



Health & Safety

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OSHA Inspection Planning and Response

Most manufacturing facilities can expect at least one visit from an OSHA inspector. For some, the announced arrival of an OSHA inspector can be a traumatic experience, while for others it is viewed as an opportunity to confirm compliance status. The purpose of this article is NOT to discuss the establishment of a comprehensive safety program, but to discuss the establishment of a premeditated inspection protocol and plan to be followed during an OSHA inspection. Having an understanding of the various types of inspections that can be conducted, knowing what basic legal rights employers and employees have and having a pre-established inspection protocol in place before the inspection can prevent future problems, misunderstandings, and needless stress.

Inspections

Unless you have requested a voluntary inspection, all OSHA inspections are unannounced; it is illegal for any OSHA personnel to give advance notice of a site inspection instituted by the agency. Having an understanding of the nature of the inspection to be conducted, however, will allow some control by the site's management regarding the latitude of that inspection. There are five (5) basic types of OSHA inspections:

1. **Inspections Caused By Formal Written Complaint.** These take place soon after the written complaint is lodged and can be limited to the specific area(s) of the written complaint.
2. **Inspections Caused By Informal Complaint.** These may occur several months after the complaint is made; also, follow-up may only include a telephone or written request for employer to explain the nature of the complaint. In either case, inspection and/or comment can be limited to the specific complaint.

3. **Random Computer Selection of Site for Inspection.** In these circumstances, the entire plant is open to inspection of OSHA compliance.
4. **Target Industry/Chemical Inspection.** These inspections can be usually limited to specific areas of the plant where the process or chemicals are used.
5. **Inspections Following Accidental Death or Severe Injury.** OSHA will follow-up with, usually, a full blown inspection of the site within 24 to 72 hours of a reported death or serious injury. All plant areas are subject to inspection under these circumstances.

The Constitution of the United States protects individuals and companies from unreasonable search and seizure and you would have the right to refuse entry to the plant by any OSHA inspector. However, that action should be taken only where special circumstances exist and where you have received legal counsel recommending that action. Denying access to OSHA inspectors will probably result in their obtaining a search warrant, and then coming back to perform a "by-the-book" inspection to find out what you were "trying to hide."

Pre-inspection Plan/Implementation

Each facility should establish and train a team of personnel who will respond to a regulatory inspection in accordance to a pre-determined protocol. The first step in establishing an inspection plan is to inform all employees that no inspector is to be allowed into the plant/facility without first going to the Receptionist and signing in. If an inspector shows up on the property without going first to the receptionist (front door), employees should be instructed to politely escort those individuals, by taking them outside the plant, to the front door.

Management needs to setup an inspection protocol that involves: (1) Reception; (2) Opening Meeting; (3) Inspection; (4) Closing Meeting; (5) Inspection Follow-up; and (6) Response. The following is an overview of each of these segments of the inspection plan:

(1) Reception

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, identify themselves and request from the inspectors 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) Opening Meeting

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. (This is important to make sure that poignant points are not forgotten and/or confused later on).

- 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; this 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. The plant manager will then define ground rules under which the inspection will operate; employers have the right to establish certain inspection ground rules, except in cases involving accidental death or severe injury.
 - 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 whether this is to be done on company time or employee time.
 - 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. The plant manager will then request a closing meeting be held following the inspection.

(3) Inspection

With everything defined in the opening meeting, the walk around inspection should be a breeze. Nevertheless, some general tips are in order:

- a. Be courteous and businesslike.
- b. 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.
- c. Be tactful and remember to answer questions truthfully. 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) Closing Meeting

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) Inspection Follow-Up

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.

(6) Response

Response time to any citation received is 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.

Benefits of Planning

Companies that implement a plan for dealing with OSHA inspections generally have fewer confrontational issues and end up with lower assessed penalties. This approach is presented as one way to implement such a plan, but should not be viewed as the only option. Companies should utilize the expertise of 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. ○