MIOSHA adopted new federal requirements that will protect Michigan employees from the harmful effects of breathing respirable crystalline silica in the workplace. These new requirements became effective September 23, 2017, for the construction industry; and will become effective June 23, 2018, for general industry. The MIOSHA construction rule has been designated as Part 690 (1926.1153), and the MIOSHA general industry rule is Part 590 (1910.1053). Both standards adopt the federal OSHA rules by reference.

Many resources are available to assist employers with understanding and complying with these new regulations. Visit MIOSHA’s webpage on Silica to reference MIOSHA’s new, comprehensive fact sheet, Crystalline Silica, Exposure in Construction and General Industry; a Silica Outreach Training PowerPoint; Sample Written Silica Exposure Control Plan; and several links to federal OSHA resources, including standards, factsheets, Small Entity Compliance Guide – Construction, and answers to Frequently Asked Questions. Or go directly to OSHA’s silica rule webpage.

Employers concerned about respirable crystalline silica dust exposure to their employees are encouraged to contact the MIOSHA Consultation Education and Training (CET) Division at 517-284-7720 to request free consultative assistance. Additional resources are also available on the MIOSHA website.

Reminder - December 1 Deadline

Nella Davis-Ray, Consultation Education and Training (CET) Division Director

In response to the Occupational Safety and Health Administration’s (OSHA) mandated adoption deadline of November 14, 2016, changes were made to MIOSHA’s ADM Part 11, Recording and Reporting of Occupational Injuries and Illnesses. Rule 1141 of ADM Part 11 specifically addresses the requirements for electronic submission of injury and illness records to OSHA.

OSHA launched the Injury Tracking Application (ITA) on Aug. 1, 2017. After creating an account and logging in for the first time, ITA provides information on how to get started with data entry. The web-based application offers employers three options for electronically submitting required injury and illness data.

Establishments with 250 or more employees that are currently required to keep OSHA injury and illness records, and establishments with 20-249 employees that are classified in certain industries with historically high rates of occupational injuries and illnesses, must submit information from their completed 2016 Form 300A by December 1, 2017. These establishments must submit the information electronically and cannot submit the information on paper. Michigan establishments must submit their data to OSHA not MIOSHA.

Continued on next page
Reminder - December 1 Deadline (Continued)

Nella Davis-Ray, CET Division Director

Information about the mandatory reporting requirements can be found at https://www.osha.gov/injuryreporting/. On this page you will find:

1. Information about who is required to report.
2. ITA Job Aids: Instructions to support users through the submission process.
4. A button to launch the Injury Tracking Application Login.

For help in determining if electronic reporting is required, an employer may contact the MIOSHA Management Information Systems Section at LARA-MIOSHAREcordkeeping@michigan.gov or call 517-284-7788.

Georgia-Pacific, Beaver Creek Plant MVPP Star Site

Doug Kimmel, MVPP Specialist, CET Division

The Georgia-Pacific (GP), Beaver Creek Resin Plant, Grayling, MI, has been a MIOSHA MVPP Star site since 2007. The MVPP Star is the highest safety award available from MIOSHA and is given to sites that have demonstrated an exemplary safety and health management system.

The identification of best practices is integral to the MVPP continuous improvement process. To increase employee awareness and understanding of critical hazards and to help improve safety practices, GP has recently developed and implemented a Critical Hazards Field Guide (CHFG).

Designed in partnership with all GP businesses and their Global Safety & Health team, the CHFG is a printed field guide for GP’s critical hazards. It was not designed to replace facility specific safety policies. Rather, it complements them and provides a starting point for small group conversations about critical hazards, risks and controls.

Every GP employee and contractor knows that critical hazards exist in their facility. But, between misconceptions, working around these hazards every day, and the false sense of security that can come with familiarity, it’s possible to forget or ignore the risks and fall into dangerous habits. Therefore, the Beaver Creek facility has begun regular, safety-focused conversations in small group settings to help eliminate these risky practices. The CHFG is the next step in the process to heighten awareness and eliminate unsafe behaviors.
Doug Kimmel, MVPP Specialist, CET Division

Although it contains a good deal of essential information, the CHFG is relatively small and shaped so it will fit into a back pocket, making it easy to carry. The guide focuses on the five most common critical hazards at GP facilities: contact with uncontrolled/unguarded energy sources; falls from elevated surfaces; interacting/struck by mobile equipment; fire and explosion; and exposure to chemical/thermal releases.

GP, Beaver Creek has assigned Compliance System Owners (CSOs) to each of the five critical hazards. The CSOs are facility employees who are tasked with identifying, reporting, mitigating and sharing hazards/risks associated with their assigned critical hazard area. The CSOs participate in monthly Community of Practice knowledge sharing web meetings with other GP facilities where they discuss key learnings and best practices.

Employees and contractors use the CHFG to help identify hazards/risks and mitigate them to an acceptable level using the Hierarchy of Controls:

1. Elimination
2. Substitution
3. Engineering Controls
4. Administrative Controls
5. Personal Protection Equipment (PPE)

Staff at the Beaver Creek facility has found that the field guide fits very well with their existing safety processes and it is helping them to achieve superior safety results by insuring that employees make informed and timely decisions about critical hazards. For Beaver Creek, the guide is a great conversation starter and knowledge sharing resource that is helping to improve employee awareness and practices.

Significant Case Study—Workplace Violence in Hospitals

Megan Brock, Industrial Hygienist (IH), General Industry Safety and Health Division (GISHD)

While not often considered a typical health and safety concern in the workplace (such as falls from heights or contact with unguarded machinery) workplace violence especially in the healthcare setting is on the rise, according to OSHA’s December 2015 press release.

Currently, neither OSHA nor MIOSHA have specific standards addressing workplace violence. When an inspection finds a serious risk to employee health or safety for which no standard exists, citations can be issued under the Michigan Occupational Safety and Health Act’s general duty clause, which requires employers to furnish a workplace free from recognized hazards that are causing, or are likely to cause death or serious physical harm to the employee.

A recent inspection at a large Michigan hospital showed the number of recordable incidents involving combative patients or visitors had increased at least 6% between 2012 and 2015 despite a workplace violence protection program. The hospital was cited under the Act’s general duty clause.

As part of their corrective actions, the hospital enhanced their existing program by: posting notifications on patient rooms alerting staff of patients who exhibited violent behavior; adding additional police or security officers; and reinstating their workplace violence committee.
Hospital administration also conducted a thorough review of recent incidents and found violent behavior towards staff was more likely to occur when patients requiring a psychological evaluation were admitted to the Emergency Department rather than the Crisis Center due to lack of space. Local law enforcement transported patients to this hospital instead of a closer facility despite redirect requests.

The crowding situation put patients in departments that may not have been best suited to their needs and created longer wait times increasing the potential for violent behavior towards staff. Hospital administration met with local police chiefs, and they agreed to work with dispatch to direct patients to the closest health care facility.

MIOSHA Training Institute Celebrates 10th Anniversary

Gloria Keene, MTI Program Coordinator, CET Division

Tuesday, August 22, 2017, was not just another day for the MIOSHA Training Institute (MTI). The day marked the celebration of a significant milestone in the history of the agency’s workplace safety and health training program and the 29 current co-sponsors who helped make it all possible.

The MIOSHA Consultation Education and Training (CET) Division Director Nella Davis-Ray recognized all co-sponsors who offer the MTI classes. She presented plaques to Associated General Contractors of Michigan, Construction Association of Michigan (CAM), Delta College, Grand Valley State University Center for Adult and Continuing Education, Howell Chamber of Commerce, Jackson Area Manufacturers’ Association, Keweenaw Economic Development Alliance, Lansing Area Safety Council, M-TEC at Bay College, M-TEC at Kirtland-Gaylord, Macomb Community College, Monroe County Community College, The Employers’ Association, and Washtenaw Community College. These 14 co-sponsors have partnered with MTI for all 10 years. Ms. Davis-Ray also presented a special “Founders” plaque to retired MTI Coordinator Sheila Ide, for her invaluable contribution to the establishment of MTI. Four MTI graduates, Paul Crivac, Bradley Lawrence, Derek Mrowczynski, and Daniel Suttorp, who have obtained all six MTI certificates, provided passionate testimonials about their MTI experience and how invaluable the training was for their careers. In addition, written testimonies from MTI graduates expressing gratitude and appreciation for the MTI program were shared with attendees.

The MTI has seen enormous growth from 917 participants trained in April 2008, to more than 24,000 participants trained to date. From 2008 to 2017, 1,059 MTI students have earned Level One certificates for General Industry and Construction; approximately 300 students have earned Level Two certificates for Management Systems and Compliance; and 70 students have earned Occupational Health certificates.

Co-sponsors honored at the MTI 10th Anniversary Recognition Ceremony (from left to right):

Olivia Steele, Jackson Area Manufacturing Association;
Pauline Schwanitz, St. Clair County Community College;
Suzy Carter, Lansing Area Safety Council;
Adriane Brandon, Associated Builders and Contractors (ABC);
Jason Griffin, Construction Association of Michigan (CAM);
Marcus Jones, Detroit Training Center;
Erine Adams, M-TEC at Kirtland – Gaylord;
Penny Mollica, The Employers’ Association;
Janie Willsmore, Howell Chamber of Commerce;
Paul Wresinski, Associated General Contractors (AGC);
Beth Stoner, Eastern Michigan University

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MIOSHA Training Institute Celebrates 10th Anniversary (Continued)

Gloria Keene, MTI Program Coordinator

In July 2009, MIOSHA developed an MTI Scholarship Program to assist students with the registration costs to attend training. The scholarships cover half the cost of an MTI class anywhere in the state of Michigan. Since its inception, MOSHA has awarded more than $310,000 for 5,210 scholarships to MTI students.

To learn more about MTI and what it can do for you and your company, please contact the CET Division at 517-284-7720 or visit the website at [www.michigan.gov/mti](http://www.michigan.gov/mti).

High-Hazard Industries—Hospitals and Nursing & Residential Care Facilities

Mark Scott, Industrial Hygienist (IH) Specialist, GISHD

**Hospitals (NAICS 622) and Nursing & Residential Care Facilities (NAICS 623)** are two of the current 11 high-hazard industries in general industry that MIOSHA has targeted for enforcement during the 2014 – 2018 Strategic Plan. According to data from the US Bureau of Labor Statistics (BLS) for Michigan, Hospitals had an average of 6.9 injuries and illnesses per 100 workers per year in 2015, compared to 3.3 for the private industry overall; and Nursing & Residential Care Facilities had 7.8 injuries and illnesses per 100 workers per year in 2015, compared to 3.3 for private industry overall. The goal of targeted enforcement is to reduce the injury and illness rate in high-hazard industries by 15 percent by 2018.

The hospital industry includes general medical, surgical, specialty, and psychiatric hospitals. The nursing and residential care facilities industry includes nursing care, mental health, substance abuse, continuing care, retirement, and other residential care facilities. Workers in these industries experience a disproportionate amount of work-related musculoskeletal disorders (MSD) primarily resulting from manually lifting, transferring, and repositioning patients/residents. Manual lifting of patients/residents may expose nursing home, hospital, and home healthcare employees to compressive forces above the upper limits recommended by The National Institute for Occupational Safety and Health (NIOSH) guidelines.

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High-Hazard Industries—Hospitals and Nursing & Residential Care Facilities
(Continued)

Mark Scott, IH Specialist, GISHD

Manual lifting and other tasks involving the repositioning of patients/residents are associated with an increased risk of injury to caregivers, particularly to the back. These tasks can entail high physical demands due to the large amount of weight involved, awkward postures that may result from leaning over a bed or working in a confined area, shifting of weight that may occur if a patient/resident loses balance or strength while moving, and many other factors. MSDs are considered to be a leading cause of injury in these industries. The primary risk factors that workers in hospitals and nursing homes face include:

- **Force** – the amount of physical effort required to perform a task (such as heavy lifting) or to maintain control of equipment or tools.
- **Repetition** – performing the same motion or series of motions continually or frequently.
- **Awkward Postures** – assuming positions that place stress on the body, such as reaching above shoulder height, kneeling, squatting, leaning over a bed, or twisting the torso while lifting.

Hospitals and nursing homes that have implemented injury prevention efforts focusing on patient/resident lifting and repositioning methods have achieved considerable success in reducing work-related injuries and associated workers’ compensation costs.

Between October 1, 2014, and September 30, 2016, MIOSHA conducted 78 enforcement inspections in Hospitals and Nursing & Residential Care Facilities combined. Approximately 86 violations were identified during the referenced time period. The top three standards cited for Hospitals were:

- **Part 554, Bloodborne Infectious Diseases** for exposure determination, exposure control plan, work practices, housekeeping, recordkeeping, and training.
- **Part 433, Personal Protective Equipment** for lack of hazard assessment/certification and inadequate eye/face protection.
- **Part 430, Hazard Communication** for lack of a complete written hazard communication program and workplace labeling.

The top three standards cited for Nursing & Residential Care Facilities were:

- **Part 554, Bloodborne Infectious Diseases** for exposure determination, exposure control plan, engineering and work practices, vaccinations and post-exposure follow-up, recordkeeping, and training.
- **Part 430, Hazard Communication** for lack of a complete written hazard communication program and training on the hazards of chemicals.
- **Part 433, Personal Protective Equipment** for lack of hazard assessment/certification, training, and providing appropriate PPE.

During the same time period, MIOSHA issued 54 sets of recommendations for employers to voluntarily develop and implement workplace ergonomics programs, or improve an existing workplace ergonomics program. MIOSHA has a Fact Sheet on Ergonomics that describes a workplace ergonomics program and it is available on the MIOSHA website. The MIOSHA website also has an enforcement instruction, Ergonomics Instruction, which details the procedures compliance officers follow when conducting ergonomic investigations. While MIOSHA does not currently have an ergonomic standard, our agency has the authority to enforce Section 408.1011(a) [the general duty clause] of Act 154, Michigan Public Acts of 1974, as amended, when necessary to prevent work-related ergonomic injuries or illnesses.

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High-Hazard Industries—Hospitals and Nursing & Residential Care Facilities
(Continued)

Mark Scott, IH Specialist, GISHD

General Industry Safety standards that cover the hazards for these industries include but are not limited to the following: Parts 1, 2, 3, 4, 6, 7, 8, 17, 33, 38, 39, 40, 71, 85, etc. The applicable General Industry Occupational Health standards include Parts 301, 305, 430, 451, 472, 490, 554, etc. These standards are located on the MIOSHA website. Hazards in this industry are also addressed in these publications: Safety and Health Topics Cleaning Industry, and Guidelines for Nursing Homes, Ergonomics for the Prevention of Musculoskeletal Disorders.

Among the many outreach activities for this industry, MIOSHA’s CET Division has partnered with the residential care industry, particularly the Michigan Assisted Living Association (MALA). Activities in the partnership with MALA have included the following:

- Conducting hazard surveys within facilities including adult foster care, nursing, assisted living, and homes for the aged.
- Providing training and resources at the annual conference for MALA and sponsored workshops.

Currently in development under the MALA alliance coming soon:
Quick facts video clips on various frequently cited MIOSHA rules including hazard communication, personal protective equipment, recordkeeping, and bloodborne pathogens.

CET is also involved with outreach to healthcare clinics and hospitals where employees are exposed to Hazardous Drugs. This has included developing a Fact Sheet and PowerPoint training programs that are available on the MIOSHA website, hazard surveys, and training events. Employers can call MIOSHA’s CET Division for free consultation services and compliance assistance at 517-284-7720.

Court Upholds Citations to Sole Proprietor

Dawn Jack, Director, Appeals Division

In August, a circuit court judge issued an Opinion and Order in a case which closely examined the applicability of the Michigan Occupational Safety and Health (MIOSH) Act to working owners and subcontractors.

In summer and fall 2014, the Michigan Occupational Safety and Health Administration (MIOSHA) conducted inspections of a building demolition project. Vandervelden Inc., doing business as ProDemo, was contracted by a property company as the demolition contractor and waste transporter for the project. Before starting work, the property company provided ProDemo’s owner with testing results, along with asbestos and lead surveys which revealed the building contained both lead and asbestos. During MIOSHA’s inspections, it discovered that ProDemo’s owner used a forklift to help another individual remove window frames with asbestos-containing material. While removing the windows, ProDemo’s owner and the other individual did not have hazard communication, nor lead and asbestos exposure protections required by MIOSHA standards in place.

The inspections resulted in issuance of two sets of violations of MIOSHA’s hazard communication, asbestos, and lead standards. ProDemo appealed the citations, stating that it had no employees and therefore was not covered by the MIOSH Act.

Continued on next page
Court Upholds Citations to Sole Proprietor (Continued)

Dawn Jack, Director, Appeals Division

During an administrative hearing before an Administrative Law Judge (ALJ), ProDemo’s owner indicated the business was a sole proprietorship owned by he and his wife. To assist with the project, the owner entered into four written subcontract agreements. Two of the subcontracts were with individuals for demolition and labor. The other two subcontracts were for demolition and labor with individuals in the name of each person’s limited liability company (LLC). The subcontractor involved in the removal of the windows was one contracted through the name of his LLC.

The ALJ issued a report finding that there was no employer-employee relationship between ProDemo and the other individuals who were aiding in the demolition. The ALJ found the citations should be dismissed.

A member of the Board and Health and Safety Compliance and Appeals (“Board”) directed the ALJ’s report for further review by the full board. The Board is a seven-member body appointed by the governor who serve as the final authority over all contested MIOSHA citations. In January of 2017, the Board issued a Decision and Order disagreeing with the ALJ and upholding the citations and penalties. The Board’s Decision found:

⇒ ProDemo’s owner did not provide the survey to each subcontractor so that they could determine the proper scope of work.
⇒ ProDemo’s owner did the review, he made the determinations, and he directed the workers on where and how to perform the demolition duties.
⇒ ProDemo’s owner put himself and the others working with him at risk of exposure to lead and asbestos.
⇒ Allowing ProDemo to create this work environment and direct these workers on where to go and what to do without holding them responsible for ensuring that the work environment is safe defeats the purpose of MIOSHA, the well-established principle that an owner is an employee of his own company, and the multi-employer doctrine.

ProDemo filed a petition for review with the Ingham County Circuit Court asking the court to overturn the Board’s decision and reinstate the ALJ’s report and findings. In its Opinion and Order on ProDemo’s petition, the circuit court clarified an often misunderstood concept: what the circuit court has the power to review. The circuit court explained that its power is limited to review of “the final agency order.” The Board’s Decision and Order is what serves as the final agency order. The ALJ’s report is simply a recommendation that the Board is free to accept, reject, or modify, even if the ALJ’s decision is supported by substantial evidence.

After the clarification, the circuit court upheld the Board’s decision that ProDemo was covered by the Act. The judge emphasized that an “employee” is broadly defined in the MIOSH Act as “a person permitted to work by an employer.” “Employer” is defined as “an individual or organization, including this state or a political subdivision, that employs one or more persons.” The judge cited prior cases which define the term “employ” based on its generally accepted meaning, which is to “hire” or “to arrange for the labor or services of another for a stipulated compensation.” Based on the Act and generally accepted definitions, the judge determined ProDemo was the employer of the subcontractors because:

- ProDemo interviewed the subcontractors for qualifications, contracted them and put them to work.
- ProDemo paid the subcontractors for the contract amounts.
- ProDemo determined the scope of each subcontractor’s work and told them what needed to be done.
- ProDemo provided any clarifications needed by the subcontractors regarding the work.

The judge also held that even without the hiring of the subcontractors for the project, the owner himself was an employee of ProDemo because testimony established ProDemo’s owner was performing work-related activity on the jobsite. The judge stated,

“The broad objective of the act, namely, ‘to provide all employees with a work site free from recognized hazards,’ would be determined if the term “employees” did not encompass business owners who perform tasks that an employee would generally perform.”

The circuit court’s decision may be appealed to the Michigan Court of Appeals.
**Varniances**

Variances from MIOSHA standards must be made available to the public in accordance with Administrative Standards for All Industries, Part 12, Variances (R408.22201 to 408.22251). MIOSHA variances are published on the MIOSHA website: [www.michigan.gov/mioshavariances](http://www.michigan.gov/mioshavariances).

**Earn a Bachelor’s Degree in Environmental Health and Safety**

Jeannie Vogel, Public Information Officer

A new alliance between MIOSHA and Oakland University established the **MIOSHA Training Institute (MTI) to Bachelor of Science in Environmental Health and Safety Degree Program**.

The new program is available to those who have a valid MIOSHA Training Institute (MTI) Level 2 Safety and Health Management Systems (SHMS) certificate. These individuals may be granted up to 11 Environmental Health and Safety (EHS) credits through a course competency by examination process to satisfy part of the minimum course requirements toward the EHS Bachelor of Science degree.

“This alliance is the first of its kind for MIOSHA, providing individuals in the occupational safety and health profession with a unique opportunity for professional growth,” said MIOSHA Director Bart Pickelman. “MIOSHA is pleased to work collaboratively with Oakland University to help ensure higher education and training for workplace safety and health occupations.”

Certificate programs are available for General Industry Safety and Health as well as Construction Safety and Health. An Occupational Health certificate is also available. Classes are taught entirely by MIOSHA CET consultants and are consistent throughout the state.

The alliance will enhance the ever-changing field and technological advancements of environmental health and safety and gives those employed in the field an opportunity to work toward degree completion while learning the latest practices and procedures.

The alliance formalizes a working relationship between MIOSHA and Oakland University to raise awareness of MIOSHA initiatives; promote the MTI to EHS Degree Completion Program; and utilize Oakland’s input on MTI training. Together, the participants will also provide members and others with information, guidance and access to training resources that help ensure worker protections.

The MTI, a premier workplace safety and health training assessment-based certificate program, offers continuing education credits and maintenance points, and the opportunity to achieve certificates based on the most up-to-date industry standards.

Oakland University’s School of Health Sciences provides students high-quality, science-based health education and academic preparation within an exceptional environment of collaborative, academic and clinical learning. For more information about Oakland University’s School of Health Sciences, visit [https://oakland.edu/shs/](https://oakland.edu/shs/).
Aria Energy Awarded Continued MSHARP Certification
Aria Energy, a landfill gas-to-energy facility located in Lenox, was granted a two-year extension in the Michigan Safety and Health Achievement Recognition Program (MSHARP) for maintaining outstanding workplace safety and health programs.

Eaton Aerospace Raises MVPP “Star” Flag, Celebrates Earning MIOSHA’s Highest Award
MIOSHA Director Bart Pickelman presented the MVPP Star flag and plaque to Eaton Aerospace, LLC, in Grand Rapids recently in recognition of the company attaining MIOSHA’s highest honor. Eaton Aerospace becomes one of 25 companies with Star status. The company earned the award for its ergonomic innovations, best practices and for maintaining incidence rates well below the industry average for its NAICS code 336413 – Other Aircraft Parts and Auxiliary Equipment Manufacturing.

ASAM and MIOSHA Form Alliance
The American Subcontractors Association of Michigan (ASAM) and MIOSHA formed an alliance to provide ASAM members with greater access to training resources to develop effective safety and health programs for its members, especially smaller contractors who may not have developed such programs. MIOSHA’s CET Division is an integral part of this effort.
Standards Update

Dan Dykstra, Manager, Regulatory Services Section

There were no new rule adoptions since the last edition.

The following MIOSHA Standards are in the process of being revised:

**CS-14 Tunnels, Shafts, Caissons, and Cofferdams**
The following changes are being proposed based on input from industry representatives:
- Rule 408.41405 is being revised to clarify applicability for auger boring and jacking operations. There currently is no definition for, “auger boring and jacking” in SubPart S. Underground.
- Rule 408.41461 is being revised to include a clarification for advance notice of tunnel excavation.
- Rule 408.41471 is being revised to include clarification of tunnel entry requirements.

**GI 340 Beryllium**
OSHA adopted a new standard for Beryllium, and therefore MIOSHA is adopting the same regulations.

Watch the MIOSHA standards web page standards web page for final versions once they are approved.

FAQS

**Q.** What are the MIOSHA posting requirements for short duration and mobile construction sites?

**A.** Each year from Feb 1 until April 30, the Annual Summary of Injuries and Illnesses (Log 300A) must be posted.

The following posters are required to be displayed for the entire year:

- The Michigan Safety and Health Protection On The Job Poster and the Michigan Right to Know Laws (MIOSHA/CET #2105 and MIOSHA/CET #2106 poster).

Hard copies of these posters are available for ordering online or by contacting the Consultation Education and Training Division at (517) 284-7720.

Construction Posting Requirements: The posters shall be conspicuously posted in an employee meeting place at each place of employment “construction job site.” If no meeting place is available at a short duration or mobile job site and the postings are available as required to all employees at a central location, this would be acceptable.