

Insights, News & Events

OSHA INSPECTIONS: ASSERTING LEGAL RIGHTS WHILE MINIMIZING EXPOSURE TO CITATIONS AND PENALTIES – PART I

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Ed Foulke's article "OSHA Inspections: Asserting Legal Rights While Minimizing Exposure to Citations and Penalties – Part I" was featured in *CE Risk Management* on December 2, 2014.

In one of her earliest speeches, then-Secretary of Labor Hilda Solis stated "there was a new sheriff in town" and that she was bringing back enforcement to OSHA and other agencies within the Department of Labor. As part of this enforcement focus, the current Assistant Secretary of Labor for OSHA, Dr. David Michaels, has on numerous occasions indicated that part of the enforcement strategy was to utilize press releases to shame employers into compliance.

At the same time, the number of citations being issued and the penalty amounts for those citations has significantly increased. While OSHA has increased the enforcement focus of the agency, federal, state and private industry are focused on a company's safety record, particularly on OSHA citations as a determinative factor in whether that employer will be allowed to bid on either government or private industry contracts.

In the article, Ed discusses the importance of employers being ready to effectively deal with an OSHA inspection by asserting their legal rights, while at the same time staying on

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top of any OSHA inspection in order to minimize potential citations as well as significant penalties.

The first step in preparing for an OSHA inspection is to maintain a safe and compliant worksite. This can be achieved by first determining what specific OSHA safety and health standards are applicable to the employer's worksite and, at the same time, assessing the worksite to determine if other safety and health hazards need to be either eliminated or controlled.

One question raised by many employers is why OSHA picked the location for an inspection. In its Field Operations Manual, OSHA sets forth the inspection priorities, which include:

- imminent-danger situation;
- fatalities and catastrophic accidents;
- employee complaints and referrals; and
- high-hazard industries and special emphasis programs inspections.

Ed stresses, no matter the type of inspection, it is critical for employers to remember that this is their facility and that they have certain legal rights, including that the inspection be conducted in a reasonable manner and at a reasonable time. In addition, the act requires that OSHA complete its inspection within six months of the start of the inspection. Also, it is critical that the employer be cooperative and responsive, but maintain control during the entire inspection.

To read the full article, please visit [*CE Risk Management*](#).