

**National Grain  
and Feed Association**

# **Top Regulatory Issues Facing the Grain, Feed and Processing Industry in 2016-2017**

Jess McCluer

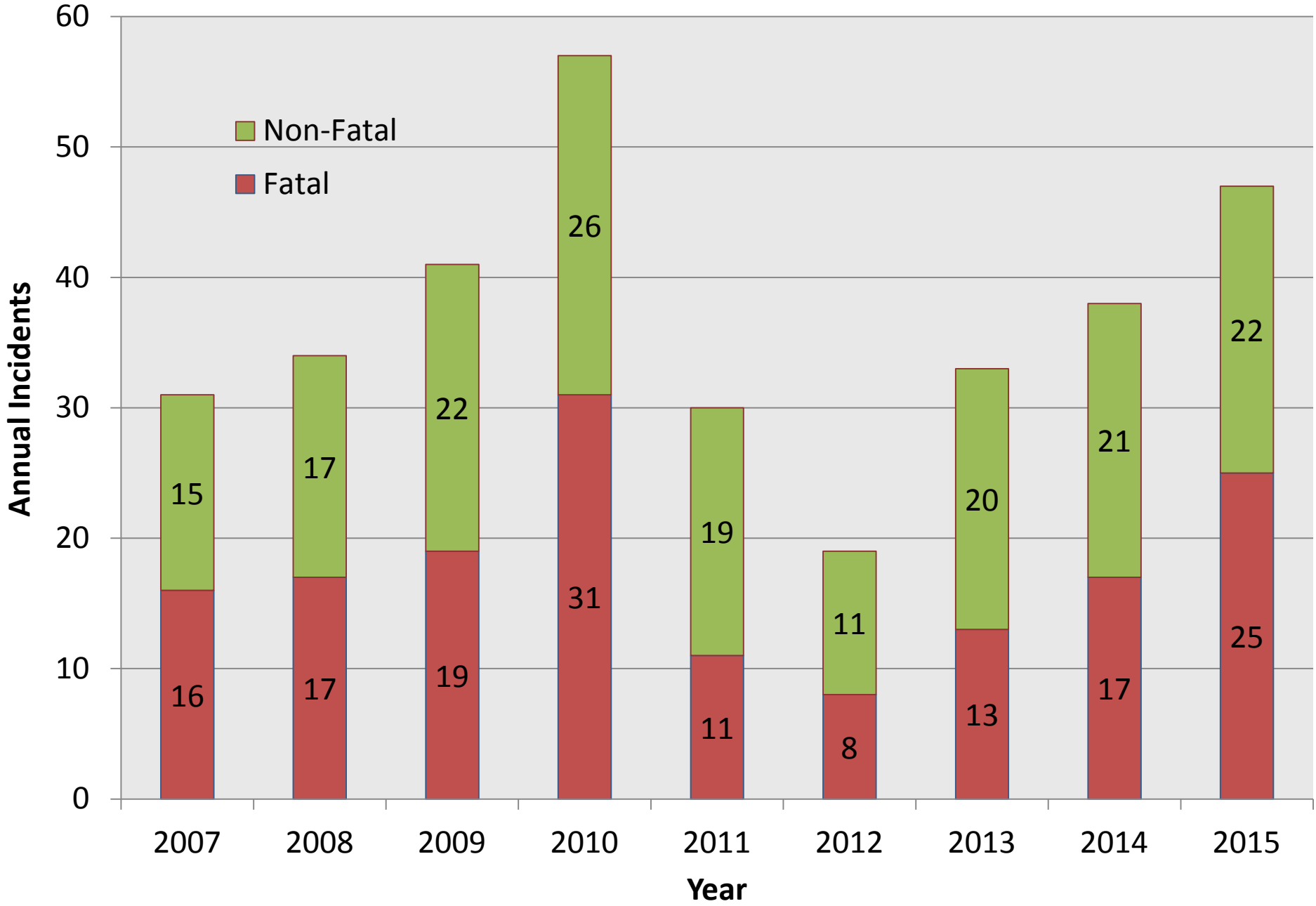
National Grain and Feed Association

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Omaha, Neb.



# U.S. Grain Entrapments



# Regional and Local Emphasis Programs FY 16

- Local Emphasis Programs
  - Region V (IL, IN, WI, MI, OH) 10/01/2015
  - Region VI (AR, LA, NM, OK, TX) 10/01/2015
  - Region VII (IA, KS, MO, NE) 10/01/2015
  - Region VIII (CO, MT, ND, SD, UT, WY) 10/01/2015
  - Region X (AK, ID, OR, WA) 12/31/15
- Combustible Dust NEP
  - Region X LEP 10/1/2015

# Proactive Targeting Philosophy

<b>OSHA Inspection Statistics (Federal and State)</b>	<b>FY10</b>	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>
Total Inspection	296	380	438	356	312	237
Percent Programmed Inspections	46%	60%	63%	61%	58%	48%
Total Violations Issued	1,289	1,552	1,160	958	1,088	615

# Top Citations Category for 2014-2015

- 1910.272 Grain Handling Standard – 20% of citations
- 1910.305 Wiring methods, components, and equipment for general use. – 11 %
- 1910.178 Powered industrial trucks. – 8%
- 1910.219 Mechanical power-transmission apparatus. – 6.5%
- 1910.23 Guarding floor and wall openings and holes. – 6.3%
- 1910.303 Electrical General. – 5.8%
- 1910.27 Fixed ladders. – 5%
- 1910.146 Permit-required confined spaces – 3%
- General Duty Clause – 2.5%
- 1910.134 Respiratory Protection. – 2.3%

***4 of the top 20 categories are from Subpart S – Electrical.  
It appears there has been increased emphasis in this area.***

# Review of Industry – Top Detailed Citations

- 1910.23(c)(1) - Every open-sided floor or platform shall be guarded.....
- General Duty Clause – They will cite you for any reason.....
- 1910.272(j)(1) – Written housekeeping plan....
- 1910.219(e)(3)(i) – Belt guards.....
- 1910.27(d)(1)(iv) – Ladder cages .....
- 1910.272(g)(1)(iii) - The atmosphere within a bin, silo, or tank shall be tested...
- 1910.272(g)(1)(i) - The employer shall issue a permit for entering bins...
- 1910.219(d)(1) – Guarding. Pulleys.....
- 1910.305(b)(1)(ii) – Electrical- Unused openings shall be effectively closed.
- 1910.303(g)(2)(i) – Electrical – Guarding of live electrical .....
- 1910.272(m)(3) – A Preventive Maintenance certification record .....

# Top Grain Handling Issues for 2016

- Regulations
  - Increase in OSHA Penalties
  - Injury and Illness Electronic Reporting
  - Walking Working Surfaces
  - Department of Labor Overtime Rules
- Sub regulatory Actions
  - Combustible Dust

# Increased OSHA Penalties

- The Bipartisan Budget Act of 2015 was quickly negotiated between the Democrats and Republicans in Congress to avoid a default on the nation's debt. However, it included an unexpected surprise: an increase in OSHA penalties.
- The initial “catch-up” adjustment amount will be the percentage difference between the CPI in October 2015 and the CPI in October 1990, which was the year that OSHA penalties were last adjusted.
- Final rule was published in the *Federal Register* on July 1.



# Increased OSHA Penalties (cont.)

Penalties will increase up to 78%. The approximate numbers shake out as follows (approximately):

- *Other-than-Serious Violation*: Maximum of approximately \$12,476 (The current maximum is \$7,000.)
- *Serious Violation*: Maximum of approximately \$12,476 (The current maximum is \$7,000.)
- *Repeat Violation*: Maximum of approximately \$124,765 (The current maximum is \$70,000.)
- *Willful Violation*: Minimum of approximately \$8,912; maximum of approximately \$124,765 (The current minimum is \$5,000; the current maximum is \$70,000)
- *Failure-to-Abate*: Maximum of approximately \$12,476 per day (The current maximum is \$7,000)

# Increased OSHA Penalties (cont.)

- The new penalties will take effect after August 1, 2016. Any citations issued by OSHA after that date will be subject to the new penalties if the related violations occurred after November 2, 2015.

# **Injury and Illness Recordkeeping and Reporting**

# OSHA's Electronic Recordkeeping Final Rule

- Electronic Submission
  - **Employers with 250 or more** (includes part-time, seasonal, and/or temporary workers) in each establishment to electronically submit their **300, 300A, and 301 forms to OSHA annually**
  - **Employers with more than 20 but less than 250** employees in certain identified industries to electronically **submit their 300A form annually**
  - Employers who receive notification from OSHA to electronically submit their 300, 300A, and 301 forms to OSHA
- OSHA will post the data from employer submissions on a publically accessible website – not to include an information that could be used to identify individual employees



# OSHA's Electronic Recordkeeping Final Rule

- Employers required to develop employee injury and illness reporting requirements – employers **must inform** employees of the following:
  - **Procedures for reporting** work-related injuries and illnesses promptly and accurately
    - employees must not be deterred or discouraged from reporting injuries and illnesses
    - reasonable reporting procedures are required
  - **Employees have the right to report** work-related injuries and illnesses
  - **Employers are prohibited from discharging on in any manner discriminating against employees for reporting** work-related injuries and illnesses



# OSHA's Electronic Recordkeeping Final Rule

- Final rule allows OSHA to issue citations to employers for retaliating against employees for reporting work-related injuries and illnesses
  - i.e., disciplining employees who report injuries late or disciplining for violations of vague work rules such as “work carefully” or “maintain situational awareness”
- Abatement even if no 11(c) complaint has been filed
  - Reinstatement
  - Back-pay

# Effective Dates in the Final Rule

## August 10, 2016

- Provisions regarding employee injury reporting policies
- Specifically, requirements to inform employees they have a right to report a work-related injury
- Prohibition from discharging or otherwise discriminating against employees for reporting work-related injuries or illnesses



# Effective Dates in the Final Rule (cont.)

## January 1, 2017

- Requirements relating to the electronic submission of Part 1904 recordkeeping forms
- Establishments with  $\geq 250$  employees must submit information from their 2016 form 300A by July 1, 2017
- Establishments with  $\geq 20$  employees but  $< 250$  employees in designated industries must submit information from their 2016 form 300A by July 1, 2017

## January 1, 2018

- Establishments with  $\geq 250$  employees must submit required to submit information from all 2017 forms (300A, 300, and 301) by July 1, 2018
- Establishments with  $\geq$  employees but  $< 250$  employees in designated industries must submit their 2017 form 300A by July 1, 2018

## Beginning in 2019 and every year thereafter

- Information must be submitted annually by March 2





# Walking Working Surfaces



# OSHA Fall Protection Standard

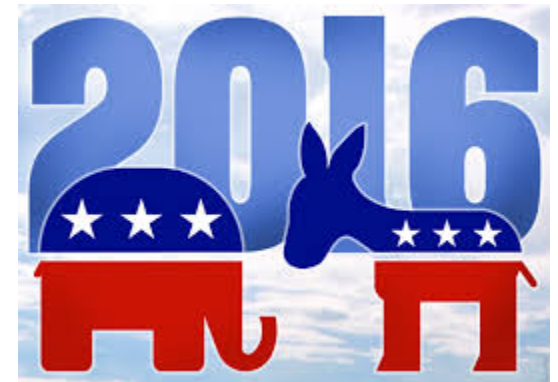
- OSHA is drafting a revised version of 1910 Subpart D, Walking and Working Surfaces, which could potentially address rolling stock fall protection.
- The revised Notice of Proposed Rulemaking is scheduled to be released in Fall 2016.



# Potential Impact of Upcoming Elections on Industry

# But wait...It's an Election Year

- Did Obama Administration really issue controversial set of final rules just before a national election?
- Possible any rule change may be repealed should we see a Trump Administration next year
- Congressional Republicans have introduced legislation to overturn the new overtime rule and change the regulatory process



# Education and Training

# NGFA Education and Training

- **“Grain Bin Safety: Protection You and Your Family”**
  - NGFA and NCGA safety training DVD
- **“Your Safety Matters”**
  - NGFA and GEAPS safety training DVD
- **“Don’t Go With the Flow”**
  - NGFA and Purdue University entrapment rescue training video
- **Facility Security Risk-Assessment and Security Guide**
  - Guide that assists in conducting facility risk assessments, as well as in developing and implementing facility security plans
- **Guidance for Sweep Auger Operations in Grain Bins**
  - Provides basic concepts that assists grain handling facilities in developing and implementing a sweep auger operations
- **Permit Required Confined Space/Boot Pit Evaluation Guide for Grain Elevators**
  - Provides basic concepts that assists in evaluating boot pits under OSHA’s permit-required confined space program



# NGFA Education and Training (cont.)

- **NGFA Regional Safety Seminars**

- Usually 4 or 5 a year

- Rocky Mountain Agribusiness Association (RMAA) – Jan. 11 in Denver
- Nebraska Grain and Feed Association – Jan. 13 in Grand Island, Neb.
- Montana Grain Elevator Association – Jan. 26 in Great Falls, Mont.
- Oklahoma Grain and Feed Association/Texas Grain and Feed Association– Feb. 24 in OKC
- Ohio Agribusiness Association and Agribusiness Council of Indiana – March 8 in Columbus, Ohio
- California Grain and Feed Association – October 26 in Fresno

# Thank You

National Grain and Feed Association

1250 I Street, N.W.

Suite 1003

Washington, DC 20005

Jess McCluer

202-289-0873 | [jmccluer@ngfa.org](mailto:jmccluer@ngfa.org)