



KNOCK, KNOCK: ITS OSHA!

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Goals

- What to Have in Place Before an Inspection
- Steps for Handling an Inspection
- Post-Inspection Considerations
- Keys to Compliance

OSHA Compliance

- All employers in the United States are covered, including “general industry,” “construction,” “maritime,” and “agriculture”
- General Duty Clause – Section 5(a)(1)
 - Provide place of employment;
 - Free from recognized hazards;
 - That could cause death or serious injury
- Compliance with OSHA safety and health standards

Types of OSHA Standards

Health Standards

- Lead
- Asbestos
- Chromium
- Formaldehyde
- Methylene chloride
- Cadmium
- Bloodborne pathogens
- Z Table

Safety Standards

- Machine guarding
- Powered industrial trucks
- Lockout/tagout
- Walking and working surfaces
- Fall protection
- Personal protective equipment
- Electrical safety



Recordkeeping

- OSHA 300 Logs
 - Record work-related injuries and illnesses
- OSHA 301 Forms
 - Incident reports
- Annual Summary
- Reporting of fatalities and catastrophic events
- Survey to OSHA and BLS
- Must not discourage employees from reporting injuries and illnesses
 - Safety incentive programs should not discourage reporting
 - No punishment for reporting injuries

Safety and Health Management System

- Tool for creating a safe work environment and ensuring compliance with OSHA standards
- Key elements:
 - Management leadership and employee participation
 - Hazard identification and control
 - Training and education
 - Program evaluation and continuous improvement
- Must know your hazards, applicable OSHA standards, and take corrective actions



What can I do to Prepare for the Knock?

- Implement your Safety and Health Management System
- Develop procedures – and your company philosophy – for when OSHA comes knocking and train your employees in those procedures
 - What type of access will be granted
 - Will a warrant be requested
- Designate area of facility in the front of the facility for initial meeting and any interviews
- Have records (300 Logs, training records, etc.) readily available
- Designate specific people to interface with OSHA



The Elements of an OSHA Inspection

- The Knock at the Door
- The Opening Conference
- The Walkaround
- The Closing Conference

The Knock and Opening Conference

- No advance knowledge – usually!
- Credentials
- Tip: Ask inspector to explain the purpose of the inspection
 - “Programmed” inspection
 - SST
 - National Emphasis Program
 - Local Emphasis Program
 - Response to fatality or catastrophic event
 - Response to employee complaint



The Walkaround

- Inspection may last several hours or several months, but no more than 6 months
- The compliance officer has a right to private interviews with non-management employees
- An employee representative, if any, must be permitted to attend entire inspection
- Tip: Accompany inspector on visit and copy everything inspector does (photos, videos, etc.)

Closing Conference

- Provide general information as to likely citations
- Often pro forma
- Suggest possible corrections
- Discuss appeal rights
- Tip: Use the closing conference as “free discovery”

Hopefully no citations, but ...

- De Minimis
- Repeat
- Other Than Serious
- Egregious
- Serious
- Criminal
- Willful



Citation Options

- Informal conference/Informal settlement
 - 15 working days from receipt of citation
 - Provide information on abatement
 - Explain why citations are not justified
 - Could result in penalty reduction, classification reduction, or withdrawal
 - Expedited Informal Settlement – do not have to take it



Citation Options (cont'd)

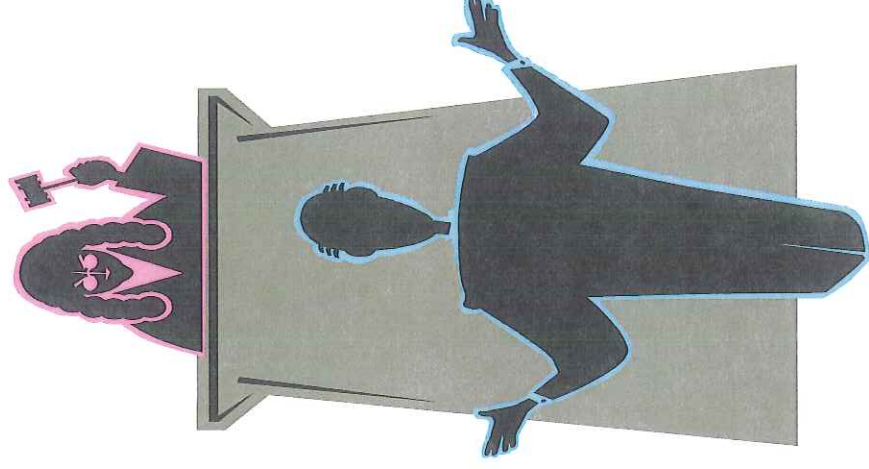
- Notice of Contest
 - File within 15 working days
 - Short letter
 - Contest everything – all citation items, abatement dates, and proposed penalties
 - Moves you into conversations with “Solicitor”

Citation Options (cont'd)

- Settlement discussions with Solicitor
 - Fresh look at citations
 - In most instances, Solicitor will not have previously been involved in case
- Tip: Engage Solicitor early in the process to discuss why citations are unwarranted or inappropriate

Hearings

- Before the Occupational Safety and Health Review Commission
- Citation is the “Complaint”



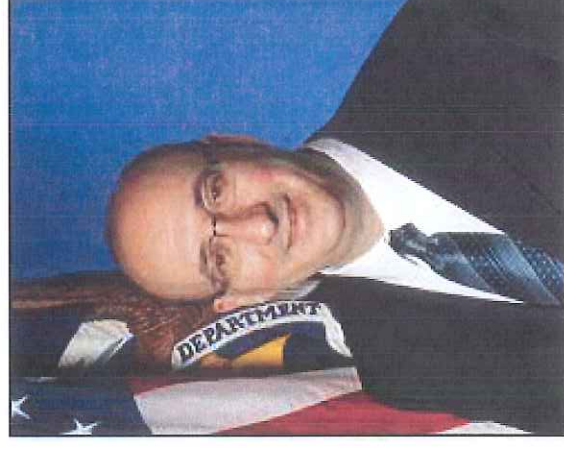
Key Considerations Post Citation

- Do you believe the citations are warranted?
- How high are the penalties?
- Is the required abatement clear?
- How extensive would abatement be?
- How would this impact other establishments?
- Could there be a “repeat” in the future?

David Michaels

Assistant Secretary of Labor for OSHA

- David Michaels, PhD, MPH, is an epidemiologist
- Before coming to OSHA, he was Professor of Environmental and Occupational Health at the George Washington University School of Public Health and Health Services, directing the the Project on Scientific Knowledge and Public Policy
- From 1998 to 2001, Michaels served as Assistant Secretary of Energy for Environment, Safety and Health
- Chief architect of the Energy Employees Occupational Illness Compensation Program, an initiative to compensate nuclear weapons workers who contracted occupational illnesses



Enforcement, Enforcement, Enforcement

- Enforcement and Rulemaking over Voluntary and Cooperative Programs
 - In 2009, OSHA emerged from its regulatory and enforcement shell and delivered on Secretary Solis's promise to focus the Department of Labor on tough enforcement and aggressive rulemaking.
 - OSHA enforcement and regulatory resources increased at the expense of voluntary and cooperative programs emphasized during the Bush Administration.



What Should I be Doing Now?

- ✓ Strengthen (or establish) your safety and health management system
- ✓ Check your recordkeeping logs
- ✓ Check your safety incentive programs
- ✓ Perform a mock inspection
- ✓ Prepare your establishments for an OSHA inspection!

Thank You!

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