

## 2.2: OSHA Procedures

### OSHA Procedures

OSHA has set procedures for conducting worksite inspections, assessing civil penalties for compliance violations, delegating employer and employee responsibilities, filing complaints, promoting changes and rulemaking, codifying requirements, recordkeeping and reporting.

### OSHA Inspections

To enforce its standards, OSHA has the authority to conduct inspections. Every place of employment covered by OSHA is subject to inspection. OSHA has the authority to enter without delay, at reasonable times, to inspect and investigate any place of employment. Inspections are conducted without advance notice. If an employee refuses to admit an OSHA compliance officer, OSHA will pursue legal actions, such as obtaining a search warrant.

### Inspection priorities

Because of the vast amount of jobsites and the shortage of OSHA compliance personnel, OSHA has inspection priorities. The first priority is for imminent danger conditions. These are situations where there is reasonable certainty that a danger exists which can be expected to cause or is causing serious physical harm or death. The second priority is given to jobsite catastrophes and fatalities. The third priority is given to investigating employee complaints and the last priority is for programmed high-hazard inspections. OSHA also includes as part of the last priority, follow-up visits for compliance with abatement and mitigation of citations.

### Inspection procedures

When an inspection occurs, OSHA has a set of procedures it follows. After the OSHA inspector shows his or her credentials and announces the inspection, an Opening Conference is held with the employer to explain the purpose of the visit, the scope of the inspection and the standards that apply. An employer representative and an employee representative are permitted to attend the conference and participate in the inspection. The Inspection Tour is the second step of the inspection. The OSHA officer and accompanying representatives proceed through the jobsite on the inspection. OSHA compliance officers are permitted to question employees during the tour and they will point out unsafe or unhealthy working conditions observed. The last step of the visit is the Closing Conference. The OSHA officer will discuss what was observed during the inspection and indicate all apparent violations for which a citation may be issued. The employer is told of his/her appeal rights.

No discussion of any proposed fines should occur at the conference. The OSHA area director is responsible for that determination only after having received a full report.

### Penalty schedule

OSHA has established a penalty schedule based on the severity of the violation. Violations that are not likely to affect health and safety are classified as Other Than Serious and are subject to a proposed penalty of up to \$13,653 for each violation. Violations where there is a probability that death or serious physical harm could occur are classified as Serious. A mandatory fine of \$13,653 for each penalty is proposed. Willful violations occur when the employer intentionally and knowingly permits a hazardous condition to exist or makes no reasonable effort to abate such a hazard. Penalties of up to \$136,532 per violation are proposed for willful violations. OSHA also has fines for Repeat violations (\$136,532) and Failure to Correct Prior Violations (\$13,653).

### Employer Responsibilities

All employers have the primary responsibility to meet the provisions of the general duty clause, section 5(a)(1), by providing their employees a workplace that is free from recognized hazards that are causing or are likely to cause death or serious physical harm to their employees.

Employers must also comply with any standards, rules and regulations issued by OSHA. Employers must examine the workplace to make sure that all workplace conditions conform to the applicable standards. Employers must provide to their employees all of the necessary training required by OSHA standards.

### Employee Responsibilities

While OSHA does not cite employees, employees have the responsibility to comply with all OSHA standards and all rules, regulations and orders issued by the OSHA Act. Every employee should follow the safety and health rules and regulations and

wear appropriate Personal Protective Equipment (PPE) where so required. Employees should report any job related injury or illness to the employer immediately.

### Employees' Rights

Employees should always exercise their rights under the OSHA Act in a responsible manner. If an employee is exercising these or any other OSHA rights, the employer is not permitted to discriminate against that worker in any way, such as through firing, demotion, taking away benefits, transferring the worker to an undesirable job or shift, or threatening or harassing the worker.

Workers who believe that they have been punished or discriminated against for exercising their safety and health rights must contact the nearest OSHA office within 30 days of the time they learn of the alleged discrimination.

A union representative can file a complaint on behalf of the worker. The worker does not have to complete any forms. If necessary, OSHA will pursue legal action against the employer and the employee does not have to pay any legal fees.

OSHA has a 24-Hour Emergency Service Hotline for those who want to contact OSHA about life-threatening workplace hazards or serious health emergencies. 1-(800)-321-OSHA.

### Development of OSHA regulations

OSHA regulations can be developed by OSHA itself, the Secretary of Health and Human Services, the National Institute for Occupational Safety and Health, state and local governments, nationally-recognized standards-producing organizations, employer or labor representatives or any other interested persons.

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