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Temporary Worker Initiative

The Control of Hazardous Energy (Lockout/Tagout)

This is part of a series of guidance documents developed under the Occupational Safety and Health Administration's (OSHA's) Temporary Worker Initiative (TWI). This Initiative focuses on compliance with safety and health requirements when **temporary workers** are employed under the joint employment of a **staffing agency** and a **host employer**.

Temporary workers are entitled to the same protections under the *Occupational Safety and Health Act of 1970* (the OSH Act) as all other covered workers. When a staffing agency supplies temporary workers to a business, typically, the staffing agency and the staffing agency's client, commonly referred to as the **host employer**, are joint employers of those workers. Both employers are responsible for determining the conditions of employment and complying with the law. In these joint employment situations, questions regarding how each employer can fulfill their duty to comply with the standard are common. This bulletin addresses what both the staffing agency and the host employer can do to ensure that temporary workers are protected from the sudden release of stored energy from machines or equipment in accordance with OSHA standard [29 CFR 1910.147](#) — *The Control of Hazardous Energy (lockout/tagout)* (the standard). (See also [29 CFR 1910.333](#) for general industry; [29 CFR 1926.64](#), [29 CFR 1926.417](#), and [29 CFR 1926.702](#) for construction industry; and [29 CFR 1915.89](#) for maritime industry).

General Responsibilities

The lockout/tagout standard addresses the practices and procedures necessary to prevent the sudden release of hazardous energy while workers perform servicing or maintenance activities. The

standard lists measures for controlling various types of energy, including electrical, mechanical, hydraulic, pneumatic, chemical, thermal, and other energy sources that could be hazardous if not controlled. These measures require that employers:

- Develop, implement, and enforce an energy control (lockout) program with written procedures that include steps for shutting down, isolating, blocking, and securing machines or equipment;
- Use lockout procedures whenever equipment is capable of being locked out;
- Ensure that equipment, newly installed or renovated after January 2, 1990, is designed to accept a lockout device;
- Develop, implement, and enforce a tagout program if machines or equipment are not capable of being locked out;
- Use only lockout/tagout devices authorized for the particular equipment or machinery that are durable, standardized, and substantial;
- Ensure that lockout/tagout devices identify each user;
- Establish and enforce a work rule that permits only the employee who applied a lockout/tagout device to remove it;
- Inspect energy control procedures at least annually and implement revisions if there have been changes in equipment or processes;
- Provide site-specific lockout/tagout training to employees; and

- Develop, implement, and enforce additional energy control procedures when machines or equipment must be tested or repositioned, when outside contractors work at the site, in group lockout situations, and during shift or personnel changes.

As joint employers, both the host employer and the staffing agency are responsible for ensuring that the temporary employee is properly protected against the sudden release of stored energy. Prior to beginning work, the host employer and staffing agency should jointly review the task assignments and job hazards to identify, eliminate, and control hazardous energy releases, and determine the coverage of temporary workers by a lockout/tagout program. The employers may decide that a division of the compliance responsibility may be appropriate. The details of the protections and training to be provided can be clearly established in the contract language between the employers. While the employers may agree to divide responsibilities, neither employer may avoid its ultimate responsibilities under the OSH Act by shifting responsibilities to the other employer.

Host Employer Responsibilities

OSHA expects that the host employer, who is usually in the best position to ensure compliance at its worksite, will protect temporary workers by taking all necessary steps to ensure compliance with the provisions of the standard. The host employer is and should be familiar with the machines and equipment at its worksite, the temporary workers' activities with and around the machines and equipment, and the hazards to which the temporary workers can be exposed. In most cases, the host employer has the capability and responsibility to develop and implement a site-specific lockout/tagout program and provide appropriate training. Therefore, the host employer is responsible for ensuring that if a temporary worker is performing activities covered by the standard, the worker is properly trained and understands the lockout/tagout policies and procedures. The host employer is also responsible for fully informing the staffing agency of any expectation that the staffing agency has provided the temporary workers with training regarding

both exposure to uncontrolled energy and lockout/tagout policies and procedures. The host employer must provide the same protections and hazardous energy control procedures to its temporary workers as it provides to permanent workers exposed to the same hazards.

If a temporary worker is not performing servicing or maintenance, but his or her work operations are or may be in an area where lockout/tagout procedures may be utilized, then he or she is considered an *affected employee*.¹ If a temporary worker is performing servicing or maintenance of machinery, then he or she is considered an *authorized employee*.² The appropriate training requirements found at [29 CFR 1910.147\(c\)\(7\)](#) apply to both scenarios, and the host employer must ensure that such employees receive this training.

Staffing Agency Responsibilities

OSHA expects that the staffing agency, as a joint employer, will take all necessary steps to ensure that temporary workers are protected from the hazards of uncontrolled energy while working around machinery and equipment. While the host employer is usually in the best position to implement compliance with the standard at its worksite, the staffing agency must fulfill its duty to inquire about both the hazards to which its employees are exposed and the protective measures that the host employer has implemented. Communication between the staffing agency and the host employer is necessary. The staffing agency should have a clear understanding of the type of hazard training needed by a temporary worker, who is performing activities covered by the lockout/tagout standard. The staffing agency may provide generic lockout/tagout information and training that includes general hazards associated with the release of hazardous energy and how to identify hazardous situations.

1. [29 CFR 1910.147\(b\)](#) defines "affected employee" as "[a]n employee whose job requires him/her to operate or use a machine or equipment on which servicing or maintenance is being performed under lockout or tagout, or whose job requires him/her to work in an area in which such servicing or maintenance is being performed."

2. [29 CFR 1910.147\(b\)](#) defines an "authorized employee" as "[a] person who locks out or tags out machines or equipment in order to perform servicing or maintenance on that machine or equipment. An affected employee becomes an authorized employee when that employee's duties include performing servicing or maintenance covered under this section."

However, the staffing agency must also ensure that the host employer: has a site-specific lockout/tagout program that protects the temporary workers against the potential of a hazardous energy release at its worksite; provides site-specific training to workers; and confirm that the staffing agency is aware of any changes in the workplace hazards. Similarly, the staffing agency should communicate with the temporary workers to ensure that the workers understand the lockout/tagout policies and procedures.

As described above, if a temporary worker is not performing servicing or maintenance, but his or her work operations are or may be in an area where lockout/tagout procedures may be utilized, then he or she is considered an *affected employee*. If a temporary worker is performing

servicing or maintenance of machinery, then he or she is considered an *authorized employee*. The appropriate training requirements found at [29 CFR 1910.147\(c\)\(7\)](#) apply to both scenarios, and the staffing agency must ensure that such employees receive this training.

State Plans

Twenty-eight states and U.S. territories have their own OSHA-approved occupational safety and health programs called State Plans. State Plans have and enforce their own occupational safety and health standards that are required to be at least as effective as OSHA's, but may have different or additional requirements. A list of the State Plans and more information are available at: www.osha.gov/dcsp/osp.

Example Scenario*

A metal equipment manufacturer, Iron Alloys Co. (IAC), needs machine operators for a short-term increase in production. The company contracts with a staffing agency, Temp Staffing, to provide workers for shifts on a temporary basis. Temp Staffing hires ten operators and sends them to work onsite at IAC. Before sending the workers to the worksite, the staffing agency plays a generic safety training video for them and instructs the team leader to answer any questions.

At the worksite, a supervisor from IAC assigns each of the temporary workers to a particular work area. On the assumption that the workers have experience working with machinery, IAC provides only minimal instruction. The host employer then sends the workers directly to their assigned tasks, checking on their work throughout the shift.

IAC's workplace has numerous pieces of running machinery. Although Temp Staffing's contract with IAC mentions compliance with safety and health requirements, it does not address a lockout/tagout program. IAC does not mention any need for hazardous energy control procedures to Temp Staffing or the temporary workers, and does not provide them with site-specific lockout/tagout training. One of the temporary workers tells a supervisor at Temp Staffing that IAC did not train the workers on shutting down the machines to clean them. A week later, one of the temporary workers cleans a machine without locking it out and suffers a finger amputation.

ANALYSIS

IAC and Temp Staffing are jointly responsible to determine that temporary workers would be exposed to a hazard when cleaning machinery and require energy control procedures and means of locking and tagging equipment to control the hazard of unexpected energization. Both employers are also jointly responsible for ensuring that site-specific training is provided. However, IAC controlled the workers' activities with and around the machinery at its facility, so it was in the best position to provide the site-specific lockout/tagout training. Therefore, IAC may be subject to OSHA citations for its failure to provide appropriate, site-specific lockout/tagout procedures and training.

Although Temp Staffing played a generic safety training video, with the team leader available for questions, the training may have been inadequate. Staffing agencies are obligated to provide their employees with training that covers generic safety and health topics and to verify that employees have understood the elements included in the training. Temp Staffing may be subject to an OSHA citation for failing to ensure that its employees received lockout/tagout training. Temp Staffing also had a responsibility to take reasonable steps to ensure that the host employer provided site-specific training. The staffing agency failed to fulfill this responsibility when it took no measures after being notified that IAC had not trained the employees on shutting down the machines to clean them. Examples of measures that Temp Staffing could have taken include reminding IAC of its obligations to provide training, following up to ensure correction by requesting documented training records from IAC, removing the workers from the facility, or providing the training itself in coordination with IAC. Temp Staffing may also be subject to OSHA citations for its failure to ensure that appropriate, site-specific lockout/tagout procedures and training was provided.

** The company names used in this scenario are fictitious. Any resemblance to real companies is entirely coincidental.*

How Can OSHA Help?

Workers have a right to a safe workplace. If you think your job is unsafe or you have questions, contact OSHA at 1-800-321-OSHA (6742) or visit www.osha.gov. It's confidential. We can help. For other valuable worker protection information, such as Workers' Rights, Employer Responsibilities and other services OSHA offers, visit OSHA's Workers' page at www.osha.gov/workers.

For more information on Temporary Workers, visit OSHA's Temporary Workers' page at www.osha.gov/temp_workers.

The OSH Act prohibits employers from retaliating against their employees for exercising their rights under the OSH Act. These rights include raising a workplace health and safety concern with either employer, reporting an injury or illness, filing an OSHA complaint, and participating in an inspection or talking to an inspector. If workers have been

retaliated or discriminated against for exercising their rights, they must file a complaint with OSHA within 30 days of the alleged adverse action to preserve their rights under Section 11(c). For more information, visit www.whistleblowers.gov.

OSHA also provides help to employers. OSHA's On-Site Consultation Program offers free and confidential occupational safety and health services to small and medium-sized businesses in all states and several territories, with priority given to high-hazard worksites. On-Site Consultation services are separate from enforcement and do not result in penalties or citations. Consultants from state agencies or universities work with employers to identify workplace hazards, provide advice on compliance with OSHA standards, and assist in establishing and improving safety and health programs. To locate the OSHA On-Site Consultation Program nearest you, call 1-800-321-6742 (OSHA) or visit www.osha.gov/consultation.

Disclaimer: This bulletin is not a standard or regulation, and it creates no new legal obligations. It contains recommendations as well as descriptions of mandatory safety and health standards. The recommendations are advisory in nature, informational in content, and are intended to assist employers in providing a safe and healthful workplace. The *Occupational Safety and Health Act* requires employers to comply with safety and health standards and regulations promulgated by OSHA or by a state with an OSHA-approved state plan. In addition, the *OSH Act's General Duty Clause, Section 5(a)(1)*, requires employers to provide their employees with a workplace free from recognized hazards likely to cause death or serious physical harm.



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