



There's a **Cal/OSHA** Inspection at Your Job Site — *Now What?*

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What Is the Purpose of Cal/OSHA?

The Division of Occupational Safety and Health (DOSH), better known as Cal/OSHA, protects and improves the health and safety of working men and women in California. Cal/OSHA's purpose includes setting and enforcing standards, providing outreach, education, and assistance issuing permits, licenses, certifications, registrations and approvals.

The objectives of Cal/OSHA are the following:

- Division of Occupational Safety and Health enforces worker safety and health standards.
- Occupational Safety and Health Standards Board adopts, amends and repeals standards.
- Occupational Safety and Health Appeals Board hears appeals from employers regarding Cal/OSHA enforcement actions.

The Cal/OSHA program has been administered by the Department of Industrial Relations (DIR) within the Labor and Workforce Development Agency since 1973. Cal/OSHA offers free training and consultation to employers and their employees for complying with the workplace safety and health regulations.

Why Would Cal/OSHA Show Up at My Worksite?

There are two types of inspections conducted by Cal/OSHA.

The first type is a **general scheduled inspection**. A general scheduled inspection is one where inspections of employers are randomly selected in specific industries, or as part of a national or local emphasis program.

The second type is an **unprogrammed inspection**. This type of inspection occurs for multiple reasons, such as:

- **Accident** – An inspection resulting from the requirement that an employer must report a fatality, catastrophe, or serious injury or exposure within eight hours of when the employer knows of this event. Make sure that responsible parties in your company are aware of this requirement, as an affirmed violation carries a mandatory minimum penalty of \$5,000.
- **Complaint (formal)** – A formal complaint is one filed by an employee, employee representative, the employer or a government agency. Formal complaints are generally investigated with an on-site investigation within three working days for serious complaints and within 14 calendar days for nonserious complaints.
- **Complaint (informal)** – An informal complaint is one filed by anyone who is not an employee or employer, or who is an employee filing an anonymous complaint. Serious informal complaints are investigated by phone or fax. Nonserious informal complaints are often investigated by letter to the employer by the following means:
 - **Referral** – A report of hazards or alleged violations originating from either a safety or health compliance officer, or a media source.
 - **Follow-up** – An on-site inspection that can occur if the employer does not respond to the letter or the investigation, or

the corrections are inadequate — may also allow for a review of whether the employer has abated violations previously cited in a Cal/OSHA inspection.

- **Unprogrammed related** – An inspection of an employer at a multi-employer worksite that was not identified as a participant of the original unprogrammed inspection assignment.

The Inspector's Initial On-Site Visit

Cal/OSHA inspectors must identify themselves to the employer by showing their state of California photo identification card and the Division of Occupational Safety and Health business card prior to conducting an inspection. The inspector will then ask for permission to conduct an inspection from a management-level representative of the employer, or if none is present, from an employer representative who appears to have the authority to grant permission for the inspection.

If permission is refused, Cal/OSHA will obtain an inspection warrant. A Cal/OSHA inspection is based on one or more criteria and may focus on part or all of the workplace or operating procedures.

There are five inspection priorities. They are 1) imminent danger, 2) fatality or catastrophe, 3) investigation of serious injury or exposure, 4) formal complaints and 5) schedule inspection (usually of businesses in industries with higher-than-average potential risk).

What Will Happen During the Inspection?

The Cal/OSHA inspector will start with an opening conference to explain the reason for the visit. During the opening conference, three actions generally occur. First, the inspector explains the reason for and the scope of the inspection. Second, joint opening conferences are held with the employer representative and bargaining unit representative of the employees. If a joint conference cannot be held, separate conferences are held. Third and last, the inspector will review the employer's permits and



registration when appropriate, documentation of workers' compensation coverage, occupational safety and health records, and the written Injury and Illness Prevention Program and any other required programs.

Walk-Around

The inspector informs the employer of inspection walk-around procedures and conducts employee interviews. (Cal/OSHA has the right to interview employees in private.) Photographs may be taken, and testing and environmental samples may be taken.

If hazards are observed during the walk-around that are violations of Title 8 safety orders, citations will be issued and monetary penalties proposed.

Enforcement staff will collect pertinent documentary and physical evidence during the inspection. If it becomes necessary to ensure that the worksite or any physical evidence at the worksite is preserved until the inspection can be completed, the enforcement staff will issue an order to preserve.

Citations and Penalties

If after an inspection or investigation Cal/OSHA believes that an employer has violated any Title 8 standards, order or regulation, a citation is issued with a reasonable time for abatement (correction).

The citation must be prominently posted by the employer at or near each place of violation referred to in a serious citation, or in a place where it is readily seen by all affected employees — and must remain posted for three working days or until the condition is abated, whichever is longer.

Penalties are based on the severity, extent and likelihood of the violation. Adjustments to the proposed penalty are made based on the size, good faith and history of the employer.

The penalty for general and serious violations is reduced by 50 percent on the presumption that the employer will correct the violations by the abatement date. This credit is revoked and the proposed penalty doubled if verification of abatement of a serious violation is not submitted to Cal/OSHA on a timely basis.

Closing Conference

At the inspection's conclusion, the inspector holds a closing or exit conference with the employer to discuss any alleged violations or standards observed, and any requirements for abatement.

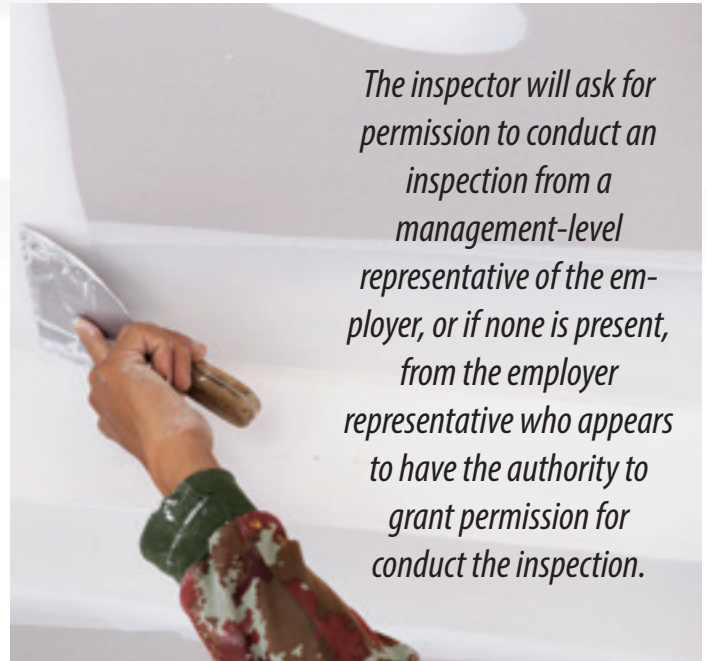
Other possibilities are discussed at the closing conference. Among them are the following: the possibility of another inspection, the employer's right to contest any citation or penalty and reasonableness of any abatement or abatement date. The inspector may also discuss availability of an informal conference to review Cal/OSHA's enforcement actions and the employer's responsibility to post citations and notify Cal/OSHA of the abatement of any particular violations.

Verification of Abatement

Enforcement staff assign an abatement date for each cited violation. Abatement is usually required within 30 calendar days for general violations and seven days for serious violations. Employers are required to submit proof of abatement to the Cal/OSHA district office that issued the citation.

Informal Conference

Following a citation or notice, an employer may request a discussion with the Cal/OSHA district manager. These informal conferences are conducted within 10 working days of when the citation was issued. If an appeal is filed, the conference may be held any time prior to the scheduled date of an appeal.



The inspector will ask for permission to conduct an inspection from a management-level representative of the employer, or if none is present, from the employer representative who appears to have the authority to grant permission for conduct the inspection.

The employer may discuss requests to extend abatement dates, or present evidence that indicates no violation exists or that the proposed penalties are inappropriate.

Cal/OSHA Appeals Board

Upon receipt of a citation, the employer may appeal to the Cal/OSHA Appeals Board, in order to review the violation, proposed penalty or abatement date.

Any appeal must be made in writing within 15 working days of receipt of a citation. If an employer fails to notify the Appeals Board of its appeal within this limit, and no notice is filed by an employee or employee representative within that time, the citation becomes a final order not subject to review by any court or other agency.

Appeals can be resolved by a telephone prehearing conference without a hearing. For appeals that require a hearing, it is held in the Cal/OSHA district office as near as practical to the site where the violation is alleged to have occurred.

Although the appeal procedures are designed so that employers may represent themselves, attorneys represent employers approximately 50 percent of the time.

The hearing is conducted by an administrative law judge who issues a decision. Parties affected by the decision may file a petition for reconsideration within 30 days if they disagree with the decision of the judge. Appeals Board reconsideration requests may be appealed to superior court.

Typically, this is the process an employer can expect to see if a Cal/OSHA inspector visits a job site. This review is intended to assist in recognizing the standard protocol. It is best to be prepared for an inspection at any time. If an employer feels they are not prepared to handle an unannounced visit from an inspector, consider starting a Cal/OSHA inspection fact sheet as soon as possible. If you have any questions on how to implement a Cal/OSHA inspector's fact sheet at your worksite, feel free to contact me or a WCB representative. For more information on Cal/OSHA and the complaint handling process, visit www.dir.ca.gov/dosh.

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