



## Common Mistakes In OSHA Inspections

### Insights

#### 6.13.13

This post is not a “guide” to handling OSHA Inspections, but rather are a few observations about reoccurring issues we see in OSHA inspections. These comments are most appropriate to a fatality or more involved OSHA inspection.

1. No matter what you’ve experienced in the past, do not treat OSHA inspections as “*no big deal.*” You will be in danger of “Repeat” violations of up to \$70,000 an item for five years at all of your locations.
2. HR, General Counsel and Corporate Safety Directors hate “*surprises,*” such as learning of an OSHA inspection days or weeks later when there is little that they can do. If you are a site manager, always notify HR, Legal or Upper Management when OSHA arrives . . . not when you receive a citation.
3. Set out in writing at every location who to notify when OSHA or any investigator comes on a company site . . . and regularly remind frontline managers.
4. Involve counsel when OSHA first comes on site; even if only to obtain basic guidance.
5. “*Manage*” the OSHA inspection. Most Compliance Officers are decent professionals who are committed to safety. Nevertheless, we encounter employers who felt bullied, and meekly followed even unreasonable orders. Cooperate and be professional, but pause . . . think about each “*request*” . . . determine “*when*” you need to respond . . . and do not lose control. Everyone’s interests are best served by responding in an orderly and thoughtful fashion.
6. *Dig – dig – dig.* There always seems to be more facts, especially in death or catastrophic cases. Don’t rely on others to ask your questions . . . even if you write them out. Follow leads and tangents. Investigate and disregard or confirm “*speculation.*” People remember facts later; you may have to revisit witnesses.
7. Especially on a multi-employer site, the first dealings with OSHA are critical and may set the tone. You probably don’t know many facts at this stage, so don’t speculate. Don’t feel compelled to volunteer every positive safety effort ever carried out . . . you may unintentionally raise additional issues or expand the scope of the inspection. Do build a rapport, obtain a list of materials requested, and be responsive.
8. On a multi-employer site, expect at least one employer on site to grab the OSHA Compliance Officer as soon as he or she comes on site, and start “selling them a story.” It does not pay to

actively throw another employer “*under the bus*,” because OSHA can cite everyone. Nevertheless, it is common and can skew the inspection.

Howard

### ***Related People***

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