

OSHA Update HBA

PRESENTED BY:

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**Occupational
Safety and Health
Administration**

OSHA's Mission

- **To Assure So Far as Possible Every Working Man and Woman in the Nation Safe and Healthful Working Conditions...**



Secretary of Labor



- **Hilda Solis**
- **February 24, 2009**
- **Congresswoman from 2001 – 2009**
- **Green Jobs Act**
- **Vice Chair of the Helsinki Commission's General Committee on Democracy, Human Rights and Humanitarian Questions**
- **John F. Kennedy Profile in Courage Award in 2000**
- **First Latina elected to the California State Senate**
- **Worked in the Carter White House Office of Hispanic Affairs**
- **Undergraduate from California State Polytechnic Univ.**
- **Master of Public Administration from the Univ. of Southern California.**

Assistant Secretary



- David Michaels, PhD, MPH
- December 9, 2009
- Epidemiologist
- Professor of Environmental and Occupational Health at the George Washington University School of Public Health and Health Services, directing the department's Project on Scientific Knowledge and Public Policy.
- Assistant Secretary of Energy for Environment, Safety and Health.
- American Association for the Advancement of Science's Scientific Freedom and Responsibility Award.
- John P. McGovern Science and Society Award.
- Author of many scientific and policy publications, including *Doubt is Their Product: How Industry's War on Science Threatens Your Health*.
- Graduate of the City College of New York, and holds a Master in Public Health and PhD from Columbia University.

The National Scene

- **Transition Period**
“but not slowing down”
- **Enforcement**
- **Rulemaking**
- **Compliance Assistance**



Why Stronger Enforcement?

- **Although fatalities are dropping in numbers, there are still too many**
- **Florida still has a high number of fatalities**
- **Struck-by and falls still continue to be leading causes of death**
- **Latino workers are affected greatly**

Enforcement

- **April 22, 2010**
- **Administrative Enhancements to OSHA's Penalty Policies -**
<http://www.osha.gov/dep/penalty-change-memo.pdf>
- **New Severe Violator Enforcement Program (SVEP) program is aimed at employers who have demonstrated recalcitrance, or indifference, to their obligations under the OSH Act - Replaces the EEP2**

Enforcement

- In 2001, a 400,000 gallon tank full of sulphuric acid exploded at a Motiva refinery. A worker was killed and his body literally dissolved. The OSHA penalty was only \$175,000. Yet in the same incident, the discovery of thousands of dead fish and crabs allowed an EPA Clean Water Act violation of \$10 million — 50 times higher.

OSHA'S PENALTY POLICIES

HISTORY REDUCTION / INCREASE

- Timeframe for history reduction increased from 3 years to 5 years
- Inspected in the past 5 years with no serious, willful, repeat or FTA violations, 10% reduction for history
- Inspected in the past 5 years with serious violations that were not high gravity, 0% reduction for history
- Cited in the past 5 years for any high gravity serious, willful, repeat or FTA violation, 10% increase for history

OSHA'S PENALTY POLICIES SIZE REDUCTION

Employees	Percent Reduction
1-25	40 (was 60)
26-100	30 (was 40)
101-250	10 (was 20)
251 or more	None

OSHA'S PENALTY POLICIES

GOOD FAITH REDUCTION

- Current good faith procedures in the FOM retained [25%, 15% or 0% reduction]
- Employer must have a good safety and health program in place to get any good faith reduction
- No good faith reduction in cases of high gravity serious, willful, repeat or FTA violations
- 15% Quick Fix reduction retained
- 10% reduction for employers with a strategic partnership agreement will be eliminated

OSHA'S PENALTY POLICIES

Final Penalties Calculated Serially

- Penalty reductions were added together and applied
- History reduction applied, then good faith reduction, etc.
- A \$1,500 penalty for a High/Lesser violation with reductions of 10% for history, 15% for good faith, 15% for quick fix and 30% size will be \$2,275 when reductions are applied serially

Sample Data	Summed	Serially
High/Lesser		\$5,000.00
History (10%)		\$4,500 – 10%
Good Faith (15%)		\$3,825 – 15%
Quick Fix (15%)		\$3,251 – 15%
Size (30%)	10% + 15% + 15% + 30% = 70%	\$2,275 – 30%
Result	\$1,500	\$2,275

Area Director and Informal Conference Considerations

- Area Director retains authority to determine if a size or history reduction should be granted
- Area Director authorized to offer up to a 30 percent penalty reduction at an informal conference
- Additional 20% reduction may be offered to employer with 250 or fewer employees if they retain an outside safety and health consultant
- No penalty adjustments for employers with an outstanding penalty balance owed to OSHA

CONCLUSION

- The average penalty for a serious penalty will increase from approximately \$1,000 to an average of \$3,000 to \$4,000
- Higher penalties are hoped to provide a greater deterrent and further encourage employers to furnish safe and healthy workplaces for their employees
- Enhancements will become effective over the next several months

SEVERE VIOLATOR ENFORCEMENT PROGRAM (SVEP)

- Concentrate inspection resources on employers who have demonstrated recalcitrance or indifference to their OSH Act obligations by committing willful, repeated, or failure-to-abate violations in one of four circumstances

SVEP - CRITERIA

Any inspection that meets one or more of the following criteria at the time the citations are issued:

- Fatality inspection with one or more willful or repeat violations, or FTA notices based on a serious violation related to a death or 3 or more hospitalizations

SVEP – CRITERIA

continued

- An inspection in which OSHA finds **2** or more **willful** or **repeated** violations or **FTA** notices (or any combination) based on high gravity serious violations related to a **High-Emphasis Hazard** as defined in Section XII (fall hazards, amputation hazards, combustible dust hazards, silica hazards, lead hazards, excavation/trenching hazards, shipbreaking hazards)

SVEP – CRITERIA

continued

- An inspection in which OSHA finds **3** or more **willful** or **repeated** violations or **FTA** notices (or any combination) based on high gravity serious violations related to hazards due to the potential release of a highly hazardous chemical, as defined in the PSM standard

SVEP – CRITERIA

continued

- All **egregious** (e.g., per-instance citations) enforcement actions will be considered SVEP cases

Procedures of SVEP

- Enhanced Follow-up Inspections
- Nationwide Inspections of Related Workplaces/Worksites
- Increased Company Awareness of OSHA Enforcement
- Enhanced Settlement Provisions
- Federal Court Enforcement under Section 11(b) of the OSH Act

Enforcement - Rulemaking

- **Crystalline Silica -
Notice of Proposed
Rulemaking in
February 2011**



Enforcement - Rulemaking

- **Cranes and Derricks - OSHA plans to issue the final rule in July 2010.**
- **Florida Crane Alliance**



Enforcement - Rulemaking

- **Occupational Injury and Illness Recording and Reporting Requirements (Musculoskeletal Disorders) – Proposed rule to restore MSD column**



Enforcement - Rulemaking

- **Hazard Communication Standard - Global Harmonization System of Classification and Labeling of Chemicals**
- **Combustible Dust**



Injury and Illness Prevention Program

- Intended to provide employers with tools necessary to find and fix workplace safety and health hazards
- Projected to enhance worker's input and participation in the process
- Establish guidelines requiring employers to implement their own process that proactively addresses workplace safety and health hazards and ultimately reduces workplace injuries and illnesses
- Stakeholder meetings beginning in June 2010

Modernization of OSHA's Injury and Illness Data Collection Process

- May 5, 2010 – Stakeholder meetings and request for public comment
- Develop a modernized recordkeeping system in ways that will help OSHA, employers, employees, researchers and the public prevent workplace injuries and illnesses

Successful Programs Continue

- Site Specific Targeting List
- NEP Refineries
- NEP on Trenching
- Regional / Local Emphasis Programs:
 - Falls
 - Trenching
 - Overhead powerlines
 - Lead
 - Landscaping



Fall Protection Interim Guidelines

- Discussion of removing the guideline and residential construction falling under (b)(13)

Watch List for Trainers

- OSHA establishes "Watch List" to strengthen integrity of Outreach Training Program
- OSHA recently conducted an undercover investigation as part of its heightened effort to address fraudulent activity by trainers authorized through the OSHA Outreach Training Program.
 - Infractions included submitting falsified information regarding
 - the instructional time spent on the topics
 - failing to collect and retain required documentation
 - inappropriately advising students not to contact OSHA to report hazards.

OSHA's Cooperative Services

- Alliance Program
- Strategic Partnership Program
- Compliance Assistance
- Consultation Services
- SHARP
- Voluntary Protection Program (VPP)
- OTI & and OTI-Education Centers
- Publications, Posters, etc



On-Site Consultation Program

- Free, confidential advice to small and medium-sized businesses
- Priority to high-hazard worksites
- Separate from enforcement
- No penalties or citations
- Employers may qualify for a one-year exemption from routine inspections



Safety Florida Consultation Program
University of South Florida
13201 Bruce B. Downs Boulevard, MDC 56
Tampa, Florida 33612
1-866-273-1105



Region IV e-News



USDOL/OSHA

March 2008, Volume 12

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Swept Up In Safety Week Success Story

Compliance Officer Protects Employees from Being Struck By Bundle of Clay Bricks

On November 7, 2007, while driving through Gulf Shores, Alabama, during Region IV's *Swept up in Safety Week*, Compliance Safety and Health Officer (CSHO) Tuxberry Suber II observed a masonry contractor using a fabricated frame scaffold that had several potential OSHA safety problems. The concerns included a lack of guardrails, improper access, not fully planking the scaffold and possibly overloading the planks with a bundle of red clay bricks on the third level. The scaffolding planks were visibly bowed under the weight of the bricks. This resulted in possible employee exposure to fall and struck-by hazards while working on and around this scaffold. *(Continued on Page 2)*



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www.osha.gov

1-800-321-OSHA (6742)

Job Safety and Health It's the law!

OSHA
Occupational Safety
and Health Administration
U.S. Department of Labor

EMPLOYEES:

- You have the right to notify your employer or OSHA about workplace hazards. You may ask OSHA to keep your name confidential.
- You have the right to request an OSHA inspection if you believe that there are unsafe and unhealthful conditions in your workplace. You or your representative may participate in that inspection.
- You can file a complaint with OSHA within 30 days of retaliation or discrimination by your employer for making safety and health complaints or for exercising your rights under the OSH Act.
- You have the right to see OSHA citations issued to your employer. Your employer must post the citations at or near the place of the alleged violations.
- Your employer must correct workplace hazards by the date indicated on the citations and must certify that these hazards have been reduced or eliminated.
- You have the right to copies of your medical records and records of your exposures to toxic and harmful substances or conditions.
- Your employer must post this notice in your workplace.
- You must comply with all occupational safety and health standards issued under the OSH Act that apply to your own actions and conduct on the job.

EMPLOYERS:

- You must furnish your employees a place of employment free from recognized hazards.
- You must comply with the occupational safety and health standards issued under the OSH Act.

This free poster available from OSHA –
The Best Resource for Safety and Health



Free assistance in identifying and correcting hazards or complying with standards is available to employers, without citation or penalty, through OSHA-supported consultation programs in each state.

1-800-321-OSHA
www.osha.gov

OSHA 3091 (2-08)