20/2023-annual-adjustments-osha-civil-penalties

Penalty Factors

- Gravity of the violation
- Size of the business
- Good faith efforts
- History of previous violations

Table 2: Serious Violations

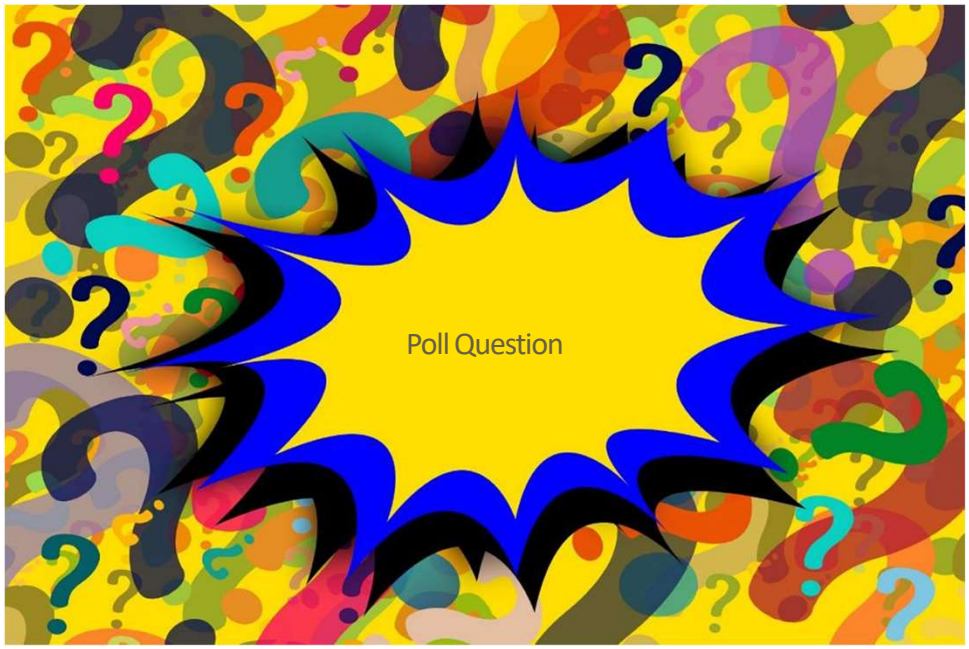
Severity	Probability	GBP	Gravity
High	Greater	$15,625	High
Medium	Greater	$13,394	Moderate
Low	Greater	$11,162	Moderate
High	Lesser	$11,162	Moderate
Medium	Lesser	$8,929	Moderate
Low	Lesser	$6,696	Low

https://www.osha.gov/memos/2022-12-20/2023-annual-adjustments-osha-civil-penalties

OSHA Penalty Actions – 2023 and Beyond

- Group violations – January 26, 2023
- Instance-by-instance (added groups) – March 26, 2023
- Severe Violator Enforcement Program (SVEP)
  - Expanded

- Injury Tracking Application (ITA) - Submit by March 2, 2023 (***)
  - Electronically submit the 300A. This generally includes organizations with 250 or more employees or 20-249 employees in certain high-risk industries.



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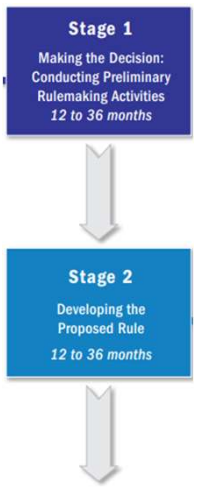
OSHA Updates

- Expect to see increased inspections and enforcement for 2023
  - Staffing levels **up 28%** from two years ago
  - Inspection goal **up 7.1%**
  - Budget up **11.1%**

Prerule Stage

Federal



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Federal – Topics Under Review

Prerule Stage	Process Safety Management and Prevention of Major Chemical Accidents
Prerule Stage	Mechanical Power Presses Update
Prerule Stage	Prevention of Workplace Violence in Health Care and Social Assistance
Prerule Stage	Blood Lead Level for Medical Removal
Prerule Stage	Heat Illness Prevention in Outdoor and Indoor Work Settings

https://www.osha.gov/laws-regs/unifiedagenda/currentagenda

Updating Standards

- Process Safety Management
- Mechanical Power Press

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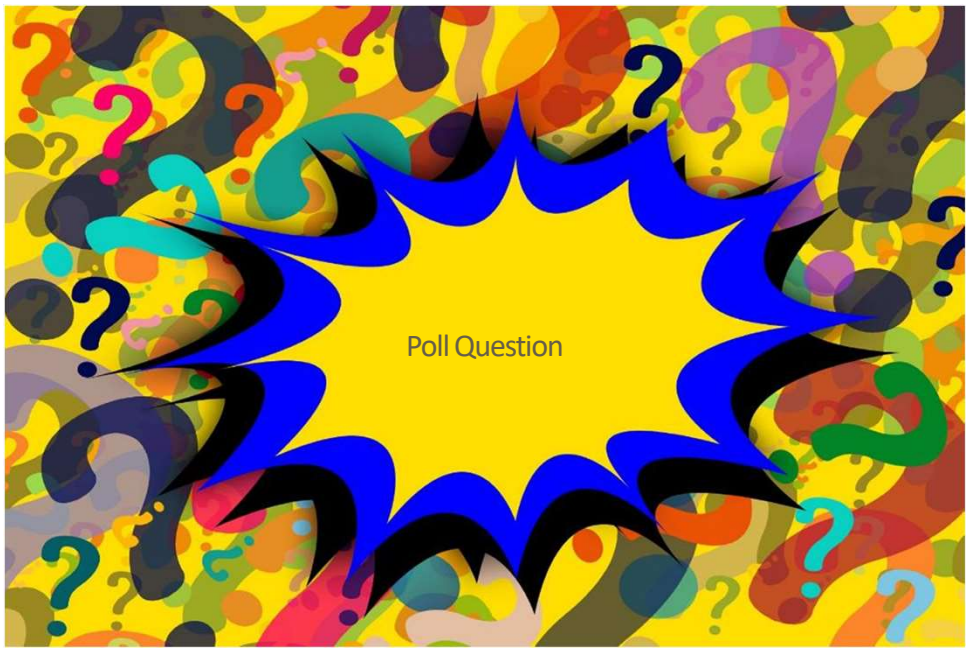

WATER. REST. SHADE.

Keeping Workers Safe in the Heat

- 50-70% of fatalities from heat occur in the first few days of working in a hot environment

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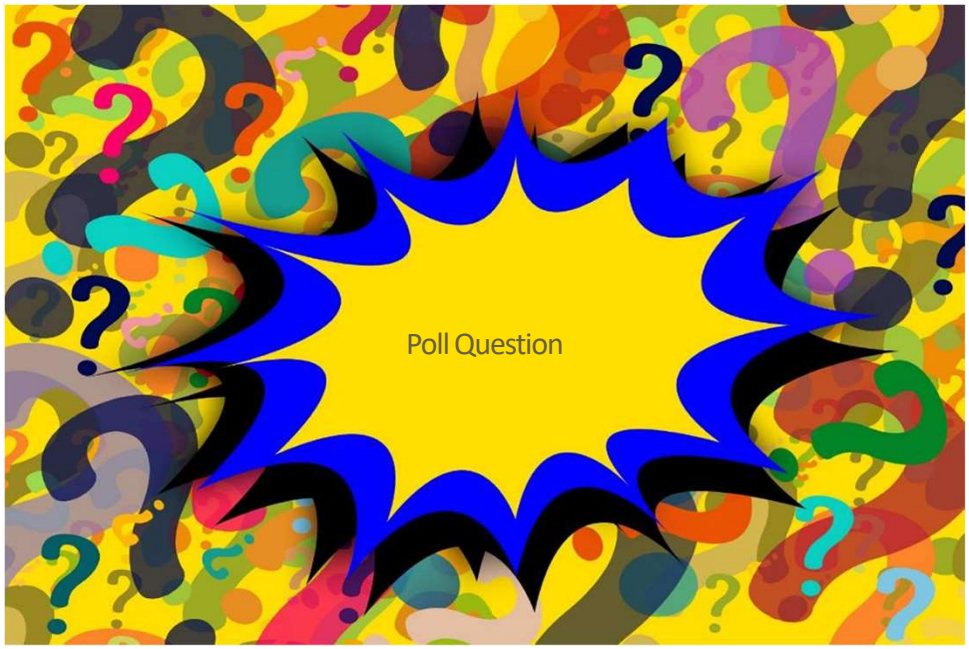
Blood Lead Levels

Current OSHA Guidelines for Medical Removal:

- General Industry: 60 µg/dL
- Construction: 50 µg/dL
- Employees can return when blood lead levels drop below 40

Medical findings indicated adverse health effects can result at nearly any level of lead exposure. Examples of health effects include:

- Hypertension, seen in a range of 1-40 µg/dL
- Cognitive Dysfunction, seen in a range of 20-40 µg/dL
- Effects on Renal Function <5 µg/dL
- Effects on Reproductive Systems, seen in a range of 1-30 µg/dL



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Workplace Violence in Healthcare

- In 2017, 27 employees in healthcare and social assistance sectors died as a result of homicide (BLS)
- In 2018, private-sector health care workers in in-patient facilities, such as hospitals, experienced workplace violence-related injuries requiring days off from work at an estimated rate at least **five times higher** than the rate for private-sector workers overall, according to data from the Department of Labor (DOL). (Government Accountability Office)
- In a November 2020 NNU survey of 15,000 registered nurses across the country, 20 percent of RN respondents reported an **increase in violence during the pandemic**. (National Nurses United)

Prerule Stage

State

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Oregon

Permissible Exposure Limits (PELs)

Summary: Oregon OSHA is tackling the challenge of the outdated permissible exposure limits (PELs). We met with industry experts to determine which constituents have PELs that are under protective and expose employees in Oregon.

Timetable: The advisory committee met and decided to begin rulemaking for Lead and Manganese PELs. After these rulemakings are substantially completed, the advisory committee will meet again to discuss which PELs to do next.

Non-Entry Firefighting - Division 2

Summary: Oregon OSHA has begun the process of consulting stakeholders regarding rulemaking to protect employees of industries whose focus is not firefighting, but who may be asked to assist in fire containment activities. These employees are often part of rural fire agencies that do not go inside a building to fight a fire but may work to contain the fire until fire departments arrive. Oregon OSHA has put together a stakeholder group with the core consisting of the fire services advisory committee, as well as members of other interested parties.

Timetable: The non-entry firefighting stakeholders have met multiple times in 2019, and continue to bring draft language and suggestions to the fire services advisory committee. These groups will continue to meet throughout 2020 before proposing potential rule changes.

Proposed Regulations

Federal

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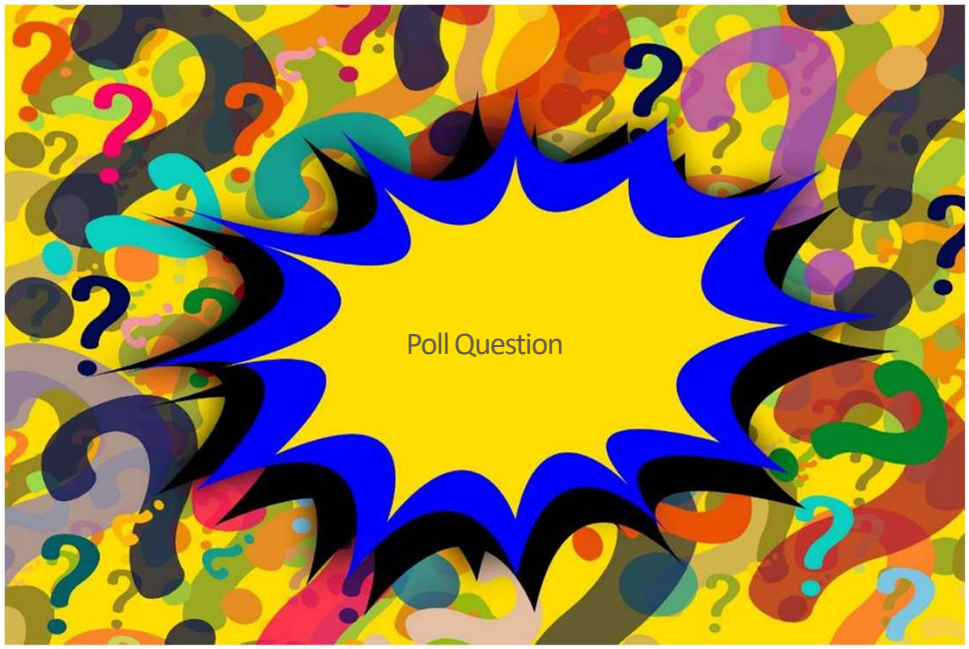
Federal Proposed Rule

Proposed Rule Stage	Infectious Diseases
Proposed Rule Stage	Amendments to the Cranes and Derricks in Construction Standard
Proposed Rule Stage	Shipyard Fall Protection--Scaffolds, Ladders and Other Working Surfaces
Proposed Rule Stage	Communication Tower Safety
Proposed Rule Stage	Emergency Response
Proposed Rule Stage	Lock-Out/Tag-Out Update
Proposed Rule Stage	Tree Care Standard
Proposed Rule Stage	Welding in Construction Confined Spaces
Proposed Rule Stage	Personal Protective Equipment in Construction
Proposed Rule Stage	Powered Industrial Trucks Design Standard Update
Proposed Rule Stage	Walking Working Surfaces
Proposed Rule Stage	Occupational Exposure to Crystalline Silica: Revisions to Medical Surveillance Provisions for Medical Removal Protection
Proposed Rule Stage	Arizona State Plan for Occupational Safety and Health
Proposed Rule Stage	Worker Walkaround Representative Designation Process

https://www.osha.gov/laws-regs/unifiedagenda/currentagenda



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Updating Standards

- Lock Out Tag Out
- Emergency Response
- Cranes and Derricks
- Shipyard Fall Protection
- Crystalline Silica
- Welding in Construction Confined Spaces
- PPE in Construction
- PIT

Communication Tower and Tree Care

Infectious Disease

Walking and Working Surfaces

- OSHA is proposing corrections to two provisions of the walking-working surfaces standard, Subpart D.
- Stairways narrower than 44 inches, and with 2 open sides will be corrected for an omission:
  - from “one stair rail system [on] each open side”
  - to “one stair rail system with handrail on each open side”
  - OSHA will consider stairways installed between January 17, 2017 and that date to comply with the Standard
- Expanding the range of rail heights at which the top of a “stair rail” may serve as a “handrail.” OSHA to allow:
  - Stair rails of 30-38 inches can be used as handrails, for installations made between 1/17/17 and the finalization date of these 2021 revisions
  - All handrails installed after this finalization date must be at least 42 inches in height (which OSHA states it intended all along)

Worker Walkaround Representative Designation Process

This rulemaking will clarify the right of workers and certified bargaining units to specify a worker or union representative to accompany an OSHA inspector during the inspection process/facility walkaround, regardless of whether the representative is an employee of the employer, if in the judgment of the Compliance Safety and Health Officer such person is reasonably necessary to an effective and thorough physical inspection.

Proposed Regulations

State

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California

- Blood Lead Levels
- Indoor Heat Illness Prevention

Cal/OSHA "What's New" Archive -

▸ español

2023

March 2023	
March 21, 2023	Cal/OSHA Cites Sterilization Company $838, 800 for Overexposing Employees to Toxic Chemical
February 2023	
February 27, 2023	OSH Appeals Board Decision in Heat Illness Prevention Case Adds Clarity to Provision of Water Requirements
February 4, 2023	COVID-19 Prevention Non-Emergency Regulations to Protect Workers from COVID-19 in Effect
January 2023	
January 24, 2023	Cal/OSHA Reminder to Employers: Post 2022 Annual Summary of Work-Related Injuries and Illnesses on February 1

Oregon

June 29, 2022

- Adjustments to COVID-19 Workplace Requirements for Employer-Provided Labor Housing

June 29, 2022

- Adjustments to Rules Addressing the COVID-19 Public Health Emergency in All Oregon Workplaces

January 28, 2022

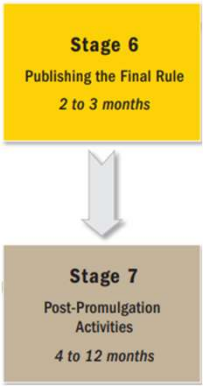
- Proposed Rules to Address Employee and Labor Housing Occupant Exposure to High Ambient Temperatures

January 28, 2022

- Proposed Rules to Address Employee Exposure to Wildfire Smoke

Final Rule

Federal



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Federal Final Rules

Final Rule Stage	Update to the Hazard Communication Standard
Final Rule Stage	Procedures for the Handling of Retaliation Complaints Under the Taxpayer First Act
Final Rule Stage	Procedures for Handling of Retaliation Complaints Under the Whistleblower Protection Statutes
Final Rule Stage	Occupational Exposure to COVID-19 in Healthcare Settings
Final Rule Stage	Procedures for the Handling of Retaliation Complaints Under the Anti-Money Laundering Act
Final Rule Stage	Procedures for the Handling of Retaliation Complaints under the Criminal Antitrust Anti-Retaliation Act
Final Rule Stage	Improve Tracking of Workplace Injuries and Illnesses
Final Rule Stage	Procedures for the Use of Administrative Subpoenas

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Whistleblower Updates

- Procedures for the Handling of Retaliation Complaints Under the Taxpayer First Act
- Procedures for the Handling of Retaliation Complaints Under Whistleblower Protection Status
- Procedures for the Handling of Retaliation Complaints Under the Anti-Money Laundering Act
- Procedures for the Handling of Retaliation Complaints under the Criminal Antitrust Anti-Retaliation Act

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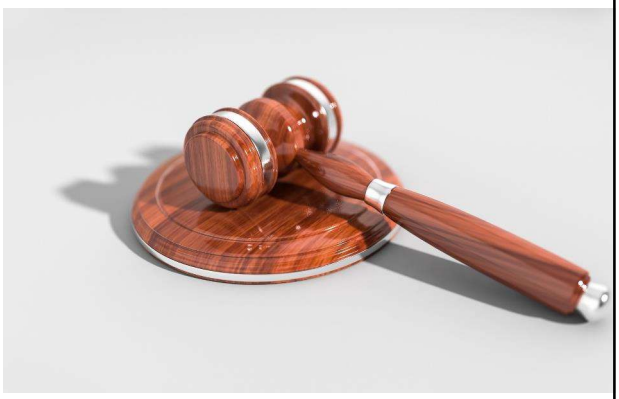
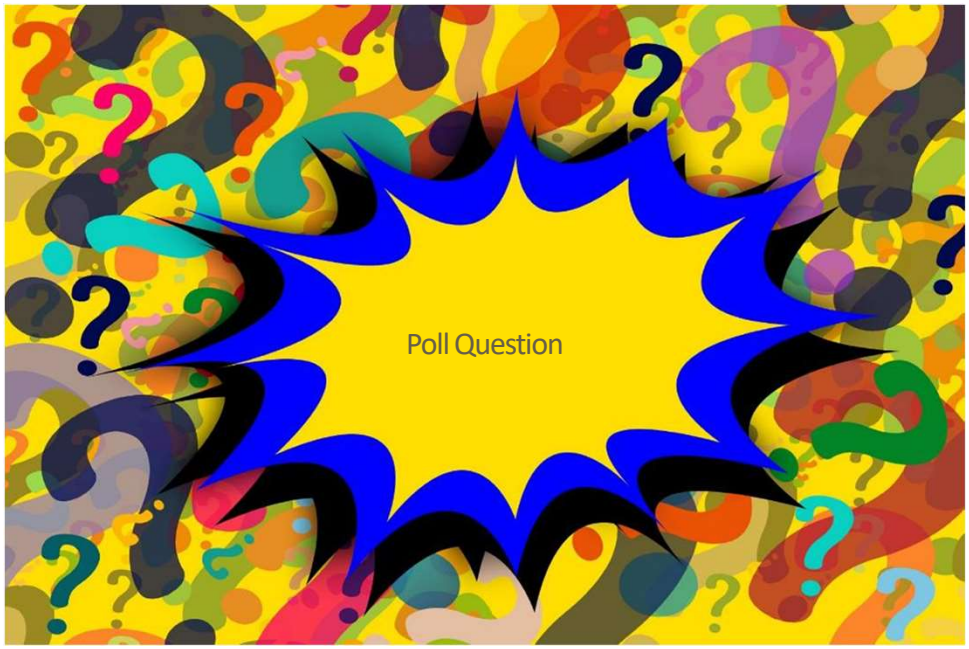
Procedures for the Use of Administrative Subpoenas

- Slated for June 2023
- Anticipated regulatory text unknown
- Currently, an administrative subpoena can be issued whenever there is a need for records, documents, testimony, or other supporting evidence needed to complete an inspection or investigation.
- OSHA claims that a more transparent and uniform regulation will help prevent recurrent and time-consuming delays





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Hazard Communication

New Classifications for Aerosols, Desensitized Explosives and Flammable Gases

- Flammable Aerosols are now simply Aerosols but categorized as (appendix B.3)
  - Flammable Aerosols – Category 1 or 2
  - Non-flammable Aerosols – Category 3
- Adding a new physical hazard class for Desensitized Explosives
  - Includes four categories (1-4)
- Flammable Gases currently in Category 1 of its hazard class will split
  - Category 1A – Pyrophoric Gases and Chemically Unstable Gases
  - Category 1B – Flammable non-Pyrophoric Gases and Chemically Stable Gases

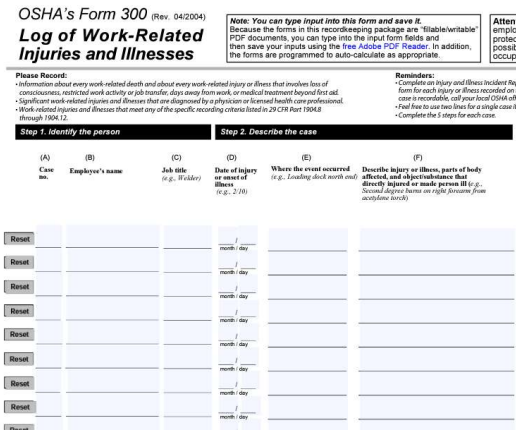
Haz Com – Label Changes

- Shipped container label requirements for small containers will now allow pull-out labels, fold-back labels or tags.
- Manufacturers, importers and distributors would be able to use an abbreviated label on containers with a volume capacity of 100 ml or less.
  - Caveat – Full label information must be provided on outer packaging for small containers
- Chemicals released for shipment do not have be relabeled, but an updated label must be added to each container.
- Trade Secrets can be protected but SDS must reference a prescribed concentration range.
- Some definitions have been updated: explosives, gases under pressure, flammable liquids, flammable solids, self-heating chemicals, and oxidizing solids.

Haz Com – Hazard and Precautionary Statements

- Precautionary statements may contain minor textual variations from the text prescribed elsewhere in appendix C (e.g., spelling variations, synonyms or other equivalent terms), as long as those variations assist in the communication of safety information without diluting or compromising the safety advice.
- Allows pictograms for Hazards Not Otherwise Classified (HNOC) on shipped container labels – uses the exclamation point
- Substances or mixtures that may trigger multiple precautionary statement s for medical response would follow a prioritization of precautionary statements and the label would list the one with the greatest urgency

Improve Tracking of Workplace Injuries and Illnesses



OSHA's Form 300 (Rev. 04/2004)

Log of Work-Related Injuries and Illnesses

Note: You can type input into this form and save it. Because the forms in this recordkeeping package are "fillable/writable" PDF documents, you can type into the input form fields and then save your inputs using the free Adobe PDF Reader. In addition, the forms are programmed to auto-calculate as appropriate.

Please Record:
- Information about every work-related death and about every work-related injury or illness that involves loss of consciousness, restricted work activity or job transfer, days away from work, or medical treatment beyond first aid.
- Significant work-related injuries and illnesses that are diagnosed by a physician or licensed health care professional.
- Work-related injuries and illnesses that meet any of the specific recording criteria listed in 29 CFR Part 1904.8 through 1904.12.

Reminders:
- Complete an Injury and Illness Incident Report form for each injury or illness recorded on this form.
- If a case is recordable, call your local OSHA office.
- Feel free to use two lines for a single case if you need to.
- Complete the 5 steps for each case.

Step 1. Identify the person | Step 2. Describe the case

(A) Case no.	(B) Employee's name	(C) Job title (e.g., Welder)	(D) Date of injury or onset of illness (e.g., 2/10)	(E) Where the event occurred (e.g., Loading dock north end)	(F) Describe injury or illness, parts of body affected, and object/substance that directly injured or made person ill (e.g., Second degree burns on right forearm from acetylene torch)
Reset			/ month / day		
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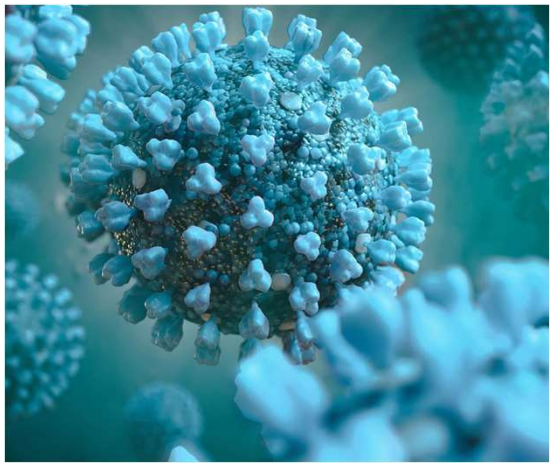
- Establishments with 20+ employees, in certain high hazard industries must continue to electronically submit Form 300A Annual Summary information annually
- Establishments with 100 or more employees in the highest-hazard industries must electronically submit information from their OSHA 300 Log, 301 Incident Report, and their Form 300A Annual Summary each year
- Establishments with 250 employees or more, NOT designated high-hazard industries, would no longer be required to submit recordkeeping information to OSHA electronically

Occupational Exposure to COVID-19 in Healthcare Settings



- Likely to require comprehensive infection protection programs with:
  - Hazard assessments,
  - Screening requirements,
  - Personal protective equipment (PPE),
  - Physical distancing and physical barriers,
  - Cleaning and disinfection,
  - Ventilation,
  - Notification of COVID-19 cases,
  - Return to work,
  - Training

One Last Thought on Your Safety Programs

- Your written programs are **your law**.
- Regulations are either **performance based or specification based:**
  - **Example:** The Injury & Illness Prevention program (3203) is a **performance - based standard. Employer tells OSHA how they will comply (perform).**
  - **Example:** The fall protection regulation is a **specification - based standard**. **OSHA tells the employer how to will comply**.
- **Whatever you say becomes YOUR LAW,** and OSHA will hold you accountable to what you write down even if its more stringent than the regulation.

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Next Steps

- Conduct **Job Hazard Analysis** for Key Jobs – PPE Assessment
- Review **employee training records** and ensure everyone has been trained "on the hazards of their job" and can "recognize hazards or unsafe conditions".
- Make sure **written programs** are in place that are reflective of the workplace;
- Conduct **regular facility inspections**, involve employees, **correct hazards**, provide feedback to staff after inspections.
- Conduct **Safety Leadership** classes with managers and supervisors; safety coaches, mentors, protectors, visionaries.
- **Join industry associations** and stay current on OSHA related aspects of your Industry.

Helpful Links

- BLS.gov
  - https://www.bls.gov/charts/injuries-and-illnesses/total-nonfatal-work-injuries-and-illnesses-by-year.htm#
  - https://www.bls.gov/charts/census-of-fatal-occupational-injuries/number-of-fatal-work-injuries-by-employee-status-self-employed-wage-salary.htm#
- Cal OSHA
  - http://www.dir.ca.gov/dosh/
  - http://www.dir.ca.gov/title8/index/T8index.asp
  - http://www.dir.ca.gov/dosh/PubOrder.asp
  - http://www.dir.ca.gov/dosh/DOSH_Archive.html
- National Institute of Safety and Health Publications
  - http://www.cdc.gov/niosh/pubs/default.html
- Federal OSHA
  - https://www.osha.gov/dep/index.html
  - https://www.osha.gov/news/newsreleases/enforcement
  - https://www.osha.gov/oshstats/index.html
  - https://www.nsc.org/newsroom/osha-reveals-top-10-safety-violations-for-fy-21-at
- CDC Pubs
  - http://www.cdc.gov/publications.htm
- State of Oregon Publications
  - http://www.orosha.org/standards/publications.html

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Thank you!

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