











## Positive Response

- **Sent:** Wednesday, January 11, 2012 11:09 AM  
**To:** Compliance Officer - OSHA  
**Subject:** RE: Dairy LEP
- Thanks,
- Yes, and thank you for making it a positive, learning experience. I hope all officers approach these inspections in a similar manner that you have. We'll keep in touch.

[OSHA Webpage: Currently – FY2012 listed  
 http://www.osha.gov/dep/leps/leps.html#R5](http://www.osha.gov/dep/leps/leps.html#R5)



U.S. DEPARTMENT OF LABOR Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 04-00 (LEP 009) EFFECTIVE DATE: December 1, 2012

SUBJECT: Local Emphasis Program for Dairy Farm Operations  
 REGIONAL IDENTIFIER: Region V

## Future – LEP 2013

- LEP continued in FY 2013
- Minor Changes – Typos/terms
- Support Outreach Activities
- Work w/ various groups on challenging issues
  - Animal Handling
  - Manure Storage
  - Horizontal Silos

## LEP 2013 Changes

- Inclusion of Dairy Heifer Replacement Herds as “unprogrammed” (e.g. complaints, referrals or accidents)
- Additional Reference or Guidance Documents Listed
- Changing “Animal Behavior” to “Animal Handling”
- “Safety Data Sheets” vs. MSDS

## LEP 2013: Scheduling

- Eau Claire, Appleton, and Madison Area Offices will do **4** inspections each.
- Milwaukee Area Office still participating but will not have scheduled inspections
- **12** Dairy Inspections
- **3** farms from CAFO list and **1** Farm from DATCP list.

## Immigration: Hot OSHA Topic Preventing Exploited Workers

- ALL WORKERS, **EVEN UNDOCUMENTED WORKERS**, HAVE A RIGHT TO A SAFE AND HEALTHY WORKPLACE.
- OSHA DOES NOT IMPOSE PENALTIES FOR UNDOCUMENTED WORKERS.
- Health and safety laws protect all employees **regardless of their immigration status**.

OSHA WILL NOT INQUIRE ABOUT IMMIGRATION STATUS



## OSHA National Office Interest

- Project has been submitted for a Department of Labor Outreach Award.
  - Successful leveraging of outside groups
- National Office has an Agricultural Taskforce.
- Covers "Areas of Emphasis"
  - Youth
  - Immigrant
  - Machine Guarding/Amputation
  - Grain
  - Small Business

### WisCon Consultation – Dairy Farm Audits

NAICS 11212 (dairy, cattle & milk production)

27 total on-site visits

- 13 Initial visits
- 8 Training visits
- 6 Follow-up visits
- 9 Interventions (LEP meetings, conference calls, outreach presentations)

Worksites:

- 736 Farm Employees
- 34,500 head of cattle

79 Hazards Identified



### WisCon Consultation Type of Hazards Identified

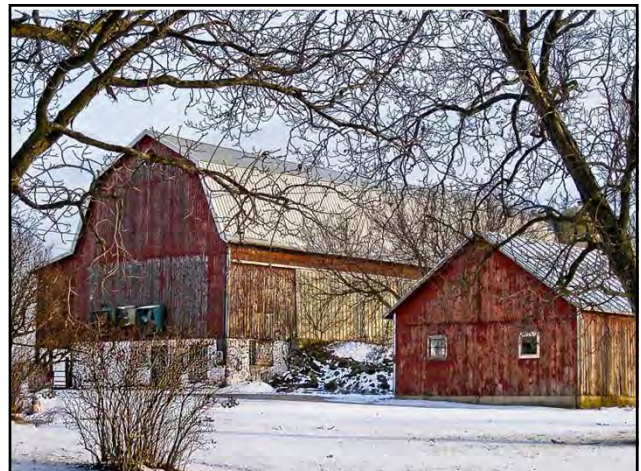
Hazards Identified (n=79)	Percent
Hazard Communications	21
Powered Industrial Vehicle (PIV) Training	20
Lack of Guarding	20
5 (a) (1)	15
Recordkeeping	13
Confined Space Entry Program	11

### Summary of the LEP

- No surprises
- Didn't issue a bunch of citations
- Didn't put anyone out of business
- Cooperative attitude during inspection
- Leveraged outreach
- **Increased Awareness**


### Further LEP Information

<http://fyi.uwex.edu/agsafety>






## OSHA's General Duty Clause



## 1904.2 –Recordkeeping Work Related Injuries/Illnesses

- All industries in **agriculture**, construction, manufacturing, transportation, utilities and wholesale trade sectors **are covered**
- **1904.1 – Size Exemption:**  
If company had **10 or fewer employees** at all times during the last calendar year



OSHA's Form 300 (Rev. 10/10/06)

### Log of Work-Related Injuries and Illnesses

**Attention:** This form contains information relating to workplace safety and health and must be used in a manner that protects the confidentiality of employees. Do not release this information unless specifically requested.

Year: 2012

U.S. Department of Labor  
Occupational Safety and Health Administration

Identify the person		Describe the case		Classify the case		Date of injury or illness		Days away from work		Job transfer or restriction		Medical treatment beyond first aid		Lost workdays due to injury or illness	
OSHA Case No.	Employee's name	Job title	Date of injury or illness	Where the event occurred or date of illness onset	How the injury or illness, past or present, occurred and description of the injury or illness (e.g., laceration, burn, etc.)	OSHA Code	OSHA Code	OSHA Code	OSHA Code	OSHA Code	OSHA Code	OSHA Code	OSHA Code	OSHA Code	OSHA Code

**Recordkeeping Webinar  
UW Extension  
Thursday, December 13  
1:00 – 2:30 pm CST  
Kelly Bubolz – Appleton CAS**

## Agricultural Standards: 1928

- 1928.51
  - Roll-over protective structures (ROPS) for tractors used in agricultural operations.
- 1928.57
  - Guarding of farm field equipment, farmstead equipment, and cotton gins.
- 1928.110 - Field Sanitation.



## General Industry When Referenced in 1928.21(a)

- **1928.21(b)** Except to the extent specified in paragraph (a) of this section, the standards contained in Subparts B through T and Subpart Z of part 1910 of this title do not apply to agricultural operations.
- **1928.21(a)**: The following standards in part 1910 of this Chapter **shall apply to agricultural operations**:
  - **1928.21(a)(1)**: Temporary labor camps - 1910.142;
  - **1928.21(a)(2)**: Storage and handling of anhydrous ammonia - 1910.111(a) and (b);
  - **1928.21(a)(3)**: Logging Operations - 1910.266;
  - **1928.21(a)(4)**: Slow-moving vehicles - 1910.145
  - **1928.21(a)(5)**: Hazard communication - 1910.1200
  - **1928.21(a)(6)**: Cadmium - 1910.1027
  - **1928.21(a)(7)**: Retention of DOT markings, placards and labels - 1910.1201



## General Duty Clause

### Section 5(a)(1) of the Act

- "...that each employer shall furnish...employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees."
- Applies when there is no specific standard



## 5(a)(1)

- **Most basic tool** for OSHA especially in Agriculture
- OSHA to expand the use of the General Duty Clause: "OSHA doesn't need a new standard if a hazard is serious and there are recognized measures to mitigate the hazard."
- **Greater burden of proof**, since general duty violations have not gone through the standard-setting process
  - Must carefully gather evidence and cover the elements of a violation
  - Reviewed at the Regional Office level.

## General Duty Clause Elements

- Employee Exposure
- Serious Hazard
- Knowledge
- Abatement Method
- Recognition

## Exposure to the Hazard

- Exposure to Hazard
  - Activity
  - How often
  - Training
  - Exact Distances
  - Work Instructions

## Serious Hazard

- The hazard must be serious, meaning that there is a substantial probability serious physical harm or death could result if the employer does not eliminate the hazard.
- “Likely” = reasonable foreseeable
  - Not an “Act of God”

## Recognized Hazard

- Employer recognition, industry recognition, or “common sense” recognition
- Evidence of employer recognition may consist of written or oral statements made by the employer or other management or supervisory personnel during or before the OSHA inspection.
- Employer awareness of a hazard may also be demonstrated by a review of company memorandums, safety work rules that specifically identify a hazard, operations manuals, standard operating procedures, and collective bargaining agreements. In addition, prior accidents/incidents, near misses known to the employer, injury and illness reports, or workers’ compensation data, may also show employer knowledge of a hazard.

## Industry Recognized Standards

### WASTE STORAGE FACILITY (No.) Code 313

Natural Resources Conservation Service  
Conservation Practice Standard

#### I. Definition

A waste storage *improvement* made by constructing an embankment and/or excavating a pit or dugout, or by fabricating a structure.

#### II. Purpose

To temporarily store wastes such as manure, manure processing derivatives, livestock wastewater, and concentrated runoff in a manner which safeguards the environment.

#### III. Conditions Where Practice Applies

This standard applies to:

- construction of a storage facility in areas where the soils, geology, and topography are suitable.

- closure of waste storage facilities. For information related to closures refer to the criteria contained in Wisconsin NRCS Field Office Technical Guide (FOTG) Section IV, Standard 360, Closure of Waste Impoundments.

#### IV. Federal, Tribal, State and Local Laws

Waste storage facilities shall comply with all federal, tribal, state, and local laws, rules or regulations. The operator is responsible for securing required permits. This standard does not contain the text of the federal, tribal, state, or local laws governing waste storage facilities.

#### V. Criteria

The following criteria establishes minimum allowable limits for design parameters, acceptable installation

## Industry Practice: Animal Handling and Skid Steer Training

- Recognized by the industry
- Affordable/Available
- Dual Language
- Award Winning
- Becomes the "standard"
- Feasible Abatement



## Feasible Abatement

- Hazard must be correctable
- Feasible and known way for the employer to correct, eliminate or at least materially reduce the hazard through either physical means, administrative controls or safety training

## Manure Storage (5a1)

- Established Standard
  - American Society of Agricultural and Biological Engineers (ASABE)
    - ASEA EP470 Jan 1992 (R2005)
    - Manure Storage Safety
  - Natural Resources Conservation Service (NRCS)
    - Waste Storage Facility Code 313
- Hazard: Hazardous Atmosphere, Falls

## 5(a)(1) for Manure Storage

- Section 5(a)(1) of the Occupational Safety and Health Act of 1970: The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that vehicle operators were exposed to drowning hazards while unloading and placing manure at or adjacent to push platforms at a slurry pit.
- (a) Employees were operating farm vehicles at and around push platforms on the south side of the smaller manure slurry pit to unload manure prior to pushing it into the slurry pit. The push platforms and adjacent areas to the push platforms were not guarded by barriers to prevent the farm vehicles operators from potentially driving into the manure pit and the vehicle operator drowning.
- Among other methods, the following are feasible and acceptable methods to correct this hazard.
  - 1- Follow the guidelines outlined in U.S. Department of Agriculture, Natural Resources Conservation Service (USDA-NRCS) practice standard for Waste Storage Facility, Code 313. In Code No. 313, section 11(c) provides that safety design shall include the following: safety stops, gates, or both installed at push-off ramps and load-out areas of impoundments and structures to prevent accidental entry of machinery.
  - 2- Follow the American Society of Agricultural and Biological Engineers (ASABE) standard for Manure Storage Safety, EP470 Jan 1992 (R2005). Section 5.1.3 provides that all pushed-off platforms or piers for open, below-ground manure storage structures need a barrier strong enough to stop a slow-moving tractor or skid loader. Hinged grates, solid covers, or the equivalent are needed for all scrape-in openings to prevent the inadvertent entry of animals and people.

## Manure Storage Facilities and Collection Structures

Fatal or serious **drowning hazards** may exist where farm vehicles such as tractors, manure spreading trucks, manure pumps/agitators, and skid-steers are operated in near proximity to waste storage impoundments and structures without the benefit of **control measures**, such as

- 1) **safety stops and/or gates** at manure push-off ramps and load-out areas to prevent accidental entry of machinery; and

Guidance document  
**ASAE EP 470.1 Manure Storage Safety**  
 6.1.5 All push off platforms or piers for open, below-ground manure storage structures need a barrier strong enough to stop a slow moving tractor or skid loader.



[http://www.zimmermanequipment.com/manure\\_pit/guard.php](http://www.zimmermanequipment.com/manure_pit/guard.php)

## Manure Storage Facilities and Collection Structures

- 2) **warning signs, fences, ladders, ropes, bars, rails and other devices** to restrict the accidental passage of vehicles and personnel across outdoor earthen manure storages.

Guidance document  
**ASAE EP 470.1 Manure Storage Safety**  
 6.1.6 Open storages should be **fenced** in unless they are aboveground tanks. Warning signs should be posted.  
 8.5 Warning sign contents and safe management suggestions  
 8.5.3 Earthen storages. Warning sign(s) should be located on the fence near the entry gate that prohibit entry to the storage should be posted.  
 e.g. Do Not Enter, Drowning Hazard.  
 8.5.3.1 "Danger Manure Storage", "Danger Keep Out", "Danger Keep Away"



## Manure Storage Facilities and Collection Structures

3. Fatal or serious **inhalation hazards** of **gases** including hydrogen sulfide (H<sub>2</sub>S), carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), and ammonia (NH<sub>3</sub>) may exist where manure gases are generated through the handling of liquid or semi-solid manure through activities such as pumping, mixing, agitating, spreading, or cleaning-out. **Oxygen (O<sub>2</sub>) deficiency hazards** are an additional related concern.

### Confined Spaces (1910.146) need:

- Written Program
  - How will you test for gases?
  - How will you prevent employee exposure?
- Training exercise
  - Everyone knows their responsibilities
  - Practice with equipment
  - Discuss additional risks identified in practice
- Rescue Plan
  - Calling 911 isn't enough

## Fence-Barriers Around Lagoon



## Dairy Bull and Animal Handling/ Worker Positioning:

Fatal or serious **crushed-by hazards** may exist where employees interact with dairy bulls and cows without **appropriate training** on dairy bull and cow behavior and/or work in areas where there is an increased likelihood of becoming caught between the animals and a **fixed or moving structure** such as a fence, corral, opening gate, crowd gate, etc.

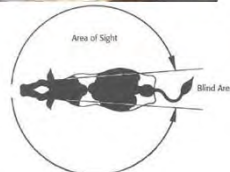


1. Review your form 300 and Worker's Comp
  - What caused the injury?
  - Has hazard been repaired, replaced or removed?
2. Have you trained employees on safe animal handling practices? Do you have **documentation** of the training?
3. Warning signs – bulls in facilities?
4. Safety Policies

## 5(a)(1) for Animal Handling

- Serious Section 5(a)(1) of the Occupational Safety and Health Act of 1970: The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees; in that employees were directly exposed to the crushed-by hazards from a herd of dairy heifers being herded towards a barn in which the employee had no safe way out or protective barriers:
  - (a) An employee performing dairy heifer herding activities was fatally injured while working amongst an estimated 60 cattle as they converged to enter a fenced lane leading towards the barn.
  - Among other methods, recognized and feasible means of abatement to correct this hazard is to follow the guidelines outlined in the University of Wisconsin Extension, Dairy Workers Training, Module VI, Dairy Cattle Handling. Provide safety training to ensure everyone understands cattle behavior and ensure that safe handling procedures are implemented and enforced.

## Animal Handling



## Animal Areas: Bull Handling

- Post warning signs
- Restrict access
- Provide escape routes
  - Man passes
- Use nose rings
- Remove aggressive bulls



## Confused?



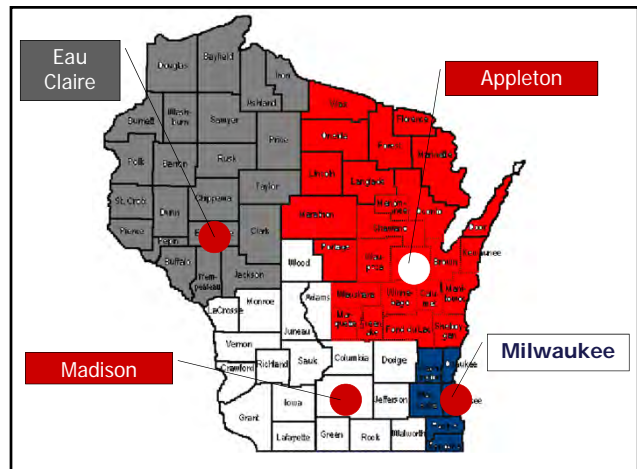
## Best Defense Against a 5(a)(1) Citation:

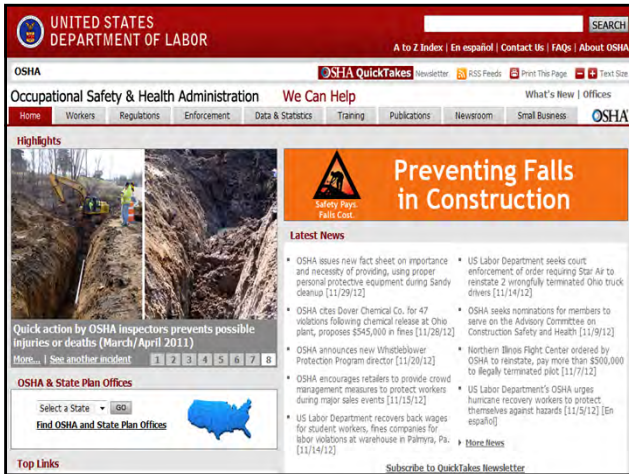
### Hazard Assessments and Correction

- Engineering Controls
  - Guarding, Elimination
- Work Practices and Administrative Controls
  - Procedures & Work Rules
- Personal Protective Equipment
  - Safety Glasses, Respirators, Gloves
- Training

## Best Defense Against a 5(a)(1) Citation:

- Document measures taken – even if unsuccessful
- Follow up on near-miss, first aid and accident reports
- Frequent inspections
- Stay current with industry practices
- Job Safety Analysis





## Wisconsin Compliance Assistance Specialists (CAS)

<p><b>Kelly Bubolz</b> U. S. Dept. of Labor - OSHA 1648 Tri Park Way Appleton, WI 54914 (920) 734-4521</p> <p><b>Mary Bauer</b> U. S. Dept. Of Labor - OSHA 1310 W. Clairemont Ave Eau Claire, WI 54701 (715) 832-9019</p>	<p><b>Leslie Ptak</b> U. S. Dept. of Labor - OSHA 4802 E. Broadway Madison, WI 53716 (608) 441-5388</p> <p><b>Jim Lutz</b> U. S. Dept. of Labor - OSHA 310 W. Wisconsin Ave Milwaukee, WI 53203 (414) 297-3315</p>
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OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION

## State Consultation Service

1-800-947-0553

- Provided **at no cost** to employers
- Developed for **smaller** employers with more hazardous operations
- Delivered by WisCon or the State Laboratory of Hygiene
- **No penalties are proposed or citations issued**
- Possible **violations** of OSHA standards are **not reported to OSHA** enforcement staff unless employer fails to eliminate or control any serious hazard or imminent danger



**SUSAN HARWOOD TRAINING**

A to Z | Directory

**UNIVERSITY OF WISCONSIN River Falls**  
www.uwrf.edu > Center for Dairy Farm Safety > Center for Dairy Farm Safety

Center for Dairy Farm Safety

Center for Dairy Farm Safety

Development Team


Resources

Short Course Information


Register for Short Courses

Andrea Nthole  
 Outreach Specialist  
 Center for Dairy Farm Safety  
 (715) 425-3240  
[andrea.nthole@uwrf.edu](mailto:andrea.nthole@uwrf.edu)

Best Practices for Farm Safety




Like 3 | Send



## Disclaimer

This information has been developed by an OSHA Compliance Assistance Specialist and is intended to assist employers, workers, and others as they strive to improve workplace health and safety. While we attempt to thoroughly address specific topics *or hazards*, it is not possible to include discussion of everything necessary to ensure a healthy and safe working environment in a presentation of this nature. Thus, this information must be understood as a tool for addressing workplace hazards, rather than an exhaustive statement of an employer's legal obligations, which are defined by statute, regulations, and standards. Likewise, to the extent that this information references practices or procedures that may enhance health or safety, but which are not required by a statute, regulation, or standard, it cannot, and does not, create additional legal obligations. Finally, over time, OSHA may modify rules and interpretations in light of new technology, information, or circumstances; to keep apprised of such developments, or to review information on a wide range of occupational safety and health topics, you can visit OSHA's website at [www.osha.gov](http://www.osha.gov).


OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION

## Presentation Information

OSHA Emphasis Results and Future Plans prepared by Mary Bauer, Compliance Assistant Specialist, Eau Claire Area OSHA Office and Cheryl A. Skjolaas, Interim Director and Agricultural Safety Specialist, UW-Madison/Extension Center for Agricultural Safety and Health. December 6, 2013.

Webinar sponsored by UW-Madison/Extension Center for Agricultural Safety and Health, UW-Extension Dairy Team and Wisconsin OSHA.

University of Wisconsin-Madison/Extension, U.S. Department of Agriculture, and Wisconsin counties cooperating. UW-Madison/Extension provides equal opportunities in employment and programming, including Title IX and ADA.