

OSHA Inspections

An OSHA compliance inspection can occur at your workplace location or jobsite at any time and without advance notice. There may be a few special circumstances in which an employer will receive advance notice of an inspection, but such a notice should not be relied upon and will normally be less than 24 hours. As an employer, you have the right to deny the OSHA compliance officer entry into your establishment or jobsite, but it may not be in your best interest to require the officer to obtain a warrant prior to performing the inspection. Familiarizing yourself with the overall inspection procedure outlined in this bulletin will help you prepare your workplace for an OSHA compliance inspection.

Inspection Priorities

While any employer, regardless of company size, is subject to an OSHA inspection, OSHA places the following order of importance when determining its inspection schedule:

- 1. Imminent Danger Situations:** Imminent danger situations involve any condition where there is reasonable certainty that a danger exists that is expected to cause death or serious physical harm immediately or before it can be eliminated through normal enforcement procedures. Compliance officers will remove any endangered employees and ask employers to correct these hazards immediately.
- 2. Fatalities and Catastrophes:** OSHA will inspect any incident that involves a fatality or the hospitalization of three or more employees. You must report such catastrophes to OSHA within eight hours of being notified of the incident.
- 3. Complaints & Referrals:** OSHA investigates formal employee complaints of unsafe or unhealthful working conditions and referrals from any source about a workplace hazard. These allegations may be reported anonymously.
- 4. Planned or Programmed Investigations:** OSHA often plans inspections aimed at specific high-hazard industries, workplaces, occupations, or health substances. These inspections are based on injury incidence rates, previous citation history, employee exposure to toxic substances, special emphasis, or random selection.
- 5. Follow-Ups:** In certain situations, OSHA will follow up and check for the abatement of violations that were cited during previous inspections.

Phone/Fax Investigations

OSHA carefully prioritizes all of the complaints it receives based on their severity. With the permission of the complainant, OSHA may address lower-priority hazards by calling employers to describe safety and health concerns. OSHA will follow up this phone call with a fax providing details on alleged safety and health hazards. If you receive one of these calls, you must respond in writing within five working days, identifying any problems you have found and noting the corrective actions you have taken or plan to take. If the response is adequate and the complainant is satisfied with the response, OSHA generally will not conduct an on-site inspection.

Onsite Inspections

Preparation: Prior to conducting an on-site inspection, the OSHA compliance officer will research the inspection history of a worksite (using various data sources), review the operations and processes in use and the standards that are most likely to apply. The officer may also gather appropriate personal protective equipment and testing instruments to measure potential hazards.



Presentation of Credentials: The onsite inspection begins with the presentation of the compliance officer's credentials, which include both a photograph and a serial number. As an employer, you have the right to contact the local OSHA office to verify the officer's credentials. Compliance officers may not collect a penalty at the time of the inspection or promote the sale of a product or service at any time; anyone who attempts to do so is impersonating a government inspector and you should contact the FBI or local law enforcement officials immediately.

Opening Conference: The compliance officer will explain why OSHA selected the workplace for inspection and describe the scope of the inspection, walk around procedures, employee representation and employee interviews. You will then select a representative from the company to accompany the compliance officer during the inspection. In addition, an authorized representative of the employees, if any, has the right to participate in the inspection. The compliance officer will also consult privately with a reasonable number of employees during the inspection.

Walk Around: Following the opening conference, the compliance officer and representatives will walk through the areas of the workplace covered by the inspection, inspecting for hazards that could lead to employee injury or illness. The compliance officer will determine the route and duration of the inspection and may ask for permission to expand the inspection if they find a violation in open view. During the walk around, the compliance officer will observe safety and health conditions and practices; consult with employees privately; take photos, videotapes, and instrument readings; collect air samples; measure noise levels; survey existing engineering controls; and monitor employee exposure to toxic fumes, gases, and dusts. The compliance officer will also review worksite injury and illness records, posting of the official OSHA poster, and monitoring records for toxic substances and harmful physical agents. The compliance officer may point out some apparent violations that can be corrected immediately. While the law requires that these hazards must still be cited, prompt correction is a sign of good faith. Compliance officers try to minimize work interruptions during the inspection and will keep confidential any trade secrets they observe.

Closing Conference: After the walk around, the compliance officer will hold a closing conference with the you (the employer) and the employee representatives to discuss their findings. The compliance officer will discuss all of the unsafe or unhealthful conditions that they observed during the inspection and indicate all of the apparent violations for which they may issue or recommend a citation and a proposed penalty. The compliance officer will discuss possible courses of action you may take following an inspection, which could include an informal conference with OSHA or contesting citations and proposed penalties. The compliance officer will also discuss consultation and employee rights.

During the closing conference, you may wish to produce records to show compliance efforts and provide information that can help OSHA determine how much time may be needed to abate an alleged violation.

Results

OSHA must issue a citation and proposed penalty within six months of the violation's occurrence. OSHA citations inform employers and employees of the regulations and standards been that were allegedly violated, and of the proposed length of time set to correct alleged hazards. You will receive citations and notices of proposed penalties by certified mail. You must post a copy of each citation at or near the place the violation occurred for three days or until the violation is abated, whichever is longer. The table below describes the different levels of violations along with their allowed penalty.



These are the type of violations that may be cited and the penalties that may be proposed:	
Other-Than-Serious Violation	Minimum: \$0 Maximum: \$1,000
Serious Violation	Minimum: \$1,500 Maximum: \$7,000
Willful Violation	Minimum: \$5,000 Maximum: \$70,000
Willful Violation (results in death)	Individuals: \$250,000 + 6 months in jail Corporation: \$500,000 + 6 months in jail
Willful Violation - Egregious Multiplier	Willful penalties are applied on a a violation-by violation basis or employee by employee exposure.
Repeat Violation	Maximum: \$70,000
Failure-to-Abate	Up to \$7,000 a day for each day violation continues beyond abatement date.
Falsifying records or making false statements	\$10,000 fine or up to 6 months jail or both
Violating Posting Requirements (failure to post OSHA poster, OSHA 300 Annual summary, citations,etc)	Maximum: \$7,000
Failure to report fatality/catastrophic event within 8 hours	Minimum: \$5,000
Providing advance notice of inspection	\$1,000 fine or up to 6 months jail or both

Penalties may be reduced based on an employer’s good faith, inspection history, and size of business. For serious violations, OSHA may also reduce the proposed penalty based on the gravity of the alleged violation. No good faith adjustment will be made for alleged willful violations.

Appeals

If OSHA issues you a citation, you will be offered an opportunity for an informal conference with the OSHA Area Director. During this conference, you can discuss citations, penalties, abatement dates or any other information pertinent to the inspection. You also may work out a settlement agreement with the agency to resolve the matter and to eliminate the hazard. OSHA’s primary goal is to correct hazards and maintain compliance, not to issue citations or collect penalties.

Alternatively, you have 15 working days after receipt of citations and proposed penalties to formally contest the alleged violations and/or penalties by sending a written notice to the Area Director. The Area Director then forwards the contest to the Occupational Safety and Health Review Commission for independent review.

Citations, penalties and abatement dates that are not challenged or settled become a final order of the Occupational Safety and Health Review Commission.

IMPORTANT NOTICE - The information and suggestions presented by Western National Insurance Company in this Technical Bulletin are for your consideration in your loss prevention efforts. They are not intended to be complete or definitive in identifying all hazards associated with your business, preventing workplace accidents, or complying with any safety related, or other, laws or regulations. You are encouraged to alter them to fit the specific hazards of your business and to have your legal counsel review all of your plans and company policies.