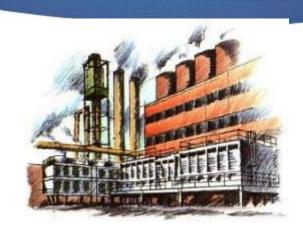


Occupational Safety and Health





### OSHA's Area of Focus and How to Prepare for an Inspection

Joe Green **Compliance Assistance Specialist OSHA Andover MA Area Office** 978-837-4470



### 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 <a href="https://www.osha.gov">www.osha.gov</a>.





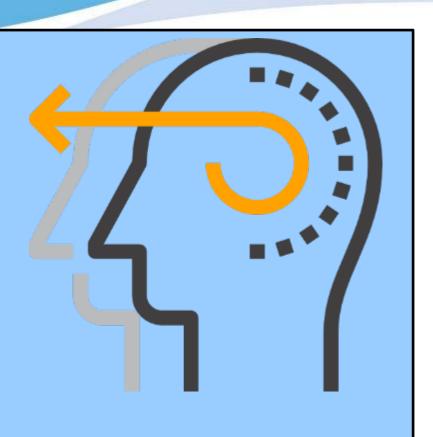
## OSHA Background



- Construction background.
- Worked private sector for over 20 years.
- Certified Vocational Teacher by the Mass Dept. of Education
- Employed by for USDOL/OSHA for 22 years.
- Performed over 1500 job site inspections.
- Investigated over 500 workplace accidents.
- Investigated over 50 workplace fatalities.
- Past 7 years Compliance Assistance Specialist, provide assistance Scupational to the industry, training and outreach. No enforcement

### **Initiatives 2023**

- Trenching and Excavating
- Lead
- Amputations
- Fall hazards
- Noise
- Powered Industrial Trucks
- Residential Construction
- Heat illness Prevention
- Youth Workers



### **Initiatives 2023**



- Tree care
- Small Business
- Warehouse safety
- Temp workers
- OSHA Safety Article submission for the PHCC
- Building inspectors
- Unions
- Boston Building Trades
- Police and Fire outreach email



### Alliance support 2023



- Keene State College
- United Support and Memorial for Workplace Fatalities
- NELTA (New England Laborers Training Academy Andover )
- MAVA (Massachusetts Association of Vocational Administrators) Andover, Braintree, Springfield, Mass DLS and Mass OSHA Consultation.
- ASM (Associated Subcontractors of Massachusetts) Andover, Braintree and Mass OSHA Consultation.
- CSREM (Construction Safety Roundtable of Eastern Massachusetts) -Andover, Braintree and Mass OSHA Consultation
- Brazilian Immigration Center Andover, Braintree, Springfield
- Massachusetts Nurses Association Andover, Braintree, Springfield
- The Massachusetts Brewers Guild Andover, Braintree, Springfield, Mass DLS and Mass OSHA Consultation
- Field Federal Safety & Health Council



## New England Safety Roundtable.



# OSHA – New England Safety Roundtable



#### March 23, 2022: Introduction To Drones For Inspection And Construction

Presented by: Peter Cutrer

This 1-hour presentation will go over the usage of drones in inspections of commercial properties and on construction sites/brojects, Real life examples will be utilized with drone footage and images. Also, learn how to become a licensed drone pilot and the basic rules for your state.

filles //keene zoom us/402526797

Peter Cutrer comes from the fire service as a refired Deputy Chief and Fire Marshal. He spent 10+ years teaching for NFPA's fire service programs, including developing new curriculum. He currently works for the State of New Hampshire Fire Academy as well as the owner of 7CS Consulting, providing support to municipal, state, and federal agencies. Peter is a licensed drone pitot, Certified NFPA Fire Inspector II, Certified IAAI Certified Fire Investigator, as well as a Certified Fire Plans Examiner and Certified Fire Protection Specialist.

March 30,2022: Best Practices for Processing and Managing a Crash Incident for General Industry, Construction, and Trucking Companies

Presented by: Peter D. Ohmart, Consultant

This presentation is designed to teach owner/operators, company drivers, managers, dispatchers, safety personnel, etc. suggested best ways to respond after a vehicular incident. It will cover advance preparation needed for all these roles as well as proper on scene response and appropriate communication with affected parties and responding law enforcement. It will also cover basic suggested best practice response during any resulting legal proceedings.

At the end of this presentation, the learner will be able to:

- Be prepared in advance of an drash incident.
- Be able to take correct actions during and after a crash.



### Free Training



Occupational Safety and Health Administration

#### **FREE TRAINING**

Residential Construction Fall Protection Outreach & Overview

Falls continue to be the # 1 leading cause of fatalities for construction workers.



#### OVERVIEW

Fall hazard outreach for residential contractors whose workers may be exposed to falls.



#### REGISTRATION

Register by contacting
Joe Green - OSHA Compliance
Assistance Specialist via

Email - green.joseph@dol.gov 978-837-4470

#### REGISTRATION REQUIRED TO ATTEND

Space is limited WHERE & WHEN

138 River Road, Andover, MA. Suite 102

Mondays - 9:15 am - 10:30am (Session starts and doors close promptly at 9:15am)

alth



### **OSHA – Drones**



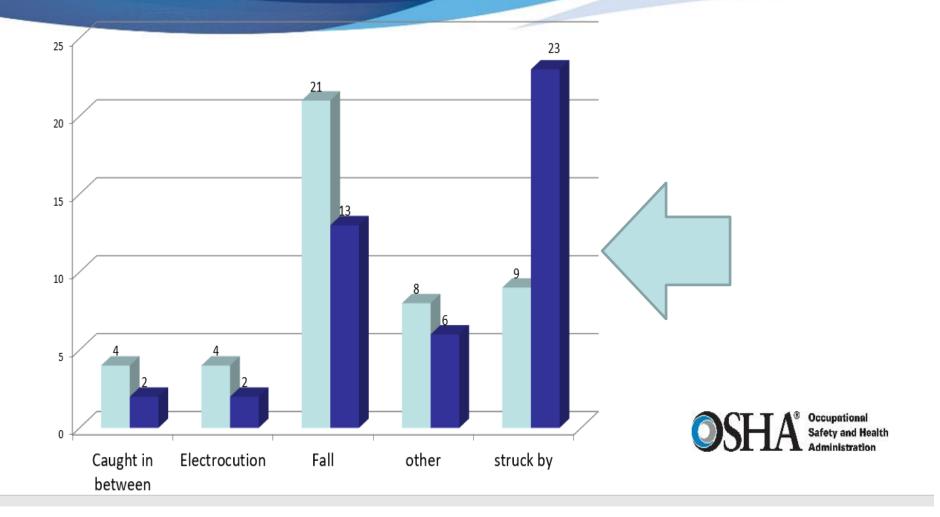








# FY2020 Region I Fatal Events High Hazard





### **Emphasis Programs.**



### National Emphasis Programs

- Trenching and excavating
- Hazardous machinery
- Hexavalent chromium
- Lead

- Primary metals
- Process safety management
- Shipbreaking
- Combustible dusts
- Silica
- Warehousing





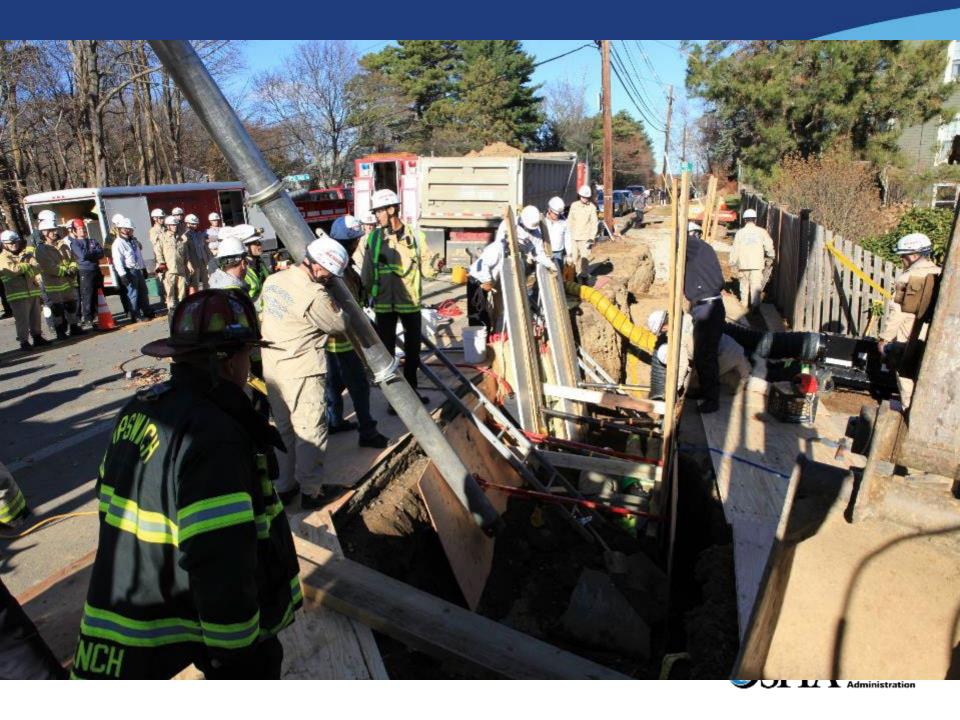
# National Emphasis Program on Warehousing

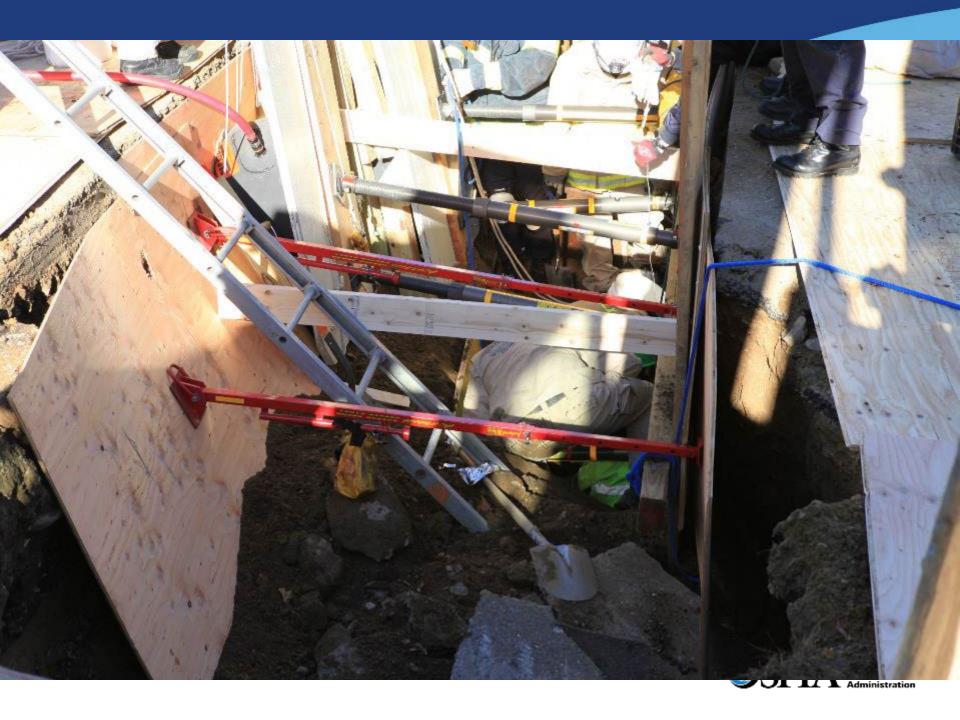
This Emphasis Program (NEP) is intended to reduce injury / illness rates in the warehousing industry by conducting comprehensive inspections.

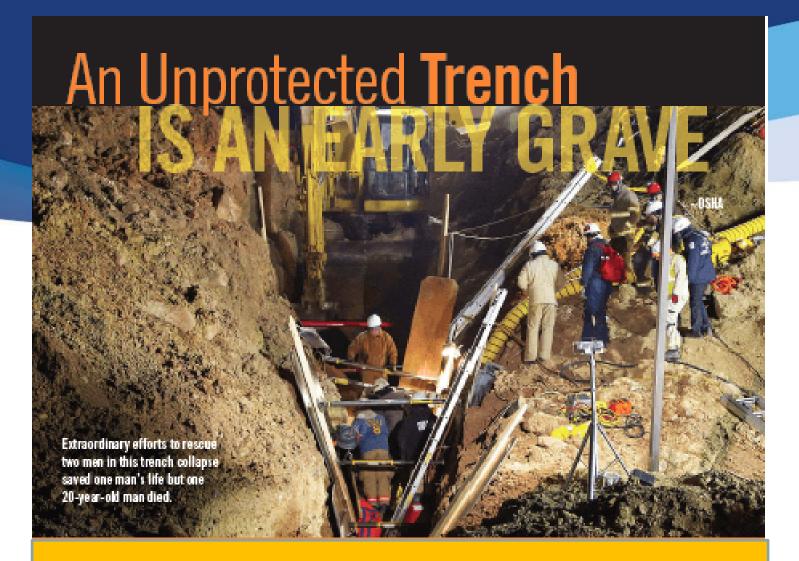
All inspections under this NEP will focus on workplace hazards common to the above industries including, but not limited to, powered industrial vehicle operations, material handling/storage, walking-working surfaces, means of egress, and fire protection. Heat and ergonomic hazards shall be considered during all inspections covered by this NEP and a health inspection shall be conducted if OSHA learns that heat and/or ergonomic hazards are present.

In the past 10 years, warehousing and distribution centers have experienced tremendous growth with more than 1.9 million people employed in the industry. The Bureau of Labor Statistics data shows injury and illness rates for these establishments are higher than in private industry overall and, in some sectors, more than twice the rate of private industry.









Trench Standdown week June



### Atlantic Drain Trenching Fatal



Occupational
Safety and Health
Administration

### Local Emphasis Programs

- Noise
- Fall hazards
- Crane operations
- Residential construction
- Powered industrial trucks
- Tree and Landscape









Media Referral

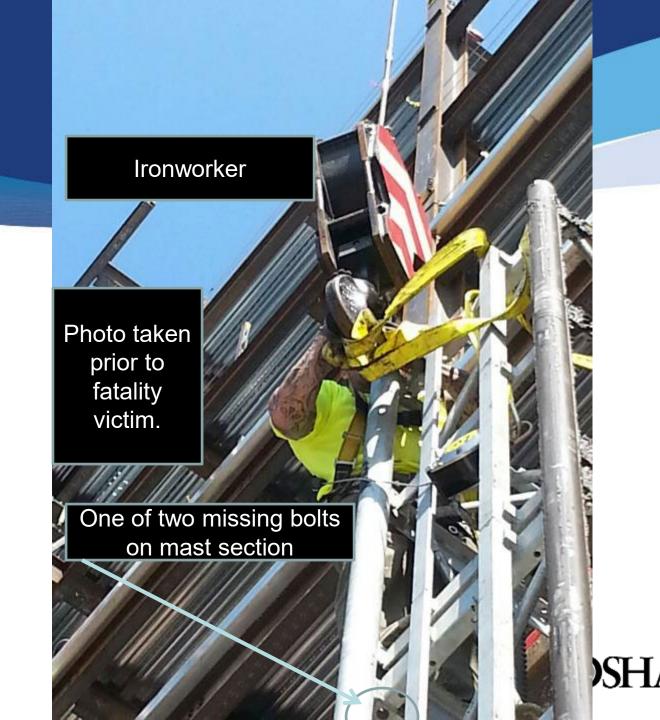




Media Referral







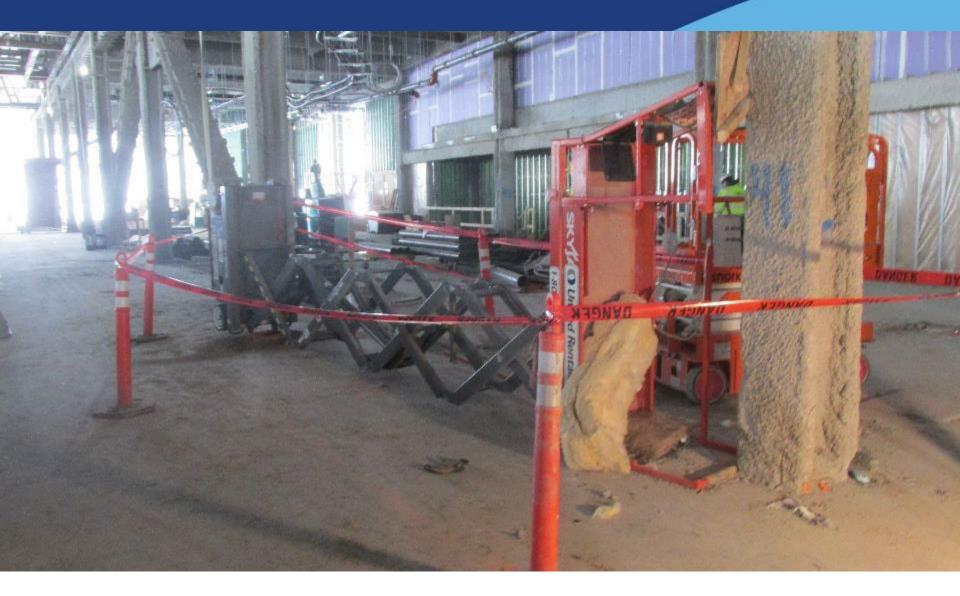
Occupational













## Updates to OSHA's Recordkeeping and Reporting Rule

Effective January 1, 2015 employers must report the following to OSHA with 24 Hours.















## Safety Campaigns.





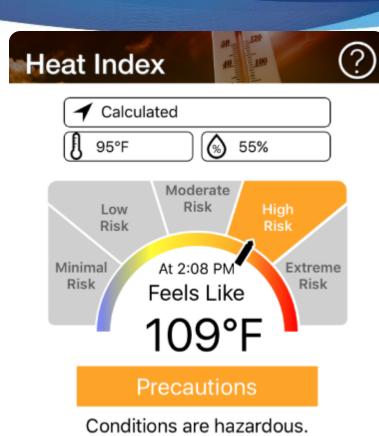
### Campaigns - 2023

- Ladders (March)
- Work zone awareness (April )
- Workers' Memorial Day (April 28<sup>th</sup>)
- Fall prevention and protection (May)
- Forklifts (June)

- Trenching and excavating (June)
- Heat illness prevention (May)
- National safety month June
- Safe and Sound week (August)



### **Heat Screening**



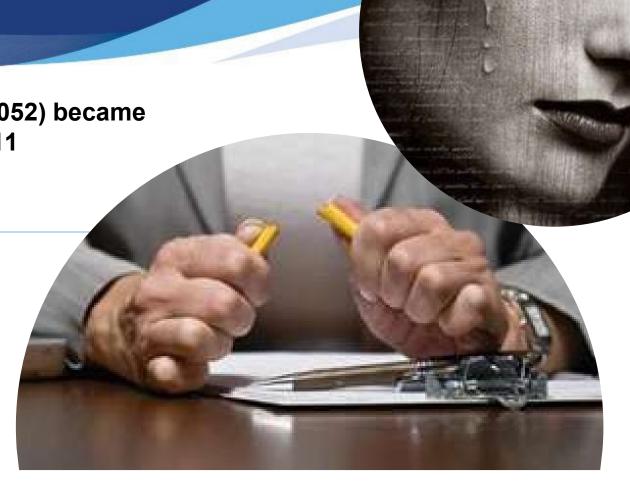
- Heat Screening. Occupational heat exposure must be assessed during review of injury and illness records, during worker interviews, and during the establishment walkthrough.
- When exposure to heat-related hazards are occurring, the inspection scope shall be expanded in accordance with the NEP for Outdoor and Indoor Heat-Related Hazards (Heat NEP) and a health inspection shall be opened.



Workplace Violence

New directive (CPL 02-01-052) became effective September 8, 2011

Establishes general policy guidance and procedures for field offices when conducting inspections in response to incidents of workplace violence.







## Who does OSHA have jurisdiction over?







Employers / employee relationship.

 Independent contractors who are being directed/controlled by an employer <u>may</u> be considered an employee.



# Who doesn't OSHA have jurisdiction over?







- Self-employed persons. (DBA's)
- Public Sector Workers (Dept. of Labor Standards)
- Mines / Quarries / Gravel Pits (MSHA)
- Homeowners.

## OSHA REGION 1 CRIMINAL INVESTIGATIONS TEAM



### OSHA REGION 1 CRIMINAL INVESTIGATIONS TEAM

- "Criminal" is reserved for OSHA's "worst actors", who have either:
  - Provided false documents or testimony with the intent to mislead an investigation
  - Intimidated OSHA investigators
  - Failed to pay significant outstanding penalties (Scofflaw Initiative)
  - Willfully violated OSHA regulations leading to the death of a worker(s)



### OSHA REGION 1 CRIMINAL INVESTIGATIONS TEAM

#### Functions of CIT

- Provide resources for field investigators including database searches and investigation assistance.
- Work with other federal agencies including Special Agents of: DOL-OIG, EPA, IRS, Social Security and the US Attorney's Office to coordinate investigations and prosecutions.
- Work with local law enforcement, county and state prosecutors when a case is referred and prosecuted by them.

# Criminal Investigation Team

- The owner of a company involved in a deadly trench collapse in Boston three years ago has been convicted on two counts of manslaughter in connection with the incident that killed two workers.
- Atlantic Drain Service and owner Kevin Otto were found guilty in a jury-waived trial in Suffolk County Superior Court.
- Robert Higgins and Kelvin Mattocks, employees of Atlantic Drain Service Co., were killed on Oct. 21, 2016, when the trench in which they were working collapsed and filled with water from a fire hydrant supply line.

TWO Year Phison with sente years probation





# Criminal Investigation Team

- Shawn D. Purvis owner of Purvis Home Improvement Co.
   Inc. based in Saco, Maine for willful, repeat and serious workplace safety violations at a jobsite in Springvale, Maine.
- The roofing contractor faces a total of \$278,456 in new penalties.
- OSHA cited Purvis for safety violations seven times in the last seven years carrying penalties of \$1,792,726
- A Portland grand jury indicted Purvis for manslaughter and workplace manslaughter on April 5, 2019, charging that his repeated violations of OSHA's fall protection standards caused a worker fatality.





# expect from an OSHA Inspection

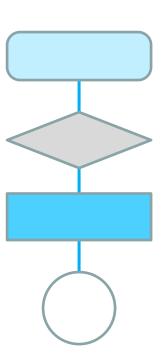






### The Inspection Process

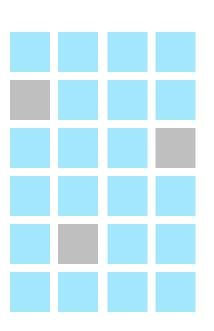
- Opening Conference
- Walk-around
- Closing Conference
- Contest/Resolution





### **Inspection Types**

- Un-programmed inspections
- Programmed inspections





### **Un-programmed Activity**

- Imminent Danger
- Fatality/Catastrophe
- Complaints/Referrals















### **Programmed Activity**

- Special Emphasis Programs
- Site-Specific Targeting

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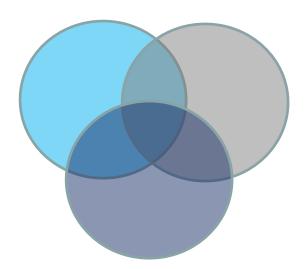
# OSHA Penalty Levels: 2023

Type of Violation	New Maximum
<ul><li>Serious and</li><li>Other-Than-Serious</li><li>Posting Requirements</li></ul>	\$15,625 per violation
Willful or Repeated	\$156,259 per violation
Failure to Abate	\$15,625 per day beyond the abatement date



### Penalty Adjustment Factors

- History
- Good Faith
- Size





### INSPECTION PRIORITIES

- Imminent Danger
- Fatalities and Catastrophes
- Complaints
  - Formal
  - Non-formal
- Referrals
- Programmed
- Follow Up





# **Company Representatives**



- From Supervisor, Foreman to Project/Office Manager— You represent the Company.
- What supervisors decide to do is treated as a corporate decision.
- If a company representative lets visible hazards go on or pays no attention to safety. BAD!



### **Inspection Process**

CSHO assigned case.

CSHO becomes familiar with the establishment.

- OSHA History.
- Nature of business
- Relevant standards that may apply.
- Equipment selection (Investigative tools, PPE, etc.)





### The Knock at the Door

- Inspection begins when CSHO arrives at establishment. (Hazards may already be observed when driving into the facility parking lot).
- Displays credentials.
- Employers should always ask to see ID.
- Employer can verify by phoning OSHA.
- And No we do not make appointments.



# Inspections- OSHA Rights

Authority to inspect (Osh Act)

"Enter without delay.....1903.3"

"Inspect and investigate...."





# One hour wait? Inspection Procedures

Field of Operations Manual.



When neither the person in charge nor a management official is present, contact may be made with the employer to request the presence of the owner, operator or management official. The inspection shall not be delayed unreasonably await the arrival of the employer representative. This delay <a href="mailto:should">should</a> <a href="mailto:normally not exceed one hour">normally not exceed one hour</a>. If the person in charge at the workplace cannot be determined, record the extent of the inquiry in the case file and proceed with the physical inspection.



### Opening Conference



- CSHO explains why facility is being inspected.
- Explains purpose and scope of the visit.
- Complaint copies distributed.
- Employee representative may be summoned.





### **Inspection Tour**



- Onsite Duration determined by CSHO
- Observe manufacturing/process and work practices.
- Interview employees and speak with employee representatives.
- Take photos, videos, instrument readings/air samples.
- CSHO will point out unsafe conditions.
- Recommend feasible abatement methods
- Examine training records.



### **Employee Interviews**

- OSHA's right to private interviews
  - -Subpoenas

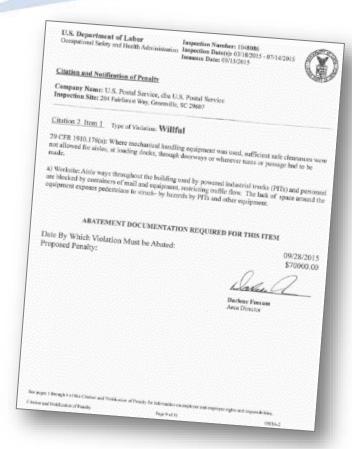
- Employees' Rights
  - -Speak with OSHA
  - Union Rep, or personal Rep
  - No Retaliation
  - No Employer Interference





### **Violation Elements**

- Applicable Standard
- Existence of Hazard
- Employee exposure to Hazard
- Employer Knowledge





### **Closing Conference**

 Hopefully ....you inform the employer that no hazards were observed during the inspection and thank you for your cooperation.



### **Closing Conference**

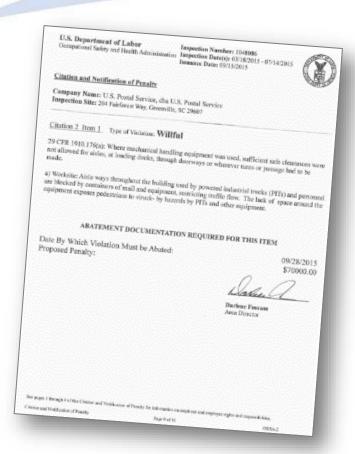
- Discussion of hazards, questions and answers.
- Discussion of apparent violations.
- Time needed for abatement.
- Incidents/accidents CSHO may inform you that the case is still open and the investigation is on going. (6 month statute)
- Only Area Director issues citations and assess \$\$\$
   amounts

# My company received an citation regarding our OSHA inspection, now what?



### **Violation Classification**

- Other-than-Serious
- Serious
- Repeated
- Willful





- Other Than Serious Violation
- Normally would not cause death or serious injury
- Up to \$ 15,625



- Serious Violation
- High probability of death or serious harm
- Mandatory \$ 15,625





- Repeat Violation
- Same or substantially similar, up to \$ 156,259 for each violation

2X

5X

10X



- Willful 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 \$ 15,625

### **Employer Options**

- Accept the citation
- Extend the abatement dates
- Contest the Citations.
- Request an informal conference.



Note – Employee representatives also receive a copy of citation.



### Appeals Process - Employers

- Employers can request informal conference
- Area Director
   authorized to enter
   into settlement
   agreements that
   revise citations





### **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

■ Litigation process begins ...







### Questions





# Thanks for your attention here today!

