



OSHA Inspection Survival Guide

A game-plan for preparing
your team and your
workplace for success.



Contents

Why me?	3
Introductions.....	6
Opening Conference.....	10
The Inspection.....	11
Employee Interviews	12
Document Audit.....	15
Closing Conference.....	18
Informal Conference.....	20
Conclusion	22



Why is OSHA inspecting my workplace?

They may visit your place of business for any of the following reasons, among others:

- A very bad incident (fatality, amputation, someone lost an eye or had to be hospitalized due to the injury/exposure)
- An anonymous phone call to the local OSHA office about an unsafe condition at work
- A report from an official from another government agency who saw something unsafe during a visit and reported you to OSHA
- An “imminent danger” at your workplace, which became known to OSHA
- A follow-up on a previous visit to confirm that corrective action is working satisfactorily
- Any other reason out of your control, such as being in an industry where OSHA is enacting an “emphasis program” campaign

Whatever the reason, OSHA provides no advance notice.



OSHA and Warrants:

Although OSHA doesn't need a warrant, you can request one. Should you request a warrant, it won't buy much time. They'll obtain one quickly and easily. Typically, once they've stated their business, they expect to be invited in.



Introductions

It typically starts with introductions. You should ask for their credentials and business cards. They will ask for the owner/operator of the business, or the person in charge. The highest-ranking manager on-site may fill this role until the owner/operator is available. If you need to bring such a manager in, do not take more than an hour of their time in wait. More time can count against you as a “refusal”. Typically, the person in-charge will designate a manager to work with the inspectors in advance (more on this later), it is a best practice that the most knowledgeable person on safety and health be available.

Now that the compliance safety and health officers (CSHO), or inspectors are on-site, they’ll need a place to work. A conference room works best for this.

If they’ve arrived due to an anonymous call, a notification from another government agency, or they are aware of an imminent danger, they will want to see the source as soon as possible. Do not delay them in achieving this.

If they are there for investigation of a fatality, have your attorney present.

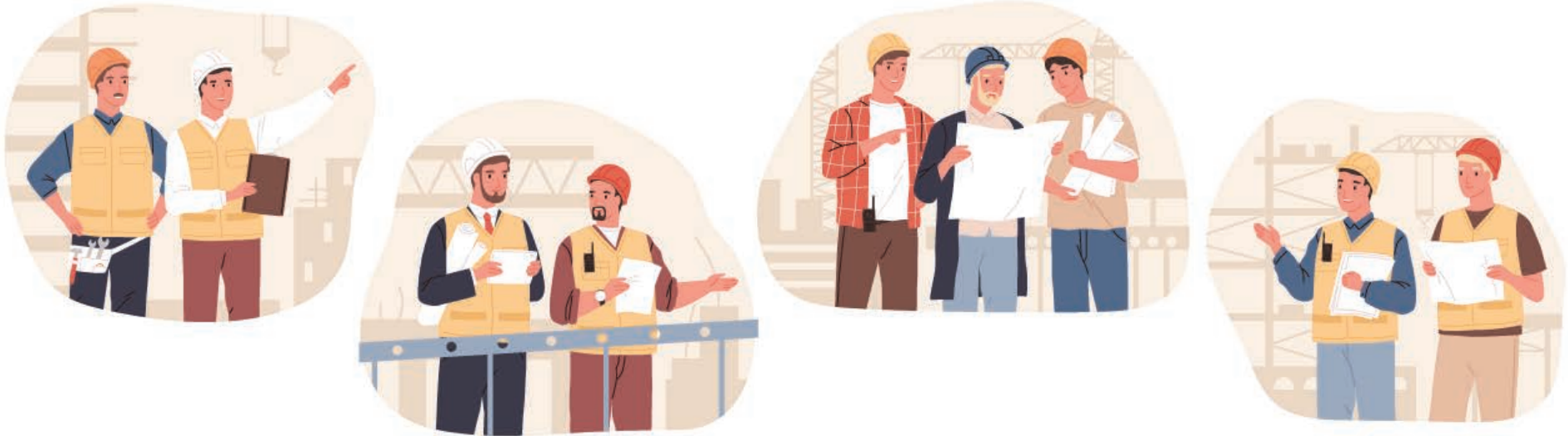
Inspections are usually performed during regular business hours unless they’re investigating a fatality or hospitalization, as these can happen at any time.

The American National Standards Institute is a private non-profit organization that oversees the development of voluntary consensus standards for products, services, processes, systems, and personnel in the United States.

The Opening Conference

Once all are together, the “opening conference” will commence. This gives the inspectors time to brief everyone on their visit.

If you’re unsure, listen for clues as to why OSHA is there (complaint? emphasis program? Etc.) Ask what the inspector will focus on and how long to expect the inspection to last. This can be any time frame from 20 minutes to 6 months. which concepts were communicated effectively.



The Inspection

Here are some inspection guidelines to keep in mind:

- During facility or worksite walk-throughs, accompany the inspectors and don't let them wander unsupervised. Limit their investigation area to only the scope of the investigation.
- Remember the "plain view doctrine". While the inspector should stick to the area relevant to the inspection, they reserve the right to expand the inspection if they see an unaddressed hazard. Any unsafe act or noncompliance they witness can be cited.
- If the inspector takes photos, take your own photos and do so from multiple angles. Take notes and ask questions, but never admit to any violations and do not volunteer anything not asked for.
- Do correct hazards where possible. Many times, if a hazard can be corrected during the time the inspector is in house, do so. It may save you from a citation.
- Three common things most inspectors will look for during the inspection: good housekeeping, clear access to fire fighting equipment/alarms, and employees wearing the correct personal protective equipment (PPE).
- They may also ask employees about how to obtain a safety data sheet (SDS) for any chemical they see in use. Similarly, they may ask that employees know how to access program documents such as plans for emergency response or HazCom (Hazard Communication).

Employee Interviews

The inspectors will usually look at a couple of data points outside of the workplace inspection information. These include employee interviews and a documentation review.

They'll want to interview a representative sample of employees. If they are on-site due to any injury, or a report of a specific incident, they may ask for those working in that specific area, those that were closest to the incident, or those familiar with the equipment, process, or machine.

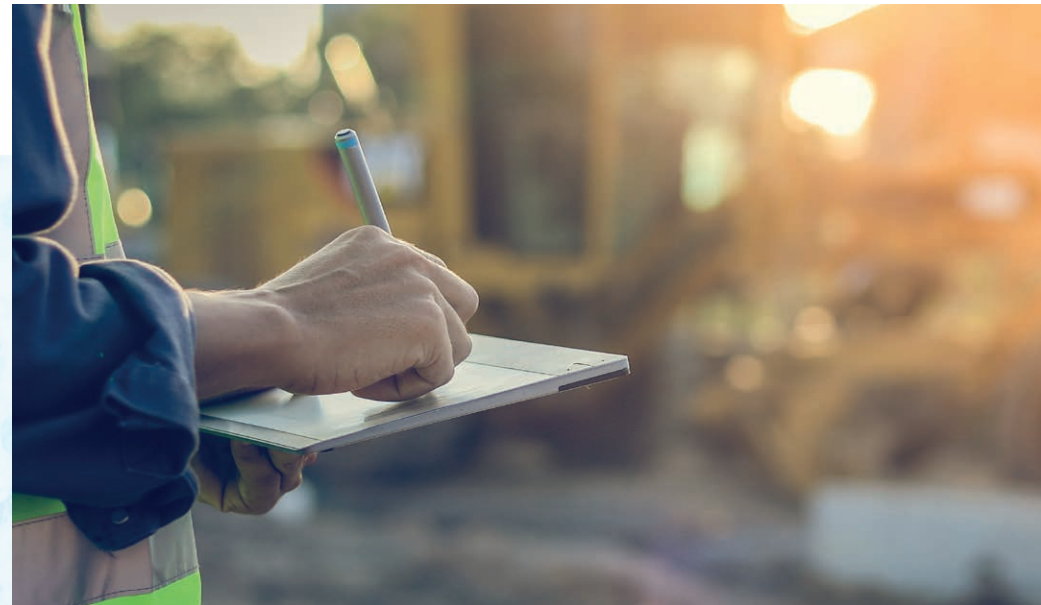
To minimize work disruptions, it is acceptable to ask the inspector to wait until break or for a replacement worker, but don't interfere with individual or group employee interviews. The employer is not permitted to sit in on employee interviews unless managers are interviewed. If part of a collective bargaining unit, the employee may have an "authorized employee representative" present during the interview.

And finally; keep in mind that there are a few (but not many) State OSHA standards that may require annual refresher training on a topic that Federal OSHA does not.



The Closing Conference

The Inspectors will review what they saw and any violations that they may have witnessed as well as propose actions to mitigate. If the violations could not be corrected while they were there, and rise to the level of citations, they will describe these as well. Listen carefully, ask questions and do not admit any violations.



Next Steps

If the inspection generates citations, they will be sent through registered mail. The citation will state the alleged regulation violation(s) and the type(s) of violation(s), each of which carries either a recommended or mandatory penalty. The types of violation include:

- Willful (you were aware you had a problem and haven't corrected it)
- Serious (someone can be seriously injured)
- Repeat (this isn't the first time you have been cited and whatever mitigation you put in place isn't effective)
- Failure to abate prior violation
- Other than serious (does not rise to the seriousness of a citation, but needs to be mentioned)
- De minimis (a technical violation that does not directly relate to safety or health)

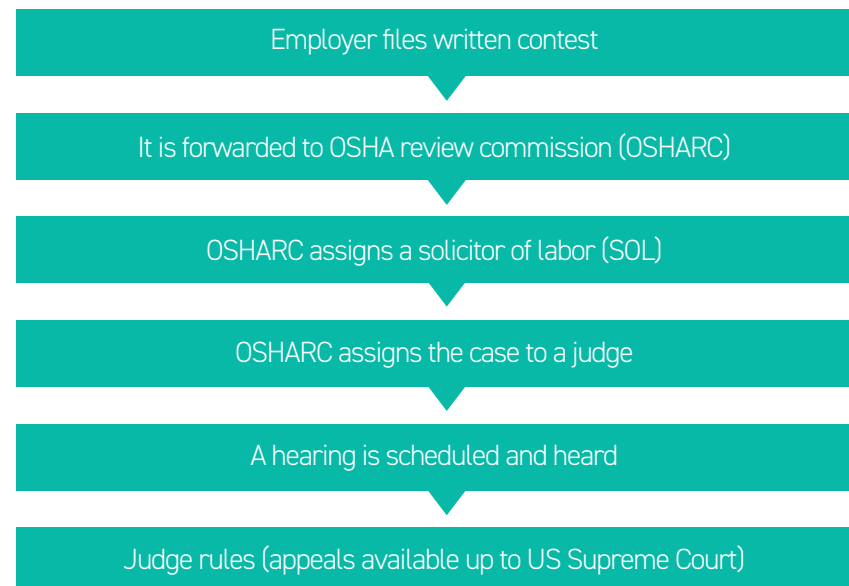
Just provide the inspectors with what they ask for and do not volunteer any records.

Typically, there is an abatement date (deadline to correct). Post the citation near the violation. If you cannot, post it in a location where employees gather such as a cafeteria or a break room. These must remain posted for three (3) days.

OSHA has six (6) months to send the citations. If you do not receive violation citations after six (6) months, you are in the clear. Typically, they will arrive 50-80 days after the inspection.

Once you have received the citations, the clock starts running. You have 15 days to make 1 of 3 choices:

1. Accept the citations and pay the penalties. In this case, you were probably already aware of the hazard. The hazard and subsequent citation should be addressed through a thorough investigation of the hazard, including a root cause analysis to control or eliminate the hazard and prevent any recurrence. You must communicate the citation to all involved in the hazard to which it alludes. Post it near the violation, and communicate all citation activity to correct and prevent recurrence to all affected.
2. Contest the citations. You have 15 days to contest citations, if you choose to do so. You may contest the citation, the abatement period and/or the penalty. To contesting process is as follows:



The Informal Conference

The meeting will be with the Area or the Assistant Area Director at their office or over the phone. The employer/owner should be in attendance as well as any management that have control over the abatement. The director will go through each of the citations with you, and you will have the opportunity to produce an abatement plan (take ownership; provide background and abatement with due date); request a reduction in penalty and/or severity; or present an argument against it.

Bring a plan of what you can and will do beyond simply correcting the hazards. You can ask to extend the abatement period or to lower the cost, but bring any proof of abatement (e.g., hiring a consultant, engineering plans to correct, any good faith effort, etc.).

If you choose the informal conference, it does not change the 15-day window to contest.



A Proactive Approach

There are many things you can do prior to the visit to achieve a more positive outcome.

Proactive Planning for Inspections

- Develop an inspection plan
- Identify the team that will meet with the inspector
- Train all team members thoroughly (management and employees require an overview)
- Train employees on their rights
- Train front desk/security on who needs to be contacted
- Practice with your team
- Identify backups for the key team members
- Have a plan for requesting warrants (if needed)
- Have a plan for document retrieval
- The team shall include: upper management, safety officer, maintenance supervisor and labor-shop steward





A Proactive Approach (Cont'd)

Prevention of Inspections and Subsequent Citations

- Management leadership and employee participation are required in the health and safety program.
- Keep track of regulations and be compliant to regulations that apply from the OSHA, the EPA, and all other agencies. Keep informed of new regulatory requirements and be aware of enforcement programs.
- Develop and implement a proactive health and safety program (i.e., heavy on inspections, audits, assessments).
- Train all that are impacted by health and safety program in a language or vocabulary they understand.
- Train in all aspects of health and safety, specifically identification, prevention and control of hazards.
- Develop processes to proactively identify hazards prior to an injury/illness (scheduled, regular inspections of the workplace, audits, and assessments, JHA required as post-injury closure, etc.)
- Get your employees involved, providing each a role, no matter how minor, to provide a sense of ownership of the program (you can also create a safety committee to over see other engagement activities such as surveys).
- Evaluate your health and safety programs annually through audits and assessments. Promptly close any gaps found.
- Investigate all incidents, to include near misses, injuries, and property damage, in such a way to address the root cause and enact solutions.
- Maintain accurate records of exposures, training and inspections.
- Utilize other tools such as JHA, third-party auditors, self-inspections or work cell daily audits
- Beware of safety incentive programs. Avoid any recognition for safe work, as safety is a condition of hire. Further, incentive programs can be corrupted.



Conclusion

There's only one foolproof way to have a positive outcome from an OSHA inspection: put a successful health and safety program in place. For all those engaged in safety, this generates confidence in a safe workplace. In turn, this confidence will create a more relaxed attitude in you and your team, if OSHA does show up.

A good health and safety program begins with fostering safety culture. Culture is developed and nurtured along with the program. In a healthy safety culture, a business management team does not wait for a safety incident to realize they have a safety problem. Instead, two philosophical ideas are at work:

1. Everyone is engaged at some level in the health and safety program, and they can speak to it with confidence.
2. Unsafe and unhealthy conditions are sought out and corrected before they can hurt someone.

In other words, engagement and a proactivity constitute a successful program.

One other point. It is best to toss the mindset that "OSHA is the enemy, and we must do all we can to avoid them!" OSHA is your business partner in creating and maintaining a safe and healthy workplace. Remember, they want you to be successful! If you go into the inspection knowing this, and keep it in mind, all will go well.



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