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AVOIDING THE NEW ENFORCEMENT- DRIVEN OSHA WHILE ACHIEVING OPERATIONAL EXCELLENCE THROUGH SAFETY



Presenter



Edwin G. Foulke, Jr., Partner, Fisher & Phillips LLP

- Co-chair of F&P's Workplace Safety and Catastrophe Management Practice Group
- Former Assistant Secretary of Labor for OSHA under President George W. Bush
- Chair of OSHRC under President George H. W. Bush

Safety And Health In The 21st Century

Having great safety and health is important because ...

- 1) it is morally the right thing.
- 2) it allows your employees to go home each night safely to their family and loved ones.
- 3) it keeps you from having to do the worst job any person would possibly have to do.
- 4) it is essential for a company to be profitable and competitive in today's marketplace.

OSHA And The Congress

Congressional Legislation

- Protecting America’s Worker Act
 - 1) Expands coverage – public sector employees
 - 2) Increases penalties – civil and criminal
 - 3) Expands whistleblower coverage
 - 4) Expands fatality or serious injury investigation
 - 5) Prohibits unclassified citations
 - 6) Expands victim’s rights
 - 7) Expands employee and union rights

OSHA And The Congress

Congressional Legislation

- Combustible Dust Bill
- Popcorn Workers Lung Disease Prevention Act
- Corporate Injury, Illness and Fatality Reporting Act of 2009
- Ergonomics
- Airborne Transmissible Disease Standard
- Homeland Security Appropriation Bill (2010)

OSHA In The Obama Administration

What to Expect

- more inspections
- less OSHA informal complaints
- less willingness to negotiate as to penalties, classification, abatement methods or vacation of citation
- more difficulty in obtaining settlements and, as a result, more contests
- more national, regional and local emphasis inspection programs

(i.e. – Process Safety Management Refineries & Chemical Plants, Cranes and Derricks, Recordkeeping, Trenching)

OSHA In The Obama Administration

What To Expect (cont'd)

- attempted dilution or elimination of unpreventable employee misconduct defense
- more focus on possible criminal referrals or collaboration with EPA and other agencies
- greater use of incident-by-incident (egregious) citation approach
- increased scrutiny of employer injury and illness recordkeeping and reporting.

OSHA In The Obama Administration

What To Expect (cont'd)

- increased scrutiny of employers' recordkeeping safety program focusing on reward for low injury and illness rates and less credit to employers with low rates
- increase in ergonomic general duty citations until new ergo standard completed
- increase in the use of the Enhanced Enforcement Program (EEP) (Severe Violators Inspection Program)
- movement away from OSHA compliance assistance which will impact VPP, alliances and partnerships

OSHA In The Obama Administration

What To Expect (cont'd)

- strong increase in focus on investigation and encouragement of whistleblower claims
- increased use of OSHA in union organizing drives

OSHA In The Obama Administration

What To Expect (cont'd)

- Increased rulemaking/regulations
 1. Employers duty to train and provide PPE
 2. Cranes and derricks
 3. Global harmonization of chemicals
 4. Combustible dust
 5. Walking and working surfaces
 6. Electrical/PPE
 7. Silica
 8. Confined spaces in construction
 9. PEL update
 10. Ergonomics
 11. Occupational exposure to food flavorings
 12. Safety and health management system standard

OSHA In The Obama Administration

What To Do Going Forward

- Evaluate risks at worksites, especially multi-employer safety issues
- Prepare to handle OSHA inspections
- More focus on training to employee and documentation
- Review company recordkeeping
- Focus on PPE standard requirements
- Focus on evacuation plans and emergency response

ACHIEVING OPERATIONAL EXCELLENCE THROUGH SAFETY

Element of an effective safety and health management system

1. Strong management commitment and employee involvement
2. Worksite analysis
3. Hazard prevention and control
4. Training for employees, supervisors and managers

ACHIEVING OPERATIONAL EXCELLENCE THROUGH SAFETY

Companies with an effective safety and health management system demonstrate the economic power of safety and health

- U.S. Postal Service – 50% lower workers' compensation costs
- Lockheed Martin – 87% lower workers' compensation costs
- C.R. Meyer – 60% lower injury and illness rates than industry average
- Valero Energy – 64% lower TCIR
- International Paper – 69% lower injury rate than industry
- GE Plastics – 77% drop in injury/illness rate
- Welco Lumber Mills – 96% drop in workers' compensation costs; 28% rise in production

ACHIEVING OPERATIONAL EXCELLENCE THROUGH SAFETY

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

ACHIEVING OPERATIONAL EXCELLENCE THROUGH SAFETY

Response to concerns: why discipline benefits everyone

- Removes poor performers in the workplace
- Creates “limits” for employees
- Improves morale when employees see good/bad behavior recognized
- Limits potential negligent retention and negligent supervision claims
- Provides the necessary accountability for an effective Safety Program
- Consistent discipline avoids the appearance of discrimination and unfairness

ACHIEVING OPERATIONAL EXCELLENCE THROUGH SAFETY

Safety and health excellence becoming more critical

Why?

- Other countries catching up to America in productivity, efficiency and quality
- The graying of the current workplace
- The incoming workforce

What is the solution?

- Integrate safety with health into all aspects of management and operations
- Sincere and continuous commitment to safety and health
- Address problems head on
- Wellness

ACHIEVING OPERATIONAL EXCELLENCE THROUGH SAFETY

Elements to a successful Wellness Program

- Review of company's Health Insurance Program
- Case Management
- Disease Management
- Incentives and Pay for Performance
- Communications
- Benchmarking and Analytical Review
- Legal Compliance

“A man who wants to lead an orchestra
must turn his back on the crowd.”

~ Max Lucado



QUESTIONS?



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1500 Resurgens Plaza
945 East Paces Ferry Road
Atlanta, GA 30326

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