

Five Steps Toward Boosting Employee Safety and Avoiding OSHA Citations

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The ***Occupational Safety and Health Administration (“OSHA”)*** was created by ***Congress*** to ensure safe and healthful working conditions for employees. OSHA establishes standards and provides training and compliance assistance. It also enforces its standards with investigations and citations.

Although it’s impossible for employers to mitigate against every conceivable hazard in the workplace, there are five critical steps that every employer should take to improve safety in the workplace—and avoid costly OSHA citations. Read on for the steps:

1. Conduct an Internal Safety and Health Audit Under Attorney-Client Privilege

One of the most effective ways for an employer to identify and eliminate safety hazards in the workplace is to conduct a safety and health audit. Working with a safety and health professional, employers should closely examine every aspect of their workplace to ensure they’re in full compliance with OSHA standards and best practices.

Employers must take care, though, in the way they conduct and document such audits.

In a worksite inspection, OSHA may demand to see audit reports and use them to identify potential hazards in the workplace – essentially using the employer’s proactive audit against it and issuing citations based on hazards identified but not yet remedied.

Employers can protect their internal audit reports from disclosure to OSHA by working with counsel in conducting their audits. Counsel can engage a safety and health professional to conduct the audit. The audit report is then protected from disclosure to OSHA by the attorney-client communication privilege.

2. Create a Strong Safety Culture

A robust and authentic safety culture is critical for ensuring employee health and safety. Management at all levels should be involved in creating this culture, actively communicating with employees and being physically present where employees do their jobs. Such actions demonstrate to employees that employers are serious about safety, increasing employees’ commitment to safety and their overall job satisfaction. By visiting their worksites, employers have the opportunity to observe potential hazards with their own eyes and discover other potential hazards through conversations with employees.

Employers should assure employees that safety is prioritized over production and that suggestions for improving safety in the workplace are not only welcome, but encouraged. By providing open lines of communication with employees, employers again encourage a commitment to safety at all levels of the organization and significantly improve the odds they will learn of a potential problem. Employees are often the first to identify a potential hazard, and having regularly worked in a particular area or with a particular piece of machinery, they have insightful suggestions about how problems can best be resolved. When an employee identifies a potential hazard, the employer should assess the situation promptly and respond to the issue in a timely manner.

3. Ensure That Safety and Health Documentation Is Current and Well Communicated

All employers must provide to their employees essential safety information, such as how to evacuate in an emergency. Depending on the industry, OSHA also requires employers to provide a range of written guidance to employees regarding the essentials of safely performing their work. Many employers must record work-related injuries and illnesses. Employers subject to OSHA’s process safety management standard (oil refiners and chemical companies, for example) must create and maintain a host of documents, such as process hazard analyses and compliance audits, and many of these documents must be created or reviewed within established time periods set forth in the standard.

Every employer should regularly review its OSHA documentation requirements, which may change from time to time. Recently, for example, OSHA removed several industries from those required to maintain work-related injury and illness logs, but

it also added several industries that had never previously been subject to this requirement. Having determined the extent of their documentation requirements, employers should review their documents and ensure that they are thorough and up to date. Finally, employers should make sure that related employees fully comprehend the documentation, know how and when to use it, and understand the reason for maintaining it. This helps to ensure employee safety and gives employees another opportunity to provide suggestions and point out information that's missing from the documents.

4. Train Employees in Safety and Health, Regularly and Comprehensively

OSHA standards include a number of training requirements. OSHA often cites employers for failure to train employees on relevant safety and health information and failure to ensure that employees understand the training. This is avoidable.

Employers must provide comprehensive training to employees in a way that employees can fully comprehend. A simple way to ensure compliance with this requirement is to administer a quiz at the conclusion of the training, requiring employees to demonstrate their comprehension of the information that was relayed to them. Many employers require employees to achieve a high score on such quizzes (e.g., 90 to 100 percent). If employees are unable to reach the required score on the first try, they should be given the opportunity to be retrained and take the quiz again. Employers should keep records of all safety and health training provided to employees and should keep quizzes and other related materials on file. Simply being able to provide these documents to OSHA in the event of an inspection will go a long way toward proving that the employer has complied with OSHA's training requirements.

5. Protect Contractors and Temporary Workers, Too

Employers should make every effort to ensure that *all* employees on their worksites are safe – contractors and temporary workers included. Many tragic incidents can be avoided by ensuring that everyone on the worksite is on the same page when it comes to safety. Although this task may sound daunting, it is another essential element of creating a truly safe working environment.

OSHA has instructed its compliance officers to expand the scope of inspections to include temporary workers who may have been exposed to a hazard identified by OSHA at a worksite. This instruction led to a 322 percent increase in inspections involving temporary employees in 2014. In only 15 percent of those inspections, citations were issued to the temporary agencies—but countless citations were issued to host employers, often for failing to train temporary workers properly or to provide them with the safety gear provided to permanent employees, leaving temporary workers at an increased risk of harm. In those instances in which temporary agencies received citations, failure to train employees properly was again among the most often cited violations.

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