



State Guide to
Workplace Safety Regulation



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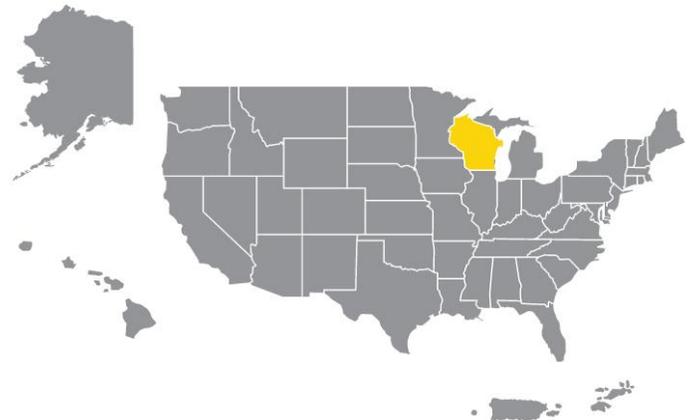




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Introduction

This Workplace Safety Regulation manual will serve as a guide to some general federal OSHA standards as well as some Wisconsin workplace safety laws that fall outside of the scope of the federal OSHA program. This guide is not meant to be exhaustive or construed as legal advice, but will be a helpful tool in complying with your general employer workplace safety and health responsibilities.

Use this guide as reference, but contact [AssuredPartners](#) or legal counsel to discuss additional or specific compliance requirements. Keep in mind that depending on your industry and specific workplace processes, your business may be required to follow additional or stricter federal, state and local laws.

OSHA

The Occupational Safety and Health Act of 1970 (OSH Act) was enacted to prevent workers from dying or being seriously harmed at work. Under the OSH Act, employers have the responsibility to provide a safe workplace for their workers. The OSH Act created the Occupational Safety and Health Administration (OSHA), to set and enforce protective workplace safety and health standards. OSHA also provides information, training and assistance to employers and their workers.

The OSH Act covers private sector employers and employees in all 50 states, the District of Columbia and other U.S. jurisdictions, either directly through [federal OSHA](#) or through an [OSHA-approved state program](#). Employees who work for state and local governments are not covered by federal OSHA, but may have OSH Act protections through an OSHA-approved state program.

Government agencies must have a safety and health program that meets the same standards as those applicable to private employers. Although OSHA does not fine federal agencies, it does monitor federal agencies and responds to workers' complaints. The United States Postal Service (USPS) is covered by OSHA.

The following individuals are not covered by the OSH Act:

- Self-employed individuals; and
- Immediate family members of farm employers that do not employ outside employees.

OSHA does not regulate workplace hazards that are regulated by another federal agency, such as the Mine Safety and Health Administration or the Federal Aviation Administration.

Please contact [AssuredPartners](#) for additional information regarding OSHA and the OSH Act.

Regional and Area OSHA Offices

Regional Office
230 South Dearborn Street, Room 3244
Chicago, Illinois 60604
Phone: (312) 353-2220
Fax: (312) 353-7774

Appleton Area Office
1648 Tri Park Way
Appleton, Wisconsin 54914
Phone: (920) 734-4521
Fax: (920) 734-2661

Eau Claire Area Office
1310 W. Clairemont Avenue
Eau Claire, Wisconsin 54701
Phone: (715) 832-9019
Fax: (715) 832-1147

Madison Area Office
4802 E. Broadway
Madison, Wisconsin 53716
Phone: (608) 441-5388
Fax: (608) 441-5400



Milwaukee Area Office
310 West Wisconsin Avenue, Room 1180
Milwaukee, Wisconsin 53203
Phone: (414) 297-3315
Fax: (414) 297-4299

www.osha.gov/oshdir/r05.html

Wisconsin Workplace Safety

The OSH Act encourages states to develop and operate their own job safety and health programs. Wisconsin does not operate an occupational safety and health program under a plan approved by OSHA. Therefore, OSHA maintains jurisdiction over public and private sector workers in Wisconsin and employers in Wisconsin must adhere to all workplace safety regulations.



Chapter 1

Federal General Duty Clause and Standards

General Duty Clause

The OSH Act and its accompanying regulations identify a significant number of recognized hazards and establish safety and health standards to address them. OSHA standards are classified into four different groups, known as the agriculture, construction, maritime and shipyard, and general industries.

However, even when no standard specific to a recognized hazard applies, the Act imposes certain safety and health responsibilities on employers through a provision that is commonly known as the OSHA “general duty clause.” OSHA’s general duty clause requires covered employers to provide a safe work environment, free from recognized hazards, to their employees, if those hazards are causing or are likely to cause death or serious physical harm.

Employers in Wisconsin must comply with the General Duty Clause of the OSH Act. This clause is generally cited when no specific OSHA standard applies to the hazard.

In general, OSHA and courts across the United States have established that employers violate the general duty clause if:

1. They fail to keep the workplace free of a hazard to which employees were exposed;
2. The hazard was recognized;
3. The hazard was causing or was likely to cause death or serious physical harm; and
4. There was a feasible and useful method to correct the hazard.

All four of the conditions described above must be present before OSHA can issue a citation under the general duty clause. A “hazard” is a workplace condition or practice to which employees are exposed that creates the potential for employee death or serious physical harm.

Employer Responsibilities

Employers have the responsibility to provide a safe workplace. This means that each employer **MUST** provide its workers with a workplace that does not have serious hazards and follow all relevant OSHA safety and health standards. Employers have a duty to find and correct safety and health problems.

OSHA further requires employers to try to eliminate or reduce hazards, first by making changes in working conditions rather than just relying on masks, gloves, ear plugs or other types of personal protective equipment (PPE). Switching to safer chemicals, enclosing processes to trap harmful fumes and using ventilation systems to clean the air are examples of effective ways to eliminate or minimize risks.

Employers must:

- Provide a workplace free from serious recognized hazards and comply with standards, rules and regulations issued under the OSHA Act;
- Examine workplace conditions to make sure they conform to applicable OSHA standards;
- Make sure workers have and use safe tools and equipment:
- Properly maintain the equipment workers must use during the course of their work;
- Use color codes, posters, labels or signs to warn workers of potential hazards;



- Establish or update operating procedures;
- Inform workers of established and updated operating procedures so that workers can follow safety and health requirements;
- Provide medical examinations and training when required by OSHA standards;
- Post, at a prominent location within the workplace, the OSHA poster informing employees of their rights and responsibilities;
- Report to the nearest OSHA office **within eight hours** any fatal accident and **within 24 hours** any incident that results in inpatient hospitalization, amputation or loss of an eye;
- Keep records of work-related injuries and illnesses; (Note: Employers with 10 or fewer employees and employers in certain low-hazard industries are exempt from this requirement.)
- Provide employees, former employees and their representatives access to the Log of Work-Related Injuries and Illnesses (OSHA Form 300);
- Provide access to employee medical records and exposure records to employees or their authorized representative;
- Provide to the OSHA compliance officer the names of authorized employee representatives who may be asked to accompany the compliance officer during an inspection;
- Avoid discriminating against employees who exercise their rights under the OSH Act;
- Post OSHA citations at, or near, the work area involved. Each citation must remain posted until the violation has been corrected or for **three working days**, whichever is longer. Post abatement verification documents or tags; and
- Correct cited violations by the deadline set in the OSHA citation and submit required abatement verification documentation.

Workers' Rights and Responsibilities

Workers also have responsibilities under the OSH Act. Each worker must comply with OSHA standards and all related rules, regulations and orders applicable to his or her own actions and conduct. However, employees also have the right to:

- Work under conditions that do not pose a risk of serious harm;
- Receive information and training (in a language workers can understand) about:
 - The hazards (chemical and non-chemical) that they may be exposed to during work;
 - The methods their employer has adopted to prevent harm; and
 - Any OSHA standards that apply to their workplace;
- Review records of work-related injuries and illnesses;
- Get copies of test results done to find and measure hazards in the workplace;
- File complaints with OSHA, and request OSHA to inspect their workplace if they believe there is a serious hazard or that their employer is not following OSHA rules; and
- Report OSHA violations without fear of retaliation or discrimination. If an employee is fired, demoted, transferred or discriminated against in any way for reporting OSHA violations, the



employee can file a retaliation or discrimination complaint with OSHA. This complaint must be filed **within 30 days** of the alleged retaliation or discrimination.

OSHA Standards

OSHA **standards** are rules that describe the methods employers are legally required to follow to protect their workers from hazards. OSHA has published standards for Construction work, Agriculture, Maritime operations, as well as for the General Industry. The general industry applies to most worksites. These standards limit the amount of hazards workers can be exposed to, regulate the use of certain safe practices and equipment, and require employers to monitor hazards. OSHA also imposes recordkeeping requirements for employers regarding workplace injuries and illnesses.

Before OSHA can issue a standard, it must go through a very extensive and lengthy process that includes substantial public engagement, notice and comment. The agency must show that a significant risk to workers exists and that there are feasible measures employers can take to protect their workers.

Examples of OSHA standards include requirements to:

- Provide fall protection;
- Prevent trenching cave-ins;
- Prevent exposure to some infectious diseases;
- Ensure the safety of workers who enter confined spaces;
- Prevent exposure to harmful substances such as asbestos and lead;
- Put guards on machines;
- Provide respirators or other safety equipment; and
- Provide training for certain dangerous jobs.



Chapter 2

Federal Training Guidelines

Many OSHA standards explicitly require employers in Wisconsin to train workers in the safety and health aspects of their jobs. Other OSHA standards make it the employer's responsibility to limit certain job assignments to workers who are "certified," "competent" or "qualified" - meaning that they have had special training, in or out of the workplace. The term "designated personnel" means personnel that is selected or assigned by the employer or the employer's representative as being qualified to perform specific duties.

Required OSHA Programs and Training - General Industry

The DOL provides an informational booklet titled [Training Requirements in OSHA Standards and Training Guidelines](#) that is intended to provide a generic, non-exhaustive overview of a particular standards-related topic. The booklet does not alter or determine compliance responsibilities, which are set forth in OSHA standards themselves, and the OSH Act. Interpretations and enforcement policies may change over time.

Employers should consult their [AssuredPartners](#) representative or legal counsel for current administrative interpretations and decisions by the Occupational Safety and Health Review Commission and the courts. The informational booklet is a complete list of OSHA's training-related requirements and can be found on the DOL [website](#).

Voluntary Training Guidelines - OSHA

Each employer must comply with the occupational safety and health standards promulgated under the OSH Act. Some OSHA standards require training, others do not. When no training requirement exists, employers may still volunteer to provide safety training for their workers.

OSHA has developed training guidelines to assist employers in providing voluntary training. These guidelines provide the safety and health information and instruction workers need to reduce the risk of exposing themselves, their co-workers and the public to workplace hazards.

The development of the guidelines is part of an agency-wide objective to encourage cooperative, voluntary safety and health activities among OSHA, the business community and workers. These voluntary programs include training and education, consultation, voluntary protection programs and abatement assistance. The voluntary training guidelines are designed to help employers:

- Determine whether a worksite problem can be solved by training;
- Determine what training, if any, is needed;
- Identify goals and objectives for the training;
- Design learning activities;
- Conduct training and determine the effectiveness of the training; and
- Revise the training program based on feedback from workers, supervisors and others.

“Training in the proper performance of a job is time and money well spent.”



Chapter 3

Postings, Recordkeeping and Reporting

Federal Required Safety Postings

OSHA Poster

All employers in Wisconsin, including those exempt from most recordkeeping requirements, must display OSHA's "Job Safety and Health: It's the Law" poster explaining employee rights under OSHA law in a prominent location in the workplace. Download or order the [OSHA poster](#) from the OSHA website.

OSHA Form 300A

Employers required to keep records must display the OSHA **Form 300A**, a summary of workplace injuries and illnesses, **from Feb. 1 until April 30 annually**.

Citations

Employers must post their **citations** for violations of OSHA laws immediately for **three full working days** or until the violation has been corrected, whichever is longer.

When an employer has multiple locations, it must satisfy all posting requirements pertaining to employee rights at each location where work is being done. Citations must be posted in the facility where the incident occurred and at the site of the violation, if possible.

Please contact [AssuredPartners](#) for information on additional state and federal workplace posting requirements.

Recordkeeping

All employers covered by OSHA must follow OSHA's recordkeeping requirements.

Exemption from OSHA Recordkeeping Regulations

Employers with 10 or fewer employees and whose establishments are classified as a partially exempt industry **are exempt** from the recordkeeping requirements. Partially exempt industries include establishments in specific low-hazard retail, service, finance, insurance or real estate industries. The list for partially exempt industries was updated on Jan. 1, 2015 and may be found [here](#).

Required OSHA Incident Recording Forms

Employers subject to OSHA's recordkeeping regulations must prepare and maintain records of serious work-related injuries and illnesses using OSHA [Forms 300, 300A and 301](#).

Which Work-Related Injuries And Illnesses Should Be Recorded?

Employers must record work-related injuries and illnesses that result in:

- Death;
- Loss of consciousness;
- Days away from work;



- Restricted work activity or job transfer; or
- Medical treatment beyond first aid.

Employers must also record work-related injuries and illnesses that are significant or any:

- Needlestick injury or cut from a sharp object that is contaminated with another person's blood or other potentially infectious material;
- Medically removal case required by an OSHA health standard (such as exposure to hazardous chemicals);
- Tuberculosis infection case as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional after exposure to a known case of active tuberculosis; and
- Hearing loss case where the employee's hearing test (audiogram) that reveals that:
 - The employee has experienced a standard threshold shift (STS) in hearing in one or both ears (averaged at 2,000, 3,000 and 4,000 Hz); and
 - The employee's total hearing level is 25 decibels (dB) or more above audiometric zero (also averaged at 2,000, 3,000 and 4,000 Hz) in the same ear(s) as the STS.

WORK-RELATED INJURY

OSHA considers injuries and illnesses work-related if:

- They arise directly out of employment or the work environment (including exposure to facilities, equipment and materials used in the course of the job)
- The work environment contributed to the injury or illness; or
- The work environment aggravated an existing circumstance considerably

Storage

Employers must keep all records of their establishment on file for **five years**. In addition, all records must be readily available in case of inspection. During the five-year storage period, employers must update stored OSHA 300 Logs to include newly discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously recorded injuries and illnesses. If the description or outcome of a case changes, employers must remove or cross out the original entry and enter the new information.

For more information download the OSHA [recordkeeping forms](#) (or order them from the [OSHA Publications Office](#)) or visit the OSHA [website](#).

Reporting

Employers must report:

Any work-related fatality within eight hours	AND	Any inpatient hospitalization, amputation or loss of an eye within 24 hours
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Employers are required to submit these reports to OSHA by **telephone** at 1-800-321-OSHA (6742), by calling or **visiting the nearest area office** during normal business hours or through the online reporting [website](#).



Electronic Reporting

On May 12, 2016, OSHA issued a final rule that requires certain establishments to electronically submit information about work-related injuries, illnesses and incidents through the agency's ITA website every year. The electronic reporting requirements apply to:

- Establishments that have 250 or more employees and are not in a partially exempt industry; and
- Establishments that have between 20 and 249 employees and belong to a high-risk industry.

The electronic reporting rule also applies to establishments that receive a specific request from OSHA to create, maintain and submit electronic records, even if they would otherwise be exempt from OSHA recordkeeping requirements.

Under the 2016 rule, all covered establishments must electronically submit information from their OSHA Forms 300A every year. The rule also required covered establishments with 250 or more employees to electronically submit information from their OSHA Forms 300 and 301. Due to concerns about employee privacy, however, OSHA delayed its enforcement of the electronic reporting requirements for these two forms. In July 2018, the agency proposed removing them from the final rule altogether and announced that it would not enforce the final rule's deadlines for Forms 300 and 301 without further notice.

New Final Rule

OSHA's new final rule, issued on Jan. 25, 2019, makes it official – OSHA will not require electronic submission of information from Forms 300 and 301. The change affects establishments with 250 or more employees only, since these were the only employers that would have been required to provide information from those forms under the 2016 final rule. However, these establishments, along with all other establishments subject to the electronic reporting rule, must still electronically submit 2018 information from Form 300A using OSHA's ITA website.

In addition, all establishments subject to OSHA's routine recordkeeping requirements must still record and keep information on Forms 300 and 301. The routine recordkeeping requirements apply to employers that are not in a partially exempt industry and have more than 10 employees.

Finally, OSHA's new final rule also amended the 2016 electronic reporting rule to require covered employers to submit their Employer Identification Number (EIN) electronically along with their injury and illness data submission. According to OSHA, this new requirement will facilitate the agency's use of the electronically submitted data, and may help reduce duplicative employer reporting.

Submitting the Report

The [ITA](#) is a secure website that OSHA created specifically for the data required by the electronic reporting rule. The ITA allows employers three options to submit their reports:

1. Manual entry;
2. Comma-separated value (CSV) file upload; and
3. Application programming interface (API) transmission.

The ITA offers affected establishment [instructions](#) and [sample files and templates](#) to help them complete the submission process.

Anti-Retaliation Provisions

The final rule contains three new provisions aimed at strengthening employee anti-retaliation protections, which took effect on **Dec. 1, 2016**. These provisions:

- Require employers to inform employees of their right to report work-related injuries and illnesses free from retaliation;
- Clarify that work-related injury and illness reporting methods must be reasonable and should not deter or discourage employees from reporting health and safety incidents; and
- Prohibit employers from retaliating against employees for reporting work-related injuries or illnesses.



Chapter 4

Injury/Illness Prevention Program

An Injury/Illness Prevention Program (IIPP) is a proactive process that helps employers identify hazards in their workplaces and develop a system to fix those hazards so that workers don't get hurt. These programs can be effective at reducing injuries, illnesses and fatalities, as well as reducing the financial hardship workers and employers face when injuries occur.

State Implementation

Many jurisdictions in the United States and abroad require or encourage employers to implement IIPPs. However, Wisconsin does not require employers to implement an IIPP. This section describes the elements of a successful program for employers that wish to voluntarily establish an IIPP.

IIPP Elements

Most successful IIPPs include a similar set of commonsense elements that focus on finding all hazards in the workplace and developing a plan for preventing and controlling those hazards. Management leadership and active worker participation are essential to ensuring that all hazards are identified and addressed. In addition, workers need to be trained about how the program works, and the program needs to be periodically evaluated to determine whether improvements need to be made.

The six basic elements common to most existing health and safety management programs are:

- Management leadership;
- Worker participation;
- Hazard identification and assessment;
- Hazard prevention and control;
- Education and training; and
- Program evaluation and improvement.

Employers that implement IIPPs generally scale and adapt these elements to meet the needs of their organizations, depending on size, industry sector or complexity of operations.

IIPP Benefits

OSHA believes that IIPPs provide the foundation for changes in the way employers identify and control hazards, leading to an improved workplace health and safety environment. Adoption of an IIPP results in fewer injuries, illnesses and fatalities. In addition, employers tend to improve compliance with existing regulations, and may experience many of the financial benefits of a safer and healthier workplace, including significant reductions in workers' compensation premiums.



Chapter 5

Enforcement, Penalties and Retaliation

Inspection

Under the OSH Act, the DOL is authorized to enter a workplace to inspect and investigate the workplace and its conditions and to question workers during regular working hours and at other reasonable times. The DOL delegates workplace investigation duties to OSHA.

OSHA **ranks** inspections in order of importance, and assigns the highest priority to the most hazardous situations to worker safety and health. Imminent dangers are the top priority and are usually addressed **within 24 hours**. After imminent dangers, OSHA prioritizes workplace inspections in the following order:

- **Fatalities and catastrophes**—incidents where a worker dies or where the incident leads to an inpatient hospitalization. Incidents that lead to amputations or the loss of an eye also fall within this category. Employers are required to report fatalities within eight hours and the other incidents within 24 hours.
- **Complaints**— worker allegations of hazards or violations at their workplace.
- **Referrals** – reports of hazard information from federal, state or local agencies, individuals, organizations or the media.
- **Follow-ups**—verification by compliance officers of whether previously cited violations have been corrected.
- **Planned or programmed investigations**—inspections of high-hazard industries or workplaces with high rates of injuries or illnesses.

“Imminent dangers are the top priority and are usually addressed within 24 hours.”

Generally, employers do not know about inspections before they occur. OSHA **prohibits advanced notice** of an inspection unless there is an immediate danger present. OSHA may give advanced notice if the inspection requires the presence of certain personnel or any other special case where OSHA decides an inspection would be more thorough and effective with advanced notice.

Though inspections are generally unannounced, OSHA has, in the past, released a list of industries it plans to target in the coming year. When available, this list offers some guidance to employers on when they may expect an inspection.

Additional OSHA Inspection Information

Department of Labor [Fact Sheet](#)

Link to OSHA Inspection website: www.osha.gov/dep/index.html

[Resources for Most Frequently Cited Standards](#)



Penalties

An employer receives a written citation when it violates OSHA standards or regulations. The citation will describe the particular nature of the violation and will include a reference to the provision of the chapter, standard, rule, regulation or order the employer violated.

In addition, the citation will provide a reasonable amount of time for the employer to correct the problem. When the violation does not pose a direct or immediate threat to safety or health (de minimis Violation), OSHA may issue a notice or warning instead of a citation.

An employer that receives a citation must post a copy of it at or near the place where the violation occurred for three days or until the violation is corrected, whichever is longer. Penalties may be adjusted depending on the gravity of the violation and the employer's size, history of previous violations and ability to show a good faith effort to comply with OSHA requirements.

Below is a list of potential citations employers may receive and a range of corresponding penalties for these citations.

Violation	Current Penalty
<i>De Minimis</i> violation	Warning
Other-than-serious violation	Up to \$13,260 per violation.
Serious violation <i>A violation where there is a substantial probability that death or serious physical harm could result from an employer's practice, method, operation or process. An employer is excused if it could not reasonably know of the presence of the violation</i>	Up to \$13,260 per violation.
Willful or repeated violation <i>A violation is willful when committed intentionally and knowingly. The employer must aware that a hazardous condition exists, know that the condition violates an OSHA standard or other obligation and make no reasonable effort to eliminate it.</i> <i>A violation is repeated when it is substantially similar to a violation that was already present in a previous citation.</i>	Between \$9,472 and \$132,598 per violation.
Repeated violation A violation is repeated when it is substantially similar to a violation that was already present in a previous citation	Up to \$132,598 per violation
Willful violation resulting in death of employee	Up to \$10,000 and/or imprisonment for up to six months. Penalties may double for a second or higher conviction.



Violation	Current Penalty
Uncorrected violation	Up to \$13,260 per day until the violation is corrected.
Making false statements, representations or certification	Up to \$10,000 and/or imprisonment for up to six months.
Violation of posting requirements	Up to \$13,260 per violation.

Current law allows OSHA to adjust the maximum penalty amounts every year to account for the cost of inflation, as shown by the consumer price index (CPI). If OSHA plans to adjust penalty amounts, it must signal its intention by Jan. 15 of each year.

This guide is not meant to be exhaustive or construed as legal advice. It does not address all potential compliance issues with federal/state/local government or any other regulatory agency standards. Consult your licensed commercial property/casualty representative at [AssuredPartners](#) or legal counsel to address possible compliance requirements.

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