

## Publications

### **Oil and Gas Alert: OSHA: More Scrutiny and More Penalties Possible for the Oil and Gas Industry**

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On March 18, 2015, the Occupational Safety and Health Administration (OSHA) announced that those engaged in crude petroleum and natural gas extraction, drilling, and related support activities are engaged in “high hazard” activities and will be subject to OSHA’s Severe Violator Enforcement Program. The program has been in effect since 2010, when it replaced the prior Enhanced Enforcement Program. When the program started, OSHA placed its national emphasis on the “high-hazard” industries that involved fall hazards and hazards from amputations; combustible dust, crystalline silica; excavation and/or trenching; lead; and shipbreaking. This announcement is an expansion of the program’s “high hazard” activities. This is important for the oil and gas industry because OSHA concentrates the majority of its resources to inspecting employers from “high-hazard” industries.

The memo from the Director of Enforcement Programs at OSHA, Thomas Galassi, announcing this change, specifically states:

*“Going forward, a **non-fatality inspection** of an employer with the NAICS code 211111, 213111 and 213112 (Oil and Gas Production Services, Drilling and Well Servicing/’Upstream Oil and Gas Industry’) in which OSHA finds two or more willful or repeated violations or failure-to-abate notices (or any combination of these violations/notices), based on high gravity serious violations related to upstream oil and gas activities, will now be considered a severe violator enforcement case .” (Emphasis added).*

As a result, oil and gas companies could face additional OSHA inspections and sanctions. Before this change goes into effect, OSHA will need to issue guidance. This guidance will detail which well drilling and support activities could trigger a severe violator designation.

Once a company has been designated as a severe violator, the other worksites owned and operated by the company can expect visits from OSHA inspectors, even if there have been zero accidents or complaints at those sites. Also, the company must remain in the Severe Violator Enforcement Program for at least three years and maintain a clear

OSHA record during that same time period. After those three years, the company can then petition OSHA and explain why it believes it should be removed from the program.

In short, more scrutiny and more penalties may be forthcoming. Oil and gas well occupations are considered to be among the most dangerous in the country. The industry has come under more scrutiny since 2012, when North Dakota had the highest state fatality rate (17.7 deaths for every 100,000 workers). Most of those deaths were thought to be attributable to the oil boom in that state.