

What to Do When OSHA Arrives

OSHA has instituted a new get tough policy. Employers need to be prepared as well as prepare their employees on what to do when OSHA arrives. OSHA's goal upon arrival is to find deficiencies in your safety program and to issue citations. Having an expert involved is the best way to avoid a citation. Below is a suggested list of actions to take if OSHA shows up for an inspection.

IF OSHA Arrives At Your Workplace

As An Employer – Know Your Rights

1. Be professional, courteous and honest
2. Supervisors and management should not allow the inspection to begin until proper assistance is obtained. The following minimum safeguards are recommended
 - A Safety Director familiar with the inspection process should manage the inspection
 - Conversations with OSHA agents shouldn't be conducted without either a witness present or a tape recording of the conversation made (be sure to advise all parties about the recording)
 - If you don't have an in-house Safety Director available, call for an outside expert to manage the inspection
 - Call an attorney knowledgeable in the OSHA process to fully protect the Company and its employees
3. Sometimes OSHA will threaten to issue a search warrant or subpoena. If they do, insist that they do to protect your rights. The search warrant or subpoena will give your company many procedural rights and will force OSHA to justify its actions before it proceeds
4. Do not say anything and do not sign anything without input from your safety expert or your attorney.

As An Employee – Know Your Rights

An OSHA investigator may request an interview with you. You have the constitutional right to:

1. Decline to be interviewed
2. Request a 3rd party witness to be present
3. Refuse to give a statement or sign any document

No one can force you to talk to an OSHA official or not speak to an OSHA official. This decision is yours. If you do choose to speak to an OSHA investigator be sure to have representation before you make statements to a trained investigator. Be aware that anything you say may be used against you and OSHA may seek your arrest if you make false or untruthful statements.

Once the Proper Safety Experts or Your Attorney Is Available Do the Following:

- Take good notes or bring another employee along to do so
- Use your own camera and take the same photos that the inspectors take. We recommend that you take additional photos from different angles to demonstrate a more complete view of the object in their photo
- Ask to be present during any employee interviews and make sure to tape record the entire interview
- Be polite and treat the inspectors with respect



- Think before you speak, answer all questions honestly
- Take one employee to the side and make sure that guards are in place, electrical boxes are shut and fire extinguishers are hung up in their places and unobstructed

Don't Do The Following:

- Don't volunteer information that doesn't relate to their visit
- Don't ask questions about a regulation that doesn't relate to their visit
- Don't let the OSHA inspectors be accompanied by an employee who may start pointing out all the other things that need to be fixed at your facility or project
- Don't show the OSHA inspectors any safety inspection checklists that you or an outside party have completed
- Don't lie, deceive, cover up, or forge documentation
- Don't lead the OSHA inspectors past or through a work area that may be out of compliance with OSHA regulations that day
- Don't lead the inspectors to any area that they don't request to see

Documentation That You Will Need (at the very least)

1. Injury and illness summary (OSHA 300 logs) for the past 4 years
2. Specific injury reports for each employee's injury for the past 4 years
3. A written Hazard Communication Plan
4. Documentation of employee training on Hazard Communication
5. Material Safety Data Sheets of hazardous chemicals that you use or store on site
6. Any documentation related to the reason for their visit such as written programs, training logs, and inspection and maintenance logs of equipment
7. They will ask to speak to an employee to ask them where the MSDSs sheets are kept.

Remember, no matter how nice the OSHA investigator is they are there to find deficiencies in your workplace. Please review this sheet with all employees and attach to the weekly safety meetings once a quarter.

