OSHA Releases List of Most Violated OSHA Standards

The Occupational Safety and Health Administration (OSHA) the U.S. Department of Labor recently released its list of most violated OSHA standards. This e-alert summarizes the top violations and also provides recommendations to facilities to ensure preparedness for an OSHA inspection. Preparing for such visits ahead of time can help facilities achieve OSHA compliance and avoid citations. The last part of this e-alert is a reminder about proper management of spent fluorescent lights.

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Common OSHA Violations

The top five OSHA violations last year involve:

- Fall Protection
- Scaffolding
- Chemical Hazard Communication
- Respiratory Protection
- Lockout/Tagout (Controlling Hazardous Energy)

Also in the top ten OSHA violations are electrical (wiring methods and general requirements), powered industrial trucks, ladders and machine guarding. Three of the top ten OSHA violations, including the top two, relate to working at heights.

Violations pertaining to OSHA's Chemical Hazard Communication Standard comprise the third most violated standard cited. The Hazard Communication Standard was the subject of our previous OSHA e-alert dated July 11, 2012, in which we discussed OSHA's revised Hazard Communication Standard (HCS) and its alignment with the U.N.'s Globally Harmonized System of Classification and Labeling of Chemicals (GHS). OSHA has provided an implementation schedule for facilities to adapt the GHS into the revised HCS, including certain training requirements to be completed by December 1, 2013. OSHA will begin analyzing a facility's compliance with the new HCS during inspections.

OSHA Inspections

When deciding which facilities to inspect, OSHA focuses on industries as a whole and facilities with histories of fatalities, serious injuries and previous OSHA violations. OSHA penalties can be expensive and, depending on the nature of the alleged violations, can be accompanied by criminal enforcement.

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To avoid the negatives that accompany an OSHA inspection, facility managers and safety personnel should plan ahead. This involves a two-step preparation process:

1. Periodically conduct facility audits according to OSHA standards. An audit can be conducted by the facility's safety and health professional and/or the facility's workers' compensation insurer's loss control department. Management must direct and support these audits. All reasonable and appropriate recommendations from the audit should be implemented on a timely basis.
2. Be prepared for an OSHA inspection, even when one is not anticipated. This means:
    - Conduct the required training;
    - Make sure all required equipment is available and functional;
    - Review all required records, including the OSHA 300 log, to ensure they have been properly completed and are available to an OSHA inspector;
    - Review previous OSHA citations to confirm that compliance issues have been addressed; and
    - Conduct periodic in-house audits to verify that OSHA standards are being met (see #1 above).

Moreover, it is essential that a facility has properly trained backup personnel who can step in and manage an inspection in place of a primary facility contact person who is not available on the day OSHA arrives unexpectedly to inspect the facility.

Once the OSHA inspector knocks on your door, it is prudent to let the inspector, once her or his credentials are confirmed, inside the facility. Under the "one hour rule," a facility can postpone the inspector's entrance in order for the facility to confirm the inspector's credentials and also prepare for the inspection. A facility supervisor or manager should accompany the OSHA inspector at all times. The inspector will note any noncompliance with OSHA standards. Photograph whatever the inspector photographs.

Do not utilize programs that discourage reporting injuries. OSHA prefers that companies do not have incentive programs that issue rewards for no injuries because OSHA believes such incentive programs discourage accurate reporting of injuries.

Spent Fluorescent Bulbs

The appropriate procedures for managing spent fluorescent light bulbs have been

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publicized for several years. The major concern, besides safety issues associated with managing broken glass, is that the bulbs contain a small amount of metallic mercury. If the bulbs are broken, the mercury can be released into the environment. The OSHA Fact Sheet and Quick Card follow at the end of this e-alert. The Fact Sheet and Quick Card are also available on OSHA's website.

We will continue to update you as significant OSHA-related regulatory developments occur. In the meantime, your Reinhart attorney or members of Reinhart's Labor and Employment Law practice group will be pleased to answer your questions and address any concerns that you may have regarding OSHA compliance and OSHA's enforcement efforts.

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