

# Temporary Worker Safety



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# Discussion for Today



- Bigger picture of temporary workers
- Staffing and host employer responsibilities
- Responsibilities under OSHA standards
- Recommended practices
- Resources

# Restructuring of the American Workforce



- Competitive forces: downsizing and outsourcing
- Organizations are adopting flatter management systems
  - Downward transfer of management responsibility and decentralized control
  - Implementation of more flexible and lean production technologies

The Changing Organization of Work and the Safety and Health of Working People (April 2002) DHHS (NIOSH) Publication Number 2002-116

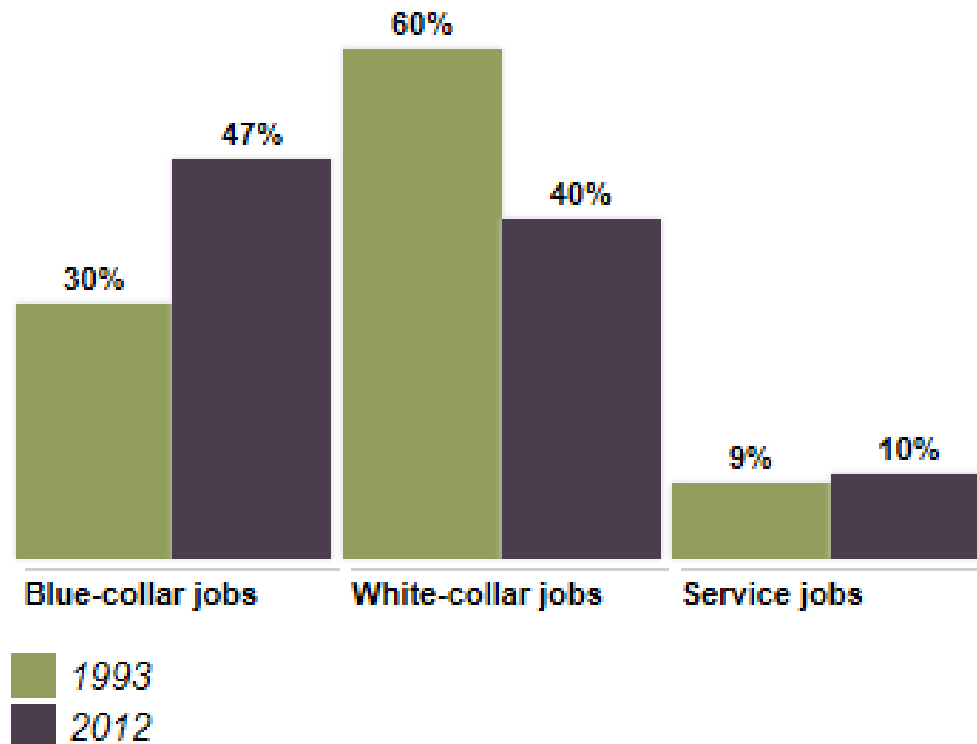
# Why do companies rely on temporary employees?

- “Temp to Hire”: screening Process for new ees
- Part Time or Limited Work
  - Summer Help
  - Christmas
  - Fill in for sick, injured, vacationing employees
  - Fill gaps during short-term peaks in production
- Temporary labor may costs less
- Full time help is not available
- Limits a company’s liability to an employee



# Top Occupations of Temporary Workers

## THE RISE OF BLUE-COLLAR TEMP JOBS



Source: ProPublica analysis of Occupational Employment Statistics data from the Bureau of Labor Statistics

# Top Occupations of Temp Workers

Occupation	Concentration
<u><a href="#">Production helpers</a></u>	29.2%
<u><a href="#">Laborers and freight, stock and material movers by hand</a></u>	18.4%
<u><a href="#">Assemblers who work in a team</a></u>	17.6%
<u><a href="#">Human resources specialists</a></u>	16.2%
<u><a href="#">Packers and packagers by hand</a></u>	16.2%
<u><a href="#">Packaging and filling machine operators and tenders</a></u>	16.1%
<u><a href="#">Data entry keyers</a></u>	15.1%
<u><a href="#">Demonstrators and product promoters</a></u>	11.5%
<u><a href="#">Metal and plastic cutting, punching and press machine setters, operators and tenders</a></u>	10.1%
<u><a href="#">Construction laborers</a></u>	9.4%

These occupations had high concentrations of their workers in the employment services industry in 2012.

# Who is a Temp?



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 OSHA's enforcement policy, **temporary workers are those supplied to a host employer and paid by a staffing agency.**

Per USDOL-OSHA 4/29/2013 Memo "Protecting the Safety and Health of Temporary Workers"

## What about Contractors?

# Risks to Temporary Workers

- Intrinsic job hazards
- Pay/responsibility structure
- Job familiarity
- Peer/workplace pressures

# Remember Your First Day on The Job?

- Sounds
- Smells
- Close Calls
- Learning New Tasks
- Needing to be told a number of times
- Overwhelmed

"Host employers need to treat temporary workers as they treat existing employees. Temporary staffing agencies and host employers share control over the employee, and are therefore jointly responsible for temp employee's safety and health. It is essential that both employers comply with all relevant OSHA requirements."

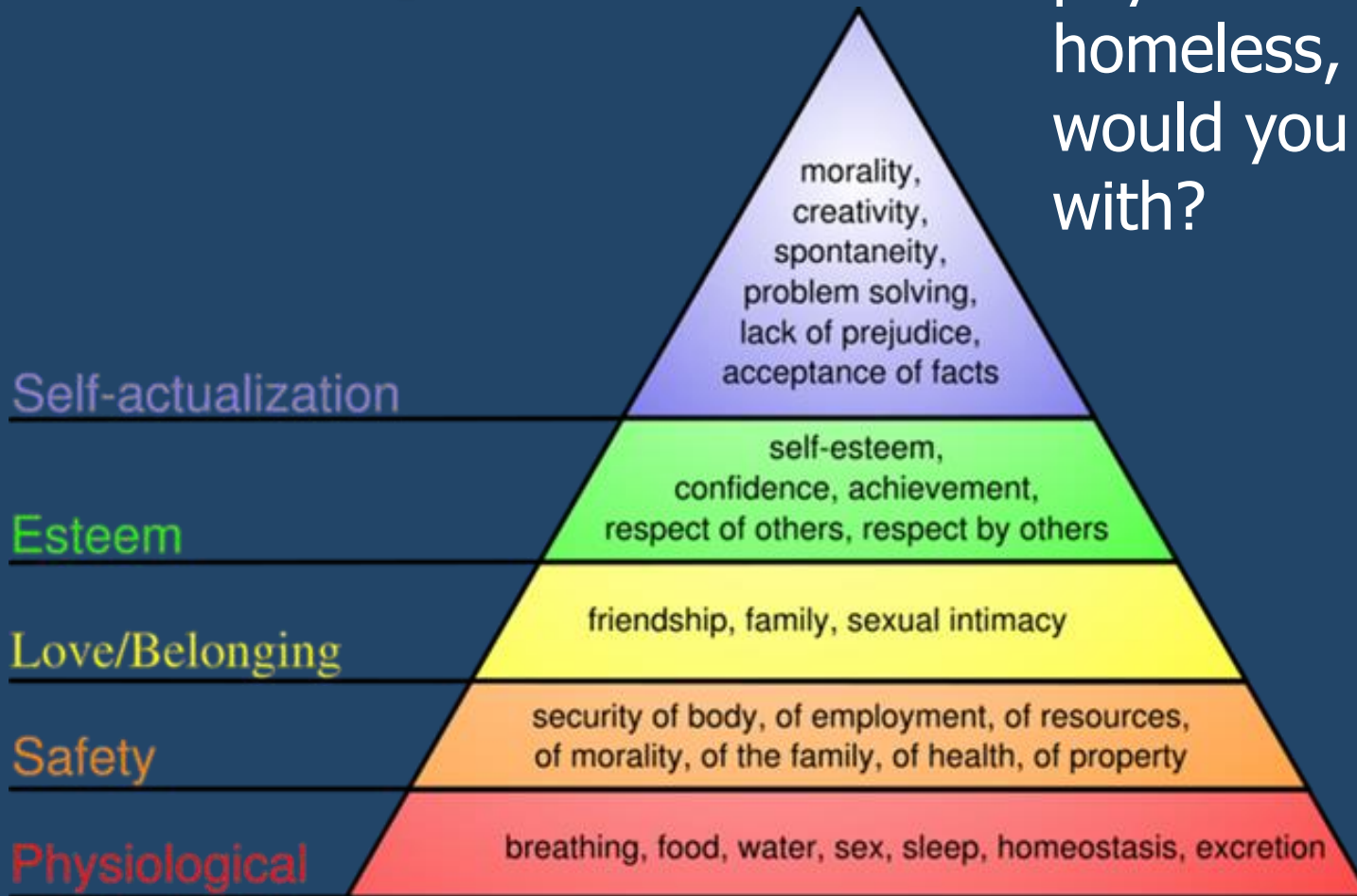
— David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health

[Day Davis Story ProRepublica Video](#) Video



# Safety First?

If you were ONE paycheck from being homeless, what would you put up with?



Maslow's Hierarchy of Needs

# Factors That Increase Risk:

Lets go back to the Bacardi Worker Fatality Video

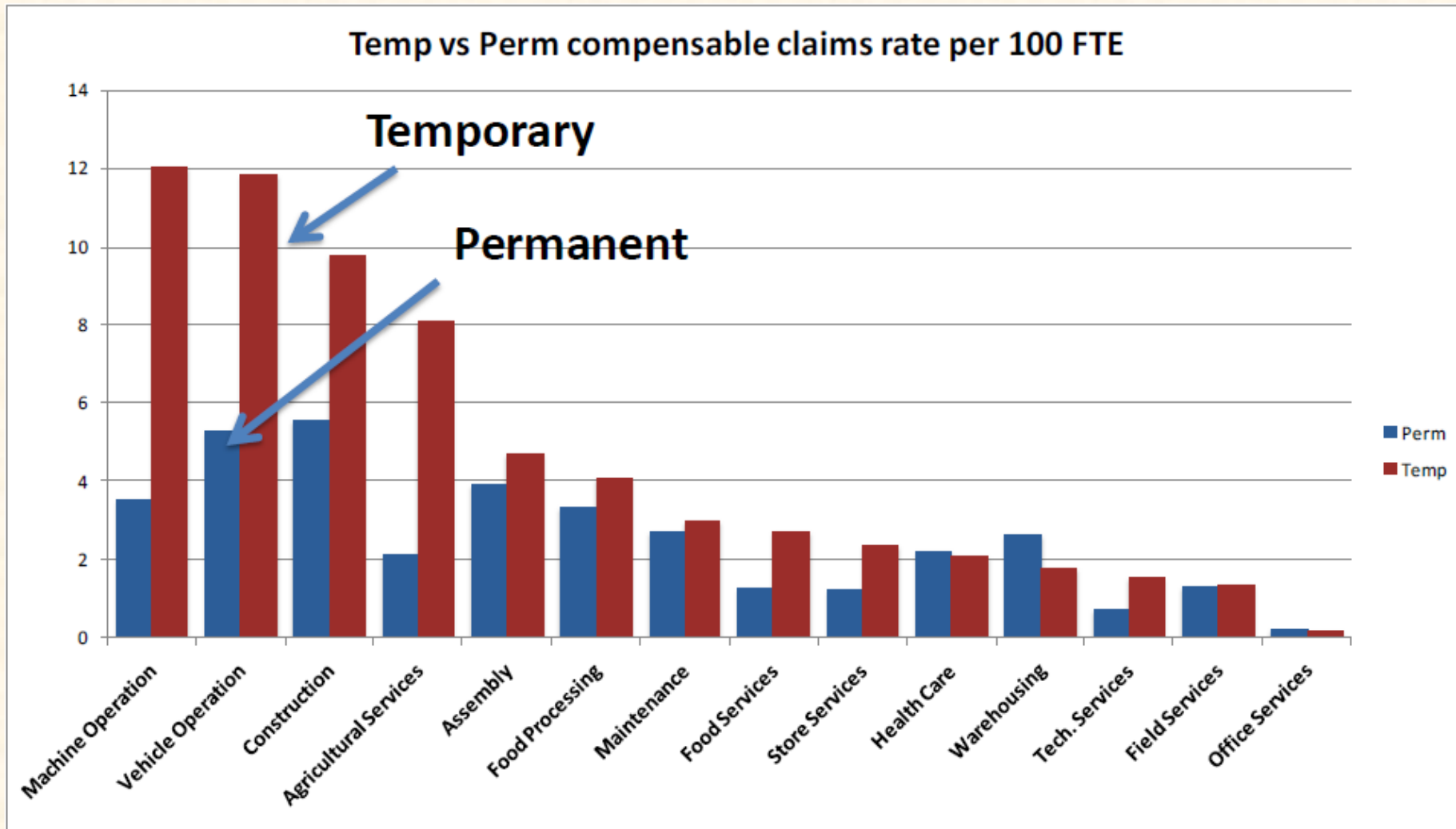
- Inexperience of a youth, temporary or migrant worker in that trade or occupation
- Eagerness to please the supervisors
- Assigned work not appropriate for skills or training
- Take on unassigned tasks to impress the supervisors
- Misunderstanding of the job assignment
- Lack of supervision and training
- Use dangerous tools or equipment



# Are Injury Rates among Temporary Workers a Problem?

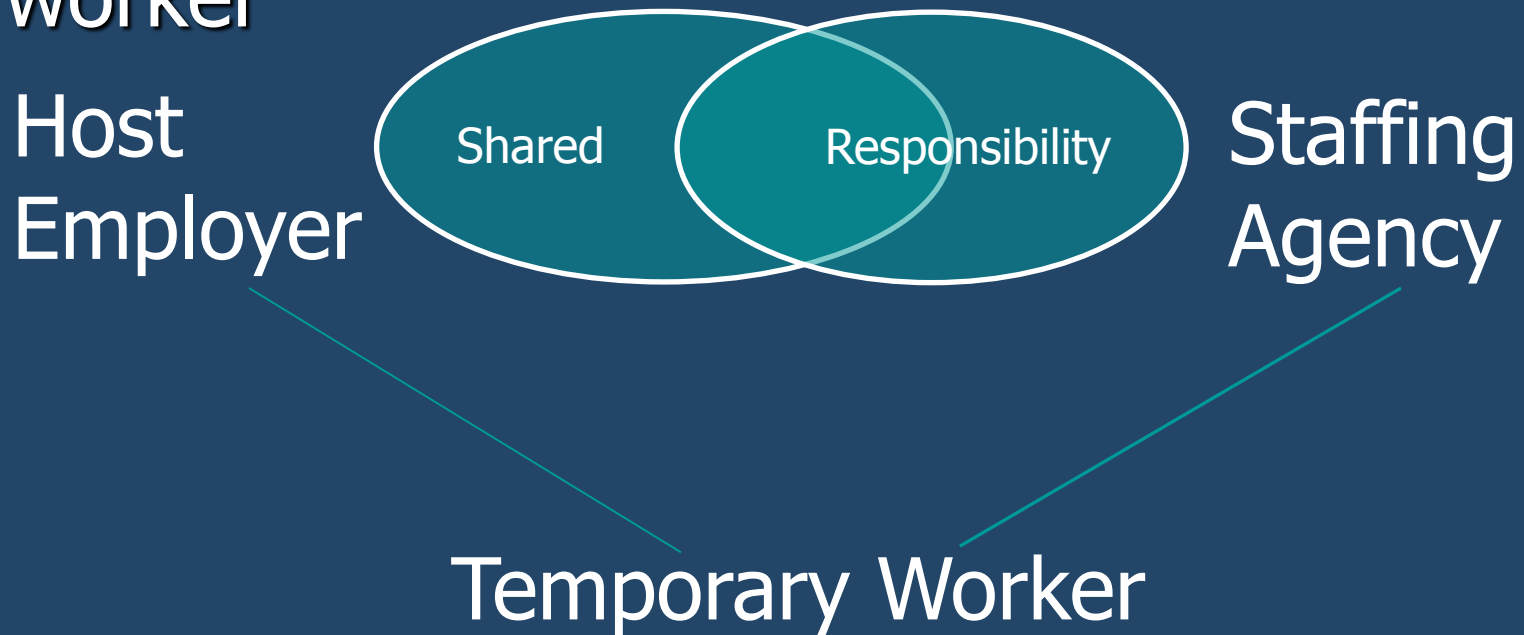
- OSHA-300 Logs are kept by the host employer
- Staffing agency pays the worker Compensation
- Staffing agency TCIR/DART rates are low but high workers compensation rates
- Hard to connect temporary employee injuries and illnesses to a “rate” or “number”

# Worker Compensation Rates Higher for Temporary Workers in Almost All Industries



# Triangular Employment Structure

- Both the host employer and the staffing agency are employers of the temporary worker



# Staffing Agency Responsibilities

- Inquire about **safety conditions** at assigned sites for temporary workers.
- Provide **general safety information** to temporary workers in the language best understood.
- Make arrangements with host employers to ensure they provide temporary workers with **site-specific safety training**.



# Staffing Agency Responsibilities

- Provide **workers' compensation** insurance and contact information to all employees, including temporary workers.
- **Record injuries/illnesses** for temporary workers directly supervised on a day-to-day basis by the staffing agency.

# Host Employer Responsibilities

- Provide **site-specific safety** training in the language best understood
- Training for the **safe handling of chemicals**
- **Provide workers with PPE** for site-specific hazards, and train workers on how to properly fit and use PPE.
- **Reporting of injuries/illnesses** for workers directly supervised

# Contracts: Staffing Agencies & Host Employers

- Staffing contracts should **clearly outline** the aspects of safety for which the staffing agency and the host employer are responsible. This will prevent confusion.
- Describe who will provide both the **general** and **site-specific training** for workers.

# Contracts Continued

- List **anticipated tasks** and **necessary PPE** for temporary workers, including who will provide the PPE.
- Designate staffing agency and host employer **point persons** and provide their names and phone numbers for temporary workers to contact with concerns that arise.

# OSHA Requirements: Who is Responsible?


To whom do the following OSHA requirements apply?

- Recordkeeping
- Fines
- Medical surveillance
- Safety Training (General and Specific)

# OSHA Recordkeeping

Whoever provides  
day-to-day  
supervision of the  
employee is  
responsible for  
recordkeeping

TW BULLETIN NO. 1

 Temporary Worker Initiative

## Injury and Illness Recordkeeping Requirements

This is the first in a series of guidance documents issued 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 (or dual) employment of a staffing agency and a host employer.

When a staffing agency supplies temporary workers to a business, typically, the staffing agency and the staffing firm client (also known as the Host Employer) are joint employers of those workers. Both employers are responsible to some degree for determining the conditions of employment and for complying with the law. In this joint employment structure, questions regarding which employer is responsible for particular safety and health protections are common. This bulletin addresses how to identify who is responsible for recording work-related injuries and illnesses of temporary workers on the OSHA 300 log.

Injuries and illnesses should be recorded on only one employer's injury and illness log. 29 CFR 1904.31(b)(4). In most cases, the host employer is the one responsible for recording the injuries and illnesses of temporary workers.

Injury and illness recordkeeping responsibility is determined by supervision. Employers must record the injuries and illnesses of temporary workers if they supervise such workers on a day-to-day basis. 29 CFR 1904.31(a). Day-to-day supervision occurs when "in addition to specifying the output, product or result to be accomplished by the person's work, the employer supervises the details, means, methods and processes by which the work is to be accomplished." See OSHA FAQ 21-1 at [www.osha.gov/recordkeeping](http://www.osha.gov/recordkeeping). (Essentially, an employer is performing day-to-day supervision when that employer controls conditions presenting potential hazards and directs the worker's activities around, and exposure to, those hazards.) In most cases, the host employer provides this supervision.

While the staffing agency may have a representative at the host employer's worksite, the presence of that representative does not necessarily transfer recordkeeping responsibilities to the staffing agency. As long as the host employer maintains day-to-day supervision over the worker, the host employer is responsible for recording injuries and illnesses.

The non-supervising employer (generally the staffing agency) still shares responsibility for its workers' safety and health. The staffing agency, therefore, should maintain frequent communication with its workers and the host employer to ensure that any injuries and illnesses are properly reported and recorded. Such communication also alerts the staffing agency to existing workplace hazards and to any protective measures that need to be provided to its workers. Ongoing communication is also needed after an injury or illness so the recording employer can know the outcome of the case.

1904.31(b)(4)



# Inspection Penalties

Fines may be levied to the host employer and/or staffing agency depending on the circumstances.

- **March 12, 2014 Schwann Global Supply Chain's Atlanta facility**
  - Proposed fines: \$185,700
  - 32 serious health and safety violations
- Two companies provided temporary workers and maintenance services also received citations
- **Adecco**
  - 12 serious violations
  - Proposed penalties: \$58,500
- **Cimco Refrigeration** (maintenance and other services)
  - 6 serious safety and health violations
  - Proposed penalties: \$20,160

# Medical Surveillance



- When medical surveillance or monitoring is necessary, the host employer must offer and perform this requirement.
- The staffing agency must ensure that the records of the required medical surveillance or evaluations are maintained in accordance with the appropriate OSHA standards.

# General Safety and Health Training

What is the general rule for generic safety and health training?

- The staffing agency is expected to provide some general safety and health training.

# Safety and Health Training

(continued)

## General Topics for the Agency

1. Safe lifting practices
2. Ergonomics
3. Personal Protective Equipment
4. Electrical Safety
5. Machine guarding
6. Fall hazards and protection
7. Chemical Hazard Communication

# Specific Safety Training

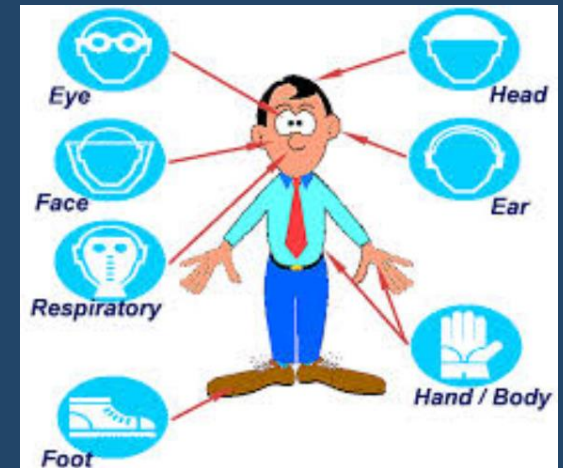
Who is responsible for site specific training?

- The **host** employer must still certify that the required training has been provided "when the employee has demonstrated proficiency (to the employer) in the work practices involved."
- Site-specific is the host employer's responsibility

# Personal Protective Equipment

## Who is responsible for PPE?

- Host employer is responsible for providing PPE for site-specific hazards to which employees may be exposed.
- PPE can be a contractual issue between the host employer and staffing agency, but enforcement is the responsibility of the host employer.





# Temporary Worker Rights

OSHA provides workers the right to a safe and healthful workplace.

## Job Safety and Health

**It's the law!**



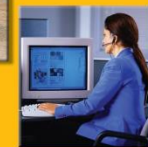
### EMPLOYEES:

- You have the right to notify your employer or OSHA about workplace hazards. You may ask OSHA to keep your name confidential.
- You have the right to request an OSHA inspection if you believe that there are unsafe and unhealthful conditions in your workplace. You or your representative may participate in that inspection.
- You can file a complaint with OSHA within 30 days of retaliation or discrimination by your employer for making safety and health complaints or for exercising your rights under the *OSH Act*.
- You have the right to see OSHA citations issued to your employer. Your employer must post the citations at or near the place of the alleged violations.
- Your employer must correct workplace hazards by the date indicated on the citation and must certify that these hazards have been reduced or eliminated.
- You have the right to copies of your medical records and records of your exposures to toxic and harmful substances or conditions.
- Your employer must post this notice in your workplace.
- You must comply with all occupational safety and health standards issued under the *OSH Act* that apply to your own actions and conduct on the job.

### EMPLOYERS:

- You must furnish your employees a place of employment free from recognized hazards.
- You must comply with the occupational safety and health standards issued under the *OSH Act*.

This free poster available from OSHA –  
*The Best Resource for Safety and Health*



Free assistance in identifying and correcting hazards or complying with standards is available to employers, without citation or penalty, through OSHA-supported consultation programs in each state.

**1-800-321-OSHA (6742)**  
[www.osha.gov](http://www.osha.gov)

OSHA 3185-02 2012R



# **RECOMMENDED PRACTICES**

## **PROTECTING TEMPORARY WORKERS**

# Staffing Agency: Recommended Practices

## Good Job Descriptions

- Example tasks
- PPE requirements
- Safety requirements (e.g. attend safety orientation)
- Exclusions (e.g. no operation of press brake)
- Additional hazards (e.g. confined spaces)



# Possible Prohibited Jobs/Industries

- Unsupervised Jobs
- Roofing
- Trenching
- Hazardous waste
- Biological waste
- Foundry (pours)



Prohibited jobs can be determined by either the Staffing Agency or its Insurance Carrier.

# Risk Assessment of Host Employer

- Description of business operation
- List of states (operating)
- Copy of 3-yr loss run (minimum)
- OSHA reports
- Copy of existing safety manual(s) and Training
- Assessment of client's WC history



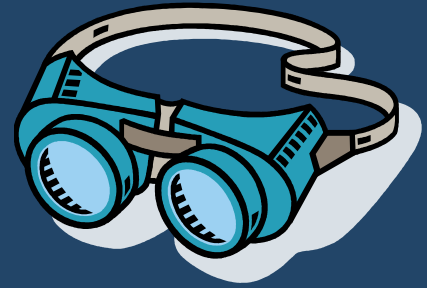
# Safety Questionnaire by the Staffing Agency for Placed Temps

- What safety training did you receive prior to starting this job?
- Are you required to wear any personal protective equipment? If so, was it provided?
- Are you currently performing the job functions as described to you by our staff?
- Do you feel that there are any unsafe aspects or hazards associated with your job? If so, please explain.

# Possible Safety Questionnaire

(continued)

- Are you currently performing the job functions as described to you by our staff?
- Do you feel that there are any unsafe aspects or hazards associated with your job? If so, please explain.





# Host Employer: Recommended Practices



- Assign a “Mentor” to temp worker
- Introduce the worker and involve them in the work environment
- Document training
- Demonstrate JSA or Safety Topics
- Worker has an “OSHA-10 Card”



# Summary

- Temporary workers are part of the workforce.
- Host employers have the choice on how they treat temporary workers.
- OSHA expects host employer to treat temporary worker as though the worker was a “New Hire” i.e. Training.
- Host employer works with the staffing agency to provide adequate training.
- Staffing agency provides job descriptions, JSA, and list of prohibited jobs.

# Ohio BWC YouTube Channel: Temporary Employee Safety Videos

alliance

Ohio

Bureau of Workers' Compensation

## Safety for Temporary Workers

Staffmark



Ohio Staffing and Search Association

1



Safety for Temporary Workers in Offices

2



Safety for Temporary Workers in Warehousing

3



Safety for Temporary Workers in Landscaping

4



Safety for Temporary Workers in Industrial/Manufacturing

5



Safety for Temporary Workers in Food Service

6



Safety for Temporary Workers in Construction

7



Safety for Temporary Workers - Main Module

YouTube

# OSHA Temporary Worker Page

## Protecting Temporary Workers

Temporary worker died after forklift he was operating fell between truck and dock.

12/4/13 New



[Reports of Fatalities and Catastrophes](#)

**"Host employers need to treat temporary workers as they treat existing employees. Temporary staffing agencies and host employers share control over the employee, and are therefore jointly responsible for temp employee's safety and health. It is essential that *both* employers comply with all relevant OSHA requirements."**

— David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health

### Employer Responsibilities to Protect Temporary Workers \*

To ensure that there is a clear understanding of each employer's role in protecting employees, OSHA recommends that the temporary staffing agency and the host employer set out their respective responsibilities for compliance with applicable OSHA standards in their contract. Including such terms in a contract will ensure that each employer complies with all relevant regulatory requirements, thereby avoiding confusion as to the employer's obligations.



### Highlights

- **NEW** [Recommended Practices: Protecting Temporary Workers\\*\\*](#)
- **NEW** [Policy Background on the Temporary Worker Initiative](#)
- [Temporary Worker Initiative \(TWI\) Bulletin No. 1 - Injury and Illness Recordkeeping Requirements\\*\\*](#)

[http://www.osha.gov/temp\\_workers/index.html](http://www.osha.gov/temp_workers/index.html)

# OSHA Resources

- News release on OSHA's Initiative to Protect Temporary Workers
- Dr. Michaels' remarks from Workers' Memorial Day 2013
- Transcript of webinar on employer responsibility and best practices with OSHA and the American Staffing Association
- OSHA Enforcement Memo to Regional Administrators (April 29, 2013)

# More OSHA Resources

## OSHA Letters of Interpretation

- 2012 letter to Staffmark
- 1994 letter to the National Employment Service Corporation

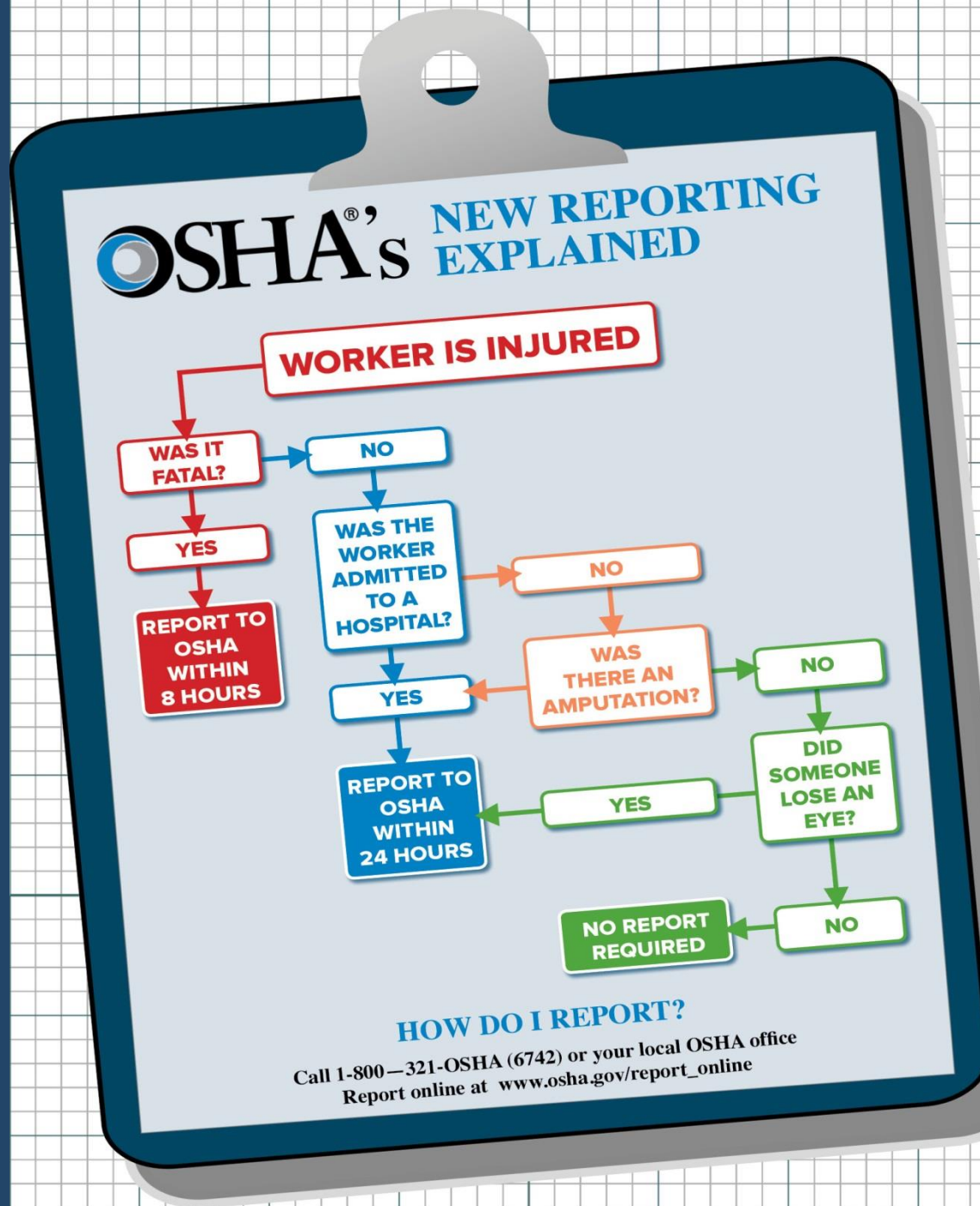
## Temporary Worker Initiative Bulletins

- Recordkeeping

## Recommended Practices: Protecting Temporary Workers (NIOSH-OSHA)

# OSHA's New Reporting Requirements

Effective on  
January 1, 2015







Thank You!

**Melissa Linton**

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