



OSHA REGIONAL INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 04-02-2407

SUBJECT: Workplace Violence Hazard Alert Letter Follow-up in Healthcare and Social Service

REGION: Region II – New York

SIGNATURE DATE: May 10, 2024

EFFECTIVE DATE: May 10, 2024

ABSTRACT

- Purpose:** The purpose of this directive is to outline a process in Region II for contacting employers in the healthcare and social service industries who have received a workplace violence hazard alert letter (WPV-HAL) to evaluate the measures taken towards the reduction or elimination of the hazard and to initiate follow-up measures, where necessary.
- Scope:** This directive applies to any inspection in the healthcare and social service industries where a HAL was issued addressing WPV hazards.
- References:** OSHA Instruction: CPL 02-01-058, January 10, 2017 – Enforcement Procedures and Scheduling for Occupational Exposure to Workplace Violence
OSHA Instruction: CPL 02-00-164: Field Operations Manual FOM), April 14, 2020
OSHA publication, *Guidelines for Preventing Workplace Violence for Health Care & Social Service Workers* (OSHA 3148-06R, 2016)
- Cancellations:** None
- State Impact:** No Impact
- Action Offices:** All Region II Area Offices
- Originating Office:** New York Regional Office

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By and Under the Authority of

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Regional Administrator

Executive Summary

This instruction provides guidance to OSHA Region II Area Offices for implementing the process for contacting employers to determine whether hazards and deficiencies identified in the Workplace Violence Hazard Alert Letter have been addressed. This directive applies to any inspection in the healthcare and social service industries where an inspection coded N-16-VIOLENCE was issued a WPV- HAL.

Significant Changes

This is a new instruction.

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I. Purpose.

The purpose of this instruction is to outline a process to follow for contacting employers in healthcare and social service settings who received a WPV HAL to determine whether the hazards and deficiencies identified in the letter have been adequately addressed and initiate follow-up measures, where necessary.

II. Scope.

This Instruction applies to all Region II Area Offices.

III. References.

- A. OSHA Instruction: CPL-02-01-058, January 10, 2017 – Enforcement Procedures and Scheduling for Occupational Exposure to Workplace Violence;
- B. OSHA Instruction: CPL 02-00-164;
- C. Field Operations Manual (FOM), April 14, 2020; and
- D. OSHA publication, *Guidelines for Preventing Workplace Violence for Health Care & Social Service Workers* (OSHA 3148-06R, 2016).

IV. Expiration.

This directive will be effective for three (3) years from the date signed.

V. Cancellations.

- A. None

VI. Action Offices.

- A. **Responsible Office.**
OSHA Region II, NY Regional Office.
- B. **Action Office.**
OSHA Region II, Area Offices.
- C. **Information Offices.**
None

VII. Federal Program Change.

None

VIII. Significant Changes.

None

IX. Background

Workplace Violence is recognized as an occupational hazard in some industries and environments that, like other safety issues, can be mitigated if employers implement appropriate protective measures. Most workplace-related assaults have occurred in the healthcare and social service settings. Healthcare and social service workers face an increased risk of work-related assaults resulting primarily from violent behavior of their patients, clients, visitors, and/or residents. While no specific diagnosis or type of patient predicts future violence, epidemiological studies consistently demonstrate that inpatient and acute psychiatric services, geriatric long term care settings, high volume urban emergency departments, and residential and day social services present the highest risks. Pain, devastating prognoses, unfamiliar surroundings, mind- and mood-altering medications, substance use, and disease progression can also cause agitation and violent behaviors.

It is Region II policy for all workplace violence cases to be screened with the Regional Office – Enforcement Programs to assess the condition, weigh the evidence, and determine a course of action. During some inspections involving workplace violence, the hazard of violence may be noted but all the criteria for issuing a General Duty Clause [Section 5(a)(1)] citation are not met. If the Area Director determines that the hazard warrants addressing, a Hazard Alert Letter (HAL) is an option to put the employer on notice. A HAL is sent to the employer and employee representative describing the hazard and suggesting corrective actions that could be taken to eliminate and/or minimize the hazard. A HAL is not a citation, and no penalty is proposed.

It is Region II practice to give employers a timeframe, typically no longer than a month, to respond to the HAL, with an explanation that if OSHA does not receive a response within the designated time frame, or the abatement described is deemed insufficient, a follow-up inspection or investigation may occur within the year. This is in order to help assure that employees are no longer exposed to a potential hazard.

Inspections are often closed with no additional follow-up action after a response is received from the employer. However, it has been noted that some establishments where a satisfactory response was received continue to have violent incidents occur or the corrective action(s) described in the response may have not been fully implemented. OSHA usually learns of this through additional complaints from employees or employee representatives, or an incident occurs that requires the employer to make a report to OSHA. Subsequent inspections conducted at these establishments have led to the issuance of a second HAL for deficiencies in the implementation of the workplace violence program.

To determine whether the hazards and deficiencies identified in the HAL have been addressed, the Area Office can follow-up with the employer. OSHA is committed to evaluating the effect of HALs issued for workplace violence hazards in the workplace.

X. Procedures.

A. Initial Follow-up with Employer.

1. Using the current inquiry process (“phone and fax/email”), contact will be made with all employers in healthcare and social service industries who received a HAL issued on or after April 1, 2023, and have been in receipt of the hazard alert letter for at least one year (in order to allow employers time to implement changes).
2. During the initial inquiry contact, OSHA staff will explain that the employer is being contacted as a follow-up to the original inspection. OSHA staff will determine what specific measures were taken by the employer in response to the HAL. In order to maintain consistency, OSHA staff should ask to speak with the management contact(s) at the establishment who were involved in the original inspection, if possible.
3. Following the inquiry, the employer will be faxed/emailed a copy of the original HAL and a letter (using the template provided in Appendix A) requesting:
 - a. The employer’s response regarding measures taken to address the hazard(s) noted in the HAL;
 - b. Copies of the employer’s Log of Work-Related Injuries and Illnesses (OSHA Form 300) since the close of the original inspection;
 - c. The WPV Incident Log since the close of the original inspection, if available; and,
 - d. All WPV controls implemented, in addition to those recommended in the HAL.
4. A response from the employer is due within twenty (20) workdays of the inquiry. The employer may provide the response via fax, email, mail, or common carrier (i.e., FedEx, UPS, etc.).
5. An evaluation of the employer’s response will be made, and the employer’s efforts will be categorized as indicated below. The Regional Workplace Violence Coordinator is available to assist in reviewing the response. The response categories are:
 - a. No response (NR) – the employer did not provide any email, fax, or mail response to the HAL or inquiry.
 - b. Inadequate response (IR) – the employer’s response did not establish that it had taken useful steps, such as but not limited to those identified in the HAL, to reduce the hazard.
 - c. On-the-right-track response (RT) – the employer has undertaken

measures to address the hazards identified in the HAL, but the efforts may not have been sufficient to address the hazards. Injury and/or incident rates are not improving.

- d. Satisfactory response (SR) – the employer has implemented measures which address the hazards.

B. Second Follow-up with the Employer.

1. No response (NR) or Inadequate response (IR):
 - a. If no response is received from the employer within the allotted twenty working days, or if an inadequate response is received, additional contact will be made with the employer to obtain the requested information. The Area Office (AO) may determine whether this second contact should be made by phone, letter, or inspection (see Section X for inspection procedures).
 - b. If the second contact with the employer is by phone call or letter, the response shall be evaluated. The AO has discretion regarding whether additional follow-up phone calls or additional letters are warranted. This decision will be based on the extent to which the employer implemented measures to address the hazard.
 - c. If the employer still has not responded or has responded inadequately, an inspection shall be scheduled to determine if the WPV hazards are being addressed (see Section X for inspection procedures).
2. On-the-right-track response
 - a. For all responses deemed to be “on-the-right-track,” the AO has discretion regarding whether a follow-up phone call, an additional letter, or on-site inspection is warranted (see Section X for inspection procedures). This judgment will be based on the extent to which the employer implemented measures to address the hazard.
3. Satisfactory response
 - a. No further action is required.

XI. Inspection.

- A. All inspections shall be unannounced. The scope of the inspection will be limited to the workplace violence hazard identified in the original HAL, any conditions cited in the original inspection, and any hazards in plain view.
- B. Inspection findings shall be handled in accordance with the FOM and any other enforcement guidelines. Conditions which are re-inspected may be considered as apparent potential violations, and citations may be issued based on the findings

of the reinspection.

- C. Where workplace violence hazards remain that do not rise to the level of a General Duty Clause violation, the employer will be sent a letter (additional HAL) suggesting relevant hazard abatement measures (Appendix B). When a second HAL is issued, follow-up action will be conducted in accordance with the procedures outlined in this directive.

XII. Data.

- A. A spreadsheet listing the WPV HALs will be provided to the Area Offices (AO) by the Regional WPV Coordinator. The results of the follow-up contact with each employer shall be entered into the spreadsheet and be forward the Regional WPV Coordinator twice a year (June and December), or as otherwise requested by the Regional WPV Coordinator. The information submitted by the AO will be limited to the date of the initial contact under section VIII, the date the follow-up is finalized, and the outcome for each employer.
- B. Possible results are given below, and the outcome for each employer may have more than one result. For example, if an employer is contacted and provides an inadequate response resulting in an inspection which leads to a second WPV-HAL, the spreadsheet would contain codes IR, FI, and SH in addition to the appropriate dates. The WPV HAL follow-up will be considered final if the site is no longer in business, when a satisfactory response is received, when an on-the-right-track response has been received and the AO determines no further action is required, or when an inspection is initiated.
 - 1. NR – no response
 - 2. IR – Inadequate response
 - 3. RT – On-the-right-track
 - 4. SR – Satisfactory response
 - 5. OB – Out of Business
 - 6. FI- Follow-up inspection
 - 7. SH – Second HAL
 - 8. CI- Citation

XIII. OIS.

- A. When a second inspection is not conducted:
 - 1. The time spent on the evaluation is to be recorded on the CSHO's Time Tracking Report in Activity Time.
- B. When a second inspection is conducted:
 - 1. This will be considered a new inspection, and normal WPV coding

procedures must be entered.

XIV. Evaluation.

- A. The Regional Office, Enforcement Programs, will complete a program report annually, by December 31st, for the prior Fiscal Year of the REP, that includes the following data:
 - 1. The number of inspections that received follow-up contact.
 - 2. The number of inspections that resulted in each response category: No response, Inadequate response, on-the-right-track response, satisfactory response.
 - 3. The number of inspections that required a second follow-up contact.
 - 4. The number of inspections that resulted in a response following the second contact.
 - 5. The number of cases that resulted in a follow-up inspection being conducted.
 - 6. The result from the follow-up inspection:
 - a. Total number of inspections closed with no required enforcement action.
 - b. Total number of inspections issued a second HAL.
 - c. Total number of inspections that resulted in issuance of General Duty clause citation.
- B. The Regional Workplace Violence Coordinator's assessment of how effective the instruction was in meeting its goals.
- C. Statement whether the instruction should continue and/or rolled out in other Regions and a rationale.
- D. Other comments or recommendations received during the effective period.

Appendix A -1 Initial Contact Letter to Employer

Date

Employer name and title

Establishment

Name

Street Address

City, State and Zip

Inspection Number:

Dear Employer Name:

An inspection of your establishment located at (street, state, and zip code) on (date) revealed that employees of (establishment name) such as but not limited to (enter job titles from HAL) were exposed to incidents of violent behavior from (patients/clients/students/visitors) to include assaults. On (date) OSHA sent you a Hazard Alert Letter (HAL), which is attached, to alert you to the hazardous conditions that were identified during the inspection so that you could ensure that these hazards were addressed.

In the interest of workplace safety and health, OSHA recommended that you voluntarily take the necessary steps to materially reduce or eliminate your employees' exposure to workplace violence and made recommendations that could be implemented in the HAL.

Workplace violence is defined as any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the work site. It ranges from threats and verbal abuse to physical assaults and even homicide. OSHA recognizes workplace violence as an occupational hazard in some industries and environments that, like other safety issues, can be mitigated if employers take appropriate protective measures.

Workplace violence risk factors can be reduced or eliminated by implementing a written, comprehensive workplace violence prevention program and will include 1) Management Commitment and Employee Involvement; 2) Worksite Analysis and Hazard Identification; 3) Records Analysis and Tracking; 4) Hazard Prevention and Control; 5) Post Incident Procedures and Services; and 6) Safety and Health Training.

If workplace violence hazards are to be addressed and to determine the effectiveness of a specific control that has been implemented, it is important to track and evaluate the effectiveness of the results in a timely manner, and to timely implement additional control measures if initial controls fail to eliminate or materially reduce worker exposures.

To evaluate your progress in addressing the hazard, please send me a letter detailing the actions that you have taken, or other measures that would be equally effective in materially reducing or eliminating the hazard of violence, including any recommendations in the HAL that were adopted, along with; copies of the Log of Work-Related Injuries and Illnesses (OSHA Form 300) for the past year; and copies of the WPV Incident Log for the past year by **(enter 20 working days)**.

We will review the response to determine if the _____ Area Office will follow up at a later date to evaluate the newly implemented or enhanced engineering controls, administrative controls, policies, procedures, training, or other measures taken to address the hazard.

Below is a list of available resources that may be of assistance to you in reducing the risk and preventing work- related injuries and illnesses in your workplace.

- OSHA's Internet web page on workplace violence in healthcare:
- https://www.osha.gov/dsg/hospitals/workplace_violence.html
- OSHA Publication on Workplace Violence – *Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers* (OSHA 3148 – 06R 2016):
<https://www.osha.gov/Publications/osha3148.pdf>
- OSHA's guidance document that provides employers with a systems approach to identifying and controlling the underlying or root causes of all incidents in order to prevent their recurrence:
https://www.osha.gov/dte/InclnvGuide4Empl_Dec2015.pdf
- OSHA's recently updated the Guidelines for Safety and Health Programs
- <https://www.osha.gov/shpguidelines/>
- NIOSH's Occupational Violence internet web page:
<https://www.cdc.gov/niosh/topics/violence/resources.html>
- Free consultation, including on-site visits from OSHA's 24(d) on-site consultation program.

If you have any questions, please feel free to call me at (xxx) xxx-xxxx.

Sincerely,

Area Director

Enclosure:

1. A copy of the Hazard Alert Letter that was issued on (date)
2. A copy of the response letter dated (date)

Appendix B -1 Sample Hazard Alert Letter (2nd HAL)

Date

Employer name and title

Establishment

Name

Street Address

City, State and Zip

Original Inspection #:

Follow-up Inspection #:

OSHA conducted a follow-up inspection at (enter establishment name) located at (street address, city, state, and zip) on (date) which revealed that employees of (enter establishment name) continue to be exposed to the hazard of workplace violence that includes assaults. As OSHA informed (enter establishment name) in a Hazard Alert Letter dated (date), (enter establishment name) is responsible for making necessary improvements regarding the safety and health of its employees. OSHA recognizes workplace violence as a significant hazard to employees who work in healthcare and social services.

Workplace violence is defined as any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the work site. It ranges from threats and verbal abuse to physical assaults and even homicide. OSHA recognizes workplace violence as an occupational hazard in some industries and environments that, like other safety issues, can be mitigated if employers take appropriate protective measures.

During routine interactions with (patients/clients/residents/students/visitors) employees such as but not limited to, (job titles), were exposed to incidents of violent behavior from (patients/clients/residents/students/visitors) such as:

(Provide examples of violence that occurred after the close of the original inspection.)

After reviewing relevant facts pertaining to this case, the Occupational Safety and Health Administration will not issue a citation to (enter establishment name) at this time for failing to protect employees from the hazard of workplace violence which is a hazard that would be addressed under the General Duty Clause of the OSH Act. However, in the interest of workplace safety and health, I recommend that you voluntarily take reasonable steps to address the issue.

While I understand that (enter establishment name) has (include any new controls/policies/procedures/programs) to address the hazard after inspection (enter number) was conducted on (date), the inspection revealed that (enter establishment name) continues to have deficiencies in the implementation of a comprehensive workplace violence prevention program. Feasible methods to protect employees from workplace violence may be obtained from the OSHA publication, ***Guidelines for Preventing Workplace Violence for Health Care & Social Service Workers*** (OSHA 3148-06R, 2016). This publication and other helpful resources can be found on the OSHA website for Workplace Violence: <https://www.osha.gov/SLTC/workplaceviolence/>.

These resources will provide the steps you can take to develop a comprehensive, written workplace violence prevention program and will include:

- Management Commitment and Employee Involvement
- Worksite Analysis and Hazard Identification
- Records Analysis and Tracking
- Hazard Prevention and Control
- Post Incident Procedures and Services
- Safety and Health Training

An effective program will require that (enter establishment name):

- Follow up to confirm the controls developed are being used and maintained properly.
- Evaluate the effectiveness of controls at least annually, and improve, expand, or update them as needed. Such review and updates shall set forth any mitigating steps taken in response to any workplace violence incidents.
- Develop and implement mandatory reporting procedures for all incidents and train employees on those procedures.
- Ensure that employees who report or experience workplace violence do not face retaliation.
- Implement yearly training for employees exposed to workplace violence and ensure that training occurs when policies and procedures are changed.
- Ensure Post-Incident Procedures and Services are being provided following any employee involvement in Workplace Violence. These procedures and services shall provide specific guidance such as, but not limited to, what number to call or where counseling can be obtained for comprehensive treatment for employees who may be traumatized by witnessing or being involved in a workplace violence incident, regardless of severity.

In addition, the following controls are recommendations which can be implemented to enhance the safety and health of your employees:

(Include recommendations here)

The above are recommended abatement measures to address the potential workplace hazard at your workplace(s). Alternatively, you may institute other measures that would be equally effective in materially reducing or eliminating the hazard. OSHA makes available a free on-site consultation service that may identify other measures or, if you are not eligible for that service, we recommend you hire a consultant with expertise in workplace violence prevention.

To evaluate your progress in addressing these hazards, please send me a letter detailing the actions you have taken, or plan to take to institute, to address our concerns by [**DATE 30days from issuance**]. We will review the response to determine if the _____Area Office will follow up at a later date to evaluate any newly implemented or enhanced engineering controls, administrative controls, policies, procedures, training, or other measures taken to address the hazards identified above. Under OSHA's current inspection procedures, we may return to your work site within a year to further examine the conditions noted above.

We appreciate your attention to these areas of concern. If you have any questions, please feel free to call the _____Area OSHA Office at xxx-xxx-xxxx.

Respectfully,

Area Director

Enclosure:

1. A copy of the Hazard Alert Letter dated (date of 1st HAL sent to the employer)
2. OSHA Publication on Workplace Violence – *Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers* (OSHA 3148 – 06R 2016), also available at: <https://www.osha.gov/Publications/osha3148.pdf>.