

Lessons from Million Dollar OSHA Fine of Georgia Poultry Processor and Contractors

Practices

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Earlier this year, six employees died during a tragic accident at a poultry processor in Georgia. A leak of liquid nitrogen within the plant caused the accident. In the wake of this tragic event, OSHA launched a multi-month investigation ending in July and resulting in citations totaling nearing one million dollars against the processor and several contractors. The amount of the fine is very large, but so was the seriousness of the accident and the related lessons for employers.

Whether the processor and contractors successfully challenge the citations remains to be seen, but the accident and subsequent investigation offer some important lessons for all employers, such as the following:

- **Post-accident OSHA investigations can be long and comprehensive.** Soon after the accident in Georgia in January 2021, OSHA began an investigation that lasted more than six months. In that context, OSHA typically focuses on the specific causes of the accident but can broaden its review to include areas or issues not directly connected to the accident. For example, the citations issued after the Georgia accident included criticism of the height differences between steps and the amount of illumination of exit signs. Those types of issues might be unknown, but can come to light during detailed, multi-week investigations conducted by OSHA following an accident.
- **Remain vigilant about safety.** Often, little safety issues or flaws can contribute to bigger safety problems. Maintaining hazard-free walkways, keeping exits clear, and regularly conducting safety training or inspections are examples of important, sometimes mundane, activities that can make a work environment safer. If ignored, however, those types of issues can negatively impact safety and result in citations.

- **Safety of non-employees.** An employer is responsible for the safety of its employees. That responsibility can extend to non-employees, such as contractors, in certain situations such as in confined spaces. Identifying and assessing the relevant safety risks is part of the responsibility of hosting others.
- **Responsibility for safety.** When announcing the citations related to the Georgia accident, OSHA noted that the processor's position of Safety Director had remained vacant for several months and suggested that many of the alleged violations could have been avoided if the position had been filled sooner. Whether the allegation is true or not, a related lesson for employers is that someone must be responsible for the overall safety of a facility, which includes competently reviewing, enforcing, and improving safety practices and processes.
- **Lock out, tag out procedures and training are always important.** Too often, workplace accidents are caused by energized equipment, which appears to have contributed to the Georgia accident. Establishing and enforcing lock out, tag out procedures can go a long way to preventing accidents.
- **Preventative Advice.** Following an investigation, OSHA typically identifies safety issues that must be abated by the employer within several weeks or face additional legal liability. Instead of that compressed time frame and the spotlight of a government investigation, employers can conduct their own self-audits before an accident happens. There are many considerations and strategies when planning and conducting a self-audit, including the potential advantages of involving legal counsel and the related attorney-client privilege. A self-audit can devote appropriate time and resources to complicated processes or issues and thereby enhance safety, rather than risk the negative attention and costs of a post-accident OSHA investigation.

Conclusion. The tragic accident at the Georgia processing plant was regrettable and reminds employers of the importance of proactively focusing on workplace safety.