



ARMA

AUSTIN REGIONAL MANUFACTURERS ASSOCIATION

Next Up!

OSHA's in the Lobby & Myth Busters
How to Manage an OSHA Inspection
Common Health & Safety Compliance
Misconceptions

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OSHA's In The Lobby



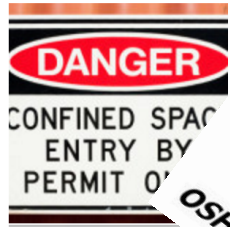
How To Manage an OSHA Inspection & Common OSHA Compliance Misconceptions



Cost of OSHA

'Their last moments were awful:' \$3.37M verdict upheld in confined space deaths

February 11, 2016 By Fred Hosier Leave a Comment



Suburban Propane Partners in Fort Worth, Texas, exposed workers to propane gas and other hazards

OSHA fines company \$114K for

Court says criminal law enforced, with OSHA fines

February 8, 2016

Alfa Laval faces nearly \$500K in fines for safety violations

OSHA finds 50 violations

Workplace hazards at Br... leads to \$155K in OSHA fine Agency inspectors find chemical, noise, and other hazards

Plating shop exposes workers to serious cancer risk; other health hazards OSHA fines Dallas' Lane Plating Works \$110,200 for 21 violations

safety violations in facility

Ashley Furniture's OSHA fines now total almost \$2.3 million in 2015

October 26, 2015 By Fred Hosier Leave a Comment

Furniture manufacturer, staffing agency expose workers to hazards twice in 14 months MooreCo Inc., Manpower Group US Inc. in Temple, Texas, face proposed fines of \$161K



Example of an Actual OSHA Fine in Texas

In 2017 OSHA Fined Durcon Inc., a Texas manufacturer, **\$459,918** for multiple violations after an employee complaint:



25 Serious, Repeat, & Willful health and safety violations, including:

- 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 hazards
- Multiple Respiratory Protection Program violations
- Multiple Machine Guarding violations

The Process

- Triggers for Inspections
- Initial Contact
- Opening Conference
- Walk-Around
- Closing Conference
- The Aftermath
- Minimizing Risks



Triggers for an OSHA Inspections



- Imminent Danger
- Fatality/Accidents
- Complaints
- Programmed/Targeted
- Referrals
- Follow-up



Imminent Danger

- Occurs when OSHA receives a report that a condition of imminent danger exists at a workplace.
- This is the least common type of inspection
- “Plain-View” Activities



Fatality/Accidents Inspections

- Employer has a workplace fatality or hospitalization
- Report Fatalities within 8 hours
- Report hospitalization/loss of limb/eye within 24 hours



Complaint Inspections

- OSHA receives a formal complaint
 - OSHA makes it easy and confidential for employees to report a safety complaint
 - Whistleblower Protection Act protects these workers from facing serious company retributions
- May be Fax/Email/Letter or in-person visit

UNITED STATES
DEPARTMENT OF LABOR

Occupational Safety and Health Administration

OSHA Online Complaint Form
Notice of Alleged Safety or Health Hazards

EMERGENCY NOTICE
Do Not Report an Emergency Using this Form or Email!

To report an emergency, fatality, or imminent life threatening situation please contact our toll free number immediately:
1-800-321-OSHA (6742)
TTY 1-877-888-5627

Please fill out sections 1 through 19, but **READ THIS FIRST** items noted with an asterisk (*) are required in order to accept your submission.

* 1. Establishment Name:

Note: In order for OSHA to fully process your complaint, complete and accurate information about the workplace is necessary.

* 2. Site Street:

* 3. Site City:

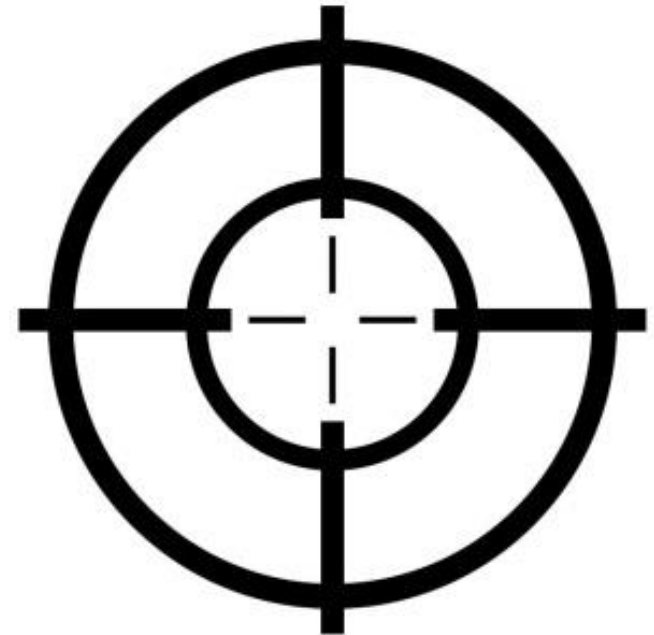
* 4. Site State:

* 5. Site ZIP Code:



Programmed/Targeted Inspections

- An inspection conducted of randomly chosen workplaces particularly hazardous types of work according to their Standard Industry Classification (SIC) Codes
- Based on National and Regional Emphasis Programs
- High DART/TRIR Rates
 - More visibility with electronic reporting
 - Skewed to favor large establishments



Combustible Dust

At least 3 inspections per region

Industries

- Food Products
- Chemical
- Textiles
- Furniture
- Metal processing
- Pharmaceuticals
- Wastewater Treatment
- Recycling
- Coal Dust Handling

Activities

- Metal dust such as aluminum and magnesium
- Wood dust
- Coal and other carbon dust
- Plastic dust and additives
- Biosolids
- Other organic dust such as sugar, flour, paper, soap, and dried blood
- Certain textile materials



Hazardous Machinery

Machine Guarding & Amputation Potential

Industries

- 80 NAICS Codes
- High Injury Rates



Hazards

- Benders, Rollers and Shapers
- Cranes
- Casting Machinery
- Conveyors
- Drills, Milling, Cutting fixed tools
- Grinding and Abrading machines
- Material & Personal Handling Equipment
- Mixing and Blending machines
- Brake press and other presses
- Plastic Injections

Hexavalent Chromium

Inhalation Hazards

At least 5 inspections per region

Industries

- 11 Industry SIC
- 8 Work related activities



Hazards

- Chromate pigments in dyes, paints, inks, and plastics
- Chromates added as anticorrosive agents to paints, primers, and other surface coatings
- Chromic acid used to electroplate chromium onto metal parts
- Hexavalent chromium can also be formed during “hot work,” such as the welding, brazing, and cutting of stainless steel or other chromium-containing metals and the melting of chromium metal

Lead

Inhalation Hazards

Industries

- 41 SIC listed
- Industry where airborne lead exposure possible



Primary Metal Industries

Multiple Standards Inspected

Industries

- 16 SIC listed
- Focused on Foundries and Forming establishments



Hazards

- Chemical exposures
- PPE
- Respiratory/Hearing
- Hazard Communications
- Heat Exposure
- Housekeeping/Hygiene
- Access to records

Process Safety Management

Industries

- Ammonia Refrigeration
- Petroleum Refineries
- Chemical Manufacturing
- Others that may reach PSM thresholds



The Rest

- Silica
- Federal Agencies
 - Sites with high DART
- Shipbreaking
- Trenching & Excavation



Region VI Programs

- Fabricated Metal Products
- High Noise in Manufacturing
- Fall Hazards in Non-Construction Industries
- Heat Illnesses
- Grain Handling
- Health Hazards in Healthcare
- Upstream Oil & Gas



Fabricated Metal Products

Industries

- Targeting SIC 34XX



Hazards

- Machine guarding
- Power tools
- Lockout/tagout
- Chemical exposures
- Noise
- Silica
- Confined Spaces
- Welding fumes

High Noise

Industries

- Sawmills and Planning Mills (SIC 242X)
- Wood Container manufacturing (SIC 244X)
- Misc Plastic Products (SIC 308X)
- Concrete, Gypsum & Plaster Products (SIC 327X)
- Cut Stone and Stone Products (SIC 328X)

Hazards

- Assessment of Hearing Conservation Program



Non-Construction Fall Hazards

Industries

- All non-Construction industries
- “Plain-View” Activities

Hazards

- Ladders
- Scaffolding
- Aerial equipment
- Elevated work platforms
- Elevated walking/working surfaces



Heat Illnesses

Industries

- Construction
- Outdoor Activities
- “Plain-View” Activities

Hazards

- Preventative actions
- Training
- First Aid



The Rest

- Grain Handling Facilities
- Health Hazards in Healthcare
- Upstream Oil & Gas
- Poultry Processing Facilities
- Construction Activities
- Cranes used in Construction



Referrals

- Reported by federal, state or local agencies
- Safety issues at a workplace
- Media investigations could also trigger



Follow-Up Inspections

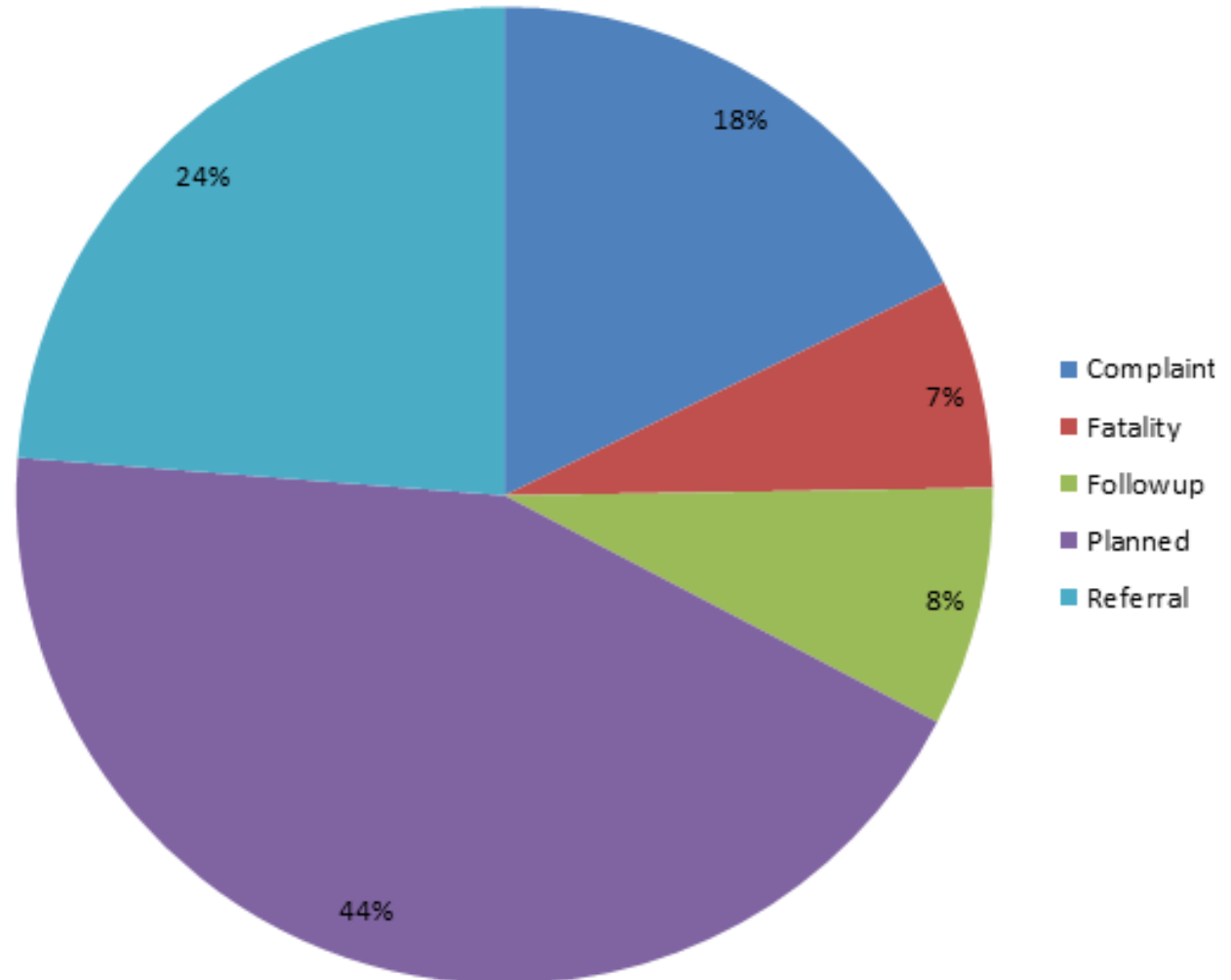
- After citations issued
- Verifying abatement
- Lowest priority
 - Except for high risk industries/NEP



Austin Area 2019 Inspections

360 Total Inspections
48% General Industry

2018: 307 Inspections



OSHA's Here!

- Normally arrive unannounced
- Allowed entry without delay or at reasonable times
- Inspect the workplace
 - During regular hours
 - At other reasonable times
 - Within reasonable limits and manner
 - Privately question employees and employer
 - Maintain confidentiality of complaints



"Try to look busy... OSHA is coming in at ten."

Initial Contact

- Should show credentials
 - Document their name
- Should not collect any penalty or promote sale of products and services
 - In doubt – Call local office
- Contact applicable management staff



Opening Conference

- Scope/Purpose of visit
- Explain type of visit
- Complaint
 - Should show the list of alleged hazards
- Programmed/Targeted
 - Program to be inspected
 - Should focus on that
 - Verify SIC/NAICS with program



Facility Inspection

- Escort inspector
- They take pictures – you take pictures
- Document any measurements they take
- Take great notes
- If they point something out
 - Ask how to abate/correct problem
 - If possible, correct immediately.
- Employee interviews
 - Over-the-shoulder
 - Private interview
 - Asking about
 - Job duties
 - Training
 - Knowledge of hazards



Employee Interviews

- OSHA interview them about a particular incident or complaint, or about safety issues in general
- Normally done privately
- The employee has the right to be interviewed or may decline
- Employee can request a manager be present during the interview
- If the employee desires legal counsel, advise the inspector
 - If make legal counsel available and the employee agrees the counsel can represent the employee at the interview
- Must answer questions truthfully, and not speculate if the employee does not personally know the answer
- The employee has the right to end the interview at any time;
- The employer will not retaliate, in any way, against any employee for participating in an OSHA interview or for telling an OSHA inspector the truth



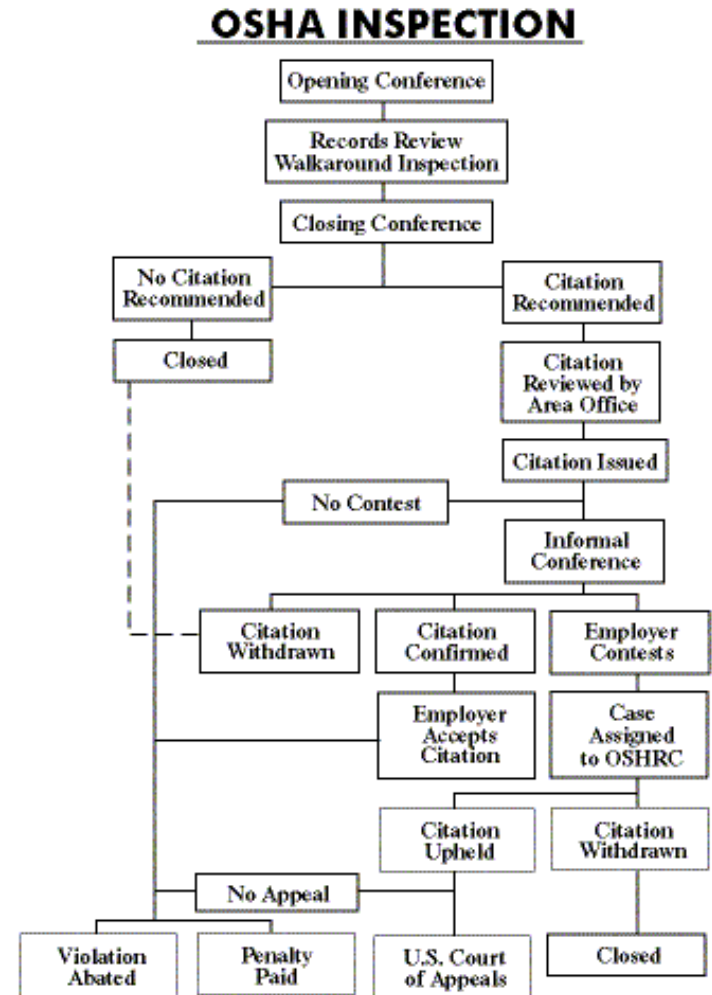
Records Review

- Inspector will want to examine various records.
- The inspector is generally entitled to examine any document or program that OSHA regulations require
 - Documents within the scope of the inspection.
- Not entitled to examine documents that other regulatory agencies require, such as EPA's SARA logs
- Typical Documents
 - OSHA 300 logs for past 5 years
 - OSHA 301 or investigation reports
 - Applicable written programs
 - LOTO Procedures
 - PPE Assessments
 - Medical Surveillance results
 - IH Sampling results



Closing Conference

- Conducted at end of inspection
- Explain any additional actions OSHA requires
- Discuss
 - Observed violations
 - Possible citations
 - Time to abate
 - If they will return for sampling
- Provide information on post-inspection rights
- Ask questions on abatement options
- **Should not collect fines!**



The Aftermath

- Citations provided within 6 months
- Sent via certified mail or hand delivered
- Provides instructions for posting, responding and options
- 15 Federal working days to object then becomes final
- Posting the Citation
 - Prominent locations
 - Location of violation
 - Until abated or 3 working days
- Timeline for abatement
 - Normally 14 working days
 - Must be documented and provided to OSHA
 - Submitted within 10 days of the abatement date
- Subject to Freedom of Information Act

OSHA Fines	
Serious	\$13,494
Other-Than-Serious	\$1000 or none
Failure to Abate	\$13,494/day
Willful	\$134,937



Pay Fines Now

- Provided with citation
- Normally lowers fines
- Still have to abate hazards
- Listed as a citations for follow-up
- Impact future business

1. The EMPLOYER agrees to correct the violations as cited in the above referenced citations.

2. The EMPLOYER agrees to provide evidence of the actions taken to correct the cited violations.

3. Upon correction of all violations, the EMPLOYER agrees to provide written certification to the Area Director that all of the violations have been corrected. The EMPLOYER agrees to post a copy of the written certification for a period of three days in the place the citations were posted as described in paragraph 6 of this AGREEMENT.

4. OSHA agrees that the total penalty is amended to **\$24,057.60.00**. Failure of the EMPLOYER to comply with the terms of this AGREEMENT shall cause the penalty to revert to the initially proposed penalty of **\$40096.00**.



Informal Conference

- Conference with Area Director
- During the 15 day contest period
- Discuss
 - Citation
 - Penalties
 - Abatement dates
 - Other related information
- May revise citation

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



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 04/12/2017. The conference will be held by telephone or at the OSHA office located at 1033 La Posada, Suite 375, Austin, TX 78752 on _____ at _____.

Employees and/or representatives of employees have a right to attend an informal conference.



Options

- Pay and Abate
- Contest citation
 - Enters the legal system
 - Occupational Safety & Health Review Commission
 - Attorney involvement
 - Discovery
 - Mediation
 - Formal hearings



Minimize the Risk

- Analysis of safety practices, written procedures and training
- Know the standards applicable to your business
- Effective safety disciplinary program
- Have documents in order and know how to access them
 - OSHA logs
 - Training records
 - Medical Surveillance
 - IH Sampling reports
 - LOTO Procedures and annual assessment
- OSHA inspection plan



Companies without programs have zero defense and are totally exposed



EHS Compliance For Small Business

Common OSHA Compliance Misconceptions



Common OSHA Compliance Misconceptions

My Insurance Company Manages Our OSHA Compliance



- No Mandate For Compliance
- 1 Inspection per Year
- Recommendations Are Often “Loss Control” Related, NOT OSHA Compliance Related
- Lacks Time & Resources to Manage Your OSHA Compliance:
- Only Offers Generic On-Line Resources
- Company Representative Must Utilize & Manage Resources



Common OSHA Compliance Misconceptions

OSHCON Manages Our OSHA Compliance



- No Mandate For Compliance
- 1 Inspection per Year
 - Company Must Implement All Corrective Actions Within 2 Weeks
- Not chartered to Manage Your OSHA Compliance
 - Advise and Assist
- Only Offers Generic On-Line Resources
 - Templates must be modified
- Company Representative Must Utilize & Manage Resources



Common OSHA Compliance Misconceptions

We Subscribe to JJ Keller or Other On-Line EHS Resource



- Resource services
- No Guarantee of OSHA Compliance
- Only Offers Generic On-Line Resources:
- Company Representative Must Utilize & Manage Resources



Common OSHA Compliance Misconceptions

We Have A Health & Safety Manual



- Must Be Customized To Your Operations
- Contains Many “Elements” That Must Be Managed & Maintained:
 - Employee Training
 - PPE Assessments
 - Equipment Specific LOTO Procedures
 - Hearing Testing/Medical Evaluations
 - Respirator Fitting/Medical Surveillance
 - Chemical Inventory
 - Emergency Action Plan



Common OSHA Compliance Misconceptions

We Conduct 15 Minute Safety Training Sessions Each Month



- Good for general knowledge
 - Tool to reinforce previous training
- Rarely focused on workareas
- Doesn't cover certain topics
 - Authorized Lockout/Tagout
 - Confined Spaces
 - Forklift
 - Qualified Electrical worker
- Training Takes 30-45 Minutes To Adequately Address
- Trainer Must Be Competent & Understand Topics
- Some Topics Trained Annually



Common OSHA Compliance Misconceptions

Dual Tasking OSHA Compliance To Manager Role



- Human Resources, Operations, Manufacturing Managers
- Typical Challenges:
 - Technical Knowledge:
 - Don't Understand Standards
 - Not Qualified To Train
 - Can't Identify or Correct Hazards
 - Time:
 - Primary Responsibility Contributes To Company's Bottom Line
 - Very Limited Time, If Any, For Compliance
- Common End Result:
 - **No Compliance**



Common OSHA Compliance Misconceptions

Other Misconceptions



- Our Company Is Too Small, OSHA Doesn't Apply To Us
- Our Company is "Off The Beaten Path"
- We Don't Have Injuries
 - Our DART is low
 - EMR is under 1
- We Give Our Employees PPE



Questions/Comments



And Now a Word from Our Sponsor



— *EHS Compliance For Small Business* —

Our Free Offer For ARMA Members

Are you compliant or are you at risk?

IT'S TIME FOR A CHECKUP

*Berg Compliance Solutions
is offering a*

FREE Summary Compliance Risk Assessment



Includes:

Quick Site Inspection

Written Program Review

Safety Training Requirements Review

OSHA Fine Liability Estimate

Contact Russell Carr at

RCarr@BES-Corp.Com or 512-457-0374

