



KENTUCKY LABOR CABINET
Department of Workplace Standards

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KENTUCKY OSH PROGRAM INSTRUCTION 01-2022
updated September 23, 2022

STANDARD

29 CFR 1904.41 as adopted by 803 KAR 2:181

SUBJECT

Electronic submission of Employer Identification Number (EIN) and injury and illness records to OSHA

PURPOSE

This INSTRUCTION contains policies and procedures for the implementation of a Local Emphasis Program (LEP) to inspect employers who failed to electronically submit their EINs and/or injury and illness data to OSHA.

SCOPE

This INSTRUCTION applies to all employers subject to KRS 338 jurisdiction and are required to maintain injury and illness records and electronically submit the data.

INSTRUCTION

The Division of Occupational Safety and Health (OSH) Compliance utilizes this INSTRUCTION when assessing employers who failed to electronically submit their EINs and/or injury and illness data to OSHA.

POLICY

The Occupational Safety and Health Administration's (OSHA) Office of Statistical Analysis provides a database of suspected employers who failed to electronically submit EIN and/or injury and illness data. Inspections are selected using a random numbers table or some other objective method. Kentucky OSH schedules inspections as resources allow.

During the opening conference, the CSHO verifies assignment information accuracy and asks to speak with the individual responsible for maintaining injury and illness records.

The CSHO obtains the EIN, collects, and reviews the injury and illness records for the calendar year preceding the inspection. Failure to maintain required injury and illness records are cited accordingly.

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For purposes of this LEP:

- Inspections regarding electronic submission are “records only.”
- Kentucky OSH enforces submission of EIN and/or injury and illness records for the prior calendar year.

Kentucky OSH issues appropriate citations for failure to electronically submit EIN and/or injury and illness data until September 2. Kentucky OSH also issues appropriate citations for failure to maintain and/or provide OSHA required injury and illness records independent of this LEP.

If an employer fails to electronically submit the records required by 29 CFR Part 1904 to www.osha.gov, even if there are no injuries or illnesses, Kentucky OSH issues an other than serious citation with a proposed penalty of \$7,000. The citation classification and proposed penalty may be adjusted if warranted. Kentucky OSH applies the appropriate size reduction to the proposed penalty.

BACKGROUND

Kentucky OSH implemented INSTRUCTION 01-2021 May 24, 2021. This INSTRUCTION updates the LEP and cancels INSTRUCTION 01-2021.

RECORDING

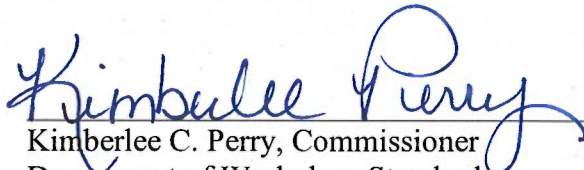
In the Inspection Form, under Inspection Type, select “ITA-EIN” from the LEP drop down menu. Inspections conducted pursuant to this LEP are recorded as programmed inspections.

ADDITIONAL RESOURCES


The Division of OSH Education and Training offers cost free injury and illness recordkeeping and reporting resources and training to employers and employees. Information is posted at www.kysafe.ky.gov.

EFFECTIVE DATE

This INSTRUCTION is effective immediately and remains in effect until cancelled or superseded.



Kimberlee C. Perry, Commissioner
Department of Workplace Standards



Seth Bendorf, Director
Division of Occupational Safety and Health Compliance