

MEMORANDUM FOR: REGIONAL ADMINISTRATORS AND
NATIONAL OFFICE DIRECTORATES

FROM: DAVID MICHAELS, PhD, MPH
Assistant Secretary

SUBJECT: Ergonomic Hazard Alert Letter Follow-Up Policy

The purpose of this memo is to inform all Occupational Safety and Health Administration (OSHA) Regional Administrators and National Office Directorates, that the attached OSHA Instruction CPL 02-00-144, "Ergonomic Hazard Alert Letter Follow-Up Policy," dated April 11, 2007, is being extended without expiration and will remain in effect until further notice.

This Instruction, specifically applies to any ergonomic inspection which resulted in an ergonomic hazard alert letter. The instruction continues to outline the process for contacting employers to determine whether hazards and deficiencies identified in the Ergonomic Hazard Alert Letter (EHAL) have been addressed. The only modification to this Instruction will be to the expiration date, which was originally April 11, 2010.

If you have any questions or would like to request additional information please contact the Directorate of Enforcement Programs at (202) 693-2100.

Attachment



OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 02-00-144

EFFECTIVE DATE: April 11, 2007

SUBJECT: Ergonomic Hazard Alert Letter Follow-up Policy

ABSTRACT

- Purpose:** The purpose of this directive is to outline a process for contacting employers who received an ergonomic hazard alert letter (EHAL).
- Scope:** This directive applies to any inspection coded N-03, or other IMIS code for ergonomic inspections, for which an ergonomic hazard alert letter has been issued. This directive is intended to apply only to ergonomic hazard alert letters (EHALs).
- References:** Ergonomics Enforcement Policy, found on the web at:
(http://www.osha.gov/SLTC/ergonomics/enforcement_plan.html);
Field Inspection Reference Manual, OSHA Instruction CPL 02-00-103.
- Cancellations:** None.
- State Impact:** State adoption not required.
- Action Offices:** Regional Offices, Area Offices
- Originating Office:** Directorate of Enforcement Programs
- Contact:** Office of Health Enforcement
200 Constitution Avenue NW, Room N-3119
Washington, DC 20210

By and Under the Authority of

Edwin G. Foulke, Jr.
Assistant Secretary

Executive Summary

Employers who have received ergonomic hazard alert letters (EHALs) will be asked to provide information on progress in addressing the hazards outlined in the EHAL. This Notice outlines a process for contacting employers to determine whether hazards and deficiencies identified in the letter have been addressed. This directive applies to any inspection coded N-03 for which an ergonomic hazard alert letter has been issued, regardless of whether the inspection was initiated under an emphasis program, the Site Specific Targeting (SST) program, or was unprogrammed. This directive is intended to apply only to EHALs.

Significant Changes

No significant changes to previous policy.

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- I. Purpose. The purpose of this directive is to outline a process for contacting employers who have received an ergonomic hazard alert letter (EHAL) since April 2002. This contact is a continuation of the inspection that led to the EHAL, and is intended to determine whether hazards and deficiencies identified in the letter have been addressed.
- II. Scope. This directive applies to any inspection coded N-03, or other Integrated Management Information System (IMIS) code for ergonomic inspections, for which an ergonomic hazard alert letter has been issued, regardless of whether the inspection was initiated under an emphasis program, the SST program, or was unprogrammed. This directive is intended to apply only to EHALs.
- III. References.
 - A. Ergonomics Enforcement Policy, found on the web at:
(http://www.osha.gov/SLTC/ergonomics/enforcement_plan.html);
 - B. Field Inspection Reference Manual, OSHA Instruction CPL 02-00-103.
- IV. Cancellations. None.
- V. Action Offices.
 - A. Responsible Office: Directorate of Enforcement Programs, Office of Health Enforcement.
 - B. Action Offices: Regional Offices. Each Region will be responsible for ensuring that this process is implemented.
 - C. Information Offices: The Region may determine who will implement this directive (e.g., the Compliance Safety & Health Officer [CSHO], the Regional Ergonomic Coordinator [REC], etc.) based upon the most effective use of resources.
- VI. Federal Program Change. This Notice describes a Federal program change which does not require State adoption or response.
- VII. Significant Changes. Not applicable.
- VIII. Initial Contact with Employer.
 - A. Using the current phone/fax process, contact will be made with all employers who received an EHAL issued on or after April 1, 2002 and have been in receipt of an EHAL for at least one year (this will allow employers time to implement changes). Employers who voluntarily supplied a progress report to the Area Office (AO) need not be contacted again, unless the AO determines that the response was inadequate.

- B. During the initial phone/fax contact, OSHA staff will explain that the employer is being contacted as a follow-up to the original inspection. OSHA staff is to determine what specific measures were taken by the employer in response to the EHAL. It is suggested that in order to maintain consistency, OSHA staff should ask to speak, if possible, with the management contact(s) at the establishment who was (were) originally involved in the inspection.

- C. Following the initial phone/fax-type telephone call, the employer will be faxed a copy of the original EHAL and a letter (OSHA staff are to use the template provided in Appendix A) requesting: 1) the employer's response regarding measures taken to address the hazard(s) noted in the EHAL; 2) copies of the employer's Log of Work-Related Injuries and Illnesses (OSHA Form 300) since the close of the original inspection; and 3) the estimated number of full-time employees (FTE) or work hours for the exposed employees for the time period corresponding to the injury and illness reports. The employer should be asked about all ergonomic control measures implemented, including those recommended in the EHAL.

- D. A response from the employer is due within twenty (20) working days of the initial phone/fax-type telephone call. The employer may provide the response via fax, e-mail or U.S. Postal Service mail, or common carrier (i.e., FedEx, UPS, etc.).

- E. An evaluation of the employer's response will be made and the employer's efforts will be categorized, as indicated below. The RECs will be available to assist in reviewing the response, if necessary. The response categories are:
 - 1. **No response (NR)** – The employer did not provide any e-mail, fax or mail response to the EHAL or telephone/fax inquiry.
 - 2. **Inadequate response (IR)** - The employer's response did not establish that it had taken useful steps, such as those identified in the EHAL, to reduce the hazard identified in the EHAL.
 - 3. **On-the-right-track response (RT)** - The employer has undertaken measures to address the hazards identified in the EHAL, but the efforts may have either stalled or have not been sufficient to address the hazards. Injury and/or severity rates are not improving.
 - 4. **Successful response (SR)** – The employer has implemented measures which address the hazards in the EHAL.

IX. Second Contact with the Employer

- A. No response (NR) or Inadequate response (IR)

1. If no response is received from the employer within the allotted twenty (20) working days, or if an inadequate response is received, additional contact with the employer should be made to obtain the desired information. The AO may determine whether this second contact should be made by phone, letter, or inspection (see section X. for inspection procedures).
2. If the second contact with the employer is by phone call or letter, the response shall be evaluated. The AO will have discretion regarding whether additional follow-up phone calls or additional letters are still warranted. This judgment will be based on the extent to which the employer implemented measures to address the hazard.
3. Upon completion of any additional contact(s) if the employer still has not responded or has responded inadequately, an inspection shall be scheduled to determine if the ergonomic hazards are being addressed (see section X. for inspection procedures)

B. On-the-right-track response

For all responses deemed to be “on-the-right-track,” the AO will have discretion regarding whether a follow-up phone call, an additional letter, or an on-site inspection is warranted (see section X. for inspection procedures). This judgment will be based on the extent to which the employer implemented measures to address the hazard.

C. Successful response

No further action is required.

X. Inspection Procedures

- A. All inspections shall be unannounced. The scope of the inspection will be limited to the ergonomic hazards identified in the original EHAL, any conditions cited in the original inspection, and any hazards in plain view.
- B. Inspection findings shall be handled in accordance with the FIRM and any other enforcement guidelines. Conditions which are re-inspected may be considered as apparent potential violations, and citations may be issued based on the findings of the reinspection.
- C. Where ergonomic hazards remain and citations are not issued, the employer should be sent a letter (additional EHAL) suggesting relevant hazard abatement measures (Appendix B).

XI. Data.

- A. A spreadsheet listing ergonomic hazard alert letters will be provided to the Area Offices by the RECs. The results of the follow-up contact with each employer shall be entered into the spreadsheet and be forward the RECs twice a year (June and December) or as otherwise requested by the RECs. The information submitted by the AO will be limited to the date of the initial contact under section VIII., the date the follow-up is finalized and the final outcome for each employer. Possible results are given below and the outcome for each employer may have more than one result. For example, if an employer is contacted and provides an inadequate response resulting in an inspection which leads to a second EHAL, the spreadsheet would contain codes IR, FI and LT in addition to the appropriate dates. The EHAL follow-up will be considered final if the site is no longer in business, when a successful response is received, when an on-the-right-track response has been received and the AO determines no further action is required, or when an inspection is initiated.

NR	No response
IR	Inadequate response
RT	On-the-right-track
SR	Successful response
OB	Out of Business
FI	Follow-up inspection
LT	Second Letter
CI	Citation

- B. The RECs will be responsible for submitting the results to the NO. The NO will summarize the results.

XII. IMIS.

- A. When a second inspection is not conducted:

The time spent on the evaluation is to be recorded on the CSHO's OSHA 31 under Activity Details. Mark line 5a I (Inspection), then enter the inspection number of the original case on line 6 along with the time spent on the contact.

- B. When a second inspection is conducted:

This will be considered a new inspection, and normal coding procedures are to be used.

XIII. Expiration. This directive will be effective for three (3) years from the date signed.

APPENDIX A - TEMPLATE LETTER FOR EHAI FOLLOW-UP

Dear Employer:

On _____ (date)_____, the _____ Area Office of the Occupational Safety and Health Administration (OSHA) conducted an inspection of your workplace, including an evaluation of risk factors which may contribute to injuries of the musculoskeletal system. As a result of this inspection, a letter addressing these hazards (copy enclosed) was forwarded to you on _____(date)_____.

To evaluate your progress in addressing the hazards identified, we are seeking the following information:

- Any controls you may have implemented to address these hazards, including adding mechanical devices, redesigning workstations, modifications to employee workloads, changes to the way injuries are addressed, or any other changes which you feel may have impacted the hazard identified in OSHA's letter. This includes any controls recommended by OSHA or other controls implemented.
- A list of the types of training provided to your employees to address these hazards.
- Copies of OSHA's Form 300, Log of Work-Related Injuries and Illnesses, beginning with the year of the original inspection.
- An estimate of the number of hours worked or full-time employees for each employee whose job title(s) is (are) _____ or are in at-risk job(s)_____, by year beginning with the year of the original inspection.

Please provide your response to the _____Area Office within twenty days of receipt of this request by fax, e-mail, regular mail, or common carrier. A brief evaluation of the effectiveness of the controls may be included if you believe this will help OSHA in evaluating your efforts. The lack of a response to this letter will result in further action by OSHA, possibly including another inspection of your facility.

Sincerely,

Area Director

Enclosure

APPENDIX B - TEMPLATE LETTER FOR SECOND CONTACT

Dear Employer:

An evaluation of your efforts to address ergonomic hazards related to an Occupational Safety and Health Administration (OSHA) inspection has been conducted. As you know, the original inspection took place on _____. We initiated a second contact with your organization to determine your success in addressing the hazards in your workplace.

OSHA has determined that your efforts in addressing ergonomic risk factors are (unlikely to address the hazard/on-the-right-track) and that further measures, as detailed below, would contribute to resolution of the hazard:

- List relevant Engineering Controls
- Administrative/Work Practice Controls
- Training Needed

OSHA offers various forms of cooperative assistance to employers, some focused on specific hazards, others aimed at helping employers develop and implement safety and health management systems that provide more comprehensive protection for workers. These include:

- The OSHA Consultation Program, administered by the States and funded largely by OSHA, which offers free consultation services to qualifying small businesses, primarily in high hazard industries. Consultants help employers identify and correct workplace hazards and develop more comprehensive safety and health management systems.
- The Voluntary Protection Programs (VPP), which recognize companies where managers and employees are working together to establish comprehensive safety and health management systems. The VPP Mentoring Program, offered by the independent VPP Participants' Association, offers mentoring to any employer seeking assistance.
- OSHA Strategic Partnerships, which often address specific safety and health issues such as ergonomics.
- OSHA Alliances with trade or professional organizations, employers, labor organizations, and educational institutions, which provide training and other services to help employers reduce injuries and illnesses. Many OSHA Alliances focus on ergonomic issues.

You can find information about these programs, plus an array of electronic tools (e-tools), publications, and other information at www.osha.gov. Any further assistance needed in this

matter may be obtained by contacting our offices.

Sincerely,

Area Director