

WHAT TO EXPECT WHEN OSHA INSPECTS

Discover Answers to 4 Key Questions About OSHA Compliance



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4 Key Questions

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WHAT TO EXPECT WHEN OSHA INSPECTS

Answers to 4 Key Questions About OSHA Compliance

The Occupational Safety and Health Administration (OSHA) is responsible for ensuring the safety of the U.S. workforce. Keeping healthcare workers safe helps to ensure there will be healthcare workers to continue safeguarding the overall well-being of society. It's also the law.

This white paper will answer four key questions about OSHA compliance and discuss what to expect during and after an OSHA inspection.

1 Can OSHA Really Just Show Up?

Respect OSHA's Right of Entry

Does OSHA really have the right to enter a particular workplace? The short answer is: you bet it does! Through the Occupational Safety and Health (OSH) Act, Congress granted OSHA broad authority to enter without delay into any workplace or environment where an employee of an employer works.¹ OSHA also has the authority to examine "all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials," including any applicable records.

Create Good Will

It is not advisable to attempt to prevent OSHA from entry or from exercising its Congressional mandate. Generally, if such resistance is encountered, OSHA will, in fact, leave the premises, but that doesn't mean it does not have the authority to enter, or that its departure will be anything but short-lived. OSHA will, indeed, return, this time with a compulsory court order or inspection search warrant, and entry into the workplace will occur. The amount of ill will that an employer would engender through an ill-advised attempt to prevent OSHA's entry would undoubtedly be self-defeating and counterproductive.

Comply Before OSHA Enters

Far better to simply ensure your facility has been brought into compliance with OSHA's requirements, before OSHA ever shows up at the front desk. An employer who has already taken the proper steps to comply with OSHA's requirements and who is welcoming to OSHA will obviously be more favorably viewed than one who is recalcitrant, resistant, or even hostile. A workplace that is already properly prepared for an OSHA visit will have little to fear from OSHA's entry at the outset.

WHO'S NOT COVERED UNDER OSHA?



Self-employed workers/Sole proprietors without employees



Immediate family members of farm employers

Workplaces With Hazards Regulated by Another Federal Agency



Mine Safety and Health Administration



Department of Energy



Federal Aviation Administration



Coast Guard

Source: All About OSHA.²

Consider a “Reasonable” Time

The OSH Act restricts OSHA’s inspection of workplaces to “regular working hours and at other reasonable times.” A medical or dental office that is handling a patient surge can ask the OSHA officer if she would mind coming back at a more convenient time. The officer may still say no, but it doesn’t hurt to ask, and chances are the officer will agree that a less hectic time would be more conducive to a proper inspection for the officer as well.

BEWARE THE IMPOSTOR!



When an OSHA compliance officer visits your facility, do not hesitate to ask to see credentials. Instances of persons impersonating OSHA officers and seeking to collect alleged penalties on the spot have occurred. If there is any question, telephone and check directly with the associated OSHA office.³

2 WHY DID OSHA CHOOSE US?

Programmed Inspections

The primary reason OSHA visits a healthcare workplace is to conduct a “programmed” inspection. Programmed inspections are those that are scheduled because of various criteria that OSHA is interested in at a particular time.

Perhaps your workplace is a type that is recognized as having a high hazard rate, and OSHA has decided to conduct inspections for these types of employers.

OSHA sometimes has National, Regional, or Local Emphasis Programs or Special Emphasis Programs underway to conduct inspections of facilities that are covered by a Standard, such as those that are covered by the Bloodborne Pathogens Standard. For example, in 2012 OSHA announced a three-year [National Emphasis Program focusing on nursing homes and residential care facilities](#).⁴

OSHA is founded

... **1970**

an estimated 14,000 workers are killed on the job each year, around **38 people per day**

In **2014**

there were 4821 work place fatalities about **13 workers per day**



Source: <https://www.osha.gov/oshstats/commonstats.html>²

Unprogrammed Inspections

Unprogrammed inspections are those that result in situations of imminent danger—such as instances of workplace injuries, fatalities, or specific employee complaints.

Imminent Danger

The first kind of unprogrammed inspection that OSHA will conduct is in situations where there is imminent danger or reasonable certainty that an immediate danger exists. These situations are responded to first because of the potential for avoiding future injury or catastrophe through a timely intervention.

Catastrophes or Fatalities

The next type of situation to which OSHA responds is one where a catastrophe or fatality has already been reported to OSHA. Such unprogrammed inspections are handled after imminent danger cases, because it is already too late to avoid injury.

Complaints and Referrals

The third kind of situation to which OSHA responds occurs when a complaint is made to OSHA about your specific workplace. Complaints or referrals may come from:

- 1) Current or former employees of your facility
- 2) Any bona fide representative of an employee
- 3) Professionals and/or healthcare workers outside of your facility
- 4) Patients

For example, a healthcare worker in an occupational health clinic might notice a pattern in the types of injuries from a particular workplace. Such an observer, even though not an employee of the workplace in question, could make a “referral” to OSHA, and OSHA might conduct an inspection based on that referral.

Members of the clergy, social workers, and spouses can also make referrals. Likewise, attorneys or union representatives may make a referral to OSHA that results in an inspection.

Keep in mind, OSHA does not have any direct purview over patients and patient treatment. However, if OSHA receives a complaint from a patient about working conditions the patient has observed in your office, OSHA might treat such a complaint as a referral. An investigation might result to discover whether or not the patient’s allegations are correct. Furthermore, [studies have shown a link between patient safety and worker safety.](#)⁵

Truth be told, just about anyone who happens to know about a workplace safety or health hazard at a workplace can report the situation to OSHA, and OSHA might conduct an inspection as a result. Moreover, [if a person making a complaint to OSHA wishes to remain anonymous, then OSHA will respect that request, and the complainant’s identity won’t be revealed.](#)⁶

• • • Each year
• Occupational injuries
• and illnesses **cost**
• **American employers**
•

\$53 billion



>\$1 billion a week
in **workers’ compensation costs**
alone

Source: [All About OSHA.](#)²

3 WHAT HAPPENS DURING AN INSPECTION?

The Opening Conference

The first order of business for an OSHA Compliance Safety and Health Officer (CSHO, pronounced “Co-SHOW”) conducting an inspection of your office or facility will be to conduct an opening conference. During this conference the officer will inform you specifically about why she is visiting your particular workplace. Perhaps it is because of a National Emphasis Program or a Special Emphasis Program that is underway and that has application in your workplace. If, for example, there happens to be a special program to assess how affected workplaces are complying with the Bloodborne Pathogens Standard, the officer will explain that she is conducting a programmed inspection related to that topic. If the officer is there as the result of a complaint or referral, however, then that information will be shared.

“If a person making a complaint to OSHA wishes to remain anonymous, then OSHA will respect that request, and the complainant’s identity won’t be revealed.”⁶

The Situation

Usually a single compliance officer, dressed in business attire, conducts an OSHA inspection. On occasion, however, other personnel, such as industrial hygienists, or other persons with pertinent expertise, may also be involved.

The compliance officer’s guidance or “checklist” for conducting an inspection consists of documents known as “the FOM” and various OSHA “directives.” FOM, is the acronym for OSHA’s Field Operations Manual, a document that provides detailed instructions for officers about procedures to be followed. Further guidance and direction on specific OSHA Standards are available in the documents known as “directives,” such as the directive for the [Bloodborne Pathogens Standard](#).⁷

Each year

•
•
•
• . . . **Nearly 3 million**

working men and women
suffer a **serious job-related
injury or illness**

millions more are exposed
to **toxic chemicals** that
**may cause illnesses
years into the future**



Source: <http://www.bls.gov/news.release/osh.nr0.htm>²

The Wall-to-Wall Inspection

Review of Records and Required Documents

In healthcare workplaces, where OSHA's Bloodborne Pathogens Standard has wide application, you can expect that the officer will ask to see the site's written Bloodborne Pathogens Exposure Control Plan (ECP) within minutes of arrival. The officer may take a copy of the ECP for detailed examination and scrutiny off-site, and any deficiencies will almost certainly result in Serious category citations along with an appropriate financial penalty for each violation.

The officer will ask to see the facility's written Hazard Communication Program and any other pertinent written programs that apply to that workplace, such as written Respiratory Protection Programs, Emergency Action Plans, Fire Prevention Plans, etc. The officer will look to see that the plans are current, and that those plans requiring annual review and update (such as the Bloodborne Pathogens Exposure Control Plan) have, indeed, been reviewed and updated within the previous 12 calendar months. The officer will ask to see that Safety Data Sheets for all hazardous chemicals in the workplace are readily accessible to employees.

Required medical records such as hepatitis B vaccination records or documentation of any needlesticks or other sharps injuries will be examined. Training records will be scrutinized. Any Personal Protective Equipment use (or non-use) will be examined.

OSHA MAY WANT TO SEE YOUR COMPLIANCE WITH THE FOLLOWING:

Bloodborne Pathogens Standard



Personal Protective Equipment (PPE)



Respiratory Protection



Hazard Communication Standard



Training Requirements



Aerosol Transmissible Diseases



Injury and Illness Prevention Program
(Safety and Health)



Formaldehyde



New Employee Orientation



Emergency Preparedness



Source: Introduction to OSHA⁸

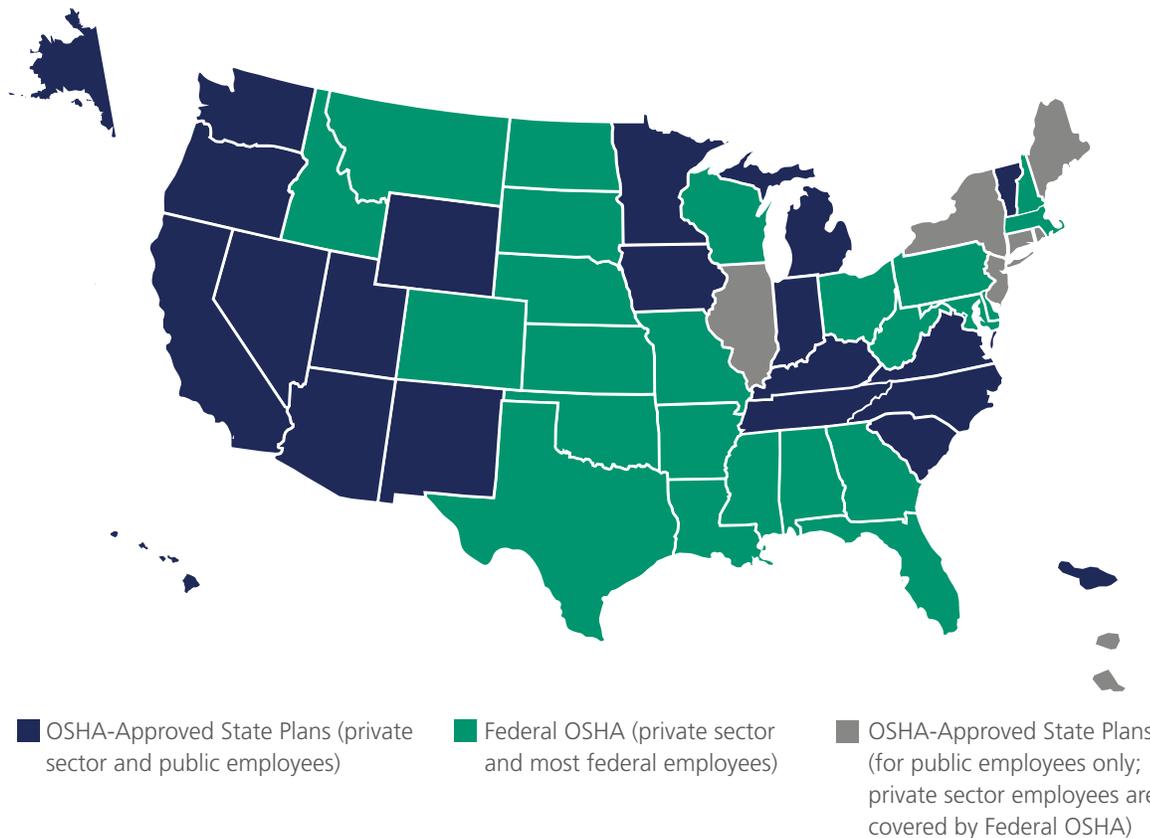
Private Interviews and Other Documentation

The officer will look to see that the required written plans are readily accessible to employees. OSHA may also conduct private interviews with employees at your office. The officer may even take air samples, photographs, or videos.

The Closing Conference

When the “wall to wall inspection” has been completed, OSHA will hold a closing conference with the employer to share the officer’s findings. OSHA will not, however, issue citations at the time of the closing conference. The compliance officer will not provide any written documentation to the employer at the conclusion of the inspection, but she will verbally inform the employer about apparent violations that have been observed and that require abatement or correction. The reason the violations are described as “apparent” violations at this point is because no citations are actually issued during an inspection itself. The issuance of citations and penalties occurs later.

Who’s Covered by OSHA? All 50 States and More!



WHAT IS AN OSHA STATE PLAN?

Federal OSHA-approved programs operated as “mini-OSHAs” by individual states. State-run programs are required to be **at least** as strict and effective as the federal program.

Federal workers are covered by Federal OSHA in all 50 states.

Source: [OSHA Approved State Programs](#)⁹

4 WHAT HAPPENS AFTER AN INSPECTION?

Area Director Review

The OSHA officer will go back to her area office and will meet with the area director, or the equivalent to an area director in states with OSHA plans. The findings of the inspection will then be reviewed. OSHA may confer with industrial hygienists and lawyers in determining how to proceed. Ultimately, however, it is the OSHA area director who has the authority to issue citations.

Citations and Penalties

Typically, an employer will receive notice of any citations in the mail, and the employer will also be informed of any penalties that are due at the same time. The employer will be given an “abatement date,” meaning a date by which the employer must correct any deficiencies that OSHA noted.

OSHA’s Most Frequently Cited Violations

The majority of all OSHA citations and penalties levied against healthcare employers are associated with violations of the Bloodborne Pathogens Standard.¹⁰ Violations of the Hazard Communication Standard make up a distant second. To help healthcare facilities understand what they must do, Stericycle offers its Steri•SafeSM OSHA Compliance Program that emphasizes satisfying requirements for both of these Standards as well as other pertinent OSHA requirements.

The remainder of the top ten most-frequently-cited violations for medical/dental offices is typically for noncompliance with additional Standards having to do with personal protective equipment, first aid, fire extinguishers, exit routes, and electrical safety.

Amount of Penalties

Congress, in the Occupational Safety and Health Act of 1970, set the maximum amount of civil penalties that OSHA can assess per violation, and that amount has been increased since that time.

Violations of the Bloodborne Pathogens and Hazard Communication Standards are typically judged to be Serious violations, and the [penalty for Serious violations, as stipulated in the OSH Act, may be assessed in amounts of up to \\$12,471 each.](#)³ In the case of violations of training or PPE requirements, however, the penalties can be assessed per the number of employees affected.

The result is that OSHA, in fact, has wide discretion and leeway in determining the total dollar amount of penalties that can be realized.

OSHA has a number of violation levels

Penalty Factors

Section 17 (j) of the OSH Act provides that penalties shall be assessed giving due consideration to four factors:¹¹

- 1) Gravity of the violation
- 2) Size of the employer's business
- 3) "Good faith" of the employer
- 4) Employer's history of any previous violations

An individual healthcare employer can easily receive several Serious violations during a typical OSHA inspection. The 2014 head of OSHA, Dr. David Michaels, has gone on record stating that he feels strongly that [penalties for OSHA violations provide a necessary incentive for employers to be in compliance, and he is in favor of raising the maximum amount of penalties.](#)¹² At \$12,471 per violation, it doesn't take long for significant amounts of penalties to accumulate. Assuming five Serious violations, even if assessed at only \$5,000 per penalty, instead of the currently permissible maximum of \$12,471, the payout would total \$25,000.

“Violations of the Bloodborne Pathogens and Hazard Communication Standards are the most common healthcare violations and are typically judged to be Serious violations.”¹⁰

Additional Penalties

Initial financial penalties are just the beginning of the potential impact that noncompliance can have. Once you have a record of initial penalties, OSHA will then look, in any future inspections, to see if there is evidence of repeat violations. Such repeat violations carry even **higher penalties of up to \$124,709** each. And failure to correct Serious violations can carry penalties of up to \$12,471 per day.³

Responding to OSHA Citations and Penalties

Be aware that an employer cannot keep an OSHA inspection secret.

Posting

The employer must post the notice of citations where all *employees* can see it. However, the employer does not have to post the citations where *patients* can see them. Not only can there be negative coverage in the local media, but also the record of the penalties becomes part of the permanent public record maintained at OSHA's own website. This public record is accessible to anyone who visits www.OSHA.gov and types the name of the employer into the [statistics database](#).¹⁰ OSHA maintains the record indefinitely, leaving an indelible footprint that anyone can access.

Correcting Deficiencies “aka” Abatement

The major responsibilities for the employer are to:

- “Abate” or correct any deficiencies for which citations have been issued
- Report back to OSHA with documentation showing that those deficiencies have been abated
- Pay any penalties

All of these must be done within a time limit set by OSHA, the details of which are provided with the notice of citation.

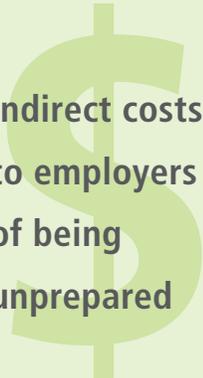
Employer Recourse

OSHA Review Commission

What recourse is there for an employer who feels OSHA should consider extenuating circumstances? Or for an employer who feels the citations may be unfair or incorrect?

In federal OSHA states recourse is available by appealing to the OSHA Review Commission. The OSHA Review Commission is not part of OSHA. It is a separate government agency that was created by the

“If employers are making good-faith efforts to comply with OSHA Standards, then chances are they will find OSHA to be very helpful. All in all, it makes good business sense to be in compliance with OSHA’s requirements.”



Indirect costs
to employers
of being
unprepared

can more than **double** direct costs of violations

- Lost productivity due to injury or illness
- Employee training and replacement
- Allocating time for investigations following injuries

Source: OSHA’s Safety Pays Program¹³

Informal Conference

The other form of recourse that is available to small and large employers alike is an informal conference. Although a formal appeal to the OSHA Review Commission is not generally recommended, Stericycle almost always recommends that an employer take advantage of OSHA's informal conference process.

An informal conference is a meeting at which the employer sits down with OSHA at the local OSHA office and presents documentation showing that the employer has either abated the deficiencies as stipulated by OSHA, or that such abatement is not possible. OSHA is generally amenable to a significant reduction in penalties in such situations, so it is worthwhile to request an informal conference.

OSHA has 180 days during which it can consider the findings of an inspection and decide whether or not to issue citations and penalties. Employers, on the other hand, have only 15 days (times may vary in state plan OSHA states) in which to decide whether or not they wish to go to an informal conference or to take the matter to the OSHA Review Commission.

COMPLIANCE IS THE SOLUTION

Safe and Healthful Workplaces

OSHA is not a punitive government agency. Its goal is not the collection of revenue in the form of penalties, or even the issuing of citations, but rather the creation and provision of safe and healthful workplaces across the nation.

If employers are making good-faith efforts to comply with OSHA Standards, then chances are they will find OSHA to be very helpful. All in all, it makes good business sense to be in compliance with OSHA's requirements.

WHAT IS STERICYCLE'S PREFERRED STERI•SAFESM OSHA COMPLIANCE?



On-site Mock OSHA Evaluation



Dedicated Occupational Safety Specialist



On-site *and* Online Bloodborne Pathogens Training



NO FINE. NO FAIL. OSHA Guarantee



Hazard Communication Awareness Training On-site and Online



Complete Safety Data Sheet (formerly MSDS) Database



Complimentary Webinars



Library of 20+ Online Safety Meeting Presentations



Biohazard Disposal Pickup



Innovative Online Safety Plan Builder Tool



Hazard Communication



Safety and Health/ Injury & Illness Prevention Program



Emergency Preparedness Plan



Exposure Control Plan



Online DOT Training



State-Specific Online Biohazardous Waste Training

BENEFITS OF WORKPLACE COMPLIANCE

Compliance leads to more healthful workplaces and is linked to improved safety and quality of care. Compliant workplaces can:

- Lower rates of worker injuries and illnesses
- Improve staff morale and worker retention
- Reduce transmission of diseases and transfer of pathogens and other potentially infectious agents
- Help initiate process changes that increase the quality of patient care while improving operational efficiencies and driving down healthcare delivery costs¹⁴

“Whether you rely on our on-site or our online OSHA capabilities, Stericycle helps you discover an easier way to work. It’s simple to get started online or by phone.”

HOW STERICYCLE CAN HELP

Stericycle makes it easy to stay compliant with ever-changing state and federal regulations. One of the most recognized names in OSHA healthcare compliance and regulated services, Stericycle is uniquely equipped to help you with the OSHA challenges you face. The [Steri•SafeSM OSHA Compliance Program](#) provides a central customer portal online at [MyStericycle.com](#) and the option of on-site services.

Besides access to online tools, on-site services include:

- Mock OSHA evaluation
- Annual bloodborne pathogens training
- Steri•SafeSM NO FINE. NO FAIL. OSHA Guarantee

Simply follow the Stericycle Certified Occupational Safety Specialist’s recommendations, and Stericycle ensures that you’ll be 100% compliant with bloodborne pathogens and medical waste management practices—or Stericycle will pay related OSHA penalties. Stericycle calls this level of premium service, the Steri•SafeSM OSHA Compliance Preferred Program.

Whether a facility relies on our on-site services or our online OSHA capabilities, Stericycle helps you discover an easier way to work. It’s simple to get started online or by phone.

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