



# Guidelines for an OSHA Site Visit

These guidelines were created to assist you in navigating an unannounced visit from an OSHA compliance officer. The information is intended as a general guide to best practices only and is not intended to provide specific guidance or opinion, legal or otherwise. If you receive a citation from OSHA, depending on the severity of the alleged violations, it is recommended that you should consider getting your legal representative involved.

## Outline of the Process in 3 Phases

### Phase 1: Be Prepared

### Phase 2: Jobsite Inspection with a Compliance Officer

- When the Compliance Officer Arrives
- Opening Conference
- Walk-Around Inspection
- Private Interviews
- Closing Conference

### Phase 3: Receiving a Citation

- Informal Conference
- Formal Hearing Process

## Phase 1: Be Prepared

- Have a safety program based on OSHA 1926 and have a copy available on site (i.e., electronically or a hard copy).
- Have a HazCom (SDS) Program and have a copy available on site (i.e., electronically or a hard copy).
- Make sure your employees have been trained on the FrameSAFE Safety Program.
- Make sure your employees have been trained on your company's HazCom program.
- Document all employee training.
- Maintain your OSHA Injury and Illness recordkeeping (OSHA 300/300A).
- Have a competent person on site.
- Maintain all proper work-related certifications (fork lift, aerial lift, craning and rigging, flagging etc.)
- Have a plan of action for when an OSHA Compliance Officer arrives on site and make sure your employees are trained on the plan. This should include training your employees to either continue working or stop work until the inspection is over.

## Phase 2: Jobsite Inspection with a Compliance Officer

### When the Compliance Officer Arrives

- The compliance officer should identify himself and show his credentials. Take a copy of the officer's business card for your records.
- Escort the compliance officer to a predetermined location on the jobsite (e.g., GC trailer, company trailer, etc.).
- Notify your office/supervisor and the GC or homebuilder you are working for when the compliance officer arrives.
- Have a good attitude, be respectful, be professional.
- You have the right to:
  - Call the compliance officer's office to verify the officer's identity.
  - Ask the compliance officer to wait (a reasonable amount of time) before entering the site to allow an employer representative to arrive to assist the compliance officer (company owner, supervisor, safety director).

### Opening Conference

- The OSHA inspector should hold a brief meeting with employers and employees in a predetermined location to explain why he or she is there and what to expect during the inspection.
- If you do not understand the purpose or reason of the inspection, ask for an explanation. Document the officer's explanation for the visit.
- Provide information relevant to the purpose of the inspection. Always tell the truth about what you know, no need to elaborate on what you don't know.
- The OSHA inspector may ask for documents relevant to the purpose of the inspection (e.g., FrameSAFE safety program). If you do not have the requested documents (e.g., 300A, proof of certifications, subcontractor contracts, etc.), make notes and offer to send them to the inspector at a later date.
- Take notes as to questions asked and responses given.

### Walk-Around Inspection

- Be mindful of how you enter the site or building, focusing on the reason for the inspection as defined by the officer in the opening conference.
- Limit the number of people walking with the inspector, preferably have 2 company representatives.
- Always tell the truth about what you know, no need to elaborate on what you don't know. Be helpful when asked. Do not make derogatory remarks about employees or workers.
- If compliance officer makes notes, inquire what he is writing about and document the same items.
- If the compliance officer takes pictures, ask what the photos are of. Make sure you take the exact same pictures from the same angles and document why the photos were taken.
- If a noted identifiable safety issue is found, abate it immediately. Take pictures both before and after the abatement. Document how the abatement took place.
- If the compliance officer notes an identifiable safety issue, the compliance officer could ask for the following information:
  - The person's name, address and phone number

- Company they work for
- Their task or duty
- Whether or not they have been trained on what they are doing
- If you feel the compliance officer is incorrect in his identification of the safety issue, document your reasons why you feel he or she is incorrect. (Do not argue with the inspector.)
- Keep in mind, the compliance officer has the right to inquire about non-OSHA issues that pertain to other state regulatory agencies, so he or she may ask questions regarding issues such as business licensing, taxation and immigration.

### Private Interviews

- In addition to interviews that may be conducted during the walk-around inspection, the compliance officer may request additional private interviews with employees after the walk-around inspection is complete.
  - At the beginning of the employee interview the compliance officer should explain protections given to the employee under section 11(c) of the Occupational Safety and Health Act, which means all information given to the compliance officer will be held in confidence and will not be divulged to the extent allowed by law.
  - Individual employees have the right to respectfully decline being interviewed by the compliance officer if they do not feel comfortable doing so.
  - The employee has the right to request that an employee representative (e.g., another employee) be present for a private interview. The compliance officer may prefer that this is not a member of management.
  - A union employee has the right to request that an employee representative (e.g., union steward, union president, etc.) be present for a private interview.
- If the compliance officer requests an interview with an employer's representative you may insist to have your safety director, a company executive and/or your attorney present.

### Closing Conference

- The compliance officer will hold a closing conference with the employer or employer representative either immediately following the walk-around inspection and private interviews or at later scheduled date.
- At the conference, the compliance officer will discuss possible violations that could be recommended to lead into a citation. Take notes as to questions asked and responses given.
- Be sure to understand what follows after the inspector leaves (e.g., any documents requested). Make sure it is clear to the officer who will be the primary point of contact after the conference is over (e.g., safety director or owner).
- After the closing conference, you have the right to reach out to the compliance officer to discuss any concerns or additional questions that you may have about the visit.
- Make sure that any potential violations are immediately abated and documented. Do additional training with all employees for those potential violations.
- Maintain good records of the additional training provided to the employees in the event the compliance officer requests it.
- OSHA has up to six (6) months after the date of inspection to issue a citation.

## Phase 3: Receiving a Citation

- The citation will arrive via certified mail with return receipt. Depending on the severity of the alleged violations, you should consider getting your legal representative involved at this point.
- You must abate all alleged violations, by the dates listed in the citation. Document the process using the forms provided with the citation.
- The citation must be posted until the violation(s) have been abated, or for three (3) days, in a prominent place at or near the location of the violation(s). The penalty amounts must be marked out or covered up prior to posting.
- If you are requesting an informal hearing, it is recommended to take a photo of the posted citation for documentation purposes.
- It is recommended that you notify your employees of the alleged citation to make them aware of the issue to ensure ongoing jobsite safety.
- You have **two options** on what to do with the citation:
  - **Accept the citation:** Sign it, write a check and return it with your return receipt along with any necessary documentation per the forms provided with the citation. Keep in mind that, in doing this, those citations are documented within OSHA and will be kept on your record. Therefore, if you are cited for these citations a second time, OSHA could cite you for a repeat or possible willful citation that could be valued at 10 times your original citation.
    - Any employer who willfully violates any standard, rule, or order promulgated pursuant to section 6 of this Act, or of any regulations prescribed pursuant to this Act, and that violation caused death to any employee, shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than six months, or by both; except that if the conviction is for a violation committed after a first conviction of such person, punishment shall be by a fine of not more than \$20,000 or by imprisonment for not more than one year, or by both. (OSHA Field Operations Manual, Sec. 17e)
  - **Contest the citation:** If the employer disagrees with the citation, they have 15 working days to contest the citation, but before contesting, they can and should request an informal conference. Once they submit a notice of contest, the legal process has started and an informal conference couldn't be conducted.
    - To have the informal conference, you must contact the appropriate state (if issued by the state) or federal (if issued by the federal) health director of the regional office. The office you would need to contact would be listed in your citation.
    - You are required to notify your employees that you are requesting an informal hearing and provide them with the time and place of the hearing. Within your citation package, you should receive a boiler plate document for notifying your employees of the informal conference.
    - It is recommended that during the request for the informal conference you also draft a secondary request, stating that if you are not satisfied with the outcome of the informal conference, that you would like to move forward with a notice of contest (which means you will be going before a judge to resolve the citation). Make sure in drafting the second letter you understand what department or person that request should go to as well as any other state or regional requirements regarding how to request a formal hearing.
- If you have not contested and notified OSHA in writing in 15 days of receiving this citation, the citation and penalties will become a final order of the Commissioner of Labor and Industry. If this occurs, those citations are documented within OSHA and will be kept on your record. Therefore, if you are cited for these citations a

second time, OSHA could cite you for a repeat or possible willful citation that could be valued at 10 times your original citation.

### Informal Conference

- Go prepared, bring the following:
  - A copy of the citation.
  - Documentation of the citation being posted (e.g., photographs, etc.) and notification provided to employees.
  - Documentation of the citation being abated (e.g., photographs, required forms, etc.).
  - A copy of your FrameSAFE safety manual.
  - Documentation of training that has been given to your employees pertaining to the citation (e.g., Toolbox Talks, certifications, etc.).
  - Documentation and examples of your disciplinary action program.
  - Any additional training or retraining sessions that pertain to the alleged violation.
  - Any sworn statements that may help you mitigate the citation.
- What to expect from the Area Director during the informal conference:
  - Some negotiation about possible price reductions for the citation and/or changing the citation from Serious to Other-Than Serious.
  - His or her best effort to get you to sign an offer settlement agreement and not move forward to a formal hearing.
  - If you sign this agreement, you will be waiving your right to request a formal hearing. At this point, the citation will be documented within OSHA and will be kept on your record. Therefore, if you are cited for these citations a second time, OSHA could cite you for a repeat or possible willful citation that could be valued at 10 times your original citation.
- Proactive measures to demonstrate your company's commitment to safety and ongoing education prior to the informal hearing include:
  - OSHA has a Voluntary Protection Program (VPPS) the program is designed to create a cooperative atmosphere between employers and employees.
  - OSHA also has a Consulting Service. These programs are not run by OSHA enforcement personnel and are no cost programs to the employer. The Consulting Service is designed to help employers improve their safety standards and promote a safe workplace.
  - Getting involved in one or both of these programs could help in negotiating a reduction of fines and the possibility of negating the citation.

### Formal Hearing Process

- If you are unable to come to a settlement agreement in an informal hearing, it is recommended that you get an attorney who is familiar with OSHA regulations and/or labor law involved.
- With the help of your attorney, follow the OSHA (state or federal) guidelines for what will take place during the formal hearing process. Reference any specific information provided at the time of the citation or refer to the ["Guide to Review Commission Procedures"](#) from the Occupational Safety and Health Review Commission.