

Intro To OSHA Objectives

- EO 3.1: Describe major sections of the Occupational Safety and Health Act of 1970, Public Law - 91-596 (OSH Act).
- EO 3.2: Explain the functions of the Occupational Safety and Health Administration (OSHA).
- EO 3.3: Describe the positive impact of OSHA on worker safety and health.
- EO 3.4: Describe employer and worker rights and responsibilities.

Background

40 years working with top companies to achieve world class safety in their sector.

- Classes: OSHA 10/30 Hour, Incident Investigation, Confined Space, Excavation Safety, Cranes Signaling, Rigging Safety, Fall Protection, Scaffold Competent Person, Silica Competent Person, CHST Prep, Lockout, Machine Guarding, OSHA Recordkeeping, and Safety Management
- Services: Mock OSHA Inspections, Site Safety Audits, Expert Witness,
- Since 1987, he has trained over 50,000 people including OSHA compliance officers and Fortune 500 Clients in numerous areas of Safety and Health.



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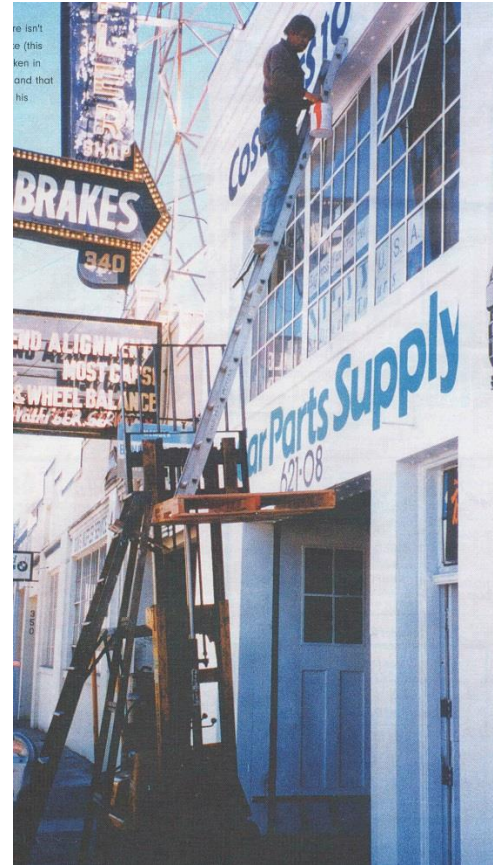
Introduction to OSHA

John Newquist



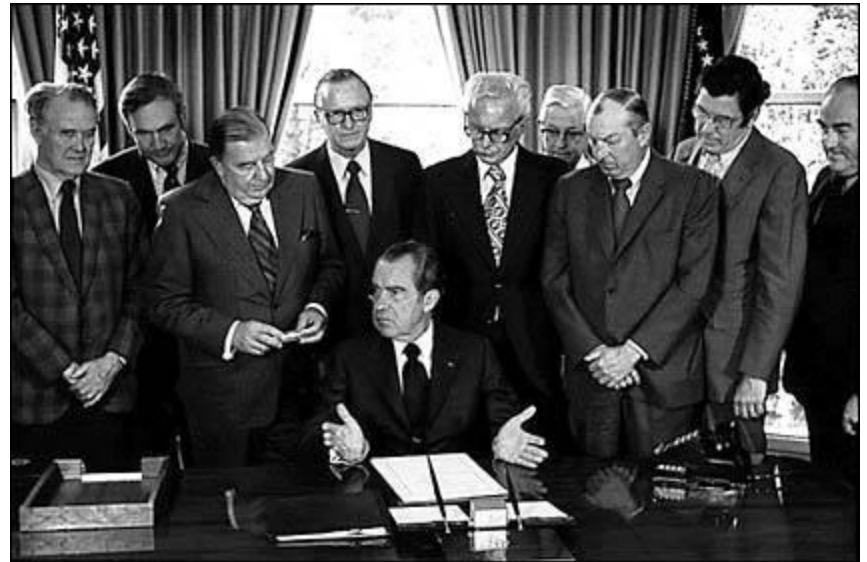
Industrial Safety 1969

- 14,500 American workers were killed annually
- Safety and health laws varied state to state
- The results of workplace injuries and illnesses - **Lower morale and increased costs to train replacement workers**



OSHA

- Department of Labor to enforce Safety and Health laws
- NIOSH
- OSHRC
- Osha Training Institute
- 56 million workers at 3.5 million workplaces in 1971

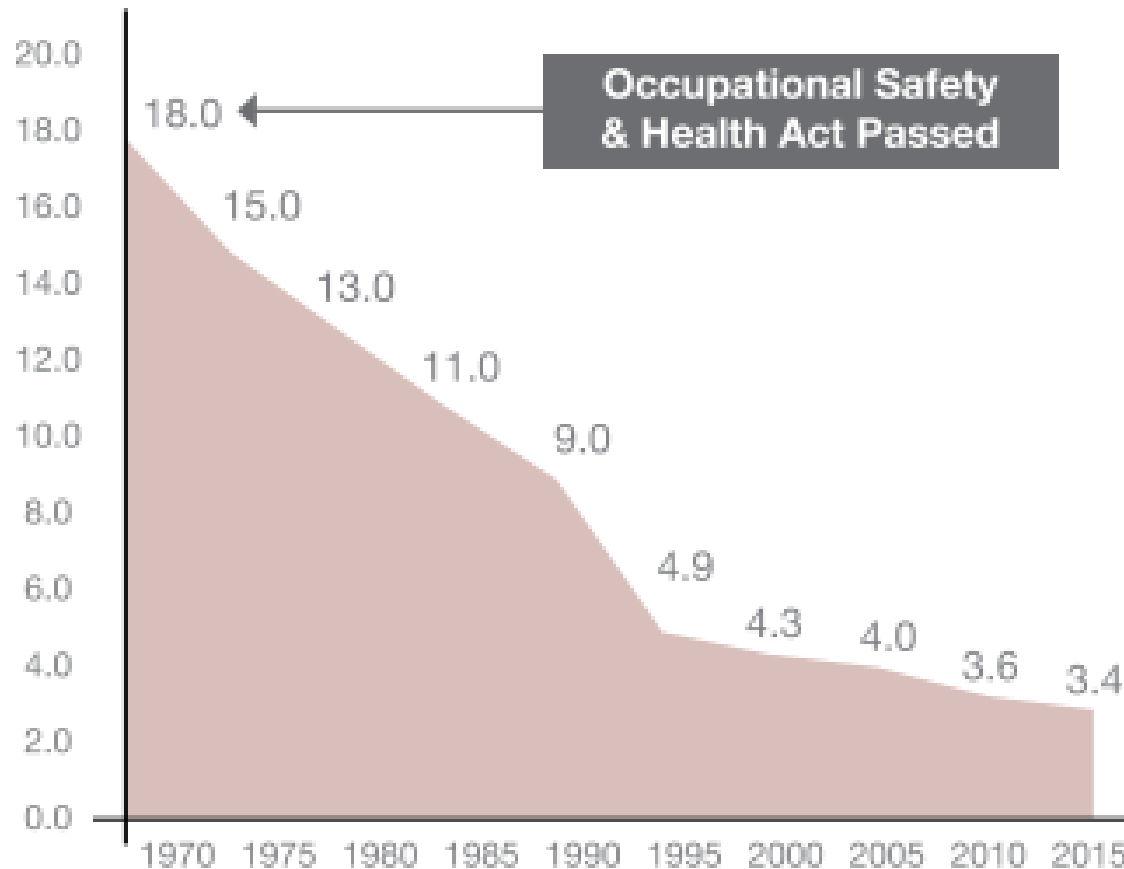


- ▶ This Act created OSHA, the agency, which formally came into being on April 28, 1971

OSHA Effect

Rate of Fatalities, 1970-2015

Deaths from workplace trauma per 100,000 workers



*Source: U.S. Bureau of Labor Statistics, Current Population Survey
& Census of Fatal Occupational Injuries*

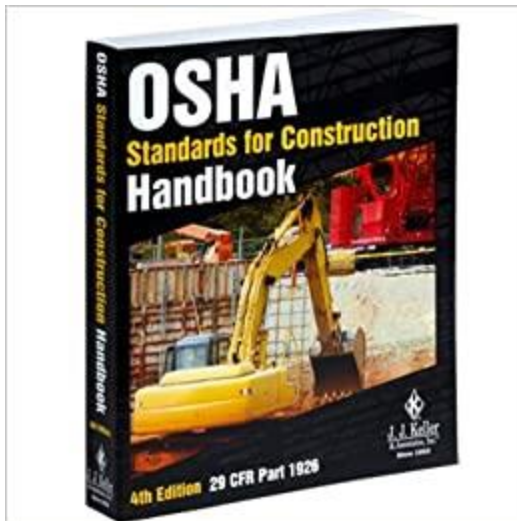
Code of Federal Regulations

- The Code of Federal Regulations (CFR) is the codification of the general and permanent rules and regulations published in the Federal Register.
- Labor is under 29 CFR.
- OSHA 29 CFR 1910 standards are requirements for general industry employers.
- OSHA standards are rules that describe the methods that **employers** must use to protect their employees from hazards.



Code of Federal Regulations

- There are OSHA standards for Construction work, Maritime operations, and General Industry, which is the set that applies to most worksites.



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Key Subparts

D- Walking Working Surfaces

E – Exits

G – Occupational Health

H – Hazardous Materials

I – PPE

J – Lockout, Confined Space

L – Fire Protection

N – Material Handling

O – Machine Guarding

S – Electrical

Z – Toxic Substances

Construction or General Industry?

- “Construction work” is defined as "construction, alteration, and/or repair, including painting and decorating."



Two Worker died while welding on top of a flammable tank that was empty. The tank exploded.

OSHA's Mission

- **Protect the safety and health of America's workers**
- Enforcing standards
- Providing training, outreach, education and assistance.



OSHA Coverage Activity



Covered by OSHA?		Worker
YES	NO	1. Harry Adams, a miner at Below Ground Inc.
YES	NO	2. Adrian Smith, one of 3 employees of ABC landscaping.
YES	NO	3. Taylor Dell, an accountant in business for herself.
YES	NO	4. Rob Jones, one of 10 carpenters working for Woody, Inc.

Key Parts 29 CFR 1903

- 1903.7 - Conduct of inspections.
- 1903.8 - Representatives of employers and employees.
- 1903.11 - Complaints by employees.
- 1903.14 - Citations;
- 1903.15 - Proposed penalties.
- 1903.16 - Posting of citations.
- 1903.17 - Employer and employee contests before the Review Commission.
- 1903.19 - Abatement verification.
- 1903.20 - Informal conferences.

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

Notice of Alleged Safety or Health Hazard

		Complaint Number	
Establishment Name			
Site Address			
	Zip Code	Zip Code	
Mailing Address			
	Zip Code	Zip Code	
Management Official	Employee		
Type of Business			
<small>PLANT AND DESCRIPTION OF ACTION (Manufacture, the process, which you believe is in violation of the appropriate section of the act as applied to or restricted by standards). Specify the particular facility or evaluate whether alleged violation exists.</small>			
Has this violation been brought to attention of	<input type="checkbox"/> Employer	<input type="checkbox"/> Other Government Agency(ies)	
Have you been told that	<input type="checkbox"/> Do NOT investigate since no injury has occurred <input type="checkbox"/> No action may be considered by the Employer		
The Underigned believes the violation of an Occupational Safety or Health standard exists which is a safety hazard or health hazard at the establishment named on this form.	<input checked="" type="checkbox"/> Check "X" in OSHA form <input type="checkbox"/> Employee <input type="checkbox"/> Federal Safety and Health Commission <input type="checkbox"/> Representative of Employees <input type="checkbox"/> Other (specify)		
Complaint Form			Telephone
Address (Street, City, State, Zip)			
Signature			Date
<small>If you are an authorized representative of employees affected by this complaint, please state the name of the organization that you represent and print name.</small>			
Organization Name	Your Title		

First Citation

- On May 28, 1971, Occupational Safety and Health Administration handed out its first citation.
- The Citation went to Allied Chemical Corporation, which had allowed highly toxic mercury to pool on floors and working surfaces at its chlorine plant in Moundsville, West Virginia.



Employee Rights

- Oct Act Section 11(c) protection - workers have a right to seek safety and health on the job without fear of punishment
- Contest abatement dates
- Informal conferences
- Records 300/301
- Private interviews
- Right to a rep in an interview
- File Complaint



General Duty Clause

- Section 5(a)(1)
- "a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm to [its] employees."



Not wearing seatbelts is a common citation under the general duty clause.

Standard Preambles

- Published in the Federal Register
- The Preamble explains the thought behind the standard.
- In the Walking Working Surface Preamble for securing dockplates.



OSHA believes this provision is necessary to protect workers from injury or death. If the employer does not securely anchor the dockboard or equip it with a device that prevents movement, it could slide or drop off of the loading platform or transport vehicle, and the worker could fall. Workers also could fall if the dockboard moves or slides while they are on it.

Standards

- Horizontal Standards
- **When a condition is not covered by a specific industry standard**
- Machine Guarding
- Falls
- Vertical Standards
- Industry Specific
- Welding (1910.252)
- Pulp, paper, and paperboard mills (1910.261)
- Textiles (1910.262)
- Sawmills (1910.265)
- Logging operations (1910.266)



Standard Interpretations

- Purpose - **Ensure consistent enforcement of OSHA regulations**



1970's

- Permissible exposure limits for more than 400 toxic substances including specific standard for asbestos
- State plans approved
- IL give back OSHA enforcement -1975
- Several Court Challenges



Barlow -1978

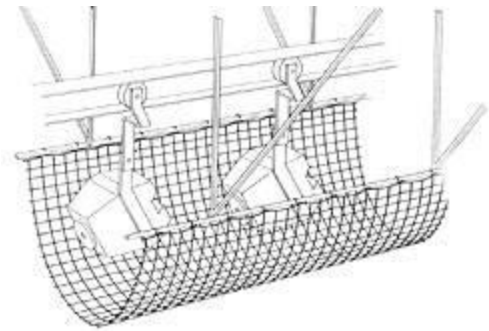
- Warrant requirements of the Fourth Amendment were applicable to OSHA inspections per US Supreme Court
- Probable cause in the criminal law sense is not required.
- Anticipatory warrant procedures used if repeat requests.



Barlow ran electrical and plumbing installation business in Idaho.

Whirlpool - 1980

- 1974 case - The two workers were told to go out on a screen 20 feet above the floor to retrieve small appliance parts which had fallen from a conveyor belt system above.
- Workers sent home and docked 6 hours pay.
- Workers can refuse if reasonable apprehension that death or serious injury or illness might occur as a result of performing the work



1980's

- Access to medical and exposure records
- Hazard communication
- Updated asbestos
- Ethylene oxide, formaldehyde, and benzene.
- Hazardous waste operations and emergency response
- Lockout/tagout of hazardous energy sources.
- Egregious



1984 Bhopal Explosion kills
3000+died that day

500,000 suffered blindness, lung
cancer, kidney failures

\$550 to victims,

\$470 Million from Union Carbide

OSHA Starts CHEMSEP

1990's

- Confined Space
- Respirators
- Personal Protective Equipment
- Process Safety
- Forklift Training
- www.osha.gov



- Blood-borne Pathogens Standard started in this decade

National Emphasis Programs

- Combustible Dust
- Covid
- Federal Agencies
- Hazardous Machinery
- Hexavalent Chromium
- Lead
- Process Safety Management
- Shipbreaking
- Trenching & Excavation



Region V Local Emphasis Programs

- Building Renovation/Rehab and Demolition
- Powered Industrial Vehicles
- Fall Hazards
- Grain Handling Facilities
- High Rise Building Construction
- Wood Pallet Manufacturing Industry
- Maritime Industries
- Lead
- Noise



Types of Inspections

- Imminent Danger
- Fatalities 800-321-OSHA within 8 hours
- Complaints – 5 days
- Referrals
- Program - Amputation, Hospitalization, Eye Loss within 24 hours

- General Schedule
- Follow Up



Confined spaces could be imminently dangerous.

Inspection Process

- Present Credentials
- Opening conference
- Walk around inspection
- Closing conference
- Six month to complete inspection and issue citations.



Abatement

- OSHA requires that employers certify that abatement is complete:
- **For each cited violation**



Multi-Employer Citations

- Exposing
- Creating
- Controlling
- Correcting



Employer Rights

- See identification
- Know reason for inspection
- Accompany during inspection
- Take pictures
- Know what hazards found




Violation Elements

- Applicable Standard
- Existence of Hazard
- Exposure to Hazard
- Employer Knowledge

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

Inspection Number: 154886
Inspection Date(s): 03/18/2015 - 03/14/2015
Issuance Date: 03/15/2015



Citation and Notification of Penalty

Company Name: U.S. Postal Service, dba U.S. Postal Service
Inspection Site: 204 Fairview Way, Greenville, SC 29607


Citation 2 Item 1 Type of Violation: **Willful**

29 CFR 1910.176(a): Where mechanical handling equipment was used, sufficient safe clearances were not allowed for aisles, at loading docks, through doorways or wherever entry or passage had to be made.

a) Workarea: Aisle ways throughout the building used by powered industrial trucks (PITs) and personnel are blocked by containers of mail and equipment, restricting traffic flow. The lack of space around the equipment exposes pedestrians to struck-by hazards by PITs and other equipment.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated: 09/28/2015
Proposed Penalty: \$70000.00


Darlene Fausner
Area Director

See pages 2 through 4 of this Citation and Notification of Penalty for instructions on abatement and employer rights and responsibilities.
Citation and Notification of Penalty Page 2 of 2 09/16/12

Types of Violations

- **Other-Than-Serious.**
- **Serious**
- **Willful** – A violation that the employer intentionally and knowingly commits.
- **Repeated** – A violation of any standard, regulation, rule or order where, upon reinspection, a substantially similar violation is found and the original citation has become a final order.
- **Failure-to-Abate** – Failure to correct a prior violation may bring a civil penalty of up to \$7,000 for each day the violation continues beyond the abatement date.

Citation 1 Item 4 Type of Violation: **Serious**

29 CFR 1910.178(l)(2)(iii): All operator training and evaluation was not conducted by persons who have the knowledge, training, and experience to train powered industrial truck operators and evaluate their competence.

In the production area, the person who conducted the forklift training did not have any training or experience in the operation of forklifts and could not evaluate the competence of the forklift operators, exposing employees to struck-by and/or crush-by hazards.

Date By Which Violation Must be Abated:
Proposed Penalty:

07/18/2016
\$3500.00

Willful

- **Defining *Willful***
- The panel stated that it reviewed OSHRC's decision using a "highly deferential standard" established in *Fluor Daniel v. OSHRC* (11th Cir. 2002).
- The panel quotes from *Fluor*: "[T]he definition of willful in this circuit is, in its simplest form, an intentional disregard of, or plain indifference to, OSHA requirements."



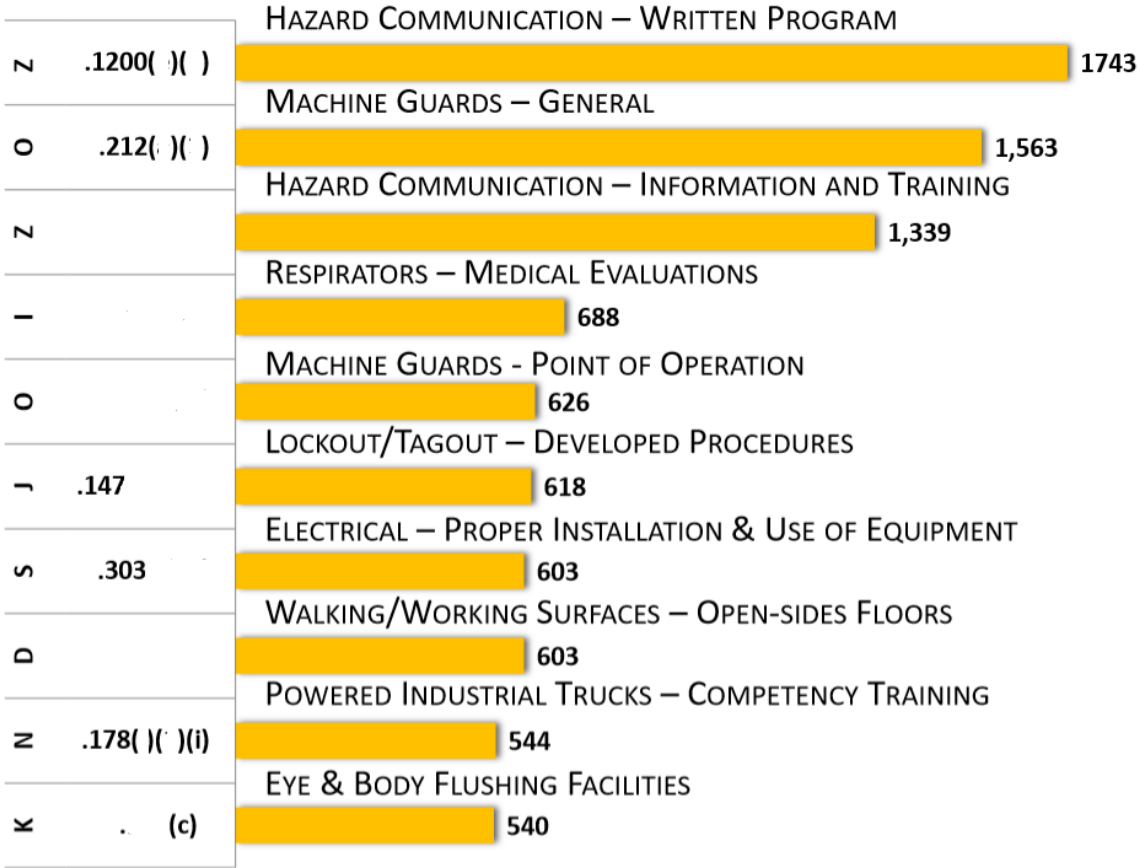
Willful

- More specifically, the panel states:
“To establish a willful violation, OSHA must establish either:
- (1) [that the] employer knew of an applicable standard or provision prohibiting the conduct or condition and consciously disregarded the standard **or**
- (2) that, if the employer did not know of an applicable standard or provision’s requirements, it exhibited such reckless disregard for employee safety or the requirements of the law generally that one can infer that ... the employer would not have cared that the conduct or conditions violated [the standard].”



Most Frequently Cited Serious Violations in General Industry

29 CFR 1910 SUBPARTS



Level	2022 Maximum Penalty	
Serious	\$14,502 per violation	
OTS	\$14,502 per violation	
Willful or Repeat	\$145,027 per violation	
Failure to Abate	\$14,502 per day unabated beyond the abatement date [generally limited to 30 days maximum]	

Penalty Adjustment Factors

- **Size** – A maximum penalty reduction of 60% is permitted for small businesses.
- **Good Faith** – A penalty reduction of up to 25% is permitted. Credit for Good Faith normally requires an employer to have an effective safety and health program.
- **History** – A reduction of 10% is given to employers who have not been cited by OSHA for any serious, willful, or repeated violations in the past three years.

Elements of a Violation

- Serious Hazard
- Applicable Standard
- Employee Exposure
- Employer Knowledge of Condition



Plain View Doctrine

- *Compliance officer can issue citations for any violations in “plain view.”*
- If Compliance Officer doesn't see it he/she usually can't cite you for it.



OSHA Interviews

- Non-Management Interviews
 - Employee rights to Union or other Representative
 - “Tell the truth”
- Management Interview
 - Right To Company Rep/Counsel
- Avoid the “casual” interview
- Avoid Saying “I Don’t Know”



Remember: Everything is on the record.

Do not engage in idle conversation concerning safety issues.

Nov 2018

- A federal grand jury in the Northern District of Ohio has indicted two managers at Extrudex Aluminum Inc. in Ohio for conspiracy to obstruct justice during a 2012 workplace fatality investigation by the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA).

Obstruction  of Justice

Employee Misconduct Defense

- All four elements required
 - (1) Program for the specific hazard, e.g. fall, electrical, lead, asbestos, cadmium, forklift
 - (2) Employee training (documentation)
 - (3) Prior enforcement (disciplinary records)
 - (4) No reasonable opportunity for supervisor to identify and correct hazard



Appeals Process

- Informal Conference – 15 days
- Notice of Contest – 15 days
- Administrative Law Judge
- OSHA Review Commission
- US Appeals Court
- Supreme Court



OSHA In Chicagoland



3 offices – Des Plaines,
Naperville, Tinley Park
2200 inspections total

- ~400 Amputate Nep
- ~120 Piv Lep
- ~50 Lead Nep
- ~40 Silica Nep
- ~15 Hexchrome
- ~15 Comdust Lep
- ~15 Grain Lep
- ~5 Flavorings Nep
- ~5 Recordkeeping Nep
- ~5 Tree Trimming



Consultation

- Free
- Must email request

The screenshot shows the Illinois Department of Labor website. The header features the IL logo and the text "Fairness. Safety. Equality." Below the header is a navigation menu with categories: Employees, Employers, Public Safety, Laws and Rules, and About. The main content area is titled "IL On-Site Safety and Health Consultation Program" and includes a sub-header "ON-SITE Safety & Health Consultation Program". The text describes the program as providing free and confidential safety and health advice to small and medium-sized businesses. It lists services such as Written Program Review, Hazard Identification and Control, Industrial Hygiene Monitoring, Injury and Illness Record keeping Review and Analysis, Safety and health Management Program Evaluation, and Informal Training. A sidebar on the right contains sections for "ABOUT" (Laws and Rules), "REPORT FATALITIES & INJURIES" (Public Sector Reporting, Private Sector Reporting), and "CONSULTATION" (Request a Consultation, How Does it Work?, Frequently Asked Questions, SHARP).

Illinois Department of
LABOR
Fairness. Safety. Equality.

Employees ▾ Employers ▾ Public Safety ▾ Laws and Rules About ▾

IDOL ▸ Laws and Rules ▸ Illinois OSHA ▸ Consultation
➔ **IL On-Site Safety and Health Consultation Program**

ON-SITE
Safety & Health Consultation Program

The Illinois On-Site Safety and Health Consultation Program provides free and confidential safety and health advice to small and medium-sized businesses committed to improving workplace safety and health.

Our consultants are experts in identifying workplace hazards and making recommendations to eliminate these hazards with the goal of improving workplace safety and health.

Services Include

- *Written Program Review*
- *Hazard Identification and Control*
- *Industrial Hygiene Monitoring (air and noise)*
- *Injury and Illness Record keeping Review and Analysis*
- *Safety and health Management Program Evaluation*
- *Informal Training*

ABOUT
Laws and Rules

REPORT FATALITIES & INJURIES
Public Sector Reporting
Private Sector Reporting

CONSULTATION
Request a Consultation
How Does it Work?
Frequently Asked Questions
SHARP