

MARSH RISK CONSULTING

WHAT TO EXPECT FROM AN OSHA INSPECTION



OSHA's Inspection Priorities

1. First Priority – Imminent Danger Situations

- OSHA may be alerted to a situation where there are conditions that could cause death or serious physical harm. An example of this could be a report of a fatality at a workplace where an employee fell off a roof or injuries caused in an industrial explosion.

2. Second Priority – Severe Illnesses and Injuries

- This inspection may be prompted by an employer report of an injury or illness, as required by OSHA regulations. Inspectors may complete a visit to follow up on the injury or illness.

3. Third Priority - Worker Complaint

- Workers have the right to file a complaint on unsafe conditions and practices and OSHA is required to follow up on these complaints. In some situations, this follow up may be requesting additional information from the employer via phone or email. Complaints can also trigger an unannounced onsite inspection.

4. Fourth Priority – Referrals

- Other federal, state or local agencies, such as the Workers' Compensation Bureau, can refer concerns to OSHA. They will evaluate the concern and may inspect the workplace. The media can also refer concerns.

5. Fifth Priority - Targeted Inspections

- Some industries have higher incidence of workplace injuries and illnesses. OSHA can direct inspection efforts at these industries. Examples include construction and mining.

6. Sixth Priority – Follow up Inspections

- OSHA routinely checks back on the abatement of hazards from previous inspections. This is sometimes completed with an onsite visit but can also be done with a phone call.

7. Seventh Priority – Random Inspection

- With the time left after fulfilling the first six priorities, OSHA inspectors are assigned random businesses to visit. The likelihood of a random visit is increased in states that have their own state plans.

Prior to an Inspection

OSHA comes prepared. The OSHA Inspector will have reviewed the complaint or other reason for their visit, previous inspection results, an overview of the history of the worksite from a variety of sources and a briefing of the regulatory standards that are most likely to apply to the worksite. They will also gather appropriate protective equipment and testing instruments they may use at the site.

Workplaces should strive to be inspection ready every day. Because many inspections are unannounced, a workplace game plan on how the staff will respond to an inspection is an important preparation step.

Pre-designate someone to work with OSHA if and when a Compliance Officer arrives. This may be a Manager, Supervisor or someone designated by management. If these individuals are not on site when the compliance officer arrives, employees are to contact the designated person immediately and respectfully ask the compliance officer to wait. It may be helpful to ask the Officer how long you will have to make the contact. This is generally a 15 minute window. If the designated individual can't be connected, then the compliance officer can be asked if they are willing to reschedule. If they are not willing, then it is best to proceed to avoid an adversarial visit.

Day of Inspection

At the beginning of the inspection, the Compliance Officer will attempt to locate the Manager or Designated Employee and present credentials. Always ask for the Compliance Officer's credentials; a business card is not sufficient.

The Compliance Officer's credentials will include a photo of the Compliance Officer, the State or Federal Department of Labor seal and job title of the compliance officer. If there are any questions or concerns regarding the Compliance Officer, the local OSHA office can be called to verify credentials.

It is prudent to only have management communicate with the Compliance Officer while they are waiting for the designated representative.

Opening Conference

Once all parties have arrived, the Compliance Officer will outline the inspection process including the bullets listed below. At this time, offsite management may join the meeting via a conference call.

- The Compliance Officer will outline the purpose of the inspection. The purpose of the inspection may be one of the following:
 - Fatality Complaint Referral Follow up
 - Programmed Inspection - National/Special Emphasis program
- The scope of the inspection will be outlined. The scope will either be a comprehensive or partial inspection.
 - A comprehensive inspection will include the entire facility.
 - A partial inspection will be a limited focus on certain areas of the facility (typically these are complaint/referral or special/national emphasis inspections). If the inspection is regarding a complaint or referral, a copy of the complaint/referral will be provided. The name of complainant may not be included.
- The Compliance Officer will review any records pertaining to the inspection, which may include training records and written safety programs. Provide copies of the specific records requested by the Compliance Officer. The Compliance Officer may inquire of any trade secret areas on site, for example, recipes or trade secret processes. This information should be disclosed and the compliance officer will note areas within the file as confidential.
- Employee interviews may be conducted as a part of the inspection. The Compliance Officer will discuss the employee interview process during the opening conference. Interviews with employees are typically conducted during the walkthrough portion of the inspection. Normally these interviews are private, however, an employee may ask for a manager to be present. Upon the request to have a manager present, the Compliance Officer will allow management to join the interview process. This decision is solely at the employee's discretion.
- The Compliance Officer may ask what types of personal protective equipment (PPE) is required. The hazard assessment used to determine the PPE used may also be requested.
- Upon completing a review of the information listed above, the Compliance Officer will ask for consent to proceed with the inspection. The Compliance Officer will make an effort to clarify the employer's intent to proceed if questionable.

Walk-through

- Complaint/referral inspections will typically be limited to the area listed on the complaint/referral. Consideration should be given to limit the inspection to what the Compliance Officer requests. The inspector may expand the scope of the inspection if other hazards are observed.
- The Compliance Officer and representatives will walk through the workplace, gathering information on points that may impact safety and inspecting for hazards in general. They may also evaluate worksite injury and illness records, training documents and safety communications. The Manager/Supervisor or designated employee should remain with the Compliance Officer at all times during the inspection except during employee interviews (unless requested by the employee). The Compliance Officer has the right to limit the number of employer representative's participating in the inspection or may request representatives join and leave the inspection on an as needed basis.
- It is recommended that the Manager/Supervisor or designated employee take detailed notes of all items noted by the Compliance Officer. Photographs should also be taken of hazards noted and/or photographed by the Compliance Office. This information may be helpful in remedying any issues.
- During the walk through, Compliance Officers may point out violations that could be corrected immediately, insecure stacking of boxes, for example. These hazards identified by the Compliance Officer should be corrected immediately since this shows good faith. If a citation is issued for the situation, the citation will note if the hazard was immediately abated. It may be helpful to have an extra employee available to rectify issues as the walkthrough will continue on pace.
- All work rules and safety procedures must be adhered to by all parties involved with the inspection, including the Compliance Officer and Designated Employee. If PPE is required in certain areas, everyone must wear necessary protection.
- Ensure the discussion is limited only to questions asked by the Compliance Officer. Answer all questions honestly and factually and consider limiting the response to information related to the inspection or specific complaint items.
- As mentioned above, the Compliance Officer may ask to speak with employees regarding hazards.
 - The inspector should ask permission from the Manager/Supervisor or designated employee so as to limit workplace disruption.
 - Manager/Supervisor or designated employee may not attend these interviews unless the employee requests management presence.
 - Typically the inspector will ask about the associate's job duties, level of training and knowledge and recognition of hazards.

Closing Conference

At the conclusion of the inspection, the Compliance Officer will conduct a closing conference with the Manager/Supervisor or designated employee. The Compliance Officer will explain the results of the inspection; discuss possible courses of action that can be taken by the employer and answer any questions. It's unlikely that they will speak about any citations that may or may not be issued. Lastly, the Compliance Officer will provide information on consulting services and rights of employees.

During the closing conference:

- Carefully listen to the Compliance Officer's proposal. Do not argue or debate the initial proposed findings.
- Take detailed notes regarding results of the inspection outlined by the Compliance Officer along with applicable standards and suggested abatement procedures.
- The Compliance Officer will review the next steps regarding the inspection. There will be numerous requirements for posting and abatement of any issue.
- The Manager/Supervisor or designated employee should sign the document which explains the responsibilities and courses of action if a citation is received.

After the inspection

- Review all areas noted by the Compliance Officer and make appropriate abatements.
- If citations are issued, follow the instructions on how, where and how long to post documents.
- If it is decided to proceed with any actions, including an informal conference, reductions in fees or formal conference, there will be a limited number of days to meet with OSHA or contest any citations.

Helpful Hints

- Alert the proper management team members right away to any communications with OSHA.
- Listen carefully and ask clarifying questions.
- Don't joke or make light of comments.
- If you don't know the answer, tell the Compliance Officer you don't know and will follow up. Make sure you follow up promptly.
- Allow OSHA to talk with team members privately following the regulatory procedures for employee interviews.
- Document all communications – calls, emails and documents.
- Watch for additional information to be sent by OSHA, sometimes weeks or months afterward.
- Follow timeframes for compliance which are very important. Missing timeframe can result in additional violations and fines.

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