**OSHA Inspections**

**Q. Do employers have the right to require an OSHA inspector to obtain a search warrant prior to inspecting their facility?**

This is a decision that needs to be made by the organization as part of the inspection policy.  While employers do have this right, it is not recommended.  You don’t want to purposely create an adversarial relationship.  It doesn’t take an inspector long to get a warrant.  In most cases if an inspector shows up in the morning and is required to get a search warrant, the inspector in many cases can be back to conduct the inspection with warrant in hand before lunch.

**Q. What should be included in an OSHA Inspection Policy?**

It is recommended that inspection policies include the following:

* Make sure that the inspector(s) provide proper identification.
* Designate what company official(s) will be greeting and accompanying inspector(s) during the inspection.
* During the opening conference with the inspectors, inform other management personnel that OSHA is in the house *(although your house may be in order, this will allow management to take a quick walk through to make sure proper PPE is being worn, and that fire extinguishers and exits are not blocked).*
* Have the company officials take notes of the inspection, including what the inspector (s) commented on, asked about and what pictures and/or videos and measurements that were taken.  The company officials should take their own pictures/videos and measurements—different angles can tell a whole different story.
* Company officials should respond appropriately to questions ask by the inspectors but should never attempt to explain to make excuses or argue with the inspectors.
* If there are trade secrets involving product or processes, inform the inspector(s) and stress confidentiality.
* Have a company official in charge of maintenance involved in the walk through.  If a minor violation is detected by the inspectors, have the person in charge of maintenance to contact a maintenance employee to fix it on the spot—this will show “good faith effort”.

**Q. Do inspectors have the right to interview employees during the inspection?**

Yes, they do. In fact, they have the right to interview them without your presence.  If, however, the inspector wants to interview members of management, a company official has the right to be present during such interviews.

**Q. Are we required to allow employees to be involved in the walk-through inspection?**

Yes, you are. Often time an employee who is already a member of the safety committee will participate in the walk through.  However, in those situations where that is not the case an employee may be designated by his/her peers to participate and should be allowed to do so.  Regarding compensation for this employee for this activity, OSHA has changed its position a number of times on whether or not payment to employees is required.  While OSHA’s current position is that payment is **not**required, we recommend doing so.

**Q. I heard that employees, even in a non-union setting *(company is not subject to any collective bargaining agreement)*, can request a union official to be their personal representative to accompany them during an OSHA inspection.  Is this true?**

You heard right**.**While this is not a typical scenario for most employers it can and does happen.  This may occur for example during a union campaign whereby union officials are engaged with the employees. A letter of interpretation was issued by Dr. David Michaels, Assistant Secretary of OSHA (USDOL)  on February 21, 2013 ***stating that union representatives, authorized by employees as their personal representatives, are to be allowed to accompany OSHA inspectors during an OSHA inspection even though the company is not subject to a collective bargaining agreement. (***[***http://www.osha.gov/pls/oshaweb/owadisp.show\_document?p\_table=INTERPRETATIONS&p\_id=28604***](https://my.capital.org/external-link.jspa?url=http%3A%2F%2Fwww.osha.gov%2Fpls%2Foshaweb%2Fowadisp.show_document%3Fp_table%3DINTERPRETATIONS%26p_id%3D28604)***).***

**Q. Will OSHA inspectors meet with company officials on-site once the inspections are completed?**

Yes, closing conferences are part of the inspection process.  Inspectors will review any safety or health violations observed during the inspection.  In many cases they will cite the standard(s) that were violated.  Normally, however, inspectors will not reveal which violations will result in citations or penalties.  Company officials should conduct themselves in a courteous and professional manner during the closing conference even if they disagree with the inspectors’ findings.

**Note**: Review state laws for state-specific provisions.

Written by a Catapult Advisor