

WHAT TO EXPECT FROM AN OSHA INSPECTION

OBJECTIVES

- Basic understanding of the OSHA inspection priorities
- Ability to describe the inspection process
- Ability to develop strategies for reducing the impact of inspections when they do occur

AGENDA

- What triggers an OSHA inspection?
- How does the inspection process work?
- What types of citations/penalties can result from an inspection?
- Questions & Answers

INSPECTION TRIGGERS

Programmed

- Planned
- Related

Un-programmed

- Death
- Severe Injury/Illness
- Complaint
- Referral
- Follow-up

PROGRAMMED INSPECTIONS

Planned

- High Incident Rate
- High Hazard Operations
- Area of Focus

UN-PROGRAMMED INSPECTIONS

Death

- Mandatory inspection

Severe Injury or Illness

- Reporting requirement

Complaint

- Employee

UN-PROGRAMMED INSPECTIONS

Referral

- Vendors or General Public

Follow-up

- Prior inspection or complaint

OSHA INSPECTION PRIORITIES

| Priority | Category |
|----------|--|
| First | <u>Imminent Danger</u> |
| Second | Fatality/Severe Injury or Illness |
| Third | Complaints/Referrals |
| Fourth | Programmed Inspections |

INSPECTION SCOPE

Comprehensive

- Complete inspection
- Potentially high-hazard areas
- Not all operations inspected

Partial

- Focus limited to potentially hazardous areas
- Can be expanded

OSHA INSPECTION PROCESS



- Initial Contact
- Presentation of Credentials
- Opening Conference
- Walk-Around
- Closing Conference
- Informal Conference
- Appeals Process

OSHA INSPECTION PROCESS: INITIAL CONTACT

- Inspection policy in place
- Persons accountable
- Alternate contact
- Preparation and review annually

OSHA INSPECTION PROCESS: PRESENTATION OF CREDENTIALS

- Inspector should ask for the persons accountable
- Refusal to permit
- Reported to Assistant Area Director
- Continued refusal can lead to legal action

OSHA INSPECTION PROCESS: OPENING CONFERENCE

- Purpose of inspection is discussed
- Provide a copy of the complaint (if applicable)
- Employer representatives can attend

OPENING CONFERENCE DOCUMENTATION

- IIPP (Injury Prevention/Safety Program)
- Training Records
- Medical surveillance records
- OSHA logs (if applicable)
- OSHA required programs (if applicable)
 - Hazard Communication/GHS
 - Lock-out/tag-out
 - Respirator protection
 - Blood borne pathogens
 - Hearing conservation
 - Forklift safety

OSHA INSPECTION PROCESS: WALK-AROUND

- Evaluation
- Record facts pertinent to the evaluation
 - Identity of the employee
 - Hazard to which the employee was exposed
 - Proximity to the hazard
 - Employer's knowledge of the condition
 - Employer and employee notified of violation

OSHA INSPECTION PROCESS: WALK-AROUND

- Collect samples
 - Air, surface, noise
 - Employer can request results
- Take photos or video
- Conduct interviews

OSHA INSPECTION PROCESS: WALK-AROUND

■ Interviews

- Typically conducted during walk-around
- Obtain information necessary in carrying out the inspection
- Employees have the right to make a complaint during inspection

■ Employer interference

- Can be considered refusal to cooperate

OSHA INSPECTION PROCESS: CLOSING CONFERENCE

- Violations observed
- Abatement requirements
- Follow-up inspections
- Employer has right to contest violations, penalties

NOTICE

- Notice of no violation
 - No penalty
- Notice of citation
 - Includes penalties

CITATION

- Regulation and standards violated
- Length of time set for abatement
- Employer duty to post

CITATION

Options upon receipt:

1. Pay the full amount of the penalty
2. Enter into an Informal Settlement Agreement with OSHA
3. File a Notice of Contest

CITATION

- Paying a Citation
 - Deadline may be extended
 - Admission of liability by the employer
 - Admitted citations may be used in the future
 - To support repeat violations
 - To deny the employer a penalty reduction based upon history of prior violations

CITATION

- Informal Conference
 - Obtain a better explanation
 - Discuss ways to correct violations
 - Discuss problems
 - Resolve disputed violations
 - Obtain answers

CITATION

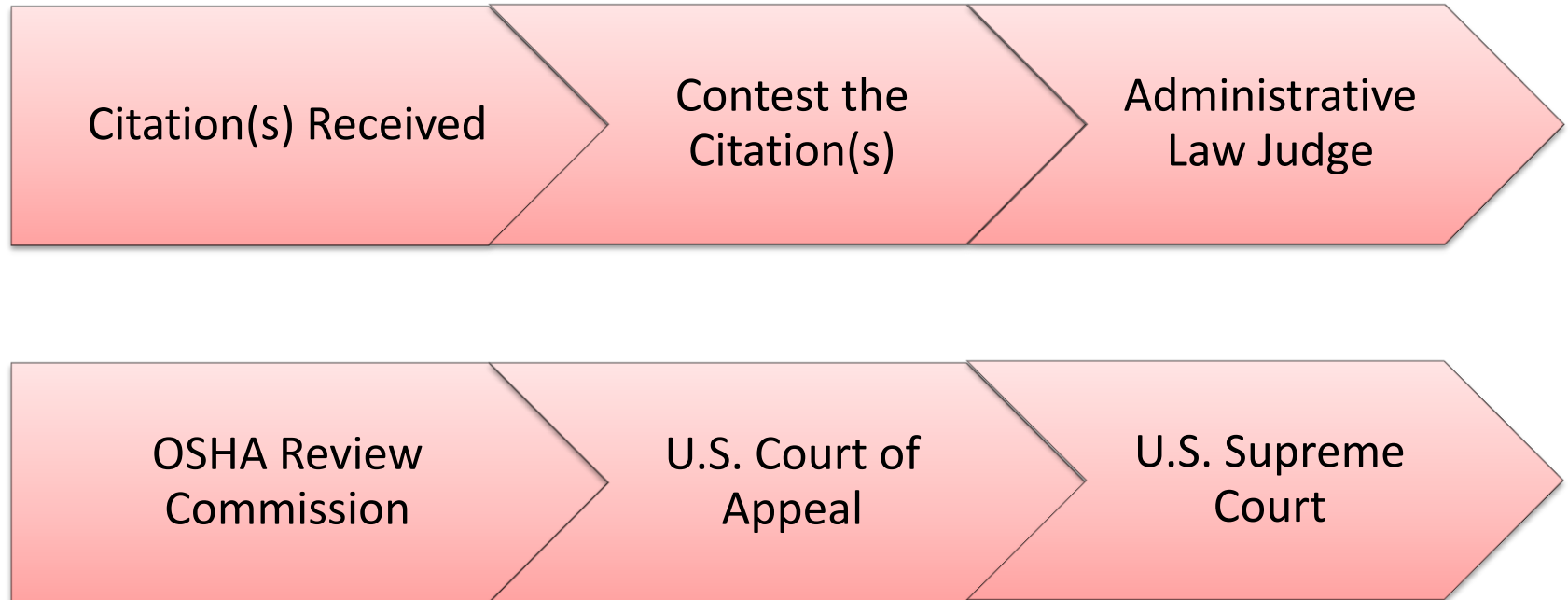
- File a Notice of Contest
 - Eliminate the citation altogether
 - Reduce the severity of the citation class
 - Reduce the penalty amount
 - Revise the abatement (time or content)

CITATION

- File a Notice of Contest
 - Submitted in writing to OSHA Area Director
 - Must be filed within 15 days of the notice
 - The basis must be clearly identified

CITATION

Notice of Contest Process



ABATEMENT

- Time period
- Follow-up visit
 - Corrected
 - Partial abatement
 - Failure to abate
 - Inspection reveals a failure to abate
 - Time specified for abatement has passed
 - No notice of contest has been filed

PENALTIES

Civil

- Other Than Serious Violation (General)
- Serious Violation
- Willful Violation
- Repeat Violation

Federal Penalty Schedule

| | |
|-------------------|---|
| Serious Violation | Up to \$7,000 |
| Willful Violation | \$5,000 to \$70,000 |
| Repeat Violation | Up to \$70,000 |
| Failure to Abate | Up to \$7,000 per day beyond abatement date |

Source: OSH Act of 1970, Section 17 & OSHA Publication 3000-09R

Federal Penalty Schedule (cont'd)

Violating Poster Requirements

Up to \$7,000

Failure to Report Fatality

Up to \$7,000

Falsifying Records or Making False Statements

Up to \$10,000 and/or
Up to 6 months in jail

Source: OSH Act of 1970, Section 17 & OSHA Publication 3000-09R

PENALTIES: HOW ARE THEY CALCULATED?

Adjustment factors

- Good faith
- Size of business
- History of violations
- Ability to pay

Size of Business Adjustment

| <i>Number of Employees</i> | <i>Percent Reduction</i> |
|----------------------------|--------------------------|
| 1-25 | 60 |
| 26-100 | 30 |
| 101-250 | 10 |
| 251 or more | None |

Source: Annual Review and Scheduled Modification to OSHA's Interim Administrative Penalty Policy, March 7, 2012



RESOURCES

OSHA Enforcement

<https://www.osha.gov/dep/index.html>

OSHA Regulations

<https://www.osha.gov/law-regs.html>

QUESTIONS & ANSWERS