

# OSHA Update



John Olaechea, CIH, CSP  
Compliance Assistance Specialist  
OSHA Region VIII  
1244 Speer Blvd  
Suite 551  
Denver, CO 80204  
720-264-6586  
[olaecha.john@dol.gov](mailto:olaecha.john@dol.gov)

# Topics

- Emphasis Programs/Statistics
- COVID
- Silica Updates
- Regulatory Agenda
  
- Questions



# New Managers in Region VIII

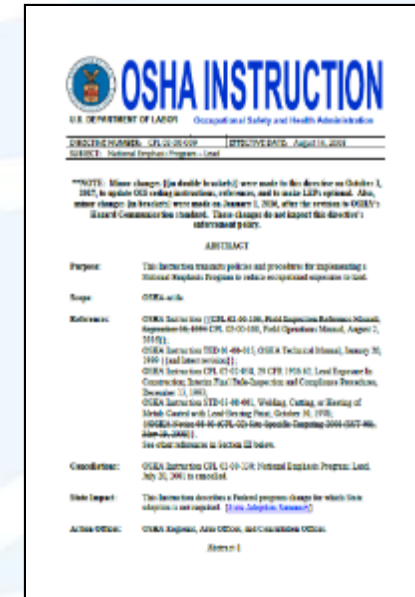
- Dr. Jennifer S. Rous – Regional Administrator
- Amanda Kupper – Area Director (Denver Area Office)
- Chad Vivian – Area Director (Englewood Area Office)



# FY 21 National Emphasis Programs

- Amputations in Manufacturing
- Lead Exposures (GI and Construction)
- Hexavalent Chromium Exposures
- Process Safety Management
- Combustible Dust
- Trenching and Excavation
- Primary Metals Industries (Foundries)
- Shipbreaking
- COVID-19
- Respirable Crystalline Silica

<https://www.osha.gov/dep/neps/nep-programs.html>



# FY 21 Regional and Local EPs (Region VIII)

- Regional Emphasis Programs
  - Fall Hazards in Construction
  - Roadway Work Zone Activities
  - Oil and Gas Industry
  - Grain Handling Facilities
  - Workplace Violence in Residential Intellectual and Developmental Disability Facilities
  - Beverage Manufacturing
  - Hazards in Automotive Services
- Local Emphasis Programs
  - Asbestos Abatement (Englewood)
  - Scrap & Recycling (Englewood)
  - Wood Manufacturing and Processing (Billings)
  - Aircraft Support and Maintenance Facilities (Englewood)



# Inspection Data 2019-2021

**\*unofficial**

- CY 2019
  - Inspections: 1197
  - Phone/Fax Investigations: 890
  - Rapid Response: 308
- CY 2020
  - Inspections: 687
  - Phone/Fax Investigations: 1042
  - Rapid Response: 278
- CY 2021 (through October)
  - Inspections: 692
  - Phone/Fax Investigations: 542
  - Rapid Response: 157



# National Inspection Data

OSHA Inspection Statistics	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020*
Total Inspections	35,280	31,948	32,408	32,023	33,393	21,674
Total Programmed Inspections	16,527	12,731	14,377	13,956	14,900	8,726
Total Unprogrammed Inspections	19,293	19,217	18,031	18,067	18,493	12,948
~ Fatality/Catastrophe Inspections	912	890	837	941	919	1,508
~ Complaints Inspection	9,037	8,870	8,249	7,489	7,391	4,581
~ Referrals*	6,569	6,691	6,286	6,463	6,718	4,808
~ Other Unprogrammed Inspections	3,686	2,766	2,659	3,174	3,465	2,051

\*The COVID-19 global pandemic caused by the novel coronavirus SARS-CoV-2 occurred during this time. FY20 enforcement OIS data is preliminary and as of November 9, 2020.





# Colorado Fatality Stats (Unofficial)

- Fatalities in FY 2021: ~ 44
- Fatalities in FY 2020: 21
- Construction Fatalities in FY 2021: 13
- COVID related fatalities in FY 2021: ~17
- 4 trench collapse fatalities, 1 fatality where excavator bucket fell





# **OSHA's Actions to Protect Workers from COVID-19**



# COVID Vaccination Standard

- On November 12, 2021, the U.S. Court of Appeals for the Fifth Circuit granted a motion to stay OSHA's COVID-19 Vaccination and Testing Emergency Temporary Standard, published on November 5, 2021 (86 Fed. Reg. 61402) ("ETS"). The court ordered that OSHA "take no steps to implement or enforce" the ETS "until further court order." The U.S. Court of Appeals for the Sixth Circuit now has jurisdiction over ETS challenges and DOL has filed a motion to lift the stay. While OSHA remains confident in its authority to protect workers in emergencies, OSHA has suspended activities related to the implementation and enforcement of the ETS pending future developments in the litigation. Note that the comment period is separate from the litigation.



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



# Healthcare - 1910.502 (a) Scope and Application

- Applies to healthcare worksites where any employee provides health care services or healthcare support services:
  - Hospitals
  - Nursing homes/Long-term care facilities
  - Healthcare settings embedded in a non-healthcare setting (e.g., medical clinic in a manufacturing facility; walk-in clinic in a retail setting)
  - Autopsy settings in funeral homes, mortuaries, and morgues

*NOTE: Where EMTs or other licensed healthcare providers enter a non-healthcare setting to provide healthcare services, only the provision of healthcare services by that employee is covered.*



## Healthcare – 1910.502 (a) (continued)

- Does not apply to:
  - Provision of first aid by non-licensed provider
  - Dispensing of prescriptions by pharmacists in retail settings
  - Non-hospital ambulatory care settings **if** non-employees are screened
  - Hospital ambulatory care settings **if** well-defined area, all workers fully vaccinated, non-employees are screened
  - Home healthcare settings **if** all workers fully vaccinated, non-employees screened
  - Off-site healthcare support services
  - Telehealth services outside of direct patient care settings



# Overview of Requirements for Healthcare

- COVID-19 plan
- Patient screening and management
- Standard and Transmission-Based Precautions
- Personal protective equipment (PPE)
- Aerosol-generating procedures on a person with suspected or confirmed COVID-19
- Physical distancing/Physical barriers
- Cleaning and disinfection



# Overview of Requirements for Healthcare

## (continued)

- Ventilation
  - Health screening and medical management
  - Vaccination
  - Training
  - Anti-retaliation
  - Requirements implemented at no cost to employees
  - Recordkeeping
  - Reporting COVID-19 fatalities and hospitalizations to OSHA





# **Updated Guidance on COVID-19 for All Industries**



# Updated Guidance 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.

# Updated Guidance for All Industries

## **Multi-layered controls to protect workers:**

- Providing workers time off to get vaccinated
- Isolating sick workers and instructing them to stay home
- Implementing physical distancing for unvaccinated/at-risk workers in common areas
- Implementing flexible worksites (e.g., teleworking) and flexible work hours
- Providing face coverings or surgical masks to all workers
- Maintaining and improving ventilation systems.

# Updated Guidance for All Industries

- Best Practices regardless of vaccination status:
  - Conducting a workplace risk assessment
  - Preparing a response plan with multi-layered controls
  - Taking steps to improve ventilation
- Multiple layers of protection are more important in high-risk mixed-vaccination settings.
- Will continue to update guidance based on the shape of the pandemic.

# What is the Regulatory Agenda?

- **Regulatory Agenda** informs public of federal agencies' regulatory priorities
  - Published twice a year in Spring and Fall at [Reginfo.gov](https://www.reginfo.gov)
- **Regulatory Plan** (published as part of Fall Agenda) has more details about the most significant regulatory actions



# OSHA: Final Rule Stage

- Retaliation Complaints under:
  - Taxpayer First Act
  - Whistleblower Statutes
  - Anti-Money Laundering Act
  - Criminal Antitrust Anti-Retaliation Act
  - Williams-Steiger Occupational Safety and Health Act of 1970
- Subpart U- Emergency Temporary Standard – COVID-19.



# OSHA: Proposed Rule Stage (Spring 2021)

- Infectious Diseases
- Cranes and Derricks in Construction Amendments
- Shipyard Fall Protection
- Communication Towers
- HazCom Update
- Lockout/Tagout Update
- Tree Care
- Silica for Construction- Table 1 Update
- Welding in Construction Confined Spaces
- PPE in Construction
- Powered Industrial Truck Design Standard Update
- Walking Working Surfaces
- Silica- Medical Surveillance Provisions Revisions
- Workplace Injury/Illness Tracking





# Regulatory Agenda Entry Example



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## View Rule

[View EO 12866 Meetings](#)[Printer-Friendly Version](#)[Download RIN Data in XML](#)

DOL/OSHA

RIN: 1218-AD04

Publication ID: Spring 2021

**Title:** Tree Care Standard

**Abstract:**

There is no OSHA standard for tree care operations; the agency currently applies a patchwork of standards to address the serious hazards in this industry. The tree care industry previously petitioned the agency for rulemaking and OSHA issued an ANPRM (September 2008). OSHA completed a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel in May 2020, collecting information from affected small entities on a potential standard, including the scope of the standard, effective work practices, and arboricultural specific uses of equipment to guide OSHA in developing a rule that would best address industry safety and health concerns. Tree care continues to be a high-hazard industry.

**Agency:** Department of Labor(DOL)  
**RIN Status:** Previously published in the Unified Agenda  
**Major:** Undetermined  
**CFR Citation:** None (To search for a specific CFR, visit the [Code of Federal Regulations.](#))  
**Legal Authority:** Not Yet Determined  
**Legal Deadline:** None  
**Timetable:**

**Priority:** Other Significant  
**Agenda Stage of Rulemaking:** Proposed Rule Stage  
**Unfunded Mandates:** Undetermined

Action	Date	FR Cite
Stakeholder Meeting	07/13/2016	
Initiate SBREFA	01/10/2020	
Complete SBREFA	05/22/2020	
NPRM	04/00/2022	

**Regulatory Flexibility Analysis Required:** Yes  
**Small Entities Affected:** Businesses, Governmental Jurisdictions  
**Included in the Regulatory Plan:** No  
**RIN Data Printed in the FR:** Yes  
**Agency Contact:**  
Andrew Levinson

**Government Levels Affected:** Local, State  
**Federalism:** No



# Tree Care

## NAICS Code: 561730 *Landscaping Services*

Listed below are the standards which were cited by **Federal OSHA** for the specified NAICS Code during the period October 2020 through September 2021. Penalties shown reflect current rather than initial amounts. For more information, see [definitions](#).

Standard	Citations	Inspections	Penalty	Description
Total	303	135	\$870,023	<i>All Standards cited for Landscaping Services</i>
5A0001	39	39	\$206,983	OSH Act General Duty Paragraph
19100132	30	19	\$48,669	General requirements.
19100067	24	23	\$63,768	Vehicle-mounted elevating and rotating work platforms.
19101200	24	13	\$23,910	Hazard Communication.
19040039	23	23	\$75,058	--- No Description Found ---
19260651	11	5	\$42,307	Specific Excavation Requirements.
19100135	10	10	\$49,702	Head protection.

# Tree Care

By Date

Results 1 - 20 of 665

Result Page: 1 2 3 4 5 6 7 8 9 10 ... >

Get Detail

Select All

Reset

	#	Summary Nr	Event Date	Report ID	Fat	SIC	Event Description
<input type="checkbox"/>	1	<a href="#">134346.01</a>	03/27/2021	0454712	X		Employee Is Killed Due To Contact With Power Line
<input type="checkbox"/>	2	<a href="#">134178.01</a>	03/19/2021	0950625	X		Employee Is Crushed And Killed By Concrete Slab In Empty Poo
<input type="checkbox"/>	3	<a href="#">134570.01</a>	03/11/2021	0950411	X		Employee Is Killed After Being Run Over By Semi Truck
<input type="checkbox"/>	4	<a href="#">134368.01</a>	03/05/2021	0418100	X		Employee Is Killed When Struck On Head By Falling Branch
<input type="checkbox"/>	5	<a href="#">133656.01</a>	02/26/2021	0111500	X		Employee Is Killed After Being Struck By Felled Tree
<input type="checkbox"/>	6	<a href="#">133649.01</a>	02/23/2021	0454510	X		Employee Is Killed When Ejected From Lift After Being Hit By
<input type="checkbox"/>	7	<a href="#">134395.01</a>	02/13/2021	0950647	X		Employee Collapses During Landscaping Work, Later Dies
<input type="checkbox"/>	8	<a href="#">133312.01</a>	02/12/2021	0418800	X		Employee Is Killed After Contacting Overhead Power Line Whil
<input type="checkbox"/>	9	<a href="#">139892.01</a>	02/03/2021	0214700	X		Employee Is Killed After Being Struck By Falling Stop Sign

# Infectious Diseases

- Employees in health care and other high-risk environments face long-standing infectious disease hazards.
- OSHA is examining regulatory alternatives for control measures to protect employees from infectious disease exposures to pathogens that can cause significant disease.
- **Proposed rule expected** in December 2021.



# Lock-Out/Tag-Out



- Recent technological advancements that employ computer-based controls of hazardous energy (e.g., mechanical, electrical, pneumatic, chemical, radiation) conflict with OSHA's existing lock-out/tag-out standard.
- The use of these computer-based controls has become more prevalent as equipment manufactures modernize their designs.
- OSHA issued a request for information (RFI) in May 2019 to help it understand the strengths and limitations of this new technology, and potential hazards to workers.
- **Proposed rule expected** in January 2022.



# Silica in Construction – Table 1

- Table 1 in OSHA's crystalline silica standard for construction includes dust control methods for certain equipment/tasks. Employers that follow Table 1 are not required to measure workers' silica exposure and are not subject to the PEL.
- In 2019, OSHA issued a request for information (RFI) on the effectiveness of control measures not currently included for tasks and tools listed in Table 1 *and* on tasks and tools involving exposure to silica not currently listed in Table 1.
- OSHA is evaluating this information to determine if revisions to Table 1 may be appropriate.
- **Proposed rule expected** in April 2022.



# Silica - Medical Surveillance Provisions for Medical Removal Protection

- OSHA's silica standards (construction and general industry/maritime) do not include a provision for medical removal protection.
- Industry and labor organizations petitioned for review of the rule.
- A federal court concluded that OSHA failed to adequately explain its decision to omit medical removal protections from the rule and sent the rule back to OSHA for further consideration.
- **Proposed rule expected** in March 2022.





# Walking-Working Surfaces



- OSHA received stakeholder feedback that some provisions of the 2016 final rule on walking-working surfaces are unclear.
- OSHA plans to correct a formatting error in Table D-2 (Stairway Handrail Requirements).
- OSHA also plans to revise language on stair rail systems to make them clearer and reflect OSHA's original intent.
- **Proposed rule expected** in July 2021.

# Workplace Injury/Illness Tracking

- OSHA intends to restore provisions of the Improve Tracking of Workplace Injuries and Illnesses final rule, 81 FR 29624 (May 12, 2016) that were removed by Tracking of Workplace Injuries and Illnesses final rule, 84 FR 380 (January 25, 2019).
- OSHA proposes to amend its recordkeeping regulation to restore the requirement to electronically submit to OSHA information from the OSHA Form 300 and OSHA Form 301 .
- **Proposed rule expected** in December 2021.



# Injury and Illness Data Available



UNITED STATES  
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## Establishment Specific Injury and Illness Data (Injury Tracking Application)

OSHA collects work-related injury and illness data from employers within specific industry and employment size specifications. Detailed information on this data collection is available on the [Injury Tracking Application webpage](#).

Recording or reporting a work-related injury, illness, or fatality does not mean that the employer or employee was at fault, that an OSHA rule has been violated, or that the employee is eligible for workers' compensation or other benefits.

- [CY 2016](#)
- [CY 2017](#)
- [CY 2018](#)
- [Data Dictionary](#)

# OSHA Webinar on Recordkeeping, Reporting, and Electronic Submission

- January 19, 2022 (8:00am-9:15am MST)
- Free
- E-mail [olaechea.john@dol.gov](mailto:olaechea.john@dol.gov) to receive invite



# OSHA: Pre-Rule Stage

- Process Safety Management and Prevention
- Emergency Response and Preparedness
- Mechanical Power Presses
- Workplace Violence in Health Care and Social Assistance
- Blood Lead Level for Medical Removal
- Heat Illness Prevention In Indoor and Outdoor Settings



# Advanced Notice of Public Rule Making (ANPRM)

- ANPRM for Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings
- Comments on the ANPRM must now be submitted by January 26, 2022
- Submit comments, identified by Docket No. OSHA-2021-0009, electronically at <https://www.federalregister.gov/documents/2021/10/27/2021-23250/heat-injury-and-illness-prevention-in-outdoor-and-indoor-work-settings>



# Heat Illnesses and Fatalities

Table IV.A.1—Reported Occupational Injuries (Involving Days Away From Work) and Fatalities as a Result of Exposure to Environmental Heat

Year	Annual injuries	Annual fatalities
2011	4,420	61
2012	4,170	31
2013	3,160	34
2014	2,660	18
2015	2,830	37
2016	4,110	39
2017	3,180	32
2018	3,950	49
2019	3,080	43

Source: U.S. Bureau of Labor Statistics: Injuries, Illnesses, and Fatalities, (BLS, December 22, 2020 and BLS, January 28, 2021) (Accessed August 30, 2021).



# ANPRM for Heat Injury and Illness Prevention

- Submit comments regarding:
  - Heat Injury/Illness prevention programs
  - Controls and PPE
  - Acclimatization
  - Monitoring
  - Response to heat illness emergencies
  - Worker training
  - Impacts on small entities



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