OSHA Inspection Procedures

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Compliance Assistance Specialist
Occupational Safety and Health Administration
Who is Covered by OSHA

- The OSH Act covers most private sector employers and their employees in the 50 states, the District of Columbia, Puerto Rico, and other U.S. territories.
- Coverage is provided either directly by the Federal OSHA or by an OSHA-approved state job safety and health plan.
- Federal OSHA also covers certain workers specifically excluded from a state plan, such as those in some states who work in maritime industries or on military bases.
- State and local government agencies are not covered by federal OSHA. States and territories may also develop plans that cover only public sector (state and local government) workers.
Who is **NOT** Covered by OSHA

- Self employed individuals / Equal Partners
- Those covered by other federal regulations. i.e. railroad workers and nuclear workers
- Public employees in state and local governments
- Farm families
How does OSHA decide whom to inspect?

OSHA Inspection Priorities

- Imminent danger conditions
- Fatality and Catastrophe
- Complaints and Referrals
- Programmed inspections
- AD Discretion
OSHA Inspection Scope

- Comprehensive (wall to wall)
  - Programmed

- Limited
  - Fatality, complaint, referral
Employee Rights

- Employees have the right to file a complaint if they believe they are exposed to safety and health hazards.

- They can not be discriminated against for filing a complaint or for participating in an OSHA inspection.
What Are An Employer’s Responsibilities?

- Post at a prominent location within the workplace, the OSHA poster informing employees of their rights and responsibilities

- Maintain OSHA required records of work-related injuries and illnesses. OSHA 300 log

- Report any accident that results in a fatality (8 hours) or hospitalization, amputation, or loss of an eye (24 hours) – more to follow
What Are An Employer’s Responsibilities?

- Provide a workplace free from recognized hazards
- Be familiar with OSHA standards
- Comply with OSHA rules and regulations
- Provide employee access to the OSHA 300 log and medical and exposure records
- Evaluate workplace conditions
- Minimize or eliminate potential hazards
Reporting Fatalities, Hospitalization, etc

• Work-related **fatalities** must be reported within **8** hours
• In-patient **hospitalizations** must be reported within **24** hours
• **Amputations** must be reported within **24** hours
• **Loss of an eye** must be reported within **24** hours
Report Contents

- Each report must include the establishment name, location of the incident, time of the incident, number of fatalities or hospitalized employees, contact person, phone number, and a brief description of the incident.
What Happens when an Employee Files a Complaint?

- Basic information will be obtained
  - Company name
  - Alleged hazards
  - Employee name

- Phone/Fax Or Inspection?

- Employee rights are explained
Notice of Alleged Safety or Health Hazards

Fri Nov 21, 2008 10:35am

<table>
<thead>
<tr>
<th>Establishment Name</th>
<th>Rio Energy Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Address</td>
<td>5549 Leopard, Corpus Christi, TX 78409</td>
</tr>
<tr>
<td>Site Phone</td>
<td>(361) 289-5100</td>
</tr>
<tr>
<td>Mailing Address</td>
<td>5549 Leopard, Corpus Christi, TX 78409</td>
</tr>
<tr>
<td>Mail Phone</td>
<td>(361) 289-5100</td>
</tr>
<tr>
<td>Management Official</td>
<td>John Cantu</td>
</tr>
<tr>
<td>Type of Business</td>
<td>Oilfield Service</td>
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<tr>
<td>Primary SIC</td>
<td>1389</td>
</tr>
<tr>
<td>Complaint Number</td>
<td>206531972</td>
</tr>
<tr>
<td>Primary NAICS</td>
<td>213112</td>
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</table>

HAZARD DESCRIPTION/LOCATION:  Describe briefly the hazard(s) which you believe exist. Include the approximate number of employees exposed to or threatened by each hazard. Specify the particular building or worksite where the alleged violation exists.

DESCRIPTION:
Compressor fan guards are too large exposing employees to lacerations.

LOCATION:
East side of the main shop.
Authority for Inspection

- 29 CFR 1903.3(a) Compliance Safety and Health Officers of the Department of Labor are authorized to enter without delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer; to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment, and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials therein; to question privately any employer, owner, operator, agent or employee; and to review records required by the Act and regulations published in this chapter, and other records which are directly related to the purpose of the inspection.
What Happens when OSHA Arrives at your door?

- Compliance Officer will present his/her credentials

- An opening conference will be conducted covering the purpose and scope of the visit, walk around procedures, employee representation, employee interviews, and the closing conference
Legal Requirements for an Inspection

- 29 CFR 1903.7(a) Subject to the provisions of §1903.3, inspections shall take place at such times and in such places of employment as the Area Director or the Compliance Safety and Health Officer may direct.

- At the beginning of an inspection, Compliance Safety and Health Officers shall:
  - present their credentials to the owner, operator, or agent in charge at the establishment;
  - explain the nature and purpose of the inspection;
  - and indicate generally the scope of the inspection and the records specified in §1903.3 which they wish to review.
Then What?

- After the opening conference, the compliance officer reviews records then with accompanying representatives proceeds through the establishment, inspecting work areas for potentially hazardous working conditions.

- The compliance officer will conduct private employee interviews.
Conduct of an inspection and interviews

- 29 CFR 1903.7(b) Compliance Safety and Health Officers shall have authority to take environmental samples and to take or obtain photographs related to the purpose of the inspection, employ other reasonable investigative techniques, and question privately any employer, owner, operator, agent or employee of an establishment.

- As used herein, the term **employ other reasonable investigative techniques** includes, but is not limited to, the use of devices to measure employee exposures and the attachment of personal sampling equipment such as dosimeters, pumps, badges and other similar devices to employees in order to monitor their exposures.
Then?

- After the inspection walkthrough, the compliance officer holds a closing conference discussing:
  - Unsafe or unhealthful conditions observed and all apparent violations for which citations may be recommended
  - Right to an informal conference within 15 working days of receiving citations
  - Employee protection against discrimination under 11(c) of the OSH Act
  - Abatement documentation
  - Right to contest
Legal Responsibilities at the conclusion of an inspection.

- 29 CFR 1903.7(e) At the conclusion of an inspection, the Compliance Safety and Health Officer shall confer with the employer or his representative and informally advise him of any apparent safety or health violations disclosed by the inspection. During such conference, the employer shall be afforded an opportunity to bring to the attention of the Compliance Safety and Health Officer any pertinent information regarding conditions in the workplace.
If citations are generated as a result of the inspection...they typically are

<table>
<thead>
<tr>
<th>Type of Violation</th>
<th>New Maximum</th>
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</thead>
<tbody>
<tr>
<td>Serious and Other-Than-Serious</td>
<td>$13,260 per violation</td>
</tr>
<tr>
<td>Willful or Repeated</td>
<td>$132,598 per violation</td>
</tr>
<tr>
<td>Failure to Abate</td>
<td>$13,260 per day beyond the abatement date</td>
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</table>
## Pre-2019 vs. 2019 Penalty Levels

<table>
<thead>
<tr>
<th>Level</th>
<th>Pre-2016 Maximum Penalty</th>
<th>2016 Maximum Penalty</th>
<th>2019 Maximum Penalty</th>
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</thead>
<tbody>
<tr>
<td>Serious</td>
<td>$7,000 per violation</td>
<td>$12,471</td>
<td>$13,260 per violation</td>
</tr>
<tr>
<td>OTS</td>
<td>$7,000 per violation</td>
<td>$12,471</td>
<td>$13,260 per violation</td>
</tr>
<tr>
<td>Willful or Repeat</td>
<td>$70,000 per violation</td>
<td>$124,709</td>
<td>$132,598 per violation</td>
</tr>
<tr>
<td>Posting</td>
<td>$7,000 per violation</td>
<td>$12,471</td>
<td>$13,260 per violation</td>
</tr>
<tr>
<td>Failure to Abate</td>
<td>$7,000 per day unabated beyond the abatement date [generally limited to 30 days maximum]</td>
<td>$12,471 per day unabated</td>
<td>$13,260 per day unabated beyond the abatement date [generally limited to 30 days maximum]</td>
</tr>
</tbody>
</table>
If citations are generated as a result of the inspection...what happens after you receive?

- Accept Citation, cover, costs, abate hazards in writing or....
- Request an informal conference where one can contest all or parts of citation
  - Classification
  - Penalty Amount
  - Abatement Period
- Must post citation and any notice of informal conference, correct hazards, provide written documentation of corrections, pay penalties
- No retaliation against employees for involvement in inspection
Important Timeline considerations for employer..15 working days to take action

• If the 15\textsuperscript{th} federal workday elapses without the employer or employee representative having an informal conference OR exercising their rights to contest aspects of the citation, it becomes a FINAL ORDER and no changes can be made!

– NOTE: A federal workday excludes weekend days and Federal holidays
If employer does not accept citation or request an informal conference, he may Contest

- Must be received by OSHA within 15 days
- Must clearly and specifically state what is being contested
- Any aspects of citations NOT contested must be promptly abated and penalties must be paid
- No abatement is required when the citation is contested until it is resolved
- Involvement from DOJ solicitors..
Disclaimer

This information has been developed by an OSHA Compliance Assistance Specialist and is intended to assist employers, workers, and others as they strive to improve workplace health and safety. While we attempt to thoroughly address specific topics [or hazards], it is not possible to include discussion of everything necessary to ensure a healthy and safe working environment in a presentation of this nature. Thus, this information must be understood as a tool for addressing workplace hazards, rather than an exhaustive statement of an employer’s legal obligations, which are defined by statute, regulations, and standards. Likewise, to the extent that this information references practices or procedures that may enhance health or safety, but which are not required by a statute, regulation, or standard, it cannot, and does not, create additional legal obligations. Finally, over time, OSHA may modify rules and interpretations in light of new technology, information, or circumstances; to keep apprised of such developments, or to review information on a wide range of occupational safety and health topics, you can visit OSHA’s website at www.osha.gov.