

# MBAA Safety Tool Box Talk



## What to do when OSHA shows up!

### OVERVIEW

When OSHA shows up don't panic. OSHA has particular rules to abide by. Not planning for OSHA is no plan at all.

They are required to show ID. Ask them why they came to your establishment. They will tell you one of four things:

1. A complaint
2. A programmed inspection
3. A unprogrammed inspection
4. A referral from some other agency

**A Complaint** can be Formal or Informal. A Formal Complaint is from a employee, family member, or union representative. An Informal Complaint is by phone/fax. You have 5 days to respond. With a Formal Complaint you should first provide the OSHA Inspector with a up-to-date employee listing. If the complainant is not on your list the OSHA Inspector may just leave without conducting an inspection. Your company should take this visit seriously.

**A Programmed Inspection** is proactive in nature. OSHA has National or Local Emphasis Programs for many industries. Combustible Dust, Hazardous Machinery and Process Safety Management are the main ones for breweries. An OSHA Area Office also has Emphasis Programs.

**Unprogrammed Inspection** results from a Fatality or a Catastrophe. (Complaints and Referrals fall in this category. Your company is responsible to report a fatality – within 8 hours, or a catastrophe within 24 hours).

**A Referral** can come from the hospital where your employee went to be treated, the police, your state's environmental enforcement division, your state's Department of Labor or some other public entity.

### WHAT WILL OSHA ASK FOR?

OSHA has the authority to inspect without delay. You can delay – but it generally is not a good idea. OSHA Compliance Officers are instructed to return to the office and get a search warrant if this happens.

They will ask for the last five years of accident records – the OSHA 300 Logs and the OSHA 300A Annual Summary. Make sure they are accurate before you turn them over to the OSHA Officer. Then they will ask for your written safety and health programs. These are the Hazard Communication Program/GHS, Lockout/Tagout Program, Respiratory Program and possibly what your Hearing Conservation program entails.

Then they will want to inspect your facility. They will request an employee representative – union representative, or they will choose one employee.

In the meantime you should send word out to alert your employees and have management prepare for the inspection.

### PREPARING FOR AN INSPECTION?

First you should use the OSHA Compliance Service in your state. This is funded by OSHA, is free and they do not report to OSHA. As long as you are in the process of complying, and you tell OSHA that upfront, they might just leave.

Prepare notification procedures. OSHA Compliance Officers usually show up in pairs – you will need two people for each Compliance Officer. You should post signs indicating that no Video Taping is allowed – this limits them to photos only. Understand that once the inspection is over photos and information becomes public records – insist on confidentiality. You need a digital camera to take the same pictures OSHA takes. Maintenance should be prepared to fix whatever needs to be corrected. The faster you correct them better your company looks.

### DURING THE INSPECTION

Only answer the questions that are asked, do not elaborate. The Compliance Officers are here to see what you do now not what you did in the past. Let them ask for things such as a specific employee's training record on GHS. Under promise and over deliver. If they ask for a Safety Data Sheet (SDS) have someone go and get it instead of going to the SDS sheet book. Do not make anything up, do not lie to them and make sure that they receive the correct information the first time. It is hard to unlearn bad information.

They will talk to everyone and look everywhere. Do not be afraid talk to them about family, hobbies and other things as you walk with them.

### AFTER THE INSPECTION

The OSHA Compliance Officer will detail the inspection's finding at the Closing Conference. But, understand that the Area Director is the only one that can determine the Citation's fines.

When you receive the citation you must post it – not the fines. You have 15 days to request an Informal Conference, to contest the citations or to go for judicial review. The informal conference costs nothing and is done at the area office.

During the Informal Conference you must be prepared to dispute the individual citations with photos and explanations. You do have a chance to lower the fines. Eliminating them is not possible.

### LINKS

- [CFR 29 1903 Inspections, Citations and Proposed Penalties](#)
- [OSHA Fact Sheet – OSHA Inspections 8-2016](#)
- [OSHA Fact Sheet – OSHA Penalty Adjustment 6-2016](#)
- <https://www.brewersassociation.org/educational-publications/best-management-practice-surviving-osh-inspection/>

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