

OSHA Enforcement of Construction Safety and Health Regulations: Federal Citations and Penalties

In construction, U.S. Occupational Safety and Health Administration (OSHA) citations followed a similar trend as inspections in the past decade (*see* page 51). As multiple citations may be issued during one inspection, the number of citations was much higher than the number of inspections. In 2010, the number of construction citations issued by federal OSHA was around 58,000 (chart 52a), more than double the number of inspections that same year (*see* page 51).

The number of citations has grown about 29% since 2001 (chart 52a). Following a similar trend, the percentage of *serious, willful, and repeat* (SWR, *see* Glossary) violations (a measure of non-compliance with OSHA standards) has also increased. In 2001, 82.6% of violations were SWR, but that proportion increased to 87.7% by 2010. For the same period, violations with a high level (4-10) of *gravity* (or potential harm to workers, *see* Glossary) increased from 34% in 2001 to 51% in 2010.¹ These numbers may reflect the results of OSHA's programs for Enhanced Enforcement and Severe Violators (*see* page 51).²⁻⁴

The average penalty per citation was relatively stable between 2001 and 2009, but spiked to \$1,926 in 2010 – a \$700 increase from 2009 (chart 52b) – reflecting changes to the OSHA penalty structure.⁵

In 2010, the most frequently cited construction violations were scaffolding and fall protection, in particular among Specialty Trade Contractors (SIC 17, *see* page 1 for industrial classifications and codes; chart 52c). While about 66% of construction payroll establishments were Specialty Trade

Contractors (*see* page 2), more than 80% of the violations for these two major categories were issued for this subsector. Nearly half of the citations issued in Heavy and Civil Engineering Construction (SIC 16) were related to the OSHA trenching standards (1,398) – a higher proportion than any other construction subsector.

The total amount of penalties typically mirrored the number of citations. For example, Specialty Trade Contractors had the most citations for fall protection violations in addition to the highest penalty amounts (\$16.7 million in 2010; chart 52d). However, General Contractors (SIC 15) paid nearly 60% more in penalties for electrical violations compared to Specialty Trade Contractors (\$7.1 million vs. \$4.5 million, respectively), indicating more severe violations.

Although a recent study conducted by the RAND Corporation does not cover construction inspections, the study indicates that OSHA inspections with penalties in manufacturing reduced injuries by an average of 19-24% annually in the two years following the inspection.⁶ However, these effects were not found for inspections without penalties, and not shown in workplaces with fewer than 20 or more than 250 employees. Another study in California suggests that randomly inspected employers experienced a 9.4% decline in injury rates and a 26% reduction in injury cost.⁷ This study also found no evidence that these improvements came at the expense of employment, sales, credit ratings, or firm survival (as critics of OSHA's enforcement efforts have claimed).

1. Occupational Safety and Health Administration. 2001-2010 Integrated Management Information System. Calculations by CPWR Data Center.

2. Occupational Safety and Health Administration. 2003. *Memorandum: Enhanced Enforcement Policy for Employers Who Are Indifferent to their Obligations Under the OSH Act*. http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=24463 (Accessed August 2012).

3. Occupational Safety and Health Administration. 2008. Enhanced Enforcement Program. Directive CPL 02-00-145. http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVES&p_id=3749 (Accessed February 2013).

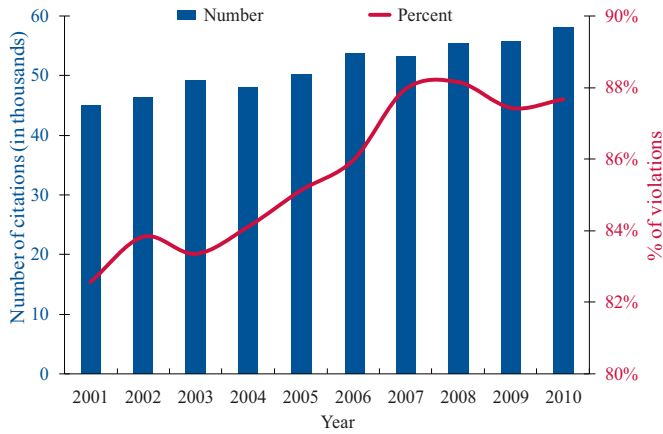
4. Occupational Safety and Health Administration. 2010. Severe Violator Enforcement Program. Directive CPL 02-00-149. http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVES&p_id=4503 (Accessed February 2013).

5. Occupational Safety and Health Administration. *OSHA Enforcement: Committed to Safe and Healthful Workplaces*. http://www.osha.gov/dep/2010_enforcement_summary.html (Accessed August 2012).

6. Haviland AM, Burns RM, Gray WB, Ruder T, & Mendeloff J. 2012. A new estimate of the impact of OSHA inspections on manufacturing injury rates, 1998-2005. *American Journal of Industrial Medicine*, 55(11):964-975.

7. Levine DI, Toffel MW, & Johnson MS. 2012. Randomized government safety inspections reduce worker injuries with no detectable job loss. *Science*, 336(6083):907-911.

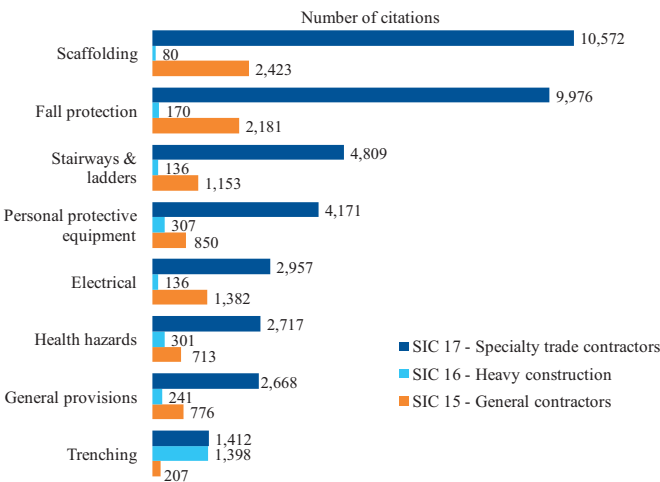
52a. OSHA federal citations and percentage of serious, willful, and repeat violations in construction, 2001-2010



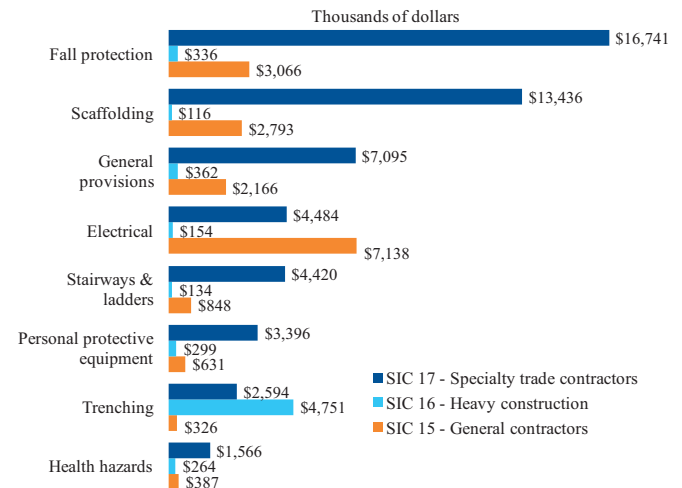
52b. Average penalty per federal citation and total penalties in construction, selected years, 2001-2010 (2010 dollar value)



52c. OSHA federal citations by major violation category and construction sector, 2010



52d. Total penalties of OSHA federal citations by major violation category and construction sector, 2010



Note: All charts – OSHA inspects payroll establishments only. Tabulations were based on calendar years and the Standard Industrial Classification (SIC) system for a better comparison over time. In calendar year 2010, the number of federal inspections was 27,165 by NAICS (23) and 27,281 by SIC (15, 16, and 17). Therefore, the numbers reported here may be different from OSHA reports which are based on fiscal years and NAICS (see page 1). State-plan inspections were not included in the tabulations. Charts 52c and 52d – “Scaffolding” refers to citations within subpart L, “Fall protection” refers to citations within subpart M, “Stairways and ladders” refers to citations within subpart X, “Trenching” refers to citations within subpart P, “Personal protective equipment” refers to citations within subpart E, “Electrical” refers to citations within subpart K, “General provisions” refers to citations within subpart C, and “Health hazards” refers to citations within subparts D and Z. Citations in construction issued using general industry standards were also included in the tabulations.

Source: Charts 52a and 52b – Occupational Safety and Health Administration. 2001-2010 Integrated Management Information System. Calculations by CPWR Data Center. Charts 52c and 52d – U.S. Department of Labor. 2010 OSHA Enforcement Data. http://ogesdw.dol.gov/data_summary.php (Accessed June 2012). Calculations by CPWR Data Center.