

# OSHA Recent Region IV Citations & Priorities for the Solid Waste Industry

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SWANA Spring Conference 2017

**WILLIAMS MULLEN**



## 1. General Duty Clause

- Employers must provide employees with safe & healthful workplaces
  - “free from recognized hazards that are causing or likely to cause death or serious physical harm”

## 2. Hazard-specific safety & health standards and regulations

- Promulgated by OSHA or State with an OSHA-approved state plan

## 3. Whistleblower Protection Provision

- No retaliation against employees for
  - Raising concerns relating to health and safety
  - Reporting an injury

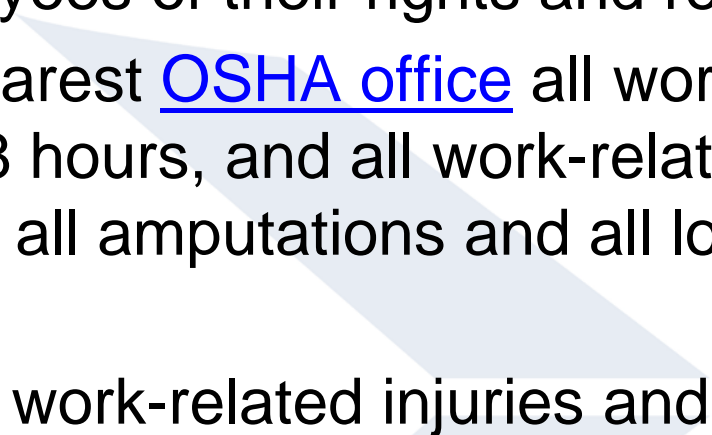
# OSHA Employer Duties May Include...



- > Examine workplace conditions for conformance with OSHA standards
- > Use and maintain safe tools and equipment
- > Use color codes, posters, labels or signs to warn employees of potential hazards
- > Establish or update operating procedures
- > Provide safety training in a language workers understand
- > If hazardous chemicals, develop and implement a written hazard communication program and train employees
- > Keep copies of safety data sheets readily available
- > Provide medical examinations and training when required

# OSHA: Occupational Safety & Health Act



- > Post the [OSHA poster](#) (or the state-plan equivalent) informing employees of their rights and responsibilities.
  - > Report to the nearest [OSHA office](#) all work-related fatalities within 8 hours, and all work-related inpatient hospitalizations, all amputations and all losses of an eye within 24 hours.
  - > [Keep records](#) of work-related injuries and illnesses.
- 

# OSHA Whistleblower Protection Program



## > **Solid Waste Disposal Act (SWDA)**

- Prohibits employers from retaliating against employees for engaging in protected activities pertaining to alleged violations of SWDA
- Coverage extends to all private sector, federal, state and municipal employees
- Complaints must be filed within 30 days after the action occurs
  - Verbal or written
  - To OSHA

# OSHA Whistleblower Protection Program

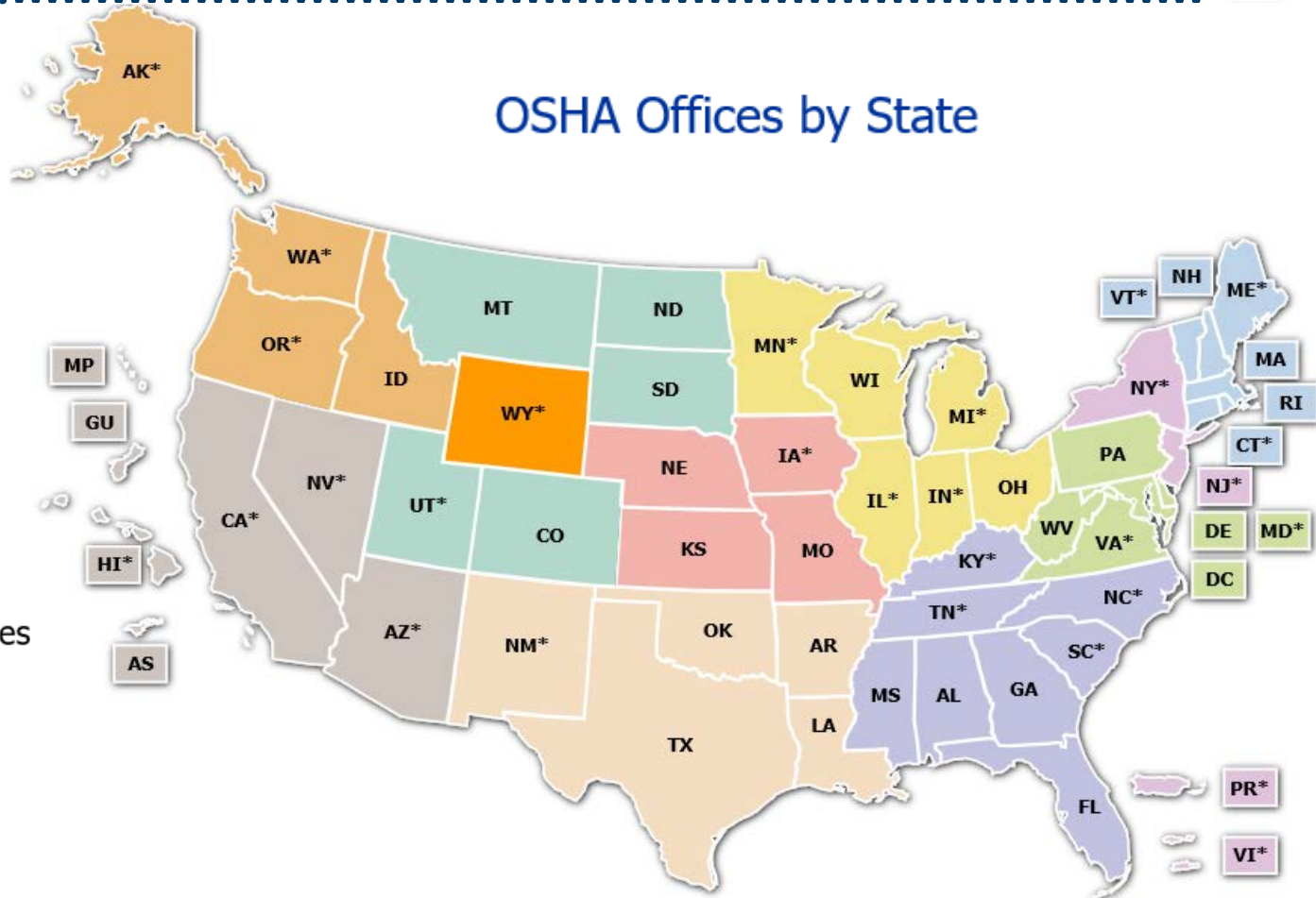


## > **Employer may not**

- discharge or
- in any manner retaliate
  - Demote
  - Deny overtime or promotion
  - Deny benefits
  - Fail to hire or rehire
  - Intimidate
  - Threaten
  - Reassign affecting prospects for promotion
  - Reduce pay or hours

# OSHA Regional Offices

## OSHA Offices by State



### OSHA Region Offices

- [Region I: Boston](#)
- [Region II: New York](#)
- [Region III: Philadelphia](#)
- [Region IV: Atlanta](#)
- [Region V: Chicago](#)
- [Region VI: Dallas](#)
- [Region VII: Kansas City](#)
- [Region VIII: Denver](#)
- [Region IX: San Francisco](#)
- [Region X: Seattle](#)

\* This is one of the 28 OSHA-approved State Plans. Twenty-two State Plans (21 states and Puerto Rico) cover both private and state and local government workplaces. The other six State Plans (Connecticut, Illinois, Maine, New Jersey, New York, and the Virgin Islands) cover state and local government workers only.

# South Carolina OSHA



## SOUTH CAROLINA

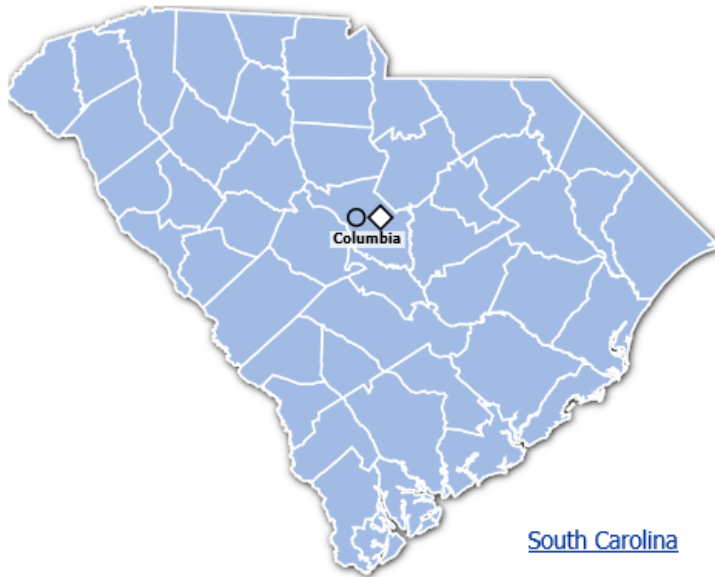
Contact the office nearest you.

South Carolina State Plan Office 

The [South Carolina State Plan](#) applies to all private and public sector workplaces within the state with the exception of: private sector maritime activities; employment on military bases; Savannah River and Three Rivers Solid Waste Authority private sector employment; federal government workers; and the United States Postal Service (USPS).

### ◆ Columbia State Plan Office

Licensing and Regulation  
Koger Office Park, Kingstree Building  
110 Centerview Drive  
P.O. Box 11329  
Columbia, South Carolina 29210-1329  
(803) 896-7665  
(803) 896-7670 FAX



[South Carolina](#)

### Overview

- Initial Approval: December 6, 1972 (37 FR 25932)
- State Plan Certification: August 3, 1976 (41 FR 32424)
- 18(e) Final Approval: December 18, 1987 (52 FR 2560), amended on January 19, 1997 (62 FR 2560) and June 9, 2000 (65 FR 36619)

South Carolina OSHA (SC OSHA) is part of the South Carolina Department of Labor, Licensing, and Regulation. The main office is located in Columbia.



## **SC Reg. 71–107. Applicability of Standards.**

A. Applicability to Employer. The Standards contained in these subarticles shall apply with respect to all employers in this State employing one (1) or more employees.

### **71–112.A. General Duty Clause.**

Employers shall maintain a place of employment which is free of recognized hazards which may cause death or serious physical harm to his employees and he shall comply with this regulation and other occupational safety and health rules and regulations promulgated under SC Code §41-15-10.

# S.C. Recordkeeping and Reporting\*



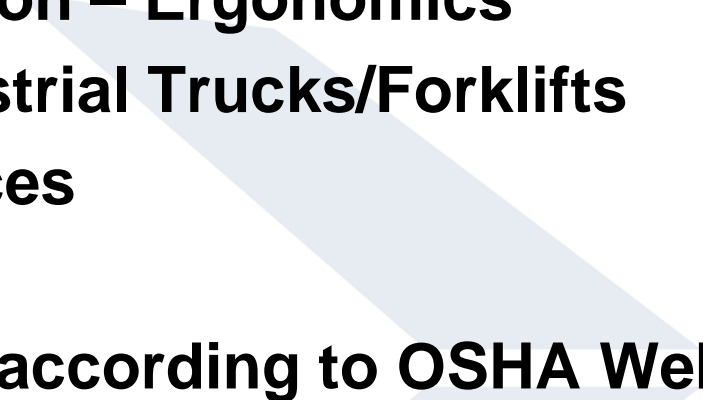
## > 71–301. Partial exemption for employers with 10 or fewer employees.

- Companies with ten (10) or fewer employees at all times during the last calendar year do not need to keep OSHA injury and illness records
- Unless OSHA informs it in writing otherwise
- However, ALL employers covered by the OSHA must report any workplace incident that results in a fatality or the hospitalization of three or more employees.

\*Same as Federal

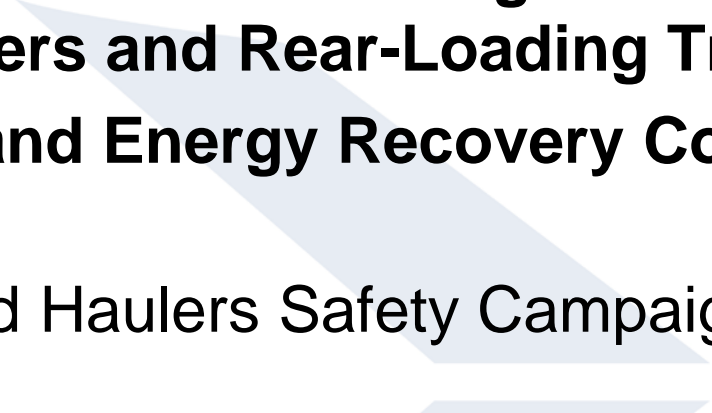
# Applicable OSHA Standards Solid Waste Industry



- > Motor Vehicle Safety**
  - > Waste Collection – Ergonomics**
  - > Powered Industrial Trucks/Forklifts**
  - > Confined Spaces**
- \* This is the list according to OSHA Website**
- 

# HISTORY



- > **2003 – OSHA published Safety and Health Information Bulletin: Crushing Hazards Associated with Dumpsters and Rear-Loading Trash Trucks**
  - > **2008 OSHA and Energy Recovery Council entered into Alliance**
    - Developed Haulers Safety Campaign, Safety: Do It for Life
- 

# OSHA and ERC Alliance: Worker Safety



- > **OSHA & the Integrated Waste Services Association (IWSA) formed an Alliance in Oct. 2005**
- > **IWSA =Energy Recovery Council (ERC)**
- > **Mission**
  - Work together to provide members with info, guidance, & access
  - To help protect employees' health & safety
  - Re management of MSW – especially hauler safety
  - Reduce & prevent exposure to electrical hazards in waste to energy facilities

# Alliance Goals



## > Outreach and Communication

- Provide expertise in developing info on the recognition and prevention of SW workplace hazards
- Find avenues to communicate to employers and employees
  - fliers, radio, tv, websites

## > Promoting National Dialogue on Workplace Safety & Health

- Forums, round table discussions, and stakeholder meetings

## > Signed 2005, renewed 2007 and concluded 2009

# Nationwide Statistics



## > 2008, Waste management and remediation services industry fatality rate

- 20.3 fatalities per 100,000 FTEs
- Over 5x the rate of all other industries
- 60% transportation related
- 12% contact/struck by
- 8% exposure to harmful substances or fires/explosions

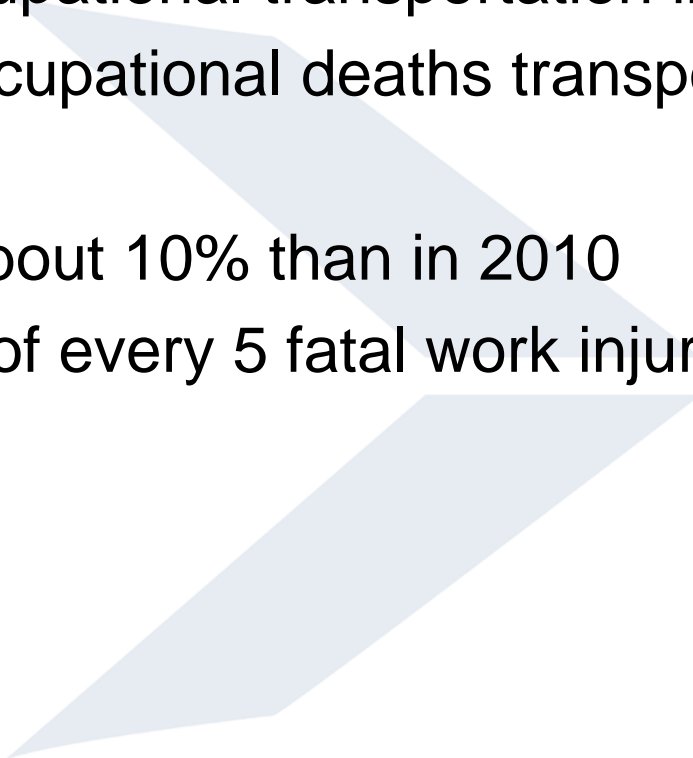
# Motor Vehicle Safety - FEDERAL



## > 2010

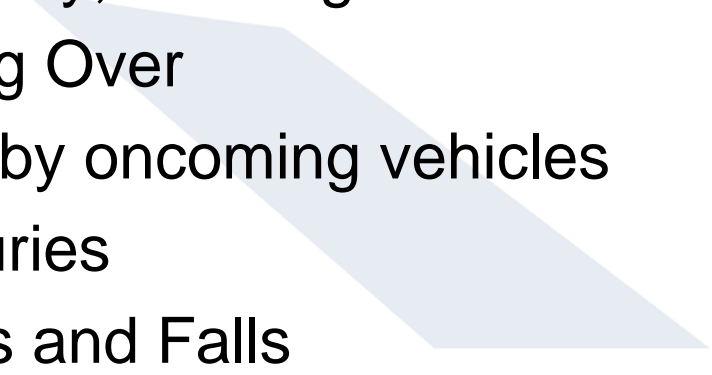
- 1,766 occupational transportation incident deaths
- 38% of occupational deaths transportation related

## > 2013

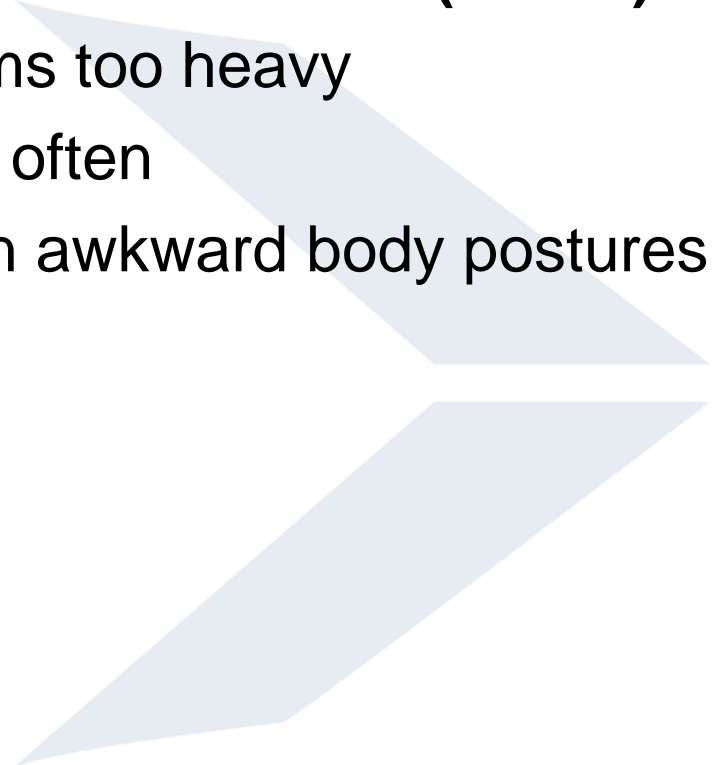
- Less by about 10% than in 2010
  - Still 2 out of every 5 fatal work injuries transportation related
- 



## > **Collection Hazards & Precautions**

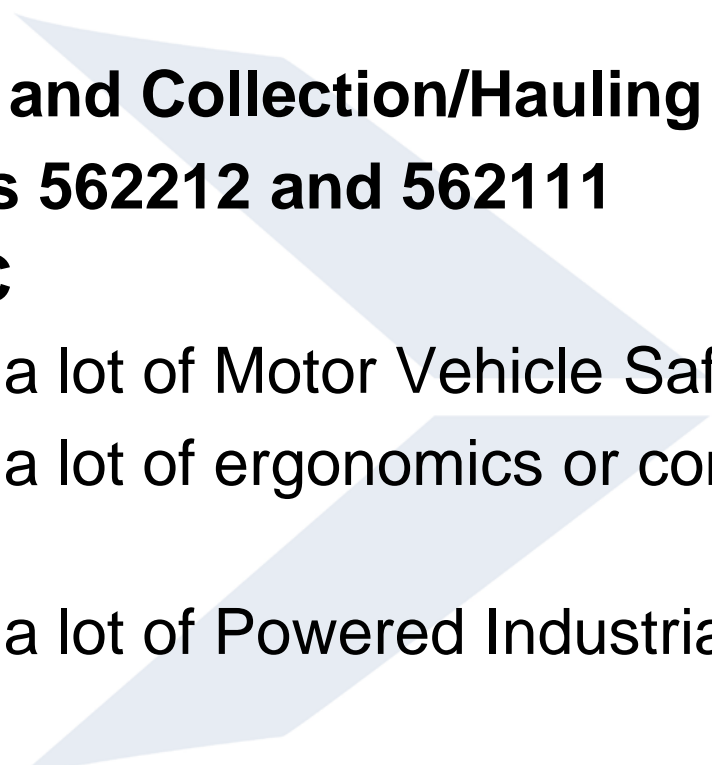
- Traffic Safety, Loading and Unloading
    - Backing Over
    - Struck by oncoming vehicles
  - Lifting Injuries
  - Slips Trips and Falls
- 

## > **Waste collection workers risk of developing musculoskeletal disorders (MSDs)**

- Lifting items too heavy
  - Lifting too often
  - Working in awkward body postures
- 

# SW Industry OSHA Citations



- > **OSHA Website search over last 5 Years**
  - > **Region 4**
  - > **SW Landfills and Collection/Hauling**
  - > **NAICS Codes 562212 and 562111**
  - > **In NC and SC**
    - Don't see a lot of Motor Vehicle Safety Violations
    - Don't see a lot of ergonomics or confined spaces violations
    - Don't see a lot of Powered Industrial Truck/Forklift Violations
  - > **But one fatality in SC from motor vehicle safety**
- 

# 2015 Fatalities by industry and event



Industry <sup>1</sup>	NAICS code <sup>1</sup>	Total fatal injuries (number)	Event or exposure <sup>2</sup>					
			Violence and other injuries by persons or animals <sup>3</sup>	Transportation incidents <sup>4</sup>	Fires and explosions	Falls, slips, trips	Exposure to harmful substances or environments	Contact with objects and equipment
Waste management and remediation services	562	1	--	1	--	--	--	--
Waste collection	5621	1	--	1	--	--	--	--
Waste collection	56211	1	--	1	--	--	--	--
Solid waste collection	562111	1	--	1	--	--	--	--



# 2015 SC Fatalities by Industries



Fatal work injuries in selected industries, all ownerships, South Carolina, 2015 (117 total fatal injuries)

Characteristics	Value
Natural resources and mining	10
Construction	28
Manufacturing	5
Trade, transportation, and utilities	37
Information	-
Financial activities	2
Professional and business services	11
Educational and health services	5
Leisure and hospitality	4
Other services, except public administration	8

\*Waste Management and Remediation Services Industry Included in “Professional and Business Services”

# 2015 SC Fatalities by event or exposure



Workplace fatal injuries by event or exposure, all ownerships, South Carolina, 2015 (117 total fatal injuries)

Characteristics	Value
Transportation incidents	54
Violence and other injuries by persons or animals	17
Contact with objects and equipment	17
Falls, slips, trips	16
Exposure to harmful substances or environments	10
Fires and explosions	3
Other not reported	0

# NAICS CODES FOR SW INDUSTRY



## **562 Solid Waste**

- > 562111 Rubbish Hauling/Solid Waste Collection**
- > 562212 Solid Waste Landfills**
- > 562212 Solid Waste Landfills and Collection and/or Local Hauling of Nonhazardous Waste**
- > 562213 Solid Waste Combustors or Incinerators**
- > 562219 Other Nonhazardous Waste Treatment and Disposal**
- > 562920 Materials Recovery Facilities**

# May 2012-2017 OSHA Region 4 Inspections



## > 562111 Haulers/Collection

– 159 Documented Inspections


- 41 TN
- 29 FL
- **28 NC**
- 18 GA
- 7 KY
- **3 SC**
- 2 MS

## > 562212 SW Landfills

– 56 Documented Inspections

- **21 NC**
- 18 TN
- 7 KY
- 3 MS
- **3 SC**
- 2 AL



- > **NAICS Code 562111**
  - > **3 Inspections**
  - > **Federal and State**
  - > **2013 and 2015**
  - > **Accident, Follow Up and Complaint**
- 

# SC INSPECTIONS SW Haulers

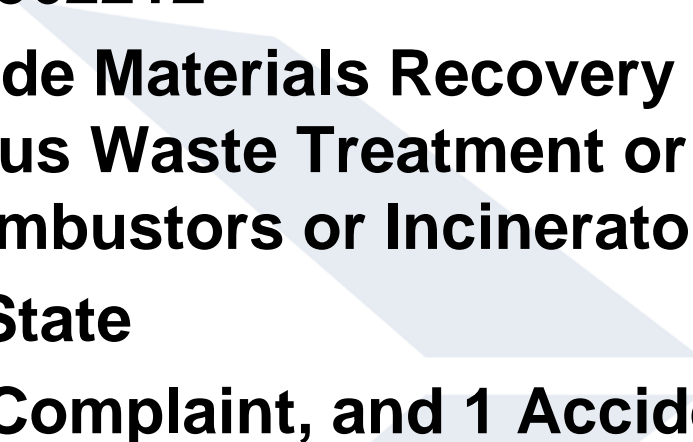


## > **1<sup>st</sup> & 2nd Inspections in SC – Both of Company A**

- 2015, Greenwood
- \$3,000 civil penalty
- Accident and Follow Up
- 2 Violations
  - Both Serious
  - Both of General Duty Clause

## > **3<sup>rd</sup> Inspection in SC – Company B**

- 2013
- Complaint
- No Violations Cited

- > **3 Inspections for SW Landfills Documented**
  - > **NAICS Code 562212**
  - > **Doesn't include Materials Recovery Facilities, Other Non-Hazardous Waste Treatment or Disposal Facilities, Combustors or Incinerators**
  - > **Federal and State**
  - > **1 Referral, 1 Complaint, and 1 Accident**
- 

### > 2016

- Darlington, Complaint, No Violations

### > 2014

- Chester, Referral, 9 Violations, \$6,750 Penalty, All Serious, Asbestos Exposure,

### > 2013

- Anderson, Accident, 1 Violation, \$750 Penalty, Hospitalized Injury, General Duty Clause

**> NAICS 562111**

**> Federal and State**

**> 37 Inspections**

**> Federal and State**

**> Number of Inspections per Year:**

- 2017 = 1
- 2016 = 8
- 2015 = 7
- 2014 = 3
- 2013 = 9
- 2012 = 9

**> 7 Complaints, 4 Referrals, the rest “Planned” or Other**

# NC Inspections of Haulers 2012-2017



> **2017** – No Violations, Planned

> **2016** –

1. Disposal Company in Powells Point, Complaint, \$877 Penalty, 2 Violations, All Serious, Violations over Portable Fire Extinguishers
2. Arden, Planned, 1 Violation, Abatement no Penalty, Wiring Design and Protection Violation
3. Greensboro Recycling Co., Referral, 7 Violations, \$4,400 Penalty, Personal Protection Equipment (eye, face, hand), General Materials Handling, Hazard Communication, All Serious
4. Mocksville, Referral, 1 Violation, \$3750, General Requirements for Machinery and Machine Guarding

# NC Inspections of Haulers 2016 & 2015



5. Spindale, Planned, 3 Violations, \$1350 Penalty, General Reqmts. For Machine and Machine Guarding; Hand/Portable Power Tools and other Hand-Held Equipment; Wiring Methods, Components and Equipment for General Use, Serious
6. Other 3 No Violations

## > 2015

1. Winston Salem, Referral, 1 Violation, \$7,000 Penalty, General Requirements for Machine and Machine Guarding, Serious
2. Durham, Planned, 6 Violations, \$600 Penalty, Guarding Floor and Wall Openings and Holes, Portable Fire Extinguishers, Fixed Industrial Stairs, General Electrical Safety, Hazard Communication, PPE

# NC Inspections of Haulers 2015

3. North Wilkesboro, Planned, 6 Violations, 3 Serious, \$2,200 Penalty, Lockout/Tagout, Powered Industrial Trucks (safety requirements relating to fire protection, design, maintenance, and use of fork trucks, tractors, platform lift trucks, motorized hand trucks, and other specialized industrial trucks), Hand and portable powered tools and equipment, Oxygen-fuel gas welding and cutting, Electrical (General)
4. Asheville, 1 Serious Violation, \$3250 Penalty, Deleted
5. Kernersville, Planned, 2 Violations, \$0 Penalty, Design and Construction Reqmts. For Exit Routes, Portable Fire Extinguishers
6. Welcome, Planned, 1 Violation, \$450 Penalty, Lockout/Tagout



# NC Inspections of Haulers 2014 & 2013



## > 2014

1. Winston-Salem, Accident, 2 Violations, \$0 Penalty, General Electrical Violations
2. Mocksville, Accident, 1 Violation, \$0 Penalty, General Electrical Violations
3. Planned, No Violations
4. Henderson, Planned, 2 Violations, \$0 Penalty, Respiratory Protection, Hand and Portable Powered Tools and Equipment

## >2013

1. Roseboro, 1 Violation, \$4095 Penalty, General Requirements for Walking-Working Surfaces

# NC Inspections of Haulers 2013



2. Henderson, Complaint, 1 Violation, \$900 Penalty, Sanitation
3. Wilson, Planned, 1 Violation, \$2438 Penalty, Serious, Permit Required Confined Spaces
4. Charlotte, Planned, 5 Violations, \$100 Penalty, Recordkeeping Partial Exemption for Employers with 10 or Fewer Employees, Recordkeeping Forms, PPE Generally, Portable Fire Extinguishers, Wiring Methods, Components and Equipment, and Hazard Communication
5. Charlotte, Planned, 4 Violations, \$3,250 Penalty, Machine Guarding - Abrasive Wheel Machinery, Wiring Methods, General PPE
6. Gastonia, Planned, 4 Violations, None Serious, Respiratory Protection, Lockout/Tagout, Materials Handling - Overhead Cranes, Hazard Communication

# NC Inspections of Haulers 2012

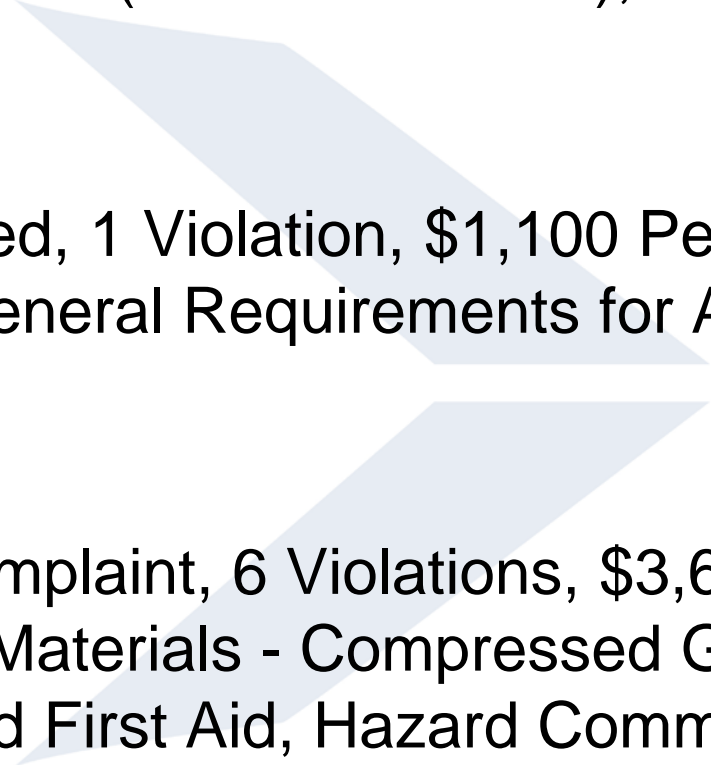


## >2012

1. Roanoke Rapids, Referral, 2 Violations, 1 Serious, \$650 Penalty, PPE General
2. Troy, Complaint, 5 Violations, All Serious, \$23,100 Penalty reduced to \$14,175, Fixed Ladders, PPE (Foot & Hand Protection)(General), Bloodborne Pathogens, Recordkeeping (Forms)
3. Morrisville, Complaint, 3 Violations, All Serious, \$4,200 Penalty, Noise Exposure, Lead Exposure, Wiring Methods
4. Roseboro, Partial, 3 Violations, \$4,410 Penalty, All Serious, PPE General, Recordkeeping (Retention & Updating)

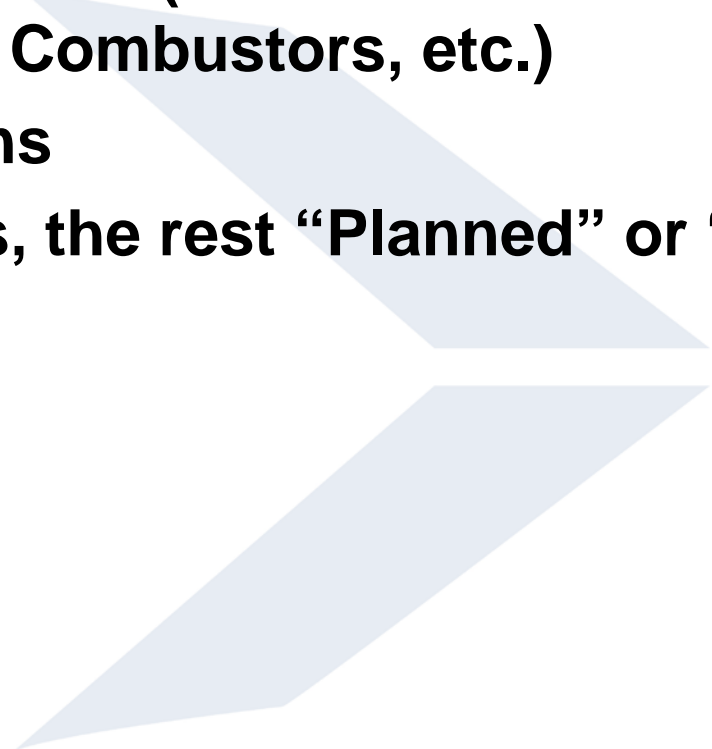
# NC Inspections of Haulers 2012 cont'd



5. Roseboro (Same as 4), Complaint, \$8,330 Penalty, 3 Violations, PPE (Hand & General), Bloodborne Pathogens
  5. Troy, Planned, 1 Violation, \$1,100 Penalty, Machine Guarding General Requirements for All Machines, Serious
  6. Raleigh, Complaint, 6 Violations, \$3,600 Penalty, Hazardous Materials - Compressed Gases, Medical Services and First Aid, Hazard Communication, Portable Fire Extinguishers, and Respiratory Protection
- 

# NC SW Landfill Inspections 2012-2017



- > **NAICS 562212**
  - > **Just SW Landfills (no Materials Recovery, Incinerators, Combustors, etc.)**
  - > **21 Inspections**
  - > **2 Complaints, the rest “Planned” or “Follow Up”**
- 

# NC 2016 & 2017 SW Landfills Inspections



> **2017** - Lenoir, Complaint, No Violations

> **2016**

1. Wilson, Complaint, No Violations
2. Marion, Planned, 3 Violations, \$225 Penalty, Machine Guarding General, Lockout/Tagout, Hazard Communication
3. Winterville, No Violation

> **2015**

1. Smithfield, No Violations
2. Spencer, Planned, 3 Violations, \$300 Penalty, Recordkeeping (Forms), Respiratory Protection, Portable Fire Extinguishers

# NC 2015 SW Landfills Inspections



3. Waynesville, Planned, 3 Violations, Other, No Penalty, Electrical Safety (General & Wiring Design), Bloodborne Pathogens
4. Mooresville, Planned, 2 Violations, No Penalty, Respiratory Protection
5. Rutherfordton, Planned, 6 Violations, \$1900, Serious, Machine Guarding, Electrical Training, Electrical Use of Work Practices, PPE (General), Electrical Use of Equipment, Hazard Communication
6. Elkin, Planned, 3 Violations, \$675, Machine Guarding – Abrasive Wheel Machinery and General, PPE (General)

# NC 2014 SW Landfills Inspections



>2014

1. Mount Airy, Planned, 6 Violations, \$3713 Penalty, Lockout/Tagout, Machine Guarding, Exit Routes Maintenance, Safeguards and Operational Features, Portable Fire Extinguishers, Materials Handling and Storage - Powered Industrial Trucks
2. Morganton, Planned, 6 Violations, \$634 Penalty, 2 Serious, Machine Guarding, Hazardous Materials (Compressed Gases), Respiratory Protection, Hazard Communication
3. Concord, Planned, 1 Violation, \$700 Penalty, Serious, Hand and Portable Powered Tools and Other Hand-Held Equipment



# NC 2013 SW Landfill Inspections



## > 2013

1. New Bern, Planned, 3 Violations, No Penalty, All Other than Serious, Permit-Required Confined Spaces, Electrical Wiring Methods
2. Fayetteville, Planned, 5 Violations, \$2940 Penalty, 3 Serious, Machine Guarding (Abrasive Wheel Machinery), Walking and Working Surfaces (Guarding Floor and Wall Openings and Holes/General), Recordkeeping (Forms)
3. Clinton, Planned, 6 Violations, \$2240 Penalty, 2 Serious, Permit-Required Confined Spaces, Respiratory Protection, Electrical (General & Wiring Methods), Asbestos, Hazard Communication

# OSHA Regional Notice Initiatives



## > Local Emphasis

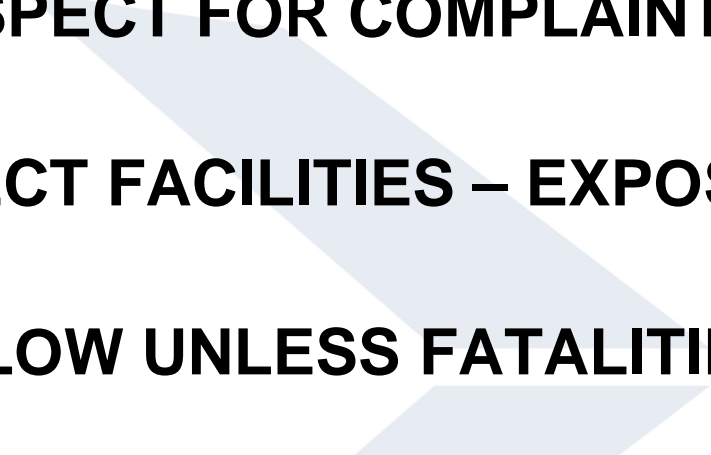
- Only Regions 2 & 8
- Discuss Motor Vehicle Safety/Haulers Emphasis

## > Region 4 Initiatives

- Silica
- Lead
- Falls in Construction
- Landscaping & Horticultural Services
- Electrical Hazards
- Ship/Boat Building & Repair
- Noise Hazards
- Powered Industrial Trucks
- Federal Agencies
- Poultry Processing Facilities
- Auto Parts Industry
- Construction
- Programmed Maritime Inspections

# TAKEAWAYS



- > **NOT MANY INSPECTIONS**
  - > **HAVE TO INSPECT FOR COMPLAINTS AND ACCIDENTS**
  - > **WHEN INSPECT FACILITIES – EXPOSURE IS A PRIORITY**
  - > **PENALTIES LOW UNLESS FATALITIES OR SERIOUS INJURIES**
- 



# QUESTIONS?

*Please note: This presentation contains general, condensed summaries of actual legal matters, statutes and opinions for information purposes. It is not meant to be and should not be construed as legal advice. Individuals with particular needs on specific issues should retain the services of competent counsel.*