

Our Free Report

The 5 Most Dangerous Compliance Risks Facing Small Companies & How To Manage These Risks & Protect Your Company



— EHS Compliance For Small Business —

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A Note From The Author

“This report began as a research project and eventually lead to the founding of Berg Compliance Solutions, LLC. A company dedicated to helping small businesses achieve and manage environmental, health and safety compliance.

It's the culmination of 12 months of detailed research, combined with my own 19+ year career in the EHS industry, which includes 15 years as a small business owner running 3 contracting businesses with major EHS compliance requirements and risks. Through it all, I've learned first hand how difficult it is for small businesses to manage the long list of OSHA, EPA and state environmental regulations that impact them, and the devastating risks they face for failing to do so.

Unfortunately, my experiences include seeing good people I've known throughout my career fall victim to these risks, including devastating regulatory fines and penalties, serious employee injuries & fatalities, and even a few civil and criminal cases and convictions.

I've been presenting a longer version of this report to small business owners and managers for years, and it's always very well received due to it's educational approach and critical content. It always provokes lots of questions, conversation and most of all concern, which normally leads to a strong commitment to take action towards compliance.

Contact me at rcarr@bes-corp.com or 512-457-0374 if you'd like to schedule a live presentation at your company, or request a video taped version of the presentation with my dialogue and explanations.”

Russell Carr, President & Founder

Why Did We Commission This Study?

- **Up to 90%** of small companies are routinely OUT OF EHS COMPLIANCE
- At risk for HUGE LOSSES that most small companies aren't aware of



Areas Covered

- The Latest Environmental, Health & Safety Compliance Trends & Risks
- The 5 Most Dangerous Compliance Risks Facing Small Companies (Manufacturing, Construction, Energy, Industrial Services, etc.)
- The 6 Keys to Managing Compliance
- ***How Compliance Will Protect & Improve Your Business***

Example of an Actual OSHA Fine in Texas

2017 Durcon Inc., a TX manufacturer, was **fined \$459,918** after an employee complaint, resulting in 25 violations:

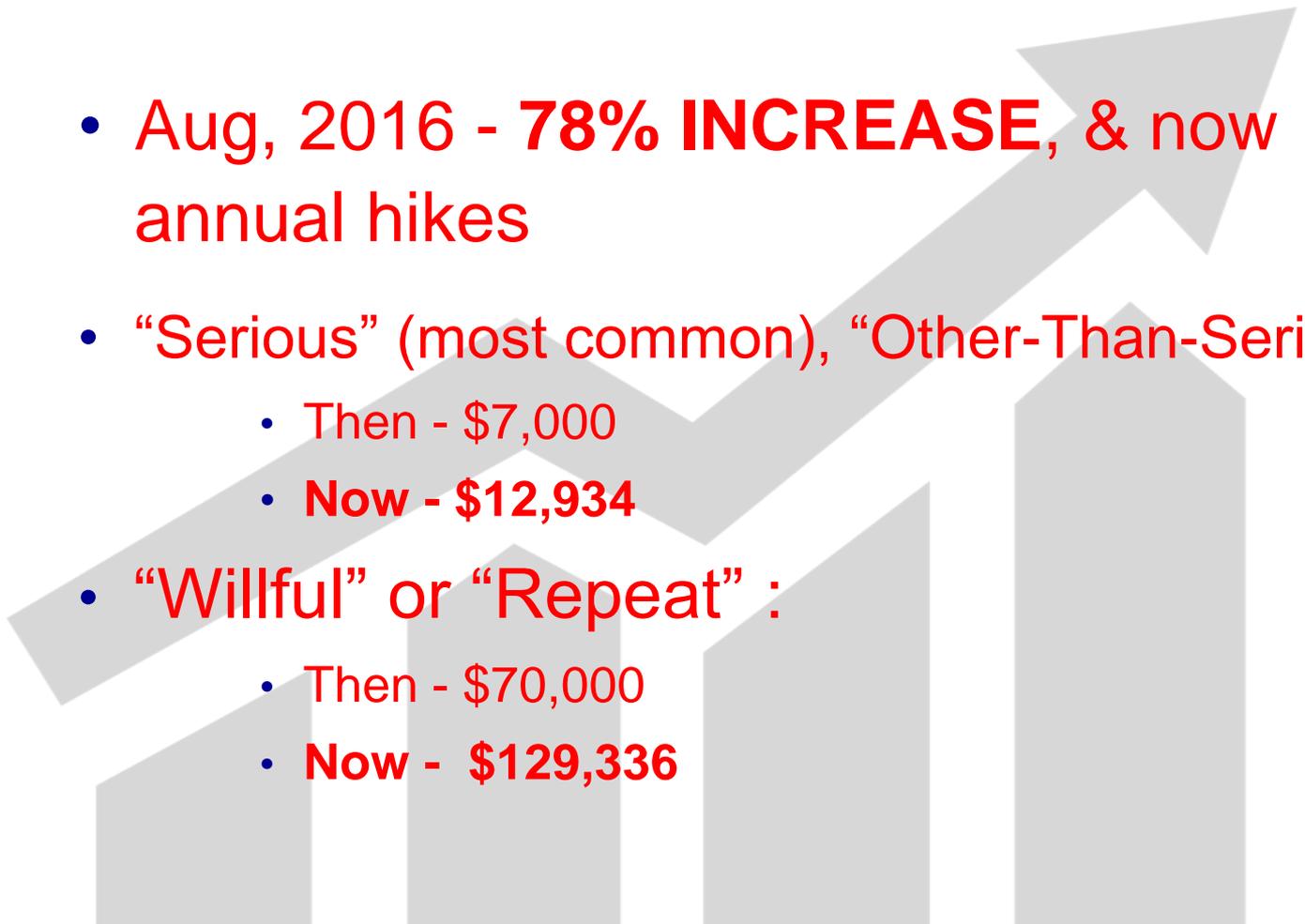


“Serious”, “Repeat” & “Willful” violations, included:

- Failure to manage a **Hearing Conservation program**
- Multiple **Lockout/Tagout violations**
- Failure to implement a **Confined Space Program**
- Failure to provide **Forklift training**
- Various **Electrical violations**
- Multiple **Respiratory Protection Program violations**
- Multiple **Machine Guarding violations**

COMPLETELY PREVENTABLE.

OSHA Fine Increases

- 
- Aug, 2016 - **78% INCREASE**, & now annual hikes
 - “Serious” (most common), “Other-Than-Serious”:
 - Then - \$7,000
 - **Now - \$12,934**
 - “Willful” or “Repeat” :
 - Then - \$70,000
 - **Now - \$129,336**

OSHA Enforcement Trends



OSHA can inspect your business at any time and without warning.

OSHA Enforcement Trends



**Citations & fines issued in
75%+ of inspections**

**Even companies who believe
that they are in compliance
are fined 60-70% of the time**

CAN YOU AFFORD THIS?

OSHA Enforcement Trends



The average fine: \$35,000 - \$80,000 per inspection

Fines can easily exceed \$100,000+ for unprepared companies

CAN YOU AFFORD THIS?

OSHA Enforcement Trends



Companies without a qualified safety professional are at much higher risk for fines

OSHA standards can be complex, difficult to interpret, & apply to operations

No Health & Safety Program = RISK FOR HIGHER FINES

Anyone Can Trigger an OSHA Inspection

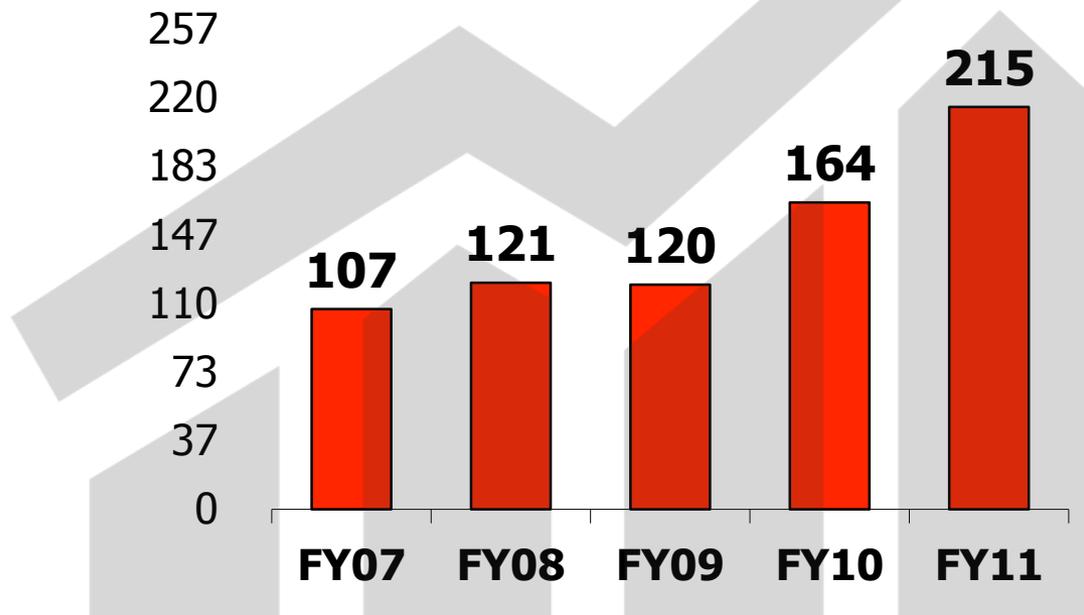
- Your former disgruntled employees
- Your competitor
- Your neighbor
- Your employee friends or family members, etc.
- Police or EMS personnel
- Anyone who sees or *thinks* they see a violation



Everyone & Anyone

Increase in “Significant Enforcement” Cases

“Total Proposed Penalty” is now over \$100,000



100% increase since 2007

Worker Fatalities & Employer Criminal Liabilities

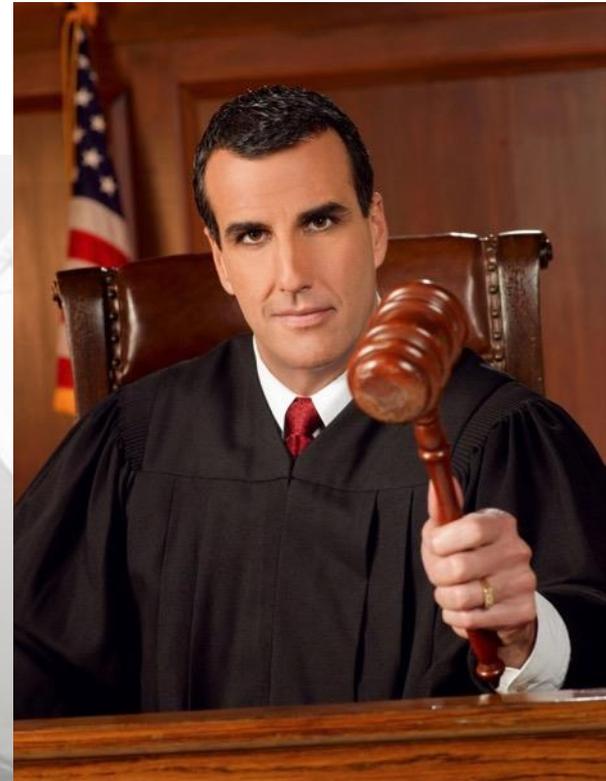
- **“Willful Violation”** convictions that resulted in the death of an employee, **are punishable by a court imposed fine or imprisonment for up to 6 months, or both.**
- A fine of up to **\$250,000** for an individual, or **\$500,000** for a corporation, may be imposed for a criminal conviction.



COMPLETELY PREVENTABLE

Example of a Business Owner facing Criminal Charges

- Mr. Martin Romano, President of MR Asphalt, Inc. (Montana)
- His employee died after falling 15 ft from an oil tank
- Tragic enough, **"Willful Violation"** "failure to provide a guardrail or fall protection."
- Mr. Romano faces criminal charges if convicted:
 - **6 month prison term**
 - **\$10,000 personal fine**
 - **\$500,000 corporate fine**



COMPLETELY PREVENTABLE

Worker Injuries & Civil Lawsuit Liability

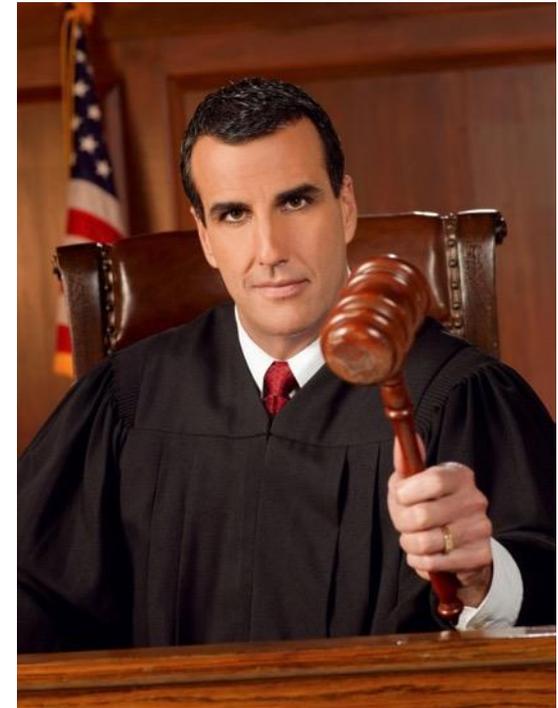
Potential civil lawsuits could add **\$million\$** in legal costs and penalties to a business and could potentially destroy a business



HOW CAN A BUSINESS SURVIVE THAT?

Example of a Civil Lawsuit Won by an Injured Worker

- HOUSTON, TX 2008 – a welder sustained severe burns after a tank exploded while welding.
- The worker claimed the owner was aware of dangerous conditions but failed to warn him.
- The welder was awarded **\$2,125,000**



COMPLETELY PREVENTABLE

OSHA Mandated Employer Responsibilities



Does your Company Have these in Place NOW?

- Hazcom program
- PPE program
- Lockout/Tagout program
- OSHA 300 logs

Environmental Enforcement Trends



Environmental Fines and Penalties are NOT CAPPED & Could Include Jail Time

Legal FINES & PENALTIES for environmental violations can EASILY...and QUICKLY.... run into the **\$million\$ of dollar\$**



Environmental Fines and Penalties are NOT CAPPED & Could Include Jail Time



Federal environmental laws **hold corporate officers and employees personally responsible for violations.**

This includes both criminal fines and jail time.

Actual Environmental Case Involving Significant Fines & Prison Time

Atlantic States Cast Iron Pipe Co.
(Phillipsburg, NJ)

- **Fined \$8,000,000** for multiple violations
- **3 managers sentenced to Federal Prison terms:**
 - 70 months, John Prisque, Plant Mgr
 - 41 months, Scott Faubert, HR Mgr
 - 30 months, Jeffrey Maury, Maintenance Mgr

COMPLETELY PREVENTABLE

Environmental Inspections Often Triggered by Complaints

- Your competitor
- Your neighbor
- Your employee, their friends or family members, etc.
- Your former disgruntled employees
- Police or EMS personnel
- Anyone who sees or *thinks* they see a violation

TCEQ is mandated to respond to all complaints



Everyone & Anyone

Reputational Risk Associated with Non-Compliance



Media Outlets Publish Fines

2015 - 04/07/2015 - Foundry workers exposed to numerous ...
<https://www.osha.gov/.../r...> Occupational Safety and Health Administration
Apr 7, 2015 - OSHA cites American Spincast Inc. in Belton, Texas, with 50 violations, proposes \$165,200 in fines. Employer name: American Spincast Inc.

OSHA fines Belton company \$165K for health and safety ...
www.kxxv.com/.../osha-fines-belton-company-165k-for-health-and-... KXXV
Apr 7, 2015 - American Spincast Inc. faces \$165,200 in fines after OSHA issued 32 serious safety violations and 18 serious health violations. According to a ...

OSHA fines Belton manufacturer - The Killeen Daily Herald ...
kdhnews.com/.../osha-fines.../article_d52c6658-ddf8-1... Killeen Daily Herald
Apr 8, 2015 - According to an OSHA news release, safety inspectors cited American Spincast Inc. for 32 serious safety violations and 18 serious health ...

Texas Foundry Penalized \$165,000 By OSHA - San Marcos ...
smcorridornews.com/.../texas-foundry-penalized-165000-by-osha.html
Apr 13, 2015 - American Spincast, a company that specializes in centrifugal casting and ... carry a total of \$165,200 in proposed fines, according to OSHA.

OSHA Proposes \$165200 in Fines for American Spincast Inc.
www.pfsafety.com/wordpress2/?p=5319
Apr 22, 2015 - The United States Department of Labor's Occupational Safety and Health Administration has. cited American Spincast Inc. for fifty safety and ...

Premier Factory Safety – American Spincast Inc.
<https://www.pfsafety.com/wordpress2/?tag=american-spincast-inc>
Apr 22, 2015 - OSHA Proposes \$165,200 in Fines for American Spincast Inc. ... cited American Spincast Inc. for fifty safety and health violations, comprised of ...

Amended Heat Safety Regulations in Effect May 1
www.ercweb.com/resources/viewtip.aspx?id=8304
Apr 13, 2015 - OSHA found numerous violations in its inspection and has cited the ... American Spincast Inc. Fined \$165,200 for Numerous Safety and Health ...

KDH Business on Twitter: "OSHA fines Belton manufacturer ...
<https://twitter.com/kdhbusinessnews/status/585816917434208259>
Apr 8, 2015 - ... Unfollow Blocked Unblock Pending Cancel. KDH Business @KDHBusinessNews Apr 8. OSHA fines Belton manufacturer American Spincast ...

American Spincast Inc - HighBeam Research
<https://www.highbeam.com/doc/1G1-410060474.html>
Apr 17, 2015 - ... Numerous Safety and Health Hazards OSHA Cites American Spincast Inc. in Belton, Texas, with 50 Violations, Proposes \$165,200 in Fines.

ISHN November 2015 FDO 38 - BNP Media
digital.bnpmmedia.com/publication/?i=279004&p=122
OSHA's new webpage identifies high penalty cases in all U.S. states and ... date of penalties, and amount of fines: SEGUIN BROWNSVILLE PALESTINE SAN ...



5 Most Dangerous Compliance Risks



1

OSHA can inspect your business at any time without warning, and level significant fines & penalties against your business.

5 Most Dangerous Compliance Risks

2

The costs from a single employee accident or injury could irreversibly damage or destroy your business at any moment.



5 Most Dangerous Compliance Risks

3

Environmental fines and penalties are not capped and could include personal jail time.



5 Most Dangerous Compliance Risks

4

Businesses are accountable to a multitude of federal, state, & local agencies who enforce a wide range of environmental rules & regulations.



5 Most Dangerous Compliance Risks

5

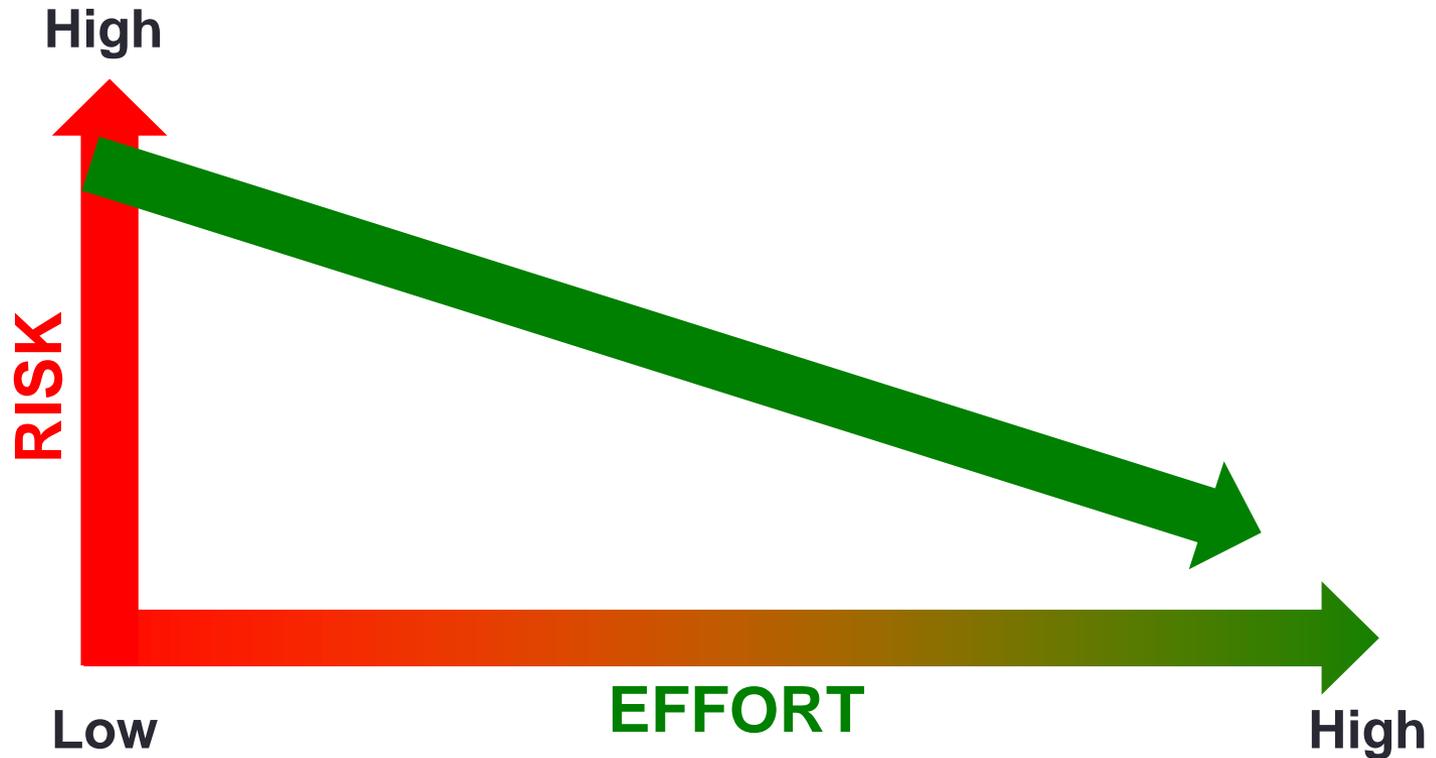
A single non-compliance event could stain your business' reputation forever and cost you significantly.



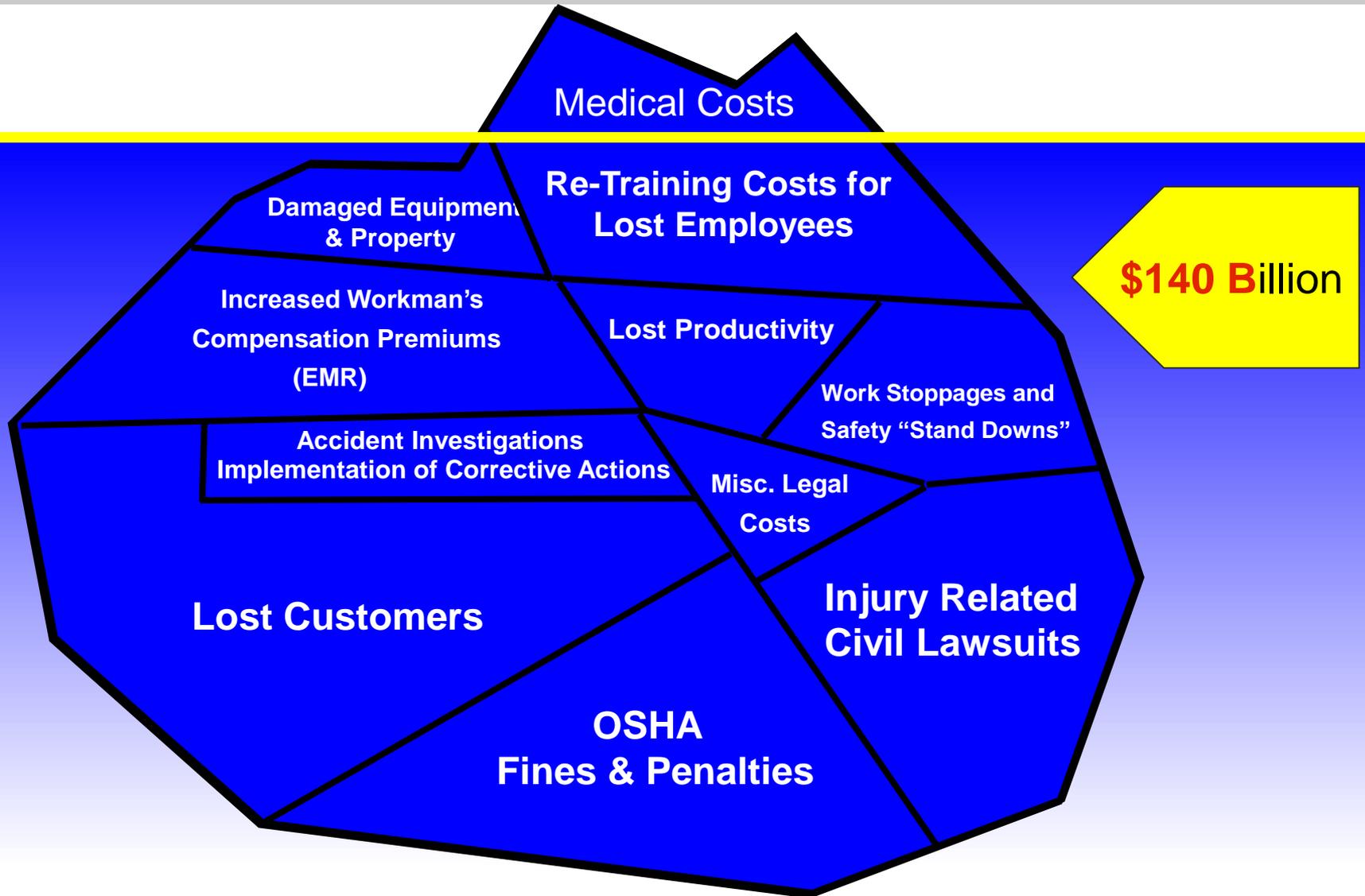
How Compliance Will Protect & Improve Your Business



Compliance = Risk Reduction



Save Money & Cut Costs



Save Money & Cut Costs



- U.S. companies lose \$140 Billion to accidents & injuries each year.
- Each serious injury or fatality is 48 times more expensive than the cost of prevention
- Each serious injury will cost a company \$20,000 - \$80,000
- Each prevented lost-time injury or illness will save a company \$37,000
- Each prevented fatality will save a company \$1,390,000
- **Over 60% of CFOs state “for every \$1 invested in injury protection returns \$2.00 - \$4.41, or more (>2x ROI)**

Grow Your Business

- Clients want to do business with compliant vendors
- Clients can drop vendors with poor EHS performance



Reduce Employee Turnover



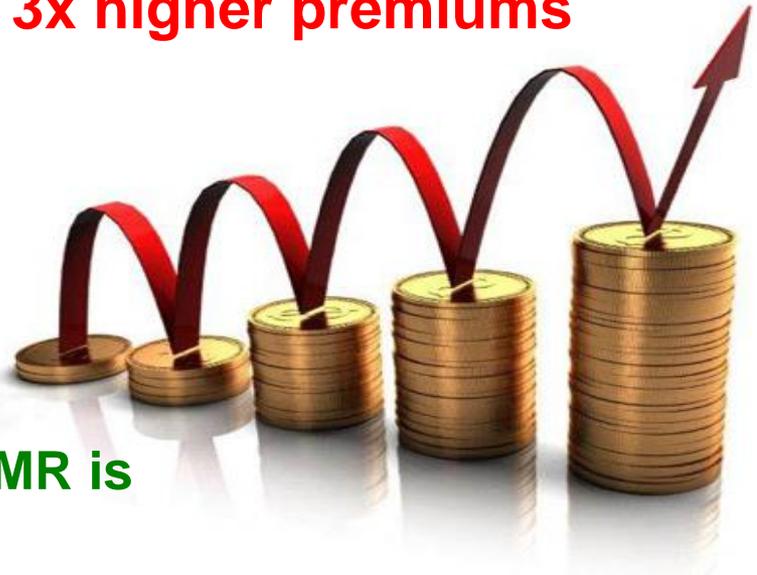
- Employees regularly rank “Feeling safe & having a safe workplace” as one of the TOP 10 factors in job satisfaction.
- Employees WANT to work with companies who take safety and compliance seriously.

Satisfied employees = More Productive Team Members

Workman's Compensation Premiums

EMR – Experience Modification Rate (“E-Mod”)

- Compares your WC claim history with competitors
- Rewards companies who have lower losses & good safety performance
- Penalizes companies with poor performance
- High EMR can result in **up to 3x higher premiums**



Monitoring & Managing your EMR is the key to saving money.

Other Benefits of Being Compliant

- **You'll be prepared for surprise inspections**
- Knowing that you have done all that you can to ensure a safe workplace for your employees
- Enhance and protect your businesses' reputation
- **Most of all, you'll have piece of mind**



Introducing ...



— *EHS Compliance For Small Business* —

The 6 Keys to Managing Compliance



- ✓ Expertise
- ✓ Audits/Inspections
- ✓ Customized Written Programs
- ✓ Employee Training
- ✓ Staying Current with Regulatory Changes
- ✓ Ongoing Program Maintenance

Compliance = lowest cost x lowest risk

Your Outsourced Partnership Solution

Berg Compliance Solutions offers outsourced EHS management services that:

- Keeps your company in line with ALL regulatory requirements
- Gives you access to our team of experts
- Saves you money
- Protects your workforce
- Protects your business from the potentially devastating risks associated with non-compliance
- **ALLOWS YOU AND YOUR STAFF TO FOCUS ON YOUR CORE COMPETENCY & GROW YOUR BUSINESS**
- **OSHA COMPLIANCE GUARANTEE!!**
- **All for less than half the cost of an in-house EHS Manager**



Our Services

Throughout the year we will:

- ✓ Conduct an initial base line assessment of your site & programs
- ✓ Provide a prioritized action plan to bring your company into compliance
- ✓ Develop a 12-month compliance calendar
- ✓ Implement your EHS program
- ✓ Review or develop your health/safety
- ✓ Develop & conduct training programs as needed with customized materials
- ✓ Industrial Hygiene Surveys
- ✓ Assist with organizing, storage and labeling of hazardous materials
- ✓ Conduct monthly inspections with detailed reports
- ✓ Assist with OSHA inspections and fine reductions
- ✓ Manage all record keeping requirements
- ✓ Provide management & optional support of environmental program



Our Free Offer

Are you compliant or are you at risk?



IT'S TIME FOR A CHECKUP

In order to quickly assess your current compliance risk potential, we are offering our **FREE Summary Compliance Assessment**.

- ✓ Facility inspection to identify physical hazards
- ✓ Review of your health & safety manual
- ✓ Review of training requirements and records
- ✓ Record keeping requirements
- ✓ Environmental compliance review



Why Berg Compliance Solutions?

- Our focus on small business: our founder understands the compliance challenges facing small business because he used to own and operate 3 highly regulated small companies and struggled for years trying to manage their EHS compliance. Those experiences were the inspiration for founding Berg Compliance Solutions
- Full Service: One of the few safety consultants in Texas to provide Environmental and Health & Safety compliance expertise, including hazardous waste management.
- Unmatched Competency: We're the 'heavy-weights' of EHS compliance. Nobody knows the in's and out's better.
- Consistency: Your outsourced team works fast to make you compliant, and then continually works to maintain compliance.
- Quick response / proactive: Berg is your "Go-to" EHS department. We're known for our rapid response to day-to-day communications and urgent situations.
- Easy to deal with / personalized service: We specialize in serving small companies with friendly, personalized service.

A short video from our founder and CEO, Russell Carr



Additional Benefits & Resources

- ✓ Keep up to date with regulator changes & updates:
OSHA / EPA / TCEQ / DOT
- ✓ Our team of experts: 135+ Years Combined Experience
- ✓ Existing relationships with regulatory agencies
- ✓ Relationships with OSHA & Environmental lawyers

Did you know?

OSHA encourages use of 3rd party consultants and will reduce fines accordingly.

We handle it all – for less than HALF the cost of an EHS Mgr.



Pricing for Annual Service Contract

- Dependent on Scope of Work:
 - Safety & Health Compliance (Included)
 - Environmental Compliance (Optional)
- Dependent on Findings of Initial Audit
- Unknowns & Add On Items Not Included In Monthly Fee:
 - Potential Process Safety Management (PSM) due to HF
 - Storm Water Prevention Plan
 - Potential Air Permit
 - Potential Water Discharge Permit



Next Steps...Schedule It

**FREE Summary
Compliance Assessment**

DATE OF YOUR ASSESSMENT: _____



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