

# ***Occupational Safety & Health Administration***



# Introduction to OSHA

- In 1970, the Occupational Safety and Health Act was passed by Congress. It's purpose: *"...to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources."*
- Signed Dec. 29,1970 and effective April 29, 1971.

# Agency Overview

- Federal OSHA is small. Combined with state enforcement there are roughly 1,850 inspectors.
- America has about 130 million workers employed at more than 8 million worksites nationwide.
- OSHA has one compliance officer for every 70,000 workers.
- Federal OSHA has 10 regional offices and 85 local area offices.

# OSHA Quick Facts

- Employees cannot be cited or fined.
- If a company doesn't pay its fines punishment can vary from arrest, to contempt charges, to potential imprisonment.
- OSHA can stop work on a site but cannot shut a business down.
- OSHA penalties are paid to the US Treasury, not directly to the agency.
- OSHA is part of Health and Human Services and is funded through taxpayer dollars.

# Top Ten Most Cited Violations FY-2021 Construction

1. **Fall Protection** (General Requirements)
2. **Ladders**
3. **Scaffolding**
4. **Fall Protection** (Training Requirements)
5. **Personal Protective Equipment** (Eye & Face)
6. **Personal Protective Equipment** (Hard Hats)
7. **General Safety & Health Provisions**
8. **Scaffolds** (Aerial Lifts)
9. **Excavation** (Specific Requirements)
10. **Hazard Communciation**

# OSHA's Directives

- Maintain reporting and recordkeeping.
- Establish training to increase safety education.
- Develop and enforce mandatory standards.
- Provide for State OSHA programs.

# Businesses covered by OSHA

- The act covers all fifty states, Washington DC, and all territories.
- Either Federal or State OSHA plans must be in place.
- State plans are partially funded by OSHA.
- State plans must cover state and local government workers just the same as private employees.

# Businesses not covered by OSHA

- Self-employed persons (no employees)
- Working conditions regulated by other federal agencies
  - Railroads
  - Mines
  - Interstate Highways
  - Agriculture



# Safety Responsibilities

- Employers...
  - are responsible for knowing the standards of their trade.
  - must ensure that employees have and use personal protective equipment when necessary.
  - must comply with all rules and regulations set forth by the standards.

# The General Duty Clause

- If OSHA has not created a specific standard, employers “shall furnish a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees.”

# On-Site Safety Responsibilities

- **Authorized or Designated Person** – an employee designated by the employer to perform specific duties or be present during specific operations.
- **Qualified Person** – one who has an extensive knowledge of a task or process and can resolve problems to minimize exposure
- **Competent Person** – one who can identify existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous and has the authority to take corrective action.

# Standard Producing Organizations

- **ANSI**

- *American National Standards Institute*
- Develop voluntary consensus standards for products and systems

- **ASTM**

- *American Society for Testing and Materials*
- Develop voluntary consensus standards for products and systems

- **ASME**

- *American Society of Mechanical Engineers*
- Establish codes and standards for mechanical devices

- **NFPA**

- *National Fire Protection Association*
- Create and maintain standards for fire prevention and suppression activities, training, and equipment
- Also create life-safety codes and standards
- Publishers of the National Electric Code (NEC)

# Workplace Inspections

An OSHA Compliance officer can:

- Enter any workplace where work is being performed at any reasonable time.
- Inspect and investigate all working conditions, equipment, and property of the employer with reasonable limits and manner.
- Conduct an inspection without advanced notice under special circumstances.

# “No Advanced Notice” Circumstances

- Imminent danger situations.
- Inspections that must take place after regular business hours.
- Inspection to ensure employer and employees would be present.
- Area Director Case, used to produce a more thorough inspection.

# Warrants

If the employer refuses admission, OSHA can obtain a warrant through Federal Magistrate Court.

- Based on 1978 Supreme Court ruling (Marshall v. Barlow's Inc.), OSHA may not inspect without employer's consent.

# Workplace Inspections

- Random Inspection
- Catastrophes and Fatal Incidents
- Employee Grievances
- Programmed Inspections
- Follow-Up Inspections



# OSHA Inspection Priority

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

# Random Inspection

- Random Inspections are performed when the inspector observes an imminent danger to life and/or health situation.
- The inspector observes a violation of the standards in plain view.

# Catastrophes and Fatal Incidents

- Employers will be required to notify OSHA of any work-related fatalities catastrophic incidents (3 or more hospitalized) within 8 hours
- Must notify OSHA for any single employee work-related in-patient hospitalizations, amputations or losses of an eye within 24 hours
  - *Toll Free Number: **1-800-321-6742(OSHA)***
  - *Investigations are made to determine if standards were violated and to avoid recurrence of similar incidents.*
  - *Must be recorded on OSHA 300 Log.*

# Employee Grievances

- *Formal complaint* comes from an active employee.
- *Non-Formal complaints* come from ex-employees or persons from the general public.
- Imminent danger complaints receive investigation.
- Serious and other-than-serious complaints receive a phone call to the employer and a fax detailing the complaint.

# Programmed Inspections

- Mostly aimed at high hazard industries such as:
  - steel erection
  - trenching/excavations
  - electrical installations
  - sites with numerous pieces of heavy equipment
- UTENN reports and accident data for these industries are sent to a data base that generates a lottery selection of companies.

# Follow-Up Inspections

- Purpose is to confirm that previous violations have been abated.
- Non-compliance poses stiff penalties.

# Opening Conference

- **Inspector Credentials-** Compliance officer will display upon arrival
- Credentials have photograph and serial number to use for verification at area office if desired.
- Inspector will ask for general contractor or owner after arriving.
- Will explain the reason for the visit: Complaints, programmed inspection, etc.

# Opening Conference

- If you are under consultation with Safe State, inspection is over.
- If the visit is the result of a complaint, a copy of the complaint will be provided.
- Employer will be asked to select an employer representative. Contractors can also choose representative.
- The inspector can interview a reasonable number of employees during the walk-around inspection.

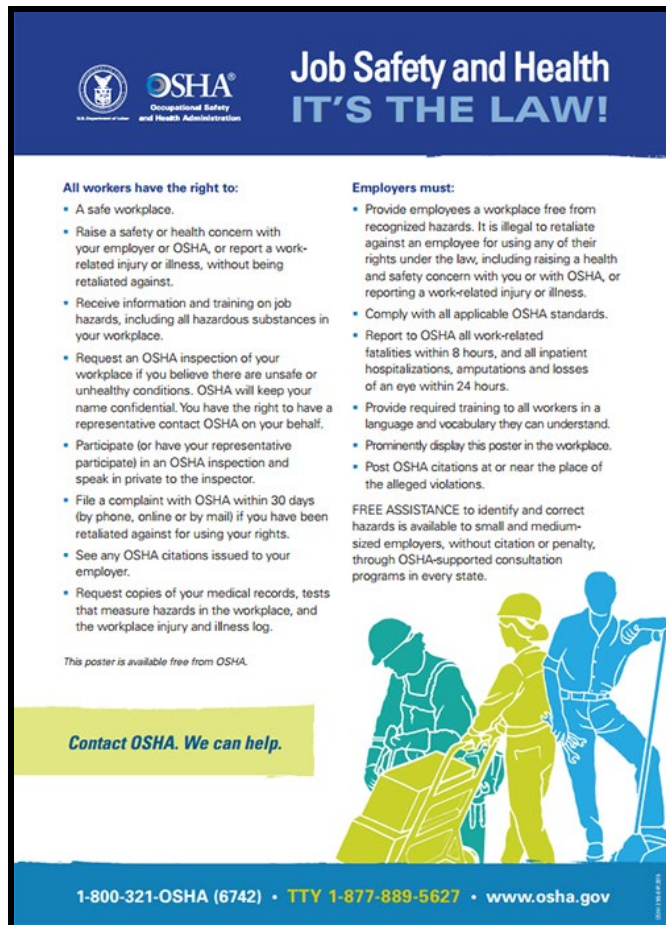


# Inspection Tour

- Efforts to minimize work interruptions will be made.
- Compliance officer determines route and duration of inspection.
- Inspector observes conditions, consults with employees, and takes pictures or videos of problems encountered.
- Trade secrets observed by inspector must be kept confidential and security clearance obtained if necessary.

# Inspection Tour

- Posting check for Construction  
OSHA Poster 3165



## Other posting requirements:

-Government work

-Businesses covered by the  
“Family Medical Leave Act”

-OSHA Poster 3167 (Spanish)

# Inspection Tour

- Recordkeeping, OSHA 300 Logs.
- Access to employee exposure and medical records may be examined. (Lead Tests, respirator tests, etc.)
- Inspector will point out unsafe and unhealthful working conditions and suggest corrective measures.

# Closing Conference

- Inspector discusses unsafe or unhealthful conditions which indicate violations.
- Inspector will not discuss dollar amounts for penalties.
- Inspector will not provide specific remedies for violations.
- Abatement times of violations are discussed and determined.
- Inspector finishes closing conference with explanation of other services i.e. web resources, materials for distribution, and consultation.

# Citations and Penalties

VIOLATION TYPE	PENALTY
<b>WILLFUL</b> A violation that the employer intentionally and knowingly commits or a violation that the employer commits with plain indifference to the law.	OSHA may propose penalties of up to \$136,532 for each willful violation, with a minimum penalty of \$9,753 for each willful violation.
<b>SERIOUS</b> 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.	There is a mandatory penalty for serious violations which may be up to \$13,653.
<b>OTHER-THAN-SERIOUS</b> A violation that has a direct relationship to 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.
<b>FAILURE TO ABATE</b> A violation must be removed or corrected in a specified amount of time.	Penalty until violation is abated of up to \$13,653 / day
<b>REPEATED</b> A violation that is the same or similar to a previous violation.	OSHA may propose penalties of up to \$136,532 for each repeated violation.

# Citations and Penalties

VIOLATION TYPE	PENALTY
Falsifying records or reports	≈\$20,000 maximum And/or six months in jail maximum
Violations of posting requirements can bring a civil penalty	\$13,653 maximum
Assaulting a compliance officer, intimidating, or interfering during an inspection	≈\$10,000 maximum and/or three years in jail
De Minimis Violations	Violations which have no direct relationship to safety or health.  These are documented but not included on the citations.

# Appeals

- Employer will receive citations by certified mail.
- Employer must post copy of citations at inspection location for three days or until violations are abated, whichever is longer.
- In most cases, citations received have already been reduced due to:
  - company size
  - good faith
  - history.
- Employer has 15 working days to respond to the citation

**Must pay the fine and address the hazard.**

*OR*

**Schedule a conference for an extended abatement period to contest a violation.**

**Contest must be in Writing.**

# Recordkeeping

## **Do you have to fill out the 300 logs?**

### Yes, if ...

- You have an incident resulting in a fatality or the in-patient hospitalization of three or more employees.
- The Bureau of Labor Statistics or OSHA informs you in writing that you must do so.

### No, if ...

- You had 10 or fewer employees during all of the last calendar year.
- Your business is classified in a specific low-hazard retail, service, finance, insurance, or real estate industry.



# Recordkeeping - Forms

- OSHA form 300
  - Log of Work-Related Injuries and Illness
  - Includes account of all recordable injuries and illnesses
- OSHA form 300A
  - Summary of Work-Related Injuries and Illnesses
  - Must be filed on an annual basis even if there are no injuries
  - Summary from the following year must be posted from February 1st to April 30th of current year
  - Must be certified by a company's highest officer
- OSHA form 301
  - Injuries and Illnesses Incident Report
  - Form must be filled out within 7 days of the occurrence of a recordable injury
  - Must be kept on file for 5 years

# Multi-Employer Worksite

- The regulations provide that on multi employer worksites, citations may be issued to employers whose actions **or failure to act** resulted in the exposure of employees to a workplace hazard, **regardless of whether the employer's own employees were exposed to the hazard.**

# Multi-Employer Worksite

- A ***multi-employer worksite*** is defined as a workplace where more than one employer (and his/her employees) work, but not necessarily at the same time.
- On multi-employer worksites, employers listed on the following page may be cited if there is evidence that an employee was exposed to a hazard:

# Multi-Employer Worksite

- **Exposing Employer** - The employer whose employees were exposed to the hazard.
- **Creating Employer** - The employer who actually created the hazard.
- **Controlling Employer** - The employer who was responsible by contract or actual practice for the safety of the site.
- **Correcting Employer** - The employer who had the responsibility for actually correcting the hazard.

# Issuance of Citation

- If the creating or correcting employer does not get rid of the hazard as quickly as possible, they may be cited.
- If employees of multiple trades are exposed to a hazard, citations can be issued to each employer as well as the company who created the hazard and the controlling employer.
- On multi-employer worksites, citations shall be issued to a contractor whose employees were exposed to hazards, unless the contractor meets ***all*** the conditions for a legitimate defense.

# Conditions for a Legitimate Defense

- The contractor did not create the hazard.
- The contractor did not have the responsibility or authority to have the hazard corrected.
- The contractor did not have the ability to correct or remove the hazard.

# Conditions for a Legitimate Defense

- The controlling and creating employers were specifically notified and made aware of the exposures.
- The employer (contractor) took appropriate steps by:
  - Instructing them on the potential hazards.
  - Educating them on how to avoid the hazard.
  - Removing his employees from the job if it was feasible, and there was no other means of protection.

# Alabama Safe State

- Free consultation service, **1-800-452-5928**
- All Alabama construction companies are eligible
- Consultation Procedure is the same as an OSHA visit (credentials, opening conference, walk-through, etc.)
- Compliance is voluntary
- Employer may request assistance in correcting an OSHA citation
- Safety & Health Program can be assessed



# Alabama Safe State

- Safe State will not issue citations or penalties for OSHA violations
- They will not guarantee that your workplace will pass an OSHA inspection
- They will not prescribe engineering designs or consultation firms to solve problems
- They will not report to you OSHA **unless** you refuse or fail to correct a hazard within an agreeable time frame.
- Posting requirements after the visit are the same as an OSHA visit.

# OSHA Online

- [www.osha.gov](http://www.osha.gov)
- **Topics**
  - Quick Search Tool
- **Inspection Data**
  - Workplace injury, illness, fatality statistics
  - Violation queries available by employer name, industry, or SIC code
- **Regulations**
  - All CFR's available for reference (General Industry and Construction)



# OSHA Online

- **Publications**
  - Pocket Guides
  - Brochures
  - Quick Reference Cards
  - Translated Materials
- **Training**
  - Regional OTI Centers
  - Training Schedules
  - Certifications
- **News**
  - Regional News Releases

