

OSHA Enforcement Initiative Targets Warehouse, Home Center, Delivery Services, Supermarkets, Others

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The Occupational Safety and Health Administration (OSHA) has launched a three-year national emphasis program permitting extensive inspections of warehousing and distribution center operations, mail/postal processing and distribution centers, parcel delivery/courier services, and certain high-hazard retail establishments.

The [National Emphasis Program on Warehousing and Distribution Center Operations, CPL 03-00-026](#) (Warehouse NEP) went into effect July 13, 2023. State OSHA plans must adopt an identical emphasis program, or one at least as effective as the Warehouse NEP, in the next six months, by January 13, 2024.

Focus on Low-Hanging Fruit

Under the Warehouse NEP, OSHA will conduct safety inspections focused on some of the most commonly cited hazards in general industry and ones that are easy to identify in plain view during an inspection. Inspections will focus on:

- OSHA Recordkeeping, the recording and reporting of certain types of injuries and illnesses (29 C.F.R. § 1904)
- Powered industrial truck operations, such as forklifts and other vehicles meeting the definition of a powered industrial truck (29 C.F.R. § 1910.178)
- Material handling and storage, such as the safe stacking of pallets and other materials (29 C.F.R. § 1910.176)
- Walking and working surfaces, which is extremely broad, covering everything from housekeeping to ladders and stairs to fall protection (29 C.F.R. § 1910.22)
- Exit routes and emergency planning (29 C.F.R. § 1910.37)
- Fire protection (29 C.F.R. § 1910.150).

OSHA may expand the scope of an inspection when there is evidence (*e.g.*, injuries or illnesses recorded on both OSHA Forms 300 and 301, employee statements, or “plain view” observations) other standard violations may exist. Employers may be subject to a second inspection — one for health hazards related to heat or ergonomics — if the compliance officer believes those hazards are present.

How Employers Can Prepare

Now, more than ever, there are more ways to end up on an OSHA programmed inspection list. Between the Warehouse NEP, the [National Emphasis Program – Outdoor and Indoor Heat-Related Hazards, CPL 03-00-024](#) issued in 2022, and the [2023 Site-Specific Targeting Directive, CPL 02-01-064](#), employers’ chances of a programmed OSHA inspection have tripled. Further, should OSHA show up at the worksite based on a referral (a reported injury, hospitalization, or death) or a complaint, OSHA can use these enforcement initiatives to expand the scope of the Warehouse NEP inspection.

Employers should first determine whether they are covered by the Warehouse NEP by checking the listed NAICS codes. Covered employers should re-evaluate their safety programs and procedures and OSHA compliance protocols related to the listed hazards and other hazards that may exist at their sites. It is also important to have protocols in place for when OSHA shows up and for how to handle an OSHA inspection.

Other actions employers should consider include:

- Evaluate/audit current safety programs, policies, and procedures to ensure compliance with applicable OSHA standards.
- Update hazard assessments.
- Ensure personal-protective-equipment assessments are documented.
- Ensure required employee training and certifications are up to date, particularly for forklifts and other powered industrial trucks.
- Ensure fire extinguishers are up to date on inspections.
- Ensure pallets and materials are safely stacked so as not to create a tip over and struck-by hazard.
- Maintain good housekeeping practices by ensuring floors are free from debris, water, other slip and trip hazards.
- Maintain open egress paths that are clearly marked and exit signs are present and functioning.
- Ensure the use of fall protection where necessary.
- Ensure required OSHA recordkeeping is current, as well as records of applicable work rules, safety audits, training sessions, incident reports, and any corrective actions or employee disciplinary records for violations of safety rules are complete.
- Consult experts if needed.

Industries Covered

The Warehouse NEP specifically covers the NAICS codes for the following establishment categories:

- Postal Service (processing and distribution centers only)
- Couriers and Express Delivery Services
- Local Messengers and Delivery
- General Warehousing and Storage
- Refrigerated Warehousing and Storage
- Farm Product Warehousing and Storage
- Other Warehousing and Storage

With respect to high-hazard retailers, the Warehouse NEP covers the NAICS codes for the following establishment categories:

- Home Centers
- Hardware Stores
- Other Building Material Dealers
- Supermarkets and Other Grocery Stores
- Warehouse Clubs and Supercenters

Inspections of high-hazard retailers will be partial inspections covering the loading and storage areas, but they may be expanded based on evidence that violations may be found in other areas of the establishment.

OSHA Area Offices will be provided with two lists of establishments for programmed inspections. One list is made up of establishments within the high-hazard retail establishment NAICS codes, based on the highest DART (Days Away, Restricted, and Transfers) rates. The other list is made up of establishments within the other covered NAICS codes. These inspection lists are computer-generated at random based on employer NAICS codes in a particular OSHA Area Office's jurisdiction.

In addition, employers in the target NAICS codes are at risk for OSHA expanding unprogrammed inspections (*i.e.*, fatalities/catastrophes, complaints, or referrals) of covered establishments to address the areas outlined in the Warehouse NEP.

If you have any questions about the Warehouse NEP or need assistance with an OSHA inspection or defense of citations, please reach out to the Jackson Lewis attorney with whom you normally work or any member of the Workplace Safety and Health Practice Group.

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