



## OSHA Enforcement

**Committed to Safe and Healthful Workplaces**

Under the Occupational Safety and Health Act of 1970, OSHA's role is to assure safe and healthful conditions for working men and women.


OSHA does so by enforcing the standards developed under the Act



The OSHA logo is located in the bottom right corner of the slide. It consists of the word 'OSHA' in a large, bold, sans-serif font, followed by 'Occupational Safety and Health Administration' in a smaller font below it. The 'O' is a blue circle with a white center.

## OSHA Citation



- What does OSHA need to prove and document for a citation
  - A regulation applies (cave-in protection)
  - There is a violation of that regulation (No cave-in protection used)
  - There are employee(s) exposed
  - The employer knew of condition



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## OSHA Citation

- What is required cont'd
  - OSHA has the burden of proof
  - If OSHA cannot prove all 4 elements:
    - A citation may not be issued; and/or
    - It may be vacated or modified



The clipboard is located in the bottom right corner of the slide. It has a brown cover and a white sheet of paper with a checklist. The checklist has four items, each with a checkbox: 'Checklist', 'List of violations', 'List of citations', and 'List of penalties'. A yellow pencil is resting on the clipboard. The OSHA logo is located in the bottom right corner of the slide. It consists of the word 'OSHA' in a large, bold, sans-serif font, followed by 'adds value to business, work and life.' in a smaller font below it. The 'O' is a blue circle with a white center.

## **Severe Violator Enforcement Program (SVEP)**

- Under the SVEP, the criteria was changed to better focus enforcement efforts on significant hazards by concentrating inspection resources on employers who have demonstrated recalcitrance or indifference to their OSH Act obligations by committing willful, repeated, or failure-to-abate violations in one or more of the following circumstances:
- (1) a fatality or catastrophe situation;
- (2) in industry operations or processes that expose employees to the most severe occupational hazards and those identified as "High-Emphasis Hazards;"
- (3) exposing employees to hazards related to the potential release of a highly hazardous chemical; or
- (4) all egregious enforcement actions. The SVEP also created a nationwide referral procedure in which OSHA may inspect related worksites/workplaces of a SVEP employer if OSHA identifies a broader pattern of non-compliance. The High-Emphasis Hazards include fall hazards and specific hazards identified from the following selected National Emphasis Programs:
  - Amputations;
  - Combustible dust;
  - Crystalline silica;
  - Excavation/trenching;
  - Lead; and
  - Shipbreaking.
- **WILLFUL OR REPEAT CITATIONS FROM A HIGH EMPHASIS HAZARD**
- **FOLLOW UP INSPECTIONS**



## **DR. MICHAELS**

- "For many employers, investing in job safety happens only when they have adequate incentives to comply with OSHA's requirements," said Assistant Secretary of Labor for OSHA Dr. David Dr. Michaels. "Higher penalties and more aggressive, targeted enforcement will provide a greater deterrent and further encourage these employers to furnish safe and healthy workplaces for their employees."



## **OSHA**

- **OSHA official: We're serious about the "new sheriff in town"**
- "There's a new sheriff in town." Dr. Michaels and I take this phrase seriously. It isn't an abstract wish; **it's a description of how OSHA is now working.**"
- **"Under this administration, OSHA is returning to the original intent of the OSH Act. We're a regulatory and enforcement agency and we're going to act like it. We're also a public health regulatory and enforcement agency. Our authority stems directly from the need to prevent events and exposures that maim and kill American workers.**



## **OSHA Changes Penalty Structure**

- In summary, the changes impact the way OSHA applies penalty adjustment factors when calculating the proposed penalty.
- Administrative enhancements were made to the following factors: employer size, history, repeated violations, severe violator enforcement program, good faith, gravity-based penalties, minimum penalties and application of the penalty calculation. These changes became effective in all Federal OSHA offices on October 1, 2010.



# NATIONAL EMPHASIS PROGRAM (NEP)

- OSHA continues to aggressively pursue the reduction of workplace fatalities. In calendar year 2009, a total of 4,340 fatal work injuries were recorded in the United States, down from a total of 5,214 fatal work injuries reported for 2008. Additionally, the rate of fatal work injuries was 3.3 fatalities per 100,000 full-time equivalent workers, down from 3.7 the previous year. This preliminary data not only represents the smallest annual preliminary totals, but also signifies the largest decrease in fatalities since the Census of Fatal Occupational Injuries program was first conducted in 1992.
- The NEP applies to all excavation and trenching operations
- **INCREASED NOTIFICATION TO PRESS OF CITATIONS**

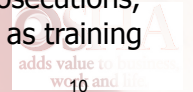


## Referrals or Significant Aid to Prosecutors Addressing OSHA-Related Matters

### Criminal Referrals

**2007-10**  
**2008-14**  
**2009-11**  
**2010-14**

These actions include referrals under Title 29 of the United States Code, Section 666(e), for employee deaths caused by willful conduct violating an OSHA standard, obstruction of justice, state and local investigations and prosecutions, and fraud related to other OSHA matters, such as training verification.



## OSHA Inspection Activity Remains Vigorous

OSHA Inspection Statistics	FY2006	FY2007	FY2008	FY2009	FY2010	%Change 2006-2010
<b>Total Inspectionn</b>	38,579	39,324	38,667	39,004	40,993	6.2%
<b>Total Programmed Inspections</b>	21,506	23,035	23,041	24,316	24,759	15.1%
<b>Total Unprogrammed Inspections</b>	17,073	16,289	15,626	14,688	16,234	-4.9%
<b>Fatality Invesgitations</b>	1,081	1,043	936	797	804	-25.6%
<b>Complaints</b>	7,376	7,055	6,708	6,661	8,027	8.8%
<b>Referrals</b>	5,019	5,007	4,880	4,375	4,634	-7.7%
<b>Other</b>	3,597	3,184	3,102	2,855	3,559	-1.1%



## VIOLATION STATS

OSHA Violation Statistics	FY2006	FY2007	FY2008	FY2009	FY2010	%Change 2006-2010
<b>Total Violations</b>	83,913	88,846	87,687	87,663	96,742	15.3%
<b>Total Serious Violations</b>	61,337	67,176	67,052	67,668	74,885	22.1%
<b>Total Willful Violations</b>	479	415	517	401	1,519	217.1%
<b>Total Repeat Violations</b>	2,551	2,714	2,817	2,762	2,758	8.1%
<b>Total Other-than-Serious</b>	19,246	18,331	17,131	16,615	17,244	-10.4%





## OSHA's EMPHASIS

- Health Issues (SILICA)
- ROAD WORK
- Trenching & Excavation



## RECENT OSHA CITATIONS

### Underground contractors in our area

1. ?? - \$ 123,000
2. ?? - \$ 360,000
3. ?? - \$ 60,000
4. ?? - \$ 113,000
5. ?? - \$ 165,000

### GENERAL DUTY CLAUSE

#### ➤ SEC. 5. Duties (OSH ACT 1970)

(a) Each employer --

(1) shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees;

(2) shall comply with occupational safety and health standards promulgated under this Act.

(b) Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.

