

If I Could Turn Back Time! *Common OSHA Mistakes Employers Make*

Presented By:



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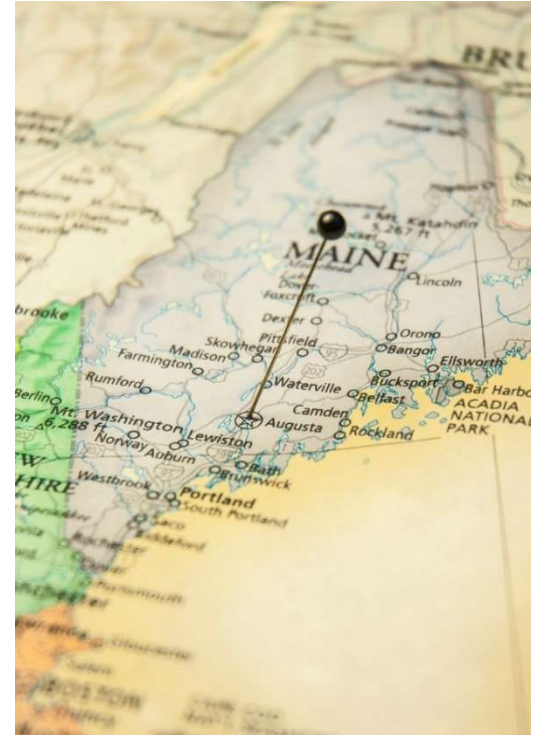
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Presentation Outline

1. Agency jurisdiction in Maine
2. Inspection figures
3. Common OHSA mistakes
4. Relationship to workers' compensation
5. OSHA Log Case Studies

OSHA – Federal Level

- Occupational Safety and Health Administration (OSHA) created - 1970
 - Goal: To ensure healthful working conditions by setting and enforcing standards
 - Within federal Department of Labor
- Jurisdiction:
 - **Private sector employers**
 - The federal government
- Local offices:
 - Augusta and Bangor



OSHA – State Level

- Maine OSHA Standards:
 - The Maine State Plan
- The Maine State Plan has adopted OSHA's occupational safety and health standards with a few minor deviations.
- Jurisdiction:
 - State employees
 - Local government employees
- Local office:
 - Augusta



OSHA Inspection Figures for Maine - 2018

DATA ENFORCEMENT Customer Survey

HOME SEARCH DATA CATALOG LABS AGENCY TOOLS FAQ WHAT'S NEW Aa

Home Search Search Results OSHA Sic Naics

Search Criteria
Agency: OSHA
State: ME
Years: 2017 to 2018

Export View: CSV PDF

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Activity NR	Name	Address	City	State	Zip	Reporting ID	Initial Violations	Accidents	Owner Type
342389673	TOWN OF LIMESTONE	155 MAIN STREET	LIMESTONE	ME	04750	0152300	0	0	Local Government
342124161	DIESEL DAN AUTOMOTIVE AND TRUCK REPAIR	161 WATERVILLE ROAD	SOUTH CHINA	ME	04358	0111100	0	0	Private
342122470	VALMET INC	516 ALFRED STREET	BIDDEFORD	ME	04005	0111100	4	1	Private
342269628	WOODLAND PULP, LLC	144 MAIN STREET	BAILEYVILLE	ME	04694	0111100	4	1	Private

- **2018 – Number of Inspections: 297**
- **2019 – Number of Inspections: 15**
- **2017 – Number of Inspections: 329**

Figures cited from www.enforcedata.dol.gov

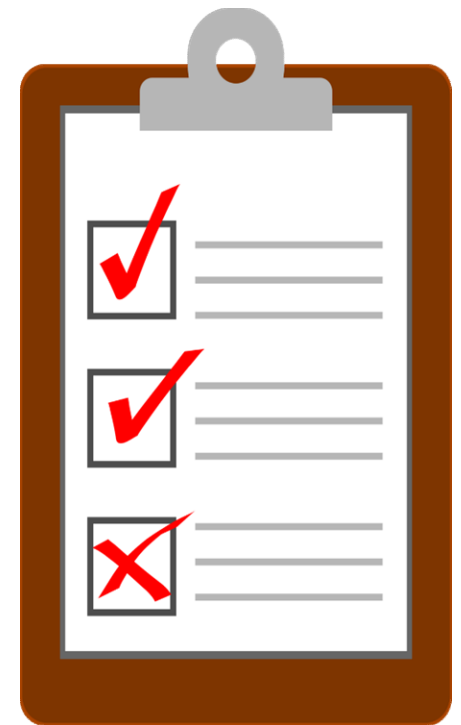
Ten Most Cited OSHA Violations 2018

- 1. Fall Protection – 7,270**
(↑ from 2017)
- 2. Hazard Communication – 4,552**
(↑ from 2017)
- 3. Scaffolding – 3,336** (↑ from 2017)
- 4. Respiratory Protection – 3,118**
(↑ from 2017)
- 5. Lockout/Tagout – 2,944**
(↑ from 2017)



Ten Most Cited OSHA Violations 2018

6. **Ladders Violations** – 2,812
(↑ from 2017)
7. **Powered Industrial Trucks** –
2,294 (↑ from 2017)
8. **Fall Protection** – 1,982
(↑ from 2017)
9. **Machine Guarding** – 1,972
(↑ from 2017)
10. **Eye and Face Protection** –
1,536 violations



Common OSHA Mistakes Employers Make

- **Assuming a safe workplace will happen if you employ good people**
 - Employers have a legal duty to protect their workforce from injury or illness on the job
 - Employers must take systematic approach: develop and build a program for carrying out objectives
 - **Key Component: Health and Safety Manual**

Five Elements of Effective Health and Safety Manuals

1. Management leadership *AND* employee participation
2. Workplace analysis
3. Hazard prevention
4. Training, training, training
5. Evaluation or internal audit

Environmental Component?

- Waste management
 - Hazardous
 - Universal
- Spill Prevention, Control and Countermeasure Plan (SPCC)
- Industrial wastewater discharge permit
- Stormwater discharge permit



Common OSHA Mistakes Employers Make

- **Intermittent enforcement of safety program**
 - Program requirements must be understood and enforced
 - Document training and enforcement efforts
 - Enforcing program looks out for all employees



Common OSHA Mistakes Employers Make

- **Failing to inquire about a safety-related regulatory “gray area”**
 - Ask an independent third-party
 - Request a formal interpretation



Common OSHA Mistakes Employers Make

- **Not developing a Hazard Communication Plan**
 - Employees have a right to know if exposures exist



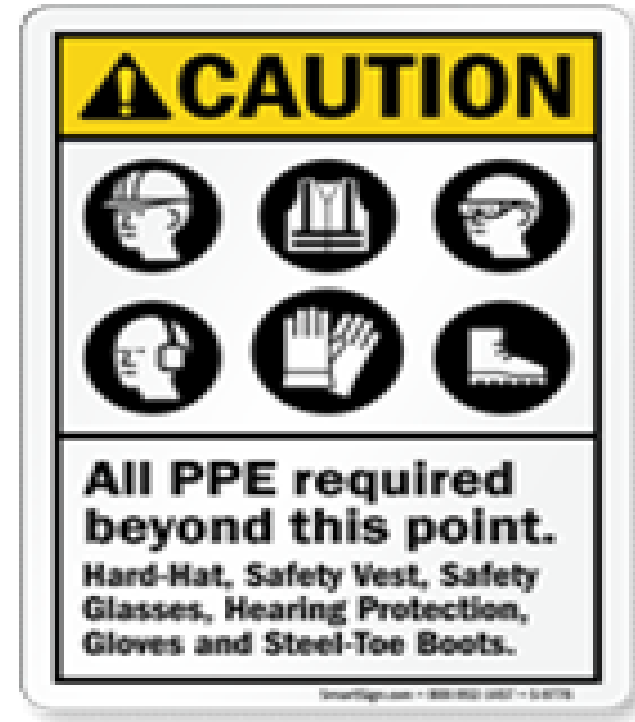
Five Required Elements of a Hazard Communication Plan

1. Chemical inventory
2. Accurate facility labels
3. Safety Data Sheet catalogue
4. Training
5. A written program discussing 1 - 4

Common OSHA Mistakes Employers Make

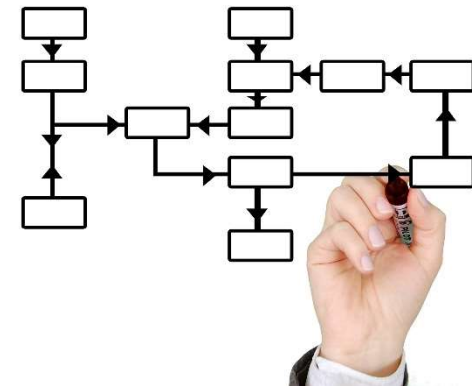
- **Excessive reliance on Personal Protective Equipment**

- Sometimes the right approach is to make the process safer



Common OSHA Mistakes Employers Make

- **Not developing a plan for unannounced OSHA inspection**
 - It will be obvious
 - It will alter the inspection

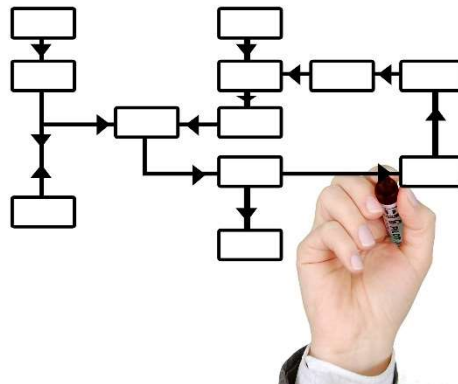


Before a Compliance Officer is Onsite

1. Develop a Plan

2. Basic Elements of Plan:


- Designate trusted company representative
- Create an OSHA Inspection Binder
- Think through ideal facility routes



Common OSHA Mistakes Employers Make

- **Not maintaining OSHA 300 Logs**

- All employers should track health and safety incidents, including near misses
- 11 employees trigger OSHA 300 log duty
- Easily cited
- Some industries exempted

OSHA's Form 300 (Rev. 01/2004)						Attention: This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes.		 U.S. Department of Labor Occupational Safety and Health Administration									
You must record information about every work-related injury or illness that involves loss of consciousness, restricted work activity or job transfer, days away from work, or medical treatment beyond first aid. You must also record significant work-related injuries and illnesses that are diagnosed by a physician or licensed health care professional. You must also record work-related injuries and illnesses that meet any of the specific recording criteria listed in 29 CFR 1904.8 through 1904.12. Feel free to use two						Form approved OMB no. 1218-0176		Year <input type="text"/>									
Establishment name <input type="text"/>						City <input type="text"/>		State <input type="text"/>									
Identify the person		Describe the case		Classify the case		Enter the number of days the injured or ill worker was:		Check the "injury" column or choose one type of illness:									
(A) Case No.	(B) Employee's Name	(C) Job Title (e.g., Welder)	(D) Date of injury or onset of illness (mo./day)	(E) Where the event occurred (e.g., Loading dock north end)	(F) Describe injury or illness, parts of body affected, and object/substance that directly injured or made person ill (e.g., Second degree burns on right forearm from acetylene torch)	CHECK ONLY ONE box for each case based on the most serious outcome for that case:											
						Death	Days away from work	Job transfer / restriction	Other recordable cases	Away From Work (days)	On job transfer or restriction (days)	Injury	Skin Disorder	Respiratory Condition	Poisoning	Hearing Loss	All other illnesses
						(G)	(H)	(I)	(J)	(K)	(L)	(1)	(2)	(3)	(4)	(5)	(6)
1	Mark Bagin	Welder	5/25	basement	fell from ladder	✓						✓					

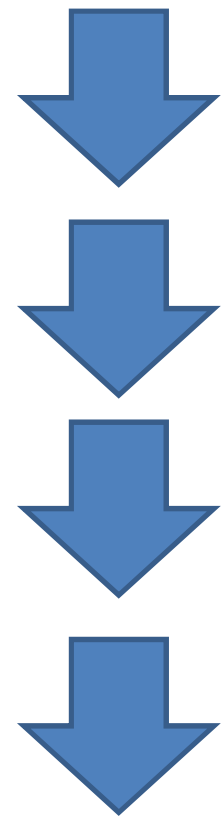
Three OSHA Forms To Remember

1. OSHA Form 300 – Log of Work-Related Injuries and Illnesses
2. OSHA Form 301 – Injury and Illness Incident Report
3. OSHA Form 300A – Summary of Work-Related Injuries and Illnesses



300 Log: Is it “OSHA Recordable”

1. Did the employee experience an injury or illness?
2. Is the injury or illness work-related?
3. Is the injury or illness a new case?
4. Type of Injury
 - Medical treatment beyond first-aid
 - Days away from work
 - Restricted work or job transfer
 - Loss of consciousness
 - Death



Posting of Forms

- Maintained on a calendar year basis
- Summary of records for the previous year must be posted soon:
 - **February 1st - April 30th**
- Common area accessible to employees

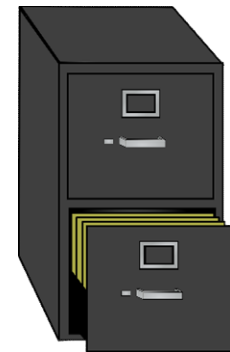


Keep Forms on File

- On file and update for 5 years
- Do not send copies to OSHA unless required to do so*
- Allow access to the records if requested by OSHA or employee

*OSHA requires employers with 250 or more employees to electronically file OSHA Form 300A for calendar year 2018 before March 2, 2019.

*OSHA proposed a rule in July of 2018 rescinding the requirement for establishments with 250 or more employees to electronically file OSHA Forms 300 and 301.



OSHA and Workers' Compensation

- Section 4(b)(4) of OSHA
- Bar private right of action to enforce OSHA regulatory duty
- Defense to OSHA Violation
 - Unpreventable employee misconduct

4B4

Safety Violation & Exclusivity

- Exclusive Remedy *unless*
 - Willful Intention
 - Intoxication
- Citation as Evidence?



Case Studies – First Aid?

Tony cuts his finger while using a box cutter at work. He finds surgical glue in the First Aid kit and uses it to close the wound.

Is the case OSHA recordable?

Kamala is exposed to chlorine at work and oxygen is administered as a precautionary measure. She returns to work momentarily.

Is the case OSHA recordable?

Case Studies – Work-Related?

Darcy knits a sweater for her daughter during her lunch break. She lacerates her hand and needed sutures. She is engaged in a personal task.

Is the case OSHA recordable?

Case Studies – New Injury?

Jack has a medical condition that causes him to have epileptic seizures. While running his mechanized line at work, Jack suddenly suffers an epileptic seizure, falls, and breaks his arm.

Is the case OSHA recordable?

Case Studies – Work-Related?

Sasha voluntarily takes work home and is injured while working at home.

Is the case OSHA recordable?

Case Studies – Temporary Workers

A site hired numerous temporary workers at its plant. Three temporary workers were injured. They each received injuries that were recordable on the OSHA 300 Log.

Should the injuries be recorded on the site's OSHA log or the temp agency's OSHA log?

Resources to help with OSHA Compliance

- SafetyWorks! – Maine DOL
 - <https://www.safetyworksmaine.gov/>
- U.S. Small Business Administration
 - <https://www.sba.gov/business-guide/manage-your-business/stay-legally-compliant>
- U.S. OSHA
 - <https://www.dol.gov/general/topics/posters>
- Health and safety consultants

Resources to help with Workers' Compensation Compliance

- www.maine.gov/wcb
- 39-A M.R.S.A. Section 101 et. seq.
- Maine Workers' Compensation Coordinating Council
- www.hrlawupdate.com