



OSHA Inspections

The webinar will begin soon



Today's Presenters:

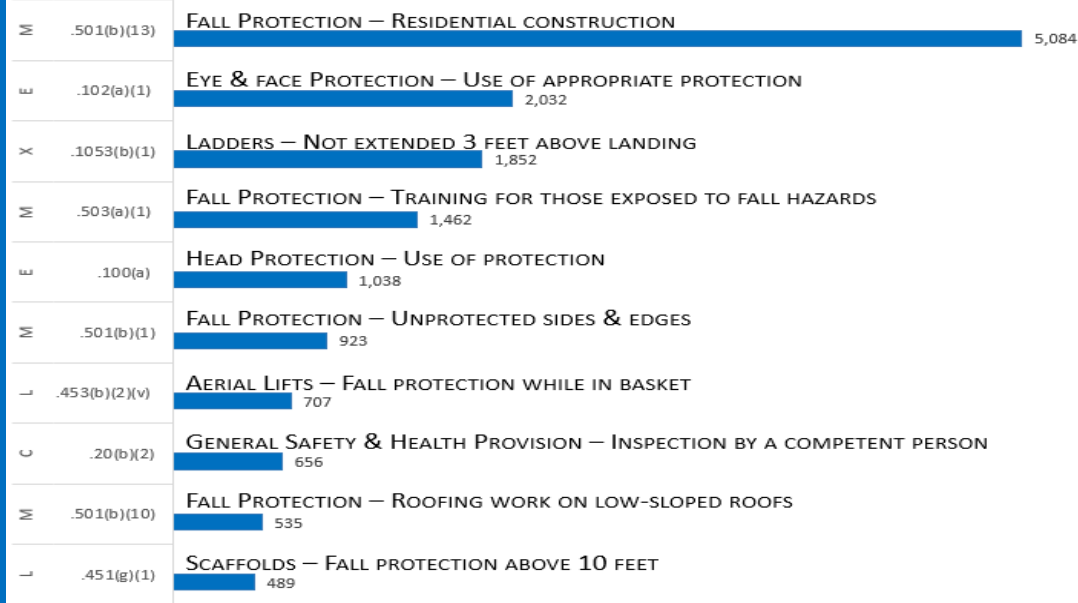
Jason Rozar

Regional Manager



Most Frequently Cited Serious Violations in Construction FY 2023

29 CFR 1926.



Inspections– OSHA’S Rights

- Authority to inspect
- “Enter without delay.....”
- “Inspect and investigate....”



Communications

- **Imminent Danger** - First priority
- **Employees Notify Employer** - If no action taken, notify OSHA
- **Catastrophes and Fatal Accidents** - Second priority
- **Employee Complaints** - Third priority
 - Referrals from employees & outside agencies of unsafe or unhealthful conditions
 - Informal review available for decisions not to inspect
 - Confidentiality is maintained on request
- **Programmed High-Hazard Inspections** - Fourth priority
 - Aimed at high hazard industries, occupations, or health substances
 - Selection criteria examples:
 - Death, LWII rates, Exposure to toxic substances

Follow-up Inspections

- Determines whether previously cited violations have been corrected
- “Notification of Failure to Abate”



Inspection Process

1. Compliance officer becomes familiar with facility (i.e. history, nature of business, relevant standards, IH equipment selection, etc.)
2. Inspector's credentials
 - Inspection begins when C.O. arrives at facility
 - Displays credentials, employers should always ask to see - ID USDOL with photo and serial number
 - Employer should verify by phoning OSHA
3. Opening conference
 - CSHO explains why facility was selected
 - Explains purpose of visit, inspection scope and applicable standards
 - Complaint copies distributed
 - Employee representative may be summoned

Inspection Tour

- Route and duration determined by CSHO
- Consults with employees
- Photos
- Instrument Readings
- Examine records
- CHSO will point out unsafe conditions observed & possible corrective action if employer requests
- Apparent violations can be corrected immediately
- May still result incitation

Closing Conference

- Discussion of problems, questions and answers
- Discussion of recommended citations
- Time needed for abatement
- Only Area Director issues citations and assess \$\$\$ amounts



Types of Violations

Other Than Serious Violation

- Normally would not cause death or serious injury
- Up to \$15,625 per violation
- Adjusted downward as much as 95%
- Factors:
 - Good faith
 - History of violations
 - Size of business



Types of Violations

Serious Violation

- High probability of death or serious harm
- Min. Penalty - \$1,116
- Max. Penalty - \$15,625
- Adjusted downward:
 - Good faith
 - Gravity of alleged violation
 - Violation history
 - Size of business



Types of Violations

Willful or Repeated Violation

- Employer knowingly commits with plain indifference to the law
- Either knows action is a violation, or is aware of hazardous condition with no effort to eliminate
- Up to \$156,259 for each
- Minimum of \$11,162
- If convicted of WV that has resulted in death, court imposed fine, up to six months in jail, or both
- Criminal conviction, up to \$250,000 for individual; \$500,000 corporation



Types of Violations

- **Failure to Abate:** Up to \$15,000/day
- **De Minimis Violation:** No direct relationship to safety or health
- **Falsifying records:** Up to \$10,000, six months in jail, or both
- **Violations of posting requirements:** Civil fine up to \$15,625
- **Assaulting, interfering with, intimidating a CSHO while performing their duties:** Up to three years prison, and \$ 5,000 fine

Inspection Process

Notice of Contest

- 15 days to notify Area Director in writing
- Copy given to employee representative
- Or posted in prominent location

Review Procedure

- Notice of contest forwarded to the Occupational Safety and Health Review Commission (OSHRC)
- Independent of OSHA and DOL

Inspection Process

Appeals Process – Employers

- Employees may request informal review
- Employees can contest abatement time-frame
- Employees may request informal conference to discuss inspections, citations, employer notice of intent to contest
- Employers can request informal conference
- Area Director authorized to enter into settlement agreements that revise citations

Petition for Modification of Abatement

- Employers written petition to extent abatement time for conditions beyond their control
- Includes steps taken, how much additional time, temporary steps

Multi-Employer Worksites

Multi-Employer Worksites

- More than one employer may be cited for a hazardous condition
- Two-step process:
 1. Determine who is a creating, exposing, correcting, or controlling employer
 2. Employer's actions were sufficient to meet their obligations under OSHA



Types of Employer

- **The Creating Employer:** The employer who actually creates the hazard.
- **The Exposing Employer:** An employer whose own employees are exposed to the hazard.
- **The Correcting Employer:** An employer who is engaged in a common undertaking, on the same worksite, as the exposing employer and is responsible for correcting a hazard.
- **The Controlling Employer:** The employer who is responsible, by contract or through actual practice, for safety and health conditions on the worksite (i.e. the employer who has the authority for ensuring that the hazardous condition is corrected).

Exposing Employer Legitimate Defense

1. The employer did not create the hazard;
2. The employer did not have the responsibility or the authority to have the hazard corrected;
3. The employer did not have the ability to correct or remove the hazard;
4. The employer can demonstrate that the creating, the controlling and/or the correcting employers, as appropriate, have been specifically notified as the hazard to which his/her employees are exposed;
5. The employer has instructed his/her employees to recognize the hazard, and
 - Where feasible, an exposing employer must have taken appropriate alternative means of protecting employees from the hazard,
 - When extreme circumstances justify it, the exposing employer shall remove his/her employees from the job to avoid citation.

Focused Inspections

Introduction

- The Focused Inspections Initiative became effective October 1, 1994
- Recognizes the efforts of responsible contractors



Introduction

- The CSHO will conduct comprehensive inspections *only on those projects where there is inadequate contractor commitment to safety and health*



Focused Inspection Guidelines

- The leading hazards are:
 - falls from elevations (e.g., floors, platforms, roofs)
 - struck by (e.g., falling objects, vehicles)
 - caught in/between (e.g., cave-ins, unguarded machinery, equipment)
 - electrical shock (e.g., overhead power lines, power tools and cords, outlets, temporary wiring)
- CSHO determines whether or not there is project coordination by the general contractor & prime contractor
- Conducts a brief review of the project's safety and health program/plan to determine whether or not the project qualifies for a Focused Inspection

To Qualify

- a) Safety and health program/plan meets the requirements of **29 CFR 1926 Subpart C, General Safety and Health Provisions**
- b) There is a designated competent person responsible for and capable of implementing the program/plan



To Qualify

- If the project meets the criteria, an abbreviated walk-around inspection shall be conducted focusing on:
 - Verification of the safety and health program/plan effectiveness by interviews and observation;
 - The four leading hazards;
 - Other serious hazards observed by the CSHO.



What gets Inspected?

- The CSHO conducting a Focused Inspection is not required to inspect the entire project
- Only a representative portion of the project need be inspected as stated in OSHA Instruction CPL 2.103



How Serious *is* Serious?

- The discovery of serious violations during a Focused Inspection need not automatically convert the Focused Inspection into a comprehensive inspection
- These decisions will be based on the professional judgment of the CSHO



Specific Guidelines

- Applies only to construction safety inspections.
- A project determined not to be eligible for a Focused Inspection shall be given a comprehensive inspection with the necessary time and resources to identify and document violations.
- All contractors and employee representatives shall, at some time during the inspection, be informed why a focused or a comprehensive inspection is being conducted.
- This may be accomplished either by personal contact or posting the "Handout for Contractors and Employees" (see attachments, per FIRM, Chapter II, section A. 3.)

Specific Guidelines

- Although the walk-around inspection shall focus on the four leading hazards, citations shall be issued for any serious violations found during a Focused Inspection, and for any other-than-serious violations that are not immediately abated.
- Other-than-serious violations that are immediately abated shall not normally be cited nor documented.
- Only contractors on projects that qualify for a Focused Inspection will be eligible to receive a full "good faith" adjustment of 25%.

Forms for the Focused Inspection

- For Focused Inspections, an OSHA-1 will be completed in accordance with the multi-employer policy as stated in the Field Inspection Reference Manual for the:
 - General contractor, prime contractor or other such entity, and
 - Each employer that is issued a citation.



CONSTRUCTION FOCUSED INSPECTIONS INITIATIVE

Handout for contractors and employees

The goal of Focused Inspections is to reduce injuries, illness and fatalities by concentrating OSHA enforcement on those projects that do not have effective safety and health programs/plans and limiting OSHA's time spent on projects with effective programs/plans.

To qualify for a Focused Inspection, the project safety and health program/plan will be reviewed and a walkaround will be made of the jobsite to verify that the program/plan is being implemented.

During the walkaround, the compliance officer will focus on the four leading hazards that cause 90% of deaths and injuries in construction. The leading hazards are:

- falls (e.g., floors, platforms, roofs)
- struck by (e.g., falling objects, vehicles)
- caught in/between (e.g., cave-ins, unguarded machinery, equipment)
- electrical (e.g., overhead power lines, power tools and cords, outlets, temporary wiring.)

The compliance officer will interview employees to determine their knowledge of the safety and health program/plan, their awareness of potential jobsite hazards, their training in hazard recognition and their understanding of applicable OSHA standards.

If the project safety and health program/plan is found to be effectively implemented, the compliance officer will terminate the inspection.

If the project does not qualify for a Focused Inspection, the compliance officer will conduct a comprehensive inspection of the entire project.

If you have any questions or concerns related to the inspection or conditions on the project, you are encouraged to bring them to the immediate attention of the compliance officer or call the area office at _____.

_____ **qualified as a FOCUSED PROJECT.**

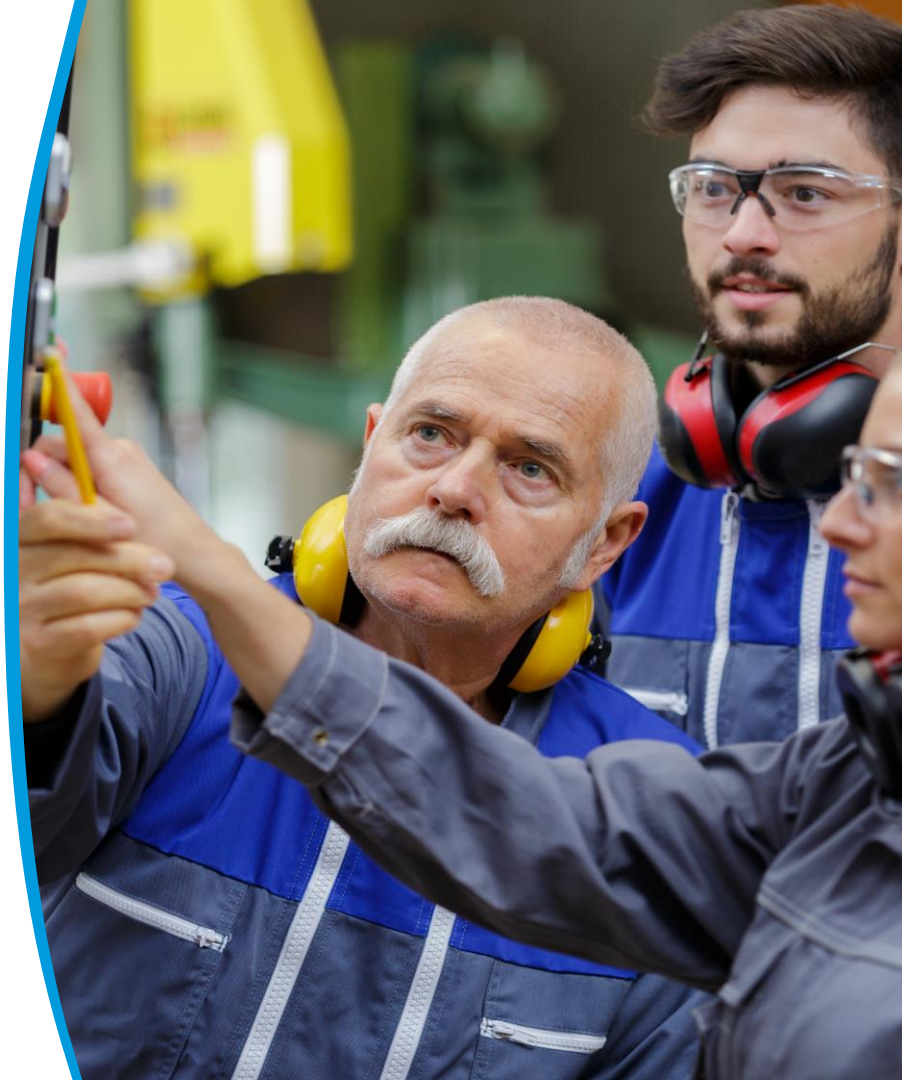
Std 3-1.1

Clarification of OSHA Citation Policy

Construction Inspection Guidelines

- An evaluation of the safety and health program will be completed
- Size and type of construction
- Degree of Knowledge

1



Construction Inspection Guidelines

- Safety discussion with employer:
 - Policy
 - Rules
 - Responsibilities
 - Employee involvement

2



Construction Inspection Guidelines

- CSHO will cite as appropriate from:
 - 29 CFR 1926.20,
 - 29 CFR 1926.21,
 - 29 CFR 1926.23, or
 - 29 CFR 1904.2.

3



Construction Inspection Guidelines

4

Where the conditions warrant a citation for violation of 1926.20 or 1926.21, it may be issued even if additional 29 CFR 1926 alleged violations were not documented

5

Violations for 29 CFR 1926.20(b) in a routine inspection may be cited as other-than-serious or serious as circumstances warrant

Construction Inspection Guidelines

- Recordkeeping violations (29 CFR 1904) shall be cited where records are not available for the individual site
- Except that:
 - Field office or mobile base
 - Centrally maintained:
 - Address & telephone
 - Personnel available

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Management Commitment & Leadership

1. Policy statement: goals established, issued, and communicated to employees
2. Program revised annually
3. Participation in safety meetings, inspections, agenda item in meetings
4. Commitment of resources is adequate
5. Safety rules and procedures incorporated into site operations
6. Management observes safety rules

Assignment of Responsibility

1. Safety designee on site, knowledgeable, and accountable
2. Supervisors (including foremen) safety and health responsibilities understood
3. Employees adhere to safety rules

Identification & Control of Hazards

1. Periodic site safety inspection program involves supervisors
2. Preventative controls in place (PPE, maintenance, engineering controls)
3. Action taken to address hazards
4. Safety Committee, where appropriate
5. Technical references available
6. Enforcement procedures by management

Training & Education

1. Supervisors receive basic training
2. Specialized training taken when needed
3. Employee training program exists, is ongoing, and is effective

Record Keeping & Hazard Analysis

1. Records maintained for employee illnesses/injuries and posted
2. Supervisors perform accident investigations, determine causes, and propose corrective actions
3. Injuries, near misses, and illnesses are evaluated for trends, similar causes, and corrective action initiated

First Aid & Medical Assistance

1. First aid supplies and medical services available
2. Employees informed of medical results
3. Emergency procedures and training, where necessary

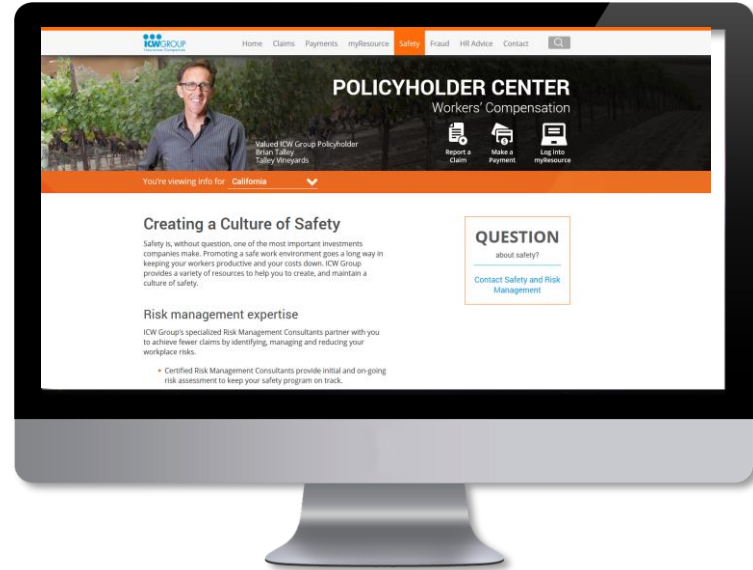
Focusing on Safety Makes Sense!

Safety Resources Available to You

Policyholder Website

- Injured Workers Resources
- Safety Webinars on demand
- Safety *OnDemand*®
- HR *OnDemand*®
- And More!!

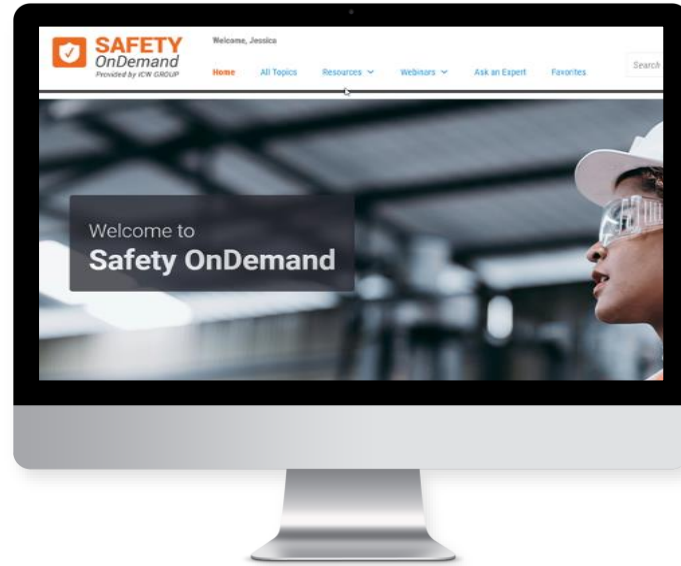
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safety talks and more!





QUESTIONS?

Contact Us:

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