

OSHA

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OSHA officials discuss the agency's current activities during NSC Congress & Expo

Increases of various workplace hazards have spurred OSHA to update several National Emphasis Programs in recent years, the latest being its trenching and excavation program in October 2018.

Speaking during the "OSHA Current Activities Update" Technical Session on Sept. 11 at the National Safety Council 2019 Congress & Expo in San Diego, Patrick Kapust, deputy director of OSHA's Directorate of Enforcement Programs, said several other NEPs will be updated and rereleased.

"The agency targets a specific industry or hazards (with NEPs)," Kapust said. "We want to have hazards reduced in the trenching industry, so it's become an agency priority."

An NEP on amputations is set to expire at the end of the fiscal year, and OSHA is planning to release a revised version. "It will probably involve different industries than what was in the last NEP," Kapust said.

The agency also is revising its combustible dust NEP for future release, along with a silica emphasis program that is "in the development phase," Kapust said. "All of our emphasis programs – national, regional and local ones – have a 90-day outreach



Patrick Kapust (left), deputy director of OSHA's Directorate of Enforcement Programs, and Doug Kalinowski, director of OSHA's Directorate of Cooperative and State Programs, speak during the "OSHA Current Activities" session at the National Safety Council 2019 Congress & Expo.

[period] before any inspection activity starts," he said. "We get out the information on whatever that program is emphasizing. The programs are very thoughtfully and thoroughly developed by OSHA. All the emphasis programs go through multiple layers of review, all the way to Congress."

Kapust was joined during the session by Doug Kalinowski, director of OSHA's Directorate of Cooperative and State Programs.

Using injury-tracking data from employers, OSHA also has retooled its Site-Specific

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OSHA seeks comment on possible revisions to silica standard

OSHA is requesting input on potential revisions to Table 1 of its respirable crystalline silica standard for construction, according to a Request for Information published in the Aug. 15 *Federal Register*.

Table 1 includes the task or equipment, engineering/work practice control methods, and required respiratory protection/minimum assigned protection factors for all shifts.

“OSHA seeks information on additional engineering and work practice control methods to effectively limit exposure to silica for the equipment and tasks currently listed on Table 1,” the agency states in an Aug. 14 press release. “The agency is also

requesting information about other construction equipment and tasks that generate silica that it should consider adding to Table 1, along with information about their associated engineering and work practice control methods.”

Additionally, OSHA is considering potential revisions to paragraph (a)(3) of the silica standard for general industry “to broaden the circumstances under which general industry and maritime employers would be permitted to comply with the silica standard for construction as an alternative to the general industry standard.”

At press time, the deadline to comment was Nov. 13.

“Information submitted will allow OSHA to consider new developments and enhanced control methods for equipment that generates exposures to silica, and provide additional data on exposures to silica from equipment and tasks using a variety of control methods under different workplace conditions,” the release states. “Expanding Table 1 to include additional engineering and work practice control methods, equipment, and tasks could provide employers with more flexibility and reduce regulatory burdens while maintaining protections for employees.”

To comment, go to [regulations.gov/docket?D=OSHA-2010-0034](https://www.regulations.gov/docket?D=OSHA-2010-0034).

OSHA ALLIANCES

The OSHA Alliance Program fosters collaborative relationships with groups committed to worker safety and health. Alliance partners help OSHA reach targeted audiences and give them better access to workplace safety and health tools and information. For more on OSHA alliances, go to [osha.gov/dcsp/alliances/index.html](https://www.osha.gov/dcsp/alliances/index.html).

Massachusetts Brewers Guild

Date of alliance: Aug. 5, 2019

Through the alliance, the organizations will use available injury, illness and hazard exposure data, when appropriate, to help identify areas of emphasis for alliance awareness, outreach and communication activities. The alliance will also explore and implement selected options, including, but not limited to, member surveys to evaluate the effectiveness of the alliance and measure the impact of its overall effort on improving workplace safety and health.

Raising awareness: Outreach and communication

- Share information on OSHA’s national/regional/local initiatives (emphasis programs, regulatory agenda, outreach), and opportunities to participate in initiatives and the rulemaking process.
- Share information on occupational safety and health laws and standards,



including the rights and responsibilities of workers and employers.

- Develop information on the recognition and prevention of workplace hazards and communicate such information (via print and electronic media and electronic assistance tools) to employers and workers in the industry.
- Provide free safety and health consulting using OSHA’s On-Site Consultation Program to assist in addressing site-specific hazards at individual brewery locations.
- Encourage constituent employers to create site-specific safety and health programs that include OSHA’s Safe + Sound campaign elements.
- Convene or participate in forums, roundtable discussions or stakeholder meetings on workplace hazards

associated with the craft brewing industry, including, but not limited to, lock-out/tagout, hazard communication, powered industrial trucks, permit-required confined spaces, electrical safe work practices, walking/working surfaces, personal protective equipment and outside contractor safety.

- Share information among OSHA personnel and industry safety and health professionals regarding the Massachusetts Brewers Guild and craft brewing industry, as well as good practices or effective approaches through training programs, workshops, seminars and lectures (or any other applicable forum).
- Encourage worker participation in workplace safety and health by increasing hazard awareness training and near miss reporting/training.

Excerpted from [osha.gov/dcsp/alliances/regional/reg1/massbrewers_alliance_2019.html](https://www.osha.gov/dcsp/alliances/regional/reg1/massbrewers_alliance_2019.html).

In Other News...

OSHA launches webpage on using leading indicators

OSHA has created a webpage aimed at helping employers use leading indicators – tracking workplace conditions and events to prevent injuries and illnesses before they occur – to improve their safety and health programs, the agency announced Aug. 9 via Twitter.

A downloadable document includes information on the characteristics of effective leading indicators, finding leading indicators in data that you are already collecting, and how to use leading indicators to improve parts of your safety and health management program, as well as an action plan checklist.

Access the new webpage at osha.gov/leadingindicators.

New brochure spotlights OSHA's On-Site Consultation Program

A new brochure from OSHA highlights the benefits of the agency's free On-Site Consultation Program for small businesses. In the two-page document, the agency urges employers to evaluate their workplace for hazards to reduce the risk of worker injuries and illnesses.

According to OSHA, an onsite consultation offers small-business employers confidential workplace safety and health services; assistance with finding and fixing hazards; advice on complying with OSHA standards; and help with establishing and improving safety and health programs and training workers.

Because the consultation program is separate from OSHA enforcement activity, these services do not result in penalties or citations, the agency emphasizes.

The brochure explains how to initiate an onsite consultation and describes each step of the process. Download it at osha.gov/Publications/3357consultation-sm.pdf.

OSHA STANDARD INTERPRETATIONS

OSHA requirements are set by statute, standards and regulations. Interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. Enforcement guidance may be affected by changes to OSHA rules.

Clarification of soft tissue massage

Standard: 1904.7(b)(5)(ii)

Date of response: May 23, 2019

Thank you for your letter to the Occupational Safety and Health Administration (OSHA) regarding 29 CFR Part 1904 Recording and Reporting Occupational Injuries and Illnesses. Specifically, you ask whether other techniques of soft tissue massage that are similar to active release techniques (ART) would be considered first aid for purposes of OSHA recordkeeping. In your letter, you state that there are a multitude of soft tissue massage techniques administered by health care professionals, including physical therapies that are similar to ART. You note that OSHA has already determined that ART is first aid for recordkeeping purposes. You request that OSHA provide written guidance stating that soft tissue management (massage) is first aid for recordkeeping purposes, regardless of whether such treatment is performed by individuals with ART certification.

Section 1904.7(b)(5) of OSHA's recordkeeping regulation requires employers to record work-related injuries and illnesses that result in medical treatment beyond first aid. Under Part 1904, medical treatment does not include "first aid" as defined in paragraph 1904.7(b)(5)(ii). The section specifically states that "using massages" is first aid. See, subparagraph (M). Section 1904.7(b)(5)(iii) goes on to state that the list of first aid treatments in section 1904.7(b)(5)(ii) is a comprehensive list of first aid treatments. Any treatment not included on the list is not considered first aid for OSHA recordkeeping purposes.

After conducting an analysis of available information, and based on the regulatory text in Part 1904, OSHA finds that soft tissue massage is first aid for recordkeeping purposes. We also note that OSHA's recordkeeping regulation does not include special rules for recording soft tissue injuries and illnesses. The determination as to whether to record soft tissue cases is the same as any other type of injury or illness. This means that work-related injuries and illnesses involving muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs would meet the general recording criteria if they involve medical treatment beyond first aid, days away from work, job transfer or restricted work.

Finally, section 1904.7(b)(5)(iv) of OSHA's recordkeeping regulation provides that the professional status of the person providing the treatment does not have any effect on what is considered first aid or medical treatment. That is, OSHA considers the treatments listed in section 1904.7(b)(5)(ii) of the regulation to be first aid, regardless of the professional status of the person providing the treatment. Even when these treatments are provided by a physician or other licensed health care professional, they are still considered first aid for purposes of Part 1904.

Similarly, OSHA considers treatment beyond first aid to be medical treatment even when provided by someone other than a physician or other licensed health care professional. Accordingly, soft tissue massage is first aid whether or not such treatment is performed by individuals with ART certification.

Amanda L. Edens, Director

Directorate of Technical Support and Emergency Management

Excerpted from osha.gov/laws-regs/standardinterpretations/2019-05-23.

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Targeting Program to include high-hazard rate worksites, nonresponders and a small sample of low-rate establishments. This allows OSHA to most effectively use its inspection resources.

“We felt that, ‘Why should an employer who was using good faith efforts to comply with the standard be more subject to an inspection than those who didn’t comply?’” Kalinowski said.

Other current OSHA activities:

- A stakeholder meeting on recent guidance the agency published on leading indicators of safety performance is being planned. OSHA is encouraging its use among small and medium-sized businesses.
- Early phase rulemaking includes workplace violence in health care and social assistance – planned for late this

year – along with tree care. The latter is scheduled to be initiated this fall, Kapust said.

- An online application form for Voluntary Protection Programs is in the developmental stage. A 2018 analysis, Kalinowski said, showed that 63% of the applications the agency received needed “a significant amount of work” from its staff. The new form is expected to make the process simpler.
- Kapust noted that feedback on the agency’s Rapid Response Investigation program, in which it reaches out to an employer after a report of a severe injury to discuss that organization’s response, has been positive. “If that response is adequate and the employer has abated the condition, we’ll close it and not do an inspection,” he said. Amputations, however, trigger an inspection, he added.

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