

# Corporate Best Practices for OSHA Compliance: Top 10 Tips

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- The former Chairman of the Board of Directors of the National Safety Council, and Counsel to the Voluntary Protection Programs Participants' Association.
- Member of the Virginia State Bar and the American Bar Association's Committee on Occupational Safety and Health Law.



# Have a Written Procedure On What To Do If OSHA Knocks?

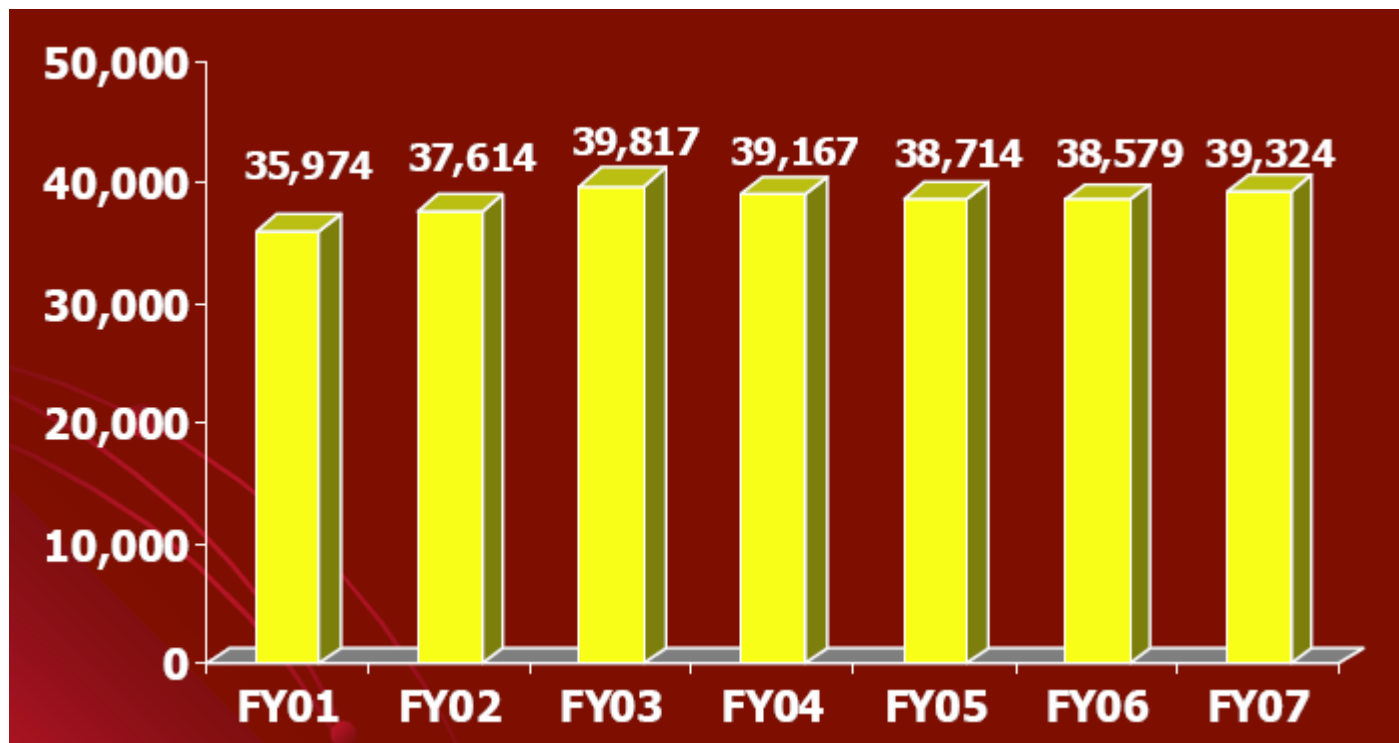


- #1** • Address topics such as:
  - Opening Conference
  - Walk Around Inspection
  - Closing Conference
  - Notice of Contest
- Practice

- #2**
- Quick Takes – OSHA bi-monthly e-memos describing what's new. Sign up on the OSHA Home Page. (Over 57,000 subscribers.)
  - Quick Start – A step-by-step guide to help employers in general manufacturing, wholesale and retail industry identify major OSHA requirements and guidance materials.
  - OSHA Small Business Handbook – Designed to help small business employers meet the legal requirements imposed by the OSH Act and “achieve an in compliance status before an OSH inspection.”

[www.osha.gov/Publications/smallbusiness/small-business.pdf](http://www.osha.gov/Publications/smallbusiness/small-business.pdf)

# Number of Federal OSHA Inspections



<b>Year</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
<b>Total Inspections</b>	<b>35,974</b>	<b>37,614</b>	<b>39,817</b>	<b>39,167</b>	<b>38,714</b>	<b>38,579</b>	<b>39,324</b>
<b>% Complaint Inspections</b>	<b>23%</b>	<b>21%</b>	<b>20%</b>	<b>21%</b>	<b>20%</b>	<b>19%</b>	<b>18%</b>

- Complaint-based inspections more than 1/5<sup>th</sup> of all inspections.
- April 2000 - OSHA began allowing employees to fill out OSHA complaints on-line. A 19 question form – 10 minutes.
  - ***OSHA receives approximately 5,000 electronic complaints per year.***
- OSHA's website receives between 3 and 4 million visits per month.

- #3**
- Review your company's procedures for employees to raise safety and health concerns.
    - ***Are they well publicized, easy to use, confidential, credible? Is there any fear of reprisal?***
  - Are supervisors trained so that they understand "complaints are good?"
  - Review your work order system. Are safety issues given priority? Are work orders timely processed? Is feedback provided?

- General Accounting Office Report, August 2000.

***OSHA Inspections at Establishments Experiencing Labor Unrest. The report found that establishments experiencing labor unrest are approximately 6.5 times more likely to be inspected by OSHA than establishments not experiencing labor unrest.***

- [www.gao.gov/new.items/he00144.pdf](http://www.gao.gov/new.items/he00144.pdf)

## #4

# 2007 General Industry v. Your Industry

### General Industry

### Grocery Stores

Haz Com / Written Program	1910.1200(e)(1)	1910.305	Electrical Wiring Methods
LOTO / Energy Control Program	1910.147	1910.303	Electrical General
Respiratory Protection	1910.134	1910.1200	Haz Com
Powered Industrial Trucks	1910.178	1910.147	LOTO / Energy Control Program
Electrical Wiring Methods	1910.305	1910.22	Walking/Working Surfaces
Machine Guarding	1910.212	1910.37	Exit Routes / Evacuation



# Finding the Most Frequently Cited Standards For Your SIC



- ***Look up your SIC.***  
**[www.osha.gov/cgi-bin/sic/sicser5](http://www.osha.gov/cgi-bin/sic/sicser5)**
- ***Search your industry.***  
**[www.osha.gov/oshstats/std1.html](http://www.osha.gov/oshstats/std1.html)**
- ***Perform a self-assessment. Utilize effective closure.***

## #5

- Released May 14, 2007 – targeting approximately 4,150 high-hazard worksites.
- 2005 Injury and Illness data collected by the 2006 Data Initiative is used for the 2007 SST program.
- Primary inspection list: workplaces with a DART Rate of 11 (formerly 12) or higher, **or** a DAFWII rate of 9 or higher.
- Secondary inspection list: workplaces with a DART Rate of 7 (but less than 11), **or** a DAFWII rate of 4 or higher (but less than 9).
- Approximately 100 low-rate establishments will be added to the primary list (compared with 175 in 2006).
- Failed to respond to the 2006 Data Initiative by 4/7/07? A sampling will be added to the Primary Inspection List.

## #6

- Repeat violation = when a new citation is issued to an employer who has been previously cited for a substantially similar condition within the last 3 years. OSHA Field Inspection Reference Manual, Chapter III.
  - ***The penalty for a repeat violation is not more than \$70,000 and not less than \$5,000.***
- Repeat violation prevention:
  - ***Review your Company's past citations and ensure that all cited items have been abated and have remained abated.***
    - [www.osha.gov/cgi-bin/est/est1](http://www.osha.gov/cgi-bin/est/est1)
  - ***Examine other equipment and other facilities.***

**NOTE: There is no statutory limitation on the length of time that a citation may serve as the basis for a repeat. Hackensack Steel Corp., OSHA Rev. Comm., 2003.**

#7

- Willful violation = awareness of a violation or plain indifference to a known hazardous condition.
  - ***Penalty of not more than \$70,000 and not less than \$5,000.***
- Willful violation prevention:
  - ***Verify that all internal and external audits / inspections have been closed out.***
    - Workers' compensation carrier audits.
    - Fire safety audits.
      - [www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=FEDERAL\\_REGISTER&p\\_id=16434&p\\_text\\_version=FALSE](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=FEDERAL_REGISTER&p_id=16434&p_text_version=FALSE)
  - ***Supervisor knowledge.***

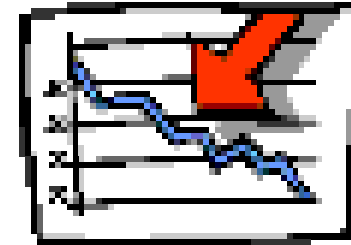
- #8
- Clearly defined scope.
    - ***Documentation to reflect scope.***
  - Commitment of resources in advance.
    - ***Qualified personnel to perform the audit / inspection.***
    - ***Documented closure of the audit / inspection.***
    - ***Verification of closure.***
  - Preliminary feedback from external auditors.
  - Interim controls.
  - Timely abatement following a schedule with time lines and designated responsibilities.
  - Attorney-client privilege.



- 29 U.S.C. §659(a) provides that employers have **15 working days** (from citation receipt) to file a **Notice of Contest**. Failure to file within such time means that “the citation and the assessment, as proposed, shall be deemed a final order of the Commission and not subject to review by any court or agency.”

- #9**
- The OSHA Review Commission has not historically been tolerant of untimely filings of Notice of Contest.
    - **Do you have orderly mailroom procedures for handling important mail?**
    - **Are they communicated and enforced?**
    - **If not, your name could be Mudd.**

- 1998 – I/I rate of 6.7 cases per 100 FTEs.
  - **LWDII = 3.1**
- 1999 – I/I rate of 6.3 cases per 100 FTEs.
  - **LWDII = 3.0**
- 2000 – I/I rate of 6.1 cases per 100 FTEs.
  - **LWDII = 3.0**
- 2001 – I/I rate of 5.7 cases per 100 FTEs.
  - **LWDII = 2.8**
- 2002 – I/I rate of 5.3 cases per 100 FTEs.
  - **LWDII = 2.8 (new recordkeeping rules)**
- 2003 – I/I rate of 5.0 cases per 100 FTEs.
  - **LWDII = 2.6**
- 2004 – I/I rate of 4.8 cases per 100 FTEs.
  - **LWDII = 2.5**
- 2005 – I/I rate of 4.6 cases per 100 FTEs.
  - **LWDII = 2.4**
- 2006 – I/I rate of 4.4 cases per 100 FTEs.
  - **LWDII = 2.3**
  - Each year, these rates reflect the lowest levels since BLS began reporting data. (Issued Oct. 17, 2007).



## Region 6 News Release: Thursday, June 20, 2006

- **Monroe, Louisiana** -- A fatality investigation led OSHA to issue two alleged willful violations for failure to record employee injury and illnesses on the OSHA 300 Logs and for not verifying the accuracy of the Logs.
- “Accurate worker injury and illness records are vital to identify injury trends and hazards” said OSHA’s Area Director in Baton Rouge.



# OSHA Issues \$170,000 Fine for Alleged Recordkeeping Violations



## News Release: Monday, November 21, 2005

- **Augusta, Maine** - Fraser Paper cited for numerous recordkeeping violations that occurred between 2003 - 2005.
- Acting on an **employee complaint**, OSHA's inspection found 59 instances where injuries or illnesses were not recorded; 77 instances where injuries or illnesses were not recorded within seven days; and two years for which incomplete annual illness and injury summaries were certified as being complete.
  - [http://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=NEWS\\_RELEASES&p\\_id=11696](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=NEWS_RELEASES&p_id=11696)

## #10

- OSHA's comprehensive, **Recordkeeping Handbook** is posted on the OSHA website.
  - <http://www.osha.gov/recordkeeping/handbook/index.html>
- Remember that your OSHA 300A Summary is to be posted from Feb. 1 – April 30.



- Do they discourage accurate reporting of injuries and illnesses?
  - ***Size or amount of incentive.***
  - ***Peer pressure.***
- Or, do they encourage employees to focus on safe behaviors.
- Consider input measures in addition to output measures.
  - ***E.g., percent of all training classes attended, scores on departmental inspections, number of safety recommendations identified and implemented by department, percent of employees wearing PPE.***



# Top 5 Most Cited OSHA Violations



- Scaffolding
- Hazcom
- Fall Protection
- Respiratory Protection
- Lockout/Tagout

- Develop a Written Procedure on What to Do If OSHA Knocks. And Practice.
- Ensure that your company has effective mechanisms for employees to raise safety concerns.
- Review your company's citation history and confirm abatement status.
- Remain current on what's going on at OSHA.
- Practice accurate recordkeeping and analyze trends to reduce injuries and illnesses.
- Remember most frequently sited standards: Hazcom.