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

<table>
<thead>
<tr>
<th>Priority</th>
<th>Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>First</td>
<td><strong>Imminent Danger</strong></td>
</tr>
<tr>
<td>Second</td>
<td>Fatality/Severe Injury or Illness</td>
</tr>
<tr>
<td>Third</td>
<td>Complaints/Referrals</td>
</tr>
<tr>
<td>Fourth</td>
<td>Programmed Inspections</td>
</tr>
</tbody>
</table>

*OSHA I INSPECTION PRIORITIES*
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 - Blood borne pathogens
  - Lock-out/tag-out - Hearing conservation
  - Respirator protection - 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

Citation(s) Received → Contest the Citation(s) → Administrative Law Judge

OSHA Review Commission → U.S. Court of Appeal → U.S. Supreme Court
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

<table>
<thead>
<tr>
<th>Violation Type</th>
<th>Penalty Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Serious Violation</td>
<td>Up to $7,000</td>
</tr>
<tr>
<td>Willful Violation</td>
<td>$5,000 to $70,000</td>
</tr>
<tr>
<td>Repeat Violation</td>
<td>Up to $70,000</td>
</tr>
<tr>
<td>Failure to Abate</td>
<td>Up to $7,000 per day beyond abatement date</td>
</tr>
</tbody>
</table>

Source: OSH Act of 1970, Section 17 & OSHA Publication 3000-09R
### Federal Penalty Schedule (cont’d)

<table>
<thead>
<tr>
<th>Violating Poster Requirements</th>
<th>Up to $7,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Failure to Report Fatality</td>
<td>Up to $7,000</td>
</tr>
<tr>
<td>Falsifying Records or Making False Statements</td>
<td>Up to $10,000 and/or Up to 6 months in jail</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Number of Employees</th>
<th>Percent Reduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-25</td>
<td>60</td>
</tr>
<tr>
<td>26-100</td>
<td>30</td>
</tr>
<tr>
<td>101-250</td>
<td>10</td>
</tr>
<tr>
<td>251 or more</td>
<td>None</td>
</tr>
</tbody>
</table>

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