



# OSHA Compliance— What Farm Businesses Need to Know

- *Why am I being inspected?*
- *What is OSHA looking for?*
- *What are my rights during the inspection?*

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## Secretary of Labor

"To those who have for too long abused workers, put them in harm's way, ... let me be clear, there is a new sheriff in town."

Hilda Solis

*former U.S. Labor Secretary*



# OSHA Violation Statistics –

OSHA Violation Statistics	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	% Change 2009-2012
Total Violations	263,607	269,814	262,684	243,811	224,280	-15%
Total Willful Violations	730	1,486	1,418	794	562	-23%
Total Repeat Violations	5,371	5,233	5,966	5,285	5,548	3%
Total Serious Violations	164,090	165,358	162,908	149,671	140,086	-15%
Total Other-than-Serious	92,987	97,508	92,355	87,498	78,062	-16%

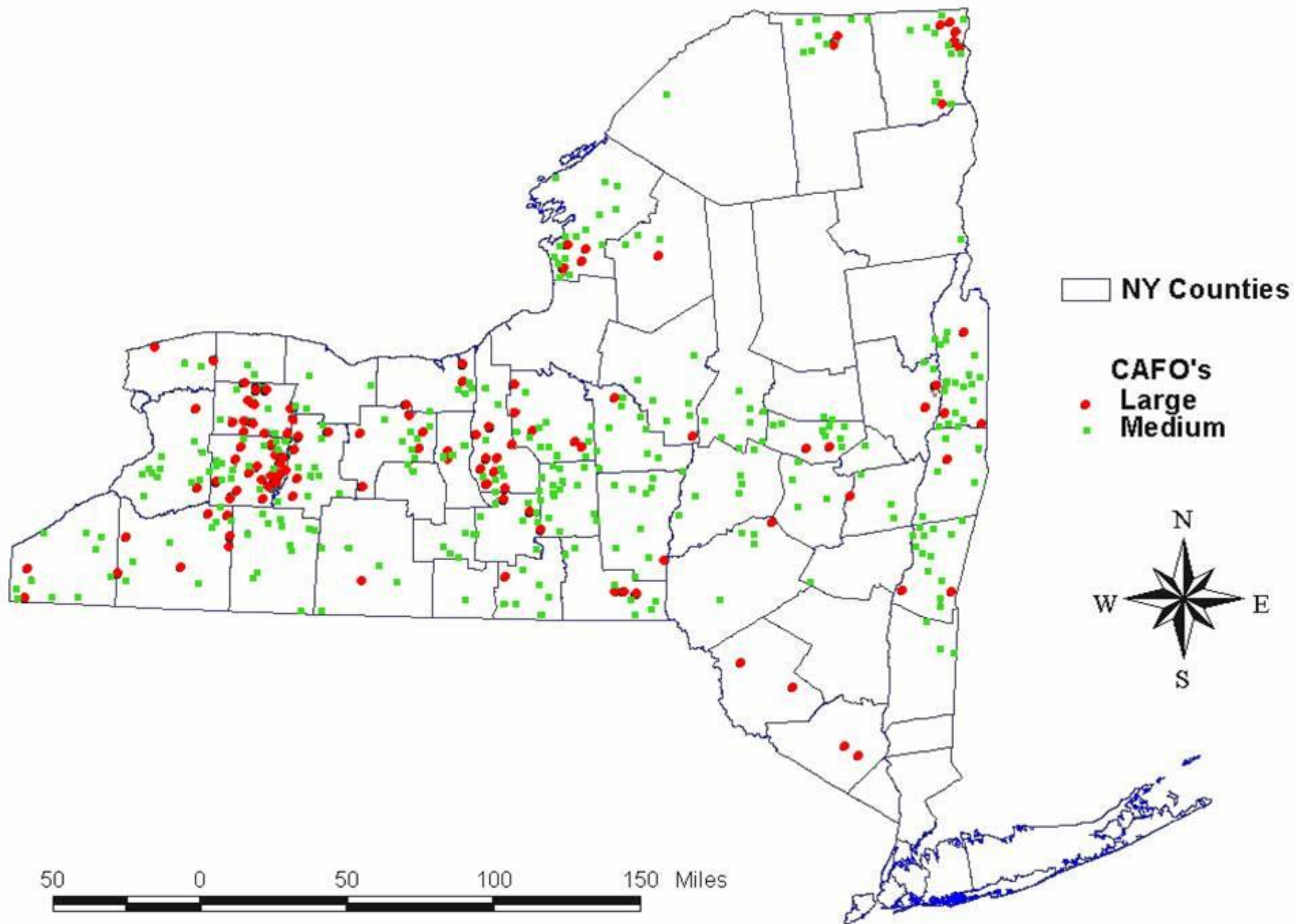
<http://ogesdw.dol.gov/lab/oshainpection/oshalab.php> (2009-2012 Nationwide for All Facilities)

# OSHA Penalty Statistics –

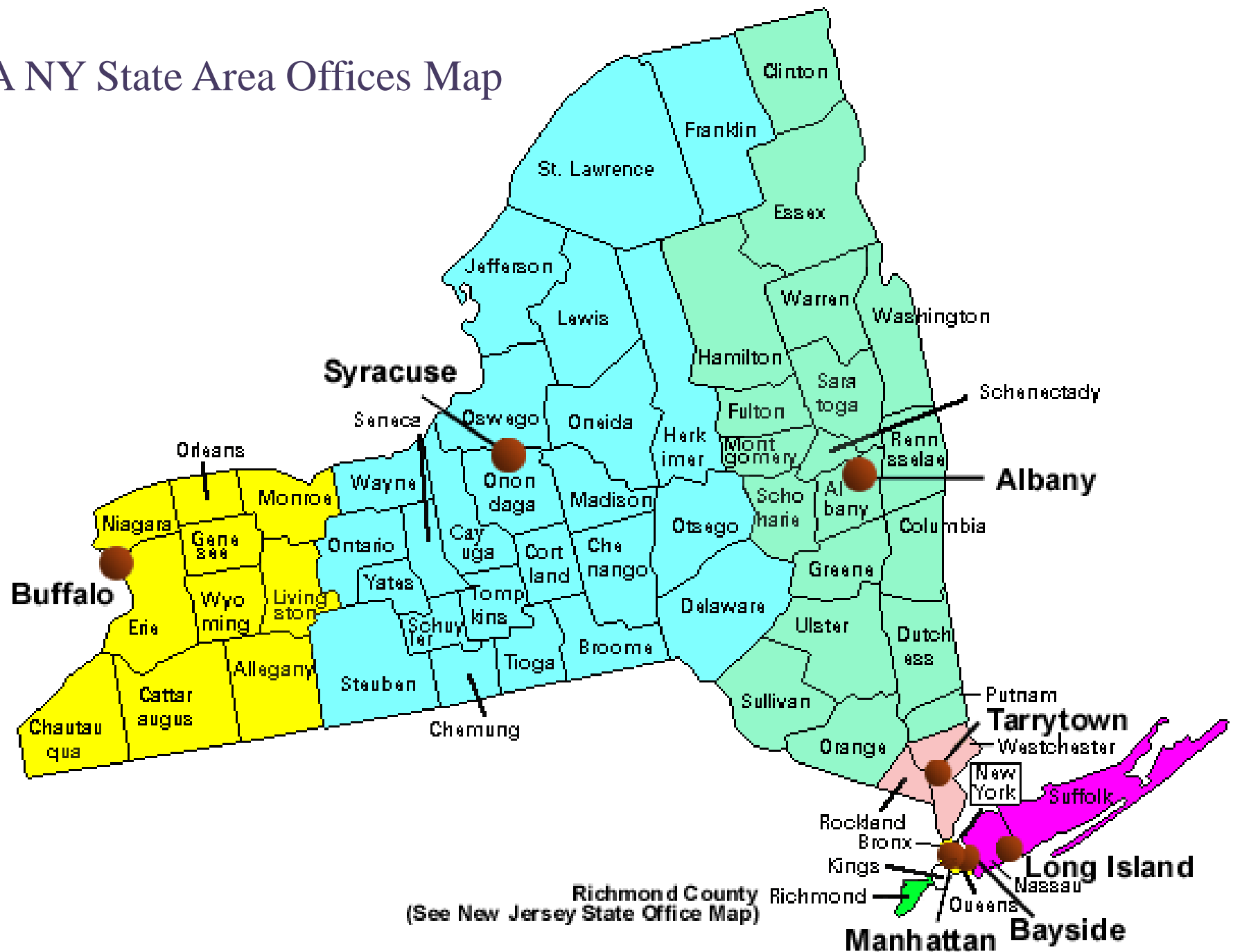
OSHA Penalty Statistics	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	% Change 2009-2012
<b>Total Penalties</b>	\$146,830,238	\$171,576,506	\$215,661,302	\$248,627,334	\$221,923,759	51%
<b>Total Willful Penalties</b>	\$16,902,751	\$31,056,841	\$39,674,855	\$19,620,044	\$17,086,993	1%
<b>Total Repeat Penalties</b>	\$14,075,753	\$15,377,289	\$20,982,975	\$27,103,111	\$24,573,855	75%
<b>Total Serious Penalties</b>	\$103,862,188	\$106,208,221	\$138,642,119	\$183,534,810	\$164,491,029	58%
<b>Total Other-than-Serious</b>	\$11,427,027	\$12,026,329	\$15,041,456	\$18,147,197	\$15,728,974	38%

<http://ogesdw.dol.gov/lab/oshain Inspection/oshalab.php> (2009-2012 Nationwide for All Facilities)

# New York State Permitted CAFOs



# OSHA NY State Area Offices Map



# NOTICE

How is the operator being notified that it is under investigation?

- Advance Notice is Prohibited
- An Investigation Team Will Show Up
  - OSHA Inspectors
  - *Possible* Wage and Hour Inspectors



What gives the Department of Labor the authority to investigate?





# What gives the Department of Labor the authority to investigate?

## OSHA

- > 10 employees or temporary labor camp

## Wage and Hour

- > 500 man days (non-family) all quarters prior year (usually 5 – 6 employees)
- Subpoena power under 29 U.S.C. § 209, 211
- Housing inspection if counted toward minimum wage

# What is the Department of Labor looking for when they investigate?

Section 5(a)1 – general duty clause

1928 – standards for agriculture

1910.142 – temporary labor camps

1910.111(a) and (c) - anhydrous ammonia

1910.266 – logging operations

1910.145 – slow moving vehicles

1910.1200 – hazard communication



# What are the penalties and consequences of the investigation?

## OSHA

- Up to \$7,000 – Serious Citation
- Up to \$70,000 – Willful Citation
- Minimum penalty - \$250 per violation

## Wage and Hour

- Back pay at minimum wage x \$7.25/ hour
- If housing does not meet code, it cannot be counted

# How should the Dairy Business operator prepare for the investigation?

- Reduce size below CAFO level
- OR
- If > 10 employees and/or on-site housing
  - Engage outside consultants
    - Review housing code compliance
    - Field equipment safety
    - Hazard communication
    - Skid-steer training
    - General safety
- If employees enter grain storage – Utilize resources for assistance



# How should the Dairy Business operator behave during the investigation?

## Know your rights

- Are you big enough to be covered?
- Were you selected randomly or due to an accident or complaint?
- You always have a right to a federal warrant (OSHA)
- You do not have to provide demonstrations.
- You have the right to be present during inspection.
- Private interviews only allowed of non-management and not while demonstrating work tasks (see above).
- Be polite, professional and prepared.

# Wisconsin versus New York 2009 - 2012

	Wisconsin	New York
<b>Inspections</b>	<b>59*</b>	<b>9</b>
<b>Planned/Target</b>	<b>38</b>	<b>0</b>
<b>Complaint/Accident</b>	<b>13</b>	<b>9</b>
<b># of Citations</b>	<b>49</b>	<b>7</b>
<b>Penalties</b>	<b>\$71,290</b>	<b>\$16,750</b>

\*13 cancelled due to less than 10 employees.



# Inspections 2009 thru 2012

- 49 Citations issued - \$71,290
- 13 5(a)(1) - \$30,525
  - 3 Animal Handling
  - 2 Manure Storage – Vehicle Barrier
  - 2 Protect/guard Manure Storage Area
  - 2 Skid Steer Training
  - 2 Electrical Hazards
  - 1 Seat Belt
  - 1 PPE
- 21 Hazard Communication - \$22,210
- 9 Machine Guarding - \$15,805
- 4 OSHA 300 Log - \$2000
- 2 Rollover Protection

# Machine Guarding: 1928.57

- This section applies to all farm field equipment and farmstead equipment
  - Power Take Off
  - Power transmission devices - belts, chains, shafts
  - All moving equipment - fans, gates
- Operating instructions. At the time of initial assignment and at least annually thereafter, the employer shall instruct every employee in the safe operation and servicing of all covered equipment with which he is or will be involved
- Permit no riders on farm field equipment
- ROPS and seatbelts



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# Machine Guarding: 1928.57



OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION



# Machine Guarding: 1928.57



OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION

# 1910.147: Control of Hazardous Energy Lockout-Tagout (5a1)

- Written LOTO Procedures
  - Some equipment is exempt
- Individual Employee Protection (Locks)
- Shift Change/Authorized Lock Removal
- Annual Audit



# Personal Protective Equipment (PPE): 5a1

- **1910.132 – Hazard Assessment**

- Required PPE
- Written Certification
- Training



- **Specific Requirements**

- **1910.133 – Eye / Face**
- **1910.135 – Head**
- **1910.137 – Electrical**
- **1910.95 - Noise**

**1910.134 – Respiratory**

**1910.136 - Foot**

**1910.138 – Hand**



# **1910.146 or 1910.272: Permit Required Confined Spaces (5a1)**

- **Identify Permit Required C.S. in workplace**
- **Prohibit Unauthorized Entry**
- **Written Program**
- **Entry Procedures**
  - **Entry Permit**
- **Annual Audit**



# Conventional Vertical Silos

Access, Entry, Gases, Moving Parts, Electrical, Fires, etc.

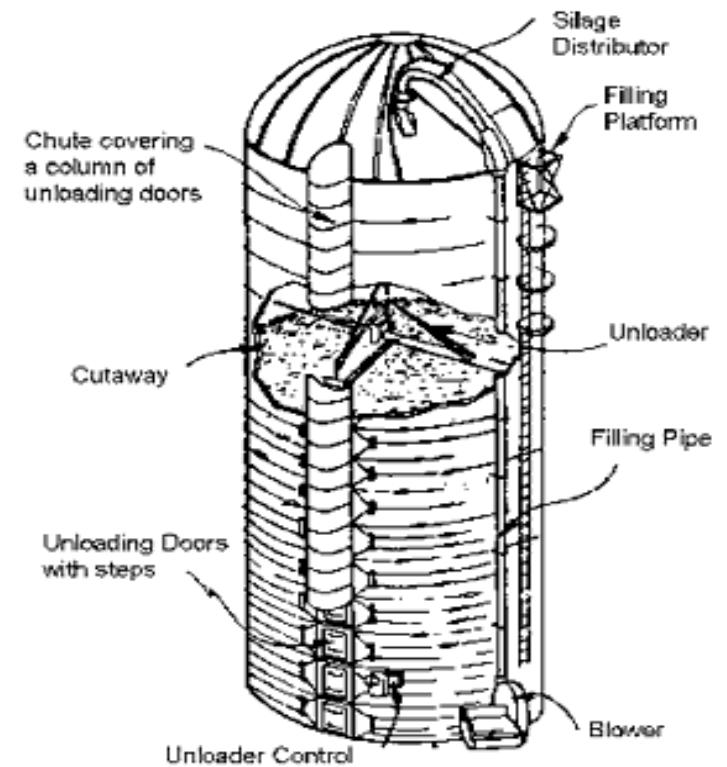


Figure 2. A typical top-unloading or conventional silo



OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION

# Manure Pits-Lagoons (5a1)

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

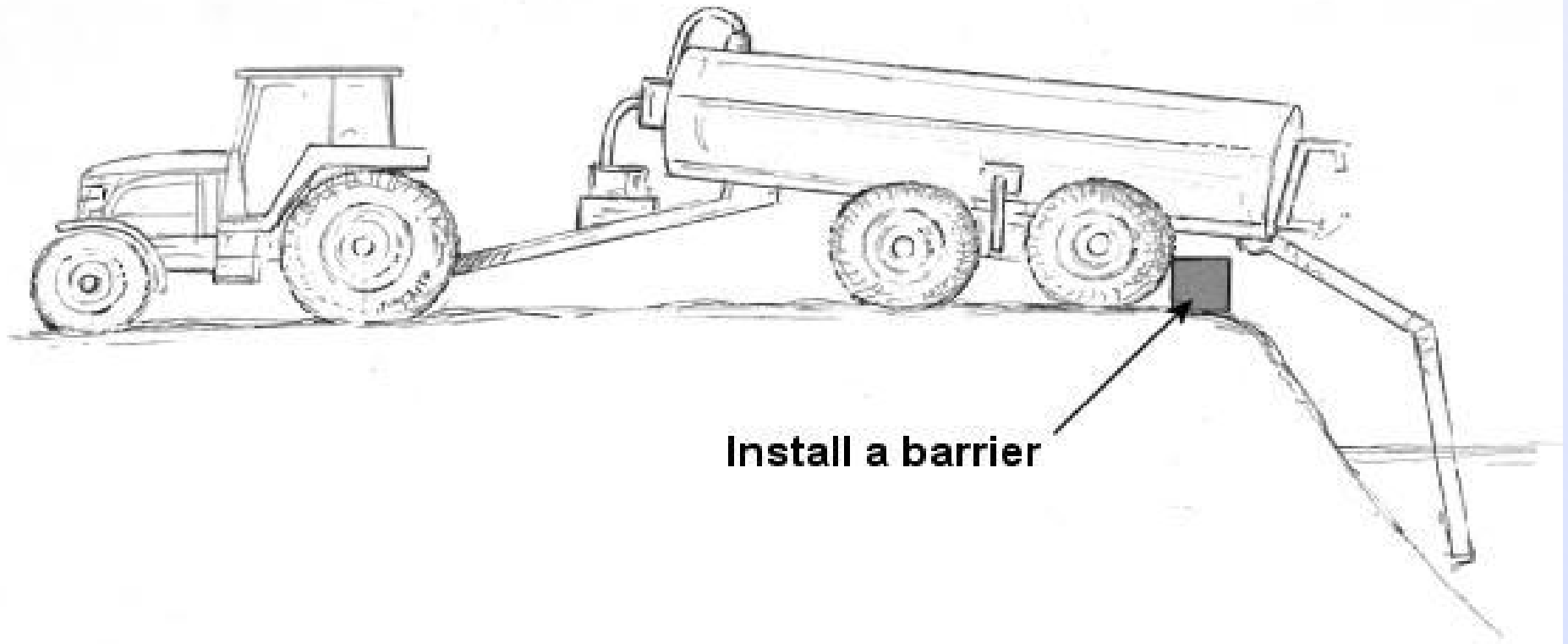




# Manure Tanker in Pit



# **Barrier Required Firm Foundation to Support Weight of a Filled Trailer**



# Horizontal Bunkers

- Wall Collapse
- Avalanches
- Fall Protection While (Un)Covering
- Struck-by Vehicles
- Roll-Overs when compacting

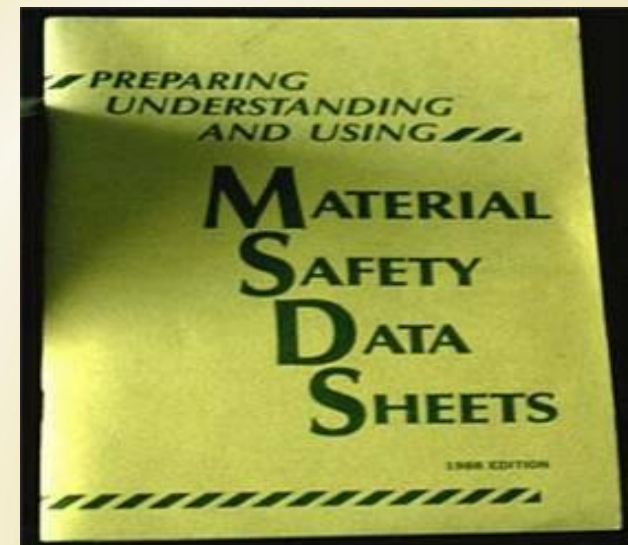




# 1910.1200

## Hazard Communication

- **Material Safety Data Sheets**
  - Hazards of Chemical (Flammable, Toxic...)
  - Personal Protective Equipment
- **Labeling**
  - Specific Chemicals
  - Types of Chemical Hazards
- **Training**
- **Written Program**
- **Global Harmonization System**



# Electrical Hazards

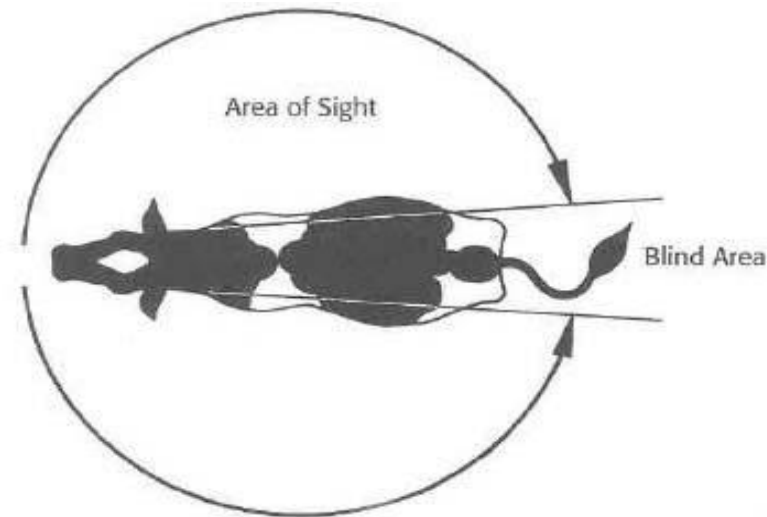
- **Extension cords**
- **Ground plugs**
- **Open electrical circuits**
- **Spliced cords**



# Animal Handling



- Formal Training
- Design of cattle fencing/escape route



# Eye Washes

- Eye Wash /Shower
  - Is material Corrosive?
  - Are they Required to have an Eyewash?
  - 15 minutes of Continuous Flow?
  - Body Exposure for Shower?
  - PPE Used?
  - Maintenance & Testing?
- Bottles
  - Bacteria Build Up
  - Dirt Accumulates Top
  - Contaminates Eye during use
  - Seal Broken: Less than Full





# Milking Room Hazards



- ❖ Slippery floors
- ❖ Electrical hazards
- ❖ Tripping hazards
- ❖ Chemicals
- ❖ Lighting
- ❖ Cow Kicks

# What are you doing in your Machine Shops/Shed?

- Vehicle and Machinery Repair
  - Elevated / Blocked Machinery
  - Compressed Gases/Air
  - Welding
  - Cutting
  - Grinding
  - Electrical
  - Storage



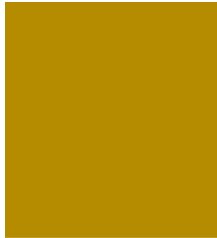


# **COMMENTS / QUESTIONS**

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# Northeast Dairy Producers Association

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Webinar – August 29, 2013

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