

Preparing for an OSHA Visit

Use the guidelines below to help prepare for an OSHA inspection.

What triggers an OSHA inspection?

An OSHA inspection can be triggered by any of the following:

- Planned inspection
 - Complaint
 - National/local emphasis program (lead, amputations, etc.)
 - Site specific targeting program (high incident rate sites)
 - Follow-up on a previous inspection
 - Imminent danger
 - Fatality
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What comprises an OSHA inspection?

Recordkeeping

- OSHA 300 logs from the last five years (or records of work-related injuries and illnesses)
- OSHA 301 forms or incident reports
- Reports of fatalities and catastrophic events
- Annual summaries for the last five years
- Medical surveillance (hearing tests, respiratory, etc.)
- MSDS books/sheets

Documentation review

- Written safety compliance programs (HazComm, lockout/tagout, emergency procedures, etc.)
 - Development of the written program
 - Execution of the programs
- Employee training (orientation, refresher, attendance records, subject matter, etc.)

Site inspection

- Identify physical hazards
- Observe employee unsafe behavior
- Evaluate level of non-compliance with OSHA standards

Employee interviews

- Labor representative
- Rank and file
- Management

What should I do if OSHA wants to inspect my worksite?

- Examine the inspector's credentials.
- Ask for the purpose of the inspection (complaint, etc.).
- Provide a room with privacy for the inspector.
- Someone who is familiar with your written programs, as well as the facility, should accompany the inspector at all times to ensure questions can be answered appropriately.
- If the inspector identifies any "quick fix" items, have them taken care of immediately or at least by the time the inspector returns again.
- Take "before" and "after" photographs of every improvement made.
- If the inspector takes photographs or video, consider doing the same concurrently.
- If the inspector conducts noise or air monitoring, consider doing the same concurrently.
- Take good notes during the post-inspection conference; the inspector's comments are likely to be items that might show up in citations.

Why might OSHA write a citation and assign a \$0.00 penalty?

OSHA often assigns a \$0.00 penalty in order to write a large number of citations without it being unrealistically expensive for you. However, this is typically only done one time; if OSHA finds the same violations in the future; it may cite you for a "willful" or "repeat" violation and assign a penalty up to \$70,000.

Be sure to start with a clean slate. All violations from previous inspections should be cleared, or you may be assigned large penalties.

What should I do if I receive citations following an OSHA inspection?

- Pay the citations.
- OSHA may offer a reduction in the penalty if it feels the inspection otherwise went well; it will ask you to agree to pay the penalty early in order to pay the discounted penalty.
- If you strongly disagree with one or more citations, send OSHA a letter of "Notice of Contest" within 15 working days of the inspection, a verbal statement expressing your desire to contest a citation is not enough. The Notice of Contest must clearly identify the basis for filing the citation, the notice of proposed penalty, the abatement period or notification of failure to correct violations.
- The Occupational Safety and Health Review Commission (OSHRC) will assign your contest to an administrative law judge. Legally invalid contests will be dismissed. Valid contests will be scheduled for a hearing. You will have the right to participate in the hearing.
- You can appeal the administrative judge's decision to the OSHRC. An OSHRC ruling can be appealed to the appropriate federal court of appeals.

What are OSHA's violation classifications?

Violation	Description	Penalty
De Minimis Violation	No direct or immediate relationship to safety or health. De minimis conditions are documented in the same way as any other violation, but are not included on the citation.	Warning
Non-Serious Violation	Direct relationship to job safety and health, but probably would not cause death or serious physical harm. Usually, no penalty is proposed if it is less than \$100. The penalty may be decreased by as much as 95 percent, depending on the employer's good faith (demonstrated efforts to comply with the Act), history of previous violations, and size of business.	Discretionary penalty of up to \$7,000 per violation.
Serious Violation	Substantial probability that death or serious physical harm could result and that the employer knew, or should have known, of the hazard. The penalty may be adjusted downward, based on the employer's good faith, history of previous violations, the gravity of the alleged violation and the size of business.	Mandatory penalty of up to \$7,000 per violation.
Willful Violation	The employer either knows that what he or she is doing constitutes a violation, or is aware that a hazardous condition existed and made no reasonable effort to eliminate it. Penalty may be adjusted downward, depending on the size of the business and its history of previous violations. Usually, no credit is given for good faith.	Fine of between \$5,000 and \$70,000 per violation.
Willful Violation Resulting in Death of Employee	The employer either knows that what he or she is doing constitutes a violation, or is aware that a hazardous condition existed and made no reasonable effort to eliminate it. Violation results in the death of one or more employees.	Possible criminal conviction punishable with a fine of up to \$250,000 for an individual (\$500,000 for a corporation), imprisonment for up to six months or both.
Repeat Violation	Upon re-inspection, the employer commits a violation substantially similar to a previous one. To be the basis of a repeated citation, the original citation must be final; a citation under contest may not serve as the basis for a subsequent repeated citation.	Fine of up to \$70,000 per violation.
Uncorrected Violation	Failure to abate a prior violation.	Fine of up to \$7,000 per day until the violation is corrected.
Making false statements, representations or certification		Up to \$10,000 and/or imprisonment for up to six months.
Violation of posting requirements		Up to \$7,000 per violation.
Interference with an investigation	Assaulting a compliance officer, or otherwise resisting, opposing, intimidating, or interfering with a compliance officer while they are engaged in the performance of their duties is a criminal offense.	Criminal offense punishable with a fine of up to \$5,000, imprisonment for up to three years or both.