

By Peter Gerstenberger



## OSHA's Top Five Citations for Tree Care

In fiscal 2006, inspectors out of federal OSHA offices performed a total of 69 inspections of tree care companies and levied 175 citations totaling \$147,200 in penalties. Analyzing what these tree care companies were cited for serves one main purpose, and that is to avoid making the same compliance mistakes and incurring similar penalties. The author's disclaimer is that this sort of analysis by no means gives one a full picture of the hazards that can be found or the control measures that should be implemented in the typical tree care company.

### #5: 1910.95 Occupational noise exposure

Promulgated over 20 years ago, this standard requires the employer to monitor potentially harmful noise levels in the workplace, and when those levels exceed a certain threshold, to implement additional measures. Specifically, the use of hearing protection is required to "attenuate" noise levels, and hearing testing at the time of hire as well as annually helps to assure that protective measures are effective.

Most tree care employers provide hearing protection. Program deficiencies most often are found in noise level monitoring and hearing testing.

### #4: 1910.266 Logging operations

OSHA issued the Logging Standard more than 10 years ago and shortly thereafter began attempts to apply it to certain

tree care operations, giving some employers fits. Overall in this author's opinion, the Logging Standard does not line up well with the hazards encountered or controls that should be applied in the typical tree care operation. The ANSI Z133 Standard serves as a far better guide for most tree removal operations. If your firm is visited by OSHA, beware the logging standard citation.

### #3: 5(a)(1), the General Duty Clause

Failing to find any specific or general industry OSHA standard they can apply to a hazardous situation, the OSHA compliance officer will typically issue what is known as a general duty clause citation, citing the employer for failing to maintain a workplace, "free of recognized hazards." This is a good news/bad news situation. The bad news is that a general duty citation is, by OSHA's definition, a serious violation carrying a heftier fine. The good news is that such a citation typically makes specific reference to an industry's consensus standard, which in our case again is ANSI Z133. The lesson here is, follow the industry standard to keep your workers safe and avoid citation.

### #2: 1910.67 Vehicle-mounted elevating and rotating work platforms

This relic of a standard governs aerial lift operations. The typical citations under this standard come from two areas.

First is the operator's failure to wear fall protection while in the bucket. OSHA would prefer that one wear a full body harness and fall arrest lanyard, but the letter of the law still allows a body belt and lanyard to be used.

Second, employers are cited for failure to perform and to document the necessary inspection and maintenance of their lifts. Key areas of concern include dielectric testing as well as inspection of critical boom components.

### #1: 1910.132 – 1910.135 Personal Protective Equipment requirements

These citations are typically triggered when the OSHA compliance officer sees crews working without hard hats and/or eye protection, which in and of themselves are citable violations. Investigating more closely, the OSHA rep will typically find that the employer failed to assess the hazards in the workplace that could be mitigated through the use of PPE, and that, further, the employer failed to record a written certification that this hazard assessment had been performed.

The take-home message here is that employees must wear hard hats and eye protection for all arboricultural activities.

*Peter Gerstenberger is senior advisor for safety, compliance & standards for the Tree Care Industry Association.* ⤴