

Construction Industry Update

Will You Be Ready If OSHA Comes Knocking?

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Every year OSHA inspects tens of thousands of workplaces from coast to coast. With so many businesses operating in each OSHA region and so few inspectors, the odds of being visited by OSHA are quite small for most companies. But since you never know, it is always best to be prepared. And being prepared for an OSHA inspection means preparing your supervisors and employees, too. Here are some of the key things they should know about inspections.

What Are Inspectors Looking for?

Inspectors are looking for violations of OSHA standards. Exactly what kinds of violations depend on the nature of your operations and the particular hazards of your workplace. However, you and your employees

OSHA (continued on page 2)

Why Would OSHA Conduct an Inspection?

There are a number of possible reasons:

1. Someone made a complaint about worksite safety or health, perhaps a current or former employee, or perhaps even a resident from the community who is worried about hazardous materials or some other safety or health hazard that could affect the area surrounding your company.
2. A fatality has occurred in your facility.
3. It's a regularly scheduled inspection - This is most likely if you are in a high-hazard industry. Thousands of high-hazard worksites are targeted for unannounced, comprehensive safety and health inspections every year.
4. It's a follow-up visit to determine if prior violations have been corrected.

In this issue...

Will You Be Ready If OSHA Comes Knocking?	1-6
Preparing for an OSHA Inspection	2
FOCUS Seminars	3
Risk Control Corner — Hazards of Summer Heat	7-8
Heat Illness Prevention Tips	8

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should be aware that last year's list of the most-often-cited OSHA violations for general industry featured safety and health problems related to:

- Machine Guarding
- Lockout/Tagout
- Ladders and Scaffolding
- Hazardous Chemicals
- Respiratory Protection
- Fall Protection
- Electrical Safety
- Powered Industrial Trucks

Inspections can cover pretty much your whole facility, or they can be limited to certain areas, operations, conditions, or practices. But remember, a limited inspection can always be expanded, depending on what inspectors find once they get inside.

How Is the Inspection Conducted?

The agenda for OSHA inspections are generally pretty standard and include five basic steps:

1. When inspectors show up, the first thing they do is present their credentials to the facility manager. Although companies have the right to require a warrant at this point, most prefer not to take a confrontational stance and simply invite the inspectors to enter the facility.
2. During a brief opening conference with members of management and employee representatives, compliance officers explain the nature and purpose of the inspection and indicate the scope of the inspection and the records they wish to review. If the inspection was triggered by an employee complaint, the inspectors will provide a copy of the complaint, but not the employee's name.
3. The inspectors will then ask to examine the OSHA 300 Log and other accident and illness reports. They might also ask to see such things as a copy of your hazard communication program, lockout/tagout procedures, or fire safety programs. They'll also check to make sure that OSHA safety and health posters are appropriately displayed.
4. During the walk-around inspection, inspectors will look for violations of specific OSHA regulations. They will probably want to talk to employees and supervisors--and they have that right. Employees also have the right to talk to OSHA inspectors. They can even talk to them privately if they want to.

Preparing for an OSHA Inspection

What Prompts an OSHA Inspection?

- **Reported imminent danger at a workplace**
- **Fatalities or catastrophes**
- **Employee complaints**
- **Referrals from other agencies**
- **Targeted facilities**

Why Do I Need an OSHA Inspection Action Plan?

An OSHA Inspection Action Plan will help your company successfully manage an OSHA inspection so that it goes smoothly. Make sure your plan includes the following elements:

- **Responsibilities of the key individuals in your facility**
- **Management of the inspection process**
- **Equipment that is necessary for an inspection**

What Should Be in an OSHA Inspection Toolbox?

- **Camera**
- **Clipboards, notepads, and plenty of pens**
- **Flashlights**
- **Extra Personal Protective Equipment (PPE)**
- **An up-to-date facility map**
- **Location of key safety documents**
- **Location of chemical exposure monitoring equipment** ✨

5. The inspection wraps up with a closing conference during which the inspectors review any violations and discuss possible methods and timetables for correction. Inspectors will describe the company's rights and responsibilities and answer any questions at this time. They'll also explain that violations could result in a citation and fines.

OSHA Inspection Toolbox

Another part of preparing for an OSHA inspection is to put together an Inspection Toolbox that contains the items necessary in order to avoid a frantic search for these items at the last minute.

- A still camera or a video camera should be used to take pictures or recordings of things that the inspector has pointed out as possible violations or issues of concern as well as to take duplicate pictures of things that the OSHA inspector photographs.
- Clipboards, notepads, and plenty of pens.
- Flashlights to help look in those hard-to-see areas.
- Extra Personal Protective Equipment (PPE) for both the inspector and your key people. Demonstrate your dedication to safety by wearing, and making the inspector wear, PPE when it is required.
- A current facility map that will help the inspector get a feel for your facility and understand how your operations are set up.
- Location of key safety documents. Include a list of safety documents as well as a key for opening a filing cabinet, if necessary.
- Location of chemical exposure monitoring equipment, as well as keys to storage areas or cabinets that contain the monitoring equipment.

Opening Conference Tips

The person in charge of the facility, employee representatives, and other key personnel who are present in the opening conference and during the inspection need to understand their role(s).

- Take Detailed Notes - The OSHA inspector will also be taking detailed notes. Some items to include in your notes might be: names of personnel at the meeting, time and date, what prompted the inspection, what the inspector plans to do, what equipment the inspector used (i.e., camera or monitoring equipment), etc.

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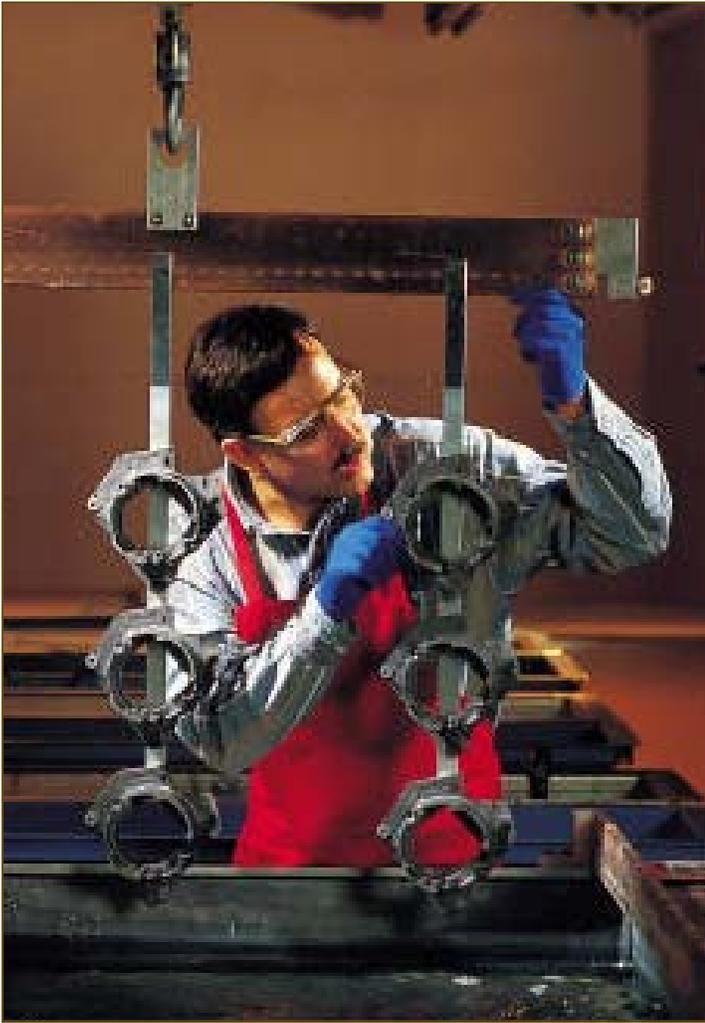
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- Ask Plenty of Questions - Make sure that you understand the inspection process and everything that the inspector is telling you.
- Answer the Inspector's Questions Directly - The inspector will ask many questions, not only in the opening conference but also throughout the inspection. Do not be afraid to say that you don't know the answers to some questions, but you will find out. Make sure that you do get the answers to the inspector before the end of the inspection.
- Do Not Volunteer Unnecessary Information - It is easy to get excited and want to share all your safety information or start telling stories about incidents in the facility. However, you may accidentally highlight your knowledge of hazards in your facility and demonstrate that reasonable attempts have not been made to abate those hazards.
- Always Be Truthful when Dealing with the OSHA Inspector - Lying to an OSHA inspector can lead to a \$10,000 fine and a year in jail.

Safety and Health Documentation

After the opening conference, the inspector may want to look at documentation that relates to your safety program.

- Injury and Illness Logs, Such as the OSHA 300 Form - The inspector will want to make sure you



OSHA (continued from page 3)

have completed the form accurately. He or she is also looking at your accident history to get a feel for what types of injuries and illnesses occur at your facility.

- Written Safety Programs – The inspector will want to make sure that you have written safety programs, that they are current, and that they reflect OSHA’s requirements. The inspector will want to see that the written safety programs are being followed, out in the plant, during the walk around. For example, if your program says safety glasses are required in a certain area, the workers in that area should be wearing safety glasses. If they are not, the inspector may think that your written programs are just for show and do not accurately reflect your overall safety program and safety culture.
- Employee Training Documentation – The inspector will want to see that employees receive regular training that meets the requirements of OSHA standards, and also follow what is written in your safety programs.

- Other Documents Related to Specific Safety Programs – The inspector may also want to look at material safety data sheets (MSDS), lockout/tagout procedures, respirator fit tests, PPE assessments, etc.
- Control the Flow of Documents to Prevent Providing the Inspector with Unnecessary Information – Consider asking the inspector for a written list of the documents that he or she will need. This will avoid unnecessary confusion. Do not give the inspector a stack of safety documents. Give the inspector one file or document at a time, when requested, to keep the inspection focused on one aspect at a time.
- Take careful notes of which documents were reviewed by the inspector.

Safety and Health Program

The OSHA inspector will be assessing your overall safety and health program during the inspection, even if the inspection is targeted on a specific area due to an employee complaint.

The inspector wants to ensure that your safety and health program is multifaceted, covers all requirements of the OSHA standards, and has evidence of the following:

- Participation – Examples might include safety committees, employee teams charged with developing safety programs or procedures, safety suggestion programs, etc.
- Management Commitment and Leadership – This can be in the form of strong written programs, but must also be demonstrated on the production floor by management wearing required PPE, disciplining employees who do not follow safety rules, etc.
- Good-Faith Efforts to Correct Safety Hazards and Provide a Safe Work Environment – Good-faith efforts are proven when employee safety suggestions are implemented and issues found during facility inspections or audits are corrected.

If the inspector finds most of these components in your safety and health program, he or she may feel that your company is dedicated to the safety and health of your employees and an expanded inspection is not warranted.

Inspection Walk-Around

Once the inspector has conducted the opening conference and reviewed some safety documentation, he or she will want to walk through your facility.



OSHA (continued from page 4)

Before entering the production facility for the walk-around, make sure the OSHA inspector and any employees who are escorting the inspector are wearing the required PPE including safety glasses, hard hats, earplugs, etc.

➤ Follow Process or Production Flow - The walk-around will usually

go better if you follow the process or production flow. The walkthrough route should be pre-planned and even mapped out in your OSHA Inspection Action Plan.

- Area of Complaint - If the OSHA inspection was prompted by an employee complaint, take the most direct route to this area of your facility. Avoid areas of your facility that may reveal conditions in violation, because an OSHA inspector can also cite apparent violations that are in plain view even if it was not his or her original intent to inspect that area.

Side-by-Side Documentation

It is important for your company to have a record of everything that the OSHA inspector records during the inspection of your facility.

- Duplicate Pictures and Video - When the OSHA inspector takes a picture, you should take a picture of the same object from the same perspective. If the inspector is using a video camera, you should also be video taping what he or she is recording. Keep in mind that just because a video camera is not up to the inspector's eye, it does not mean the camera is not recording while he or she carries it around.
- Duplicate Industrial Hygiene Monitoring - If the OSHA inspector takes industrial hygiene samples or measurements, you should duplicate those samples or measurements (if you have the appropriate monitoring equipment available). If the inspector is recording the readings of a sound level meter, you should also have a sound level meter available to double-check his or her recordings, or at least write down the inspector's results.
- Duplicate Measurements - If the inspector is measuring distances or counting the number of workers near a potential hazard, duplicate his or her measurements and double-check the count.

- Make copies of documents that the inspector wants to copy and take - The OSHA inspector may want to take copies of certain written documents such as written Safety Programs, Material Safety Data Sheets (MSDS), Industrial Hygiene Monitoring Reports, etc.

Make sure that you also make a copy of the documents for your file so you know exactly what documents OSHA has taken. File all the pictures, walk-around documentation, and copies of written documents together.

Fix Hazards and Run Equipment

During the walkthrough, the inspector will point out minor hazards (as well as major violations) and ask questions about machinery operations.

- Fix Hazards Immediately - When the inspector identifies a hazard that can be quickly fixed, you should immediately fix the hazard or alert an employee in the area that there is a safety hazard that must be fixed. This response is a positive reaction to an issue that concerns the inspector. Although the hazard may not be something for which you would be issued a violation, fixing the hazard demonstrates a "good-faith" effort and a commitment to safety and health.
- Explain Away Apparent Violations - If the OSHA inspector points out a situation that is an apparent violation and you have information that makes a



case for that situation not being an actual violation, you should share it with the inspector. However, this should not be done unless you have done some studies, monitored, or have special knowledge about

the situation. Without sufficient knowledge, you will just demonstrate to the inspector that you were aware of a hazard and did nothing about it.

- Operate Machinery and Equipment. The OSHA inspector may also want to see how some of your machines work if they are not operating during the walk-around. Note that you are not required to run a machine just because the inspector asks; however, refusing to do so may prompt the inspector to return for another inspection to see the machine operating.

OSHA (continued on page 6)



and the ideas that were generated for resolving the situation. Or, you may have purchase records that demonstrate the safety equipment is on order. ✨

Disclaimer:

This article is written from an insurance perspective and it is meant to be used for informational purposes only. It is not the intent of this article to provide legal advice, or advice for any specific fact, situation or circumstance. Contact legal counsel for specific advice.

OSHA (continued from page 5)

It is recommended that you operate machines for the inspector when requested unless it is blatantly unsafe to start up the machine or the machine is currently locked out for repair.

Note: Before operating the equipment, make sure all guards are in place and a trained operator is present.

Your Role in the Closing Conference

- Take Plenty of Notes and Listen – Make sure you understand each of the inspector’s concerns and are able to differentiate between actual violations that require abatement and other hazards that were pointed out during the walk-around but are not violations and do not require abatement.
- Explain Away Apparent Violations – Explain any mitigating factors or other information that may help prove why an apparent violation is not an actual violation. Previous chemical or noise monitoring results may show that employee exposures are below exposure limits. If so, now is the time to present those documents.
- Point Out Recent Hazard Abatement Progress – You may also have some documentation showing that you recently became aware of a hazardous situation, or violation, and are already in the process of correcting that situation. You may have safety meeting records that demonstrate your discussion

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Risk Control Corner

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Hazards of Summer Heat

Employers are encouraged to take heat illness prevention measures, such as providing ample water, cool areas for rest breaks when needed, emergency procedures in case a worker gets sick, and training for all hands on how to recognize and respond to heat illness.

Division of Occupational Safety (DOSH) Chief Len Welsh noted that heat waves pose a special health threat. *“People are not physiologically ready for the heat,”* he said. *“We can’t work people for too long at any one time.”* Welsh urged employers to consider shorter work schedules and planning their work days around the heat, such as starting earlier and knocking off at mid-morning, then resuming as the weather cools.

Other precautions include:

- **Provide cool, shady areas at work sites so that workers can take rest breaks of at least five minutes** – Employees should not wait until they feel sick to take a break, and supervisors should encourage workers to rest. *“A lot of small breaks are better than a long one,”* Welsh added.
- **Make plenty of cool, ‘inviting’ water readily available** – *“I strongly recommend providing ice,”* Welsh urged. *“Keep the water nice and cool.”* The outdoor heat illness prevention standard requires employers to provide enough water so that each worker can drink at least four cups of water per hour.
- **Use a buddy system to avoid allowing workers going off by themselves to perform tasks** – Train workers to watch their colleagues for symptoms of heat illness and know how to respond. *“Training for supervisors is critical,”* Welsh noted. *“They’re the ones who make the whole system work.”*
- **Be prepared for an emergency** – Symptoms such as profuse sweating, skin that is extremely hot or cold to the touch, dizziness or nausea constitute a medical emergency. First-aid-trained workers should respond, and emergency services should be summoned immediately. *“Call 911 if you have to,”* Welsh said,



“but make sure operators have clear instructions when being called to a remote work site.”

Even if you don’t have a formal Heat Illness Prevention Program in place right now, it’s not too late to give your employees critical information. Tailgate training sessions before shifts can inform workers about where water will be available, who is responsible for obtaining ice cubes to cool it, and other information.

“Let’s not be penny wise and pound foolish,” Welsh urged employers. One heat illness case is something an employer will never forget. *“Just that fact that somebody got sick on your watch and died is something you’ll remember for the rest of your life.”*

The Heat Illness Prevention Network was launched last year by California Chamber of Commerce, California Farm Bureau Federation and California Manufacturing and Technology Association, in cooperation with Cal/OSHA, to warn employers about impending heat emergencies. DOSH manages the system.

The three key elements to control the occurrence of risk for heat illness specified by Section 3395 are:

- **Provisions of Water** – Employees must have access to potable drinking water, provided in sufficient quantity at the beginning of the work shift, to provide one quart per employee per hour for drinking for the entire shift. Frequent drinking of water must be encouraged.
- **Access to Shade** – Employees suffering from heat illness or believing a preventative recovery period is needed must be provided access to an area with shade that is either open to the air, or provided with ventilation or cooling for a period of no less than five

Heat (continued on page 8)

minutes. Such access to shade must be permitted at all times.

- **Training** – Training and periodic review must be provided to all supervisory and non-supervisory employees on the following topics:
- The environmental and personal risk factors for heat illness
 - The employer's procedures for identifying, evaluating, and controlling exposures to the environmental and personal risk factors for heat illness
 - The importance of frequent consumption of small quantities of water – up to four cups per hour under extreme conditions of work and heat
 - The importance of acclimatization
 - The different types of heat illness and the common signs and symptoms of heat illness
 - The importance of immediately reporting to the employer, directly or through the employee's supervisor, symptoms or signs of heat illness in themselves or in co-workers
 - The employer's procedures for responding to symptoms of possible heat illness, including how emergency medical services will be provided should they become necessary
 - Procedures for contacting emergency medical services, and if necessary, for transporting employees to a point where they can be reached by an emergency medical service provider
 - How to provide clear and precise directions to the work site

Prior to assignment to supervision of employees working in the heat, supervisors must not only receive training on the above topics but also on the procedures to follow to implement the applicable provisions of the regulation. They must also be trained on procedures to follow when an employee shows symptoms consistent with possible heat illness, including emergency response procedures. ✨



Heat Illness Prevention Tips

to Display in Your Office or in the Field

Preventing Heat Illness

- Schedule the hardest work for the cooler parts of the day.
- Drink water when you are NOT thirsty! It's important to drink small quantities of water throughout the day.
- Alternate heavy work with light work when possible.
- Wear the proper clothing:
 - Light colored
 - Light weight
 - Natural fibers
 - Hat with a brim
 - A cooling vest may be helpful in some cases
- During breaks, remove Personal Protective Equipment (PPE) and excess clothing

Increase Breaks If

- Conditions are very hot
- Work requires high exertion levels
- Protective clothing limits evaporative cooling

Proper Hydration Is Key

- DO start work well hydrated
- DO consider sports drinks
- DON'T drink soda and other sugary drinks
- DON'T drink lots of coffee and tea
- DON'T drink alcohol
- DON'T wait for thirst before drinking water
- DO drink plenty of water (about a cup every 15 minutes) ✨