Top 10 OSHA, PSM Violations, NEP Program and *How to Avoid Them and Deal with Them*

Troy Baker, CPT USA (ret)
Instructor & Board Member
ASTI

Agenda

- History, Stats and more
- OSHA Violations and Penalty Structure
  - How Much Can the Fines Be?
- Most Frequently Cited Standards in General Industry
  - What are the Most Common Violations?
- Avoiding Common Violations
  - What to Do to Avoid the Most Commonly Cited Items

42 years into this……

- Since OSHA started
  - Employment has doubled since 1970
  - Fatalities reduced from 38/day to 12/day
  - Injury/Illness rates have dropped 67%
  - Worker exposures to asbestos, lead and benzene have been significantly reduced
  - Cotton Dust standard has reduced rates of brown lung disease
  - Grain Standard has reduced grain elevator explosions
  - Blood-borne Pathogens standard has reduced needle stick and Hepatitis B exposures

What are they up to?

- Nationwide
  - 40,993 Inspections (Federal OSHA)
  - 57, 124 Inspections (State Plan OSHA)
  - 4,340 (2009) Fatalities
  - 37 Refinery
  - 164 Chemical
  - 24,376 Construction
  - 170 Significant Cases

OSHA Penalties
Penalty Reductions/Increases

- History
  - 10% History reduction if no serious, repeat, willful violations within last 5 years (have to be inspected)
  - 10% History increase if high gravity serious, repeat willful violations with last 5 years
- Repeat
  - Time period changed from 3 to 5 years
    - <250 employees times 2 for first repeat times 5 for second
    - >250 employees times 5 for first repeat times 10 for second

OSHA Penalties
Penalty Reductions/Increases

- Size reduction
  - 0% for 251 or more employees
  - 10% for 101 to 250 employees
  - 30% for 26 to 100 employees
  - 40% for 1 to 25 employees
- Good Faith
  - 0% if no safety and health program or high gravity serious, repeat or willful
  - 15% if employer has a documented and effective safety and health management system with only incidental deficiencies
  - 25% requires written safety and health management system and may be recommended in exceptional cases

OSHA Penalties
New Penalty Structure

Severity	Probability	GBP	Gravity
High	Greater	$7000	High
Medium	Greater	$6000	Moderate
Low	Greater	$5000	Moderate
High	Lesser	$5000	Moderate
Medium	Lesser	$4000	Moderate
Low	Lesser	$3000	Low

OSHA Penalties
Penalty Calculation Changes

- Old Method
  - GBP times (Size + Good Faith + History)
  - Example - $5000 X (30% + 15% + 10%) = $5000 X (55%) = **$1500**
- New Method
  - GBP times penalty reductions added serially
  - Example – History 10%, Good Faith 15%, Size 30%
    - $5000 – 10% = $4500
    - $4500 – 15% = $3825
    - $3825 – 30% = **$2677.50**

Violation Penalty Structure

- Civil and Criminal Penalties and Fines
- Criminal Penalties
  - Willful and Repeat Offenders
  - Serious Injuries and Fatalities Involved
  - Can Include a Monetary Fine or Jail Term or Both

- Criminal Penalties
  - Willful Violation with a Fatality – First Conviction
    - Fine: $250,000 per Individual, $500,000 per Organization
    - 6 Months in Prison
  - Willful Violation with a Fatality – Second Conviction
    - Fine: $250,000 per Individual, $500,000 per Organization
    - One Year in Prison

Fines and Penalties

- Civil Fines
  - Dependent on Severity of Violation
  - Increases for Repeats
  - Increases for Willful Violation
  - Subject to the egregious policy
- Egregious Policy (MULTIPLIER)
- Civil Penalties
  - Failure to Post (Up to $7,000)
- Civil Penalties
  - DeMinimus (None)
  - Other than Serious (Up to $7,000 each)
  - Serious (Minimum $100 each - Up to $7,000 each)
  - Willful (Minimum $5,000 each – Up to $70,000 each)
  - Repeat (Minimum $5,000 each - Up to $70,000 each)
  - Failure to Abate (Up to $7,000 per Day per Violation)

Top 10 Most Cited OSHA Violations (for 2012)

1. Fall Protection
2. Hazard Communication (Chemical Safety)
3. Scaffolding
4. Respiratory
5. Ladders
6. Machine Guarding
7. Power Industrial Trucks
8. Electrical Systems, Wiring Requirements
9. Lockout/Tagout, Control of hazardous
10. Electrical Systems, General Requirements

OSHA's Most Frequently Cited "SERIOUS" Violations

1. 1926.451 – Scaffolds
2. 1926.501 – Fall Protection
3. 1910.1200 – Hazard Communications
4. 1926.1053 – Ladders
5. 1910.147 – Lockout/Tagout
6. 1910.305 – Electrical Wiring Methods
7. 1910.178 – Powered Industrial Trucks
8. 1910.134 – Respiratory Protection
9. 1910.212 – Machine Guarding
10. 1910.303 – Electrical General Requirements

OSHA's Most Frequently Cited "WILLFUL" Violations

1. 1910.119 – Process Safety Management
2. 1926.403 – Electrical, General Requirements
3. 1926.21 – Safety Training and Education
4. 1910.272 – Grain Handling
5. 1926.501 – Fall Protection
6. 1926.652 – Requirements for Protective Systems
7. 1910.1025 - Lead
8. 1904.4 – Recordkeeping, Recording Criteria
9. 1904.7 – Recordkeeping, General Recording Criteria
10. 1910.335 – Safeguards for Personal Protection

WHERE IS OSHA TARGETING ITS INSPECTIONS????

- In the 2012 fiscal year, 63% of inspections have been the result of OSHA programs that target industries or facilities with high incident rates.
- The rest, 37% are due to fatalities, injuries or an employee complaint.

WHERE IS OSHA TARGETING ITS INSPECTIONS????

- Six out of ten inspections have been in the construction industry.
- 120+ inspections resulted in fines of more than $100,000.
- Sometimes, OSHA inspectors don't find any problems. That's been the case 22% of the time in 2012

FACT…….

- **OSHA finds an average of 3.1 violations per inspection. Of those, it classifies 81% in categories that mean higher fines for companies: serious, willful, repeat and failure to abate.**

********** **Inspections performed in 2012: 40,000+.**

********** **4,000+ WORKERS DIED ON THE JOB IN 2012**

FALL PROTECTION STANDARD 1926.501

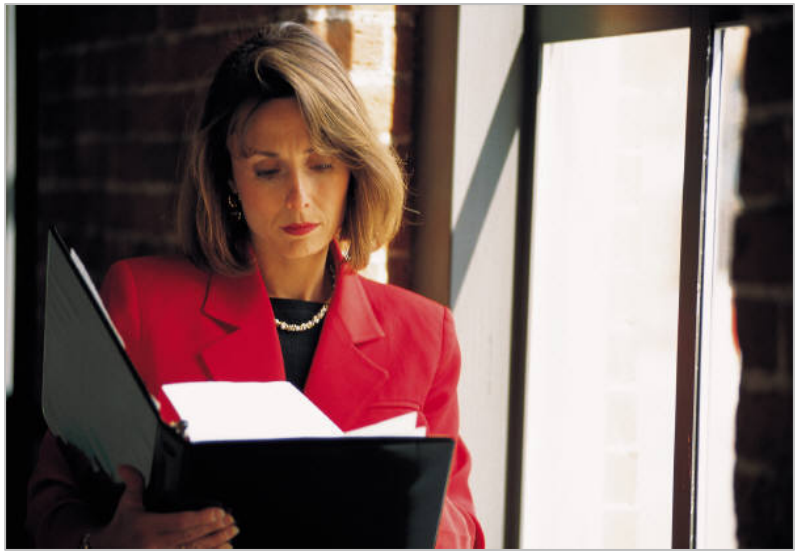
- Any time a worker is at a height of four feet or more, the worker is at risk and needs to be protected. Fall protection must be provided at four feet in general industry, five feet in maritime and six feet in construction.

FALL PROTECTION
29 CFR 1926.501

- The standard protects workers from falls above 6 feet (OSHA granted home owners an exemption under congressional pressure)
- Common problems are
  - Not guard open edges of floors
  - Training lacking
  - Workers step on insulation and go right through the roof to the floor below.

Hazard Communication 1910.1200(e)(1)

- **Number 5:** Hazard communication written program
  - The employer shall have a **written** hazard communication program.



HAZARD COMMUNICATION STANDARD 1910.1200

- Chemical manufacturers and importers are required to evaluate the hazards of the chemicals they produce or import, and prepare labels and safety data sheets to convey the hazard information to their downstream customers.

Most Cited Item #2

- Hazard Communication
  - 29 CFR 1910.1200

  1. Hazard Communication Written Program
  2. Information and Training
  3. Training for New Hazards
  4. Missing Material Safety Data Sheets
  5. Missing / Incorrect Labels

Hazard Communication

- Key Issues
  - Written Hazard Communication Program
  - Sharing Chemical Safety Information with Employees
    - Accurate Inventories
    - MSDS Available
    - Training
    - Labeling

- Action Plan
  - ❑ Develop a Site Specific Program
  - ❑ Inventory All Chemicals
  - ❑ Collect MSDS for All Identified Chemicals
  - ❑ Train Employees on Chemicals and Hazards
  - ❑ Ensure Correct Labeling and Storage

SCAFFOLDING
STANDARD 1926.451

- Scaffold accidents most often result from the planking or support giving way, or to the employee slipping or being struck by a falling object.

SCAFFOLDING
29 CFR 1926.451

- The standard protects workers from falls when working on scaffolds at heights of more than 10 feet.
- Common problems are
  - Failure to provide competent person to supervise
  - Scaffold decks less than 4 feet wide

RESPIRATORY PROTECTION STANDARD 1910.134

- Respirators protect workers against insufficient oxygen environments, harmful dusts, fogs, smokes, mists, gases, vapors and sprays. These hazards may cause cancer, lung impairment, other diseases or death.

RESPIRATORY PROTECTION
29 CFR 1910.134

- The standard requires respirator use to protect workers from toxic fumes or other breathing hazards.
- Common problems are
  - Failure to perform air monitoring or require workers to wear respirators
  - Fairly labor intensive standard

LADDERS
STANDARD 1926.1053

- Occupational fatalities caused by falls remain a serious public health problem. The US Department of Labor (DOL) lists falls as one of the leading causes of traumatic occupational death, accounting for eight percent of all occupational fatalities from trauma.

MACHINE GUARDING- GENERAL REQUIREMENTS STANDARD 1910.212

- Any machine part, function, or process that may cause injury must be safeguarded. When the operation of a machine or accidental contact injures the operator or others in the vicinity, the hazards must be eliminated or controlled.

Most Cited Item #1

- Machine Guarding Issues
  - 29 CFR 1910.212, 215, & 219

  1. General Machine Guarding Violations
  2. Point of Operation
  3. Grinders – Tongue Guards
  4. Exposed Pulleys
  5. Grinders – Work Rests

Machine Guarding

- Key Issues
  - Prevent Potential Contact with All Moving Machinery and Energy Sources
    - Point of Operation
    - Motions
      - Rotating
      - Reciprocating
      - Transversing
    - Action
      - Punching
      - Cutting
      - Shearing
      - Bending

- Action Plan
  - ❑ Inventory All Machinery at the Facility
  - ❑ Examine Each Machine for Hazardous Motions, Actions, and Energies
  - ❑ Implement a Safeguard for Every Identified Hazard
  - ❑ Train Employees Not to Defeat Safeguards
  - ❑ Train Employees in Proper Operation and Service of Machinery

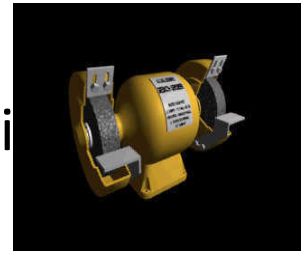
Machine Guarding 1910.212 (a)(1)

- **Number 1:** General requirements for all machines
  - One or more methods of machine guarding must be provided to protect the operator and other employees in the machine area from hazards such as:
    - Point of operation
    - Ingoing nip points
    - Rotating parts
    - Flying chips and sparks

Machine Guarding

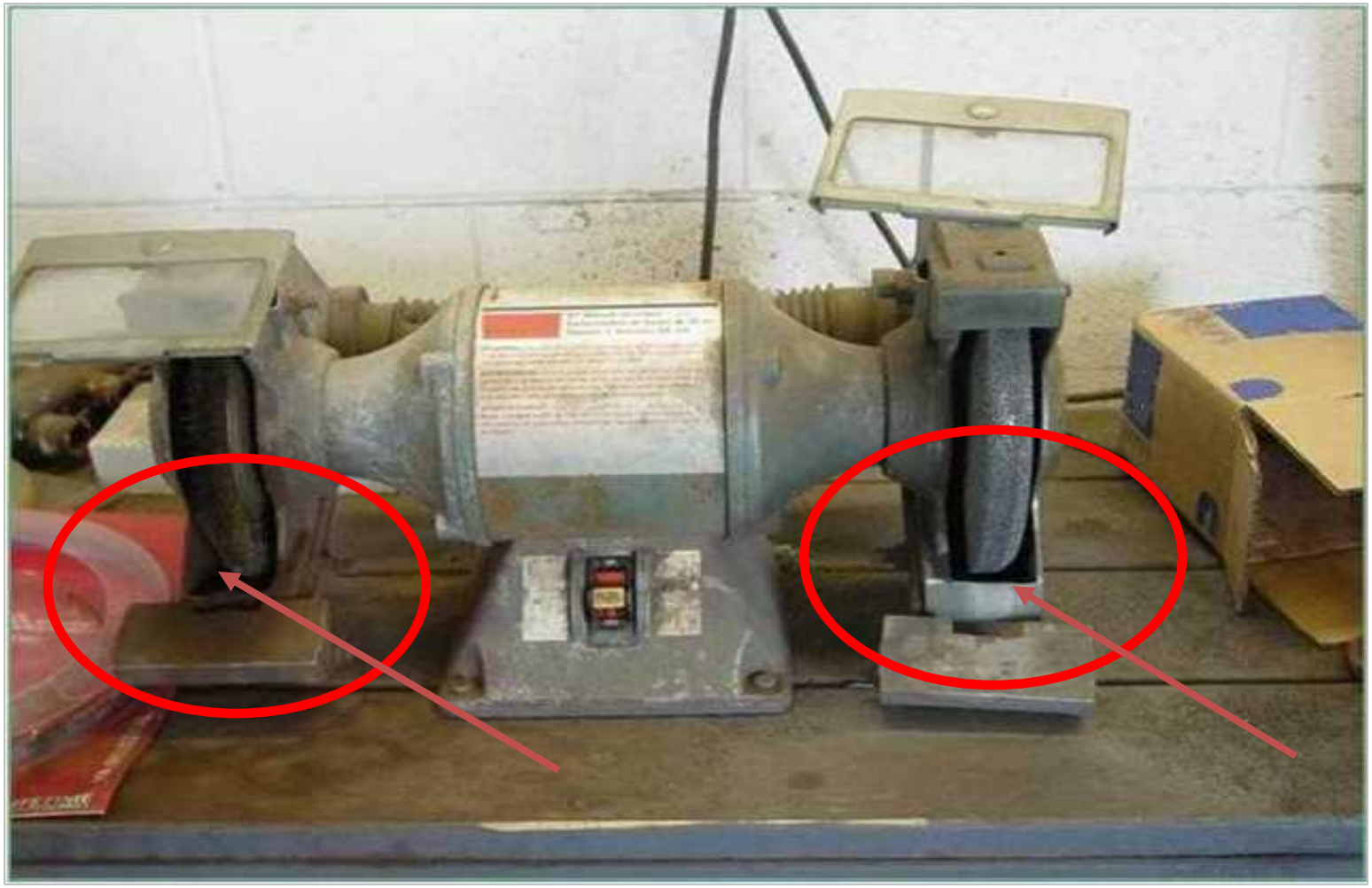
1910.215(a)(4)

- **Number 7:** Abrasive wheel machinery
  - On offhand grinding machines, work rests must be used to support the work.
    - Work rest must be kept adjusted closely to the wheel with a maximum opening of **⅛ inch**.
    - Work rest must be securely clamped after adjustment.
    - Work rest cannot be adjusted with wheel i



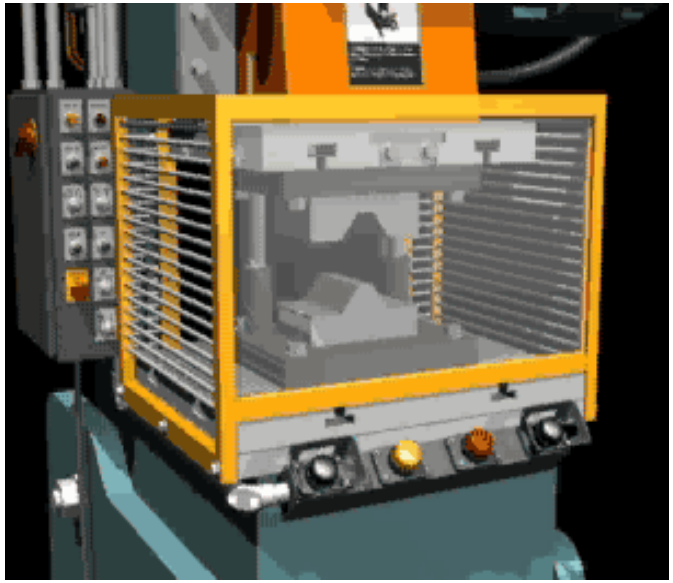
Machine Guarding: Bench Grinder

1910.215(a)(4)



Machine Guarding

1910.212(a)(1)



- Guards
  - Fixed
  - Interlocked
  - Adjustable
  - Self-adjusting
- Aids
  - Awareness barriers
  - Protective shields
  - Hand-feeding tools and holding fixtures

Machine Guarding

1910.212(a)(1)

- Devices
  - Presence sensing
  - Pullback
  - Safety controls
  - Gates

- Location/distance

POWERED INDUSTRIAL TRUCKS STANDARD 1910.178

- Each year, tens of thousands of injuries related to powered industrial trucks (PIT), or forklifts, occur in US workplaces. Many employees are injured when lift trucks are inadvertently driven off loading docks, lifts fall between docks and an unsecured trailer, they are struck by a lift truck, or when they fall while on elevated pallets/tines.

Most Cited #6

- Industrial Trucks
  - 29 CFR 1910.176 & 178

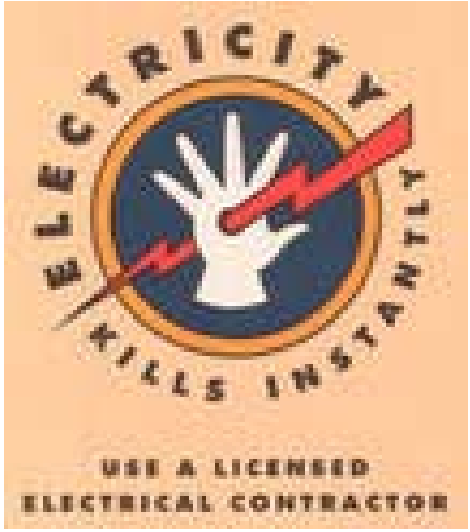
  1. Operator Competency and Training
  2. Truck Operating Condition
  3. Secured Storage

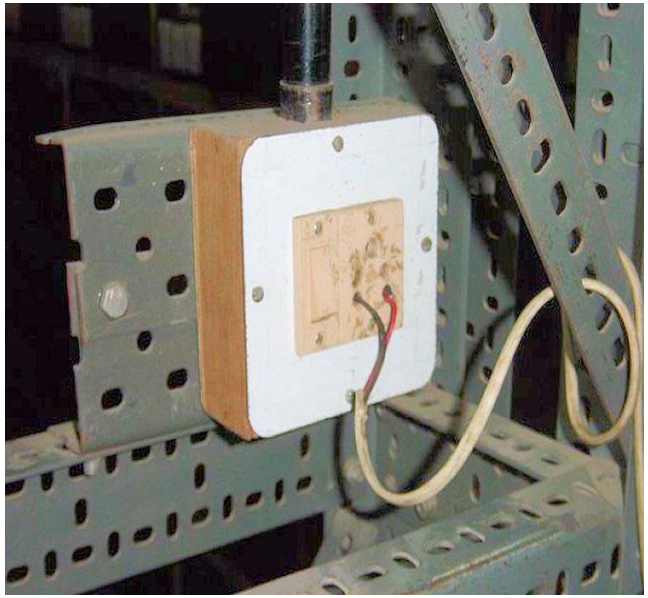
Industrial Trucks

- Key Issues
  - Operator Training and Certification
  - Forklift Operating Conditions and Safety Equipment
  - Handling Large, Heavy, and Awkward Loads
- Action Plan
  - ❑ Identify Employees Who Drive Industrial trucks
  - ❑ Train Employees – Include Hands-on Demonstration and Certification of Skills
  - ❑ Monitor Driving and Load Handling and Correct Behaviors as Needed

ELECTRICAL-WIRING METHODS STANDARD 1910.305

- This standard covers the grounding of electrical equipment, wiring & insulation. It includes temporary wiring & splicing such as flexible cords & cables.





ELECTRICAL – WIRING
29 CFR 1910.305

- The standard covers the grounding of electrical equipment, wiring and insulation.
- Common problems are
  - Lack of proper grounding
  - Unused openings in electrical devices
  - Failure to provide approved covers for junctions and fittings for boxes.

Most Cited Item #9

- Lockout Tagout
  - 29 CFR 1910.147

  1. Lockout Tagout Written Program
  2. Lockout Tagout Machine Specific Procedures
  3. Training
  4. Periodic Inspections
  5. Content / Quality of Energy Control Procedures

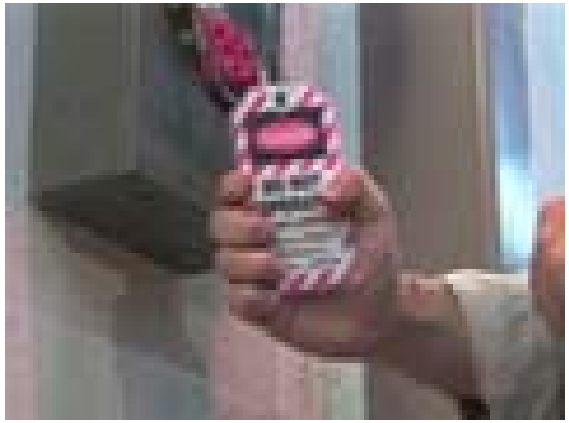
Lockout Tagout

- Key Issues
  - Written Energy Control Program
  - Written Procedure for Each Machine, Process, or System
  - Readily Identifiable Lockouts Occurring
  - Training
  - Auditing and Follow-up

- Action Plan
  - ❑ Develop a Site Specific Program
  - ❑ Develop a Specific Procedure for Each Machine or Process
  - ❑ Train Employees
  - ❑ Provide Appropriate Locks, Tags, Etc.
  - ❑ Frequent Program Audits (Routine and Non-Routine Tasks)

LOCKOUT/TAGOUT STANDARD1910.147

- "Lockout-Tag out" refers to specific practices and procedures to safeguard employees from the unexpected startup of machinery and equipment, or the release of hazardous energy during service or maintenance activities.



Most Cited #10

- Electrical Safety
  - 29 CFR 1910.303, 304, & 305

  1. Conductor Protection from Abrasion
  2. Exposed Live Parts
  3. Inadequate Grounding
  4. Missing Electrical Box Covers
  5. No Strain Relief on Flexible Cords and Cables

Electrical Safety

- Key Issues
  - Prevent Contact with Live Electrical Parts
    - Guarding
    - Maintenance of Connectors, Covers, Boxes, Etc.
    - Training
    - Lockout Tagout Program
    - Labeling

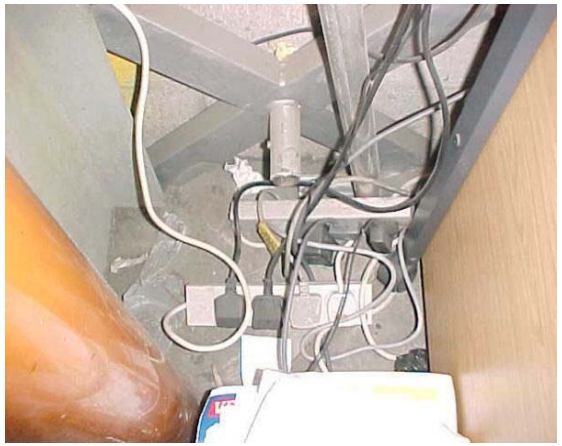
- Action Plan
  - ❑ Examine Electrical Equipment at the Site
  - ❑ Identify All Potential Exposures to Live Parts
  - ❑ Repair or Replace Damaged Equipment As Soon as Identified
  - ❑ Train Employees on Basic Safe Practices

ELECTRICAL-GENERAL REQUIREMENTS STANDARD 1910.303

- This standard covers general safety requirements for designing electrical systems

EX:

- Failure to use/install equipment in accordance w/factory instructions,
- Failure to guard live parts,
- Failure to ensure electrical equipment is free from recognized hazards.



Electrical

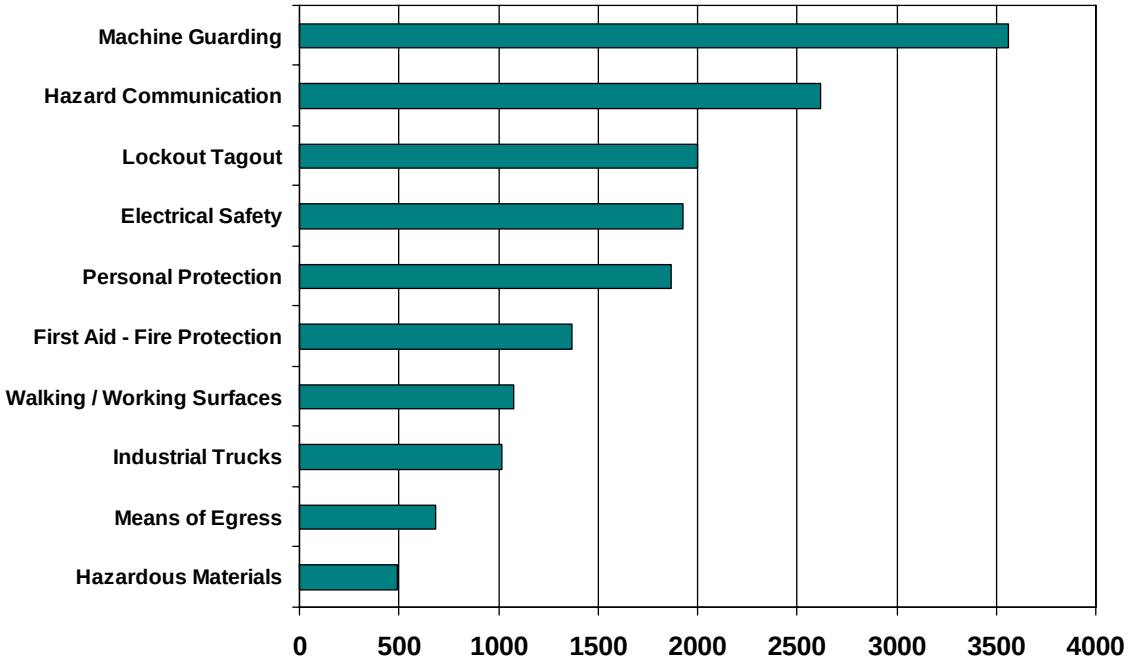
1910.304(g)(5)

- **Number 8:** Grounding path
  - The path to ground from circuits, equipment, and enclosures shall be permanent and continuous and effectiv

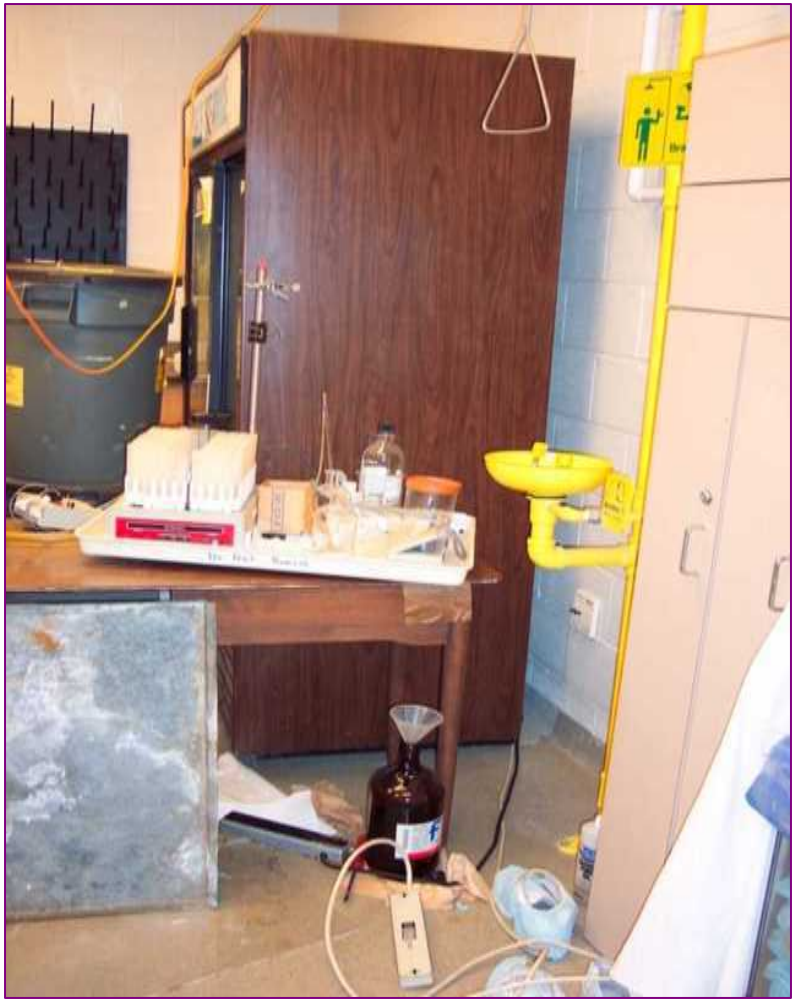
Electrical Grounding

1910.304(g)(5)

Most Frequently Cited Items Over the Past Decade



Emergency Eye Wash/Safety Shower



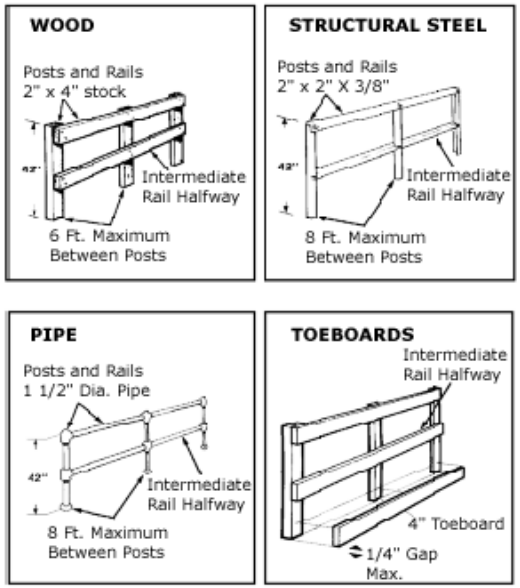
Eye and Face Protection 1910.133(a)(1)

- **Number 6:** General requirements
  - Use appropriate eye or face protection when exposed to eye or face hazards:
    - Hazards from flying particles
    - Molten metal
    - Liquid chemicals
    - Acids or caustic liquids
    - Chemical gases or vapors
    - Potentially injurious light radiation

Eye and Face Protection 1910.133(a)(1)

Walking/working Surfaces 1910.23(c)(1)

- **Number 10:** Walking/working surfaces
  - Railing required for open-sided floors/platforms 4 feet or more above adjacent level.



Proper construction and specifications for guardrails

Most Cited #4

- Personal Protection
  - 29 CFR 1910.132, 133, & 134

1. Eye and Face Protection
2. General PPE
3. Hazard Assessments
4. Written Respiratory Protection Program
5. Respirator Medical Evaluation

Personal Protection

- Key Issues
  - Evaluation and Certification of Requirements
  - Supplying Appropriate PPE
  - Maintaining PPE in Good Condition
  - Training on Use and Limitations
  - Engineering Controls

- Action Plan
  - ❑ Examine Each Job Task to Identify Hazards
  - ❑ Engineer Out Hazards if Possible
  - ❑ Develop PPE Assessments
  - ❑ Certify PPE Assessments
  - ❑ Supply PPE for Hazards as Appropriate
  - ❑ Respiratory Protection Programs
  - ❑ Train Employees

Most Cited #10

- Hazardous Materials
  - 29 CFR 1910.101, 106, & 107

  1. Compressed Gas Handling, Storage, and Use
  2. Flammable Liquids Dispensing
  3. Spray Booth Ventilation
  4. Spray Areas – Electrical Wiring
  5. Spray Areas – Combustible Residue

Hazardous Materials

- Key Issues
  - Handling, Storage, and Disposal
    - Compressed Gases
    - Flammable Liquids
    - Hazardous Chemicals
    - Flammable and Combustible Painting
  - Housekeeping to Reduce Fire and Health Hazards
- Action Plan
  - ❑ Identify Areas Where Specialty Chemicals are Being Used
  - ❑ Examine Specific OSHA Requirements
  - ❑ Train Employees
  - ❑ Conduct Routine Housekeeping Inspections

Other Standards to Evaluate

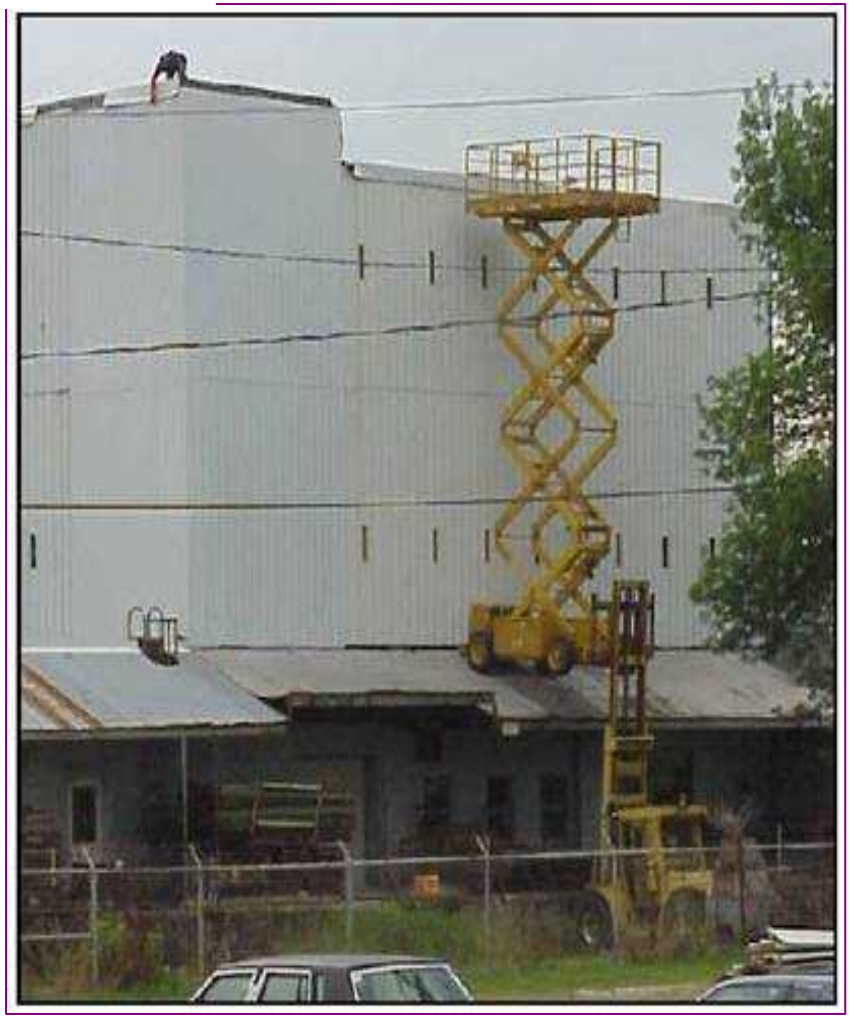
- Permit Required Confined Space Entry
- Hearing Conservation
- Welding, Cutting, and Brazing
- Hand and Power Tools
- Powered Platforms
- HAZWOPER
- Specific Chemical Standards
- Laboratory Safety
- Special Industry Standards
  - Pulp and Paper
  - Textiles
  - Bakery Equipment
  - Laundry Machines
  - Sawmills
  - Logging
  - Telecommunications
  - Electric Power Generation
  - Grain Handling

General Duty Clause)

- **Number 2:** Each employer shall furnish to each of his employees conditions of employment and a place of employment free from recognized hazards that are causing or likely to cause death or serious injury or serious physical harm to his employees.
  - Recognized hazard in the industry
  - Hazard causing or likely to cause death or serious injury or harm
  - Employer cited has employees exposed to hazard
  - There is a feasible and useful method to correct the hazard

General Duty Clause

General Duty Clause



OSHA General Duty Clause

- Section 5(a)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654), often referred to as the General Duty Clause, requires employers to "furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees."

PSM Covered Chemical Facilities National Emphasis Program

PROCESS SAFETY MANAGEMENT

Purpose

Prevention or minimization of the consequences of catastrophic releases of toxic, reactive, flammable, or explosive chemicals

PSM NATIONAL EMPHASIS PROGRAM

PSM Refinery NEP

- **OSHA initiated the Refinery NEP in 2007 to address catastrophic releases of *highly hazardous chemicals* at refineries (SIC 2911)**
- **Region VI has conducted 17 refinery NEP inspections**
- **Region VI will conduct an additional 15 refinery NEP inspections over the next two years.**

Pilot Chemical NEP

- Pilot National Emphasis Program (NEP) to reduce or eliminate the workplace hazards associated with the catastrophic release of highly hazardous chemicals.
- Programmed inspections will take place in Regions I, VII and X.
- Unprogrammed inspections OSHA-wide.
- Pilot program will be effective for one year.

PSM STANDARD (1910.119)

Application

- A process which involves a chemical at or above the specified threshold quantities listed in Appendix A (136)
- A process which involves a flammable liquid or gas (defined in 1910.1200(c)) on site in one location, in a quantity of 10,000 pounds (4535.9 kg) or more (with some exceptions).

PSM STANDARD

- Process Safety Information (PSI)
- Process Hazard Analysis (PHA)
- Operating Procedures
- Pre-startup Safety Review
- Mechanical integrity

PSM STANDARD

- Contractor Evaluation/Performance
- Management of change
- Incident investigation
- Emergency planning and response
- Compliance Audits

National Emphasis Programs

- Site Specific Targeting (SST)
- Amputations
- Crystalline Silica
- Combustible Dust
- Hexavalent Chromium
- Recordkeeping
- Petroleum Refinery PSM
- PSM Chemicals
- Trenching & Excavation
- Federal Agency Targeting
- Shipbreaking
- Food Flavorings (Diacetyl)
- Air Traffic Control Towers (FAA)

NEP Targeting Sources

- OSHA will use four sources for targeting
- U.S. EPA Chemical Accident Prevention Provisions, RMP 3
- Explosives manufacturing NAICS codes
- OSHA's IMIS database
- OSHA Area Office knowledge of local facilities.

SITE SELECTION

- Regions I, VII and X will conduct programmed (target list) NEP inspections
- Region VI Site Specific Targeting (SST) Plan inspections
- Region VI Unprogrammed Inspections

  Complaints, Referrals, Accidents and Catastrophes

AMMONIA

and

CHLORINE

Chemical NEP Inspection Plan

- OSHA will select one or more units and use a dynamic list of questions to review compliance.
- OSHA will not publicly disclose the dynamic lists
- OSHA will develop dynamic lists in 5 categories: PSM General, Ammonia Refrigeration, Storage, Water and/or Wastewater Treatment, and Chemical Processing.
- Inspection emphasis on implementation over documentation.

Chemical NEP Inspection Plan

- OSHA to inspect host and contract employers
- Contractors (including subcontractors) working on or adjacent to the Selected Unit
- OSHA will use the applicable questions in the dynamic list to evaluate contractor compliance
- Includes construction contractors working on or adjacent to the Selected Unit(s)

Selection of Unit

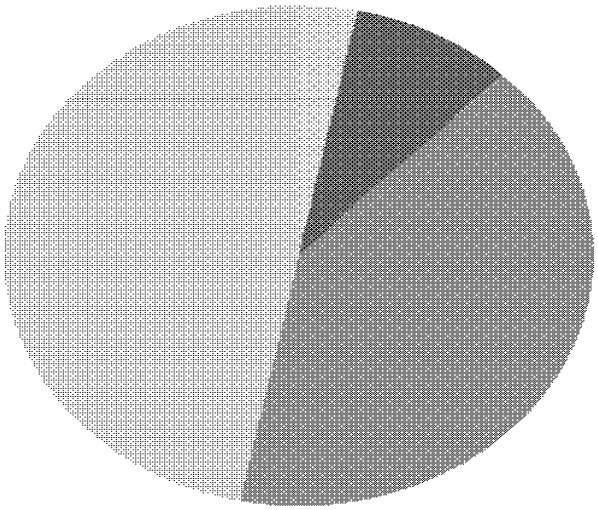
- OSHA shall select a PSM-covered process(es)
- For large continuous processes, OSHA may select a portion of the covered process (the Selected Unit(s))
- Selection will be based on factors such as:
- Risk of releasing flammables and toxic substances
- Operating pressures/temperatures
- Quantity of chemicals present
- Incident reports and other history
- Age of the process unit
- Employee representative input

Chemical NEP Outreach

- The OSHA Training Institute will develop chemical plant PSM information and training materials.
- OSHA to develop outreach programs that will support their enforcement efforts.
- Outreach products and activities include: letters and news releases, seminars on chemical plant process safety topics, coordination with OSHA's cooperative program participants, including Voluntary Protection Programs, Strategic Partnership, and Alliance.
- OSHA will disseminate agency compliance assistance resources as well as work with Alliance Program participants to develop and disseminate additional resources to support Agency efforts.

Chem NEP Inspections – Facility Type

Total Inspections
(programmed + unprogrammed)



3%	Chlorine
9%	Contractor
41%	NH3 Refrigeration
47%	Other

"Other" includes all other covered chemical processes except petroleum refining which is exempted from the ChemNEP

OSHA STANDARDS

Standards that Apply

- 1910.132, Personal protective equipment, general requirements
- 1910.134, Respiratory protection
- 1910.1200, Hazard communication
- 1910.1450, Occupational exposure to hazardous chemicals in laboratories

Chem NEP Inspections –

- 6[redacted] standards cited:
- • 5 major standards categories
- – 1910 General Industry
- – 1904 Record Keeping
- – 5a1 General Duty
- – 1926 Construction
- – 1903 Inspections (abatement verification)

- • 1,487 total proposed violations
- • $5,464,553 total proposed penalties

NEP 1910 Violations

Top Twelve 1910 Standards Violated

	Description	#	Cum %
1910.119	Process Safety Management	891	59.9
1910.147	Lockout / Tagout	55	63.6
1910.120	Haz Waste & Emergency Response	47	66.8
1910.134	Respiratory Protection	36	69.2
1904.029	Forms (Record Keeping)	31	71.3
1910.023	Guarding Openings	31	73.4
1910.305	Electrical	22	74.8

NEP Citation by PSM

Chem NEP Citations by PSM Element

Element	Description	% of PSM Citations
j	Mechanical Integrity	23.2%
d	Process Safety Information	20.9%
e	Process Hazard Analysis	15.8%
f	Operating Procedures	14.0%
l	Management of Change	5.5%
o	Compliance Audits	4.5%
g	Training	3.8%
h	Contractors	3.4%
c	Employee participation	2.8%
m	Incident Investigation	2.6%
n	Emergency Planning & Response	1.8%
i	Pre-startup Review	1.1%

OSHA
RECORDKEEPING ISSUES

II. Recordkeeping Issues

- Recordkeeping/Retention Documents
  - OSHA 300 logs
  - OSHA 300A logs
    - Annual Summary
  - OSHA 301
    - Incident Report
  - Privacy Case List

1. Recordkeeping Issues *(con't.)*

B. OSHA 300 log

- Separate establishment
  - Must keep separate 300 logs for each establishment in operation for one year or longer
  - Establishment is a single physical location where business is conducted or where services or industrial operations are performed
- Blanks
  - Blanks in the entries of log
    - Source of injury
    - Days away from work or restricted duty

1. Recordkeeping Issues *(con't.)*

3. Data Must Be Consistent
   - Data not consistent with the injury or illness entered
     - Machinist – multiple broken bones – right hand
     - Carpenter – broken ankle
4. Employment Issues
   - All employee injuries must be tracked (laborers, executives, hourly, salary, sales, part-time, seasonal)
   - Exception: In a sole proprietorship or partnership, the owner or partners are not considered employees but self employed
   - Leased/contracted employee – under day-to-day supervision – contractor responsible

1. Recordkeeping Issues *(con't.)*

C. OSHA 300A

- Must be certified and signed by company executive
- Company executive is
  1. Owner
  2. Partner
  3. Officer of corporation
  4. Highest ranking official of company at that establishment
- Must be properly completed

  SIC Code

  Employment Information

1. Recordkeeping Issues *(con't.)*

- Must be posted
  - At establishment
  - Customarily, conspicuous place for postings
  - Employer's responsibility to ensure not altered, defaced, or covered
  - Maintain posting from February 1 until April 30
- Maintain record with signature for 5 years

D. 301 Incident Report

- Correlation with 300 log
  - Must have a 301 or equivalent for each entry in the OSHA 300 log
  - The report must be completed within 7 days of recordable incident
- Do not have an obligation to update the 301 report

4. Recordkeeping Issues *(con't.)*

- Maintain these records for 5 years following the end of the calendar year that they cover
- Production
  - Employee, former employee, or personal rep asked for a copy of 301 report regarding a specific injury or illness, you must provide a copy by the next business day
  - If a union rep asks for copies of the 301 report for an establishment, you must provide the copies within 7 calendar days
    - However, you can only give the union rep the information from the section entitled "Tell Us About the Case"
    - All other information must be redacted

III. National Emphasis – Recordkeeping

- Goal – Target under-recording of illness and injuries
  - Question validity of construction injury reportability
- Does Not Cover:
  - Public sector employers
  - Partnerships
  - VPP / Sharps
  - New Ownership after December 31, 2008

III. National Emphasis – Recordkeeping *(con't.)*

- Inspection
  - 1904.40(a) – recordkeeping records must be produced within 4 business hours
  - Records include:
    - Logs – 5 years
    - Medical records
    - Work comp records
    - Insurance records
    - Payroll records
    - First aid logs
    - Emergency reports
    - Safety incident reports
    - Employment work assignment records

III. National Emphasis – Recordkeeping *(con't.)*

- Records Reviewed
  - Less then 100 employees – all
  - Between 101 and 250 – 50%
  - Over 250 – 33%

  Can expand inspection if issues discovered
- Interview the recordkeeper
- Interview injured/ill employees
- Interview first aid providers and healthcare providers
- Interview management representative

III. National Emphasis – Recordkeeping *(con't.)*

- Citations
  - Employers will not be cited for over-reporting
  - Can issue violation by violation citations and penalties

Don’t make the list….

- “Stop them all and Keep ‘em Small”
- Prepare
- Coordinate
- Train
- Review
- Retrain
- Readiness

2012 Penalty box

- The list of OSHA's highest proposed monetary penalties in fiscal year 2012
- **$1.01 million**
  Company: Piping Technology and Products Inc.
  Location: Houston (OSHA Region 6)
  Business type: Manufacturer
  Inspection trigger: Worker complaint
- **$758,450**
  Company: All-Feed Processing & Packaging Inc.
  Location: Galva, IL (OSHA Region 5)
  Business type: Pet food production and packaging
  Inspection trigger: Not provided
- **$702,300**
  Company: Tribe Mediterranean Foods
  Location: Taunton, MA (OSHA Region 1)
  Business type: Food manufacturer
  Inspection trigger: Worker death

2012 Penalty Box

- **$[redacted]89,200**
  Company: DeMoulas Supermarkets Inc., doing business as Market Basket
  Location: Rindge and Concord, NH (OSHA Region 1)
  Business type: Grocery store
  Inspection trigger: Worker injury

- **$480,000**
  Company: Welch Group Environmental LLP
  Location: Delray Beach, FL (OSHA Region 4)
  Business type: Gun range cleaning and lead recovery services
  Inspection trigger: National and Regional Emphasis Programs for lead
- **$473,000**
  Company: Raani Corp.
  Location: Bedford Park, IL (OSHA Region 5)
  Business type: Health care product manufacturer
  Inspection trigger: Worker death

2012 Penalty Box

- **$[redacted]420**
  Company: JSW Steel (USA) Inc.
  Location: Baytown, TX (OSHA Region 6)
  Business type: Steel manufacturer
  Inspection trigger: Worker complaints

- **$468,000**
  Company: Boomerang Tube LLC
  Location: Liberty, TX (OSHA Region 6)
  Business type: Tube manufacturer
  Inspection trigger: Worker complaint/worker injury

- **$463,350**
  Company: Altura Concrete Inc., Nathil Corp., White Diamonds Properties LLC, and Blade Contracting Inc.
  Location: Jersey City, NJ (OSHA Region 2)
  Business type: Contractors
  Inspection trigger: Not provided

- **$422,600**
  Company: Bridgford Foods Corp.
  Location: Dallas (OSHA Region 6)
  Business Type: Frozen food producer
  Inspection Trigger: Not provided

Thanks

- Any Questions?