

# OSHA Hot Topics and Trends: 2023 and Beyond

Stephen T. Parascandola November 14, 2023

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### **OVERVIEW**



- Recent OSHA enforcement initiatives
- Inflation & OSHA Penalties
- Top 10 Most Cited Violations
- New NEP for Heat-Related Hazards
- New Rule: Electronic Recordkeeping and Reporting



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## Federal OSHA Enforcement Trends



- In January of 2023, DOL released a new policy allowing instance-byinstance ("IBI") citations for high-gravity serious violations of OSHA standards related to falls, trenching, machine guarding, respiratory protection, lockout tagout and other violations
- IBI can mean individual citations per machine, per location, per entry or per employee
- Regional administrators and Area Directors are advised to use IBI citations when:
  - $\circ~$  The employer has received a willful, repeat or failure-to-abate violation within the last five years
  - The employer failed to report a fatality or an injury
  - The citations arose out of a fatality or catastrophic injury

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### **Federal OSHA Initiatives**



- In January of 2023, DOL released a memo highlighting discretion of Regional Administrators and Area Directors not to group violations
- Goal is to increase penalties to deter further violations
- Under the new policy, inspectors are encouraged not to group citations if evidence allows for separate citations



### Inflation & OSHA Penalties

- The Dept. of Labor scales up the maximum federal civil penalty for inflation
- Recent inflation has caused penalties to balloon

Year	2021	2022	2023
Serious/Nonserious	\$13,653/violation	\$14,502/violation	\$15,625/violation
Failure to Abate	\$13,653/day	\$14,502/day	\$15,625/day
Willful/Repeated	\$136,532/violation	\$145.027/violation	\$156,259/violation

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### **NC OSHA Inspections**

- Approx. 2,218 inspections in FY2021 (5% increase and 802 more than average state program)
- 4,312 violations in FY2021 (8% increase; more than average state program (~2,569 violations))
- 60% Serious; 35% Nonserious; 5% Other (repeat, willful, failure-to-abate and unclassified)
- 54% of inspections were in the construction industry
- \$7,123,571 assessed in penalties (up ~8.5% from FY2020)

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### OSHANC Most Cited Violations - FY2021



- Fall Protection (training, equipment, ladders, scaffolds, residential construction)
- Personal protective equipment (eye and face protection)
- Machine Guarding
- Lockout/Tagout (control of hazardous energy)
- Hazard communication (written programs & training)

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### Top Tips to Reduce OSHA Violation Risk



- 1. Review and update safety policies and procedures
- 2. Conduct and document regular safety inspections
- 3. Provide and document proper employee training
- Keep detailed records of all safety efforts
- 5. Provide personal protective equipment (PPE)
- 6. Enforce the use of PPE
- 7. Monitor subcontractors for compliance and penalize subcontractors for noncompliance



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### Top 10 OSHA Citations for FY2023



- 2. Hazard Communication (1920.1200): 3,213 violations
- 3. Ladders (1926.1052): **2,978 violations**
- Scaffolding General Requirements (1926.451):
  2,859 violations
- 5. Powered Industrial Trucks (1910.178): 2,561 violations

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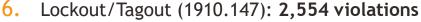
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## **Top 10 OSHA Citations for FY2023**



- 7. Respiratory Protection (1910.134): **2,481 violations**
- 8. Fall Protection Training Requirements (1926.503): 2,112 violations
- Personal Protective and Lifesaving Equipment Eye and Face Protection (1926.102): 2,074 violations
- 10. Machine Guarding General Requirement (1910.212): 1,644 violations



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## **Top 10 OSHA Citations for FY2022**



- 2. Hazard Communication (1920.1200)
- 3. Respiratory Protection (1910.134)
- 4. Ladders (1926.1053)
- 5. Scaffolding General Requirements (1926.451)

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## **Top 10 OSHA Citations for FY2022**

- 6. Control of Hazardous Energy Lockout/Tagout (1910.147)
- 7. Powered Industrial Trucks (1910.178)
- 8. Fall Protection Training Requirements (1926.503)
- 9. Personal Protective and Lifesaving Equipment Eye and Face Protection (1926.102)
- 10. Machine Guarding General Requirement (1910.212)



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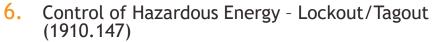
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### **Heat-Related Hazards: New NEP**



- April 2022: OSHA announced a National Emphasis Program (NEP) on heat-related hazards
- The NEP is scheduled to remain in effect through 2025
- OSHA plans to develop a workplace heat standard
- OSHA will conduct heat-related inspections in high-risk industries on days the National Weather Service has announced a heat warning
- Employers are encouraged to protect workers from heat hazards by providing ample access to water, rest, shade, additional training and acclimatization procedures for new or returning employees
- Target industries include residential and commercial building, roadwork, utilities, manufacturing, farming, warehousing and others

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15



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## New Rule: Expanded Reporting Requirements



- US DOL announced a new rule effective January 1, 2023
- Employers with 100+ employees in certain industries will be required to electronically submit their OSHA Forms 300 and 301
- OSHA will publish some of the collected data on its website alongside the employer's name





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