

# New Enforcement Weighting System to Allow Inspections Focused on Most Hazardous Workplace Issues

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PRACTICES OSHA, Labor and Employment

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Concurrent with the beginning of OSHA's 2016 fiscal year on October 1, 2015, OSHA has implemented a new Enforcement Weighting System (“**EWS**”) that is designed to incentivize impactful inspections that require more time and resources.<sup>1</sup> Among the more heavily weighted inspections are cases with fines in excess of \$100,000 and process safety management, ergonomic hazards, heat hazards, and workplace violence hazard inspections.

In the past, OSHA's primary metric to gauge enforcement activity was the number of inspections. Because one simple inspection was weighted the same as a more complicated inspection, inspectors and area offices were penalized, in effect, for taking on more complex inspections. According to OSHA Assistant Secretary Dr. David Michaels at the National Safety Council conference in Atlanta, “all inspections aren't equal – some are complex and require more time and resources – and many of those inspections have the greatest impact.”<sup>2</sup> The new system takes into account the variations in time and resources and the impact a given inspection can have on worker safety.

Under the new EWS, each inspection/investigation is assigned a value, an Enforcement Unit (“**EU**”), with all inspections receiving an EU value of at least one. The categories are as follows:

1. Federal Agency Inspections – 2 EUs
2. Process Safety Management Inspections – 7 EUs
3. Combustible Dust Inspections – 2 EUs
4. Ergonomic Hazard Inspections – 5 EUs
5. Heat Hazard Inspections - 4 EUs
6. Non-PEL Exposure Hazard Inspections – 3 EUs
7. Workplace Violence Hazard Inspections – 3 EUs
8. Fatality/Catastrophe Inspections – 3 EUs
9. Personal Sampling Inspections – 2 EUs
10. Significant Cases (i.e., cases with a \$100,000+ fine) – 8 EUs
11. Non-Formal Complaint Investigations – 1/9 EU
12. Rapid Response Investigations – 1/9 EU

Dr. Michaels reiterated in his memorandum announcing the new system that OSHA can conduct “inspections and issue citations for any sort of serious hazard, whether or not [there is] a specific applicable standard,” foreshadowing potential increases in General Duty Clause citations.

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<sup>1</sup> Memorandum, Enforcement Weighting System (Sept. 30, 2015), [available here](#).

<sup>2</sup> OSHA Quick Takes, October 1, 2015, [available here](#).