

OSHA's Top 10 Violations for FY2020



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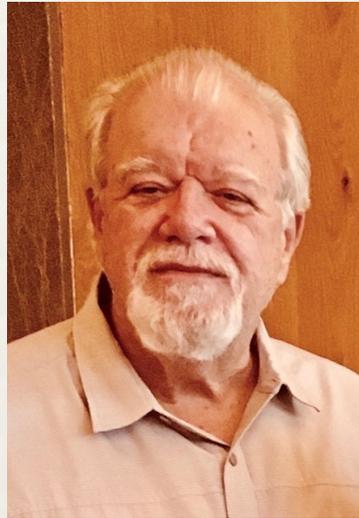


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Today's Speaker



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Presentation Outline



- FY2020 Enforcement Activity
- The OSHA Inspection Process
- FY2020 Top Ten Serious Violations
- After the Inspection
- OSHA Cooperative & Recognition Programs
- Summary / Q/A

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OSHA Enforcement Statistics

FY2019 vs. FY2020

Type of Inspection	FY2019	FY2020
Total Inspections	33,393	21,674 (-36%)
1. Programmed	14,900	8,726
2. Unprogrammed	18,067	12,048
- Fatality/Catastrophe	919	1,508 (+39%)
- Complaints	7,391	4,581
- Referrals	6,718	4,808
- Other Unprogrammed	3,465	2,051

Note: The Top 5 penalties issued in FY2020 resulted in a combined total of \$4.6MM. The highest single penalty was \$1.9MM as a result of 8 willful violations, 12 repeat violations and 12 serious violations.

OSHA Inspections

To enforce standards, OSHA is authorized under the Act to conduct workplace inspections using the following guidelines:

- ✓ Advance notice is not required unless it is a special case (e.g., imminent danger, irregular operations, etc.)
- ✓ Enter without delay and at reasonable times (e.g., regular work hours) any facility where work is performed by an employee or employer
- ✓ Investigate all pertinent conditions and question employees privately (“in plain view”)

OSHA FactSheet

Occupational Safety and Health Administration (OSHA) Inspections

OSHA is committed to strong, fair, and effective enforcement of safety and health requirements in the workplace. OSHA inspectors, called compliance safety and health officers, are experienced, well-trained industrial hygienists and safety professionals whose goal is to assure compliance with OSHA requirements and help employers and workers reduce on-the-job hazards and prevent injuries, illnesses, and deaths in the workplace. Normally, OSHA conducts inspections without advance notice. Employers have the right to require compliance officers to obtain an inspection warrant before entering the worksite.

Inspection Priorities

OSHA has jurisdiction over approximately 7 million worksites. The agency seeks to focus its inspection resources on the most hazardous workplaces in the following order of priority:

1. Imminent danger situations—hazards that could cause death or serious physical harm receive top priority. Compliance officers will ask employers to correct these hazards immediately or remove endangered employees.

2. Severe injuries and illnesses—employers must report:

- All work-related fatalities within 8 hours.
- All work-related inpatient hospitalizations, amputations, or losses of an eye within 24 hours.

3. Worker Complaints—allegations of hazards or violations also receive a high priority. Employees may request anonymity when they file complaints.

4. Referrals of hazards from other federal, state or local agencies, individuals, organizations or the media receive consideration for inspection.

5. Targeted inspections—inspections aimed at specific high-hazard industries or individual workplaces that have experienced high rates of injuries and illnesses also receive priority.

6. Follow-up inspections—checks for abatement of violations cited during previous inspections are also conducted by the agency in certain circumstances.

Phone/Fax Investigations

OSHA carefully prioritizes all complaints it receives based on their severity. For lower-priority hazards, with permission of a complainant, OSHA may telephone the employer to describe safety and health concerns, following up with a fax providing

details on alleged safety and health hazards. The employer must respond in writing within five working days, identifying any problems found and noting corrective actions taken or planned. If the response is adequate and the complainant is satisfied with the response, OSHA generally will not conduct an on-site inspection.

On-Site Inspections

Preparation—Before conducting an inspection, OSHA compliance officers research the inspection history of a worksite using various data sources, review the operations and processes in use and the standards most likely to apply. They gather appropriate personal protective equipment and testing instruments to measure potential hazards.

Presentation of credentials—The on-site inspection begins with the presentation of the compliance officer's credentials, which include both a photograph and a serial number.

Opening Conference—The compliance officer will explain why OSHA selected the workplace for inspection and describe the scope of the inspection, walkaround procedures, employee representation and employee interviews. The employer then selects a representative to accompany the compliance officer during the inspection. An authorized representative of the employees, if any, also has the right to accompany an inspector. The compliance officer will consult privately with a reasonable number of employees during the inspection.

Walkaround—Following the opening conference, the compliance officer and the representatives will walk through the portions of the workplace covered by the inspection, inspecting for hazards that could lead to employee injury or illness. The compliance officer will also review worksite injury and illness records and the posting of the official OSHA poster.

Inspection Priorities

Imminent Danger

Referrals

Fatalities & Severe
Injuries and Illnesses

SST / NEP

Employee Complaints

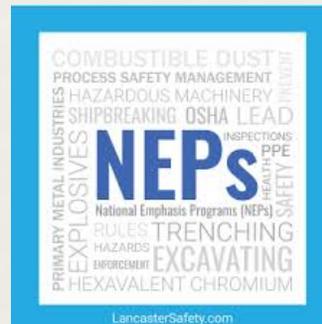
Follow-Up

Note: *All work-related fatalities must be reported to OSHA within 8 hours and all work-related inpatient hospitalizations, amputations, or losses of an eye within 24 hours.*



National & Special Emphasis Programs

National Emphasis Programs (NEPs) are temporary programs that focus OSHA's resources on particular hazards and high-hazard industries.



National Emphasis Programs

Active Programs
Amputations (2019)
Combustible Dust (2008)
COVID-19 (2021)
Federal Agencies (2008)
Hazardous Machinery (2015)
Hexavalent Chromium (2010)
Lead (2008)
Primary Metal Industries (2014)
Process Safety Management (2017)
Shipbreaking (2016)
Silica (2008)
Trenching & Excavation (1985)

The Inspection Process

Compliance Officer Verification

Opening Conference

Inspection Tour

Closing Conference





#10

Machine Guarding

OSHA Standard: 29 CFR 1910.212

Total Violations:

FY2020 – 1,312 (-12%)

FY2019 - 1,987 (9)



This standard covers guarding of machinery to protect operators and other employees from hazards, including those created by point of operation, ingoing nip points, rotating parts and flying chips and sparks.

Top 3 Sections Cited:

- 1. 1910.212(a)(1)** – Types of guarding. One or more methods should be provided to protect the operator and others (841)
- 2. 1910.212(a)(3)** – Point of Operation (POO) guarding (351)
- 3. 1910.212(b)** – Anchoring fixed machinery (60)

#9

Personal Protective Equipment: Eye & Face Protection

OSHA Standard: 29 CFR 1926.102

Total Violations:

FY2020 – 1,369 (-16%)

FY2019 – 1,630 (10)



This standard addresses PPE for workers exposed to eye or face hazards, such as flying particles and chemical gases or vapors.

Top 3 Sections Cited:

1. **1926.102(a)(1)** - The employer shall ensure that all affected employees have appropriate eye and face protection (1,340)
2. **1926.102(a)(2)** – Side lens as appropriate (22)
3. **1926.102(a)(3)** – Prescription lens (6)

#8

Fall Protection: Training Requirements

OSHA Standard: 29 CFR 1926.503

Total Violations:

FY2020 – 1,621 (-30%)

FY2019 – 2,059 (8)



This standard addresses training requirements for employers in regards to fall protection.

Top 3 Sections Cited:

- 1. 1926.503(a)(1)** - The employer shall provide training to each employee exposed to fall hazards (1,121)
- 2. 1926.503(b)(1)** – Verification of training with a written certification record (315)
- 3. 1926.503(a)(2)** – Training by a qualified instructor (117)

#7

Powered Industrial Trucks

OSHA Standard: 29 CFR 1910.178

Total Violations:

FY2020 – 1,932 (-40%)

FY2019 – 2,347 (7)



This standard covers the design, maintenance and operation of powered industrial trucks, including fork-lifts and motorized hand trucks. It also includes operator training.

Top 3 Sections Cited:

- 1. 1910.178(I)(1)** – Safe operations (492)
- 2. 1910.178 (I)(4)** – Refresher training & evaluations (245)
- 3. 1910.178 (I)(6)** – Initial training records (229)

#6

Lockout/Tagout

OSHA Standard: 29 CFR 1910.147

Total Violations:

FY2020 – 2,065 (-31%)

FY2019 – 2,975 (4)



This standard outlines the minimum requirements for the control of hazardous energy during servicing and maintenance of machines and equipment.

Top 3 Sections Cited:

- 1. 1910.147(c)(4)** – Implement an effective energy control procedure (613)
- 2. 1910.147(c)(7)** – Conduct and document employee training and communications (356)
- 3. 1910.147(c)(6)** – Conduct periodic inspections (336)

#5

Ladders

OSHA Standard: 29 CFR 1926.1053

Total Violations:

FY2020 - 2,129 (-24%)

FY2019 – 2,766 (6)



This standard covers the requirements for all sized ladders.

Top 3 Sections Cited:

- 1. 1926.1053(b)(1)** – Ladder side rails must be extended the proper length above the intended landing (>3') (1,293)
- 2. 1926.1053(b)(4)** - Must only be used for the purpose they were designed for (285)
- 3. 1926.1053(b)(13)** –The top step of a step ladders shall not be used as a step (196)

#4

Scaffolding

OSHA Standard: 29 CFR 1926.451

Total Violations:

FY2020 - 2,538 (-22%)

FY2019 - 3,228 (3)



*This standard covers general safety requirements for scaffolding, which shall Be designed by a qualified person and constructed and loaded in accordance With the design. Fall protection must be provided at heights of **10 feet** or greater.*

Top 3 Sections Cited:

- 1. 1926.451(g)(1)** - Each employee on a scaffolding more than 10 feet above a lower level must be protected from falling (712)
- 2. 1926.451(e)(1)** – Platforms more than 2 feet above or below the point of access must be provided with an appropriate ladder. Cross braces shall not be used as a means of access (357)
- 3. 1926.451(b)(1)** – Each platform on a working level must be fully planked or decked (335)

#3

Respiratory Protection

OSHA Standard: 29 CFR 1910.134

Total Violations:

FY2020 - 2,649 (-6%)

FY2019 - 2,826 (5)



This standard directs employers on establishing and maintaining a respiratory protection program. It must include all of the necessary requirements.

Top 3 Sections Cited:

- 1. 1910.134(e)(1)** – Provide medical evaluations in order to determine fitness for use before fit testing or initial use (533)
- 2. 1910.134(c)(1)** – Develop site-specific workplace processes (391)
- 3. 1910.134(c)(2)** – Provide fit testing prior to initial use (298)



Hazard Communication

OSHA Standard: 29 CFR 1910.1200

Total Violations:

FY2020 - 3,199 (-24%)

FY2019 - 4,170 (2)



This standard addresses chemical hazards both produced, and imported, into the workplace. It also governs the communication of those hazards to employees.

Top 3 Sections Cited:

- 1. 1910.1200(e)(1)** – Employers must develop, implement and maintain a written HazCom program which describes all appropriate establishment information (1,158)
- 2. 1910.1200(h)(1)** – Provide employees with chemical information and training (820)
- 3. 1910.1200(g)(8)** – Ensure each HM container is properly labeled, tagged or marked (371)



#1

Fall Protection: General Requirements

OSHA Standard: 29 CFR 1926.501

Total Violations:

FY2020 - 5,424 (-23%)

FY2019 - 7,014 (1)



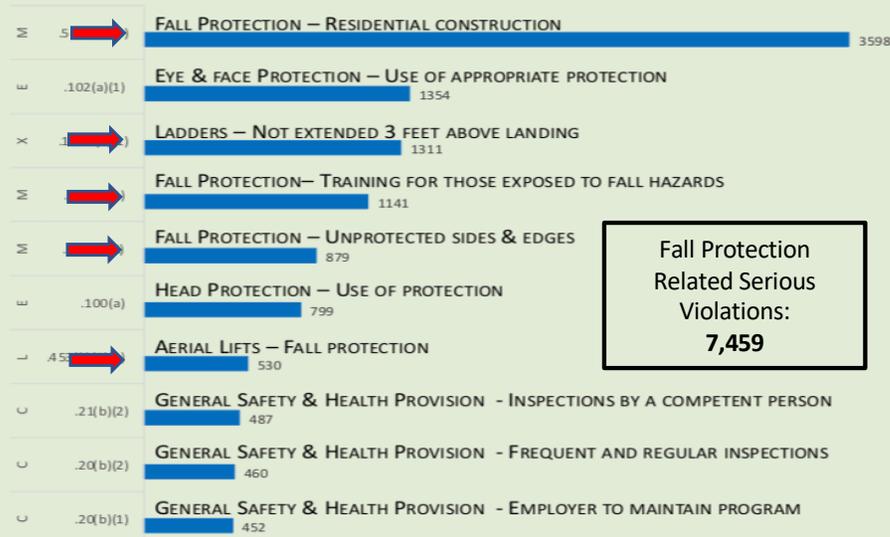
*This standard outlines where fall protection is required, which systems are appropriate for a given situation, the proper construction and installation of safety systems and the proper supervision. It's designed to protect employees on walking/working surfaces (both vertical and horizontal with unprotected sides or edges **above 6 feet**).*

Top 3 Sections Cited:

- 1. 1926.501(b)(13)** – All employees engaged in residential construction 6 feet or more above the lower level shall be provided with either a guardrails system, a safety net system or a personal fall arrest system (3,563)
- 2. 1926.501(b)(1)** – Each employee on a WWS (horizontal or vertical) with an unprotected side or edge shall be protected with fall protection (841)
- 3. 1926.501(b)(10)** – Employees engaged in roofing on low-sloping roofs with unprotected sides/edges shall be protected from falling using an appropriate means (371)

Most Frequently Cited by Industry Sector

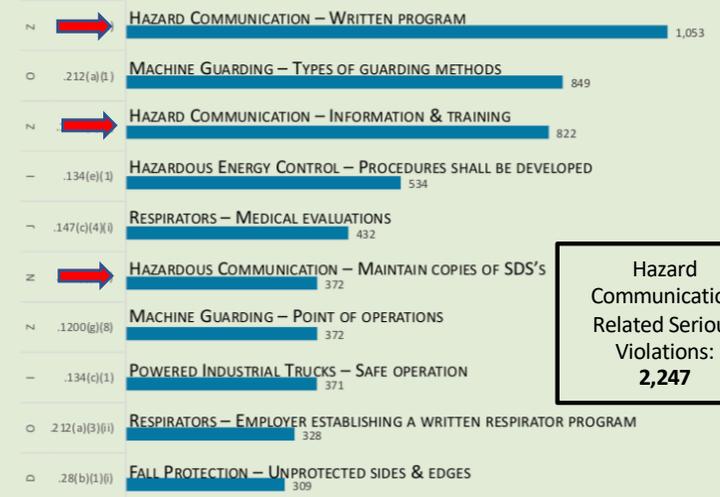
MOST FREQUENTLY CITED SERIOUS VIOLATIONS IN CONSTRUCTION 2020



Fall Protection Related Serious Violations:
7,459

NUMBER OF SERIOUS VIOLATIONS – FY 2020

MOST FREQUENTLY CITED SERIOUS VIOLATIONS IN GENERAL INDUSTRY FY2020



Hazard Communication Related Serious Violations:
2,247

NUMBER OF SERIOUS VIOLATIONS – FY 2020

29 CFR 1926 SUBPARTS

29 CFR 1910 SUBPARTS

OSHA Required Training

Training should be delivered using different formats (e.g., classroom, videos, conference, hands-on) and technologies (e.g., online & CBT, etc.) provided that:

- Documented
- Complies with the applicable standard
- Delivered in a manner & language understood by all employees
- Prepared & delivered by ***“Qualified Person”***

Note: A *“Qualified Person”* is defined by OSHA as one who, “by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training and experience, has successfully demonstrated his ability to solve or resolve problems relating to the subject matter, the work, and/or the project.”

OSHA Required Documentation

- ✓ Written Plans & Permits
- ✓ Policies or Statements
- ✓ Postings (3)
- ✓ Sampling and exposure monitoring data
- ✓ Operating procedures
- ✓ Inventories & data sheets
- ✓ Medical evaluation records
- ✓ Inspection & test records
- ✓ Maintenance & repair records
- ✓ Training records
- ✓ Injury & Illness logs (OSHA RK)



Types of Citations

Other than Serious

Serious

Willful

Repeated

Failure to Abate

OSHA's General Duty Clause

“Each employer shall furnish to each of their employee’s 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”.



Current OSHA Citations & Penalties

TYPE OF VIOLATION	PENALTY MINIMUM	PENALTY MAXIMUM
OTHER THAN SERIOUS SERIOUS POSTING REQUIREMENTS	OTS - \$0. per violation Serious - \$946. per violation Posting - \$0. per violation	\$13,653. max. per violation
WILLFUL & REPEAT	\$9,639. per violation	\$136,532. max. per violation
FAILURE TO ABATE	N/A	\$13,653. per day beyond the abatement date.

Bipartisan Budget Act of 2015 – Aug 2016 (Effective Jan 2021)

OSHA “It’s the Law” Poster



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

Job Safety and Health IT'S THE LAW!

All workers have the right to:

- A safe workplace.
- Raise a safety or health concern with your employer or OSHA, or report a work-related injury or illness, without being retaliated against.
- Receive information and training on job hazards, including all hazardous substances in your workplace.
- Request an OSHA inspection of your workplace if you believe there are unsafe or unhealthy conditions. OSHA will keep your name confidential. You have the right to have a representative contact OSHA on your behalf.
- Participate (or have your representative participate) in an OSHA inspection and speak in private to the inspector.
- File a complaint with OSHA within 30 days (by phone, online or by mail) if you have been retaliated against for using your rights.
- See any OSHA citations issued to your employer.
- Request copies of your medical records, tests that measure hazards in the workplace, and the workplace injury and illness log.

This poster is available free from OSHA.

Contact OSHA. We can help.

Employers must:

- Provide employees a workplace free from recognized hazards. It is illegal to retaliate against an employee for using any of their rights under the law, including raising a health and safety concern with you or with OSHA, or reporting a work-related injury or illness.
- Comply with all applicable OSHA standards.
- Report to OSHA all work-related fatalities within 8 hours, and all inpatient hospitalizations, amputations and losses of an eye within 24 hours.
- Provide required training to all workers in a language and vocabulary they can understand.
- Prominently display this poster in the workplace.
- Post OSHA citations at or near the place of the alleged violations.

FREE ASSISTANCE to identify and correct hazards is available to small and medium-sized employers, without citation or penalty, through OSHA-supported consultation programs in every state.



1-800-321-OSHA (6742) • TTY 1-877-889-5627 • www.osha.gov

OSHA 3092 (REV. 10/10)

Criminal Penalties

In addition to civil penalties, the following may result in criminal penalties:

- ✓ Willful violation causing death
- ✓ Giving unauthorized, advance notice of an inspection
- ✓ Knowingly providing false information
- ✓ Assaulting or hampering the work of an OSHA inspector



After the Inspection

- Posting Requirements
- Employer Options
- Informal Conference and Settlement
- Contesting Citations
- Petition for Modification of Abatement (PMA)
- Follow-up Inspections & Failure to Abate
- Discrimination and False Information

After the Inspection

- The Appeals Process
 - Employers
 - Employees
- Notice of Contest
 - Timing
 - Format



Employee Protection from Retaliation



OSHA's Whistleblower Protection Program

OSHA's Whistleblower Protection Program enforces the provisions of more than 20 federal laws protecting employees from retaliation for, among other things, raising or reporting concerns about hazards or violations of various workplace safety and health, aviation safety, commercial motor carrier, consumer product, environmental, financial reform, food safety, health insurance reform, motor vehicle safety, nuclear, pipeline, public transportation agency, railroad, maritime, and securities laws. Employees who believe that they have experienced retaliation in violation of one of these laws may file a complaint with OSHA.

Whistleblower Laws Enforced by OSHA

Following is a list of statutes over which OSHA has jurisdiction. Each statute has a different time frame in which a complaint can be filed.

- *Asbestos Hazard Emergency Response Act (90 days)*
- *Clean Air Act (30 days)*
- *Comprehensive Environmental Response, Compensation and Liability Act (30 days)*
- *Consumer Financial Protection Act of 2010 (180 days)*
- *Consumer Product Safety Improvement Act (180 days)*
- *Energy Reorganization Act (180 days)*
- *Federal Railroad Safety Act (180 days)*
- *Federal Water Pollution Control Act (30 days)*
- *International Safe Container Act (60 days)*
- *Moving Ahead for Progress in the 21st Century Act (motor vehicle safety) (180 days)*
- *National Transit Systems Security Act (180 days)*
- *Occupational Safety and Health Act (OSH Act) (30 days)*
- *Pipeline Safety Improvement Act (180 days)*
- *Safe Drinking Water Act (30 days)*
- *Sarbanes-Oxley Act (180 days)*
- *Seaman's Protection Act (180 days)*
- *Section 402 of the FDA Food Safety Modernization Act (180 days)*
- *Section 1558 of the Affordable Care Act (180 days)*
- *Solid Waste Disposal Act (30 days)*
- *Surface Transportation Assistance Act (180 days)*
- *Toxic Substances Control Act (30 days)*
- *Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (90 days)*

What is Retaliation?

Retaliation is an adverse action against an employee because of activity protected by one of these whistleblower laws. Retaliation can include several types of actions, such as:

- Firing or laying off
- Blacklisting
- Demoting
- Denying overtime or promotion
- Disciplining
- Denying benefits
- Failing to hire or rehire
- Intimidation
- Reassignment affecting promotion prospects
- Reducing pay or hours
- Making threats

Filing a Complaint

Employees who believe that their employers retaliated against them because they engaged in protected activity should contact OSHA as soon as possible because they must file any complaint within the legal time limits.

An employee can file a complaint with OSHA by visiting or calling his or her local OSHA office, sending a written complaint to the closest OSHA office, or filing a complaint online. No particular form is required and complaints may be submitted in any language.

Written complaints may be filed by fax, electronic communication, hand delivery during business hours, U.S. mail (confirmation services recommended), or other third-party commercial carrier.



OSHA Cooperative & Recognition Programs

- Voluntary Protection Program* (VPP)
- Safety & Health Achievement Recognition Program* (SHARP)
- Alliance Program
- OSHA Challenge
- The Strategic Partnership Program



Thank You for Your Participation

Jack Fearing, CPEA

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About the Speaker

Jack is a Certified Professional Environmental Auditor (CPEA) and the Managing Partner for Fearing International Group LLC, a Veteran-owned Small Business (VOSB) occupational and aviation safety consulting firm located in Flemington, NJ.

He has more than 35 years of experience in occupational safety and health management and DOD aviation safety. He is a professional member of the New Jersey chapter of the American Society of Safety Professionals (ASSP) and was the chapter Safety Professional of the Year (SPY) in 2019.

Jack has extensive hands-on experience in developing OSHA compliance programs, employee and management training and coordinating with state and Federal regulatory agencies in both union and non-union environments. Jack is a graduate of the University of Massachusetts (BS in Biology) and Boston University (M.Ed in Environmental Science). He is a retired US Army LTC and served as a utility helicopter pilot and Aviation Safety Officer in a Combat Aviation Brigade.