

Portage County Safety Council

What to DO When OSHA Comes Knocking

Howie Eberts – VP Expert Witness

SCR Safety Solutions

August 13, 2026



Why Work Safely?







SCR
SAFETY SOLUTIONS





Meet the New Assistant Secretary of OSHA

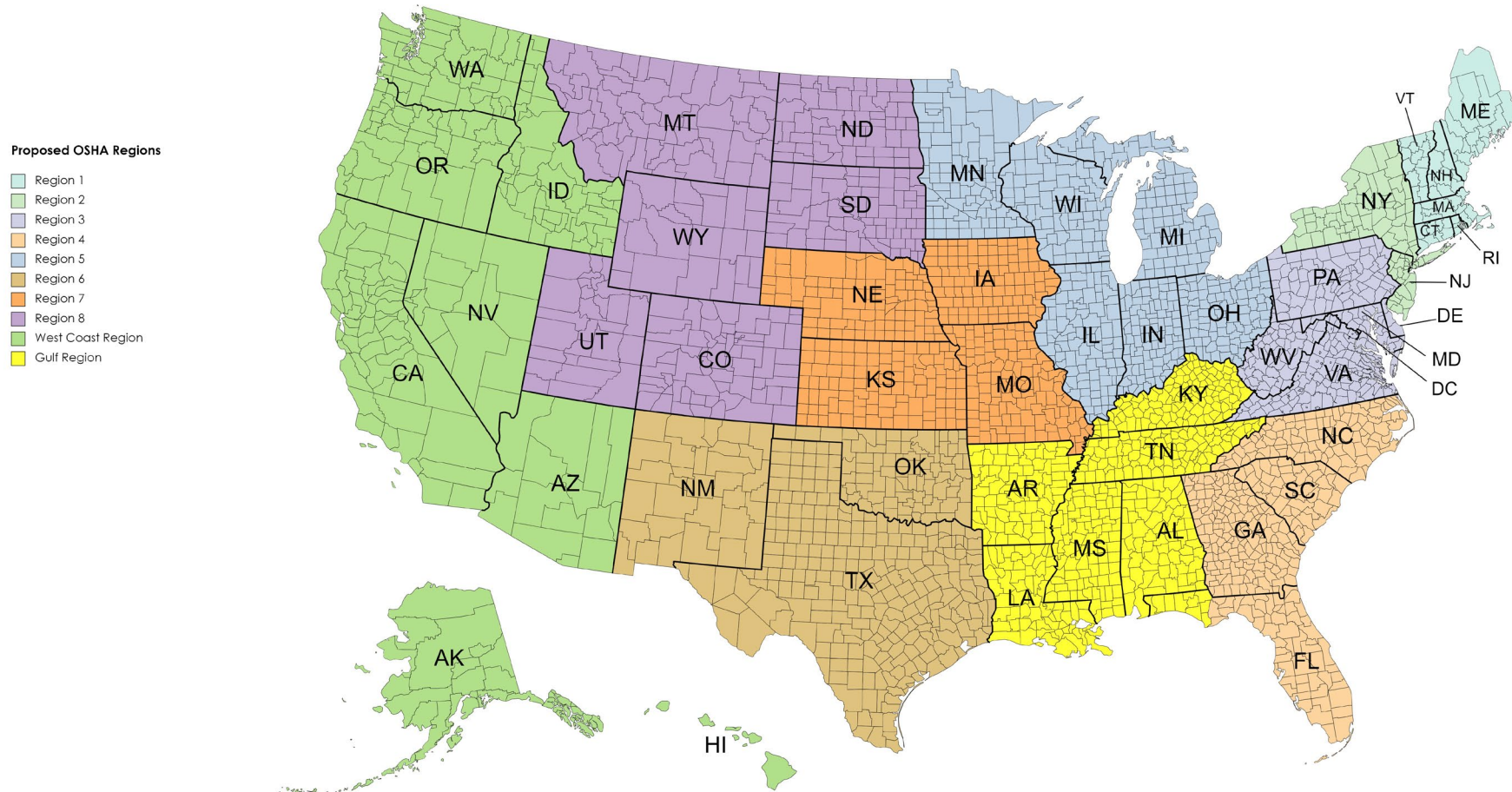


David Keeling was confirmed as Assistant Secretary of Labor for Occupational Safety and Health in October 2025.

Keeling brings nearly 40 years of experience in occupational safety, including leadership roles at UPS and Amazon.

His priorities for OSHA include modernizing standards, strengthening cooperation, and transforming enforcement through proactive approaches. [\[assp.org\]](https://assp.org), [\[hipaajournal.com\]](https://hipaajournal.com), [\[jdsupra.com\]](https://jdsupra.com), [\[oshalawblog.com\]](https://oshalawblog.com)

How OSHA is Organized



Ohio OSHA Offices

**Toledo Area
Office**
(419) 259 - 7542

**Cincinnati Area
Office**
(513) 841- 4132



**Cleveland Area
Office**
(216) 447-4194

**Columbus Area
Office**
(614) 469 - 5582

Federal OSHA Ohio Offices

- OSHA Inspectors: 60 ~~38?~~
- Workers: 5.0 million
- Worksites: 287,865
- Local Area Offices: 4
 - Toledo
 - Columbus
 - Cleveland
 - Cincinnati

Why is OSHA Important?

- OSHA began because, until 1970, there were no national laws for safety and health hazards.
- On average, 14 workers die every day from job injuries
- Over 5,283 Americans die from workplace injuries annually (2023)
- Over 4 million suffer workplace injuries and illnesses each year
- Injuries alone cost U.S. businesses over \$167 billion

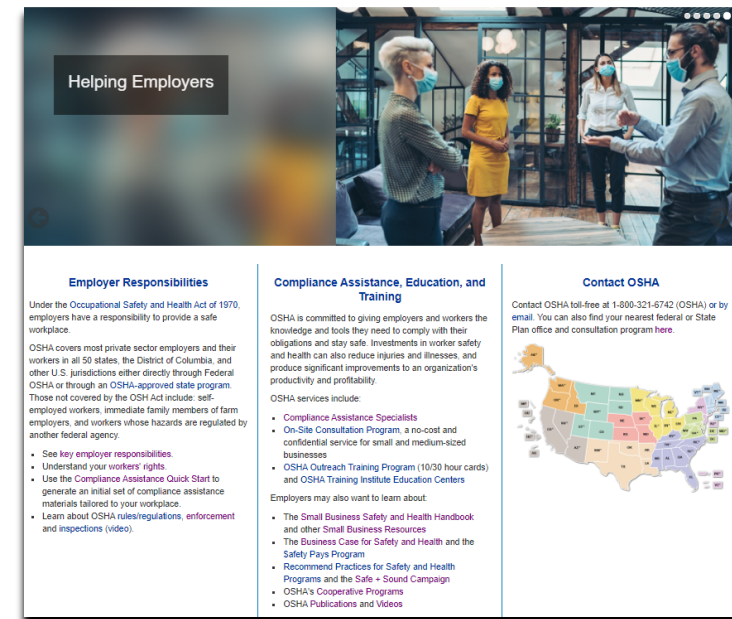


Employer Responsibilities

- Provide a workplace free from serious recognized hazards (OSH Act general duty clause)
- Comply with applicable OSHA standards
- Provide safety training required by OSHA standards in a way that workers can understand
- Post the OSHA poster, report fatalities and severe injuries, and comply with injury/illness recordkeeping requirements

www.osha.gov/employers

SCR
SAFETY SOLUTIONS



The screenshot shows the 'Helping Employers' section of the OSHA website. It features a header image with four people in a modern office setting, all wearing face masks. Below the header, the page is divided into three main columns. The first column, titled 'Employer Responsibilities', explains the OSHA Act of 1970 and lists key employer responsibilities. The second column, titled 'Compliance Assistance, Education, and Training', lists various OSHA services and resources. The third column, titled 'Contact OSHA', provides contact information and a map of the United States showing OSHA regional offices.

Helping Employers

Employer Responsibilities

Under the Occupational Safety and Health Act of 1970, employers have a responsibility to provide a safe workplace.

OSHA covers most private sector employers and their workers in all 50 states, the District of Columbia, and other U.S. jurisdictions either directly through Federal OSHA or through an OSHA-approved state program. Those not covered by the OSH Act include: self-employed workers, immediate family members of farm employers, and workers whose hazards are regulated by another federal agency.

- See key employer responsibilities.
- Understand your workers' rights.
- Use the Compliance Assistance Quick Start to generate an initial set of compliance assistance materials tailored to your workplace.
- Learn about OSHA rules/regulations, enforcement and inspections (video).

Compliance Assistance, Education, and Training

OSHA is committed to giving employers and workers the knowledge and tools they need to comply with their obligations and stay safe. Investments in worker safety and health can also reduce injuries and illnesses, and produce significant improvements to an organization's productivity and profitability.

OSHA services include:

- Compliance Assistance Specialists
- On-Site Consultation Program, a no-cost and confidential service for small and medium-sized businesses
- OSHA Outreach Training Program (10/30 hour cards) and OSHA Training Institute Education Centers

Employers may also want to learn about:

- The Small Business Safety and Health Handbook and other Small Business Resources
- The Business Case for Safety and Health and the Safety Pays Program
- Recommended Practices for Safety and Health Programs and the Safe + Sound Campaign
- OSHA's Cooperative Programs
- OSHA Publications and Videos

Contact OSHA

Contact OSHA toll-free at 1-800-321-6742 (OSHA) or by email. You can also find your nearest federal or State Plan office and consultation program [here](#).



Who is covered by the OSH Act?

- Most private sector employees
- Coverage is provided directly by federal OSHA or through an OSHA-approved state program
- Does not cover the self-employed or immediate members of farm families that do not employ outside workers

Employees have the right to file a complaint with OSHA

Section 11 (c) of the OSHA Act **Prohibits** any employer for discriminating against an employee for filing a complaint with OSHA



Workplace Inspections

- Every establishment covered by the OSH Act is subject to inspection by OSHA compliance safety and health officers (CSHO's)
- Most inspections are conducted without advance notice



HOW DOES OSHA PICK THE COMPANIES TO BE INSPECTED?



Inspection Priorities

- Imminent Danger
- Fatality/Catastrophe
- Complaints/Referrals
- Programmed Inspections
- Follow-ups



OSHA INSPECTIONS

- Inspection stages
 - Inspector's Credentials
 - Opening Conference
 - Walkaround
 - Closing Conference
 - Citations
 - Review Process
 - Abatement Verification
 - Can happen anytime including Saturdays

Inspector's Credentials

- Inspector displays credentials
- Asks to meet an appropriate employer representative
 - Be sure all employees know who is in charge at the job site
 - CSHO usually will wait a reasonable amount of time. Depending on amount of time, reason for delay & type of inspection
 - OSHA will get a warrant if necessary



Inspector's Credentials (Cont.)

- Employers should always ask
 - There are individuals that will say they are OSHA to get on the jobsite for various reasons (competitors, vendors, attorneys, etc.)
- Employer can call local OSHA office to verify

Opening Conference

- Inspector:
 - Explains how worksite was selected
 - Explains scope of inspection
 - Provides copy of complaint (if applicable)
 - You will not be told who filed the complaint
 - Employers cannot discriminate against an employee for filing a complaint



Opening Conference (Cont.)

- Inspector:
 - Asks for employer representative to accompany them during the inspection
 - Important to have representation during inspection
 - Answer questions, offer explanations, etc.
 - Asks for an authorized employee representative (union) to accompany them during an inspection

The Walkaround

Inspector:

- Proceeds through the establishment to identify safety and health hazards
 - A company representative should be present
 - Cooperative and respectful
 - A second employee to abate minor violation
- Determines route and duration of the inspection
- Talks privately with employees

The Walkaround (cont.)

Inspector:

- Takes photos/videotapes
 - Company Rep. should take pictures of same angle and other if apply
- Reviews records, programs
 - Be sure your records are in order. Last minute is no time to put them in order
- Conducts monitoring (if applicable)

Four Hazards Emphasized By OSHA On Construction Sites

- Falls
- Electrical
- Struck By
- Caught between
- A good safety program should address all of these issues

The Closing Conference

- All observed unsafe and unhealthful conditions are discussed
- Violations for which a citation and penalty may be issued are indicated
- Inspector will not indicate any specific penalty but informs employer of appeal rights
- Abatement times are discussed
- Appeals processes are discussed
- Separate closing conference if employee representative does not participate
- Good time to ask questions about the process if you have any



Post Closing Conference



- Inspector reports findings
- Area Director determines whether citations will be issued and whether penalties will be proposed
- Site employer representative should compile his notes to create a report to be filed with management
- During this time get field and Mgt. personnel together, review all notes and documents and determine what steps need to be taken next
- Remove employees from hazards! Interim protection where necessary

Citations

- Employer will receive citations and notices by certified mail
- Employer must post a copy of each citation at or near the place the violation occurred for 3 days or until it is abated – whichever is longer
- Inform the employer and employees of the regulations and standards alleged to have been violated
- Inform the employer and employees of the proposed abatement date
- Appeals process is explained



Types of Violations

- **Other-Than-Serious** – A violation that has a direct relationship to job safety and health, but probably would not cause death or serious physical harm.
- **Serious** – A violation where there is a substantial probability that death or serious physical harm could result.
- **Willful** – A violation that the employer intentionally and knowingly commits.
- **Repeated** – A violation of any standard, regulation, rule or order where, upon reinspection, a substantially similar violation is found and the original citation has become a final order.
- **Failure-to-Abate** – Failure to correct a prior violation may bring a civil penalty of up to \$7,000 for each day the violation continues beyond the abatement date.

OSHA Penalty Levels: 2025

Type of Violation	New Maximum
• Serious and • Other-Than-Serious • Posting Requirements	\$16,131 per violation \$16,550
Willful or Repeated	\$161,323 per violation \$165,514
Failure to Abate	\$16,131 per day \$16,550 beyond the abatement date

www.osha.gov/penalties

Citations

- Once an employer receives a citation notice a copy of each citation must be posted at or near the place the violation occurred for 3 days or until it is abated (which ever is longer) even if you contest the citation.
- If employer agrees to the citation and penalties
 - Correct the conditions by the date set
 - Notify the Area Director by Certified Mail of the corrective action
 - Pay any penalties within 15 working days of receipt of notice



Citations (Continued)

- Informal Settlement Agreement
 - Before filing a Notice of Intent to Contest
 - Request an Informal Conference with the Area Director

Citations (Continued)

- Informal Settlement Agreement
 - At the Informal Conference you may be able to get a:
 - Better explanation of violation(s)
 - Better understanding of standard cited
 - Negotiated agreement
 - A what to correct violation
 - Discussion on problems with abatement date
 - Discussion on employee safe work practices
 - Resolution the disputed citation and penalties

Citations (Continued)

- Informal Settlement Agreement
 - Often an Informal Settlement Agreement will be sent with the citation
 - Must be done within 15 working days of the citation

Citations (Continued)

- If employer does NOT agree the employer has 15 working days from the date of receiving the citation to contest in writing the citation, proposed penalty and/or abatement date.
 - Penalties and/or abatement dates will be suspended until Review Commission's final order
 - Contest must be made in good faith
 - If only penalty or some items are contested the remainder must be abated or paid by the date on the citation.
 - Penalties and/or citations properly contested will not have to be abated or paid until resolved

Citations (Continued)

- The Employer can try to settle with OSHA's attorney
- IF not, a hearing (trial) will be scheduled
- You may represent yourself or have counsel
- The judge can affirm, modify or eliminate any contested items
- Either party can request a review of the full Review Commission
- The Commission's ruling can be appealed to the U.S. Court of Appeals



Top Ten Violations

Most frequently cited OSHA standards during FY 2025 inspections.

1. Fall Protection – General Requirements (1926.501)
2. Hazard Communication (1910.1200)*
3. Ladders (1926.1053)
4. Lockout/Tagout (1910.147)
5. Respiratory Protection (1910.134)
6. Fall Protection – Training Requirements (1926.503)
7. Scaffolding (1926.451)
8. Powered Industrial Trucks (1910.178)
9. Eye and Face Protection (1926.102)
10. Machine Guarding (1910.212)



How Does OSHA Prove a Violation?

- There are four elements that must be met for OSHA to issue a citation:
- 1. There is an applicable standard (Note: Where there is a hazard for which a standard does not exist, OSHA may use the General Duty Clause Section 5(a)(1) for the violation)
- 2. That a hazard exists
- 3. That an employee or employees were exposed to the hazard
- 4. The employer had knowledge of the condition.
 - This is actual, direct knowledge or;
 - With the exercise of reasonable diligence, the employer should have known of the condition



Affirmative Defense

- When an employer can legally demonstrate compliance with the law to explain the violation by:
- An unpreventable employee misconduct;
- An unpreventable isolated incident;
- An impossibility: infeasibility;
- Hazard abatement presents a greater hazard;
- Multi-employer worksite (contractors working at the facility)

Criminal Referrals

- Criminal sanctions are outlined in the OSH Act
- To obtain a conviction, a prosecutor must establish certain conditions beyond a reasonable doubt



Top 10 Do's and Don'ts

- **Do**s

- 1. **Do** have a plan
- 2. **Do** have OSHA savvy representation
- 3. **Do** have OSHA written programs organized and accessible
- 4. **Do** determine purpose, scope, and authorization for inspection

- **Don't**s

- 1. **Don't** wing it
- 2. **Don't** have representation unfamiliar with OSHA
- 3. **Don't** provide programs that have not been implemented or were shelved.
- 4. **Don't** just let OSHA have free reign

Top 10 Do's and Don'ts

- **Dos**

- **5. Do** duplicate photos; takes notes of activity and conversations
- **6. Do** challenge expansion of inspection
- **7. Do** answer questions accurately and stick to subjects briefly

- **Don't**

- **5. Don't** trust your memory. Time changes stories and distorts facts
- **6. Don't** let OSHA go beyond the scope of initial inquiry
- **7. Don't** talk too much or B.S. the compliance officer. Cooperate, but don't be a doormat.

Top 10 Do's and Don'ts

- **Dos**

- **8. Do** have consultative audits from a recognized source
- **9. Do** have management representation during interviews
- **10. Do** cooperate with OSHA to a limit

- **Don'ts**

- **8. Don't** think in-house audits are good enough
- **9. Don't** pressure employees after OSHA interviews; debriefing is OK
- **10. Don't** require a warrant unless the scope is unreasonable

Questions?

