



KENTUCKY LABOR CABINET
Department of Workplace Standards

Andy Beshear
Governor

Jacqueline Coleman
Lieutenant Governor

Kimberlee C. Perry
Commissioner
Mayo-Underwood Building
500 Mero Street, 3rd Floor
Frankfort, KY 40601
Telephone: (502) 564-3070

Jamie Link
Secretary

Vickie L. Wise
Deputy Secretary

KENTUCKY OSH PROGRAM INSTRUCTION 01-2022
June 15, 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 shall use this INSTRUCTION when assessing employers who failed to electronically submit their EINs and/or injury and illness data to OSHA.

POLICY

OSHA's 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. KY 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 is cited accordingly.

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 is cited accordingly.

For purposes of this LEP:

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

KY OSH issues appropriate citations for failure to electronically submit EIN and/or injury and illness data until September 2. KY 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, KY OSH issues an other than serious citation with a proposed penalty of \$5,000. The citation classification and proposed penalty may be adjusted if warranted. KY OSH applies the appropriate size reduction to the proposed penalty.

BACKGROUND

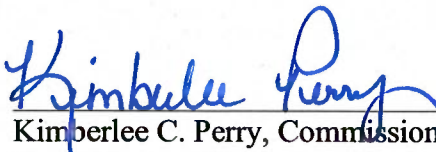
KY OSH implemented INSTRUCTION 01-2021 May 24, 2021. This INSTRUCTION updates the LEP.

ADDITIONAL RESOURCES

The KY OSH Division of Education and Training offers cost free resources and training to employers and employees on injury and illness recordkeeping. More information is available at www.kysafe.ky.gov.

EFFECTIVE DATE

This INSTRUCTION is effective immediately and remains in effect until cancelled or superseded. This INSTRUCTION cancels INSTRUCTION 01-2021.



Kimberlee C. Perry, Commissioner
Department of Workplace Standards



Seth Bendorf, Director
Division of Occupational Safety and Health Compliance