



## **Guidelines for Temporary Workers: A Shared Responsibility**

The use of temporary employees in the United States has grown tremendously. Workers that are identified as “temporary-help agency workers” accounted for about 1.2 million people in February 2005 – a number that more than doubled by 2013, when Bureau of Labor Statistics reported 2.8 million “temporary-help agency workers”. Host employers often use temporary employees when there is an employee absence, skilled labor shortage, seasonal workload, or a special assignment or project for limited periods of time. These special work situations sometimes overshadow the importance of safety and health training for the temporary employee. Both permanent and temporary employees work alongside one another; however safety and health protections are not always being provided to the temporary employee.

### **Summary of Fatalities**

**Michigan** Sept 2007 - Temporary worker from fell 15 feet through a section of roof that collapsed. **He had been on the job for one hour.**

**Illinois** – Oct 2013 - Temporary worker killed in fall from third floor loading platform.

**New Jersey** – Dec 2013 - Temporary worker died after being caught in a sorter.

**Illinois** – Dec 2013 – Temporary worker died after the forklift he was operating fell between truck and dock.

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**Arkansas** – March 2104 - Temporary worker killed in fall from a roof top.

**Florida** – April 2014 - Temporary worker killed in a fall from a sanitation truck.

If the host employer and staffing agency do not provide proper safety and health training, temporary workers may not take the necessary precautions because they lack knowledge of the hazards.

MIOSHA has implemented a Temporary Worker Initiative to help ensure temporary staffing agencies and host employers understand their rights and responsibilities under the Michigan Occupational Safety and Health Act (MIOSHA).

This document is intended to provide an overview of certain responsibilities associated with safety and health of the temporary workforce.

MIOSHA Act 154 Rule 408.1005 Defines “**employee**” as a person permitted to work by an employer.”

OSHA defines **Day to Day Supervision** - when the employer "supervises not only the output, product, or result to be accomplished by the person's work, but also the details, means, methods, and processes by which the work objective is accomplished."

### **Temporary Employee**

The term **temporary** in Part 511 refers to employees who enter into an employment relationship for a discrete or defined time period. As a result, the term *temporary* refers to the length of employment, and not to the physical structures housing employees.

### **Leased Employee**

A leased employee is a worker paid by an employee leasing company (sometimes called an employment agency, a temp agency, or a professional employer organization (PEO)) to perform services for a client of the leasing company.

### **Volunteer Work**

Before the MIOSH Act can be applied, an employer-employee relationship must be established. The main factor to consider is whether the work is "**controlled**" by a directing entity. The following analysis must be completed to determine whether there is an employer-employee relationship when a person is performing work as a volunteer:

1. *Does the employer control the work? (i.e., can the individual performing the work schedule at their convenience or is the person told when to report and how to perform the work, is there a designated position that provides direction/oversight, is the equipment and material needed for the work provided for the volunteer, etc.)*

If the work is not controlled, there is no employer-employee relationship and the volunteer work is not covered by MIOSHA jurisdiction.

### **Communication is the Key to Success**

Communication and partnership between staffing agencies and host employers are key to ensuring a safe work environment for temporary workers. Staffing agencies should understand the nature of the host employers' work and their worksite conditions prior to placing and or assigning temporary workers.

Host employers have a responsibility to ensure that temporary employees are included in their orientation program which includes all aspects of occupational safety and health training.

The temporary agency and site employer work contracts should clearly define who is responsible for which aspects of worker safety and health, including personal protective equipment, required training and medical testing, etc.

### **Host Employer and Staffing Agency Responsibilities**

Temporary agency employers are expected to provide some basic worker safety and health training and host employers are responsible for providing site and task/job specific training to update employees on new hazards.

| STANDARD  | HOST EMPLOYER RESPONSIBILITY  | STAFFING AGENCY RESPONSIBILITY   |
|---|---|--|
| <b>Hazard Communication</b>                             | <ul style="list-style-type: none"> <li>• Provide site specific training and have the primary responsibility to control potential exposure conditions.</li> </ul>  | <ul style="list-style-type: none"> <li>• Provide training on generic program elements (e.g. Right -to -Know, safety data sheets (SDS) and labeling).</li> </ul>  |
| <b>The Control of Hazardous Energy (Lockout/Tagout)</b> | <ul style="list-style-type: none"> <li>• Provides training (if applicable) on machine energy control procedures – specific energy sources, energy control devices...etc.</li> </ul>   | <ul style="list-style-type: none"> <li>• Provide awareness level training (energy control program).</li> </ul>   |
| <b>Injury/Illness Recordkeeping MIOSHA 300 Log</b>      | <ul style="list-style-type: none"> <li>• Maintain and update the MIOSHA 300 Form for their work sites.</li> <li>• Provides detailed injury information which allows Host Employer/Staffing Agency to complete their MIOSHA 300/301 Forms.</li> <li>• <b>If host employer</b> provides “<b>day to-day supervision</b>” log/record any work related recordable temporary employee injury/illness.</li> </ul> <p data-bbox="457 1098 1433 1367"><b>MIOSHA (<a href="#">Recordkeeping Standard</a>)</b> : Host employers who use the services of temporary staffing agencies and who provide day-to-day supervision of the temporary employee are required to record the temporary employee’s injuries on the host employers log. If the temporary staffing agency provides the day-to-day supervision of the activities of the temporary employee, then the injury should be recorded on the temporary agency’s log.</p> <p data-bbox="457 1388 1433 1690"><b>“Day-to-day supervision”</b> 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”. Essentially, an employer is performing day-to-day supervision when that employer controls conditions and directs the worker’s activities around, and exposure to hazards. In most cases, the host employer provides supervision. A recordable injury or illness should not be doubled recorded.</p> | <ul style="list-style-type: none"> <li>• Maintain and update the MIOSHA 300 Form for their work sites.</li> <li>• Provides detailed injury information which allows Customer/Host Employer to complete their MIOSHA 300/301 Forms.</li> <li>• <b>If temporary agency</b> provides “<b>day to-day supervision</b>” log/record any work related recordable temporary employee injury/illness.</li> </ul> |

| STANDARD                                   | HOST EMPLOYER RESPONSIBILITY   | STAFFING AGENCY RESPONSIBILITY   |
|--|--|--|
| Emergency Action Plans                     | Provides specific training on: <ul style="list-style-type: none"> <li>• Exit routes (muster locations)</li> <li>• Local emergency contact numbers</li> <li>• Alarm notifications.</li> </ul>   | <ul style="list-style-type: none"> <li>• Trains on generic program elements (e.g. means of reporting emergencies and alarm system requirements).</li> </ul>  |
| <b>Personal Protective Equipment (PPE)</b> | <ul style="list-style-type: none"> <li>• Analyzes and determines the appropriate PPE for each job description or function.</li> <li>• Responsible for the selection and provision of such equipment.</li> <li>• Provide training to assure proper use and enforcement of the PPE provided to temporary employees.</li> <li>• Provides PPE at no cost to temporary employee( s) – (although this can be contract-dependent).</li> </ul> | <ul style="list-style-type: none"> <li>• Reviews provisions for required of the PPE during periodic safety evaluations.</li> <li>• Provides PPE at no cost to temporary employee(s).</li> </ul> <p><b>MIOSHA says <a href="#">Personal Protective Equipment</a></b> An employer shall provide at no cost to employees the personal protective equipment necessary to protect against hazards that the employer is aware of as a result of any required assessments.</p> <p><b>Rule 3310a</b> - An employer shall provide at no cost to employees the personal protective equipment necessary to protect against hazards that the employer is aware of as a result of any required assessments.</p> <p><b>Rule 3310 (4)</b> - An employer is not required to pay for prescription safety eyewear with removable or permanent side shields if the employer provides safety eyewear that fits over an employee’s prescription lenses.</p> <p><b>Rule 3310 (5)</b> -An employer is not required to pay for non-specialty prescription safety eyewear, provided that the employer permits these items to be worn off the job-site.</p> <p><b>Rule 3310 (6)</b> - An employer is not required to pay for non-specialty safety-toe protective footwear, including steel-toe shoes or steel-toe boots, provided that the employer permits these items to be worn off the job-site.</p> |

| <b>STANDARD</b>   | <b>HOST EMPLOYER RESPONSIBILITY</b>  | <b>STAFFING AGENCY RESPONSIBILITY</b>   |
|---|--|---|
| <p><b>Medical Surveillance</b></p> <p>Medical surveillance is the analysis of health information to look for problems (e.g., lead, bloodborne infectious diseases and noise) that may be occurring in the workplace that require targeted prevention.</p> | <ul style="list-style-type: none"> <li>• Offer and perform the required medical testing.</li> <li>• Is responsible for medical surveillance costs when the host company controls the staffing employees' daily activities (exposure) at the worksite. This is true unless there is a contractual agreement stipulating that the staffing company is responsible for the costs of the medical surveillance, or if the staffing company provides day-to-day supervision (exposure control).</li> </ul> | <ul style="list-style-type: none"> <li>• Must ensure that the temporary employees are provided medical surveillance, even if the cost is borne by the host employer.</li> <li>• If the staffing company lacks the authority to correct the hazard, it must still take all feasible measures to minimize the hazard, minimize its employees' exposures to the hazard, and ask the controlling employer to get the hazard corrected.</li> <li>• Ensure that required medical testing records are maintained in accordance with MIOSHA Standards.</li> </ul> |
| <b>ADDITIONAL REQUIREMENTS</b>  | <b>HOST EMPLOYER RESPONSIBILITY</b>  | <b>STAFFING AGENCY RESPONSIBILITY</b>   |
| <p><b>Accident/Incident Investigations</b></p>  | <ul style="list-style-type: none"> <li>• Leads Root Cause Investigation (RCI) for injuries/illnesses involving temporary employee.</li> <li>• Performs internal investigations of work-related incidents that are defined by staffing agency/host employer internal policies.</li> </ul>   | <ul style="list-style-type: none"> <li>• Participates with host employer in on-site incident investigations for injuries/illnesses involving the employee.</li> <li>• Performs internal investigations of work-related incidents that are well-defined by staffing agency/host employer internal policies</li> </ul>  |

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|---------------------------------|--|---|
| <p><b>Injury Management</b></p> | <ul style="list-style-type: none"> <li>• Responsible for the immediate notification of injury to temporary agency.</li> <li>• Offer alternative work to restricted temporary employees as part of a return-to-work program.</li> </ul> | <ul style="list-style-type: none"> <li>• Responsible for the medical management of injuries, the associated injury benefits if applicable, coordination and administration of workers' compensation issues, and any other issues associated with the employee injury</li> <li>• Offer alternative work to restricted temporary employees as part of a return-to-work program</li> </ul> |

For additional training and assistance, please contact the Consultation, Education and Training Division at [www.michigan.gov/cet](http://www.michigan.gov/cet) or at 517-322-1809.

## **MIOSHA Standards**

[http://www.michigan.gov/lara/0,4601,7-154-61256\\_11407\\_15368-39941--,00.html](http://www.michigan.gov/lara/0,4601,7-154-61256_11407_15368-39941--,00.html)

## **MIOSHA Consultation, Education and Training (CET) Division**

[http://www.michigan.gov/lara/0,4601,7-154-61256\\_11407\\_15317---,00.html](http://www.michigan.gov/lara/0,4601,7-154-61256_11407_15317---,00.html)

## **Safety Inspection Checklist**

[http://www.michigan.gov/documents/cis\\_wsh\\_cet0156\\_107628\\_7.doc](http://www.michigan.gov/documents/cis_wsh_cet0156_107628_7.doc)

## **Workplace Inspection Health Issues Checklist - General Industry**

[http://www.michigan.gov/documents/lara/lara\\_miosha\\_cet0189\\_469413\\_7.doc](http://www.michigan.gov/documents/lara/lara_miosha_cet0189_469413_7.doc)

## **Multi-Employer Work Site Agency Instruction**

[http://www.dleg.state.mi.us/wsh/docs/inst/miosha\\_com\\_04\\_1.pdf](http://www.dleg.state.mi.us/wsh/docs/inst/miosha_com_04_1.pdf)

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