

The Top 5 Most Dangerous EHS Compliance Mistakes Made By Small Companies

Learn How To Avoid Them
& Reduce Your Risk

A Berg Compliance Solutions, LLC e-book

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Company Founder & President



—EHS Compliance For Small Business—



Berg Compliance Solutions, LLC

EHS COMPLIANCE FOR SMALL BUSINESS

Affordable outsourced EHS compliance solutions designed for small manufacturing, construction & industrial services companies.

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About The Author

Hello, my name is Russell Carr, President & Founder of Berg Compliance Solutions and author of this e-book.

During my career as a small business owner and entrepreneur, I owned and operated 3 small contracting businesses which exposed my employees to major health and safety hazards on a regular bases.

Between the 3 companies, I had to answer to OSHA, EPA, TCEQ, DOT and TX Railroad Commission. It was overwhelming and I always struggled to keep up.

Luckily during that time, we never experienced any serious employee injuries, but I was cited by OSHA & TCEQ, & suffered other related losses and problems including skyrocketing Workers Compensation Premiums, lost business opportunities and more due to EHS program deficiencies.

In addition to my own struggles, I saw some really bad things happen to clients, competitors & other small companies due to their own failures to keep up with EHS regulations. I saw one client go to jail, others threatened with jail time, another lose his entire business after a single employee injury, and another face a multi-million dollar civil lawsuit after a workplace fatality.

These combined experiences later inspired me to found a new company called Berg Compliance Solutions, LLC which is dedicated to helping other small business owners and companies to manage environmental, health and safety compliance and risk.

We are committed to our mission, which emphasizes an educational approach to help clients gain a better understanding of these complicated regulations & how to manage them. This includes free white papers, infographics, videos, seminars, webinars and free consultations and compliance assessments.

Feel free to contact me directly to learn more at rcarr@bes-corp.com or at **512-923-0374**.

I look forward to hearing from you.

Here's What We'll Cover:

Risks & Liabilities

Learn more about the potentially catastrophic risks you and your company can face if you make the same mistakes that I and many other businesses make when trying to manage EHS compliance.

The Top 5 EHS Compliance Mistakes:

- Dual Tasking A Staff Manager with EHS Compliance Responsibilities
- Outsourcing OSHA Compliance To Your Insurance Company or OSHCON
- Buying Or Downloading A Generic Safety Manual
- Using Generic Online Training & “Tailgate” Topics to Manage Safety Training
- Failure To Conduct Routing Inspections

Conclusions



Why EHS Compliance Matters: Risks & Liabilities

Many small business owners, executives and managers feel overwhelmed by complicated OSHA & EPA regulations, and complain that they and their staff are just too busy running their business, and lack the time, resources and expertise to properly understand and manage environmental and safety. EHS compliance might be challenging, but OSHA and EPA don't care nor do they give "passes," even to small companies. For example, this dictum from OSHA's website says it all:

**All Employers Are Required by Federal Law to
"Provide a Safe and Healthy Workplace."**

As you can see, this law is extremely vague and broad and therefore puts an enormous burden on US employers. That's why it's so critical to take the time to understand OSHA's regulations, how they apply to your business, and take the necessary steps to ensure that your company complies and maintains a safe workplace. The same goes for EPA and state environmental compliance regulations.

In doing so, you'll benefit by protecting your employees and your local community from harm, while at the same time protecting your business from potentially catastrophic risk & liabilities including major fines and penalties, lost money, lost business and in some cases civil & criminal liability.

More On Risk & Liabilities

Before getting into the meat of this white paper, let's take a quick look at the major risks & liabilities that companies can face when failing to manage OSHA compliance.



OSHA FINES & PENALTIES

OSHA increased civil penalties by 78% on August 1st of 2016. This means that the maximum for “Serious” citations (the most common type) increased from the original maximum of \$7,000 each to \$13,494 each. “Repeat” and “Willful” citations rose from a maximum of \$70,000 each to up to \$134,937 each. Fines will continue rising every year moving forward to account for inflation! Many small business owners don't understand that they can face personal criminal and civil liabilities if employees get injured or killed as a result of negligence.

The average OSHA inspection will result in 5-10 Serious violations, meaning that the average inspection will end up costing a company between \$35,000 - \$80,000 however for many unprepared companies, fines often exceed \$100,000!



CRIMINAL & CIVIL LIABILITY

Many small business owners don't understand that they can face personal criminal and civil liabilities if employees get injured or killed, or if the environment is damaged as a result of negligence.

Business owners can face up to 6 months in jail and up to \$250,000 in fines if an employee is killed as a result of willful neglect of OSHA standards. An injured employee or their family can team up with a personal injury lawyer to sue the employer for \$multi-million dollar damages. EPA has no cap on fines and prison time.

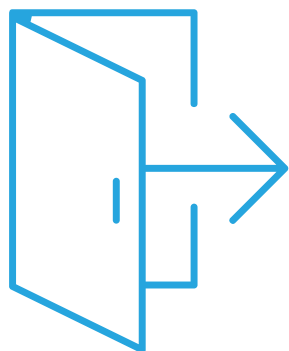
AFFECTED COMPANIES WITHOUT AN EHS PROGRAM ARE OFTEN TOTALLY EXPOSED WITH NO DEFENSE.

More On Risk & Liabilities



BAD PRESS & PR NIGHTMARES

Companies who get in trouble with OSHA often suffer major public embarrassment and PR disasters when OSHA issues press releases about citations and fines which are then distributed to local newspapers, trade journals and on-line for the local community, competitors, potential employees and worst of all, your customers to see. This can be incredibly damaging to a business, and almost impossible to repair.



LOST CUSTOMERS & OPPORTUNITIES

Companies often lose customers and business opportunities if they don't have a solid EHS program. Not only do companies need to have all of the required written programs, employee training, permits and records, but they must also manage key safety metrics such as EMR, TRIR and DART.

Companies who want to grow and prosper in their industry must be proactive about EHS or pay the price!

Poor EMR, TRIR and DART scores often prevent companies from bidding large projects and working for big customers. To make matters worse, once these metrics are bad, it can take years to repair them!



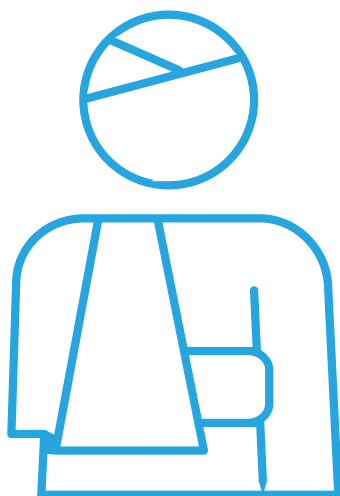
LOST & WASTED MONEY

Failure to manage EHS compliance often leads to spills, injuries, accidents and sometimes worse, all of which ends up costing the company significantly.

Losses come in the form of medical bills, damaged equipment, fines, increased insurance costs, legal fees and more.

- US Companies on average lose \$140 Billion every year to workplace accidents and injuries.
- Each serious injury or fatality is 48 times more expensive than the cost of prevention.
- Over 60% of CFOs state “for every \$1 invested in injury protection returns \$2.00 - \$4.41, or more (>2x ROI)”

More On Risk & Liabilities



WORKPLACE INJURY & FATALITY STATISTICS

Of course the biggest risk & liability of all is born by the employees of companies who fail to manage health and safety.

Most companies and management believe "it will never happen to us," but the statistics don't lie. Serious workplace injuries and fatalities happen every single day across America, and the majority of them happen at small companies.

Imagine the pain, stress, guilt and disruption that would follow if one of your employees was seriously injured or killed as a result of company negligence.....

Workplace Injuries:

4 million work related injuries and illnesses will occur each year in the US:

- That's 16,000 per day!
- Many will never fully recover
- An estimated 2.5 million will become disabled

Workplace Fatalities:

4,600 annual senseless deaths of American workers:

- 90 fatalities per week
- 13 fatalities every day

To learn more about these risks & how to manage them checkout our free report:

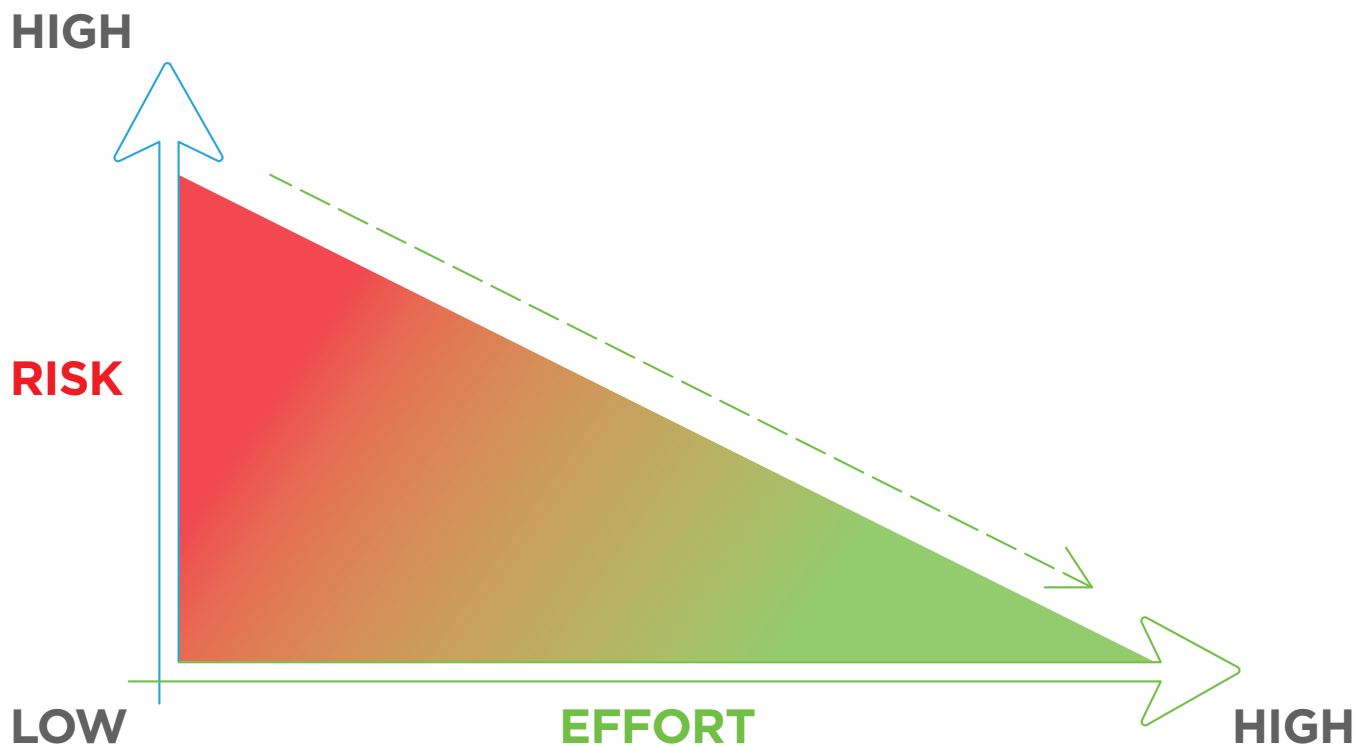
THE 5 MOST DANGEROUS EHS COMPLIANCE RISKS FACING SMALL COMPANIES

Don't Stop Now...

Now that you have a better understanding of the catastrophic risks & liabilities companies face for failing to manage EHS compliance, keep reading so you can learn more about the most common environmental, health and safety compliance mistakes made by small companies and how to avoid them.

It could literally end up saving you and your business from disaster.

The Graph Below Says It All:
Increased Effort = Decreased Risk
So Let's Keep Going...



The Top 5 Most Dangerous EHS Compliance Mistakes Made By Small Companies

Dual-tasking a Staff Manager with EHS Compliance

This is by far the most common, and potentially damaging, mistake that a small business can make when trying to manage their EHS compliance obligations.

Here's how it normally unfolds. One day the company realizes that they don't have a safety, or maybe an environmental, program and something needs to be done about it. Maybe a high value customer or insurance company asked for it, or maybe they had a near miss or a serious injury, or got inspected by OSHA. Whatever the case, the company decides it's time to build a safety program but is very quickly confronted with a big question, "who's going to do it?"

Despite all of the more viable and logical options, such as hiring a consultant or an experienced EHS professional, the business owner or senior management often decides to take the path of least resistance, which is to tap one of their staff managers with the responsibility. Most often it's the Human Resources Manager, but it could be Quality, Operations or even Maintenance.

Whatever the case, that poor soul gets the nod and is now expected to magically make it all happen, on top of their long list of other responsibilities.

Again, I'm not pointing fingers, because I made the exact same mistake too, and more than once! Looking back, it was very odd how easily I convinced myself that this was the solution, but eventually learned "the hard way" how wrong I was.

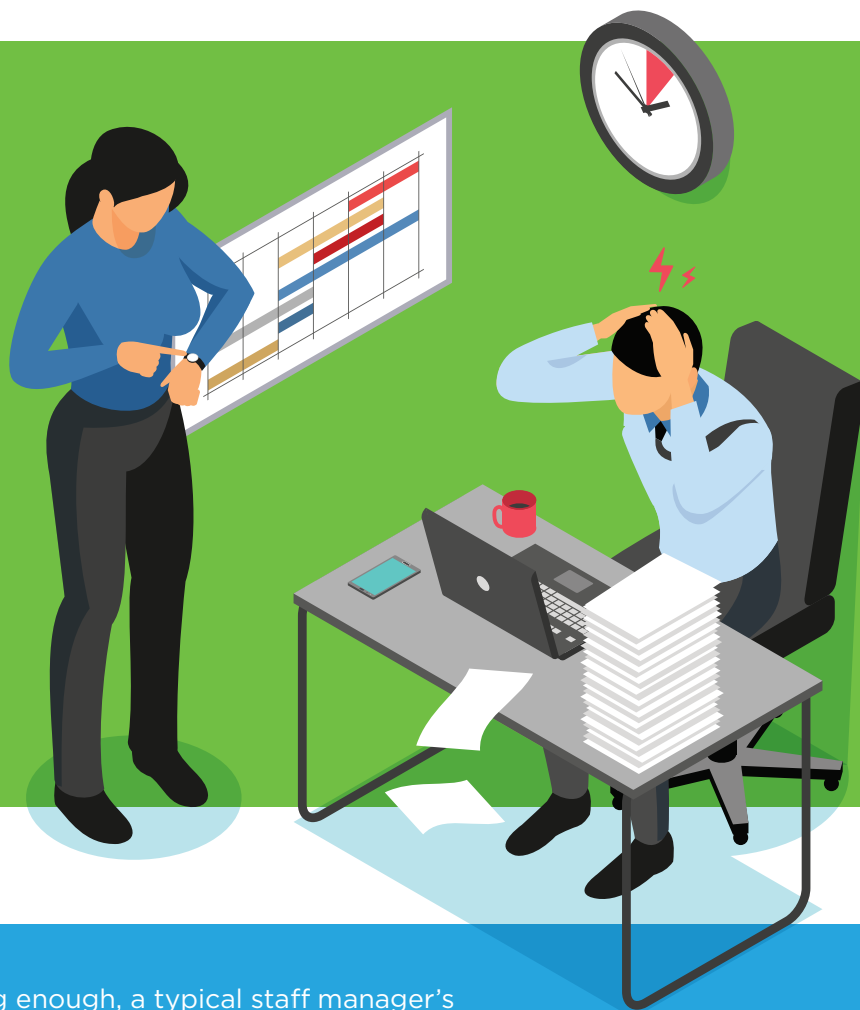


Here's why this “strategy” almost never works:

1

OSHA, EPA, DOT and state environmental regulations are numerous, often changing, complex, difficult to understand, and even tougher to comply with, even for experts. If you don't believe me, just log onto one of their websites and start reading, and while doing so, imagine trying to apply what you've read to your own company.

Successfully implementing and managing these regulations takes many years of experience and knowledge, and therefore it's totally unrealistic to expect someone with little or no experience to get it done.



2

As if problem #1 above isn't daunting enough, a typical staff manager's primary role often contributes directly to the company's bottom-line and therefore requires the majority of their time and attention (especially if they want to keep their job!). This leaves little, if any, time for managing compliance issues.

Add these two problems together, and it's pretty easy to see how this strategy is nearly always doomed to failure, yet small companies across the country continue to make it over and over and over again.

I'll add one final point: when a business owner or manager makes this decision (ie: mistake), they almost always believe that compliance is actually being managed, not realizing any of these problems. It's often compounded by the fact that the staff manager is afraid to say anything, for fear of losing their job. Then one day something bad happens, like a failed OSHA or EPA inspection, or maybe a serious injury.

Only then does the major error finally come to light, but by then it's too late, leaving the decision makers to wonder what happened....



Outsourcing OSHA Compliance to Insurance/Workers Compensation Carrier

This is yet another mistake that I managed to make during my career, which was believing that my WC carrier could somehow manage my safety programs, and I've seen many other small business owners do the same.

Just like me, many small companies are lured into a false sense of security when their WC "loss control agent" shows up for their annual loss control inspection and then shows them their wonderful "safety resources" web-portal, loaded with all kinds of generic safety plans, resources and training videos.

If they're lucky, the agent might even offer a quick forklift training session.

The experience often gives the company the false impression that this somehow adds up to managing their OSHA compliance requirements.

Unfortunately it doesn't and here's why:



Workers Compensation carriers are not mandated to manage policy holder's OSHA compliance.

Here are their actual mandates:

1

Conduct an annual “loss control” inspection, which normally addresses not only safety, but other non-safety related risks that could potentially result in policy losses. The end result is a very limited overview of actual health and safety hazards, combined with many other non-OSHA related findings. This falls well short of OSHA's mandate that employers assess and provide a workplace free of recognized health and safety hazards.



2

Provide free safety resources: As mentioned above, your WC carrier has probably showed off their safety resources, which normally comes in the form of a login web-portal. I'm not suggesting that these resources aren't helpful, but the problem is that all of the safety plans, training videos, etc. are “generic” meaning that they can't address the actual health and safety hazards that exist at any particular company. This violates OSHA's requirement that employers develop customized safety programs to address and control company specific health and safety hazards. Workers Compensation's generic safety resources simply can't do that.



3

The final problem lies in the fact that any individual loss control agent is typically responsible for a large book of policy holders, often running into the 100s or more, often spread over a wide geography. This means that the agent literally lacks the time and bandwidth required to manage OSHA compliance for any particular policy holder.



I've asked several loss control agents over the years whether or not they have, or could, manage OSHA compliance for any of their policy holders, and the answer has always been an emphatic "no." Feel free to ask yours too....

OSHCAN Can't Manage Your OSHA Compliance Either

On a related note, I've also seen companies make a similar mistake when working with OSHCON (OSHA's free consultation service). These companies are often lured into a similar false perception that OSHCON is able to manage their OSHA compliance.

OSHCAN has similar mandates to WC carriers, including providing an annual inspection and free generic safety resources. Although OSHCON's inspections do a much better job of identifying company specific health and safety hazards, and making recommended corrective actions, this is actually where the problems normally begin. Once those recommendations are made (which include many "one time" as well as ongoing programmatic corrective actions), it's now the company's responsibility to implement and manage them over time, and unfortunately most small companies really struggle to make it happen, which often results in a persistent state of non compliance.

I actually met with an OSHCON area manager & asked if he believed if companies could outsource their OSHA compliance to OSHCON and he replied "no, it's just not possible." Feel free to ask your OSHCON representative the same question.

Ok, here are all of the violations, now it's up to you to fix and manage everything moving forward



Buying or Downloading a Generic Safety Manual

I'll never forget trying to build a safety program for my first company. I started researching all of the requirements, was quickly overwhelmed and confused, and then soon came to the conclusion that the best way to proceed was to order a safety manual online.

Why re-invent the wheel, I thought to myself?
I'll just order a pre-built OSHA compliance manual and will be "all set!"



To be perfectly honest, It didn't take long before I put it on the shelf and forgot about it and I can't tell you how many times I've seen other companies do the same thing.

What most companies don't realize is that merely having a safety manual on the shelf doesn't equal compliance. There's actually much more to be done, and here's a brief summary of those requirements:

1

Your Safety Manual Must Be Customized To Address Your Company Specific Hazards

OSHA mandates that impacted employers assess their operations to identify all of the health and safety hazards that exist in their work environment, and then develop a company specific (ie: customized) health and safety manual to include all applicable OSHA standards to address and control each of the identified health and safety hazards. Generic safety manuals almost always contain standards that have no applicability to any given company. This not only means that they can't meet the "customized" requirement described above, but also means that the company is agreeing to manage all of the additional standards that don't even apply to the company.

2

You Must Implement & Manage Everything In Your Safety Manual

Just having a health and safety manual doesn't meet OSHA standards. OSHA mandates that employers actually implement and manage all of the aspects included in the standards. This includes things like conducting routine inspections, developing and delivering employee training, conducting exposure testing, creating company specific procedures, etc. Rather than meeting all of these requirements, many companies make the mistake of buying a generic safety manual and then putting it "on the shelf," never getting around to actually implementing and managing these extensive compliance components.



Using Generic Online Training & “Tailgate” Topics to Manage Safety Training

It's very common for small companies to subscribe to an online safety training portal, where they're given access to a wide range of generic safety training modules. Some of these modules address specific OSHA standards, but many do not.

Many also utilize weekly, monthly, or less frequent “tailgate” training topics, often downloaded from the internet, which normally last 5-15 minutes and are delivered by a supervisor or manager (who themselves often don't really understand OSHA standards).

Again, I've done both during my career, so understand the lure and how it can happen.

Here's why this training strategy doesn't work:

1 Training Must Be Customized For Your Company

Similar to OSHA's requirement for customized health and safety manuals described above, OSHA also mandates that employers develop and deliver customized training programs to address the specific health and safety hazards that exist at the company. Generic safety training, such as the ones found online, can only cover the technical basics of each OSHA standard, but fail to address the company specific aspects. In other words, generic training really only meets about ½ of OSHA's requirements.



2 Only Train The Required Topics

Related to the above requirement, employers should only develop and deliver the OSHA training standards which apply to their company specific hazards. Companies who subscribe to generic training resources, rarely, if ever assess this requirement, and make the additional mistake of offering non-applicable training and/or fail to deliver training which is actually required.

Training Must Meet OSHA's Comprehension Standard

3

OSHA laws include a requirement that employees are able to fully comprehend the health and safety training that a company delivers. This means, for example, that the training must be delivered in the native language of the audience, that employees are able to ask questions and get the correct answers, and so on. Generic online safety training normally can't meet these requirements.



Tailgate Training Doesn't Meet OSHA Standards

4

"Tailgate" training is a great tool for "keeping safety top of mind", but fails to meet OSHA's requirement that training includes all technical standard content.

Another related mistake I made, and routinely see, is delivering training by having employees read safety procedures on their own, and then having them sign off on the document..

This "training" method often violates OSHA standards because the employees often aren't given the opportunity to ask questions, and the training content often doesn't meet all other requirements.

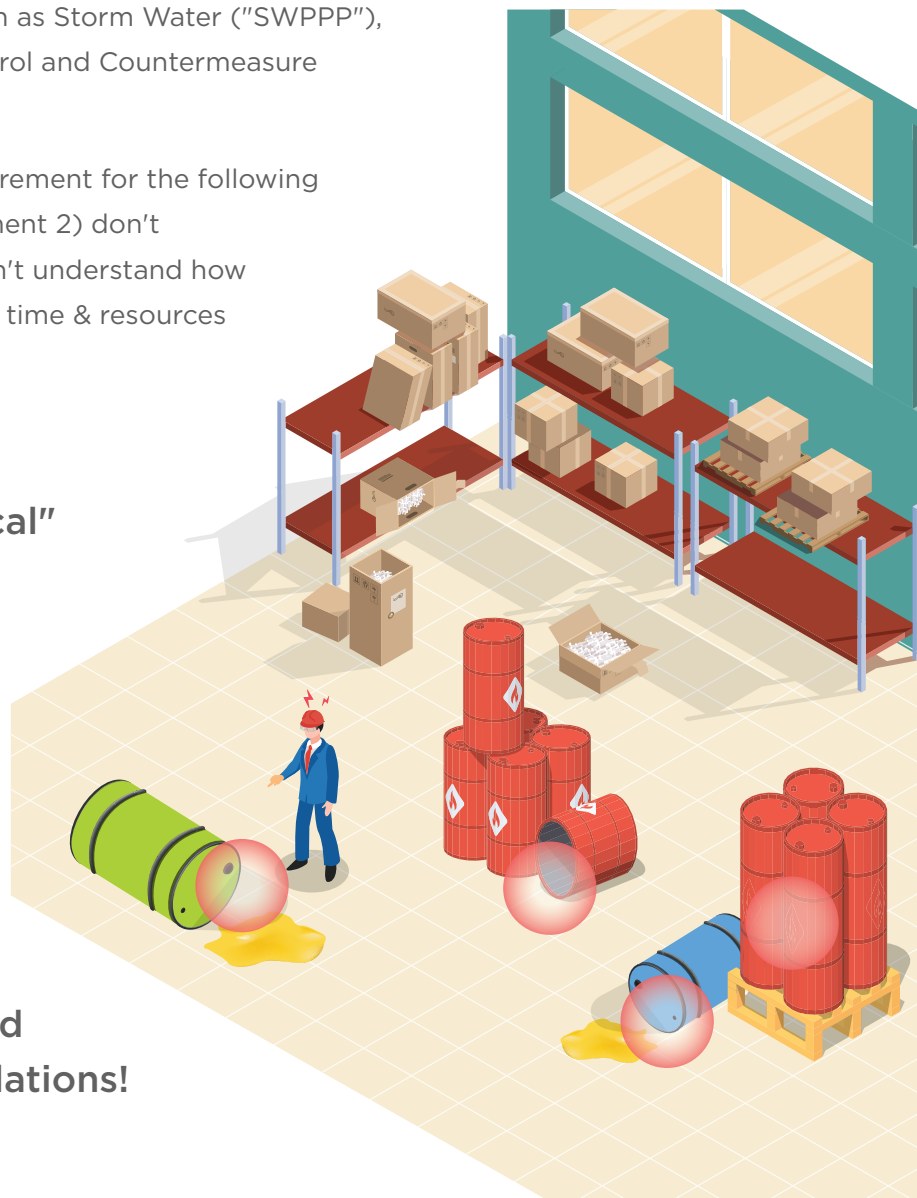
Failure to Conduct Routine Inspections

OSHA has a very clear mandate that employers conduct routine workplace inspections to identify health and safety hazards, and then immediately correct them.

EPA and state environmental laws also require routine inspections and corrective actions to manage programs such as Storm Water ("SWPPP"), Hazardous Waste, and Spill Prevention Control and Countermeasure ("SPCC").

Most small companies fail to meet this requirement for the following reasons: 1) they aren't aware of the requirement 2) don't understand how to identify violations 3) don't understand how to correct violations and 4) lack the needed time & resources to manage everything.

Never forget that these "physical" safety and environmental violations are the "low hanging fruit" for OSHA and EPA inspectors, and result in the most costly fines and penalties for small companies. The only way to prevent these citations is to conduct routine inspections and to immediately correct any violations!



Physical health & safety hazards are also the #1 cause of serious injuries and fatalities, which is why it's so important to find and correct them on a routine basis!

Conclusions

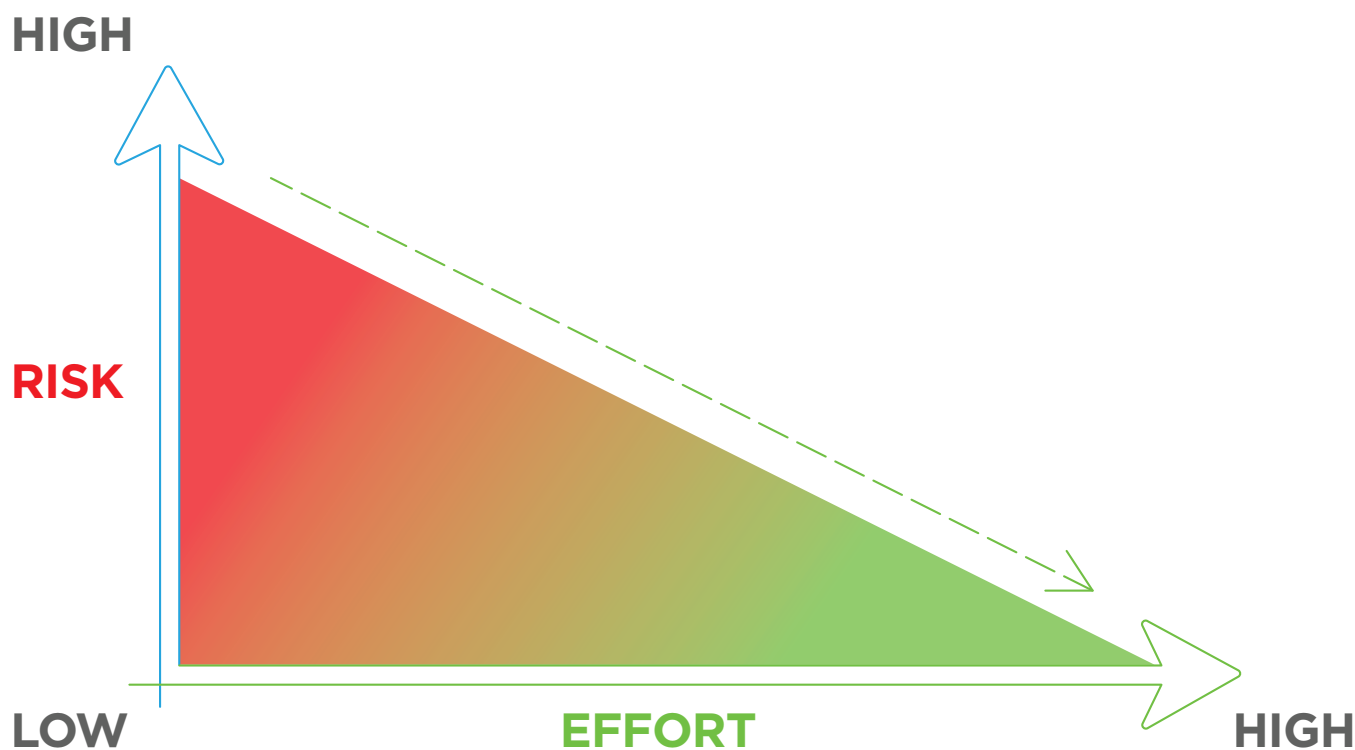
In summary, most small companies fall prey to these same mistakes for the simple reason that they're often so busy & focused on keeping their business running and profitable, that they're never able to give their EHS compliance & risk obligations the time and attention they require.

This dilemma can be summarized as follows:

Small companies almost always lack the 1) Internal expertise 2) Time & 3) Resources which are so critical to keeping up with the complicated OSHA, EPA and state environmental regulations which apply to their business.

This situation often puts them in a perpetual state of non-compliance and therefore at risk for major liabilities including serious employee injuries, environmental damage, huge regulatory fines and penalties, lost money, lost customers, PR disasters, and even potential civil and criminal liabilities if things go wrong.

The Graph Below Says It All:
Increased Effort = Decreased Risk
Take Action Before It's Too Late!





—EHS Compliance For Small Business—



"Thanks for taking the time to read this e-book. I hope it helped you gain a better understanding of these common, but very dangerous EHS mistakes & more importantly how to avoid them to reduce your risk. We covered a lot of ground, so don't hesitate to reach out if you have questions or concerns."

Feel Free To Schedule Your Free EHS Strategy Call Today. I'm Here To Help.

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