OSHA 101

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OSH Act of 1970

- PURPOSE:

"... to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources."
The Act's Coverage

▪ Extends to all employers and their employees in the 50 states, and all other territories under Federal Government jurisdiction

▪ Coverage provided either directly by federal OSHA or through an OSHA-approved state program

▪ Needs Employer & Employee Relationship
State and Local Governments

- OSHA regulations do not apply to state and local governments in their role as employers

- **Examples** - City, County, State, Police, Firefighters, Public Teachers

- OSHA regulations do apply to most federal agencies

- **Examples not apply** - National Security, Arm Forces in Combat, CIA, FBI
OSHA Regulations

- General Industry – CFR Part 1910
- Construction Industry – CFR Part 1926
- Maritime – CFR Parts 1915, 1917 & 1918
- Agriculture – CFR Part 1928
INSPECTION PRIORITIES

▪ Imminent Danger
  ▪ Any condition that can be expected to cause death or serious physical harm immediately

▪ Fatalities / Catastrophes
  ▪ Reporting requirements

▪ Employee Complaints

▪ Referrals

▪ Programmed Inspections
COMPLAINT INSPECTION

▪ Any employee or representative of employees who believe that a violation of the Act exists may file a complaint with OSHA.

▪ Things to know-
  1. Settle internally
  2. Information required
  3. Leaving name & phone
  4. Photos, Daily Diary, Interviews
  5. Credibility
COMPLAINT INVESTIGATION
(Phone/Fax)

1. OSHA advises employer of alleged hazard by telephone and fax

2. Employer is required to provide a satisfactory written response (5 days)

3. OSHA provides copies of employer response to complainant
COMPLAINT INSPECTION

- Any employee or representative of employees who believe that a violation of the Act exists may request an OSHA inspection

1. Reduced to writing
2. Alleging a specific hazard
3. Signed by the employee or representative
4. Credibility
Inspector’s Credentials

- CSHO displays credentials
- Asks to meet an appropriate employer representative
- CSHO will ask for union rep.
- Employer can call local OSHA office to verify
The Inspection Process

- Opening Conference
- Walkthrough
- Closing Conference
- Citations and Penalties
- Informal Conference
Opening Conference

- CSHO explains the purpose and scope of the visit
- CSHO asks for an employer representative to accompany them during the inspection
- CSHO requests union rep to participate in inspection
- Request for records and programs
Walk Around

- CSHO walks through site to address complaint items

- Inspection may cover part or all of a site

- Both employer and employee representatives participate as they choose

- CSHO determines route and duration of the inspection
Walk Around

▪ Employees are privately interviewed about safety and health conditions and practices

▪ Employees are protected from discrimination for exercising their rights

▪ Managers are also interviewed
Walk-around

- CSHO points out unsafe or unhealthful conditions
- CSHO discusses feasible corrective actions
- Violations corrected immediately may reflect employer’s good faith for penalty consideration
Closing Conference

- CSHO reviews all observed unsafe and unhealthful conditions

- CSHO reviews courses of action available to the employer following an inspection

- Employees cannot contest violations or penalties

- Employees can contest abatement period
Closing Conference

- CSHO will not indicate any specific penalty but informs employer of appeal rights

- Good time for the employer to produce records of compliance efforts and provide information to help determine timeframes for abatement
Closing Conference

- CSHO may determine if second closing conference is necessary (air monitoring)
- Separate closing conference if employee representative does not participate
CSHO & Area Director

- CSHO will report findings

- Area Director determines whether citations will be issued and whether penalties will be proposed
Citations

- Inform the employer and employees of the regulations and standards alleged to have been violated

- Inform the employer and employees of the proposed length of time set for their abatement
Citations

- Employer will receive citations and notices by certified mail

- Employer must post a copy of each citation at or near the place the violation occurred for 3 days or until it is abated

- Copy of citations mailed to Union
Penalties

- Other-than-serious
- Serious
  - $12,675 per violation

- Failure-to-abate
  - $12,675 per day beyond abatement date

- Willful
- Repeat
  - $126,749 per violation
Informal Conference

▪ Employer may request an informal conference with the Area Director - Unions will be advised of Date

▪ Area Director is authorized to enter into settlement agreements

▪ Area Director may revise citations and penalties to avoid prolonged legal disputes for speedier hazard abatement
Notice of Contest

- Employer has 15 working days to contest the citation, penalty, or abatement period

- Must be in writing and clearly define basis for filing

- Unions may request 3rd party status
Review Procedure

- If timely, the Notice of Contest is forwarded to the OSHRC
- OSHRC is an independent agency not associated with OSHA
- Case assigned to an administrative law judge (ALJ)
Review Procedure

- Hearing scheduled near the employer’s workplace
- Employer and employees have the right to participate
- OSHRC does not require employer to have an attorney
Review Procedure

- Once the ALJ has ruled, any party may request further review by OSHRC
- OSHRC rulings may be appealed before the U.S. Court of Appeals
Whistleblower Rights

▪ Section 11(c) of the OSH Act provides protection for employees who exercise a variety of rights guaranteed under the Act, such as filing a S&H complaint with OSHA, participating in an inspection, etc.

▪ Complainant has 30 days from the date of the adverse action to file a Whistleblower complaint.

▪ OSHA enforces 22 Whistleblower Statutes
Questions