

INdiana Labor Insider

January/February 2009

"Advancing the safety, health and prosperity of Hoosiers in the workplace."

Mitchell E. Daniels Jr., Governor

Lori A. Torres, Commissioner of Labor

To a Safe, Healthy and Prosperous New Year!

Welcome to 2009! Since the INdiana Labor Insider debut in July 2008, we've found this to be a successful means of communication for Hoosiers in the workplace. We are happy to provide you with this newsletter again in 2009.

This edition has been carefully laid out to provide you with reminders, bulletins and other news about what's going on inside the Indiana Department of Labor and Indiana workplaces. We want to remind employers of their requirements to post their injury and illness log summaries—more information can be found below. We'd also like to direct your attention to an alert that we have published in this edition. In a short five-month period, four Hoosier workers were fatally injured in back over incidents. While any workplace fatality is a tragedy, the similarity of these incidents bears mentioning. Each of them resulted in the loss of a family member for someone.

Additionally, we receive many regular questions about Indiana wage and hour issues. Some of the actual questions and answers may be found in our bi-monthly 'Ask Our Expert' section.

We are committed to providing you with the tools that you need to advance the safety, health and prosperity of Hoosiers in the workplace. As always, if you would like to offer suggestions for future articles, please send us your comments.



Lori A. Torres
Commissioner of Labor

To your health and wealth,

Lori Torres
Lori A. Torres
Commissioner

IOSHA Reminds Employers to Post Summaries

Many Hoosier employers are required to document and maintain a record of work-related injuries and illnesses on the OSHA 300 Log. Each year, those same employers are required to post a summary (300 A) of the prior year's incidents from **February 1 through April 30**. The Indiana Occupational Safety and Health Administration (IOSHA) reminds affected employers that the time to post summaries is nearing.

Certain industries as well as businesses with ten or fewer employees (at all times during the previous calendar year) may be exempt from the OSHA Recordkeeping and posting requirements. To identify if your business or employer is exempt from these requirements, please review the complete list of exempt industries at <http://www.osha.gov/recordkeeping/index.html>. OSHA Recordkeeping Forms may also be downloaded at this website. For additional questions, email our experts at insafe@dol.in.gov.

OSHA's Form 300A (Rev. 01/2004)

Summary of Work-Related Injuries and Illnesses

Year 20__

U.S. Department of Labor
Occupational Safety and Health Administration

Form approved OSHA no. 1224-05

All establishments covered by Part 1904 must complete this Summary page, even if no work-related injuries or illnesses occurred during the year. Remember to review the Log to verify that the entries are complete and accurate before completing this summary.

Using the Log, count the individual entries you made for each category. Then write the totals below, making sure you've added the entries from every page of the Log. If you had no cases, write "0."

Employers, former employers, and their representatives have the right to review the OSHA Form 300 in its entirety. They also have limited access to the OSHA Form 301 or its equivalent. See 29 CFR Part 1904.35, in OSHA's recordkeeping rule, for further details on the access provisions for these forms.

Number of Cases			
Total number of deaths	Total number of cases with days away from work	Total number of cases with job transfer or restriction	Total number of other recordable cases
(a)	(b)	(c)	(d)

Number of Days	
Total number of days away from work	Total number of days of job transfer or restriction
(e)	(f)

Injury and Illness Types			
Total number of ...			
(1) Injuries	(4) Poisonings	(7) Falls	(10) Other
(2) Skin disorders	(5) Hearing loss	(8) Burns	(11) Other
(3) Respiratory conditions	(6) All other illnesses	(9) Other	(12) Other

Post this Summary page from February 1 to April 30 of the year following the year covered by the form.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time to review the instructions, search existing data sources, gather the data needed, and complete and review the collection of information. Send comments regarding this burden estimate or any aspect of this data collection, including suggestions for reducing the burden, to Washington, DC 20503. Do not send the completed forms to this office.

Establishment information

Your establishment name _____

Street _____

City _____ State _____ ZIP _____

Industry description (e.g., Manufacturer of new risk tools) _____

Standard Industrial Classification (SIC), if known (e.g., 3715) _____

OR

North American Industrial Classification (NAICS), if known (e.g., 33621) _____

Employment information (If you don't have these figures, use the best data available to you.)

Annual average number of employees _____

Total hours worked by all employees last year _____

Sign here

Knowingly falsifying this document may result in a fine.

I certify that I have examined this document and that to the best of my knowledge the entries are true, accurate, and complete.

Company official _____ Title _____

Date _____

DANGER

Back Over Alert!

More than 150,000 Hoosiers go to work in the dynamic and ever-changing construction industry every day in Indiana. Hoosier construction workers have the responsibility of building, repairing and maintaining structures that many of us use to get places as well as live and work. However, each year many of these Hoosier workers are fatally injured while working. While no fatal injury is less traumatic than another, in a five month timeframe (June 2008 - November 2008), four workplace fatalities in Indiana were a result of “back over” incidents.

Unfortunately back over incidents are not just problems for construction workers. Each year in the United States, these same types of incidents are the cause of many deaths to toddlers and small children. More often than not, SUVs and other large vehicles are often the culprits.

Not only are these back over incidents traumatic for the victim’s family, but they also have an alarming effect on the driver or operator. These incidents leave behind a lifetime of guilt and anguish.

Back over crashes in the workplace occur when a vehicle backs into a worker on foot, other equipment or machinery. These crashes are typically low speed, but result in some of the most traumatic and expensive incidents in the workplace. According to the United States Department of Transportation’s National Highway Traffic Safety Administration (NHTSA), supplementing NHTSA crash records with death certificates, back over crashes involving *all* vehicle types are estimated to cause at least 183 fatalities annually. Additionally, between 6,700 and 7,419 non-fatal injuries are caused by back over crashes.

Probable causes of incidents—Workers can fall victim to these types of incidents for a variety of reasons. Often workers don’t think slow moving

vehicles and equipment pose a danger and will attempt to *race the clock* to obtain a tool, take a quicker route or shortcut. Distracted workers are also victims of these type of incidents. Distractions can include talking on a cell phone or to other worksite employees.

From bulldozers and backhoes to excavators and dump trucks, laborers on foot are struck mainly because the types of equipment commonly found on jobsites have large blind spots. Operators are unable see all that is going on behind them and workers may be too busy to notice equipment moving near them.

How can we ensure workers are protected on-the-job?— Quite simply by always keeping other workers in



Photo: Heavy equipment on construction and other worksites like pictured above has the potential to be involved in back over incidents.

mind. For machine operators, knowing where your co-workers on foot are at all times is critical. Workers on foot should remain alert at all times and in all places that heavy machinery and equipment is being used. The use of spotters when backing up large equipment and machinery may also prove to be advantageous,

however, it is critical to know the whereabouts of the employees still on foot. Additionally, it is critical that workers can maintain contact with each other. A reliable means or system of communication such as two way radios, hand signals, etc. is necessary to ensure each person on a jobsite is accounted for.

In a system of safe work, one of the most important logistics is focused on the movement of people. Planning, designing and implementing the layout of the worksite can be done in such a manner that worksite hazards can be controlled or contained. Where possible, provide barriers between laborers on foot and equipment and machine operators. This can reduce the likelihood that a worker may become a statistic in a back over incident or fatality.



It Happened Here: Noble & Madison Counties

Background: From June to November in 2008, *back over* incidents were the cause of four separate workplace fatalities in Indiana. Two separate events, occurring within a day of each other are provided below.

Fatal Events: On November 24, 2008 in Noble County, a 46 year-old construction company employee was speaking with a bulldozer operator. After concluding the conversation, the victim walked away and did not see a second bulldozer approaching. The victim was struck and killed.

On November 25, 2008 in Madison county, a 59 year-old correctional employee was speaking to other co-workers in a parking lot. While walking to his vehicle, the victim was backed over by a fellow correctional employee operating a dump truck. Witnesses at the scene stated that the dump truck's warning signals were in operation.

To reduce the likelihood and prevent similar occurrences of “*back over incidents*”, employers should:

- Ensure all workers (foot, machine & equipment operators) remain alert at all times, in all places—staying out of the equipment operator’s blind spots;
- Ensure that workers on foot wear the appropriate PPE including high-visibility clothing;
- Ensure that the appropriate safety equipment and features are installed on the vehicle to alert employees of the moving vehicle;
- Ensure that backing procedures are in place for the use of mobile construction and other moving vehicles;
- Ensure all workers, including contractors as well as subcontractors, receive ample work zone safety training and are familiar with standard operating procedures before being allowed in the work zone;
- Use spotters for assistance when backing up vehicles and other equipment;
- Implement a “*buddy system*” for employees working around moving equipment and machinery;
- Ensure that the work area is properly illuminated.

Department of Labor Signs Partnership with Eli Lilly and Company

The Indiana Department of Labor recently signed a cooperative safety and health partnership with Indianapolis-based Eli Lilly and Company.

The goal of the partnership is to further advance the safety and health in Hoosier workplaces, including the reduction and severity of workplace injuries and illnesses and elimination of all workplace fatalities. The partnership was created to cover all of Lilly’s Indiana operations.

Commissioner of Labor, Lori A. Torres commented that this, “Partnership allows us to better communicate, share and develop ideas as we work toward the common goal of Hoosier workplace safety and health excellence.”

Lilly will share information and ideas on Lilly’s best practices and effective approaches in worker safety and health management. “As a part of our corporate social responsibility, we believe in sharing best practices, particularly in the area of workplace safety. This partnership will enable us to pass along what we have learned with other Indiana employers to help them keep their workers and neighbors safe,” said Steve Gillman, Lilly executive director for health, safety and environmental.

While the partnership allows for certain inspection deferrals, it does not waive any aspect of the OSH Act or inspections as a result of an employee complaint, serious injury or death. The partnership will remain in effect for two years.



Photo: Sitting Left to Right—Indiana Department of Labor Commissioner Lori A. Torres, Eli Lilly Executive Director EHS Steve Gillman, Vice President of Manufacturing Operations Paul Ahern. Standing Left to Right—Deputy Commissioner of INSafe Sean Keefer, Deputy Commissioner of IOSHA Jeffrey Carter and Eli Lilly Manager of Health & Safety Al Holberg.



You Asked, We Answered - Indiana Wage & Hour

Question: I work in a small, busy, family-owned restaurant. My co-workers and I usually work our entire shift without a break or lunch. We typically do not have time to take a break. Is my employer required to provide us with a break?

Generally, no. Indiana law does not require employers to provide breaks of any kind including for meals. However, there are exceptions. Workers who are subject to a written employment contract or collective bargaining agreement (“union contract”) may be entitled to breaks under the terms of the contract or collective bargaining agreement. Also, Indiana Child Labor laws require any worker younger than eighteen (18) years of age who works a shift of six consecutive hours to have one or more breaks totaling at least 30 minutes.

Question: If I resign from my position, is my employer required to pay me any of my accrued vacation, sick or personal leave?

Probably not, unless the employer has a specific, written policy providing that accrued leave (or PTO) will be paid out upon separation.

Question: What can I do if my employer refuses to pay me for work that I have done?

Employees may file an Application for Wage Claim with the Indiana Department of Labor. The Application for Wage Claim form may be viewed and printed from the following web link: <http://www.in.gov/dol/files/WageClaimInstructionsApp092407Corrected.pdf>.

It is important to read the instructions fully before

filing an Application for Wage Claim. The Indiana Department of Labor can only mediate claims. It cannot serve as your attorney or file suit.

If you are an Independent Contractor, the Indiana Department of Labor cannot process an Application for Wage Claim. Independent contractors who have not been paid should seek the advice of an attorney.

Question: What does the law say about deductions from my paycheck?

This is probably the most commonly violated Indiana Wage & Hour law. Indiana law specifically regulates deductions from employee’s wages. The law is codified at Indiana Code 22-2-6 and may be viewed at <http://www.in.gov/legislative/ic/code/title22/ar2/ch6.html>.

Indiana law does not authorize payroll deduction for the cost of employee uniforms or damage to vehicles or equipment. Likewise, Indiana law does not authorize deduction for loss due to theft of merchandise or cash-drawer shortages.

In general, authorization for wage deductions must be: (1) in writing, (2) signed by the employee, (3) revocable upon written notice, (4) agreed-to by the employer. Once the writing and notice requirement is satisfied, the law articulates thirteen (13) discrete classes of permissible deductions.

Specific information about child support payments or income withholding orders may be obtained by viewing the following website: <http://www.in.gov/dcs/2505.htm> or by contacting the Child Support Bureau’s Employer Maintenance Unit (EMU) at (317) 232-0327 or (800) 292-0403.

Reflective Vests & Public Safety Personnel

All state, county and local government employees, including Indiana State Police, volunteer and career firefighters and police officers are covered by the standards, rules and regulations of the Occupational Safety and Health Act in Indiana.

Numerous police departments in the state have sought our guidance concerning the use of reflective vests. In situations in which public safety officers are directing traffic on a public street, road or highway and in or near lanes of moving traffic, the General Duty Clause applies.

The General Duty Clause requires employers to control or eliminate known hazards in the workplace that are not covered under a specific standard. In the case of public safety officers directing traffic, IOSHA believes that demonstrable hazards exist when an individual is directing vehicular traffic.

For additional information, please refer to the guidance letter on the IDOL’s Hazard Alert Link <http://www.in.gov/dol/2365.htm>.



Recognizing Excellence

Recognizing Excellence spotlights Hoosier employers and their employees for their efforts in achieving status in either the Indiana Voluntary Participation Program (VPP) or Indiana Safety and Health Achievement Recognition Program (INSHARP). The Indiana Department of Labor congratulates the following employers and employees for their efforts to ensure Hoosier occupational safety and health. For further information on Indiana's exemplary safety and health programs please visit <http://www.in.gov/dol>.

INSHARP

New: FutureX Industries, Inc. (Bloomington, IN)
 Arc Opportunities (Howe, IN)
 OFS Brands, Plant #4 (Huntingburg, IN)
 OFS Brands, Plant #8 (Huntingburg, IN)
 OFS Brands, Plant #10 (Huntingburg, IN)
 Hitachi Cable Indiana, Inc. (New Albany, IN)

VPP

New Star: None
Recertifications: Meyer Stamping & Manufacturing (Fort Wayne, IN)
 DSM NeoResins (Frankfort, IN)

Training Opportunities

The Indiana Department of Labor works with the **Indiana Chamber of Commerce**, **Indiana Manufacturers Association** (IMA), **Risk Management Services** (RMS) and **Safety Management Group** (SMG) to provide safety and health training scholarships.

Date	Sponsor	Class
02/04 - 02/05/09	IMA	OSHA General Industry 10-Hour (Indianapolis, IN)
02/24 - 02/25/09	Chamber	2009 Safety & Health Conference (Indianapolis, IN)

More information on scholarship and training opportunities may be found on our website at <http://www.in.gov/dol/3520.htm>.

Make Plans to Join Us!

The annual Indiana Safety and Health Conference will be held on February 24 - 25, 2009 at the Indianapolis Marriott East. Pre-conference workshops are being held the day prior, February 23, 2009, 1-4 p.m. Conference education tracks are being offered for both general industry and construction.

The annual event is a collaboration between the Indiana Department of Labor, Indiana Chamber of Commerce, Central Indiana Chapter of the American Society of Safety Engineers and the Indiana section of the American Industrial Hygiene Association. For additional information or to register to attend, please visit the conference's website <http://www.insafetyconf.com>.



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