

2019 PARMA Conference

Cal/OSHA Inspection

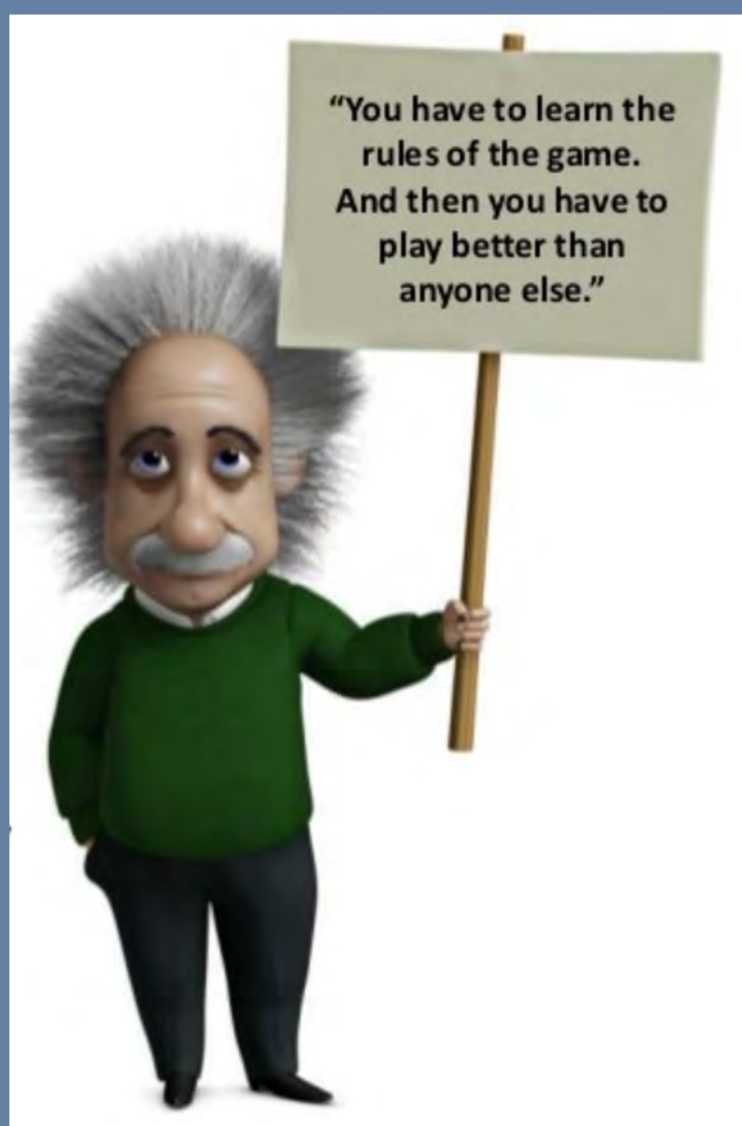
Survival Guide – Part I

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**"You have to learn the
rules of the game.
And then you have to
play better than
anyone else."**

**Make them believe, that offensive operations, often
times, is the surest, if not the only ... means of
defense. (George Washington, 1799)**

CALIFORNIA LABOR CODE = RULES

✓ **BINDING ON ALL PARTIES**

➤ **EMPLOYER**

➤ **EMPLOYEE**

➤ **CAL/OSHA**

Controlling California Labor Codes

Employer/Employee Relations

Section 6406 No person shall do any of the following:

- (a)** Remove, displace, damage, destroy or carry off any safety device, safeguard, notice, or warning, furnished for use in any employment or place of employment.
- (b)** Interfere in any way with the use thereof by any other person.
- (c)** Interfere with the use of any method or process adopted for the protection of any employee, including himself, in such employment, or place of employment.
- (d)** Fail or neglect to do every other thing reasonably necessary to protect the life, safety, and health of employees.

Controlling California Labor Code Employer/Employee Relations

Section 6407

Universal Citation

Every employer and every employee shall comply with occupational safety and health standards, with Section 25910 of the Health and Safety Code, and with all rules, regulations, and orders pursuant to this division which are applicable to his/her own actions and conduct.

(Amended by Stats. 1977, Ch. 62.)

Controlling California Labor Code

Employer/Employee Relations

§ 6314(d) In the course of any investigation or inspection of an employer or place of employment by an authorized representative of the division, a representative of the employer and a representative authorized by his or her employees **shall** have an opportunity to accompany him or her on the tour of inspection. *Any employee or employer, or their authorized representatives, shall have the right to discuss safety and health violations or safety and health problems with the inspector privately during the course of an investigation or inspection.*

Controlling Definition -

Fair Employment and Housing Act

BASIS FOR CITATION CULPABILITY

Government Code sec. 12926(s):

"Supervisor" means any individual having the authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action

Final Legal Mandate

T8CCR § 3200. Purpose.

....Every employer *should provide their supervisory staff* with a copy of these orders and assure that each supervisor is familiar with those sections pertaining to the operations under their supervision.

This might be a test question to senior/executive management to assess knowledge of responsibilities

RULES OF ENGAGEMENT

CAL/OSHA POLICY & PROCEDURES = Process Focused

P&P no.	Title	Last Revised
C-1A	Inspection Procedures	5/24/17
C-1B1	Documenting the Existence of a Violation	5/24/17
C-1B2	Documenting the Classification of a Violation	5/24/17
C-1B3	Documenting the Penalty Adjustment Factors of a Violation	5/24/17
C-1C	Multi-Employer Worksite Inspections	12/8/00
C-1D	Dual-Employer Inspections	12/12/17
C-1E	Equipment Calibration Sheet (Cal/OSHA 1E)	8/1/94
C-1H	Laboratory Sample Analysis Request and Sample Seal (Cal/OSHA 1H, 1HX, 1HS)	4/10/15
C-2	Citation, Notification of Penalty and Verification of Abatement (Cal/OSHA 2, 2X, 160, 161 and 161A)	6/2/08
C-3	Special Order (Cal/OSHA 3 and 3X)	2/29/12
C-4	Notice (Cal/OSHA 4 and 4X)	2/1/95
C-5	Information Memorandum (Cal/OSHA 5 and 5X)	2/1/95
C-6	Order to Take Special Action (Cal/OSHA 6 and 6X)	6/21/12

RULES OF ENGAGEMENT

OSHA TECHNICAL MANUAL = HAZARD ASSESSMENTS

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OSHA Instruction TED 01-00-015

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NOTICES OF CHANGE

SECTION II: Sampling, Measurement Methods and Instruments

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CHAPTER 2. OCCUPATIONAL SKIN EXPOSURE [Updated 02/11/2014]

CHAPTER 3. TECHNICAL EQUIPMENT: ON-SITE MEASUREMENTS [Updated 02/11/2014]

SECTION III: Health Hazards

CHAPTER 1. POLYMER MATRIX MATERIALS: ADVANCED COMPOSITES

CHAPTER 2. INDOOR AIR QUALITY INVESTIGATION

CHAPTER 3. VENTILATION INVESTIGATION

CHAPTER 4. HEAT STRESS [Updated 09/15/2017]

CHAPTER 5. NOISE [Updated 08/15/2013]

CHAPTER 6. LASER HAZARDS

CHAPTER 7. LEGIONNAIRE'S DISEASE, see OSHA's [Safety and Health Topics Page](#) for updated information.

SECTION IV: Safety Hazards

CHAPTER 1. OIL WELL DERRICK STABILITY: GUYWIRE ANCHOR SYSTEMS

CHAPTER 2. PETROLEUM REFINING PROCESSES

CHAPTER 3. PRESSURE VESSEL GUIDELINES

CHAPTER 4. INDUSTRIAL ROBOTS AND ROBOT SYSTEM SAFETY

CHAPTER 5. ETHANOL PROCESSING [New 04/28/2015]

SECTION V: Construction Operations

CHAPTER 1. DEMOLITION

CHAPTER 2. EXCAVATIONS: HAZARD RECOGNITION IN TRENCHING AND SHORING

CHAPTER 3. CONTROLLING LEAD EXPOSURES IN THE CONSTRUCTION INDUSTRY: ENGINEERING AND WORK PRACTICE CONTROLS

CHAPTER 4. FALL PROTECTION IN CONSTRUCTION [New 04/14/2016]

SECTION VI: Health-Care Facilities

CHAPTER 1. HOSPITAL INVESTIGATIONS: HEALTH HAZARDS

CHAPTER 2. CONTROLLING OCCUPATIONAL EXPOSURE TO HAZARDOUS DRUGS, see OSHA's [Safety and Health Topics Page](#) for updated information.

SECTION VII: Ergonomics

CHAPTER 1. BACK DISORDERS AND INJURIES

SECTION VIII: Personal Protective Equipment

CHAPTER 1. CHEMICAL PROTECTIVE CLOTHING

CHAPTER 2. RESPIRATORY PROTECTION

SECTION IX: Safety and Health Management

RESERVED

SECTION X: Miscellaneous

CHAPTER 1. METRIC SYSTEM CONVERSION

SUMMERIZING GAME RULES

Rule 1. DUE PROCESS – Stakeholder Relations

Rule 2. KNOWING THE RULES – Code Speak

Rule 3. EVIDENCE – Type/Source/Strength

Rule 4. PERCEPTION - Optics

Rule 5. POKER - Gamesmanship

What are *YOU* projecting?

TYPES OF CODES - Helpful Tells

Proscriptive – Contains words like “shall/will/must”

Performance – Scenario based contains option words like may/should/could/consider

Hybrid – Begins with duty statement, then scenario based allows for options – See IIPP/HAZCOM/LOTO/Confined Spaces

Consensus – NIOSH/NFPA/ANSI/CGA/etc. – Enforceable as “Best Practice” and/or if mentioned in codes

SOME WORDS in CODES and STATUTES

Partial list of vague or ambiguous words

Acceptable	Accurate	Adequate	Applicable	Appropriate
Careful	Immediately	Improper	Effective	Periodically
Practicable	Practical	Reasonable	Recognized	Safe
Secure	Maintain	Substantial	Suitable	Timely

"To the extent practicable." A decision in the eyes of the READER OR EVALUATOR?

"Where applicable." No criteria for judgment/OR IS THERE?.

"Shall be considered." READER OR EVALUATOR? will think about...

And the latest **AB 2774** addition: **"realistic possibility"** (the new basis for ISSUING **SERIOUS CITATIONS**)

OTHER CODE WORDS/PHRASES WITH DUBIOUS MEANINGS

"To the extent practicable." A decision in the eyes of the
READER OR EVALUATOR?

"Where applicable." No criteria for judgment/OR IS THERE?.

"Shall be considered." READER OR EVALUATOR? will think
about...

And the latest **AB 2774** addition:

"realistic possibility" (the new basis for ISSUING
SERIOUS CITATIONS)

CAL/OSHA VISIT = NOT A PROBABILITY, IT'S AN EVENTUALITY.

PRE-VISIT SELF AUDIT ELEMENTS

1. WHEN WAS IIPP DEVELOPED & UPDATED?
2. INSPECTION/TRAINING RECORDS CURRENT?
3. TRADE NEGOTIATIONS?
4. RECENT INJURIES/NEAR MISSES?
5. KNOWLEDGE OF CAL/OSHA SPECIAL EMPHASIS PROGRAMS?
6. LEVEL OF COMMUNICATION BETWEEN DEPARTMENTS/SUPERVISORS? (this more than anything else is an Organizational Achilles Heel)
7. HOW HAPPY ARE YOUR EMPLOYEES?

PRE-VISIT PREPARATIONS

YOUR RECEIVING TEAM

1. IS THERE A FORMALIZED INSPECTION RESPONSE PROTOCOL?
2. SINGULAR AUTHORIZED PERSON I.D'd AND KNOWN TO ALL?
3. CONSIDER A TEAM OF 3
 - A. TEAM LEAD – most knowledgeable w/ greatest people skills
 - B. RECON – clears travel path of as many obvious hazards
 - C. RECORDER – photographer/record keeper
3. CONSIDER USING THE CAL/OSHA 1 COVER SHEET
4. DO YOU HAVE BASIC INSPECTION INSTRUMENTATION
(Tape measure/GFCI/electrical tester/anemometer/draeger tubes)

WHY PREPARE???

THE CAL/OSHA TEAM:

1. WILL HAVE CHECKED WEB SOURCES FOR YOUR OSHA HISTORY/OPERATION/PROCESS/EQUIPMENT & PERSONNEL
 - a) Your home page tells all
 - b) “OSHA Data Page” (google “osha data page”) Shows:
 1. YOUR OSHA history (“establishment search”)
 2. YOUR industry history
 3. YOUR focused activity history (maintenance/trades/etc.
 4. MOST COMMON CITATIONS (“common citations”)
 5. Fatality/Catastrophe data regarding the focused activity. (google “OSHA Form 170”)

WHY PREPARE???

THE CAL/OSHA TEAM:

1. WILL HAVE SPENT TIME DOING RECONAISSANCE FROM A PUBLICALLY ACCESSIBLE SPACE (cruised around your facility) and obtained data/evidence:
 - a) Movements inside the yard...speed of forklifts/materials staging/storage etc.
 - b) How noisy
 - c) How smelly
 - d) How smokey
 - e) What PPE is being used

WHAT IS DISCOVERABLE FROM A PUBLIC VANTAGE IS ACTIONABLE AND CONSTITUTES “PERCIPIENT WITNESS” EVIDENCE.

Impact of Non-Compliance

(NOT DEDUCTIBLE FROM TAXES)

Serious Citations: Max. \$125,000 Depending on Extent & Likelihood

General Citations: Max. \$12,471 Depending on Severity, Extent & Likelihood. Plus considerations for Size, Good Faith & History

Repeat: Corporate Wide / 5 Year History up to
\$124,709

- **Additional Costs**

Abatement/Defense/Workers Comp/Production Loss

2017 Cal/OSHA Most Common Citation – All Industries

#	Standard	Title	Tot. Vio	#Ser	%
1	3203	✓ IIPP	2352	233	9.9
2	3395	✓ Heat Illness	2046	286	14.0
3	1509	✓ Code of Safe Practice	1226	64	5.2
4	3314	✓ LOTO	691	323	46.7
5	342	Reporting	621	5	0.8
6	5194	✓ Haz.Com.	602	14	2.3
7	5144	✓ Resp. Protection	484	36	7.4
8	6151	Portable Fire Ext	419	3	0.7
9	1512	Constr. - Em Med Svcs	371	3	0.8
10	5162	Eyewash/Shower	367	180	49.0
11	461	Pressure Vessel Permit	364	4	1.1
12	3276	Portable Ladders	347	134	38.6
13	2340.16	Clear Space-Elec Equip	326	2	0.6
14	3650	Ind. Trucks – Gen Req.	316	101	32.0
15	3328	Machinery & Equipment	284	109	38.4
16	3400	Med Svcs. & First Aid	212	12	5.7
17	3668	Powered Ind. Truck Oper Train	197	17	8.6
18	1670	Pers. Fall Protect Systems	195	130	66.7
19	5189	✓ Process Safety Mgmt	189	23	12.2
20	3421	Tree Wrk., Mnt., Removal – Gen	178	29	16.3
21	2500.8	Flex Cords - uses not permitted	169	2	1.2
22	4650	Compr. Gas and Air Cylinders	169	55	32.5
23	3577	Protection of Abrasive Wheels	166	114	68.7
24	3380	Person Protective Devices	165	27	16.4
25	1644	Metal Scaffolds	153	96	62.7

✓ Code requires a comprehensive written program – **Note:** 6 out of 10 top citations are “program” based codes.

Region 3

Cal/OSHA Santa Ana

District Office Production Data

Region3 Santa Ana District - Jan 1, 2017 through Dec 31, 2017

CSHO	Tot Ins	Tot Viol	Tot S/W/R	%S/W/R	Viol/Ins	CitLpsTi me Safety	CitLps TimeH lth	CitLps TimeA ve	Tot Ins w/o Viol	%Ins w/o Viol
1	27	126	36	28.6	4.7	59	51	58	0	0.00%
2	39	49	12	24.5	1.3	63	0	63	20	51.00%
3	9	37	17	45.9	4.1	50	0	50	0	0.00%
4	36	62	17	17.4	1.7	66	68	67	9	25.00%
5	39	108	40	37	2.8	52	55	53	7	17.00%
6	32	62	19	30.6	1.9	100	109	101	10	31.00%
7	41	173	26	15	4.2	47	52	51	7	16.00%
8	46	143	38	26.6	3.1	54	47	54	0	0.00%
9	30	73	11	15.1	2.4	68	45	51	10	33.00%
10	26	115	39	33.9	4.4	91	111	96	0	0.00%
11	58	199	65	32.7	3.4	53	44	52	2	3.00%
12	24	105	38	36.2	4.4	107	110	107	4	17.00%
Ave	33.9	104.3	29.8	28.6	3.1	67.5	57.7	67.8	8	24.00%
Tot	420	1303	394	30.2	3.1	62	61	62	72	17.00%
									Ave Pen	324,538
									Tot Pen	3,964,855

S.A District ODDS of Being Cited
76%

Region 3

Cal/OSHA San Diego

District Office Production Data

Region3 San Diego District - Jan 1, 2017 through Dec 31, 2017

CSHO	Tot Ins	Tot Viol	Tot S/W/R	%S/W/R	Viol/Ins	CitLpsTi me Safety	CitLps TimeH lth	CitLps TimeA ve	Tot Ins w/o Viol	%Ins w/o Viol	
1	26	160	46	28.8	6.2	66	94	91	0	0.00%	
2	20	107	34	31.8	5.4	39.7	93	111	0	0.00%	
3	29	81	31	38.3	2.8	81	122	84	3	10.00%	
4	29	57	18	31.6	2	107	114	108	9	31.00%	
5	30	112	35	31.3	3.7	80	73	80	6	20.00%	
6	19	153	33	21.6	8.1	103	113	104	1	5.00%	
7	30	76	12	15.8	2.5	106	64	102	9	29.00%	
8	6	17	3	17.6	2.8	118	0	118	2	33.00%	
9	37	95	26	27.4	2.6	98	113	99	6	17.00%	
10	5	18	5	27.8	3.6	54	0	54	0	0.00%	
11	53	141	24	17	2.7	56	41	55	10	19.00%	
12	26	80	2	2.5	3.1	112	112	112	10	39.00%	
13	38	107	6	5.6	2.8	105	0	105	7	19	
Ave	26.8	92.6	21.2	22.8	3.7	86.6	72.2	94.1	6	22.00%	S,D District ODDS of Being Cited
Tot	352	1209	277	22.9	3.4	88	96	89	67	19.00%	78%
									Ave Pen	262,475	
									Tot Pen	3,418,971	

Region 3

Cal/OSHA San Bernardino District Office Production Data

Region3 San Bernardino District - Jan 1, 2017 through Dec 31, 2017

CSHO	Tot Ins	Tot Viol	Tot S/W/R	%S/W/R	Viol/Ins	CitLpsTi me Safety	CitLps TimeH lth	CitLps TimeA ve	Tot Ins w/o Viol	%Ins w/o Viol
1	42	83	31	37.3	2	81	17	79	8	20.00%
2	28	97	49	50.5	3.5	98	117	99	5	18.00%
3	35	53	25	47.2	1.5	78	26	74	7	20.00%
4	38	86	16	18.6	2.3	114	113	114	7	18.00%
5	38	116	45	38.8	3.1	87	0	87	4	11.00%
6	21	43	20	46.5	2	95	0	95	6	29.00%
7	43	107	50	46.7	2.5	79	18	76	5	12.00%
8	42	139	58	41.7	3.3	66	0	66	3	7.00%
9	37	93	22	23.7	2.5	107	112	109	4	11.00%
10	34	77	23	29.9	2.3	80	56	76	7	21.00%
11	41	45	50	35.7	3.4	92	78	92	5	12.00%
12	29	140	15	33.3	1.6	115	123	118	16	54.00%
Ave	35.7	89.9	33.7	37.4	2.5	91	55	90.4	7	21.00%
Tot	428	1079	402	37.3	2.5	87	95	88	76	18.00%
									Ave Pen	418,586
									Tot Pen	4,993,362

S.B. District ODDS of Being Cited
79%

Region 3

Cal/OSHA Long Beach

District Office Production Data

Region3 Long Beach District - Jan 1, 2017 through Dec 31, 2017

CSHO	Tot Ins	Tot Viol	Tot S/W/R	%S/W/R	Viol/Ins	CitLpsTi me Safety	CitLps TimeH lth	CitLps TimeA ve	Tot Ins w/o Viol	%Ins w/o Viol	
1	33	115	49	42.6	3.5	108	0	108	7	21.00%	
2	40	88	38	43.2	2.2	116	1250	117	9	23.00%	
3	46	175	61	34.9	3.8	84	0	84	6	13.00%	
4	44	96	39	40.6	2.2	100	104	101	14	32.00%	
5	21	82	23	28	3.9	106	73	90	2	10.00%	
6	6	4	3	75	0.7	122	0	122	2	33.00%	
7	33	141	42	29.8	4.3	91	71	85	6	18.00%	
8	35	90	30	33.3	2.6	68	0	68	18	51.00%	
9	15	80	30	37.5	5.3	116	0	116	2	13.00%	
Ave	30.3	96.8	35	36.2	3.2	101.2	166.4	99	7	22.00%	LB District ODDS of Being Cited
Tot	279	855	321	37.5	3.1	98	95	98	67	24.00%	78%
									Ave Pen	352,028	
									Tot Pen	3,147,032	
Regional Totals - 4 District Offices 46 Active Field CSHO's											Region 3 ODDS of Being Cited
	1479	4446	1394	31.4	3	82	82	82	282.5	19%	81%

ENFORCEMENT MANTRA – ed.note

IF IT LOOKS A SHADE OF PLUM
IT PROBABLY IS,



So let's dig!



Quota's???

2.5 Citations/Inspections

30% Serious

KNOCK KNOCK KNOCK

Hi, I'm from Cal/OSHA....

Not selling,

AVON,

GIRL SCOUT COOKIES,

or FULLER BRUSH

**“I need to see person in charge of health
and safety?...”**

WHAT TO DO NOW

And When They Knock



Their Compliance Targets



Enforcement Action Based On:

Hazard

Machine

Equipment

Process

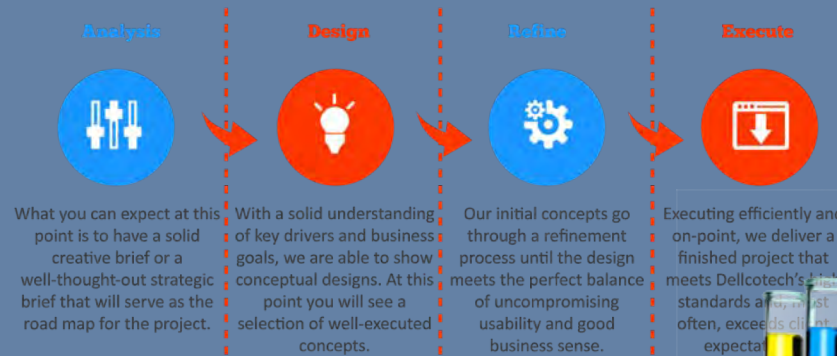
Chemical

Physical

Environmental issues/conditions.



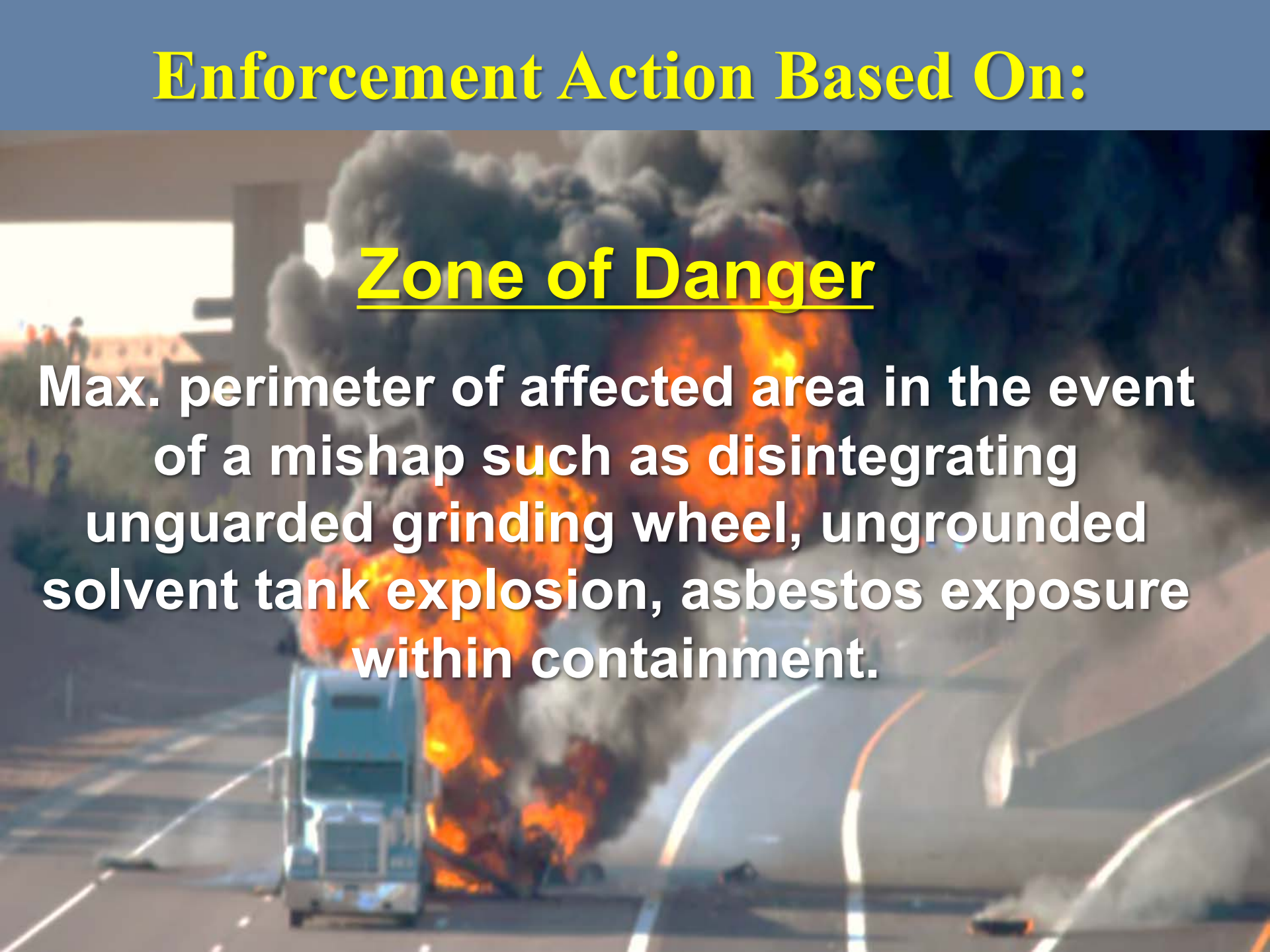
Our Process



Enforcement Action Based On:

Zone of Danger

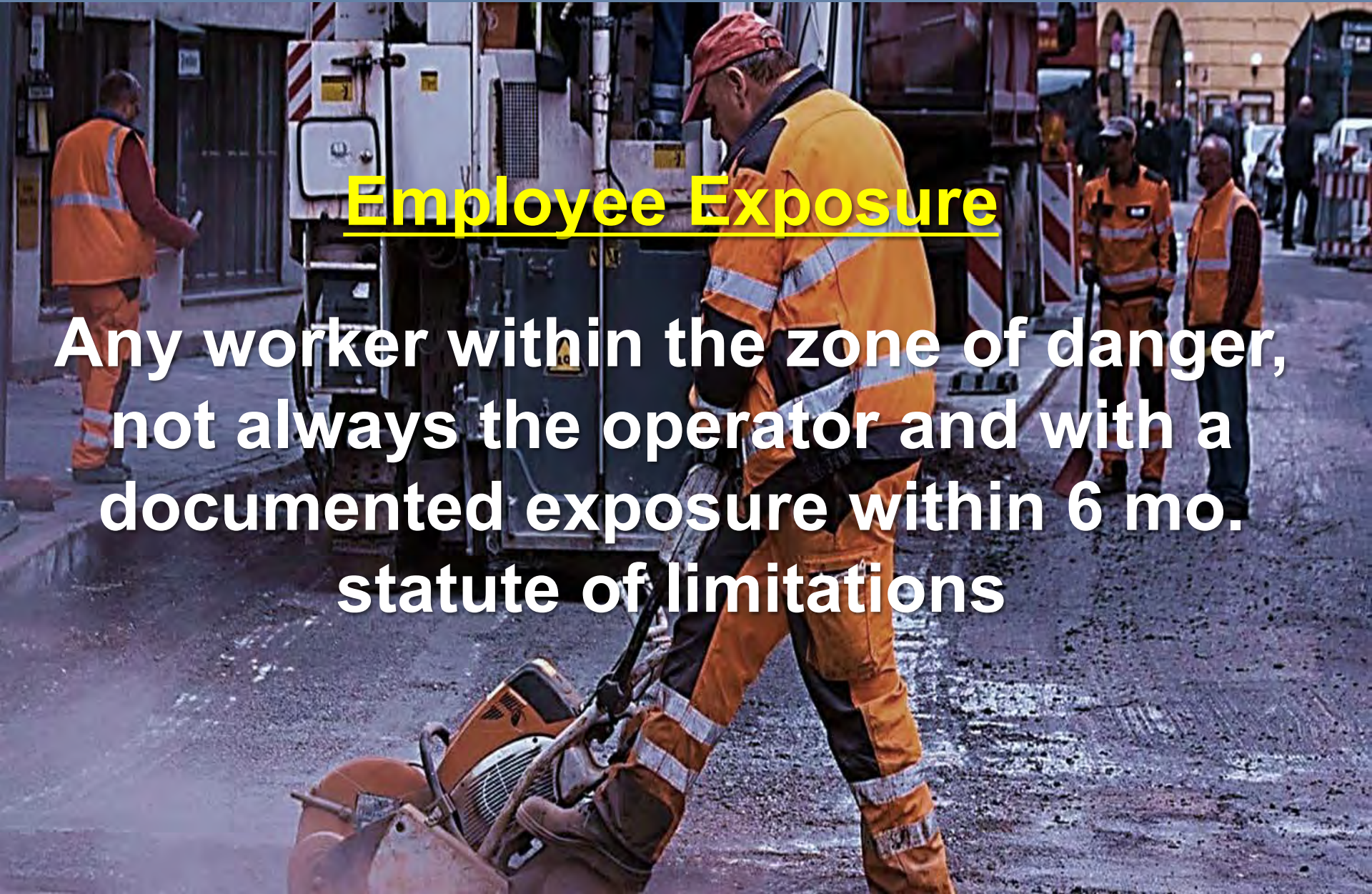
Max. perimeter of affected area in the event of a mishap such as disintegrating unguarded grinding wheel, ungrounded solvent tank explosion, asbestos exposure within containment.

A photograph showing a large fire and explosion. In the foreground, a blue semi-truck is parked on a road. A massive fire is burning in the middle ground, with thick black smoke rising into the sky. The scene is set outdoors, possibly at a construction or industrial site, with some buildings visible in the background.

Enforcement Action Based On:

Employee Exposure

Any worker within the zone of danger,
not always the operator and with a
documented exposure within 6 mo.
statute of limitations



Evidence - Type Needed

6mo. Statute of Limitation

Hard Evidence

**Documents, Sampling, Direct Observation,
Photographs, Measurements**

Corroborating & Hearsay Evidence

**Oral Statements by: Employer, Employer
agents/representatives (Supervisors), Employee,
Union Reps.**

Multi-employer Worksites **(Aka: Anti Bart Simpson Defense)**

Applicable to: Any on-site contractor



Title 8
CCR Sec 336.10

Title 8
CCR Sec 336.11

The Inspection Process

- Compliance Officer will ask to see and must conduct “**Opening Conference**” with “**highest level of management having authority to allow continuation of inspection**”

Note: Compliance Officer *will respond to the address listed on the complaint/accident*, i.e., Maintenance Yard, Street Dept., Sanitation, etc.

Note: *Train All Department Heads/Supervision* in inspection procedures and include H&S or Risk Management in Process

Note: Get to know the Compliance Officer

Ask about educational/professional background

Opening Conference

“What you don’t know could hurt you”

- Compliance Officer must show PHOTO ID.
- Explain Purpose
- Explain OSHA Program
- Employee/Employer Rights
- Explain Inspection Procedure
- Contact Labor for Union Shops-may have separate opening conference.
- **MUST ASK FOR CONSENT TO INSPECT**
- **Employer may terminate inspection at any time (at opening conf. or after)**