



The OSHA Inspection Process

Training Objectives

- Provide employees with introductory OSHA information
- Inform employees about the OSHA inspection process
- Inform employees of their rights during an inspection
- Educate supervisors of responsibilities, roles & requirements during an OSHA inspection.



BLS Statistics

- **5,190 U.S. workers were killed on the job in 2016**
 - **An average of 14 per day**
 - 2,083 transportation related fatalities
 - 849 Falls, Slips & Trips related fatalities
 - 761 Contact with objects/equipment
 - 866 Violence persons or animals
 - 518 Exposure to harmful substances
 - 88 Fire and explosions
- **2.9 million non-fatal workplace injuries.**

OSHA's Mission

The mission of OSHA is to **assure safe and healthful working conditions** for working men and women

- Set and enforce standards
- Provide training
- Outreach
- Education and assistance.



A Safe and Healthful Workplace

- A Worker Protection is Law: *The Occupational Safety and Health Act of 1970 (OSH Act)*
- OSHA was created to provide workers the right to a safe and healthful workplace – **General Duty Clause**
- It is the duty of the employers to provide workplaces that are free of known dangers that could harm their employees
- This law also gives workers important rights to participate in activities to ensure their protection from job hazards.

The OSHA Act of 1970

- Grants authority to the State of NC (NCDOL) to perform inspections
- OSHA has the right to request documentation to substantiate adherence to regulatory requirements
- OSHA has the right to speak with employees independently
- OSHA has the authority to take pictures, videos and samples.



Types of OSHA Inspections

- Serious Injury & Fatalities
- Employee Complaints
- Referrals (which can come from any entity, including another government agency)
- Programmed Inspections (Randomly selected, based on emphasis programs, injury rates or previous citations, i.e. DART inspection)
- National & State Emphasis
- Follow-up Inspections.

Types of OSHA Inspections

- **Fatality**
 - Must be reported to NCDOL within 8 hours
- **Serious Injury**
 - Must be reported to NCDOL within 24 hours
 - Amputation – fingertips, with or without bone loss
 - Loss of eye, “complete” loss of eye
 - In-patient hospitalization with care or treatment
 - Do not have to report if for observation or diagnostic testing.

Types of OSHA Inspections

Employee Complaints

- The OSHA Act allows employees or their representatives to report safety concerns – may be anonymous
 - Representatives - bona fide representative capacity
 - Union
 - Attorney
 - Clergy
 - Spouse
 - Social worker
 - Family members

Types of OSHA Inspections

- Referral from another agency
- Follow up inspection (i.e. fatality)
- Programmed inspection:
 - Random
 - **DART – Days Away from work, Restricted or Transferred**
 - Compliance Safety and Health Officer (CSHO) will request last 3-5 years of OSHA 300A's
 - Compare the industry DART rate – a calculation based on number of injuries and hours worked, compared to the industry average.
 - $(\# \text{ recordable injuries} \times 200,000) / \# \text{ of business hours worked}$
 - If greater than industry average, may open an inspection.

Types of Citations & Penalties



VIOLATION TYPE	PENALTY
<p>WILLFUL A violation that the employer intentionally and knowingly commits or a violation that the employer commits with plain indifference to the law.</p>	OSHA may propose penalties of up to \$70,000 for each willful violation, with a minimum penalty of \$5,000 for each willful violation.
<p>SERIOUS A violation where there is substantial probability that death or serious physical harm could result and that the employer knew, or should have known, of the hazard.</p>	There is a mandatory penalty for serious violations which may be up to \$7,000.
<p>OTHER-THAN-SERIOUS A violation that has a direct relationship to safety and health, but probably would not cause death or serious physical harm.</p>	OSHA may propose a penalty of up to \$7,000 for each other-than-serious violation.
<p>REPEATED A violation that is the same or similar to a previous violation.</p>	OSHA may propose penalties of up to \$70,000 for each repeated violation.

Below are the maximum penalty amounts adjusted for inflation as of Jan. 23, 2019. (See [OSHA Memo, Jan 23, 2019](#)).

Type of Violation	Penalty
Serious Other-Than-Serious Posting Requirements	\$13,260 per violation
Failure to Abate	\$13,260 per day beyond the abatement date
Willful or Repeated	\$132,598 per violation

Employer Preparedness

- Will inspection be granted, or warrant demanded?
- Who is to be contacted when OSHA requests to inspect?
- Who will be the employer's principal liaison?
- Who will accompany OSHA during inspection?
- Who will gather OSHA requested documents?
- How will employee and employer interviews be handled?



The OSHA Inspection Process

4 Major phases of the inspection process:

- The Opening Conference
- The Walk Through/Walkaround
- Interviews of Employees and Management/Supervisors
- The Closing Conference.

The Opening Conference

- Presentation of credentials
 - CSHO must present **State ID** and business card
 - Verify **name and picture**, record name and contact information
 - Call NC DOL to verify Compliance Officer
 - **800-625-2267**
- Identify the **Scope** of the inspection:
 - Full inspection
 - Limited/partial
 - Complaint inspections are normally limited to the complaint area.



The Opening Conference

- CSHO states why they need to inspect:
 - Complaint, injury, DART
 - Complaint should be presented to employer representative
 - Scope of inspection (full or limited)
- Verify that business name, address and location is correct
 - If these are not correct, the Compliance Officer may not have authority to perform inspection
- Contact Employer's Safety Representative
- Identify Employer Representatives that will assist Compliance Officer.

The Inspection Walkaround

- The scope of the inspection will effect the employer's actions
- A comprehensive (wall to wall) inspection will look at all facets of the business
- This may require coordination with multiple division representatives to accommodate the inspection
- CSHO must comply with employer's safety protocols and wear appropriate PPE.

The Inspection Walkaround

- Inspections that are limited in scope (partial) will be conducted only at the area **specified** in the document
 - An employee calls OSHA and states that there are no fire extinguishers in the Carpenter shop
 - The facility has a Carpentry shop, paint shop and welding shop
 - The inspection should only be focused on the carpentry shop
- The inspector can address “plain sight hazards” when walking to the carpentry shop.

The Inspection Walkaround

- Carefully choose the route that you take them to get to the carpentry shop
- This may mean that you walk all the way around the facility, in the rain, to enter an exit door into the carpentry shop
- Preventing the CSHO from walking thru the welding and paint shop and possibly viewing “plain sight” hazards.



The Inspection Walkaround

- The walkaround should be considered an interview
- CSHO may ask employer representative questions while walking
- There are no “**off-the-record**” conversations
- All questions and answers will be documented
- Answer questions accurately and truthfully
- Refrain from offering additional information
 - This info. may prompt other questions in another area
- If you don't know or don't recall, state that.



The Inspection Walkaround

- The OSHA Act provides employers the right to:
 - Accompany inspectors on site
 - Take side-by-side photographs and samples
- Employer representative should:
 - Take notes of questions that CSHO asks with answers
 - Take the same pictures and notes that CSHO takes
 - Take samples that CSHO takes

The Inspection Walkaround - Interviews

- The CSHO will interview approximately 5-10 % of the employees
- Employee interview is voluntary and employees are not compelled to answer questions
- Employees are not required to provide name and address
- Employees have the right to speak with CSHO alone
- Employees have the right to have a representative.

The Inspection Walkaround

- CSHO may point out violations during walkaround
- If possible, immediately abate these violations
 - Example – extension cord has cuts in outer insulation jacket, remove from service, cut and dispose
- Some items may take a few days, abate as quickly as possible and send pictures or documentation to CSHO.

Employee Interview Protection

- The employee should be assured that nothing he or she says to OSHA will result in discipline or any adverse change in job conditions
- Section 11(c) of the federal OSH Act prohibits employers from "discharging or in any manner discriminating against an employee because such employee has filed any complaint" or "because of the exercise of...any right afforded by the [OSH] Act," including discussing working conditions with the Compliance Officer.



Interviews of Management Employees

- Supervisors and Managers are considered to be the employer
- Supervisors/Managers have the right to have a representative present for interview
- Statements made by management employees are nearly always binding on the employer
- Statements may be considered legally as admissions against the employer's (DOT's) interest.

Interviews of Management Employees

- Employees should answer questions truthfully
- Limit answer to the scope of the question
- Do not volunteer additional information
- Do not admit that a certain condition or practice violates an OSHA standard – never admit to wrongdoing!
- Do not sign a statement or permit recording of the interview.



The Closing Conference

- Upon completion of the walkaround and interview process, a closing conference will be conducted
- During this time, CSHO may request additional documentation (i.e. training material and documentation, programs, procedures)
- CSHO may discuss possible violations.



CSHO Communication

- Only **One** employer representative should correspond with the CSHO (usually the Safety Engineer or the Safety Officer for DOT) - This provides one DOT point of contact
- Document CSHO requests, email, fax, etc.
- Document items provided to CSHO
- Later discussions may occur with employer representative and CSHO, phone or additional visits, to determine potential violations, or to satisfy questions.



Conclusion

- Legal counsel may be warranted
- Willful and serious violations can have severe impact financially
- These may also prevent contract competition
- OSHA violations may be used in a civil case
- ***A safe workplace is an American right and Federal requirement!***

Questions

- For additional information, reference:
 - 29 CFR 1903 Inspections, Citations, and Proposed Penalties
 - 29 CFR 1904 Recording and Reporting Occupational Injuries and Illness