

OSHA's Plans for the Construction Industry

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The Occupational Safety and Health Administration's (OSHA) Directorate of Construction Director Scott Ketcham gave a review of the agency's focus on the construction industry at the American Bar Association's 2023 Midwinter Meeting of the Workplace and Occupational Safety and Health Law Committee on March 10, 2023.

Director Ketcham began his remarks with some sobering, but unsurprising, statistics. According to Director Ketcham, a worker is three times more likely to die on a construction site than in general industry. He noted that, although construction represents only 8% of all workers, OSHA conducts more than 50% of its inspections on construction employers. He highlighted that 40% of deaths are related to falls. However, he noted that there is a disturbing increase in the rate of trench fatalities and reiterated that, if a Compliance Safety and Health Officer (CSHO) happens to drive by a site and sees an excavation, they are required to stop and inspect. This was "near and dear to OSHA's heart" and OSHA has been issuing more willful citations because, most of the time, the protective equipment for an open trench is onsite, just not in the trench itself.

He stated that, because the Bipartisan Infrastructure Law will be injecting a tremendous amount of money flowing into construction over the next seven years, OSHA is ramping up capacity to conduct inspections. Some areas of focus will be construction of roadways, bridges, airports, railways, ports, waterways, and power and water systems.

According to Director Ketcham, OSHA realizes that the infusion of money into this sector will result in newer, smaller companies competing for jobs. These companies may not have the safety resources that established, larger companies enjoy. To get ahead of this influx, and to protect workers, OSHA has developed a [dedicated webpage](#) to help companies that will be working on infrastructure projects. This webpage contains industry best practices, sample safety and health programs, training materials, and many other helpful resources.

He also noted that there are a few items on the regulatory agenda that affect the construction industry. He discussed a Notice of Proposed Rule Making (NPRM) on the issue of personal-protective-equipment fit for women. This echoed comments by Assistant Secretary of Labor for Occupational Safety and Health Douglas L. Parker in his address to the general meeting session that OSHA, as a whole, will be more focused on diversity, equity, and inclusion efforts. Director Ketcham also mentioned that there are NPRMs on the following topics:

- Communication towers;
- Crane clearance;
- Welding in confined spaces;
- Off-road forklifts;
- Worker walkaround representatives; and
- Lead (Advanced NPRM).

Director Ketcham concluded with a discussion about programs that OSHA will be promoting, such as suicide prevention, since the suicide rate in construction is much higher than other industries. He also mentioned that OSHA is instituting a pilot program for safety

helmets (a hardhat with a chin strap) for its CSHOs. They are much more effective than a regular hardhat during a fall.

Construction industry employers should watch for these and other developments. Please contact a Jackson Lewis attorney with any questions.

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