

Introduction to OSHA and OSHA Inspections

Jim Shelton, CAS, Houston North

Introduction to OSHA

- Occupational Safety and Health Administration
- Develops and enforces safety and health standards
- 24 States are State Plan States ie. 'State OSHA' and the rest are Federal ie. 'Federal OSHA'
- Texas is Federal OSHA



Introduction to OSHA

- OSHA covers the employer-employee relationship. Does not 'cover' members of the public, customers, etc.
- Federal OSHA does not cover government employees ie. city, county, state... but a State OSHA would



Introduction to OSHA

- OSHA Standards may come from:
 - Industry Consensus Standards
 - American National Standards Institute (ANSI)
 - National Fire Protection Association (NFPA)
 - National Electric Code (NEC)
 - Proprietary Societies
 - Compressed Gas Association (CGA)
 - OSHA Developed Standards
 - Notice of Proposed Rule Making (NPRM)
 - Final Rules (FR)

Introduction to OSHA

- Major OSHA Regulatory Standards:
 - 29 CFR Part 1910 - General Industry
 - 29 CFR Part 1915 - Shipyards
 - 29 CFR Part 1917 - Marine Terminals
 - 29 CFR Part 1918 - Long Shoring
 - 29 CFR Part 1926 - Construction
 - 29 CFR Part 1960 - Federal Employees
- The 5(a)(1) – General Duty Clause

Introduction to OSHA

- In the OSHA Act of 1970 paragraph...
 - 5 - Duties
 - (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;
- Industry recognized consensus standards can be enforced through the 5(a)(1)

Introduction to OSHA

- Employers of 11 or more employees must maintain records of occupational injuries and illnesses except for certain specific low hazard industries
- All employers must report to OSHA within 8 hours any accident with a fatality or hospitalization of 3 or more employees



Enforcement Inspections

- Unprogrammed Inspections
 - Imminent Danger
 - Fatalities/Catastrophes
 - Complaints
 - Referrals
- Programmed Inspections
 - High Hazard Employers
 - ‘Random’ Inspections
 - Emphasis Programs (By Hazard or Industry)

Enforcement Inspections

- OSHA inspection guidelines are found in the Field Inspection Reference Manual (FIRM)
CPL 02-00-103
- Imminent Danger is the highest priority
- Fatalities and Catastrophes are the next highest inspection priority and are covered by
CPL 02-00-137
- Complaints are next and are covered by
CPL 02-00-140

Enforcement Inspections

- Complaints are categorized as either ‘Inspection’ (aka Formal) or ‘Investigation’ (aka Informal)
- An Inspection complaint is generally a signed employee complaint and almost always results in a workplace inspection
- 11C of the OSHA Act prohibits discrimination against an employee for filing a complaint

Enforcement Inspections

- An Investigation complaint is generally anything other than a signed employee complaint. They do not usually result in an inspection. The Area Director has discretion based on the allegations to classify the complaint to an 'Inspection'
- For an 'investigative' complaint, the company is contacted by phone and the complaint allegations are discussed. The complaint form (OSHA 7) is faxed or mailed to the company

Enforcement Inspections

- The company has 5 working days to respond back on what they found and how it was corrected. If the response is good the complaint is generally closed. If it is inadequate, an on-site inspection usually occurs
- Complainants names are not released
- Results of the complaint are provided to the complainant

Enforcement Inspections

- Referrals can be from an OSHA safety inspector to an OSHA industrial hygienist, call from a fire department, news reports, or other sources



Enforcement Inspections

- Programmed inspections are those inspections which are planned
- Every year a list is published of high hazard employers with a high Total case Incident Rate (TCIR) and/or Days Away, Restricted, or Transferred (DART) rate significantly above the national average
- Each quarter a list is generated in each office of the construction sites in the area and a random sample is taken to be inspected

Enforcement Inspections

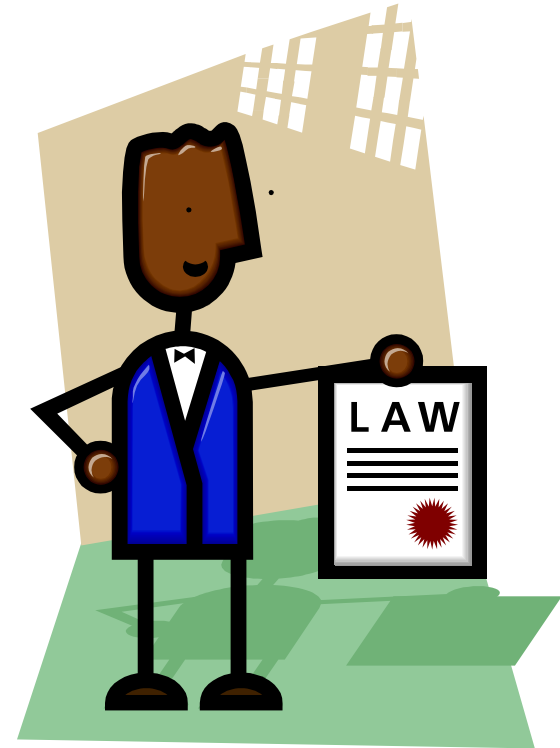
- There can be emphasis programs locally (LEP), Regionally (REP), and Nationally (LEP) which may have an inspection list associated with them. For example:
 - Construction (REP)
 - Demolition (REP)
 - PSM in Refineries (NEP)
 - Silica (NEP)
 - Amputations (NEP)
 - Combustible Dusts (NEP)

Enforcement Inspections

- Other emphasis programs may initiate an inspection based on observation of a serious hazard or an operation related to an emphasis program. For example:
 - Powerlines (REP)
 - Work Zone (REP)
 - Oil & Gas Exploration, Production, Servicing (REP)
 - Mobile and Tower Cranes in Construction (REP)
 - Trenching and Excavations (NEP)
 - Falls (NEP)

Enforcement Inspections

- The major parts of an OSHA inspection are:
 - Opening Conference
 - Site Safety Program Review
 - Site Walk Around
 - Closing Conference
 - Citation Issuance



Enforcement Inspections

- Opening conference
 - Presentation of credentials
 - Purpose of inspection – Why they are there
 - Opening conference and gather information such as contracts for each site subcontractor
 - Site safety program overview see if site qualifies for ‘focused’ inspection
 - Usually the subcontractors return back to the site after the opening conference

Enforcement Inspections

- Walk Around
 - Walk the site, usually accompanied by the general contractor and observes work by subcontractors and trades
 - Talk with subcontractor supervisors as they go through their areas
 - Identify hazards
 - Interview employees
 - Take photographs and measurements

Enforcement Inspections

- Electrical Contractor
 - Photographs
 - Measurements
 - Employee Exposure
 - Interview/Statement
 - Employees
 - Supervisor
 - Review Safety Program



Enforcement Inspections

- Hazards observed - potential violations

1926.403(b)(2)

Kickbox – Listing and Labeling Violation

1926.403(b)(1)(iii)

Inadequate Insulation

1926.404(b)(1)(i)

No GFCI or Assured Grounding Program

1926.1053(b)(13)

Top or Top Step of ladder used as a step

(Not all potential citations are addressed)

Enforcement Inspections

- Each hazard is evaluated based upon the severity of the potential injury or illness and the probability that an accident could occur

Severity: High – Medium – Low

Probability: Greater – Lesser

- A ratio results with a base penalty for the hazard

Enforcement Inspections

- Types of Citations:
 - Willful – \$70,000
 - Serious - \$7,000
 - Other-Than-Serious - \$7,000
 - Repeat – 1-10X
 - Failure to Abate - \$7,000 x 30 Days

Enforcement Inspections

- Adjustment Factors
 - Company Size Reduction
 - 1-25 Employees 60%
 - 26-100 Employees 40%
 - 101-250 Employees 20%
 - History Reduction – No serious citation in three years 10%
 - Good Faith Reduction – Depending on the employers safety program 15% or 25%

Enforcement Inspections

Kick Box
High Severity Greater Probability \$5,000
75 Employees Reduction 40%
History Reduction 10%
Total Penalty **\$2,500**

Frayed Insulation
High Severity Lesser Probability \$2,500
75 Employees Reduction 40%
History Reduction 10%
Total Penalty **\$1,250**

Standing on Top of 6' Ladder
Med Severity Lesser Probability \$2,000
75 Employees Reduction 40%
History Reduction 10%
Total Penalty **\$1,000**

No GFCI
High Severity Greater Probability \$5,000
75 Employees Reduction 40%
History Reduction 10%
Total Penalty **\$2,500**

An operable GFCI could lower the severity and probability of related electrical hazards. Severity and Probability may vary due to the particular conditions, usage, environment and other factors. No 'good faith' for a High Gravity Greater Probability Hazard

Enforcement Inspections

- ‘Good Faith’ Penalty Reduction
 - 25% normally requires a written safety and health program
 - Program provides for Management Commitment and EE Involvement, Worksite Analysis, Hazard Prevention and Control, Safety and Health Training
 - Only incidental deficiencies
 - 15% if the employer has a documented and effective safety and health program but with more than incidental deficiencies

Enforcement Inspections

- Quick Fix – certain violations may be eligible for a ‘quick fix’ reduction of 15% which applies to the specific violation corrected
- Permanently and substantially corrected at time of inspection not temporary or superficial
- Doesn’t apply to high or medium severity hazards
- See CPL 2.112 for details



Enforcement Inspections

- Total Proposed Penalty **\$7,250**
- The AD issues citations with penalties:
 - You can Accept, Request Informal Conference, or Contest the citations within 15 working days
 - In some cases for companies with fewer or less severe hazards may receive an Expedited Settlement Agreement (ESA) which is OSHA's best offer to settle the case

Enforcement Inspections

- Under OSHA's Multi-Employer Worksite Policy (CPL 02-00-124) which applies mainly to construction, several 'employers' potentially can receive a citation for a work site hazard:
 - Controlling
 - Exposing
 - Creating
 - Correcting

Enforcement Inspections

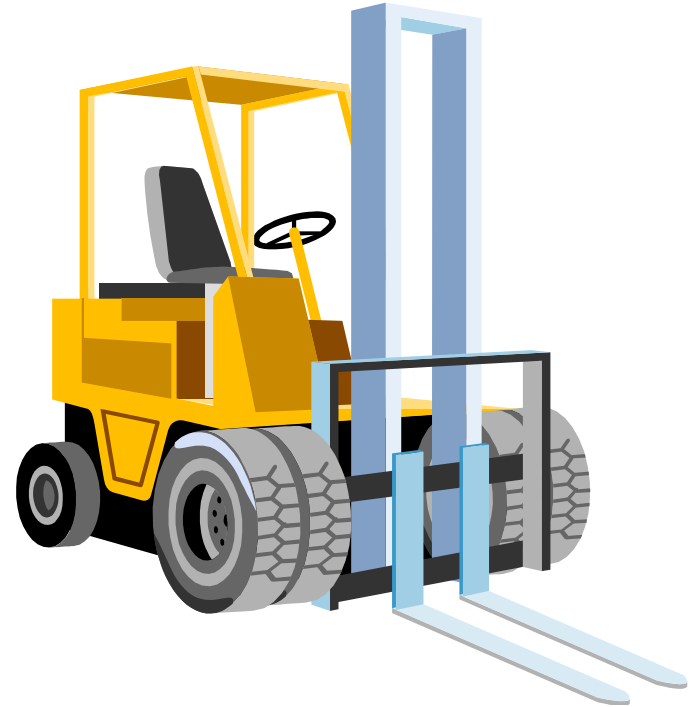
- The law requires a CSHO to cite serious hazards. OSHA does not give 'warnings'
- OSHA inspectors do not negotiate or collect any penalties. They usually will discuss the overall types of penalties and ranges and adjustment factors. Penalties are turned into the Treasury Department. OSHA does not keep the money
- OSHA does not sell, recommend, or refer companies to any product or service especially for-profit services

Enforcement Inspections

- May recommend OSHA funded or approved training such as that given by regional OSHA Training Institutes or some 'free' training being offered under the OSHA Alliance Program
- OSHA does not 'certify' or 'approved' products or services. That can be a red flag. Usually the term to look for is 'Meets OSHA Standards...' but doesn't mean it does!
- Even 'OSHA 10 Hour Class' instructors are 'authorized' not 'certified' to teach it

Enforcement Inspections

- Some standards such as forklifts require training or an employee to be 'certified' but the certification is done by the employer



Enforcement Inspections

- If there are any questions call your local OSHA office
- We do not have caller ID
- Signup for Bi-Weekly OSHA updates at www.osha.gov



Disclaimer

- This information has been developed by an OSHA Compliance Assistance Specialist and is intended to assist employers, workers, and others as they strive to improve workplace health and safety. While we attempt to thoroughly address specific topics **[or hazards]**, it is not possible to include discussion of everything necessary to ensure a healthy and safe working environment in a presentation of this nature. Thus, this information must be understood as a tool for addressing workplace hazards, rather than an exhaustive statement of an employer's legal obligations, which are defined by statute, regulations, and standards. Likewise, to the extent that this information references practices or procedures that may enhance health or safety, but which are not required by a statute, regulation, or standard, it cannot, and does not, create additional legal obligations. Finally, over time, OSHA may modify rules and interpretations in light of new technology, information, or circumstances; to keep apprised of such developments, or to review information on a wide range of occupational safety and health topics, you can visit OSHA's website at www.osha.gov.