

Solutions at Work®

OSHA's Focus On Safety Incentives, Severe Violation Enforcement, Temporary Employees & Other Safety Issues



Presented by:

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THANK YOU FOR YOUR COMMITMENT TO SAFETY



“Winning is not a sometime thing, it is an all-time thing.”
~ Vince Lombardi

So Is Safety!

SAFETY TIP OF THE DAY

Never take a sleeping pill and a laxative at the same time.

YOUR SAFETY PROGRAM NEEDS TO AVOID THIS...



... AND THIS!



BUT YOU DON'T WANT THIS APPROACH EITHER!



EVERYONE MAKES MISTAKES

“The greatest mistake is to imagine
that we never err.”

~ *Thomas Carlyle*

SAFETY AND HEALTH IN THE 21ST CENTURY

Having great safety and health is vital ...

- 1) it is morally the right thing.
- 2) it allows your employees to go home each night safely to their family and loved ones.
- 3) it keeps you from having to do the worst job any person would possibly have to do.
- 4) it is the law.
- 5) it is essential for a company to reduce injuries and reduce costs to be profitable and competitive in today's marketplace.

WHY YOU NEED AN EFFECTIVE SAFETY PROGRAM

WHY BE CONCERNED?

- Continued aggressive enforcement – including more inspectors, higher penalties and unfriendly press releases, especially against PSM-related industries
- National Emphasis Programs
- More enforcement and whistleblower inspectors
- More employers placed in the Severe Violators Enforcement Program
- Increased focus on whistleblowers
- More emphasis on workers rights, including worker summits
- Temporary employee initiative

WHY BE CONCERNED?

- Interpretative letter on third-party representation
- Local, state and national governments look at safety records – bar on submitting bids
- Private sector companies also looking at contractors, vendors and system safety record – may lose clients
- Poor safety results in more injuries and increased costs, which reduce company's profitability – could lose jobs
- Increased reporting requirements
 - Injury and illness
 - Fair Pay and Safe Workplace Executive Order

THE PROOF IS IN THE PENALTIES

1. BP Products North America, Inc. (TX) – \$87 million
2. Whitesell Corp. (AL) – \$3.07 million
3. BP-Husky Refinery (OH) – \$3.04 million
4. Olivet Management LLC (NY) \$2.3 million
5. E. N. Range, Inc. (FL) – \$2.1 million
6. South Dakota Wheat Growers (SD) – \$1.6 million
7. Tempel Grain Elevators, LLC (CO) – \$1.59 million
8. Republic Steel (OH) – \$1.14 million
9. CES Environmental Services, Inc. (TX) – \$1.4 million
10. AMD Industries, Inc. (IL) – \$1.247 million
11. Goodman Mfg. Co. (TX) – \$1.215 million
12. Piping Technology & Products, Inc. (TX) – \$1.013 million
13. PJ Trailers Mfg., Inc & Delco Trailers (TX) – \$949,800

THE PROOF IS IN THE PENALTIES

14. Bostik, Inc. (MA) – \$917,000
15. A-1 Excavating (WI) – \$861,000
16. WRR Environmental Services (WI) – \$787,000
17. Cooperative Plus (WI) – \$721,000
18. Tribe Mediterranean Foods (MA) – \$702,300
19. Ball Aerosol and Specialty Container (OH) – \$589,000
20. Sims Bark Co & Sims Stone Co. (GA & AL) – \$576,000
21. Republic Engineered Products (OH) – \$563,000
22. Excelsior Brass Works (PA) – \$550,400
23. Dover Chemical Co. (OH) – \$545,000
24. C.A. Franc (PA) – \$539,000 and criminal referral
25. All-Feed Processing & Packaging, Inc. (IL) – \$518,520

OSHA'S 10 LARGEST PROPOSED PENALTIES OF ALL TIME

1. BP Products, North America (10/29/09) – **\$81.34 million**
2. BP Products, North America (9/21/05) – **\$21.36 million**
3. O&G Industries *et. al.* (8/3/10) – **\$16.6 million**
4. IMC Fertilizer/Angus Chemical (10/31/91) – **\$11.55 million**
5. Imperial Sugar (7/25/08) – **\$8.78 million**
6. Samsung Guam, Inc. (9/21/95) – **\$8.26 million**
7. CITGO Petroleum (8/29/91) – **\$8.16 million**
8. Dayton Tire (4/18/94) – **\$7.49 million**
9. USX (U.S. Steel Corp.) (10/26/89 & 11/2/89) – **\$7.28 million**
10. Phillips 66/Fish Engineering (4/19/90) – **\$6.4 million**

SEVERE VIOLATORS ENFORCEMENT PROGRAM

The following circumstances will be reviewed as a possible SVEP case:

- Fatality or catastrophe situation
- Industry operations or processes that expose employees to the most severe occupational hazards and those identified as “High-Emphasis Hazards”
- Exposing employees to hazards related to the potential release of a highly hazardous chemical
- All egregious enforcement actions.

SEVERE VIOLATORS ENFORCEMENT PROGRAM

The SVEP also includes the following action elements for employers who meet the SVEP criteria:

- Enhanced follow-up inspections
- Nationwide referrals, which will include State Plan states
- Increased company awareness, which will include issuing news releases
- Enhanced settlement provisions
- Increased use of Federal court enforcement action (contempt of court) under Sec. 11(b) of the OSH Act
- Memorandum on how to get off SVEP list

OSHA'S FOCUS ON WHISTLEBLOWER CLAIMS AND SAFETY INCENTIVES

- OSHA oversees investigations of 22 whistleblower statutes
- National office pushing investigators to find more “cause” determinations
- OSHA has budgeted more money for its whistleblower program, including more inspectors
- Implemented Whistleblower Protection web page
- On-line whistleblower complaint application
- March 12, 2012 Memorandum on Safety Incentives

TEMPORARY EMPLOYEE INITIATIVE

- Staffing agency and host employer have joint responsibility
 - Safe work site – duty to inquire
 - Training
 - Hazard assessment
 - Hazard communications
 - Recordkeeping requirements
- OSHA inspection – questions during Opening Conference
 - Contract review
 - Hazard assessment
 - Training review
 - Recordkeeping review

OSHA RECORDKEEPING STANDARD UPDATE

- Final rule published September 18, 2014.
- Major changes
 - From SIC to NAICS
 - 25 new industries covered
 - Employer reporting requirements
 - Fatalities – 8 hour notification
 - Hospitalization of one (1) employee – 24 hour notification
 - Amputation – 24 hour notification
 - Loss of eye – 24 hour notification
- Big surprise!
 - OSHA will make public all reporting on web site
 - On-line posting never mentioned during rulemaking

OSHA UNIFIED REGULATORY AGENDA SPRING 2014

- Combustible dust: Pre-rule
- Emergency response and preparedness: Pre-rule
- Crystalline Silica: Proposed rule
- Beryllium: Proposed rule
- Employer continuing obligation to maintain accurate records: Proposed rule
- Cranes and derricks in construction: Proposed rule
- Updating consensus standard eye and face protection: Proposed rule
- Walking working surfaces and fall protection: Final rule
- Improve tracking of workforce injuries and illnesses: Final rule

OSHA'S TOP 25

“LOW-HANGING” FRUIT VIOLATIONS

1. § 1910.132(d)(1) Workplace hazard assessment for PPE
2. § 1910.132(d)(1) Written certification that PPE Hazard Assessment has been completed
3. § 1910.37(a) Maintenance of exit routes
4. § 1910.157(c) Mounting and location of portable fire extinguishers
5. § 1910.157(e) Inspection, maintenance and testing of portable fire extinguishers
6. § 1910.305(b) Electrical cabinets unused opening
7. § 1910.305(f) Use of flexible cords and cables
8. § 1910.1200(e) Written Hazard Communication Program with list of chemicals
9. § 1910.305(g)(1) Extension cord used in place of permanent wiring
10. § 1910.304(g)(5) Missing grounding prongs
11. § 1910.212(a) Machine guarding
12. § 1910.22(a) Housekeeping
13. § 1910.176(b) Secure storage of materials

OSHA'S TOP 25

“LOW-HANGING” FRUIT VIOLATIONS

- | | |
|--------------------------|--|
| 14. § 1910.151(b) | Medical services and first aid supplies |
| 15. § 1910.132(f) | Written certification of training for personal protective equipment |
| 16. § 1910.38 | Emergency action plan |
| 17. § 1910.25(d).26(c) | Portable ladders, care and maintenance |
| 18. § 1910.22(d) | Floor loading/rating protection |
| 19. § 1910.151(c) | No emergency eye wash stations for employees using corrosive materials |
| 20. § 1910.147(c)(4)&(6) | Lockout/tagout procedures for equipment not developed |
| 21. §1910.157(g)(1) | Fire extinguisher training |
| 22. §1910.157(g)(2) | Initial and annual fire extinguisher training |
| 23. §1910.147(c)(6) | Lockout/tagout – period inspections |
| 24. §1910.141(d)(2) | Lavatories having hot and cold water |
| 25. §1904.32(b) | OSHA 300A Summary - certification |

OSHA'S FOCUS ON TRAINING FOR EMPLOYEES, SUPERVISORS AND MANAGERS

- Consistent and continuous education process
- Understandable training
- Must reflect policies and procedures
- Retraining and review
- Stop telling employees not to have an accident – instead, tell them how not to have an accident
- Watch out for complacency or just silly mistakes

CHECK YOUR TRAINING

- How often do you train?
- Who conducts training?
- Where, when and how do you train?
- What do you train your employees on?
- How do you follow up to ensure that training worked?
- Does your training discuss problems/injuries that occurred in the past?
- Develop metrics to determine your training effectiveness.

REMEMBER: “There is nothing so easy to learn from as experience and nothing so hard to apply.”

- Josh Billings

IDENTIFY THE “Fs”

“Finished files are the result of years of scientific study combined with the experience of many years.”

~ Todd Conklin

IDENTIFY THE “Fs”

How many “Fs” did you see?

IDENTIFY THE “Fs”

Finished **f**iles are the result of **f** years of **f** scientific study combined with the experience of **f** many years.

KEEP YOUR SAFETY PROGRAM FRESH

- Assign managers and employees to review policies and procedures
- Ask for feedback regularly
- Close the communications loop
- Keeping your workplace safe requires continuous improvement
- Cannot stop learning
- Must have strategic and operational safety plans to be successful

FINAL QUESTIONS?



“Judge a man by his questions, rather than his answers.”
~ Voltaire

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THESE MATERIALS AND THE INFORMATION PROVIDED DURING THE PROGRAM SHOULD NOT BE CONSTRUED AS LEGAL ADVICE OR AS CRITICAL OF THE CURRENT OR PAST ADMINISTRATIONS.

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BE SAFE!



REMEMBER: Bad decisions make good stories and usually the evening news.

Thank You

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