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## OSHA Basics for Dairy Farms



UW-Extension Webinar  
December 10, 2010

 <small>Occupational Safety and Health Administration</small>	<small>Mary Bauer CIH, CSP Compliance Assistance Specialist Eau Claire, WI 54701 715-832-9019 bauer.mary@dol.gov</small>
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### My Background

- Mary Bauer 
- 25 years w/ OSHA
- IH/ Safety
- CIH: Certified Industrial Hygienist
- CSP: Certified Safety Professional
- 1000 + Inspections
- Grew up on Dairy Farm – 35 Milk Cows

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## Objectives

- How to spell "OSHA"
- What OSHA does - Mission
- Who OSHA has jurisdiction with
- Standards and Hazard in Dairy/Agriculture
- OSHA Enforcement Process
- OSHA Outreach
- Question & Answers



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## OSHA

- Occupational
- Safety and
- Health
- Act



Williams-Steiger Act – 1970

William Steiger – Congressman from Oshkosh, WI

- OSH Act was signed Dec 29, 1970 by President Richard Nixon



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## OSHA's Mission

- To assure so far as possible every working man and women in this nation a safe and healthful working conditions



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### Prior To OSHA

- Walsh – Healy Act
  - Safety Provisions for government contracts.
- Non-Regulatory:
  - NSC: National Safety Council
  - ANSI: American National Standards Institute
  - NFPA: National Fire Protection Association
  - ACGIH: American Conf. of Gov't Ind. Hygienist



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### Major Employer Responsibilities



- Provide a workplace free from recognized hazards
- Comply with OSHA standards and regulations
- Be familiar with standards applicable to their workplace



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### Employee Rights

- Request OSHA investigation
- Name withheld from ER –complaint
- Talk with compliance officers
- Participate in inspection and after inspection action.
- Offered Whistleblower Protection 11( c)



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## Employee Rights



- Review OSHA standards, rules and regulations available in the workplace.
- Request information from ER on S&H hazards, precautions, emergency procedures,
- Receive adequate training and information



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## OSHA Coverage

- Private Sector Employees
  - Manufacturing
  - Construction
  - Maritime
  - Health Care
  - Warehousing



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## OSHA does NOT cover

- Self – Employed
- Farming
  - Immediate Members of the Families
  - 10 or less Employees unless Temporary Labor Camp
- If another agency has jurisdiction
  - FAA, RR, DOT, NRC, MSHA, EPA
- Public Employees



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**Appropriations Rider Issues:  
CPL 2-0.51J**

[http://www.osha.gov/pls/oshaweb/owadispl.show\\_document?p\\_table=DIRECTIVES&p\\_id=1519](http://www.osha.gov/pls/oshaweb/owadispl.show_document?p_table=DIRECTIVES&p_id=1519)

A "**farming operation**" means any operation involved in the growing or harvesting of crops, the raising of livestock or poultry, or related activities conducted by a farmer on sites such as farms, ranches, orchards, dairy farms or similar farming operations. These are employers engaged in businesses that have a two digit Standard Industrial Classification (SIC) of 01 (Agricultural Production - Crops), 02 (Agricultural Production - Livestock and Animal Specialties), and four digit SIC 0711 (Soil Preparation Services), 0721 (Crop Planting, Cultivating, and Protecting), 0722 (Crop Harvesting, Primarily by Machine), 0761 (Farm Labor Contractors and Crew Leaders), and 0762 Farm Management Services).

A "**temporary labor camp**" means farm housing directly related to the seasonal or temporary employment of farm workers.



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**Appropriations Rider Issues**

- A farming operation is **exempt** from **all** OSHA activities if it:
  - Employs 10 or fewer employees currently and *at all times* during the last 12 months; and
  - Has not had an active temporary labor camp during the proceeding 12 months.

Family members of farm employers are not counted when determining the number of employees.

Part Time Employee is counted as "1" employee.



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**Standards Relating to  
Agriculture**

- 29 CFR 1928: Agriculture
  - [http://www.osha.gov/pls/oshaweb/owasrch.search\\_form?p\\_doc\\_type=STANDARDS&p\\_toc\\_level=1&p\\_keyvalue=1928](http://www.osha.gov/pls/oshaweb/owasrch.search_form?p_doc_type=STANDARDS&p_toc_level=1&p_keyvalue=1928)
- 29 CFR 1910: General Industry: As Referenced
  - [http://www.osha.gov/pls/oshaweb/owasrch.search\\_form?p\\_doc\\_type=STANDARDS&p\\_toc\\_level=1&p\\_keyvalue=1910](http://www.osha.gov/pls/oshaweb/owasrch.search_form?p_doc_type=STANDARDS&p_toc_level=1&p_keyvalue=1910)
- General Duty Clause – Section 5(a)(1)



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## Recordkeeping

- Employers of 11 or more employees must maintain records of occupational injuries and illnesses



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## 1904.2 -Recordkeeping

- All industries in agriculture, construction, manufacturing, transportation, utilities and wholesale trade sectors are covered
- 1904.1 – Size Exemption:



- If your company had 10 or fewer employees at all times during the last calendar year, you do not need to keep the injury and illness records unless surveyed by OSHA or BLS



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## Agricultural Standards: 1928

- [1928.51](#)
  - Roll-over protective structures (ROPS) for tractors used in agricultural operations.
- [1928.57](#)
  - Guarding of farm field equipment, farmstead equipment, and cotton gins.
- [1928.110 - Field Sanitation.](#)

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## Employee Operating Instructions 1928 Subpart C App A

1. Securely fasten your seat belt if the tractor has a ROPS.
2. Where possible, avoid operating the tractor near ditches, embankments, and holes.
3. Reduce speed when turning, crossing slopes, and on rough, slick, or muddy surfaces.
4. Stay off slopes too steep for safe operation.
5. Watch where you are going, especially at row ends, on roads, and around trees.
6. Do not permit others to ride.
7. Operate the tractor smoothly - no jerky turns, starts, or stops.
8. Hitch only to the drawbar and hitch points recommended by tractor manufacturers.
9. When tractor is stopped, set brakes securely and use park lock if available.



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## General Industry When Referenced in 1928.21(a)

- **1928.21(b)** Except to the extent specified in paragraph (a) of this section, the standards contained in Subparts B through T and Subpart Z of part 1910 of this title do not apply to agricultural operations.
- **1928.21(a)**: The following standards in part 1910 of this Chapter **shall apply to agricultural operations**:
  - **1928.21(a)(1)**: Temporary labor camps - 1910.142;
  - **1928.21(a)(2)**: Storage and handling of anhydrous ammonia - 1910.111(a) and (b);
  - **1928.21(a)(3)**: Logging Operations - 1910.266;
  - **1928.21(a)(4)**: Slow-moving vehicles - 1910.145
  - **1928.21(a)(5)**: Hazard communication - 1910.1200
  - **1928.21(a)(6)**: Cadmium - 1910.1027
  - **1928.21(a)(7)**: Retention of DOT markings, placards and labels - 1910.1201



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## General Duty Clause

- Section 5(a)(1) of the Act
- "...that each employer shall furnish...employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees."
- Applies when there is no specific standard



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### General Duty Clause Elements

- Employee Exposure
- Serious Hazard
- Knowledge
- Abatement Method
- Recognition



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### Common Hazards

- Toxic Substances/Airborne Dusts
- Electrical
- Fall
- Hazardous Waste / Hazardous chemicals
- Fire and Explosion
- Dangerous Atmospheres
- Machine Guarding
- Confined Space
- Lockout – Unexpected Energy Release
- Noise



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### Top Four Construction Hazards 90% of Injuries and Deaths

- Falls, (e.g., floors, platforms, roofs)
- Struck by, (e.g., falling objects, vehicles)
- Caught in/between (e.g., cave-ins, unguarded machinery, equipment)
- Electrical (e.g., overhead power lines, power tools and cords, outlets, temporary wiring)



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### Machine Guarding: 1928.57



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### 1910.147: Control of Hazardous Energy Lockout-Tagout (5a1)

- Written LOTO Procedures
  - Some equipment is exempt
- Individual Employee Protection (Locks)
- Shift Change/Authorized Lock Removal
- Annual Audit



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### Personal Protective Equipment (PPE): 5a1

#### • 1910.132 – Hazard Assessment

- Required PPE
- **Written Certification**
- **Training**



- Specific Requirements
- 1910.133 – Eye / Face
- 1910.135 – Head
- 1910.137 – Electrical
- 1910.95 - Noise

- 1910.134 – Respiratory
- 1910.136 - Foot
- 1910.138 – Hand

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### 1910.146 or 1910.272: Permit Required Confined Spaces (5a1)

- Identify Permit Required C.S. in workplace
- Prohibit Unauthorized Entry
- Written Program
- Entry Procedures
  - Entry Permit
  - Alternate Procedures
  - Reclassify to “Non-Permit Required”
- Annual Audit




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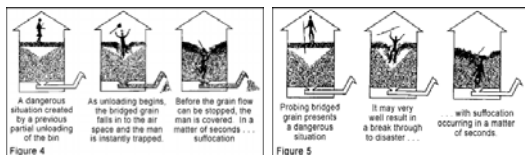
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### Handling Bridged Grain! 1910.272(g)(iv)(6) Violation

*If grain bridges:*

- Stop the auger
- Break up the bridge with a long wooden pole (not metal)



*“...entrapment and burial can occur within seconds”*

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### Manure Pits-Lagoons (5a1)

- Established Standard:
  - American Society of Agricultural and Biological Engineers (ASABE)
    - ASEA EP470 Jan 1992 (R2005)
    - Manure Storage Safety
  - Waste Storage Facility
    - National Resources Conservation Service
    - Code 313
- Hazard: Hazardous Atmosphere, Falls




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### Entry Concern



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### Guarding Access- Prevent Backing into Area – PTO Shaft



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### Slurry Tanks – Sand Cleanout Entry Concern



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### 1910.178: Powered Industrial Trucks Forklifts: Skid Steers (5a1)

- **Operator Training**
  - Capacity / Stability / Operator Inspections
  - Workplace Topics / Surface Conditions
  - Refresher Training
- **Evaluation of Performance**
  - At Least Every Three Years
- **Written Certification**



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### Powered Industrial Vehicles Not Included in Agriculture

- [http://www.osha.gov/pls/oshaweb/owadispl.show\\_document?p\\_table=INTERPRETATIONS&p\\_id=22785](http://www.osha.gov/pls/oshaweb/owadispl.show_document?p_table=INTERPRETATIONS&p_id=22785)
- the final rule of §1910.178 **did not amend** §1928.21(a) to add §1910.178 to this list of applicable general industry standards. Thus, for those employments, which are "agricultural operations" under Part 1928, §1910.178 does not apply.



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### 1910.1200 Hazard Communication

- **Material Safety Data Sheets**
  - Hazards of Chemical (Flammable, Toxic...)
  - Personal Protective Equipment
- **Labeling**
  - Specific Chemicals
  - Types of Chemical Hazards
- **Training**
- **Written Program**



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## Dairy Inspection: Fatality Available on Website

- Val-O-Farms, Inc.
- [http://www.osha.gov/pls/fimis/establishment.inspection\\_detail?ids=313176083](http://www.osha.gov/pls/fimis/establishment.inspection_detail?ids=313176083)

Violation Items										
#	ID	Type	Standard	Issuance	Abate	Curr\$	Init\$	Fta\$	Contest	LastEvent
1.	01001	Serious	SA0001	03/26/2010 05/05/2010	\$1260	\$2100	\$0			1 - Informal Settlement
2.	01002	Serious	SA0001	03/26/2010 04/21/2010	\$900	\$1500	\$0			1 - Informal Settlement
3.	01003	Serious	SA0001	03/26/2010 06/18/2010	\$900	\$1500	\$0			1 - Informal Settlement
4.	01004	Serious	SA0001	03/26/2010 04/28/2010	\$450	\$750	\$0			1 - Informal Settlement
5.	01005A	Serious	19101200 E01	03/26/2010 06/18/2010	\$360	\$600	\$0			1 - Informal Settlement
6.	01005B	Serious	19101200 G01	03/26/2010 06/18/2010	\$0	\$0	\$0			1 - Informal Settlement
7.	01005C	Serious	19101200 H01	03/26/2010 06/18/2010	\$0	\$0	\$0			1 - Informal Settlement
8.	01006	Serious	19280057 B01 III	03/26/2010 04/28/2010	\$450	\$750	\$0			1 - Informal Settlement
9.	02001	Other	19280051 D	03/26/2010 06/18/2010	\$0	\$0	\$0			1 - Informal Settlement



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## Basic Strategic Goals

- Strong, fair & effective enforcement
- Outreach, education, and compliance assistance
- Partnership and other cooperative programs



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## Inspection Priorities

- Inspection Types:
  - ID - Imminent Danger
  - FAT/CAT-(Fatality/Catastrophe)
  - Complaint / Referral
  - General Schedule



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## Fatality / Catastrophe

- Fatality: One or more
- Catastrophe:
  - 3 or more Hospitalized ( admitted )



ER must report to OSHA w/in 8 hours.  
OSHA Hotline. 1-800-321-OSHA



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## OSHA Emergency Hot-Line 1-800-321-OSHA

- Hot-line for reporting workplace safety or health emergencies
- Provides a 24-hour point of contact to report imminent dangers on the job



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## Complaints

- Formal
  - Signed by a present employee or representative of employee
  - Request on-site inspection
- Non-Formal or Investigation
  - Phone/Fax
  - ER responses in writing in 5 days



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## Referral

- Another Agency
  - Wage & Hour has Temporary Camp Jurisdiction and can refer to OSHA
  - Police or Coroner
  - UW-Extension
- Another CSHO
- Self-Referral – “Drive-By”
  - Limited in Dairy



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## Drive – By Self Referrals



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## General Schedule

- General Industry
- Construction
- Emphasis Programs
  - LEP
  - NEP
  - SEP
    - Lead, Falls, Silica, Isocyanates, Plating, Concrete, SST, PIV
- Dairy: Concentrated Animal Feeding Operation (CAFO)



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**CSHO**

- Compliance Safety and Health Officer
- Safety and/or Health Disciplines
- Authorized to Enter Workplace Without Advanced Notice
- Inspect & Investigation Conditions
- Question Privately Employees and Employer



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**On-Site Inspection**

- Presentation of Credentials
- Opening Conference
- Records Review
- Program Review
- Walkaround
- Closing Conference



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**Legal Sufficiency –  
Documentation of Violations**

- Violation:
  - Exposure to Hazard
    - Activity
    - How often
    - Training
    - Exact Distances
  - Hazard Cause Harm
  - Employer Knowledge
  - Existing Standard



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## Post Inspection Element

- Citation Issuance
  - Classification
  - Penalties
- Appeal Process
  - Informal Conference
  - Contest Rights
- Final Order
- Abatement Submission



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## Administrative Penalty Changes

<http://www.osha.gov/dep/administrative-penalty.html>

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## Background

- OSHA penalties have not been adjusted for several decades
- Work group assembled to evaluate the Agency's penalty policies
- Conclusion of the work group – current penalties are too low to have an adequate deterrent effect
- New changes announced April 22, 2010

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### Administrative Penalty Changes

- |  |  |
|--|--|
| 1. Gravity-Based Penalty               | 7. Repeat Violations                         |
| 2. Size                                | 8. Informal Conference Consideration         |
| 3. History                             | 9. Application of penalty adjustment factors |
| 4. Good Faith                          |  |
| 5. Increased Minimum Penalties         |  |
| 6. Severe Violator Enforcement Program |  |

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### Gravity-Based Penalty

	<u>Current</u>	<u>New</u>
High/Greater	\$5,000 or \$7,000	\$7,000
Medium/Greater	\$3,500	\$6,000
Low/Greater	\$2,500	\$5,000
High/Lesser	\$2,500	\$5,000
Medium/Lesser	\$2,000	\$4,000
Low/Lesser	\$1,500	\$3,000

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### Size

	<u>Current Reduction</u>	<u>New Reduction</u>
1 - 25	60%	40%
26 - 100	40%	30%
101 - 250	20%	10%
251 or more	None	None

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<b>History</b>			
	<u>Current</u>		<u>New</u>
Consider previous 3 yrs	10% reduction	Inspected and no SWRF citations in the previous 5 yrs	10% reduction
Citations within the previous 3 yrs	No reduction	Inspected and HG citations issued in the previous 5 yrs	10% increase
		Never inspected or no HG citations in the previous 5 yrs	No reduction or increase

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**Good Faith**

- New policy will retain evaluating an employers safety and health program
- The additional 10% reduction for participation in a strategic partnership has been eliminated

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**Increased Minimum Penalties**

- Minimum penalty for a serious is increasing from \$100 to \$500
- Minimum penalty for a posting violation will increase from \$100 to \$250 if the company was previously provided a poster by OSHA

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**In effect 10-1-2010**

- All inspections with an opening conference date on or after 10-1-2010 will be under the new calculations
- All prior to 10-1-2010 opening conference dates will be under the old policy

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**Severe Violator Enforcement Program**

- Modifies guidance for grouping related HG serious violations and permits citing each with its own penalty
- AD may limit adjustment for SVEP related violations to achieve the appropriate deterrent effect

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**Repeat Violations**

Current

New

Proposed if a final order citation in the previous 3 yrs

Proposed if a final order citation in the previous 5 yrs

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### Informal Conference Consideration

Current

New

-AD may reduce penalty up to 50%

Greater than 50% requires RA approval

- AD may reduce penalty up to 30%. >30 % reduction requires RA approval

- AD may offer an additional 20% if an outside H&S consultant is hired  
 - No longer allow penalty reduction when employer has an outstanding balance owed to OSHA at this establishment or others. If on a penalty plan, penalty reduction may be granted.

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### Application of Penalty Adjustment Factors

- All penalty reduction factors summed and multiplied by the Gravity-Based Penalty (GBP)--currently
- Penalty adjustment factors will be applied serially to the GBP---new policy

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### Serial adjustment

Sample Moderate Gravity Penalty Comparison: Summed versus Serially Calculation

Sample Data	Summed	Serially*
High/Lesser	\$5,000	\$5,000
History (10%)		\$4,500 -10%
Good Faith (15%)		\$3,825 - 15%
Quick Fix (15%)		\$3,251 - 15%
Size (30%)	10% + 15% + 15% + 30% = 70%	\$2,275 - 30%
Result	\$1,500	\$2,275 <sup>†</sup>

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### Impact

- Medium size employer 50 employees
- Received a serious (HG) citation four years ago
- Good safety program

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### Serious Violation High Severity Lesser Probability

- |                   |                            |
|-------------------|----------------------------|
| • Old System      | • New System               |
| • \$2500          | • \$5000                   |
| • History -10%    | • History +10% \$5500      |
| • Good Faith -15% | • Good Faith - 15% \$4675  |
| • Quick Fix -15%  | • Quick Fix -15% \$3973.75 |
| • Size -40%       | • Size -30%                |
| • \$500           | • \$2781.62                |

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### Summary

- Dairy Farms will be inspected
- Hispanic Outreach Emphasis Program
- Training Critical:
  - In the language understood
- Documentation Important



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# Safety and Health Resources

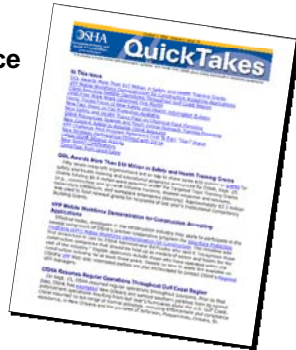
## Web Page Assistance

**Quick Start**  
OSHA Compliance Assistance Quick Start

Compliance Assistance Quick Start is a tool to introduce employers and employees, especially those at new or small businesses, to the compliance assistance resources on OSHA's website. Quick Start currently includes modules for:

- General Industry
- Construction
- Health Care
- Maritime/Offshore

By following the step-by-step guides, you can generate an initial set of compliance assistance materials tailored to your workplace.




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## Resources: Safety Pays



**Demonstrate the Economic Sense for Safety and Health Initiatives**

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## Resources: Publications Page On the Web




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## Web Page E-tools

The E-Tool provides a detailed review of the technically complex requirements of a particular standard or issue; inform employers of their obligations to develop the appropriate hazard prevention and control methodologies; and the E-Tool seeks to clarify specific topics that are often questioned or misunderstood by explaining the requirements, referencing OSHA interpretation letters and related industry consensus standards and highlights some best practices.

Provides useful ways of empowering workers to understand the steps their employers must implement in order to provide them with a safe and healthful work environment.

### SAFETY AND HEALTH TOPICS

Grain Handling



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## Outreach, Education and Compliance Assistance

- [www.osha.gov](http://www.osha.gov)
  - E-tools
  - Subject Index
- Compliance Assistance Materials
- OSHA Training Institute
- OSHA Training Grants (FISTA)
- OSHA CONSULTATION Service
- Compliance Assistance Specialists with in Area Offices (CAS)

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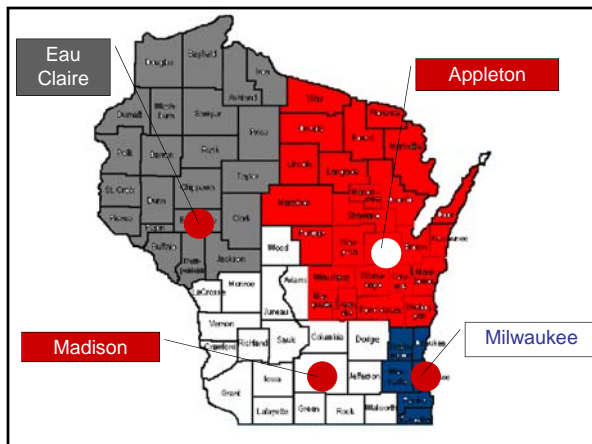
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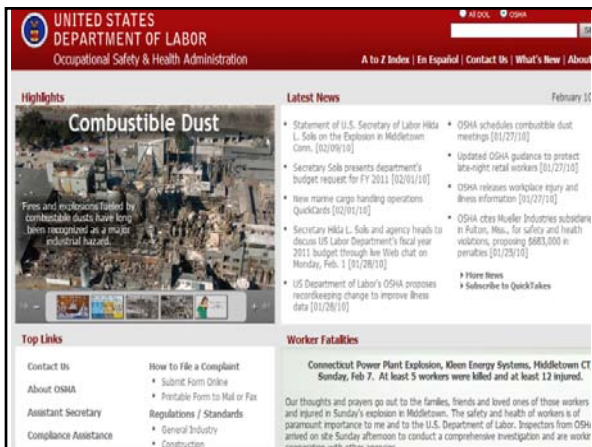
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Wisconsin Construction & Gen Industry Safety Newsletters

- Published 3-4 times each year
- Focusing on upcoming and hot topics
- Provides Regional fatality data and most frequently cited issues




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## State Consultation Service

1-800-947-0553

- Provided at **no cost** to employers
- Developed for **smaller** employers with more hazardous operations
- Delivered by WiSCon or the State Laboratory of Hygiene
- **No penalties are proposed or citations issued**
- Possible **violations** of OSHA standards **are not reported to OSHA** enforcement staff unless employer fails to eliminate or control any serious hazard or imminent danger



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## Section 11(c)



Discrimination can include:

- Firing or laying off
- Denial of benefits
- Blacklisting
- Failure to hire or rehire
- Demoting
- Intimidation
- Denying overtime or promotion
- Reassignment affecting future promotions
- Disciplining
- Reducing pay or hours



OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION

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## QUESTIONS



OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION

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## Disclaimer

- This information has been developed by an OSHA Compliance Assistance Specialist and is intended to assist employers, workers, and others as they strive to improve workplace health and safety. While we attempt to thoroughly address specific topics or hazards, it is not possible to include discussion of everything necessary to ensure a healthy and safe working environment in a presentation of this nature. Thus, this information must be understood as a tool for addressing workplace hazards, rather than an exhaustive statement of an employer's legal obligations, which are defined by statute, regulations, and standards. Likewise, to the extent that this information references practices or procedures that may enhance health or safety, but which are not required by a statute, regulation, or standard, it cannot, and does not, create additional legal obligations. Finally, over time, OSHA may modify rules and interpretations in light of new technology, information, or circumstances; to keep apprised of such developments, or to review information on a wide range of occupational safety and health topics, you can visit OSHA's website at [www.osha.gov](http://www.osha.gov).



OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION

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