



HOW TO SURVIVE AN OSHA INSPECTION

REASONS FOR AN OSHA INSPECTION

- GENERAL PROGRAMMED INSPECTION
- FATALITY
- REFERRAL BY ANOTHER AGENCY OR ORGANIZATION
- COMPLAINT

OSHA COMPLAINT PROCESS

- OSHA HAS A STATUTORY OBLIGATION TO FOLLOW-UP ON EVERY COMPLAINT.
- THIS CAN BE ACCOMPLISHED BY:
 1. INFORMAL - LETTER OR PHONE CALL
 2. FORMAL - INSPECTION
- GOOD NEWS! OSHA HAS BEEN USING THE INFORMAL METHOD MORE OVER THE PAST FEW YEARS.

UPON RECEIVING AN INFORMAL COMPLAINT

- GENERALLY 10-15 DAYS TO RESPOND.
- RESPOND BY THE DEADLINE (OR YOU WILL BE INSPECTED - SCOPE MAY BE FAR GREATER THAN THE COMPLAINT).
- PROVIDE A DETAILED RESPONSE - WITHOUT ADMITTING GUILT.

HOW TO SURVIVE?

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KEY

IS

PREPAREDNESS

PREPAREDNESS?

- OSHA HAS PUBLISHED GUIDELINES THEY FOLLOW DURING THE INSPECTION PROCESS. THERE ARE ALSO CERTAIN STANDARDS THEY MUST REVIEW AT *EACH* INSPECTION.
- PREPARING FOR THIS AHEAD OF TIME CAN GREATLY REDUCE TIME, CITATIONS AND PENALTIES.

4 STAGES OF AN OSHA INSPECTION

- OPENING CONFERENCE
- EXAMINATION OF RECORDS AND WRITTEN PROGRAMS
- INSPECTION OF FACILITY
- CLOSING CONFERENCE

OPENING CONFERENCE

- GREET THE INSPECTOR IN A *FRIENDLY AND COURTEOUS* MANNER.
- CHECK THE INSPECTORS CREDENTIALS.
- ESCORT THE INSPECTOR TO A QUIET PLACE (CONFERENCE ROOM), GIVE HIM/HER YOUR BUSINESS CARD.

OPENING CONF. (CONT.)

- ASK THE REASON FOR THE INSPECTION. IF A COMPLAINT GET A WRITTEN COPY. POLITELY EXCUSE YOURSELF FOR A MINUTE.
- NOTIFY THE RISK MANAGER AND THE AFFECTED DEPARTMENT(S) OF THE ALLEGED ISSUES AND/OR COMPLAINTS.

OPENING CONF. (CONT.)

- THE LOCATION MANAGER SHOULD ATTEND.
- SET GROUND RULES ON: THE SCOPE OF THE INSPECTION, INDUSTRIAL HYIGENE MONITORING PHOTOGRAPHS/VIDEO, ETC.

OPENING CONF. (CONT.)

- COOPERATE.....
- HOWEVER, THE INSPECTORS JOB IS TO FIND THINGS WRONG. Keep this in mind, especially if the inspector is friendly.
- BE HONEST AND FORTHRIGHT; YET DON'T VOLUNTEER INFORMATION.

OPENING CONF. (CONT.)

**OVER HALF OF ALL OSHA
CASES ARE MADE BASED ON
MANAGEMENT ADMISSIONS!**

OPENING CONF. (CONT.)

- THROUGHOUT THE ENTIRE INSPECTION PROCESS, *YOU MUST REMAIN CORDIAL AND PROFESSIONAL*, EVEN IF THE INSPECTOR IS NOT.
- IN THE END, THIS APPROACH WILL HELP TO MINIMIZE TIME, CITATIONS AND PENALTIES.

OPENING CONF. (CONT.)

- **NOTE:** PROVISIONS SHOULD BE MADE FOR TIMES THE FACILITY MANAGER IS NOT PRESENT. YOU CAN ASK OSHA TO RETURN ANOTHER DAY, BUT THEY DON'T HAVE TO. BEST BET IS TO HAVE A BACKUP PREPARED WHO KNOWS LOCATION OF RECORDS, WHAT TO EXPECT, HOW TO CONDUCT THEMSELVES, YOUR RIGHTS, ETC.

OPENING CONF. (CONT.)

- ***NOTE:*** THE IMPORTANCE OF THE OPENING CONFERENCE CANNOT BE OVERSTATED. IT IS YOUR OPPORTUNITY TO EXPLAIN YOUR SAFETY PROGRAM. YOUR KNOWLEDGE AND CONFIDENCE IN HANDLING THE INITIAL STEPS OF THE INSPECTION PROCESS AND ARE VITAL IN ESTABLISHING AN APPEARANCE OF WANTING TO COOPERATE.

REQUIRE A WARRANT?

- NOT RECOMMENDED, EXCEPT IN RARE CIRCUMSTANCES SUCH AS A FATALITY - IN WHICH CASE YOU WILL BE DIRECTED BY THE RISK MANAGER AND/OR THE LAW DEPT.
- A WARRANT WILL ONLY UPSET THEM AND MAKE THEM MORE SUSPICIOUS.

RECORD/PROGRAM EXAM

- DO NOT VOLUNTEER RECORDS.
- PROVIDE ONLY THE REQUESTED AND REQUIRED INJURY/ILLNESS RECORDS (OSHA 200 LOGS & OSHA 101 FORMS).
- IF A COPY OF MANDATORY OSHA STANDARD RELATED PROGRAM IS REQUESTED (LOTO, HAZCOM, ETC.), ADVISE IT IS ONLY AVAILABLE FOR REVIEW. IF PRESSURED, YOU MAY WANT TO PROVIDE.

RECORDS REVIEW (CONT.)

- IF COMPANY (NON-OSHA REQUIRED) DOCUMENTS ARE REQUESTED (SAFETY MEETING MINUTES, AUDIT REPORTS, STATISTICS, ETC.), ASK FOR IT IN WRITING. ADVISE THE OSHA INSPECTOR THAT HIS/HER REQUEST MUST BE APPROVED BY RISK MANAGER AND THE LAW DEPARTMENT.

RECORDS REVIEW (CONT.)

- *UNDER NO CIRCUMSTANCES* SHOULD DOCUMENTS (LETTERS, REPORTS, ETC.) BE CREATED AND PROVIDED TO OSHA WITHOUT FIRST BEING APPROVED BY THE RISK MANAGER AND THE LAW DEPT.
- KEEP A LIST OF ALL DOCUMENTS PROVIDED TO THE OSHA INSPECTOR.

RECORDS REVIEW (CONT.)

- *NOTE: OSHA DIRECTIVE CPL 2 REQUIRES VERIFICATION OF THE FOLLOWING PROGRAMS AT EVERY INSPECTION:*
 - INJURY/ILLNESS RECORD KEEPING
 - LOCKOUT/TAGOUT
 - HAZARD COMMUNICATION
 - PERMIT-REQUIRED CONFINED SPACE
 - 'EE ACCESS TO MEDICAL/EXP. RECORDS
 - WRITTEN FACILITY S&H PROGRAM

RECORDS REVIEW (CONT.)

- THEREFORE, WITH THIS FOREWARNING, YOU MUST BE PREPARED TO DISCUSS THESE PROGRAMS AND PROVIDE *TIMELY* DOCUMENTATION. THIS WILL REQUIRE SOME DEGREE OF PREPARATION IN ORDER TO DO SO IN AN ORGANIZED AND PROFESSIONAL MANNER.

FACILITY INSPECTION

- IN THE CASE OF A REFERRAL OR COMPLAINT INSPECTION, STRICTLY CONFINE THE AREAS INSPECTED TO THE SUBJECT IN QUESTION.
- A MANAGEMENT REPRESENTATIVE *MUST* ACCOMPANY THE INSPECTOR AT ALL TIMES.
- ALLOW AN EMPLOYEE REPRESENTATIVE TO JOIN IN IF SO REQUESTED BY OSHA.

INSPECTION (CONT.)

- PERMIT INTERVIEWS OF NON-MGMT. EMPLOYEES UPON REQUEST. YOU DO NOT HAVE TO INTERFERE WITH PRODUCTION. THE EMPLOYEE HAS A RIGHT TO A PRIVATE INTERVIEW, BUT ATTEMPT TO BE PRESENT. (ASK THE EMPLOYEE IF YOU CAN SIT IN)

INSPECTION (CONT.)

- YOU HAVE THE RIGHT TO BE AND *MUST* PRESENT DURING MANAGEMENT INTERVIEWS.
- MANAGEMENT SHOULD LIMIT THEIR ANSWERS TO MATTERS OF FACT AND NOT SPECULATE OR OFFER OPINIONS. DO NOT ACKNOWLEDGE VIOLATIONS OR COMMENT ON FEASIBILITY OF COMPLIANCE OR ABATEMENT.

INSPECTION (CONT.)

- YOU CAN AND *MUST* STOP A MANAGEMENT INTERVIEW AND PRIVATELY COUNSEL AN EMPLOYEE WHO IS VOLUNTEERING INFORMATION, ACTING IMPROPERLY, ETC.
- BE AWARE THAT THE INSPECTOR CAN BROADEN THE INSPECTION FOR ANY “PLAIN VIEW” VIOLATION, OR FROM COMMENTS BY EMPLOYEES. THUS, GO DIRECTLY TO THE AREA IN QUESTION AND BY-PASS AS MUCH OF THE FACILITY AS POSSIBLE.

INSPECTION (CONT.)

- PHOTOGRAPH AND VIDEOTAPE EVERYTHING THE INSPECTOR DOES, OR ARRANGE FOR COPIES/DUPLICATES.
- MAKE NOTES OF ALL INSPECTOR'S REMARKS, COMMENTS, INTERVIEWS, ETC.

INSPECTION (CONT.)

- FINALLY, TO DEMONSTRATE GOOD FAITH, ANY *OBVIOUS* VIOLATIONS SHOULD BE ABATED IMMEDIATELY (EXPOSED WIRING, GUARDS OFF, MISSING FIRE EXTINGUISHER, ETC.). A MECHANIC AND ELECTRICIAN SHOULD ACCOMPANY YOU.

CLOSING CONFERENCE

- YOU MUST ATTEND.
- THE AREA MANAGER ATTENDS.
- REMAIN CORDIAL AND PROFESSIONAL.
- DO NOT ACKNOWLEDGE ANY ALLEGED VIOLATION.
- DO NOT EXPLAIN HOW AN ALLEGED VIOLATION WOULD BE ABATED, BUT ASK THE INSPECTOR FOR SUGGESTIONS.

CLOSING CONF. (CONT.)

- DO NOT VOLUNTEER ANY INFORMATION OTHER THAN TO SUGGEST A LACK OF HAZARD, EMPLOYEE EXPOSURE OR INAPPLICABILITY OF A STANDARD.
- MAKE NOTES OF ALL INSPECTOR'S COMMENTS INCLUDING POTENTIAL VIOLATIONS.
- REQUEST THAT ALL PHOTOGRAPHS AND VIDEO BE LABELED "CONFIDENTIAL."

CLOSING CONF. (CONT.)

- *NOTE*: MEET BRIEFLY WITH ALL MGMT. ATTENDEES BEFOREHAND TO REVIEW THE GROUND RULES.

AFTER THE INSPECTION

- OSHA HAS 6 MONTHS TO ISSUE A CITATION.
- IF CITATION IS RECEIVED, YOU MUST IMMEDIATELY NOTIFY THE RISK MANAGER AND WITHIN 15* DAYS (NO EXCEPTION):
 - AGREE AND PAY
 - FILE A NOTICE OF CONTEST
 - HAVE AN INFORMAL CONFERENCE

* IT WILL BE SO STATED IN THE CITATION

INFORMAL CONFERENCE

- MOST CITATIONS ARE SETTLED AT AN INFORMAL CONFERENCE, WHICH IS AN INFORMAL NEGOTIATION.
- AN INFORMAL CONFERENCE IS GENERALLY RECOMMEND EVEN IF VIOLATIONS AND PENALTIES ARE LOW - IT SHOWS GOOD FAITH AND FURTHER PENALTY REDUCTIONS ARE ALMOST “AUTOMATIC.”

NOTICE OF CONTEST

- IN THE EVENT IT IS DETERMINED THAT A NOTICE OF CONTEST MUST BE FILED, THE RISK MANAGER AND THE LAW DEPARTMENT WILL WORK CLOSELY WITH THE FACILITY.