Eastern Shores SHRM’S & DELMARVA- AMERICAN SOCIETY OF SAFETY PROFESSIONALS (ASSP)

“Handling of an OSHA inspection”

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How does Human Resource play a role?

• Factors?
  – Depends on the size of your organization;
  – Size of your location;
  – Safety support staff – (present or open position)
  – Do you use a safety consultant?

• Expectations?
  – Do you have a defined role in the process?
  – Are you expected to be involved?
  – Are you handling the whole process?
Pre-plan for an OSHA Inspection (Federal or State)

• First, determine your organization’s legal position with the agencies. (Cooperative, Foe or Guarded Business Professional)

• Work with your companies Safety Professionals (where applicable) or Legal Council for policy development.
OSHA Inspection Protocol

• The purpose of this process/policy is to ensure correct handling of an OSHA inspection.

• OSH Act grants representatives the right to inspect (OSHA, EPA & USDA) at any time.

• Inspections must occur at reasonable times during the work day, within reasonable limits, and in a reasonable manner.

• Your Sr. Mgmt. or HQ is to be notified of all inspections and correspondences received immediately.
OSHA Inspection Types

• **Imminent Danger** – 1\(^{st}\) priority
  – reasonable certainty that a danger exists expected to cause death or serious physical harm immediately

• **Catastrophes and Fatal Accidents** – 2\(^{nd}\) priority
  – Accidents with hospitalization of 1 or more
  – Must be reported by the employer within eight hours of the accident.

• **Employee Complaints or Referral** – 3\(^{rd}\) priority
  – Approximately 1/3 of all investigations
  – a written complaint by a current employee.
  – serious hazards are inspected within five days
  – other-than-serious conditions - 30 working days
OSHA Inspection Types

- **Programmed Inspection**
  - Aimed at specific high health risk industries and occupations (e.g. the poultry industry / construction)
  - injury-incident rates, previous citation history employee exposure to toxic substances, or random selection
  - Poultry industry is on the programmed list

- **Follow-up Inspections**
  - Verify that hazards have been corrected.
  - If an employer has failed to abate a hazard "failure to abate" alleged violations often result in additional penalties which are typically 10 X the original penalty.
OSHA Inspection Types

• Records Review
  – examination of the employer’s injury-and-illness records
  – determine whether there will be a comprehensive inspection of the
  – reviews the OSHA 300 log of recordable injuries and illnesses
  – Let review of programs on site, get list of programs and send later
Greeting the Inspector

• OSHA compliance inspector will identify themselves and present an identification card.

• Guard/receptionist - immediately notify the supporting Safety Manager, HR Manager and Operations Manager

• The guard should ask the inspector to wait at the gate or waiting area until given direction by site management on where to take the compliance officer.

• SLOW DOWN – THERE IS NO HURRY
Greeting the Inspector

• An OSHA compliance officer carries the U.S. Department of Labor credentials
• Your company should require the credentials be verified by calling the nearest OSHA office
Opening Conference

• OSHA inspector must hold an opening conference
• Inspector will state the basis and scope of the inspection, including any standards that apply.
• Perdue will be given a copy of an employee complaint, if applicable.
• Your management must carefully review these documents to ensure the inspection remains within the limits of the inspector's authority
Opening Conference

• Inspector may request other information
• Prior to the OSHA site inspection, plant management, the safety manager and maintenance should do a walk-through safety review prior to compliance officer
• Do NOT provide information or documentation unless requested by the compliance officer.
Activities prior to walkthrough

Someone should do a quick walk-through review:

- Close all doors and access doors;
- Secure maintenance gang boxes or cabinets;
- Check maintenance repair tools (i.e. drill presses and grinders – make sure the guarded correctly and mounted)
- Make sure all chemical containers are labeled.
- All guards are secured.
During the Inspection

• The inspector should never be left alone. They must be accompanied at all times.
• They should be based in a conference room away from the plant floor.
• Police the area for any documentation
• Safety/HR Manager or management representative must perform the same activities (measurements, photos, notes)
• Always take the compliance officer the most direct route to the area(s) THIS IS NOT A TOUR!
• Your company is not obligated to demonstrate the operation of any machinery or processes.
During the Inspection

- If a safety violation occurs during the inspection, it should be corrected on the spot.
- Normal disciplinary policy should be used subsequent to the inspection.
- OSHA can interview employees to the extent that such discussions do not interfere too greatly with the performance of work.
- Your company is entitled to inform the employee if they want a member of your management to attend during the interview process.
- NO Sidebar discussions in the area of the OSHA rep!!!
During the Inspection

• Do not offer to open doors or show OSHA other areas of the facility unless directly requested.

• All documentation requested by OSHA needs to go through the Safety/HR Manager/Legal.

• All documents will be copied and logged before being provided to the compliance officer.

• Be cautious about volunteering information. Never grasp at an opportunity to put yourself or your company in a good light. Count your words carefully.
Categories of violations OSHA Uses

• **Willful Violation**: A violation that the employer knowingly commits, or commits with plain indifference to the law and made no reasonable effort to eliminate it.
  – Penalty $25,000 to $132,598.

• **Repeat Violation**: More of the same item or the same type of item (e.g. missing machine guarding)
  – Penalty to $132,598 (typically 10 x the original fine)

• **Serious Violation**: A violation where there is substantial probability that death or serious physical harm could result and that the employer knew, or should have known, of the hazard (e.g. machine guarding)
  – A mandatory penalty of up to $13,260 for each
Categories of violations OSHA Uses

• **Other Than Serious Violation:** A violation that has a direct relationship to job safety and health, but probably would not cause death or serious physical harm. (e.g. lack of training/documentation or valid SOP’s)
  – up to $7,000
Outside Contractors

• All onsite service contractors affected by the OSHA inspection must be notified of the inspection and have their company management representative on-site.

• Contractors who are on-site as part of a project must be notified and requested to leave the premises if the inspection does not directly affect them.
Closing Conference

• After the inspection, The OSHA officer will conduct a preliminary closing conference with your company

• During the conference, the inspector will advise of any potential violations, observations, citations

• Proposed OSHA violations anticipated to be cited should be discussed in full to ensure proper understanding and correct interpretation. DON’T ARGUE

• Your company personnel participating in the closing conference should be careful with any comments that might be taken as admissions of violations at issue.

• No specific proposed penalties are indicated at this time; only the OSHA area director has that authority.
In Closing

• Be proactive:
  – Understand your company's position with OSHA
  – Have a plan ahead of time
  – Train those to impacted on the plan
  – If you have responsibility for Safety, get involved & knowledgeable with your safety process
  – Continue your professional development by attending sessions like today’s to become a better professional
  – Don’t be afraid to reach out for help when needed
  – You got this!