

Top 10 Most Frequent General Duty Clause Citations



- 1. Forklift Hazards 26.9%
 - Lack of seatbelts
 - Improper lifting of personnel
- Crane Hazards 21.7%
- 3. Dust Explosions -12.0%
- 4. Struck-by Vehicle -10%
- 5. Ladder Fall 5.8%
- 6. PVC Piping Rupture -5.4%
- 7. Fire and Explosions -5.4%
- 8. Fall Hazards 5%
- 9. Automobile Lifts and Jacks 4.6%
- 10. Storage Rack Hazards 3.6%

Source: Tracy Cekada and Christopher Janicak – Indiana University of Pennsylvania $2016\,$

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Handling OSHA Informal Complaints (Rapid Response)



- Need to do it right or you may have an onsite inspection
- Recommend against using OSHA's rapid response form
- Do your own investigation and report findings (KISS)
- Avoid making admissions
- · Emphasis on corrective actions and going forward
- Have supporting documentation with response letter
- Posting and certification

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OSHA's Burden Of Proof To Issue Citation Of "Vertical" Standard



- Vertical standard specific only to particular industry
- OSHA has the burden to prove:
 - A hazard
 - Applicable standard
 - Exposure, and
 - That the employer knew of the hazard or should have known of it with the exercise of due diligence

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Effectively Handling An OSHA Inspection: How To Legally Protect Your Rights





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Requirements To Issue 5(A)(1) General Duty Citation



OSHA must prove:

- Condition or activity in the workplace presented a hazard
- Employer or its industry recognized the hazard
- Hazard was likely to cause death or serious physical harm a feasible means existed to eliminate or materially reduce the hazard

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Supervisor Role In Osha Citations: Learning Of OSHA Violations



"Because employers can only obtain knowledge through their agents, the actions and knowledge of <u>supervisory personnel</u> are generally <u>imputed</u> to their employers, and the Secretary can make a prima facie showing of knowledge by providing that a supervisory employee knew of or was responsible for the violation."

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Safety Responsibility: Unpreventable Employee Misconduct Defense Elements



- Establish work rules designed to ensure safe work and to avoid OSHA violations
- Communicate the work rules to employees
- · Train the employees as needed
- Take appropriate steps to discover violations
- Effectively enforce the rules and practices when violations are discovered; and
- Document the above actions

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Throughout The Entire Inspection Always Remember

- It is your facility
- You have rights
 - Inspection conducted in a reasonable mannerInspection conducted during a reasonable time
- Completion of inspection within 6 months
- Be cooperative and responsive **but maintain control of the inspection**

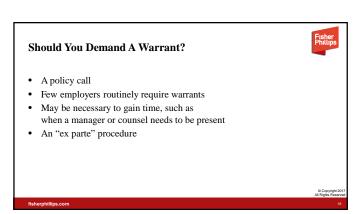


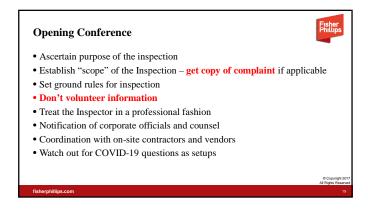
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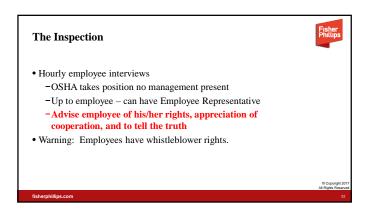
OSHA Poster OSHA Poster Notification responsibilities Contact persons When you have a reportable incident When OSHA inspectors are onsite Any other unusual safety & health issue Assignment of responsibilities Training/recordkeeping Know what OSHA standards are applicable to your operation and that you are fully compliant Know your COVID-19 control plan and ensure you have implemented all protective actions and precautions



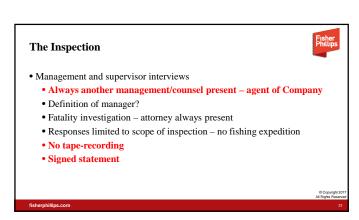
Why Me? INSPECTION PRIORITIES Imminent danger Fatalities/catastrophic accidents Employee complaints/referrals High-hazard industries (site specific targeting) & Special emphasis programs NOTE: With new OSHA recordkeeping reporting requirements, many new self-referral inspections

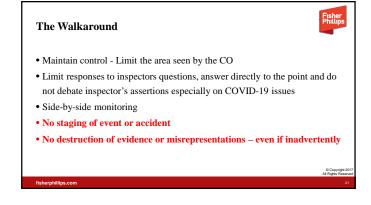


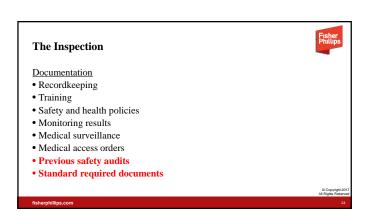




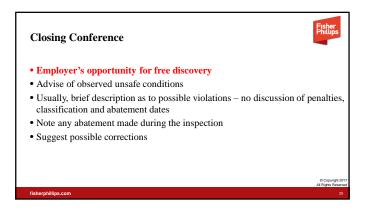


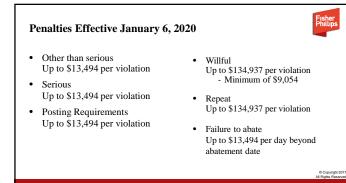


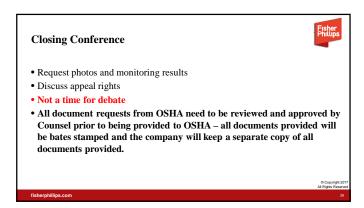


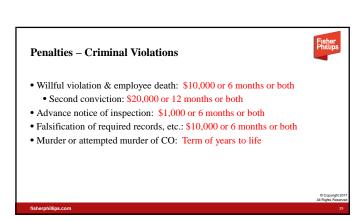


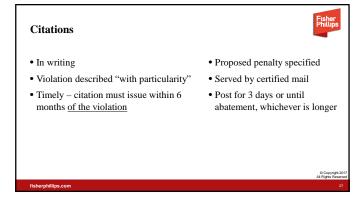
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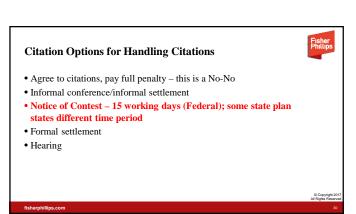












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- Occupational Safety and Health Review Commission
- Formal complaint and answer
- Discovery similar to Federal Court
- Hearing before Administrative Law Judge
- ALJ issues written opinion
- Appeal to three-member Review Commission
- Other options expedited proceedings



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