

## WORKPLACE SAFETY

# 10 TIPS FOR DEALING WITH OSHA INSPECTIONS, CITATIONS



**W**HEN OSHA shows up, it's not the time to figure things out on the fly. Whether you're in construction, manufacturing or any other field with safety exposure, knowing the ground rules can make all the difference between a successful visit or one where you leave yourself exposed to penalties and a drawn-out appeals process.

If you aren't careful and prepared, fines can quickly pile up. Here's a quick guide to help you handle inspections, citations and communication with OSHA before, during and after they step on site.

### 1. Ensure you have a walkaround rep

Under OSHA regulations, you are allowed to have someone represent you during an OSHA inspection — yes, even an attorney. It's a smart move to assign someone in advance who knows your operations and your safety protocols and who can speak on your behalf.

### 2. Sit in on manager interviews

OSHA has the right to interview members of your team. If they interview one of your managers or supervisors, you have the right to be present. It's a good idea to have a company rep or legal counsel there to help ensure the facts are clear and accurate.

However, if they decide to interview a non-managerial employee, you do not have the right to have a manager present.

### 3. Employees have choices too

Non-supervisory employees can choose to speak with OSHA privately, but they don't have to. They have the right to refuse to participate in an interview with OSHA and end an interview at any time. They can also refuse to allow OSHA to record the meeting.

Conversely, you cannot take retaliatory action against an employee who agrees to be interviewed.

### 4. There's a six-month deadline for citations

OSHA can issue citations up to six months after a violation occurs. However, if OSHA later learns that you concealed a violation or misled them, the clock resets to when they learn of the subterfuge.

If you don't hear back in the first month or two since the inspection, you are not out of the woods for several more months.

### 5. No injury? You can still be cited

A workplace injury might bring OSHA in the door, but they can cite you for any unsafe condition they find during the inspection — even if no one was hurt or the issue wasn't what prompted the visit.

### 6. "Not my worker" isn't always a defense

On shared job sites, you can be cited for hazards affecting another company's employees under OSHA's Multi-Employer Doctrine.

If your team creates or controls a risk, such as the owner of a construction project, you're potentially responsible — even if the injured employee works for a subcontractor.

### 7. Hazards can be cited, even without a rule

Under OSHA's General Duty Clause, it can cite you for a serious hazard even if there is no specific standard for the hazard and you haven't taken reasonable steps to prevent or abate the risk.

### 8. You have 15 working days to respond

If you get a citation, the clock starts ticking. You have 15 business days to formally contest it.

But you also have the option to negotiate a resolution before that deadline by requesting an informal conference, which can sometimes be a faster and less expensive option.

Employers often use these informal conferences to negotiate the settlement of a citation before resorting to legal remedies in a formal contest.

### 9. Citations don't have to be detailed

OSHA doesn't need to spell out every detail in a citation. As long as you get fair notice of what's being alleged, you'll need to get further clarity through the legal or discovery process.

### 10. Request inspection records with FOIA requests

You can request OSHA's inspection records using a Freedom of Information Act request.

These files can provide insight into why OSHA took certain actions, and help you better prepare for what comes next. ❖