

# **PRE-OSHA INSPECTION PLANNING GUIDELINES**

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## **INTRODUCTION**

Many facilities have already experienced one or more OSHA site inspections and have first-hand knowledge of what this involves. Other facilities have not, or have had the experience a number of years ago, and thus current management and employees are not familiar with what to expect. Most metal finishing operations can expect at least one visit from an OSHA inspector. For some, this can be a traumatic experience and for others it is viewed as an opportunity to confirm compliance status.

The intent of this paper is not to present a comprehensive outline of how to establish a compliant safety program, but to review the establishment of a protocol to deal with unannounced OSHA inspections before they happen. Having a clear written plan on how to handle those inspections and trained and knowledgeable employees to participate in these inspections can go a long way in preventing misunderstandings, future problems, and needless stress. It can also preserve your legal rights under the law.

## **INSPECTIONS**

Unless you have requested a voluntary inspection, virtually all OSHA inspections are unannounced. Having an understanding of the nature of the inspection to be conducted at its

onset will allow some control by the site management regarding the scope of that inspection. There are a variety of different types of inspections that can occur and each has certain limitations that can be utilized if certain steps are taken at the beginning.

### **1. Formal Written Complaints**

A written complaint to OSHA, usually by an employee, will more often than not trigger an OSHA inspection relatively soon after it is received. The resulting inspection can be limited to the specific area(s) of the written complaint, provided the nature of the inspection is determined beforehand in an opening meeting. (This is probably the most common type of inspection.)

### **2. Informal Complaints**

Generally, these are in the form of a telephone call, e-mail or fax. These may trigger an OSHA follow-up several weeks or months after receipt; follow-up may be an inspection, letter or phone call to the employer to explain the operation(s) involving the complaint. In any case, inspection or comment can be limited to the specific complaint issue(s). (These are less common and more often than not result in a telephone request for information.)

### **3. Site Specific Targeting**

OSHA in 2001, based on 1998 data, conducted inspections of 100% of facilities that reported greater than 14 loss workday incidents above their industry's average levels. Facilities with 8-13 workday losses above industry average ran a better than 60% inspection rate in 2001. It is expected OSHA will

continue these inspections in 2002 based on 1999 submitted data. These inspections are difficult to limit in scope due to the normal variability of incident causes.

#### 4. **Targeted Industry/Chemical Inspections**

Periodically, OSHA will pick an industry (such as a lead battery, rubber compounding or resin manufacturing facility) or a specific chemical (such as cyanide, benzene or toluene diisocyanate) user for broad scope facility inspections. These are open to the entire facility and generally cannot be limited (occurrences are variable).

#### 5. **Serious Injury or Death**

OSHA will usually follow-up a serious injury or death report within twenty-four to seventy-two hours with an inspector. In these cases, the entire facility is subject to inspection. (These are case dependent occurrences.)

#### 6. **Catastrophic**

In the event a major explosion, fire or other accident involving significant injuries, multiple deaths or beyond the property line serious impact, OSHA will respond almost immediately. The entire facility is subject to inspection without limitation. (This too is case dependent regarding occurrence.)

Under the United States constitution and rule of law, individuals and companies are protected from unreasonable search and seizure and you have the right to refuse entry to the facility by an OSHA inspector. However, that action should be taken only where very special circumstances

exist and only where legal counsel has recommended such action. Denying access to OSHA inspectors will probably result in their obtaining a court ordered search warrant and then coming back to perform an in-depth inspection of the entire facility to try to find what you were trying to hide. In most cases, it is best to deal with inspections without the involvement of legal counsel; however, it is highly recommended that each facility have in place a written and functional regulatory inspection protocol, that has been reviewed by legal counsel, before the inspector arrives.

### **PRE-INSPECTION PLAN**

The first step is to prepare a written plan outlining a general procedures to be followed, designating duties of various individuals, detailing immediate and longer term follow-up actions and informing employees of the inspection and its findings. Employees need to be informed that no inspector is to be allowed onto the property or into the facility without first going to the front office or receptionist and signing in. If an inspector shows up on the property or in the facility without signing in, employees should be instructed to politely escort the individual(s), by taking them outside the facility, to the front door.

The pre-inspection plan generally should consist of six sections: (1) reception, (2) opening meeting, (3) inspection, (4) closing meeting, (5) inspection follow-up, and (6) response.

1. The **Receptionist** must be instructed on how to deal with inspectors. The Receptionist should have the inspector(s) sign in, with date and time of arrival. Then, the Receptionist should inform either, or both, the plant manager and person responsible for safety issues at the site that the inspectors have arrived.

Either the plant manager or the safety person should quickly go out to the Reception area and identify themselves and request from the inspector's verification of their identity. If, for some reason, the inspectors do not show proper identification, entry into the plant should be denied until such time as their identity is confirmed. When identity is established, the inspector(s) should be directed to a meeting room where the Opening Meeting can be conducted before the actual inspection occurs.

2. At the **Opening Meeting**, the plant manager needs to ask specifically what is the nature of the inspection. The inspector(s) will cite the reason for the inspection and the authority under which it is being conducted; this will inform the plant manager just what operation(s) and department(s) will be involved. The plant manager will then delegate the following responsibilities:

- a. Who will escort inspector(s) during inspection. (Under no circumstances is/are inspector(s) to be allowed to wander around the plant unescorted).
- b. Who will take notes during inspection; it is not recommended to tape record inspection. However, someone should be taking down notes of inspector's commentary during the inspection process.
- c. If samples or photos are to be taken by inspectors, who will duplicate the same for the facility?
- d. Who will be the one person charged with answering inspector

questions pertaining to various operations; can be more than one person in total, but should not be more than one person per operation/process.

- e. Who will be responsible for document control? Any requests for copies of documentation by inspector(s) will be recorded and then one person will be charged with collating, checking, copying, recording what was copied and arranging for transfer to inspector(s) at the closing meeting.
- f. With operations involving union workers, a union officer is to be included with inspection team.

Plant manager will then define ground rules under which the inspection will operate (except in cases involving accidental death or severe injury, employers have the right to establish certain inspection ground rules):

- a. What department(s) or area(s) will be included on inspection; this will be limited only to specific inspector cited areas.
- b. What normal business hours are and when identified production area(s) will be available for inspection.
- c. What safety equipment inspector(s) will wear and what safety procedures they will follow during inspection; these must be the same, or equivalent to, those used by employees.

- d. If the inspector(s) wish to speak to a specific employee, the plant manager will specify when, where and if on company time inspector may meet privately with employee.
- e. State that all questions will be truthfully and frankly answered subject to available knowledge and that those questions not readily answerable will be addressed, in writing, as soon as information is available.
- f. State that all specifically requested files will be available for inspector review; make sure that only documents requested are made available. If hard copies are requested, inspector will specify which records/files they want and the designated site person for document control will prepare the list, make copies and have inspector sign for their receipt.
- g. If restrictions exist pertaining to photographs taken in the plant, these must be spelled out; these restrictions must be the same that apply to all other visitors. Generally, inspectors have the legal right to photograph any citable situation; however, they can be limited to the citable offending area.

Plant manager will then request a closing meeting be held following the inspection.

3. With everything defined in the Opening Meeting, the walk around **Inspection** should be a breeze. Nevertheless, some general tips are in order:

- Be courteous and businesslike.
- Don't hesitate to ask inspector(s) what they would suggest if an area comes up that seems to bother them. If a particular situation seems to be non-compliant, probe to get at what is the specific issue of concern.
- Be tactful and remember to answer truthfully questions asked and don't hesitate to say "I don't know, but I will get the answer to your question for you" if you don't know the answer. Don't try to "wing it" if you are not sure of the answer, go to a source that can get the right answer. Never volunteer speculations.

4. The **Closing Meeting** should be held immediately following the conclusion of the inspection and should include the original cast that was present during the Opening Meeting. At this meeting, the plant manager asks for a verbal summary of the inspection's findings. At each point raised, try and get inspector(s) to comment on what they would suggest to resolve that situation. If some issues are readily correctable and not contested, plant manager should make a commitment that these issues will be resolved even before the final inspection report will be issued. This "good faith" commitment will be helpful to the company when the inspector(s) write up their official report. All samples and photos taken need to be recorded.

5. **Following the departure of the inspector(s)**, the plant manager needs to get everyone involved in the inspection to conduct a "debriefing" and record all the

information gathered and observed. This information, along with the minutes of the Opening and Closing Meetings, should be preserved in a separate file; this should be done the same day as the Closing Meeting. The next day, plant personnel need to review the debriefing report and assign priorities to problems likely to be cited; it is important to remember that response time on corrective action is an important measure of the degree of cooperation displayed and can be beneficial in reducing penalties.

presented as one way to implement such a plan, but should not be viewed as the only one available. Companies should utilize the expertise of either in-house staff or outside consultants to assist them in formulating a plan that is right for them. Also, getting employees directly involved with safety will result in both a safer plant environment and fewer citations.

6. **Response** times to any citation received are critical. Generally, any exception to a citation must be made within 15 calendar days of it's receipt; failure to exercise this right within this period, means you have abdicated your right to appeal, even if the agency is dead wrong. Usually, companies have the right to request a meeting with the agency, before the expiration of the 15 day appeal period, and it is recommended that every company request this meeting. This gives the company an opportunity to review the citation(s) with the agency, understand the regulatory requirement, and to review the progress the company has already achieved in correcting deficiencies noted during the inspection (if applicable); often, extensions to deadlines for completing corrective actions can be negotiated, but if not, then you still have time to appeal.

## **COMMENTARY**

Companies that implement a plan on dealing with OSHA inspections beforehand generally have fewer confrontational issues and end up with lower assessed penalties. This approach is