



## OSHA INSPECTION - WHAT TO DO

### *Every employer has the following rights during a Cal-OSHA inspection -*

- ◆ To deny or consent to an inspection
- ◆ To require that an inspection be conducted during regular working hours (or “reasonable times” when necessary)
- ◆ To be provided with appropriate credentials by the inspector
- ◆ To accompany the inspector during the inspection taking pictures of the same things the inspector photographs
- ◆ To privately discuss alleged safety violations or problems with the inspector during the course of an inspection

### *Employees rights -*

- ◆ To accompany the inspector during the inspection
- ◆ To observe and monitoring or measuring that occurs during the inspection
- ◆ To discuss the inspection with the inspector in private

### *Inspection Procedures Normal Format -*

- ◆ Inspector to identify themselves
- ◆ Will/should seek consent to enter worksite (unless implied permission i.e., may I continue my work...)
- ◆ Conduct opening conference that he/she shall
  - Show State of California Identification
  - Exchange business cards with employer
  - Explain purpose & scope of inspection (employee complaint, outside complaint, targeted inspection, etc.)
  - Explain Cal OSHA program in general and give employer documents regarding their program
  - Inform employer about the inspection, walk around procedures, interviews with employees, photographs to be taken and any citation that may be issued & monetary penalties proposed
- ◆ Inform employer with regard to employees rights which include:
  - Participation of walk around inspection
  - Being interviewed and free from disciplinary action for what they say
  - To observe any monitoring or measurement during inspection
  - To be notified of toxic substance exposure and to be informed of any corrective action
- ◆ Review IIPP and explain the effectiveness of a working IIPP when citations are issued
- ◆ Explain recordkeeping requirements – verify OSHA Reporting forms (OSHA 300, 300a, 301/5020’s (employers first report) or equivalent forms.
- ◆ Postings “Cal-OSHA” Posters
- ◆ Workers Comp Insurance – requirements
- ◆ Check permits, registrations and any variances issued to safety orders
- ◆ Ask about required or specialized PPE (Personal Protection Equipment)
- ◆ Ask for consent to proceed with walk around part of inspection

### *Walk Around Inspection*

Inspector likely to:

- ◆ Check postings (medical, emergency, forklift, warning signs etc.)
- ◆ Interview employees
- ◆ Determine if worksite conditions are unsafe or unhealthy to employees
- ◆ Monitor and measure as necessary, (air quality, chemical exposure, height of railings, depth of excavation/trench, guards, pinch points etc.)
- ◆ Obtain any physical evidence and/or pertinent documentation
- ◆ Take pictures

### *Focus point would be:*

Employee exposure

√ Proof must exist or inspector must observe or have a reasonable basis to conclude exposure

Employee exposed while performing

√ Work related duties  
√ Personal activities during work hours or  
√ Normal means of ingress & egress to their work station

Documentation of the inspection

√ The inspector must document exposure for every alleged violation by obtaining one OR more of the following:

- ◆ Oral or written statement from exposed employee (s)
- ◆ Oral or written statement from immediate supervisor (management) of exposed employee (which statement will probably be considered to be an admission from management that a violation has occurred)
- ◆ Written statement by inspector setting forth an eyewitness account of employee exposure
- ◆ Photos demonstrating violation, conditions, equipment, machinery etc.
- ◆ Relevant documentation (manuals, job descriptions, employers safety and personnel policies, guidelines)
- ◆ Evidence of controlling employer – who is in charge of the jobsite?

### *Exit Conference*

If no violations are observed, employer shall be informed at an exit conference & a notice will be issued stating such. This notice is called a “Notice of No Violation After Inspection” and generally arrives in two to four weeks.

If violations are identified a citation may be issued on site or at a later date. Cal-OSHA has a six-month time from the date of violation to issue the citation. (Fed OSHA is requesting them to shorten this time span).

### *Closing Conference*

The inspector will go over the regulation that was violated, a date to abate, methods how to abate, advice on how to appeal (within 15 working days of receipt), how penalties were calculated and discuss informal hearing with the District Manager (within 10 days of issuance). Many times however, they do not inform you at the closing conference with certainty as to whether or not a citation will be issued and for violation of which regulation(s).

### *Once the Citation is received*

If you have any doubt as to the validity of the citation or the amount of the fine or the designation (i.e. serious or willful) schedule an informal conference to discuss the citation with the Cal/OSHA District Manager. Sometimes the District Manager will work with you to reduce the seriousness or amount of a fine if you can show good faith or that the citation is not warranted. **Even if you go to the informal, you should still request an appeal.** If you miss the deadline to file for an appeal, you are out of luck. But, you can cancel it if you are able to come to an agreement with the District Manager.

### *Prevention*

On the prevention side, be sure you have an effective Illness and Injury Prevention Program (IIPP) and have addressed effectively all the hazards of your work.

## OSHA INSPECTION - WHAT TO DO CHECKLIST

- ❑ Verify the identity of the inspector (State identification and business card). Let the inspector know that a warrant is not required, but a key person is on site and the inspection may not proceed without them. Know who should be talking to the inspector (i.e., Safety Officer, Manager etc.) You can ask them to wait a reasonable period of time (30-60 minutes) for the key person to arrive. Have the inspector wait in an office. Explain that your policy requires the presence of a management representative during an inspection.
- ❑ During the opening conference, attempt to determine the reason for the inspection. Then try and limit the inspection to the subject matter that triggered the inspection. Although keep in mind that the inspector has the right to inspect the entire workplace (wall to wall).
- ❑ Accompany the inspector throughout the inspection after consent is given. Take the same pictures the inspector is taking; the same shot from the same angle.
- ❑ If the inspector desires to talk to employees, they are entitled to privacy when being questioned. Your key person may be present if the employee has no objection. The inspector might object to this, accept his objection but make sure this ends up in the Employer's Summary of Inspection Report and in your report.
- ❑ Do not guess, estimate or speculate (i.e., guessing the depth of a trench, voltage in an overhead line, or cause of fall, how hand got caught in machine....).
- ❑ If uncertain tell that fact to the inspector. Do not agree with the inspector if you are uncertain.
- ❑ Do not offer information not requested.
- ❑ Do not admit a violation. It is the inspector's job to determine whether any safety regulations have been violated.
- ❑ If the key person has not been expressly authorized by the company to speak "for the company" inform the inspector.
- ❑ If there was an injury and you know Cal OSHA is coming out, familiarize yourself with the appropriate regulations and make sure you know the company safety policies. Have your documentation in order and be prepared to provide it.
- ❑ Be courteous to the inspector. Nothing is gained and much can be lost by poor behavior.
- ❑ Document the inspection process include records, notes, samples, photographs, etc. made or taken during the inspection. It is recommended you discuss the proper handling of your report with your company counsel.
- ❑ If the inspector is being arrogant and/or arguably threatening you can excuse yourself (make sure you don't let him continue the inspection on his own) and call the District Manager (number on their business card).