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Gaining Advantage in a
Dynamic Project Landscape



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OSHA Regulation and Legislation Update

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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



- **OSHA supports the following Department of Labor Strategic Goal and Outcome Goal:**
 - **Ensure workplaces are safe and healthy**
 - **Secure safe and healthy workplaces, particularly in high-risk industries**
 - **Assure fair and high quality work-life environments**
 - **Ensure voice in the workplace.**

Protecting America's Workers Act

- **Under consideration in Congress, would bring much-needed support to OSHA by --**
 - Raising the ceiling on OSHA fines
 - Increasing criminal penalties and criminal liability for employers who knowingly endanger workers
 - Expanding the rights of workers' and victims' families
 - Strengthening whistleblower protections

OSHA's Response

- **OSHA is focusing on actively promoting safe and healthy working conditions for working men and women by:**
 - **setting and enforcing workplace safety and health standards**
 - **delivering effective enforcement**
 - **providing outreach, education and compliance assistance**
 - **and encouraging continual improvement in workplace safety and health.**

OSHA's Strategies

- **Strengthen enforcement capabilities - target the most egregious and persistent violators.**
- **Strengthen regulatory capabilities.**
- **Increase OSHA's presence in the workplace.**
- **Protect workers in high-hazard occupations.**
- **Protect vulnerable and hard-to-reach worker populations.**
- **Review and restructure penalties to ensure that penalties imposed are consistent with the seriousness of the violation and act as effective deterrence to violators.**
- **Maintain a strong outreach and education program.**
- **Enhance and strengthen compliance assistance program for small businesses.**

Why Stronger Enforcement?

- **Although fatalities are dropping in numbers, there are still too many**
- **Florida still has a high number of fatalities**
- **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.**

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**

OSHA'S Penalty Policies

- OSHA is implementing long-overdue administrative modifications to its penalty calculations, which will have the effect of raising OSHA penalties.
- Various factors:
 - employer's overall safety and health program
 - number of workers
 - previous inspection history.
- The Agency's policy of reducing penalties for small employers and those acting in good faith will continue.

OSHA'S Penalty Policies

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

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**
 - **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**

SVEP - CRITERIA

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

High-Emphasis Hazards

- **Fall hazards**
- **Amputation hazards**
- **Combustible dust hazards**
- **Silica hazards**
- **Lead hazards**
- **Excavation/trenching hazards**
- **Shipbreaking hazards**

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**
- **Updating PELs**



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

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**

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



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, self-employed or privately through OSHA-approved consultation programs in each state.

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

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