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October 2, 2009

## CLIENT ALERT

### **OSHA Launches Recordkeeping Emphasis Program to Test Charges of Underreporting**

On October 1, 2009 the Occupational Safety and Health Administration (OSHA) announced a national emphasis program on recordkeeping to test OSHA's ability to target workplaces and identify underreporting of workplace injuries and illnesses. The program became effective on September 30, 2009 and will expire in one year. The full text of the program is available at [http://osha.gov/OshDoc/Directive\\_pdf/CPL\\_02\\_09-08.pdf](http://osha.gov/OshDoc/Directive_pdf/CPL_02_09-08.pdf).

#### **Inspection of Injury and Illness Records**

The program directs OSHA inspectors to analyze all injury and illness records from calendar years 2007 and 2008, including medical records, workers' compensation records, insurance records, payroll and absentee records, company safety incident reports, company first-aid logs, alternate duty rosters, disciplinary records pertaining to injuries and illnesses, and any records stored at offsite locations or medical clinics. The inspectors will use these records to obtain a sampling of employees at selected workplaces in high-risk industries and will then independently reconstruct "OSHA 300" forms, which log work-related injuries and illnesses, for each employee in the sample. These forms will be compared against the employer's actual OSHA 300 forms.

#### **Interviews of Recordkeeping Personnel**

The program further directs OSHA inspectors to interview the designated recordkeeper at each workplace to assess that individual's knowledge of OSHA recordkeeping requirements. Inspectors will also interview management representatives, first-aid providers, healthcare professionals who participated in treating employees, and a specified number of employees who are "likely to be injured or become ill," such as those working in particularly hazardous areas. Inspectors are instructed to note in particular

any employer policies that may have the effect of discouraging injury or illness reporting, such as awards programs. In addition, inspectors must determine whether any policies may influence or restrict the treatment that employees receive for occupational injuries, such as policies that discourage employees from visiting their personal physician for treatment. The emphasis program provides written questionnaires for these interviews.

### **Mandatory Walkaround Inspections**

The program requires OSHA inspectors to conduct limited walkaround inspections of the “main plant operations areas” at each worksite. Inspectors will look for consistency with recorded injuries and illnesses and address any violations observed in plain view. At the conclusion of the inspection, inspectors will conduct a closing conference with the employer and employee representatives to discuss the strengths and weaknesses of the employer’s recordkeeping system, and to describe any recordkeeping deficiencies and violations found during the inspection. Copies of the OSHA 300 Logs, worksheets, and interviews will then be forwarded to OSHA’s Office of Statistical Analysis, which will develop a final report on the results of the program.

### **Issuance of Citations**

Any recordkeeping violations identified during the inspection may yield citations and penalties. Employers will not be cited for over-reporting cases; rather, the employer will be informed of such over-reporting and the need to eliminate those identified cases on the OSHA Form 300 Log.

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OSHA’s Office of Statistical Analysis will issue a list of a maximum five workplaces to be inspected in each OSHA region. Each workplace must have at least 40 employees and must be in one of 21 specified industries, including nursing care facilities, refrigerated warehousing and storage, concrete pipe manufacturing, rolling mill machinery and equipment manufacturing, and marine cargo handling. Public sector employers and employers participating in OSHA’s Voluntary Protection Programs or Safety and Health Achievement Recognition Program will not be inspected under the program. Workplaces involved in an OSHA Strategic Partnership may also be exempted from inspections.

The national emphasis program was initiated in response to a Government Accountability Office study on the accuracy of employer injury and illness records. The program is one component of OSHA’s effort to address the issue of inaccurate recording of occupational injuries and illnesses.

If you should have any questions regarding the national emphasis program, please contact us.

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