



OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR Occupational Safety and Health Administration

DIRECTIVE NUMBER: ADM 8-0.2 | **EFFECTIVE DATE:** Dec. 11, 2000
SUBJECT: OSHA Policy Issuances

ABSTRACT

Purpose: To ensure effective management of the Agency's issuance of statements of policy and procedure and changes to the same.

Scope: OSHA-wide

References: Secretary's Order 6-96; A/S Memo of November 21, 1997; OSHA Instruction ADM 8-0.3, OSHA Directives System; OSHA Instruction ADM 8-0.4, OSHA Non-Policy Issuances; OSHA Instruction ADM 1-0.20, OSHA Internet and Intranet Policies and Guidelines.

Cancellations: ADM 8-0.1C

State Impact: This Instruction is not a Federal Program Change requiring State adoption or response, but States are encouraged to consider its implications for their operations.

Action Offices: All OSHA National Office Directorates and Free-Standing Offices, and Regional, Area and District Offices.

Originating Office: Office of the Assistant Secretary

Contact: Director, Administrative Programs

By and Under the Authority of
Charles Jeffress,
Assistant Secretary

Executive Summary:

The simultaneous issuance of this Instruction and Instructions ADM 8-0.3 and ADM 8-0.4 provides a comprehensive framework of guidance and direction that will assure the effective management and communication of OSHA policies and procedures, interpretive guidance and other materials. The principal elements of this framework are highlighted below.

Significant Changes:

This Instruction clarifies and codifies OSHA's policy covering the issuance of new or revised policies or procedures, emphasizing the need for policy to be communicated through the Code of Federal Regulations (CFR), the Federal Register (FR), or the Directives system. The new OSHA Instruction ADM 8-0.3 provides process and procedural guidance for drafting, clearing and issuing OSHA Directives. OSHA Instruction ADM 8-0.4 establishes the Agency's system for the management of non-policy issuances (NPI), including such supplementary guidance materials as its Letters of Interpretation (LI), and other non-policy statements issued by the Agency. Together these Instructions:

- stress the policy nature and implications of directives and the directives clearance process and encourage internal Agency dialogue on such matters.
- clarify directives review and clearance responsibilities.
- establish all OSHA Program Directors (Directors of Directorates and free-standing Offices) as mandatory clearance officials.
- require that originators provide to clearance officials all policy and other background information appropriate to their review.
- require that originators obtain and appropriately consider critical policy and other issues in the development and review of proposed directives.
- require that clearance officials carefully consider the broad policy implications of proposed directives.
- establish a 15-day time-frame for normal directives review and clearance.
- stipulate a process for the resolution of disagreements or slowdowns in directives clearance.
- provide for Assistant Secretary approval of case-by-case exceptions.
- replace the Interim Directive with a new vehicle for expedited (5-day) clearance of policy material, the OSHA Direction (DIR).
- fix responsibility for the management, clearance, and release of non-policy issuances (NPIs) by OSHA Directorates, Regions, and Offices.

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OSHA Policy Issuances

- I. Purpose. Effective administration of the Occupational Safety and Health Act of 1970 requires that OSHA provide information about its policies and procedures to its staff, partners, customers and stakeholders, and to the general public. Statements of Agency policy and procedure must be reliable, complete and up-to-date, easy to read and understand, and easy to locate and reference. OSHA's statements of policy and procedure, and changes to them, must also be carefully managed, especially when they involve a departure from established Agency policy or procedure or if they involve or appear to involve a change in the requirements that the public must meet, in the programs of assistance, information and education available to the public, or if the Agency is asserting jurisdiction in an area where jurisdiction has not previously been exercised. All such statements published in the Code of Federal Regulations (CFR) or the Federal Register (FR) undergo a comprehensive process of public notice and comment. This instruction provides direction and guidance to assure a comprehensive internal review and comment process on proposed OSHA policies and procedures to be issued as OSHA Directives and as supplementary guidance.
- II. Scope. This Instruction applies OSHA-wide.
- III. Cancellations. OSHA Instruction ADM 8-0.1C is canceled.
- IV. References. Assistant Secretary's Memorandum of November 3, 1997 regarding Directives; ADM 8-0.3, OSHA Directives System; ADM 8-0.4, OSHA Non-policy Issuances; OSHA Instruction ADM 1-0.20, OSHA Internet and Intranet Policies and Guidelines.
- V. Actions Required. OSHA National Office and all Regional and Area offices will implement the policy and procedures contained in this instruction.
- VI. Responsibilities.
 - A. The Assistant Secretary of Labor for Occupational Safety and Health provides policy direction and oversight, and approves and signs all new or revised program policy and procedure issuances, including interpretations of the OSH Act (except as provided in Paragraph VI. B., below).
 - B. The Director, Administrative Programs:
 1. Provides operational oversight of and advice to the Assistant Secretary, Program Directors and Regional Administrators on processes for issuing program policy and procedural communications.

2. Manages the OSHA Directives System and oversees systems for the dissemination of non-policy issuances.
 3. Approves and signs all policy and procedural issuances pertaining to administrative matters.
- C. OSHA Program Directors, Regional Administrators and All Other OSHA Managers, Supervisors and Employees shall implement and comply with the provisions of this instruction and with related instructions governing the management of policy and non-policy issuances.
- D. OSHA Program Directors Initiating Policy Issuances shall comply with the provisions of this Instruction. They shall:
1. Initiate and develop proposed directives to establish or revise policies and procedures within the scope of their authority or significantly affecting the operations of their program.
 2. Provide to all reviewers of proposed directives appropriate policy and other background information to assure that the proposed directive can be understood and considered in appropriate context.
 3. Obtain and appropriately consider critical policy issues identified by subordinate staff and others in the development of such proposed issuances.
 4. Obtain guidance and clearance as appropriate from the Office of the Solicitor.
 5. Obtain input and technical and policy clearance of such proposed issuances from each OSHA Program Director (the head of each OSHA Directorate and free-standing Office), and others identified as Mandatory Clearance Offices. (See Chapter 3, Paragraph III, Mandatory Clearance Offices, OSHA Instruction ADM 8-0.3, OSHA Directives System.)
 6. Refer to their Deputy Assistant Secretary any unresolved disagreements concerning the substance or potential policy implications of a proposed policy issuance or the priority accorded to its review that have emerged during the clearance process.
- E. OSHA Program Directors and Regional Administrators Receiving a Proposed Policy Issuance for Review and Clearance shall carefully consider each such proposed issuance (and any associated critical policy issues identified by their subordinate staff), and promptly respond to the originator, with respect to:

1. Technical considerations,
2. The potential impact upon the programs and policies for which the Director/Regional Administrator is responsible,
3. The implications for Agency-wide policy and operations, and
4. The anticipated reception of the proposed new or revised policy or procedure by Agency customers or other interested parties.

VII. Federal Program Change. This Instruction is not a Federal Program Change requiring State adoption or response, but States are encouraged to consider its implications for their operations.

VIII. Significant Changes. OSHA Instruction ADM 8-0.1C, OSHA Electronic Directives System, is canceled by this Instruction. ADM 8-0.1C covered both the overall policy framework governing OSHA's issuance of policy statements, and the processes and procedures for drafting, clearing and issuing OSHA Directives. It also covered the issuance by OSHA Directorates and Offices of supplementary issuances, including Letters of Interpretation. Policies and procedures on these subjects are now conveyed by three Instructions:

- A. This Instruction establishes and delineates the overall policy framework governing OSHA's issuance of statements of policy or procedure.
- B. OSHA Instruction ADM 8-0.3 will delineate the processes and procedures for drafting, clearing and issuing OSHA Directives.
- C. OSHA Instruction ADM 8-0.4 will establish responsibility for the management of, and provide a framework for the clearance and release of supplementary guidance.

IX. Policy.

- A. New or revised OSHA policies and procedures and policy or procedure interpretations, including interpretation(s) of the OSH Act of 1970, are to be established by and communicated through publication in the Code of Federal Regulations (CFR), the Federal Register (FR) and/or the OSHA Directives system.
- B. Interpretations of established policy or procedure must also be established by and communicated through publication in the CFR, the FR and/or the OSHA Directives system when they:
 1. Involve a departure from established Agency policy or procedure.

2. Add or eliminate, or expand, contract or otherwise modify the scope or coverage of Agency jurisdiction.
 3. Add, remove or alter one or more Agency programs, program priorities or program requirements, by expanding, contracting or otherwise changing their scope, coverage or manner of administration.
- C. Other OSHA policy statements that shall be established by and communicated through publication in the OSHA Directives system include:
1. Delegation(s) of authority or assignments of responsibility, or changes in such.
 2. Establishment of or changes to organizational structure(s).
 3. Revision or cancellation of another directive(s).
 4. Establishment of recurring reports, reporting form(s), or reporting format(s).
- D. Deviations from the policy stated in this Paragraph may be implemented only on a case-by-case basis upon written authorization of the Assistant Secretary.

X. Definitions.

- A. *DIRECTIVE*: A written statement of policy and procedure on a single subject. May include implementation guidelines.
- B. *INTERPRETATION OF THE OSH ACT*: Interpretative guidance which, because of the inapplicability of any provision(s) of the CFR, including standards, the FR, and/or the OSHA Directives system, to a specific worksite environment, condition or hazard, refers directly to, interprets and/or applies one or more provisions of the Occupational Safety and Health Act of 1970.
- C. *LETTER OF INTERPRETATION (LI)*: Supplementary guidance that clarifies the application of an established policy or procedure, as issued through the CFR, the FR, and/or the OSHA Directives System. LIs may not establish or revise OSHA policy or procedure or interpret the OSH Act. They must specifically cite the source policy or procedure document they interpret.
- D. *OSHA DIRECTIVES SYSTEM*: OSHA's internal system that assures that Agency policies, and procedures concerning Agency operations, are communicated effectively and in a timely manner to Agency personnel and other affected and interested parties. For additional information on the OSHA Directives System, see OSHA Instruction ADM 8-0.3.

- E. *POLICY AND PROCEDURE*: A definite, adopted course of action, and the method or manner of proceeding with same. For the purpose of this Instruction, this term refers to official statements of the Agency published in the CFR, the FR and/or the OSHA Directives System. Such statements include not only OSHA rules, regulations and compliance assistance policies and procedures, but also statements of policy and procedure relating to State plan, Cooperative and Voluntary programs; partnerships, outreach and educational programs; training or other grants programs; and administrative matters.
- F. *PROGRAM DIRECTOR*: The Director of an OSHA National Office Directorate or free-standing Office.
- G. *SUPPLEMENTARY GUIDANCE*: OSHA issuances that provide interpretative or explanatory guidance related to any aspect of OSHA policies, programs or procedures, including Letters of Interpretation (LI). Supplementary guidance clarifies or more clearly articulates Agency policy as published in the CFR, the FR and/or the OSHA Directives system.
- XI. Impact on Consultation and Coordination. The application of this policy is not intended to impede the Agency's internal or external consultation and coordination in the course of developing new or revising established policies or procedures. Draft proposals for new or revised policies or procedures that are under consideration, when identified as such, may be communicated as necessary in the normal development and pre-issuance processes.
- XII. Supplementary Guidance. The heads of OSHA Directorates, Regions or Offices may issue supplementary guidance in response to one or more requests from an OSHA field office, a State Plan program, a regulated entity, an employee and/or a stakeholder, for clarification of an ambiguity within a standard or regulation, consistent with the literal meaning of the regulatory language and within established Agency policy, or for direction regarding a specific factual situation.
- OSHA managers authorized to issue such responses shall implement written procedures as specified in OSHA Instruction ADM 8-0.4, paragraph IX, including the use of an appropriate disclaimer statement.
- However, if the head of an OSHA Directorate, Region or Office determines that an appropriate response to such a request requires a new or revised OSHA policy or procedure, or an interpretation of the OSH Act, such new or revised policy or procedure or interpretation of the OSH Act shall be issued as a CFR, FR notice and/or in the OSHA Directives system.
- XIII. Non-policy Issuances. OSHA Directives System formats should not be utilized for Agency announcements or informational releases (such as publications intended primarily for the general public, news releases, routine correspondence, or other non-policy

issuances covered by ADM 8-0.4).

- XIV. Periodic Reviews. On at least a monthly basis, in a manner determined by the Assistant Secretary, OSHA Executive Staff will review pending and prospective policy and procedure matters about which Agency statements are being developed. Such reviews will also consider and review the development of recent policy level statements.