



APR 29 2013

Reply to the attention of:

MEMORANDUM FOR: REGIONAL ADMINISTRATORS

THROUGH:

Richard E. Fairfax
RICHARD E. FAIRFAX
Deputy Assistant Secretary

FROM:

Thomas Galassi
THOMAS GALASSI, Director
Directorate of Enforcement Programs

SUBJECT:

Protecting the Safety and Health of Temporary Workers

In recent months, we have received a series of reports of temporary workers suffering fatal injuries during the first days on a job. In some cases, the employer failed to provide safety training or, if some instruction was given, it inadequately addressed the hazard, and this failure contributed to their death.

Given the number of temporary workers and the recent high profile fatal incidents, the agency is making a concerted effort using enforcement, outreach and training to assure that temporary workers are protected from workplace hazards. OSHA has previously addressed issues affecting temporary workers and leased employees in several letters of interpretation and directives, and has issued citations regarding lack of protection to such workers, most recently citing Bacardi Bottling Corporation following the death of a 21-year old temporary worker on his first day on the job.

Employers have a duty to provide necessary safety and health training to *all workers* regarding workplace hazards. In order to determine whether employers are complying with their responsibilities under the Act, please direct CSHOs in your region to determine within the scope of their inspections whether any employees are temporary workers and whether any of the identified temporary employees are exposed to a violative condition. In addition, CSHOs should assess – using records review and interviews – whether those workers have in fact received required training in a language and vocabulary they understand. Recent inspections have indicated problems where temporary workers have not been trained and were not protected from serious workplace hazards due to lack of personal protective equipment when working with hazardous chemicals and lack of lockout/tagout protections, among others.

To better identify this vulnerable population, we need your assistance gathering and tracking certain information during inspections and investigations of worksites where temporary workers are employed. For the purposes of this information gathering, “temporary worker” includes those who are working under a host employer/staffing agency employment structure.¹

¹ The term “temporary worker” is broadly defined. Per the Bureau of Labor Statistics, temporary workers are those who are paid by a temporary help agency, whether or not their job is temporary. For the purposes of this memorandum and the new coding, temporary workers are those supplied to a host employer and paid by a staffing agency.

To capture this information, we have created a new OIS code for temporary workers. If a CSHO determines during inspection activity that any temporary employees are exposed to a violative condition (i.e., included in the Number of Employees Exposed drop down in OIS), the CSHO shall enter the code "TEMPWORKERS" in the Federal Strategic Initiative Program field of the OIS system.

In addition, when encountering temporary workers during the scope of an inspection, CSHOs should document the name of the temporary workers' staffing agency, the agency's location, and the supervising structure under which the temporary workers are reporting (i.e., the extent to which the temporary workers are being supervised on a day-to-day basis either by the host employer or the staffing agency).

Thank you for your attention to this matter. Should you have any questions, please contact Mary Lynn in the Office of Chemical Process Safety and Enforcement Initiatives, at lynn.mary@dol.gov. Thank you for your assistance in this new enforcement initiative.

cc: Jim Maddux, Director, DOC