

Okay, Plant Managers, Safety Professionals, and all the way across to Line Supervisors and Employees **this is something you need to know.**

A new OSHA policy has gone into effect expanding penalties and giving them a way to rake in fines. It is called instance-by-instance (IBI) citations. This has a mega-potential to increase the monetary penalty amounts associated with certain violations and signals OSHA's commitment to increased enforcement.

Instance-By-Instance (IBI) citations are those for which OSHA could issue multiple citations, with corresponding penalties, for each instance of alleged non-compliance such as...

- separate penalties for each machine,
- separate penalties for each employee,
- separate penalties for each location,
- separate penalties for each document,
- separate penalties for each untrained employee, ... OK, I think you get the idea.

Under OSHA's prior policy, which was in place since 1990, OSHA would only apply IBI penalties for willful citations, or situations when an employer knowingly fails to comply with a legal requirement or acts with plain indifference to employee safety.

The new policy, just in case you have not been following it, became effective on March 27, the IBI policy will now apply to high-gravity serious violations in the following areas:

- Fall Protection
- Lockout/Tagout
- Machine Guarding
- Permit required confined space
- Respiratory protection
- Trenching
- Other-than-serious violations specific to recordkeeping.

A serious violation can occur when the work hazard could cause an accident or illness that would most likely result in death or serious physical harm unless the employer did not know or could not have known of the violations. High-gravity violations are those that have a high risk of severe injury and a high probability of occurrence.

The areas of focus listed above are common standards applicable across the manufacturing industry. In fact, many of them regularly appear on OSHA's top 10 list of most cited standards. Under the prior IBI policy, a manufacturer that fails to have proper machine guarding on all of

its machines on a factory floor might be cited for one violation. Under the new policy, the penalty amount could be significantly multiplied to account for the number of machines and/or the number of employees potentially at risk. More machines more penalties, more employees more penalties.

While the new IBI policy will focus on high-gravity serious violations in the above areas, it will also apply to other-than-serious recordkeeping violations. Therefore, employers with certain types of recordkeeping violations could find themselves subject to significant penalties for failures to record or inaccuracies in the records.

In deciding whether to apply the new IBI policy, OSHA will consider certain factors, such as:

- Whether the employer has received a willful, repeat, or failure to abate the violation within the past five years;
- Whether the employer has failed to report a fatality, inpatient hospitalization, amputation, or loss of an eye;
- Whether the proposed citations are related to a fatality/catastrophe; and
- Whether the proposed recordkeeping citations are related to injury or illness(es) that occurred as a result of a serious hazard.

OSHA intends to use the new IBI policy to discourage employers from maintaining or failing to fully abate certain violations and hopes that it will encourage employers to be proactive in preventing workplace fatalities and injuries.

So what is the next step, SEA offers several compliance audit and inspection services that can identify problem areas. Contact Derek Jennings to learn more about how SEA can help you survive an IBI OSHA inspection.