

Manufacture Alabama Safety Conference

Introduction to OSHA/Update

Daniel Fithian
Safety Specialist
Occupational Safety and Health Administration
Mobile Area Office



Disclaimer

- This information has been developed by an OSHA Compliance Assistance Specialist and is intended to assist employers, workers, and others 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 this presentation. This information is a tool for addressing workplace hazards, and is not an exhaustive statement of an employer's legal obligations, which are defined by statute, regulations, and standards. This document does not have the force and effect of law and is not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. It does not create (or diminish) legal obligations under the Occupational Safety and Health Act. Finally, OSHA may modify rules and related 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.



The Occupational Safety and Health Act of 1970 – 29 USC 653

- Signed into law on December 29, 1970 by Richard M. Nixon.
- Act established OSHA (Occupational Safety and Health Administration), and its responsibility to provide worker safety and health protection.



Why Does OSHA Exist?

- Because until 1970, no uniform or comprehensive provisions existed to protect against workplace safety and health hazards.
- On average, 15 workers die every day from work injuries. That's approx., 5,600 workers annually.
- Approximately 4 million non-fatal job injuries and illnesses reported.



OSHA's Mission

- To save lives
- To prevent injuries
- To protect America's workers

OSHA
& It's Mission



OSHA Occupational
Safety and Health
Administration

What does the OSH Act do?

- Establishes specific responsibilities to Employers
- Establishes specific responsibilities to Employees
- It does not cover self employed persons
- Workplaces already protected by other government agencies under other federal laws



OSHA Occupational
Safety and Health
Administration

How does OSHA Accomplish its Mission?

- Strong, fair, and effective enforcement.
- Outreach, education, and compliance assistance.
- Partnerships and other cooperative programs.



OSHA Occupational Safety and Health Administration

Employees Workplace Rights

- Employees have the right to:
 - A safe and healthful workplace
 - Know about hazardous chemicals
 - Information about injuries and illnesses in your workplace
 - Complain or request hazard correction from employer
 - Training
 - Hazard exposure and medical records
 - File a complaint with OSHA*
 - Participate in an OSHA inspection*
 - Be free from retaliation for exercising safety and health rights

OSHA Occupational Safety and Health Administration

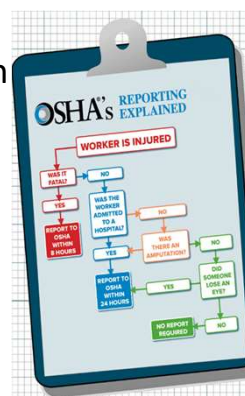
Employer Responsibilities

- Provide a workplace free from recognized hazards and comply with OSHA standards*
- Provide training required by OSHA
- Provide and pay for PPE
- Train employees on proper usage and care of the PPE
- Periodically review, update and evaluate PPE program



Report to OSHA

- Make report within 8-hours of notification
 - Fatalities
 - Catastrophes
- Make report within 24-hours of notification
 - In-patient hospitalization
 - Amputation
 - Loss of an eyeball



Types of Inspections Conducted by OSHA and Priorities

Priority	Category of Inspection
1st	Imminent Danger: <i>Reasonable certainty an immediate danger exists</i>
2nd	Fatality/Catastrophe: <i>Reported to OSHA; inspected ASAP</i>
3rd	Complaints/Referrals: <i>Worker or worker representative can file a complaint about a safety or health hazard</i>
4th	Programmed Inspections: <i>Cover industries and employers with high injury and illness rates, specific hazards, or other exposures.</i>



National Emphasis Programs

- Trenching & Excavation
- Combustible Dust
- Amputations
- Lead
- Primary Metals
- Hexavalent Chrome
- Process Safety Management (PSM)
- Covid-19
- Shipbreaking
- Silica
- Heat Related Illness



Regional Emphasis Program

- Falls in construction
- Ship boat build and repair
- Overhead Power Lines
- Landscaping
- Auto parts Manufacturing
- Forklifts*
- Noise
- Sanitation
- Noise
- Poultry
- Maritime



OSHA Occupational Safety and Health Administration

Opening Conference

- The CSHO explains reason for the inspection.
- Inspector asks for an employer and employee representative to accompany them during the inspection



OSHA Occupational Safety and Health Administration

Opening Conference

- More details provided on reason for inspection
- Written programs and OSHA injury/illness logs requested (Previous 4 years plus the current year); may be reviewed at this time or later.
- The use of a camera or other media to document the inspection is explained
- If noise or air monitoring will be a factor, conducting the survey is explained



Inspection Walk-around

- Inspector walks through the establishment to identify safety and health hazards
- Inspector determines route and duration of the inspection*
- Inspector notes safety and health condition and practices



OSHA Occupational Safety and Health Administration

Inspection Walk-around

- Inspector takes photos/video
- Inspector may measure noise levels
- Inspector may collect air samples to monitor employee exposure to toxic fumes, gases, and dust



OSHA Occupational Safety and Health Administration

Employee Interviews

- Employees must be interviewed to gain factual information relevant to the inspection.
- The interview is conducted privately regardless of employer preferences.
- Employees have the right to have an employee representative present during the interview.



OSHA Occupational Safety and Health Administration

Closing Conference

After the inspection is completed, a Closing Conference is held to:

- Review the hazards identified & set abatement times
- Tell the employer and employee representatives how the citations will be delivered (if citations will be proposed)
- Explain employer rights and responsibilities
- Explain employee protections under Whistleblower regulations and the OSH Act



Rights and Responsibilities Closing Conference – Main Points

- Citations inform the employer and employees of:
 - Regulations and standards the employer allegedly violated.
 - Any hazardous working conditions covered by the OSH Act’s general duty clause.
 - The proposed length of time set for abatement of hazards.
 - Any proposed penalties

U.S. Department of Labor
Occupational Safety and Health Administration
1411 Jefferson Drive
Suite 1000
Mableton, AL 36609

Citation and Notification of Penalty

Inspection Number: [REDACTED]
Inspection Date: 07/19/2021
Release Date: 07/19/2021

Inspection Site: [REDACTED]

The violation(s) described in this Citation and Notification of Penalty are those alleged to have occurred on or about the date of the inspection and were not corrected before the closing conference was held.

Posting - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable to all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer.

Informal Conference - An informal conference is not required. However, if you wish to have such a conference you may request one with the Area Director during the 15 working day contest period by calling (214) 443-6334. There are no fees for an informal conference, you may present any evidence or items which you believe

Violations

- Type of violations:
 - Serious
 - Other than serious
 - Willful
 - Repeat
 - Failure to Abate



OSHA Occupational Safety and Health Administration

Violations

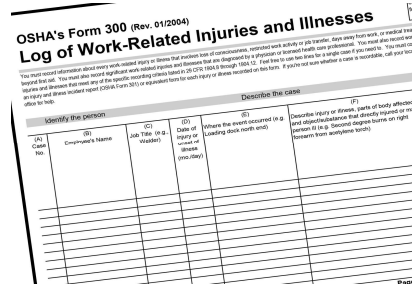
- Serious:
 - A violation where there is substantial probability that death or serious physical harm could result and that the employer knew, or should have known, of the hazard.
 - OSHA may propose a mandatory penalty of up to \$13,653 for each serious violation.



OSHA Occupational Safety and Health Administration

Violations

- Other than Serious:
 - A violation that has a direct relationship to job safety and health, but probably would not cause death or serious physical harm.
 - OSHA may propose a penalty of up to \$13,653* for each other-than-serious violation.



Violations

- Willful:
 - A violation that the employer intentionally and knowingly commits a violation or that the employer commits the violation with plain indifference to the law.
 - Maximum Penalty: \$136,532



Violations

- Repeat:
 - A violation of any standard, regulation, rule, or order where OSHA finds a substantially similar violation during a re-inspection.
 - OSHA may propose penalties of up to \$136,532 for each repeated violation. To be the basis of a repeat citation, the original citation must be final.



Violations

- Repeat
- Violations of the same and/or similar standard within the last 5 years:
- Employers with less than 250 employees:
- First repeat- Multiply the penalty by 2
 - Second repeat – Multiply the penalty by 5



Violations

- Repeat

Violations of the same and/or similar standard within the last 5 years:

Employers with 250 (or more) employees:

- First repeat- Multiply the penalty by 5
- Second repeat – Multiply the penalty by 10



Violations

- Failure to Abate:

- OSHA may propose an additional penalty of up to \$13,653 for *each day* an employer fails to correct a previously cited violation beyond the prescribed abatement date.



Informal Conference

- Informal conference request may be made prior to deciding to contest
 - Obtain a better explanation of the violations cited
 - Obtain a more complete understanding of the specific standards which apply
 - Negotiate and enter into an informal Settlement Agreement



Informal Conference

- Discuss ways to correct the violations
- Discuss problems with the abatement dates
- Discuss problems concerning employee
- Resolve disputed citations/penalties



Notice of Contest

- Notices of Contest may be reviewed by the Occupational Safety and Health Review Commission (OSHRC).
- The commission is an independent federal agency created by the *OSH Act* to decide contested OSHA citations and penalties.
- It is not associated with OSHA or the Department of Labor.



Notice of Contest

- The commission will assign an administrative law judge to hear the case.
- The administrative law judge may:
 - a) Find the contest legally invalid and disallow it,
or
 - b) Set a hearing for a public place near the employer's workplace.
- The employer and the employees have the right to participate in the hearing.
- From there, appeals would go to the U. S. Court of Appeals.



OSHA UPDATE



OSHA: Proposed Rule Stage

- Infectious Diseases
- Cranes and Derricks in Construction Amendments
- Shipyard Fall Protection
- Communication Towers
- HazCom Update
- Lockout/Tagout Update
- Tree Care
- Silica for Construction- Table 1 Update
- Welding in Construction Confined Spaces
- PPE in Construction
- Powered Industrial Truck Design Standard Update
- Walking Working Surfaces
- Silica- Medical Surveillance Provisions Revisions
- Workplace Injury/Illness Tracking



Infectious Diseases

- Employees in health care and other high-risk environments face long-standing infectious disease hazards.
- OSHA is examining regulatory alternatives for control measures to protect employees from infectious disease exposures to pathogens that can cause significant disease.
- OSHA has completed the temporary rule for the vaccination or daily testing of employees where the employer has 100 or more employees or holds a government contract.
- <https://www.osha.gov/coronavirus/ets2>



Cranes and Derricks in Construction



- OSHA is proposing various corrections and amendments to the cranes and derricks standards issued in 2010.
- **The proposed rule expected** in December 2021.



Shipyard Fall Protection



- Existing 29 CFR 1915, subpart E is not comprehensive and does not reflect national consensus standards
- OSHA issued an RFI in 2016 to solicit data and comments on updating existing standards and dividing the rulemaking into three subparts- subpart E, subpart M and subpart N.
- The proposed Rule expected in December 2021.



Communication Towers



- High fatality rate in this industry – ***falls are the leading cause of death.***
- Communication tower construction and maintenance activities may not be adequately covered by current OSHA fall protection and personnel hoisting standards.
- Small Business Regulatory Enforcement Fairness Act (SBREFA) process completed in Oct. 2018.
- **Proposed rule expected** in March 2022.



Hazard Communication Standard



- Rulemaking to:
 - Harmonize the HCS to the latest edition of the Globally Harmonized System of Classification and Labeling of Chemicals (GHS) and
 - Codify a number of enforcement policies that have been issued since the 2012 standard.
- **Informal Public Hearing scheduled for Sept. 21, 2021**



Lock-Out/Tag-Out



- Recent technological advancements that employ computer-based controls of hazardous energy (e.g., mechanical, electrical, pneumatic, chemical, radiation) conflict with OSHA's existing lock-out/tag-out standard.
- The use of these computer-based controls has become more prevalent as equipment manufactures modernize their designs.
- OSHA issued a request for information (RFI) in May 2019 to help it understand the strengths and limitations of this new technology, and potential hazards to workers.
- **Proposed rule expected** in January 2022.



Tree Care Standard

- There is no OSHA standard for tree care operations; the agency currently applies a patchwork of standards to address the serious hazards in this industry.
- The tree care industry previously petitioned the agency for rulemaking and OSHA issued an ANPRM (September 2008).
- OSHA completed a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel in May 2020, collecting information from affected small entities on a potential standard.
- **Proposed rule expected** in April 2022.



Silica in Construction – Table 1



- Table 1 in OSHA's crystalline silica standard for construction includes dust control methods for certain equipment/tasks. Employers that follow Table 1 are not required to measure workers' silica exposure and are not subject to the PEL.
- In 2019, OSHA issued a request for information (RFI) on the effectiveness of control measures not currently included for tasks and tools listed in Table 1 *and* on tasks and tools involving exposure to silica not currently listed in Table 1.
- OSHA is evaluating this information to determine if revisions to Table 1 may be appropriate.
- **Proposed rule expected** in April 2022.



Welding in Construction Confined Spaces



- OSHA is proposing to amend the Welding and Cutting Standard in construction to eliminate any perceived ambiguity about the definition of "confined space" that applies to welding activities in construction.
- **Proposed rule expected** in September 2021.



PPE in Construction



- OSHA is proposing to clarify requirements for the fit of PPE in construction.
- **Proposed rule expected** in September 2021.



Powered Industrial Trucks – Design and Construction



- OSHA's is proposing to update the reference in its powered industrial trucks standard (1910.178) to also refer to the 2018 version of ANSI/ITSDF B56.1a Safety Standard for Low Lift and High Lift Trucks.
- This rulemaking will incorporate by reference provisions related to the design and construction of powered industrial trucks.
- This is a continuation of OSHA's ongoing effort to update references to consensus standards.
- **Proposed rule expected** in May 2021.



Walking-Working Surfaces



- OSHA received stakeholder feedback that some provisions of the 2016 final rule on walking-working surfaces are unclear.
- OSHA plans to correct a formatting error in Table D-2 (Stairway Handrail Requirements).
- OSHA also plans to revise language on stair rail systems to make them clearer and reflect OSHA's original intent.
- **Proposed rule expected** in July 2021.



Silica - Medical Surveillance Provisions for Medical Removal Protection



- OSHA's silica standards (construction and general industry/maritime) do not include a provision for medical removal protection.
- Industry and labor organizations petitioned for review of the rule.
- A federal court concluded that OSHA failed to adequately explain its decision to omit medical removal protections from the rule and sent the rule back to OSHA for further consideration.
- **Proposed rule expected** in March 2022.



Workplace Injury/Illness Tracking

- OSHA intends to restore provisions of the Improve Tracking of Workplace Injuries and Illnesses final rule, 81 FR 29624 (May 12, 2016) that were removed by Tracking of Workplace Injuries and Illnesses final rule, 84 FR 380 (January 25, 2019).
- OSHA proposes to amend its recordkeeping regulation to restore the requirement to electronically submit to OSHA information from the OSHA Form 300 and OSHA Form 301
- **Proposed rule expected** in December 2021.



OSHA: Pre-Rule Stage

- Process Safety Management and Prevention
- Emergency Response and Preparedness
- Mechanical Power Presses
- Workplace Violence in Health Care and Social Assistance
- Blood Lead Level for Medical Removal
- Heat Illness Prevention



Process Safety Management and Prevention

- OSHA issued a Request for Information (RFI) in 2013 that identified issues related to modernization of the Process Safety Management standard and related standards to meet the goal of preventing major chemical accidents.
- **OSHA held a Stakeholder meeting** in August 2021



Emergency Response and Preparedness



- Current OSHA standards *do not*:
 - Reflect major developments in safety and health practices that have been incorporated into industry consensus standards.
 - Address the full range of hazards or concerns facing emergency responders,
 - Reflect major changes in performance specifications for protective clothing and equipment.
- OSHA is considering updating these standards with information gathered through a request for information (RFI) and public meetings.
- **OSHA plans to initiate the Small Business Regulatory Enforcement Fairness Act (SBREFA) process in May 2021.**



Mechanical Power Presses



- The current OSHA standard is 40 years old and does not address technological changes or the use of hydraulic or pneumatic power presses.
- **OSHA plans to issue a request for information (RFI)** in May 2021 to help it determine how to proceed.



Workplace Violence in Health Care and Social Assistance



- Labor unions petitioned OSHA to issue a standard on preventing workplace violence in health care. OSHA granted the petitions in January 2017.
- OSHA previously issued a request for information (RFI) asking health care employers and workers about the impact of workplace violence and prevention strategies.
- **OSHA plans to initiate the Small Business Regulatory Enforcement Fairness Act (SBREFA) process** in Dec. 2021



Blood Lead Level for Medical Removal



- OSHA's lead standards for general industry and construction are over 35 years old, and recent medical findings indicate that even at levels below the OSHA standard, blood lead levels (BLLs) in adults can result in adverse health effects.
- **OSHA plans to issue an Advanced Notice of Proposed Rulemaking** in May 2021 to help identify possible areas of the lead standards for revision to improve protection of workers



Heat Illness Prevention

- Heat is the leading weather-related killer, and it is becoming more dangerous as 18 of the last 19 years were the hottest on record.
- According to the Bureau of Labor Statistics, heat stress killed 815 US workers and seriously injured more than 70,000 workers from 1992 through 2017.
- OSHA currently relies on the general duty clause (OSH Act Section 5(a)(1)) to protect workers from this hazard.
- **OSHA plans to issue a request for information (RFI)** in October 2021 to begin a dialogue and explore potential rulemaking.



OSHA: Long-Term Actions

- **Injury and Illness Recordkeeping**
 - OSHA proposed to restore the Musculoskeletal Disorders (MSD) column to OSHA 300 log
- **Powered Industrial Trucks**
 - OSHA issued a Request for Information (RFI) on March 11, 2019 (84 FR 8633), to determine whether changes need to be made to locations of use, maintenance, training, and operation of powered industrial trucks.
- **Drug Testing Program and Safety Incentives Rule**
 - OSHA is considering making changes to 29 CFR 1904.35(b)(1)(iv) related to implementation of post-incident drug testing and safety incentive programs.



