



OSHA Inspections

SafetyNet Article



There are several very specific events or occurrences which may prompt an OSHA Investigation. The business must by law cooperate, though it is advisable to verify the inspector's identity with the local OSHA office. This summary outlines what the business may do within its rights, and outlines penalties as they apply for various infringements.

What Should I Do if OSHA Shows Up at My Door?

Several events or occurrences may prompt an OSHA Investigation:

- Formal Complaint. This is a written complaint by a current employee.
- Informal Complaint which is filed by a former employee, third party or by telephone.
- Routine Inspection resulting from known high hazard or high frequency of injuries.
- Specific Inspection as a result of incident resulting in serious injury or fatality.
- Referrals from medical reports or other agencies.
- Follow-up for abatement of serious, previous violations.

First, require proper identification of the compliance officer such as official documentation or business card. Unscrupulous insurance or private investigators, attorneys, or newspaper reporters have been known to represent themselves as OSHA compliance officers. You may also call the OSHA area office to confirm someone's identity. After verifying the officer's identity, do not attempt to deny OSHA access. This can be very costly. You do, however, have the right to request that they wait until your safety representative is present (except in cases where an immediate danger is evident).

Start with an opening conference between company management, safety staff, and the OSHA inspector. Ask the OSHA official to clarify the reason for the inspection and to identify any area of concern, as well as the type of inspections to be performed. Inspections may be of the comprehensive "wall-to-wall" variety, or focused solely on the specific area of the complaint or investigation.

During the inspection itself, employees may be interviewed, photographs may be taken and OSHA officials may ask that demonstrations be performed and evidence collected. Trade secrets may be photographed but will be kept confidential by OSHA. OSHA may expand the scope of the investigation depending on findings. Employees have the right to speak privately with OSHA if they elect to do so.

The inspection will conclude with a closing conference. OSHA may elect to have a separate closing conference with employees. If citations are issued, they must be posted for a minimum of 3 days at the work location.



****IMPORTANT NOTE**** Employees may not be discharged for providing information to government agencies during an investigation or regarding the employer's violations of a law, rule, or regulation under federal and state "whistle blower" protection acts.

OSHA Penalties

OSHA may assess civil and/or criminal penalties against the company, officers and supervisors. In extreme cases, violators can be incarcerated but in most cases, penalties are limited to fines.

Civil Penalties

Section 17 of the OSH Act gives statutory authority to assess civil penalties of up to \$7,000 per violation for non-posting and other violations. Willful violations carry fines of up to \$70,000 per violation. Failure to abate hazards that have been cited can result in fines of up to \$7,000 per day until the hazard is abated.

Penalties may be adjusted by OSHA depending on these factors:

- **Gravity of the violation.** OSHA will predict the severity and probability of resulting injury, the number of workers and frequency of exposure.
- **Size of the business.** Businesses with under 250 employees may be eligible for a penalty reduction of 20-60% depending on the number of employees.
- **Good faith of the employer.** This generally requires a written safety and health program (that includes management commitment and employee involvement; worksite analysis for the purpose of hazard identification, hazard prevention and control measures; and safety and health training with only incidental deficiencies), and can result in a 25% penalty reduction. A documentable and effective safety and health program will normally result in a penalty reduction of 15%. Willful violations cannot be reduced by good faith as the employer cannot be willfully in violation of the OSH Act and at the same time, be acting in good faith.
- **Employer's history of previous violations.** Employers who have not been cited by OSHA for any serious, willful or repeated violations in the past 3 years may be eligible for a 10% penalty reduction.

Criminal Penalties

Criminal penalties may be assessed in addition to civil penalties in situations where:

- A willful violation caused a death.
- Giving unauthorized advance notice.
- Supplying false information.
- Hampering the work of a CSHO



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As always, contact Artex Cedar Hill's Safety Staff at (770) 333-1933, if you have any questions regarding this information or any other safety matters.