OSHA UPDATE: INDUSTRY PERSPECTIVE ON SAFETY TRENDS

February 28, 2011

Presented by:
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THANK YOU
FOR YOUR COMMITMENT TO SAFETY
Your Safety Program Needs To Avoid this . . .
... and this!
But you don’t want this approach either!
Having great safety and health is important because …

1) it is morally the right thing.
2) it allows your employees to go home each night safely to their family and loved ones.
3) it keeps you from having to do the worst job any person would possibly have to do.
4) it is the law.
5) it is essential for a company to be profitable and competitive in today’s marketplace.
What’s Changing?

Almost everything . . .

• New administration and direction
• New legislation
• New enforcement focus
• Major new directives not requiring rulemaking
• Radical penalty directives
• Less cooperation
The Administration’s Own Description Of Its Focus

Secretary of Labor Hilda Solis:
“Let me be clear, the Labor Department is back in the enforcement business.”
April 28, 2009 “Workers Memorial Day” Speech

Assistant Secretary of Labor David Michaels:
“There is a new sheriff in town . . . this is not an abstract wish . . . it is a stern description of how OSHA is now working . . . and I take this phrase seriously.”
March 10, 2010, ABA
<table>
<thead>
<tr>
<th></th>
<th>Company Name</th>
<th>Penalty Amount</th>
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<tbody>
<tr>
<td>1</td>
<td>BP Products North America, Inc. (TX)</td>
<td>$87 million</td>
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<tr>
<td>2</td>
<td>Whitesell Corp. (AL)</td>
<td>$3.07 million</td>
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<td>3</td>
<td>BP-Husky Refinery (OH)</td>
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<td>4</td>
<td>E. N. Range, Inc. (FL)</td>
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<td>South Dakota Wheat Growers (SD)</td>
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<td>Tempel Grain Elevators, LLC (CO)</td>
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<td>CES Environmental Services, Inc. (TX)</td>
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<td>Goodman Mfg. Co. (TX)</td>
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<td>A-1 Excavating (WI)</td>
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<td>10</td>
<td>WRR Environmental Services (WI)</td>
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<td>11</td>
<td>Cooperative Plus (WI)</td>
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<td>Sims Bark Co &amp; Sims Stone Co. (GA &amp; AL)</td>
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<td>13.</td>
<td>C.A. Franc (PA)</td>
<td>$539,000 and criminal referral</td>
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<td>14.</td>
<td>Excelsior Brass Works (PA)</td>
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<td>15.</td>
<td>All-Feed Processing &amp; Packaging, Inc. (IL)</td>
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<td>16.</td>
<td>Loren Cook Co. (MO)</td>
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<td>17.</td>
<td>Cranesville Aggregate Co. (NY)</td>
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<td>18.</td>
<td>New Jersey Transit (NJ)</td>
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<td>19.</td>
<td>Cambridge Contracting, Inc. (NY)</td>
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<td>20.</td>
<td>Endres Processing Ohio, LLC (OH)</td>
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<td>21.</td>
<td>U.S. Minerals (IN)</td>
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<td>22.</td>
<td>US Minerals (IL)</td>
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<td>23.</td>
<td>Mar-Jac Poultry, Inc. (GA)</td>
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<td>24.</td>
<td>Gerardi Sewer &amp; Water Co. (IL)</td>
<td>$360,000</td>
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<td>25.</td>
<td>New Place Carpentry (CT)</td>
<td>$308,500</td>
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</table>
OSHA In The Obama Administration

- More inspections
- More citations and increased penalties
- Review of Field Office Manual and “OSHA Listens”
- Less OSHA informal complaints
- Less willingness to negotiate as to penalties, classification, abatement methods or vacation of citation
- More difficulty in obtaining settlements and, as a result, more contests
- More national, regional and local emphasis inspection programs

i.e. – Process Safety Management Refineries & Chemical Plants, Cranes and Derricks, Recordkeeping, Trenching, Chromium VI (Hexavalent Chromium)
OSHA In The Obama Administration

• Attempted dilution or elimination of unpreventable employee misconduct defense
• More focus on possible criminal referrals or collaboration with EPA and other agencies
• Greater use of incident-by-incident (egregious) citation approach
• Increased scrutiny of employer injury and illness recordkeeping and reporting.
OSHA In The Obama Administration

- Increased scrutiny of employers’ recordkeeping safety program focusing on reward for low injury and illness rates and less credit to employers with low rates
- Increase in ergonomic general duty citations until new ergo standard completed
- Movement away from OSHA compliance assistance which will impact VPP, alliances and partnerships
OSHA In The Obama Administration

- Strong increase in focus on investigation and encouragement of whistleblower claims
- Increased use of OSHA in union organizing drives and contract negotiations
- New administrative penalty policy
- Increase in the use of the Severe Violators Enforcement Program (SVEP)
OSHA In The Obama Administration

Increased rulemaking/regulations – 2010 Fall Agenda, 28 Items
1. Global harmonization of chemicals – final rule 8/11
2. Combustible dust – initiate SBREFA 4/11
3. Walking and working surfaces – public hearing 1/11
4. Electrical/PPE – final rule 5/11
5. Silica and beryllium – NPRM 2/11; complete peer review 11/10
6. Confined spaces in construction – final rule 11/11
7. Hexavalent chromium – final rule 6/10
8. Working conditions/shipyards – final rule 1/11
9. Recordkeeping (exempt industries SIC) – NPRM 3/11
10. Recordkeeping – MSDs – final action 2/11
11. Injury and illness prevention program – SBREFA 6/11
12. Infectious diseases – RFI comments 12/10
13. Recordkeeping – modernizing reporting system – NPRM 9/11
OSHA In The Obama Administration
What To Do Going Forward

- Evaluate risks at worksites, especially multi-employer safety issues
- Prepare to handle OSHA inspections
- More focus on training to employee and documentation
- Review company recordkeeping
- Focus on PPE standard requirements
- Focus on evacuation plans and emergency response
- Review previous citations received by company
- Review most frequently cited OSHA standards in construction
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<th>Citation</th>
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<tr>
<td>1910.0147</td>
<td>Lockout/tagout</td>
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<td>1910.0134</td>
<td>Respiratory protection</td>
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<td>1910.1200</td>
<td>Hazard communication</td>
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<td>1904.0029</td>
<td>Recordkeeping – forms</td>
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<td>1910.0305</td>
<td>Electrical – wiring methods</td>
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<td>1910.0303</td>
<td>Electrical – general requirements</td>
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<tr>
<td>1910.0023</td>
<td>Guarding floor and wall openings and holes</td>
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<tr>
<td>1910.1030</td>
<td>Bloodborne pathogens</td>
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<td>1910.0178</td>
<td>Powered industrial trucks</td>
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<td>1904.0032</td>
<td>Recordkeeping – annual summary</td>
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<td>OSHA Citation</td>
<td>Standard Title</td>
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<td>1910.0212</td>
<td>Machine guarding – general requirements</td>
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<td>1910.0215</td>
<td>Machine guarding – abrasive wheels</td>
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<td>1910.0253</td>
<td>Oxygen-fuel gas welding and cutting</td>
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<td>1910.0132</td>
<td>Personal protective equipment – general requirements</td>
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<td>1910.0022</td>
<td>Walking working surfaces – general requirements</td>
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<td>1910.0095</td>
<td>Occupational noise exposure</td>
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<td>1910.0157</td>
<td>Portable fire extinguishers</td>
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<td>1910.0141</td>
<td>Sanitation</td>
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<td>1910.0146</td>
<td>Permit-required confined spaces</td>
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<td>1910.0219</td>
<td>Machine guarding – mechanical presses</td>
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Achieving Operational Excellence And Zero Injuries, Illness And Fatalities Through Safety

Element of an effective safety and health management system

1. Strong management commitment
2. All employee involvement
3. Worksite analysis
4. Hazard prevention and control
5. Training for employees, supervisors and managers
Achieving Operational Excellence And Zero Injuries, Illness And Fatalities Through Safety

1. Strong management commitment
   – Develop vision
   – Safety as core value and foundation of operational program
   – Put safety on management agenda at all levels
   – Develop timeline
   – Safety performance metrics for all management
Achieving Operational Excellence And Zero Injuries, Illness And Fatalities Through Safety

2. All employee involvement
   - Involve employees
   - Teamwork
   - Engage employees
   - Develop trust
3. Worksite analysis
   – Hazard identification
   – Identify inconsistent management program
   – Job analysis – employee vs. task
   – Leading vs. lagging indicators
Achieving Operational Excellence And Zero Injuries, Illness And Fatalities Through Safety

4. Hazard prevention and control
   - Problem-solving methods
   - Consistent policies and procedures
   - Standardized measurement processes
5. Training for employees, supervisors and managers
   - Consistent education process
   - Understandable training
   - Retraining and review
Safety Responsibility:
Discipline – the Key Element

Discipline has a “pro-employee” purpose and is the cornerstone of an effective safety management program. Analyze the role of Discipline by the elements of the OSHA “Affirmative Defense” of “Unpreventable Employee Misconduct.”
Achieving Operational Excellence And Zero Injuries, Illness And Fatalities Through Safety

Safety and health excellence becoming more critical

**Why?**
- Other countries catching up to America in productivity, efficiency and quality
- The graying of the current workplace
- The incoming workforce

**What is the solution?**
- Integrate safety with health into all aspects of management and operations
- Sincere and continuous commitment to safety and health
- Address problems head on
- Wellness
Achieving Operational Excellence And Zero Injuries, Illness And Fatalities Through Safety

Elements to a successful Wellness Program

- Review of company’s health insurance program
- Case management
- Disease management
- Incentives and pay for performance
- Communications
- Benchmarking and analytical review
- Legal compliance
“If I seem unduly clear to you, you must have misunderstood what I said.

~ Alan Greenspan – Former Fed Chairman
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