

HEALTH & SAFETY

How to be ready when an OSHA inspector comes calling

By Jim Stanley

The Occupational Safety and Health Administration (OSHA) is dramatically increasing enforcement, making it much more likely that an agency inspector will visit your business. But companies need not panic — thoughtful planning can prepare you for an inspection.

The best defense

A key to good planning is, of course, understanding the process and how your company can make the best case for its safety practices. The best defense your company has is an effective safety plan designed to protect workers and meet OSHA standards. Strong, consistent implementation of this plan is obviously critical. If your company's safety plan has not been reviewed recently, you would be well-advised to do so. Many businesses have made changes in their operations to respond to shifts in the economy, and the impact on safety may need to be examined. In addition, you need to be sure that your practices can withstand increased OSHA scrutiny.

Best practices

Companies should also prepare a plan for OSHA inspections that sets out orderly procedures to follow when an inspector arrives. Here are some highlights of best practices:

1. **Companies should have a manager designated in advance to represent it during an OSHA inspection, which typically occurs on a surprise basis.**

A company representative well-versed in OSHA procedures and your safety program is critical to having your company's interests well-represented during the inspection. Ideally, this should be your company's safety director, if you have one, or someone else in upper management.

The company representative should be present during every part of the OSHA inspection. If the designated company representative is not available when the inspector arrives, the inspector usually will be willing to wait for up to an hour. But be sure to have a backup representative identified. If necessary, the backup can communicate by phone with the designated representative as the inspection proceeds.

2. **Companies should take advantage of the opening conference, which typically occurs right after an**

inspector arrives, to discuss what will happen during the inspection and understand its scope.

You are free to ask the inspector questions. You might inquire as to what prompted the inspection and whether there is a written complaint. If so, ask to see the complaint.

Make sure you understand the intended scope of the inspection. The inspector may be there to examine only a portion of your operation. While the inspector can follow up on other issues that are in plain view, you are not otherwise obligated to allow a limited scope inspection to become a full-blown review of your facility.

The inspector will most likely ask to see company records. Ask for the request in writing so there is no later misunderstanding about what the inspector wanted.

3. **The company representative should always accompany the OSHA inspector during the walk-around inspection.**

The company representative should take notes of what happens during the inspection and should photograph or videotape the same things that the OSHA inspector does. The representative should make note of all measurements and samples taken and the names of all workers and managers who are interviewed. The company representative should take the same measurements and samples as the inspector, either at the same time or immediately after.

Your notes, photographs, measurements, and samples may prove to be very helpful should the inspector issue a citation or violation.

4. **Inform non-supervisory workers that they have the right to speak or not to speak with the inspector and give them an idea of what kinds of questions the inspector is likely to ask.**

Employers cannot prevent OSHA from speaking to non-supervisory employees, and those employees have the right to speak with the inspector outside the presence of the company representative. However, you can give employees a heads-up on what to expect, so long as it is not done in such a way as to put pressure on them.

You can tell non-supervisory employees that they have the right to speak or not to speak with the inspector. You can also advise employees of what the inspector is likely to ask. Additionally, employees have the right to record their sessions with inspectors.

You should, of course, always advise employees to tell the truth. You may also conduct a voluntary debriefing of employees after they speak with the inspector.

The situation for managers and supervisors is different. A company has the right to have its representative sit in on all interviews with supervisors and managers.

The company should always exercise this right, especially since statements by managers and supervisors can legally bind the company. Supervisors and managers should be prepared in advance for their interviews, if possible.

5. Don't be afraid to ask questions at the closing conference, which takes place at the end of the inspection.

If your company is being cited, ask what specific standards are involved and how they are classified (serious, repeat, etc.) Inquire what the penalty might be.

Avoid admitting to violations at the conference. There may be defenses to the violations that are not immediately apparent.

Bottom line

Advance preparation is essential to achieving the best possible outcome from an OSHA inspection. The tips mentioned above provide some highlights, but you may wish to speak with an occupational safety and health consultant or your attorney to discuss other aspects of an effective plan to prepare for inspections.

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