

Indiana Health and Safety Conference

OSHA in Indiana – Carrot or Stick?

Presented by: Timothy E. Maley
Deputy Commissioner of Labor
Indiana OSHA

February 18-20, 2014



OSHA

Indiana Occupational
Safety and Health
Administration

Background

- Eli Lilly and Company
 - 30 years, Safety Management
- VPPPA Region 5 Board of Directors
- Senior Safety Consultant
- Deputy Commissioner, Indiana Department of Labor

Indiana Occupational Safety and Health Administration

Julie C. Alexander, Director of General Industry. In October of 2012, Julie Alexander accepted the position of the Director of the General Industry Division of IOSHA. Prior to that, Ms. Alexander served four years as legal counsel to the Agency where she litigated IOSHA violations before the BSR, represented IOSHA investigators at third party depositions and trials, advised the whistleblower section, obtained search warrants and subpoenas on behalf of IOSHA, researched and advised IOSHA on various issues. Currently, Ms. Alexander is President of State OSHA Litigation Organization (SOLO), which is an organization of attorneys general/state attorneys that represent state plan states in OSHA matters. Ms. Alexander came to us from the Office of the Attorney General.



Jerry W. Lander, Director of Construction Safety Compliance. Mr. Lander has served as Director since 2005 where oversees daily operations of compliance officers. Mr. Lander has been with the Agency for 13+ years, where he previously served as Supervisor of Construction Safety Compliance. Mr. Lander came to us from Enterprise Construction Company where he served as Human Resources Safety Director. Prior to that, Mr. Lander was an Architectural Engineer for Woolper Engineering.

IOSHA Online

www.in.gov/dol/iosha.htm

Access information 24/7 on IOSHA's website



Reason for a Visit from IOSHA

- Fatality
- Catastrophe
- Complaint
- Referral
- Target Inspection of High Hazard Industries

IOSHA'S Top Ten Cited Standards

- 1926.20(b)(2): Accident Prevention Responsibilities
- 1926.021(b)(2): Safety Education and Training
- 1910.212(a)(1): Machine Guarding
- 1910.1200(e)(1): Hazard Communication
- IC 22-8-1.1-2: General Duty Clause

IOSHA'S Top Ten Cited Standards

- 1926.20(b)(1): Accident Prevention Responsibilities
- 1910.1200(h)(1): Hazard Communication
- 1910.303(g)(2): Guarding of Live Electrical Parts
- 1926.150(c)(1): Portable Fire Extinguishers
- 1926.503(a)(2): Fall Protection Training

Penalties

- Non-Serious
 - Violation that has a direct relationship to job safety and health, but probably would not cause death or serious physical harm
 - Normally no penalty, but can go up to \$1,000 is discretionary
- Serious
 - Violation where there is substantial probability that death or serious physical harm could result and that the employer knew, or should have known, of the hazard
 - Penalty of up to \$5,000 to \$7,000 is mandatory
- Knowing
 - An intentional violation of the Act or plain indifference to its requirements
 - Penalties of up to \$70,000, with a minimum penalty of \$5,000 for each violation
- Repeat
 - Substantially similar violation found upon reinspection
 - Penalties multiplied 2-10 times the original penalty up to \$70,000 for each violation

Penalties

- FY 2012
- Average Current Penalty per Serious Violation
 - > Federal OSHA = \$2,153
 - > State Plans = \$992
 - > IOSHA = \$884
- Penalty philosophy

Penalties

- "Glass company faces more fines for safety violations" – IBJ 1/29/13
- "The state wants to fine a glass company \$231,000 following another round of safety concerns at a Shelbyville factory."
- "A follow-up inspection in March and April 2012 churned up another \$150,000 in proposed fines
- "Soon after, complaints from workers to the state quickly prompted a comprehensive inspection, also known as a "wall-to-wall," that resulted in a record-setting \$453,000 [proposed fine](#) resulting from 29 safety orders."

How to File Safety and Health Complaint with IOSHA

- ⦿ Formal Complaint
 - › Asserts that an imminent danger, a violation of the IOSH Act or a violation of an IOSHA standard exposing employees to physical harm exists in the workplace;
 - › Is submitted in writing; and
 - › Is signed by at least one current employee or employee representative.

How to File Safety and Health Complaint with IOSHA

- ⦿ Informal Complaint
 - › An **informal complaint** can be made anonymously by anyone and does not require a signature. Informal complaints result in IOSHA contacting the company to investigate alleged hazards.

How to File Safety and Health Complaint with IOSHA

- ⦿ www.in.gov/dol
- ⦿ 317-232-2693 complaint line
- ⦿ OSHA complaint form
- ⦿ oshacomplaint@dol.in.gov

Whistleblower Protection

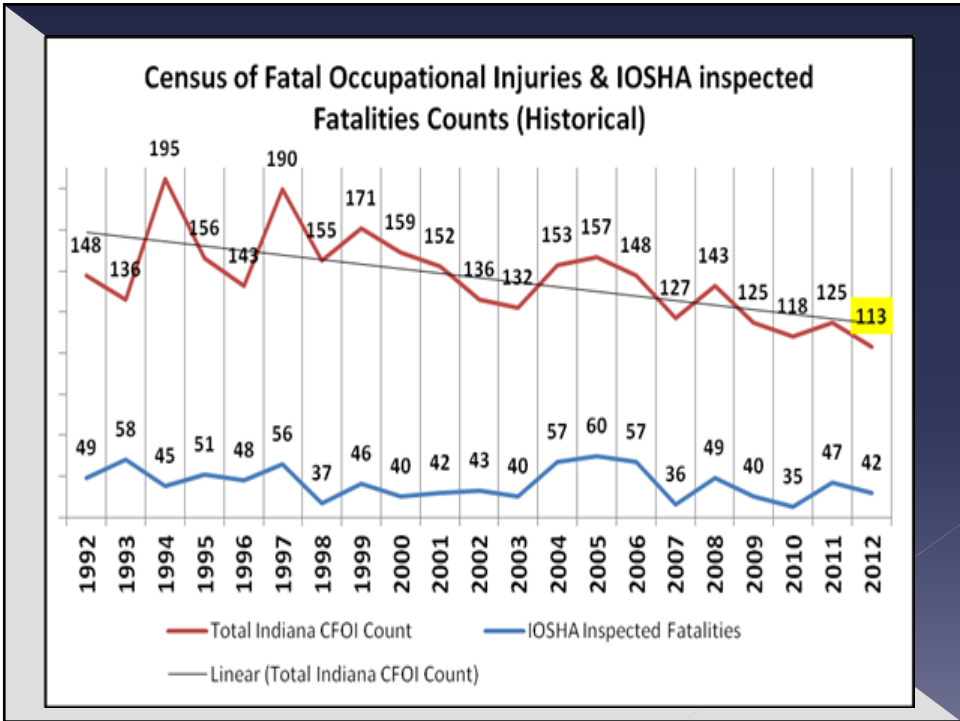
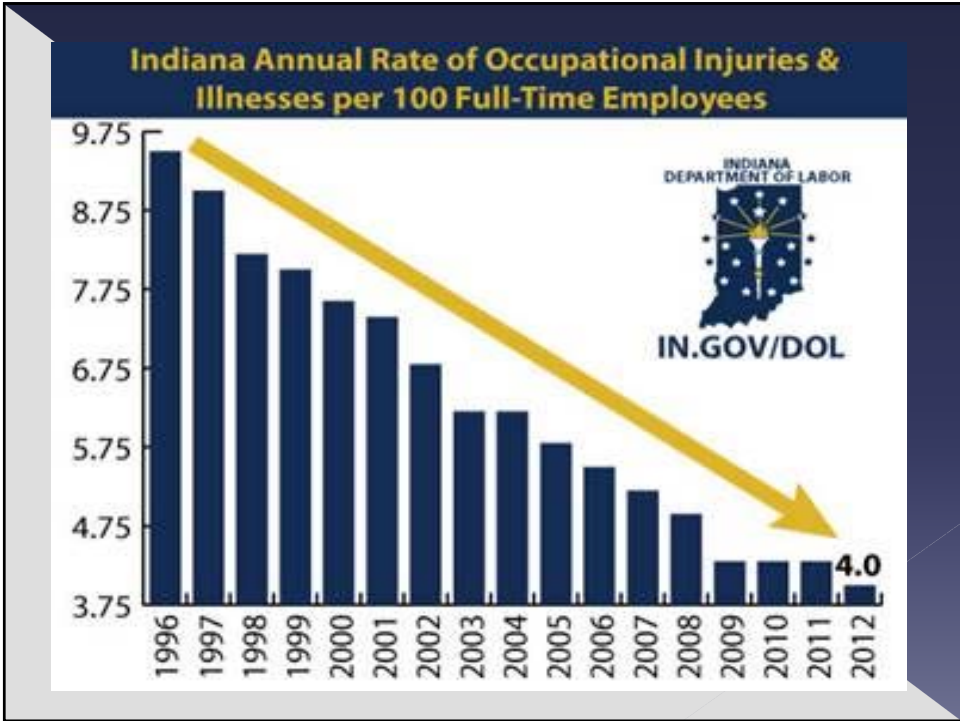
- ⦿ Protected Activities
 - › Filing safety and health complaints with IOSHA,
 - › Participating in an IOSHA inspection,
 - › Testifying in occupational safety or health proceedings,
 - › Filing a complaint with another regulatory entity (e.g. IDEM, State Department of Health, etc.),
 - › Raising safety and health concerns with employee management,
 - › Complaints to coworkers, and/or
 - › Work refusal (if a reasonable person would agree that work conditions pose an imminent danger that would result in serious injury or death).

How to File a Complaint

- ⦿ Discharged or Discriminated Against
 - › Firing or laying off,
 - › Demoting,
 - › Denying overtime or promotion,
 - › Disciplining,
 - › Denial of benefits,
 - › Intimidation/harassment,
 - › Reassignment affecting prospects of promotion, and/or
 - › Reducing pay or hours.

How to File a Whistleblower Complaint

- ⦿ Call (317)234-3946 or email whistleblower@dol.in.gov



OSHA Focus

- Crystalline Silica –NPRM
 - > Currently enforces 40-year-old permissible exposure limits (PELs) for crystalline silica
 - > The proposed rule includes a new exposure limit for respirable crystalline silica 50 micrograms and details widely used methods for controlling worker exposure, conducting medical surveillance, training workers about silica-related hazards and recordkeeping measures.
 - > Oil and Gas drilling - fracturing
- Isocyanates - NEP
- Hazard Communication – GHS
- Combustible Dust – NEP
 - No OSHA standard on combustible dust.
 - 80% General Duty Clause, most common – ankle deep accumulations, dust collectors internal to the building w/o suppression systems
- PELs – Annotated Tables



OSHA Focus Cont.

- Incentive Programs
 - > Large contractor building a refinery. “If you get injured on the job—your fired!”. “If you’re a supervisor and one of your workers gets hurt, your fired, too!”
- Protecting vulnerable workers
 - > OSHA webpage in Spanish, translations in Chinese, Vietnamese, Polish, Korean.
 - > Outreach to community organizations, every OSHA region implemented an outreach strategy to create partnerships and alliances with neighborhood, faith-based and other nonprofit organizations in their region.
 - > Interpreters
- Protecting Temporary and Contract Workers
- SVEP Severe Violator Program
 - > Holding the worst of the worst employers accountable for their actions
 - > recalcitrant, indifferent, willful, repeat, or failure to abate
- Injury/Illness Prevention Programs



Focus Areas/ Priorities

- Top Fatality Industries
 - > Transportation (25)
 - > Construction (17)
 - > Agriculture (15)
- High Hazard Industries
 - > Agriculture (9.5)
 - > HealthCare (6.3)
 - > Manufacturing (5.2)



Agriculture Worker Safety and Health



Fall Protection



IOSHA Beginning to Inspect Indiana Nursing Homes

Printer-friendly version

The Franklin United Methodist Community received a "surprise" visit from the Indiana Occupational Safety and Health Administration as part of the emphasis OSHA has directed towards senior living providers and nursing facilities.

Keith Van Deman, Executive Director, noted that the inspector was professional, courteous, reasonable and helpful. She was on campus for nearly three full days, during a three week period. Her schedule was interrupted because of other emergency investigations she was required to do and a conflicting schedule with the Franklin staff. The IOSHA inspector said that they are required to do at least three facilities this year and there are about 40 inspectors in Indiana.

Keith indicated that in their exit conference, the inspector said that they had done exceptionally well. She noted several items to work on, mostly communication (signage) and processes (trained to always use goggles when pouring chemicals, more info on the sharps log, etc.). So it's time to review your systems, processes and signage since it appears that they will be visiting many Indiana facilities in the next year.

Focus Areas/ Priorities

- Communication Avenues for Stakeholders – Social Media
- Modernize Information Systems

Partnerships/Alliances

- “VPP” Voluntary Protection Program
- Indiana Safety and Health Achievement Recognition Program (INSHARP)
- ABC
- MICCS
- ICA
- Dow Agro Sciences
- Indiana Builders Association

Injury and Illness Prevention Programs, What Are They?

- Flexible, commonsense, proven tool to find and fix hazards before injuries, illnesses, or deaths occur.
- Six core elements:
 - Management leadership
 - Worker participation
 - Hazard identification and assessment
 - Hazard prevention and control
 - Education and training
 - Program evaluation and improvement

Injury/Illness Programs

- Existing Injury/Illness Programs
- [Voluntary Protection Programs \(VPP\)](#). In VPP, management, labor, and OSHA work cooperatively and proactively to prevent fatalities, injuries, and illnesses through a system focused on: hazard prevention and control; worksite analysis; training; and management commitment and worker involvement.
- [Safety and Health Achievement Recognition Program \(SHARP\)](#). The On-site Consultation Program's Safety and Health Achievement Recognition Program (SHARP) recognizes small employers who operate an exemplary safety and health management system.
- [OSHA Challenge Program](#). OSHA Challenge helps companies take a more proactive approach to safety and health by providing an online roadmap that guides them through the steps needed to meet VPP requirements. As employers make incremental improvements in their safety and health management systems, OSHA will recognize their progress.
- [AIHA/ANSI Z10 2012](#) Occupational Health and Safety Management Systems. This voluntary consensus standard provides critical management systems requirements and guidelines for improvement of occupational health and safety.
- [OHSAS 18001](#). OHSAS 18001 is an international occupational health and safety management system specification.

Voluntary Protection

- "VPP" Voluntary Protection Program
 - > 63 Indiana Companies Certified
 - > 54 "SGE" Special Government Employees
 - > Networking and best practices at a high level
 - > Status of VPP
 - > SGE training 7/30 -8/2
 - > 2014 VPPPA Region V Conference Indianapolis

Carrot or the Stick?

- Employee safety is the ultimate goal
- Voluntary Compliance Programs
- Penalty reductions for abatement
- OSHA can be very demanding at times
- OSHA works with employers that fix problems

Connect with IDOL

- Visit us online: www.in.gov/dol
- Like us on Facebook:
Facebook.com/IndianaDepartmentofLabor
- Follow us on Twitter:
@INDeptOfLabor