

OSHA

Inspections



Citations

Multi-Employer Worksites

& Focused Inspections



OSHA

Inspections

Inspections - OSHA's Rights

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



Inspection Priorities

- *Imminent Danger*, given top priority
- Employees notify employer of imminent danger
- If no action taken, notify OSHA



Inspection Priorities

- *Catastrophes and Fatal Accidents*, given second priority



Inspection Priorities

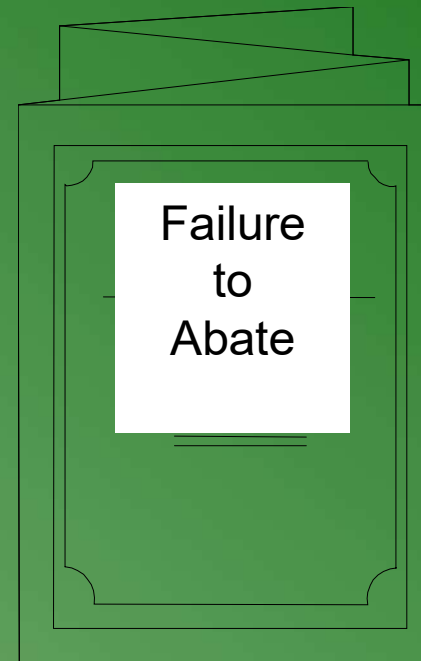
- *Employee Complaints*, Third priority
- Referrals from employees & outside agencies of unsafe or unhealthful conditions
- Informal review available for decisions not to inspect
- Confidentiality is maintained on request

Inspection Priorities

- *Programmed High-Hazard Inspections*, given 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

- Compliance officer becomes familiar with facility
- History
- Nature of business
- Relevant standards
- IH equipment selection



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



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



Inspection Tour

- CHSO will point out unsafe conditions observed & possible corrective action if employer requests
- Apparent violations can be corrected immediately
- May still result in citation



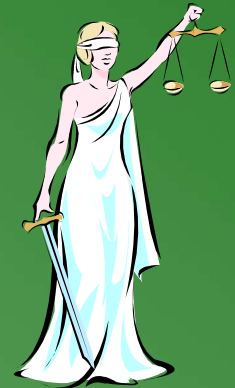
Closing Conference

- 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 \$ 7,000
- 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
- Mandatory \$ 7,000
- Adjusted downward:
 - Good faith
 - Gravity of alleged violation
 - Violation history
 - Size of business



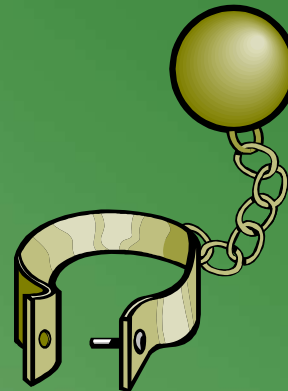
Types of Violations

- **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 \$ 70,000 for each
- Minimum of \$ 5,000



Types of Violations

- **Willful Violation**
- 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

- **Repeat Violation**
- Same or substantially similar, up to \$ 70,000 for each violation



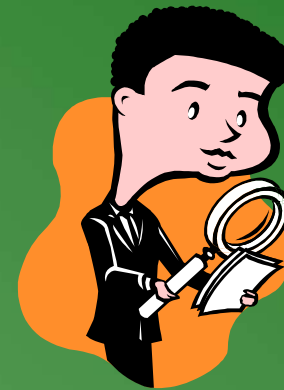
Types of Violations

- **Failure to Abate**
- Up to \$ 7000/day



Types of Violations

- **De Minimis Violation**
- No direct relationship to safety or health



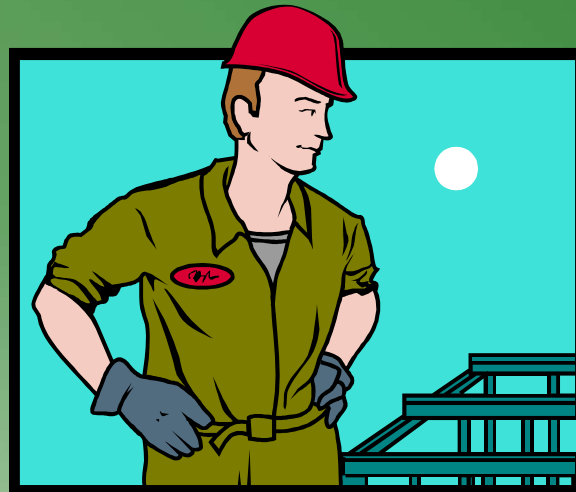
Additional Violations

- Falsifying records
- Up to \$ 10,000, six months in jail, or both
- Violations of posting requirements
- Civil fine up to \$ 7,000
- Assaulting, interfering with, intimidating a CSHO while performing their duties, up to three years prison, and \$ 5,000 fine



Appeals Process - Employees

- 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



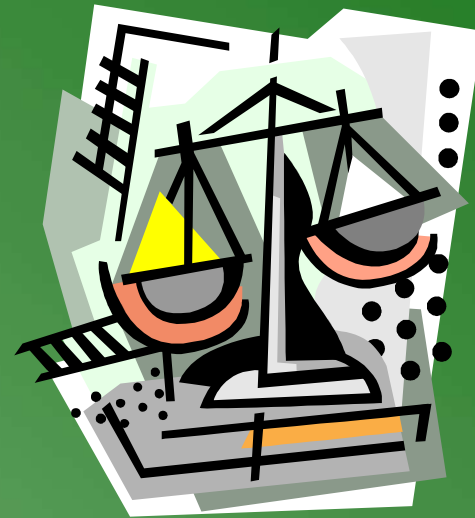
Appeals Process - Employers

- 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



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



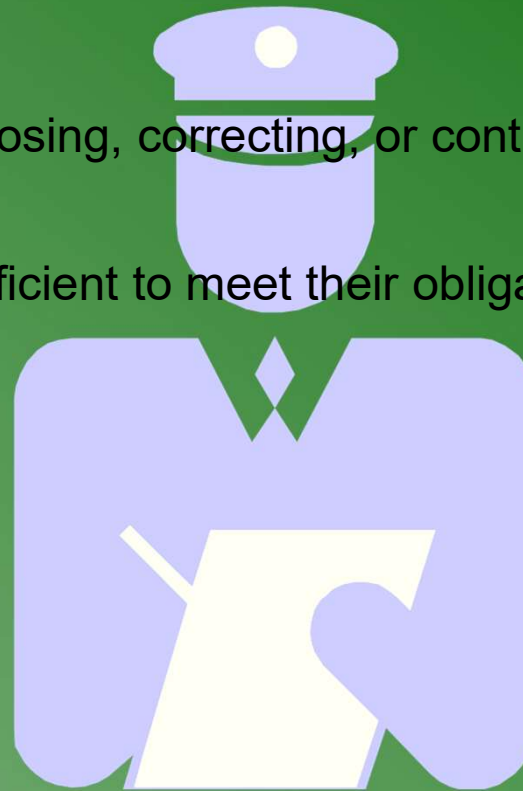
Multi-Employer



Worksites

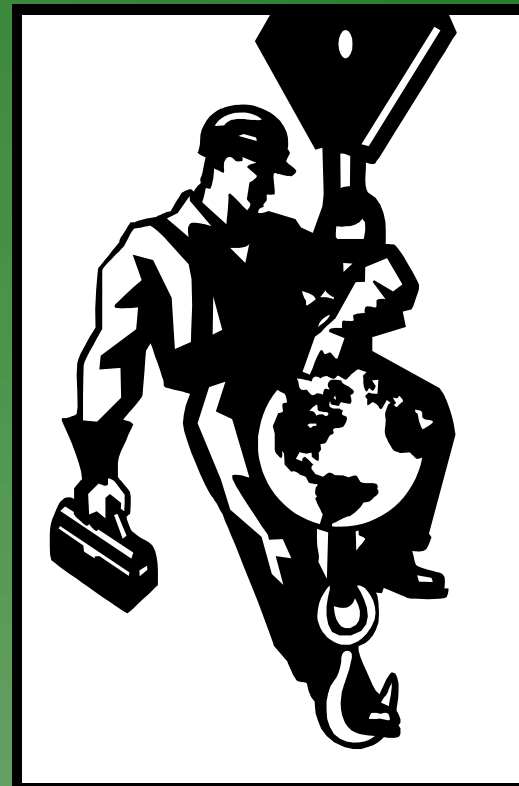
Multi-Employer Worksites

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



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



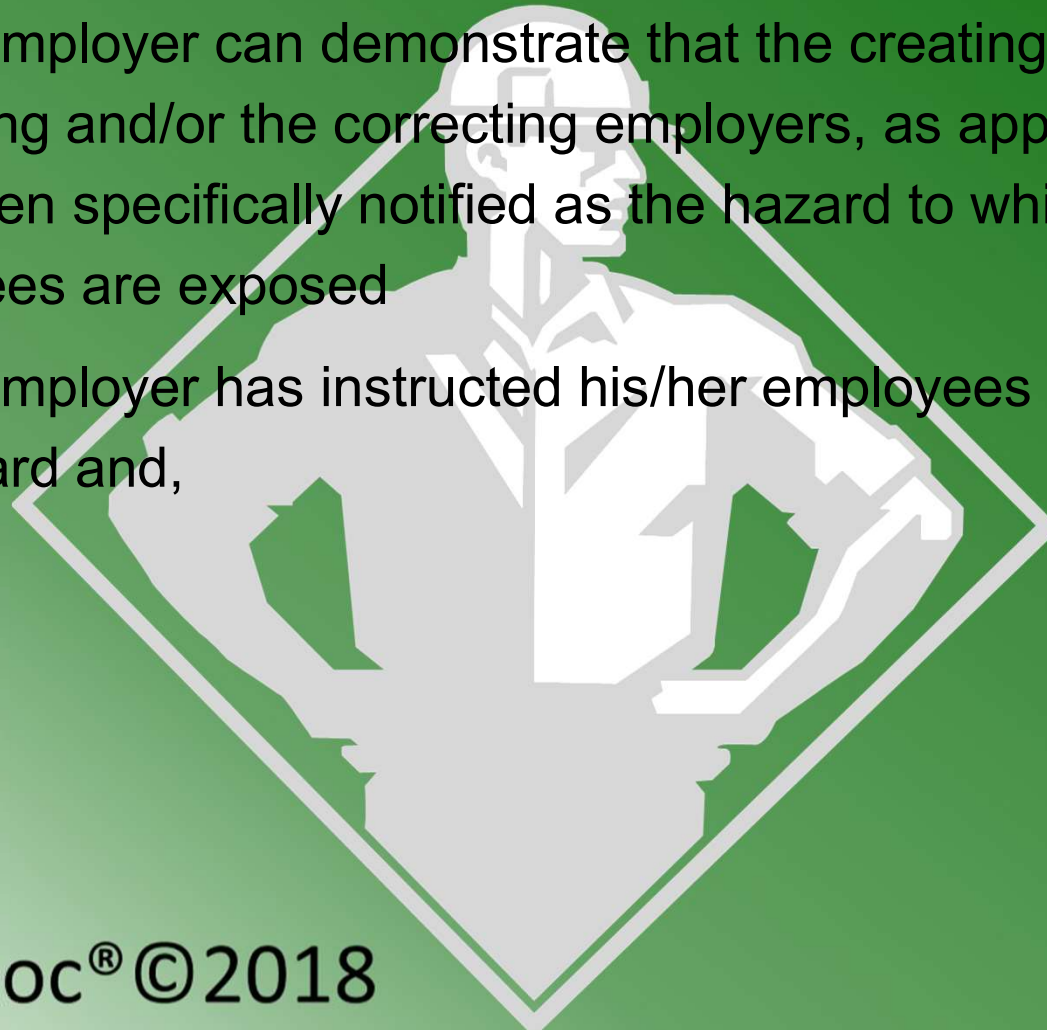
Exposing Employer Legitimate Defense

- 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



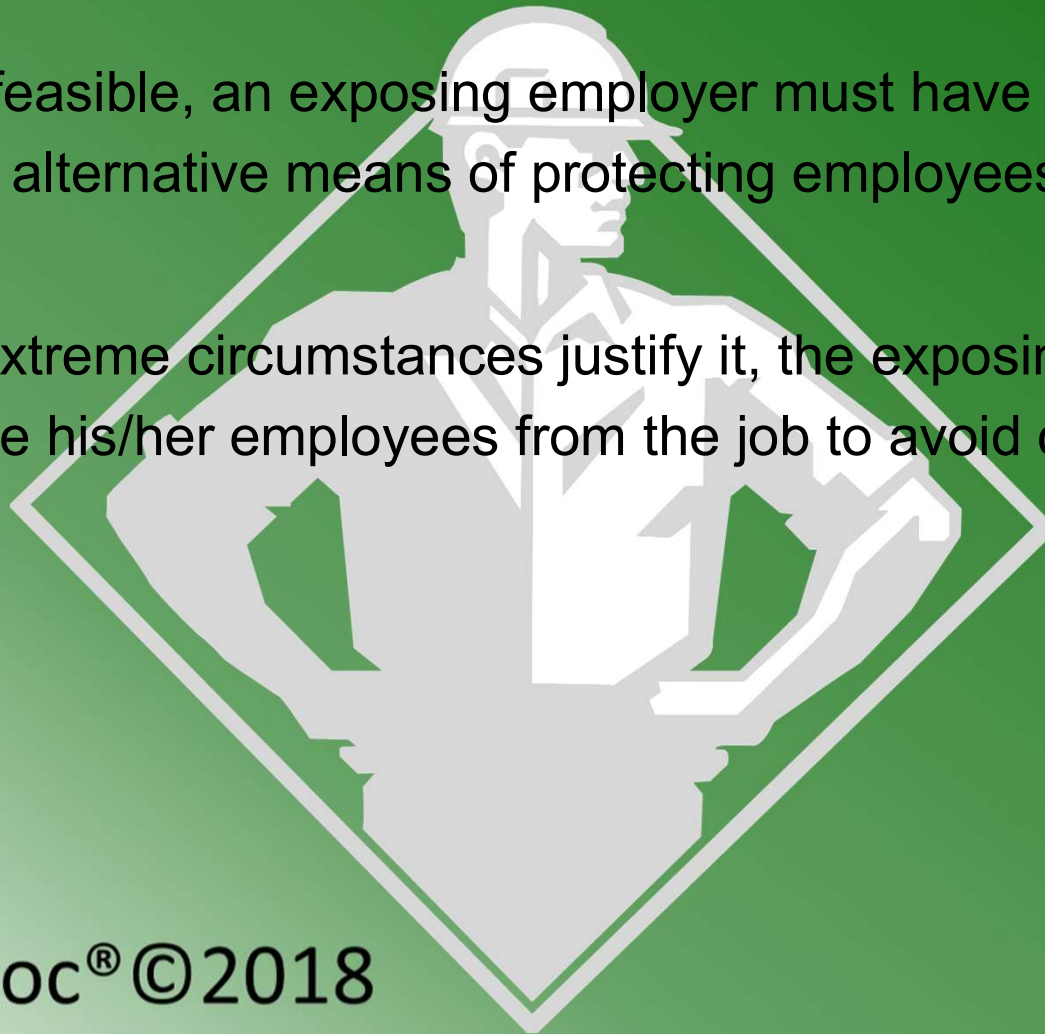
Exposing Employer Legitimate Defense

- 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,



Exposing Employer Legitimate Defense

- 5a. Where feasible, an exposing employer must have taken appropriate alternative means of protecting employees from the hazard.
- 5b. When extreme circumstances justify it, the exposing employer shall remove his/her employees from the job to avoid citation



Focused



Inspections

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Introduction

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



Introduction

- More focus needed on the leading causes of fatalities in construction:
- **90% of all construction fatalities are:**
 - falls from elevations - 33%;
 - struck by - 22%;
 - caught in/between - 18%;
 - electrical shock - 17%.



Introduction

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



Focused Inspection Guidelines

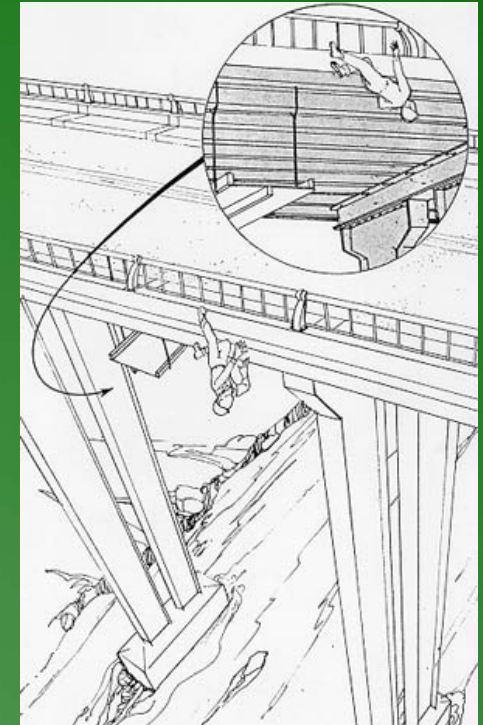
- The leading hazards are:
 - **falls from elevations (e.g., floors, platforms, roofs)**
 - **struck by (e.g., falling objects, vehicles)**
 - **caught in/between (e.g., cave-ins, unguarded machinery, equipment)**
 - **electrical shock (e.g., overhead power lines, power tools and cords, outlets, temporary wiring)**
- The following four slides provide an example of each type

BRIEF DESCRIPTION OF ACCIDENT A painter foreman climbed over a bridge railing to inspect work being done, slipped, and fell 150 feet to his death. **RECOMMENDATIONS**

Employers are to require employees to wear appropriate personal protective equipment (safety belts) in all operations where employees are exposed to hazardous conditions or in specific circumstances are required in OSHA standards 29 CFR 1926.28(a) and 29 CFR 1926.104(a).

Safety nets must be provided when workplaces are more than 25 feet above the ground or water surface, or other surfaces where the use of ladders, scaffold, catch platforms, temporary floors, safety lines, or safety belts is impractical as in accordance with OSHA standard 29 CFR 1926.105(a).

Except where either permanent or temporary stairways or suitable ramps or runaways are provided, suitable ladders should be used to give safe access to all elevations in accordance with OSHA standard 29 CFR 1926.450(a)(1).



BRIEF DESCRIPTION OF ACCIDENT A carpenter apprentice was killed when he was struck in the head by a nail that was fired from a powder actuated tool. The tool operator, while attempting to anchor a plywood form in preparation for pouring a concrete wall, fired the gun causing the nail to pass through the hollow wall. The nail traveled some twenty-seven feet before striking the victim. The tool operator had never received training in the proper use of the tool, and none of the employees in the area were wearing personal protective equipment. **ACCIDENT PREVENTION RECOMMENDATIONS**

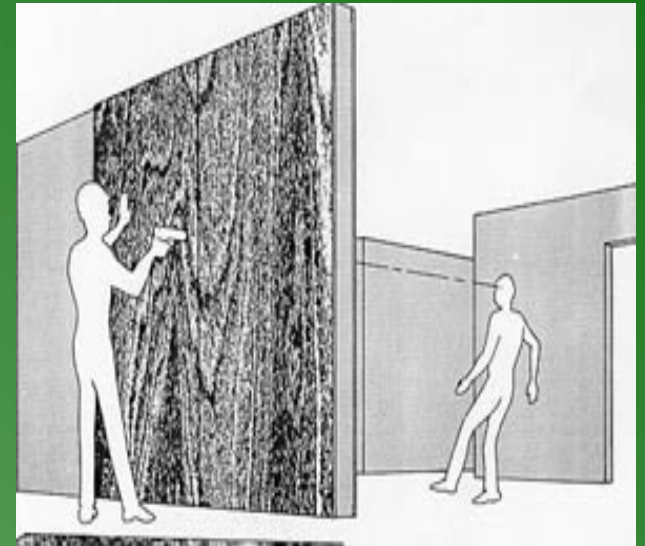
Hey Charlie, have you seen my hardhat?

Institute a program for frequent and regular inspections of the job site, materials, and equipment by a competent person(s) (1926.20(b)(2)).

Require employees exposed to the potential hazards associated with flying nails to use appropriate personal protective equipment. (1926.100(a) and 1926.102(a)(1)).

Train employees using powder actuated tools in the safe operation of the particular tool (1926.302(e)(2)).

Train employees operating power actuated tools to avoid firing into easily penetrated materials (1926.302(e)(8)).



BRIEF DESCRIPTION OF ACCIDENT

An employee was driving a front-end loader up a dirt ramp onto a lowboy trailer. The tractor tread began to slide off the trailer. As the tractor began to tip, the operator, who was not wearing a seat belt, jumped from the cab. As he hit the ground, the tractor's rollover protective structure fell on top of him, crushing him.

INSPECTION RESULTS

Following its inspection, OSHA cited the employer for two serious violations and one other than serious violation. Had the front-end loader been equipped with seat belts and had the employee worn them, he might not have been killed.

ACCIDENT PREVENTION RECOMMENDATIONS

Provide seat belts in material handling equipment which has rollover protective structures (29 CFR 1926.602(a)(2)(I)).

Instruct employees to recognize and avoid unsafe conditions associated with their work (29 CFR 1926.21(b)(2)).

Permit only employees qualified by training or experience to operate equipment and machinery (29 CFR 1926.20(b)(4)).



BRIEF DESCRIPTION OF ACCIDENT An electrician was removing metal fish tape from a hole at the base of a metal light pole. The fish tape became energized, electrocuting him. **INSPECTION**

RESULTS As a result of its inspection, OSHA issued a citation for three serious violations of the agency's construction standards. Had requirements for de-energizing energy sources been followed, the electrocution might have been prevented.

ACCIDENT PREVENTION RECOMMENDATIONS

Ensure all circuits are de-energized before beginning work (29 CFR 1926.416(a)(3)).

Controls to be deactivated during the course of work on energized or de-energized equipment or circuits must be tagged (29 CFR 1926.417(a)).

Employees must be instructed to recognize and avoid unsafe conditions associated with their work (29 CFR 1926.21(b)(2)).



Focused Inspection Guidelines

- 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.



Specific Guidelines

- 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.



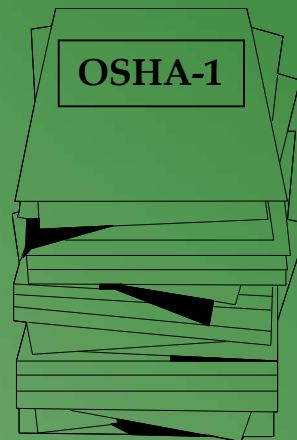
Specific Guidelines

- 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.**

CONSTRUCTION FOCUSED INSPECTION GUIDELINE

This guideline is to assist the professional judgment of the compliance officer to determine if there is an effective project plan, to qualify for a Focused Inspection.

	YES/NO
PROJECT SAFETY AND HEALTH COORDINATION; are there procedures in place by the general contractor, prime contractor or other such entity to ensure that all employers provide adequate protection for their employees ?	<input type="checkbox"/>
Is there a DESIGNATED COMPETENT PERSON responsible for the implementation and monitoring of the project safety and health plan who is capable of identifying existing and predictable hazards and has authority to take prompt corrective measures?	<input type="checkbox"/>
PROJECT SAFETY AND HEALTH PROGRAM/PLAN* that complies with 1926 Subpart C and addresses, based upon the size and complexity of the project, the following: ____ Project Safety Analysis at initiation and at critical stages that describes the sequence, procedures, and responsible individuals for safe construction. ____ Identification of work/activities requiring planning, design, inspection or supervision by an engineer, competent person or other professional. ____ Evaluation/monitoring of subcontractors to determine conformance with the Project Plan. (The Project Plan may include, or be utilized by subcontractors.) ____ Supervisor and employee training according to the Project Plan including recognition, reporting and avoidance of hazards, and applicable standards. ____ Procedures for controlling hazardous operations such as: cranes, scaffolding, trenches, confined spaces, hot work, explosives, hazardous materials, leading edges, etc. ____ Documentation of: training, permits, hazard reports, inspections, uncorrected hazards, incidents and near misses. ____ Employee involvement in hazard: analysis, prevention, avoidance, correction and reporting. ____ Project emergency response plan. <small>* FOR EXAMPLES, SEE OWNER AND CONTRACTOR ASSOCIATION MODEL PROGRAMS, ANSI A10.33, A10.36, ETC.</small>	<input type="checkbox"/>
The walkaround and interviews confirmed that the Plan has been implemented, including: ____ The four leading hazards are addressed: falls, struck by, caught in/between, electrical. ____ Hazards are identified and corrected with preventative measures instituted in a timely manner. ____ Employees and supervisors are knowledgeable of the project safety and health plan, avoidance of hazards, applicable standards, and their rights and responsibilities.	<input type="checkbox"/>
THE PROJECT QUALIFIED FOR A FOCUSED INSPECTION.	<input type="checkbox"/>

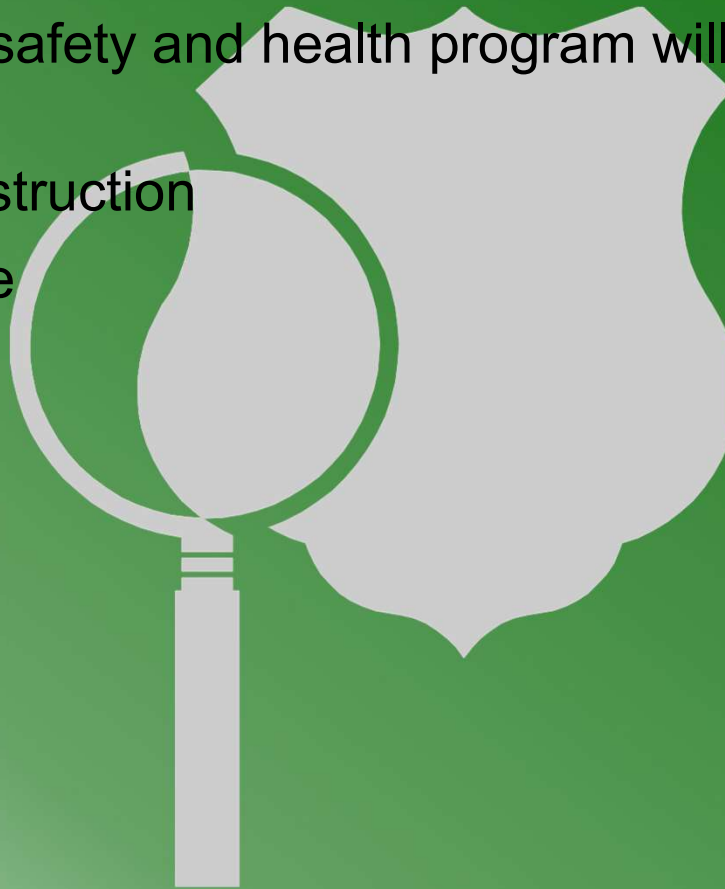
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Std 3-1.1

**Clarification of
OSHA Citation Policy**

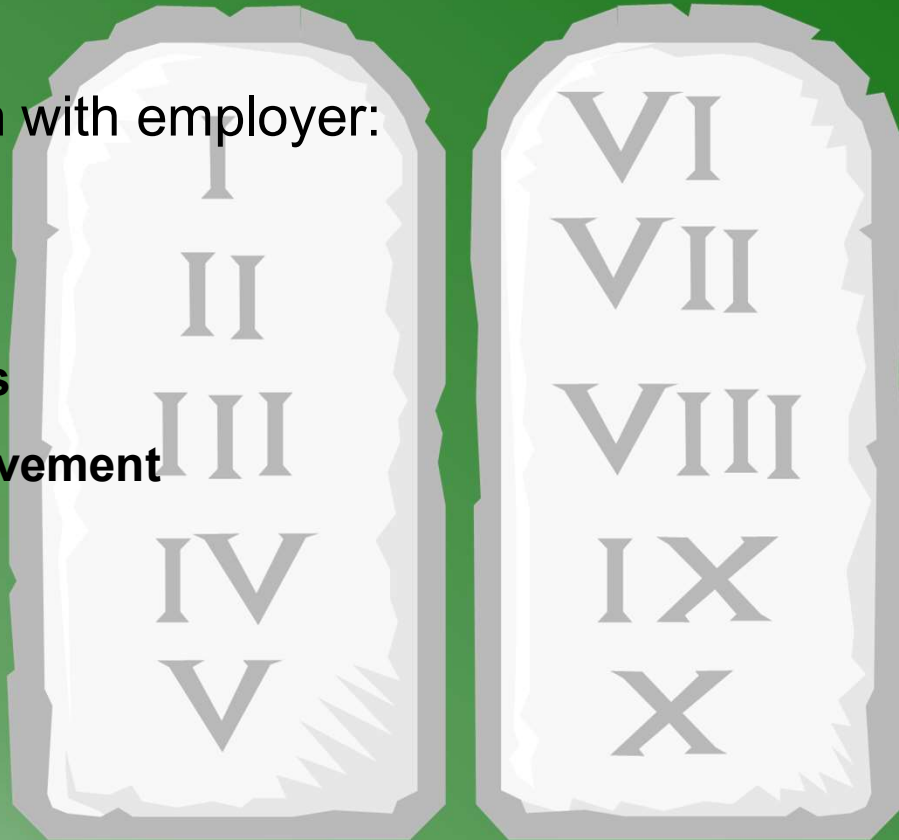
Construction Inspection Guidelines

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



Construction Inspection Guidelines

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



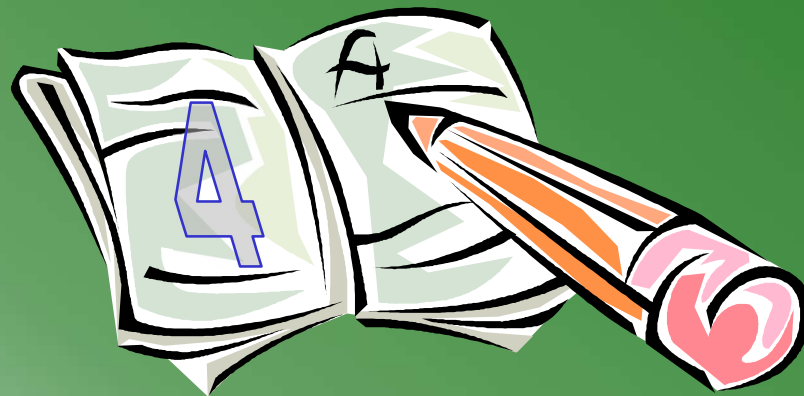
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Construction Inspection Guidelines

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

Construction Inspection Guidelines

- 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.



Construction Inspection Guidelines

- 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:



6

Construction Inspection Guidelines

- Field office or mobile base
- Centrally maintained:
 - Address & telephone
 - Personnel available



6

A. Management Commitment and 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.



B. 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.**



C. Identification and 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.**

D. Training and Education.

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

E. Recordkeeping and Hazard Analysis.

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

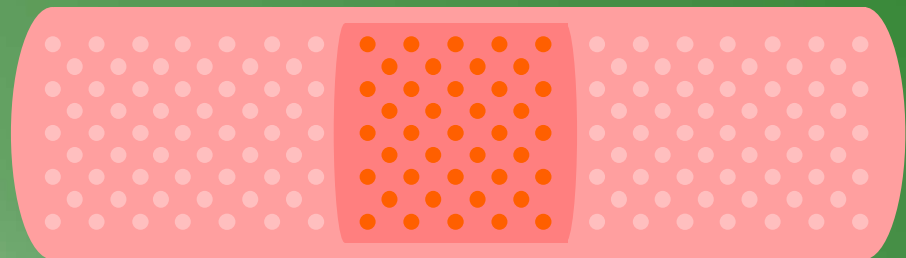
F. First Aid and Medical Assistance.

1. First aid supplies and medical service available.

2. Employees informed of medical results.

3. Emergency procedures and training,

where necessary.



Focusing on Safety

Makes \$ense!