

OSHA Hot Topics and Trends: 2023 and Beyond



Stephen T. Parascandola


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OVERVIEW

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- Recent OSHA enforcement initiatives
 - Inflation & OSHA Penalties
 - Top 10 Most Cited Violations
 - New NEP for Heat-Related Hazards
 - New Rule: Electronic Recordkeeping and Reporting

Federal OSHA Enforcement Trends

- In January of 2023, DOL released a new policy allowing instance-by-instance (“IBI”) citations for high-gravity serious violations of OSHA standards related to falls, trenching, machine guarding, respiratory protection, lockout tagout and other violations
- IBI can mean individual citations per machine, per location, per entry or per employee
- Regional administrators and Area Directors are advised to use IBI citations when:
 - The employer has received a willful, repeat or failure-to-abate violation within the last five years
 - The employer failed to report a fatality or an injury
 - The citations arose out of a fatality or catastrophic injury

Federal OSHA Initiatives

- In January of 2023, DOL released a memo highlighting discretion of Regional Administrators and Area Directors not to group violations
- Goal is to increase penalties to deter further violations
- Under the new policy, inspectors are encouraged not to group citations if evidence allows for separate citations

Inflation & OSHA Penalties

- The Dept. of Labor scales up the maximum federal civil penalty for inflation
- Recent inflation has caused penalties to balloon

Year	2021	2022	2023
Serious/Nonserious	\$13,653/violation	\$14,502/violation	\$15,625/violation
Failure to Abate	\$13,653/day	\$14,502/day	\$15,625/day
Willful/Repeated	\$136,532/violation	\$145,027/violation	\$156,259/violation

NC OSHA Inspections

- Approx. 2,218 inspections in FY2021 (5% increase and 802 more than average state program)
- 4,312 violations in FY2021 (8% increase; more than average state program (~2,569 violations))
- 60% Serious; 35% Nonserious; 5% Other (repeat, willful, failure-to-abate and unclassified)
- 54% of inspections were in the construction industry
- \$7,123,571 assessed in penalties (up ~8.5% from FY2020)

OSHANC Most Cited Violations - FY2021

- Fall Protection (training, equipment, ladders, scaffolds, residential construction)
- Personal protective equipment (eye and face protection)
- Machine Guarding
- Lockout/Tagout (control of hazardous energy)
- Hazard communication (written programs & training)

Top Tips to Reduce OSHA Violation Risk

1. Review and update safety policies and procedures
2. Conduct and document regular safety inspections
3. Provide and document proper employee training
4. Keep detailed records of all safety efforts
5. Provide personal protective equipment (PPE)
6. Enforce the use of PPE
7. Monitor subcontractors for compliance and penalize subcontractors for noncompliance

Top 10 OSHA Citations for FY2023

1. Fall Protection - General Requirements (1926.501): **7,271 violations**
2. Hazard Communication (1920.1200): **3,213 violations**
3. Ladders (1926.1052): **2,978 violations**
4. Scaffolding - General Requirements (1926.451): **2,859 violations**
5. Powered Industrial Trucks (1910.178): **2,561 violations**

Top 10 OSHA Citations for FY2023

6. Lockout/Tagout (1910.147): **2,554 violations**
7. Respiratory Protection (1910.134): **2,481 violations**
8. Fall Protection - Training Requirements (1926.503): **2,112 violations**
9. Personal Protective and Lifesaving Equipment - Eye and Face Protection (1926.102): **2,074 violations**
10. Machine Guarding - General Requirement (1910.212): **1,644 violations**

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Heat-Related Hazards: New NEP

- April 2022: OSHA announced a National Emphasis Program (NEP) on heat-related hazards
- The NEP is scheduled to remain in effect through 2025
- OSHA plans to develop a workplace heat standard
- OSHA will conduct heat-related inspections in high-risk industries on days the National Weather Service has announced a heat warning
- Employers are encouraged to protect workers from heat hazards by providing ample access to water, rest, shade, additional training and acclimatization procedures for new or returning employees
- Target industries include residential and commercial building, roadwork, utilities, manufacturing, farming, warehousing and others

New Rule: Expanded Reporting Requirements

- US DOL announced a new rule effective January 1, 2023
- Employers with 100+ employees in certain industries will be required to electronically submit their OSHA Forms 300 and 301
- OSHA will publish some of the collected data on its website alongside the employer's name



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