



WS&Co. Briefing

March 2016

## 2016 Construction and OSHA Update

*“ In this challenging construction environment the Woodruff-Sawyer Construction Practice strives to keep our clients and partners current in the area of Risk Management. Following is an update on Cal/OSHA developments. ”*

– Cam Dickinson, **Senior Vice President, Construction Group**

### OSHA Fines to Increase

As a result of the “Budget Act of 2015” OSHA fines will increase for the first time in nearly 25 years. The new budget eliminated the “Federal Civil Penalties Inflation Adjustment Act of 1990” exempting OSHA from increasing penalties to account for inflation. The potential increase will raise fines nearly 80 percent. Using that figure, OSHA’s penalties would change roughly as follows\*:

- **Other-than-Serious Violation:** Maximum of approximately \$12,476 (The current maximum is \$7,000).
- **Serious Violation:** Maximum of approximately \$12,476 (The current maximum is \$7,000).
- **Repeat Violation:** Maximum of approximately \$124,765 (The current maximum is \$70,000).
- **Willful Violation:** Minimum of approximately \$8,912; maximum of approximately \$124,765 (The current minimum is \$5,000; the current maximum is \$70,000).
- **Failure-to-Abate:** Maximum of approximately \$12,476 per day (The current maximum is \$7,000).

The aforementioned are rough estimates. OSHA must file its “interim final rule” by July 1, 2016 with the penalty increases effective August 1, 2016.

\*Source: Society for Human Resource Management: [www.shrm.org/hrdisciplines/safetysecurity/articles/Pages/Budget-OSHA-enforcement.aspx#sthash.fMVWLFex.dpuf](http://www.shrm.org/hrdisciplines/safetysecurity/articles/Pages/Budget-OSHA-enforcement.aspx#sthash.fMVWLFex.dpuf)

### OSHA Final Rule on Silica

– Thomas Glynn, Zurich Sr. Risk Engineering Consultant

The new silica rule sets a permissible exposure limit (PEL) for airborne crystalline silica of 50 micrograms per cubic meter of air (50 µg/m<sup>3</sup>) for general industry, construction and maritime employers. The new PEL is half the old general industry PEL of 100 µg/m<sup>3</sup>, and 80 percent less than the old construction and maritime standard of 250 µg/m<sup>3</sup>.

The new standard takes effect June 23, 2016. However OSHA plans that full compliance will take approximately five years. The initial compliance deadlines will differ between general industry and the construction. Construction employers will need to comply with all requirements of the standard by June 23, 2017 with the exception of the laboratory evaluation of exposure samples, which commences in June 2018. General industry employer must comply by June 2018. Medical surveillance at or above the action limit (25 µg/m<sup>3</sup>) for 30 or more days in a year will start in June 2020.

Cal OSHA has six months to establish its own standard or can elect to adopt the Fed OSHA standard in its entirety. In

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the case of the confine space standard, Cal OSHA adopted the Fed standard in its entirety with no modification, and that law went into effect immediately. It is unclear at this time what approach Cal OSHA will take in terms of the Silica Standard.

### Cal/OSHA Updates Construction Pocket Safety Guide

In December, The Department of Industrial Relations (DIR) and Cal/OSHA announced the latest release of the free “Pocket Guide for the Construction Industry.” This publication allows workers, employers and supervisors to reference key safety requirements detailed in clear, concise terms.

“This guide is our most requested Cal/OSHA publication,” said Cal/OSHA Chief Juliann Sum. “It is indexed to help employers and employees easily find the latest safety requirements on many topics related to construction, such as airborne contaminants, blasting, fall protection, heavy equipment, and multi-employer worksites.”

Included in the new edition are regulatory updates in subjects that include (but are not limited to):

- Structure erection and construction – section 1710
- Forklifts – section 3650
- Hazard communication - section 5194
- Heat illness prevention – section 3395
- Lockout/blockout procedures – section 3314
- Personal protective equipment – sections 1514, 3380, 3384

A copy of the Guide is available at: [www.dir.ca.gov/dosh/dosh\\_publications/ConstGuideOnline.pdf](http://www.dir.ca.gov/dosh/dosh_publications/ConstGuideOnline.pdf)

### Annual Requirements for the Posting of Your Work-Related Injuries 2015 Log

As a reminder, less than one month remains to post the OSHA Summary of Work-Related Injuries and Illnesses for the calendar year 2015. Some of the key items related to these requirements are highlighted below:

- **The required posting period is due April 30th.**
- In addition to the 300A, you must also maintain the OSHA 300 and 301, as well as a Privacy Cases Log.
- A company executive must certify the accuracy of the data reported on the log.

To assist you in this process, we suggest the following:

- Thoroughly review your log, as well as the instructions on the back of the log, to ensure that it is complete and accurate. Also review your:
  - Workers’ compensation claim files
  - First aid case log (be sure to add recordable incidents to the OSHA 300 and 300A)
  - Any other incident records that your firm may keep
- Make sure the top of the summary is completed and the bottom is signed and dated by an executive certifying the accuracy of the information it contains.
- Copy the log and post it in a conspicuous place. OSHA recommends that the log be posted on the bulletin board at each office and at each work site in a location where employees normally gather. Even if your firm had no recordable cases, you must still post a log.
- Review the classification of the cases on your log carefully. Be sure that only cases that fit OSHA’s definition of recordability appear on the log. Accurate classification also establishes your firm’s incidence rates which can be of use in your pre-qualification process. Not all cases involving trips to a doctor are recordable. **Refer to OSHA’s definition of “first aid” which we’ve provided in this newsletter.** If you have logged a case that you have now determined is not recordable, simply draw a line through the entry, and initial and date it beside the line. Do not white-out or black-out incorrect entries.
- For cases involving lost time and restricted work activity, determine an accurate count of lost days and restricted activity. This information may be obtained from the treating doctor’s status/treatment report or from your workers’ compensation claims administrator. OSHA requires that if an injury results in both days away from work and days of restricted work activity, the employer is to enter the total of the days for each. The lost time maximum per case to be indicated on the log is the total of either or the combination of both when the maximum reaches 180 days.
- If the status of a case has changed, including its severity, from the time you originally entered it on the log, you must also change the log entry. Be sure to include the date of change and your initials.
- You must retain the original log with your safety records for a minimum of five years.

If you need any assistance in complying with these recordkeeping requirements, please contact your Woodruff-Sawyer representative.

## Resources

You may obtain information on the State Bills, and OSHA regulations and forms from:

- [www.dir.ca.gov/DOSH/](http://www.dir.ca.gov/DOSH/)
- [www.osha.gov/recordkeeping2014/index.html](http://www.osha.gov/recordkeeping2014/index.html)
- [www.leginfo.legislature.ca.gov/faces/billSearchClient.xhtml](http://www.leginfo.legislature.ca.gov/faces/billSearchClient.xhtml)

## Federal OSHA's 2015 Top Ten

Here are OSHA's most frequently cited standards following an incident inspection (Oct. 1, 2014 – Sept. 30, 2015):

1. Fall Protection
2. Hazard Communication
3. Scaffolding
4. Respiratory Protection
5. Lockout/Tagout
6. Powered Industrial Trucks
7. Ladders
8. Electrical – Wiring Methods
9. Machine Guarding
10. Electrical – General Requirements

## Safety and Training Resources

Did you know that Woodruff-Sawyer offers an exclusive **SAFETY TOOLBOX**, an online safety resource, to our clients? In addition, exclusively for Woodruff-Sawyer clients we provide access to “**Succeed**” – our “**Risk Management Center**” platform which includes safety management resources, training and tracking aides. For more information on “**Succeed**” please contact your Woodruff-Sawyer Account Executive.

Our value-added safety services contain valuable resource material for management, field supervisors, and field staff. From tailgate meeting sheets in both English and Spanish, to model safety programs, resources and links to other resources. Chances are that you'll find information that will help you with your company's safety efforts.

## What is “first aid”?

For the purposes of Article 2, OSHA defines “first aid” as the following:

1. Using a non-prescription medication at non-prescription strength (for medications available in both prescription and non-prescription form, a recommendation by a physician or other licensed health care professional to use a non-prescription medication at prescription strength is considered medical treatment for record keeping purposes);
2. Administering tetanus immunizations (other immunizations, such as Hepatitis B vaccine or rabies vaccine, are considered medical treatment);
3. Cleaning, flushing or soaking wounds on the surface of the skin;
4. Using wound coverings such as bandages, Band-Aids™, gauze pads, etc.; or using butterfly bandages or Steri-Strips™ (other wound-closing devices such as sutures, staples, etc. are considered medical treatment);
5. Using hot or cold therapy;
6. Using any non-rigid means of support, such as elastic bandages, wraps, back belts, etc. (devices with rigid stays or other systems designed to immobilize parts of the body are considered medical treatment for record keeping purposes);
7. Using temporary immobilization devices while transporting an accident victim (e.g., splints, slings, neck collars, backboards, etc.);
8. Drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister;
9. Using eye patches;
10. Removing foreign bodies from the eye using only irrigation or a cotton swab;
11. Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means;
12. Using finger guards;
13. Using massages (physical therapy or chiropractic treatment are considered medical treatment for record keeping purposes); or
14. Drinking fluids for relief of heat stress.

For professional assistance treating and maximizing the utilization of “first aid” cases, we highly recommend the services of **On-Site Health & Safety** at [www.onsitehealthandsafety.com](http://www.onsitehealthandsafety.com).

#### Contact Us

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