

# **MANAGING AN OSHA INSPECTION**

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# **OVERVIEW**

**OSHA'S AUTHORITY TO CONDUCT INSPECTIONS**

**OSHA'S ENFORCEMENT TOOLS**

**PHASES OF THE INSPECTION**

**PREPARATION FOR INSPECTION**

**RESOLVING THE WARRANT ISSUE**

**WALKAROUND RIGHTS**

**MANAGING THE INSPECTION**

# **GUIDING PRINCIPLES TO MANAGING** **INSPECTIONS**

**CONTROL THE FLOW OF  
INFORMATION**

**MANAGE THE TENSION**

**PREPARE**

**BE CORDIAL AND PROFESSIONAL**

**OSHA'S AUTHORITY TO  
CONDUCT INSPECTIONS**

**FOURTH AMENDMENT**

**SECTION 8(a) OF OSH ACT**

## **4TH AMENDMENT**

**"THE RIGHT OF THE PEOPLE TO BE  
SECURE IN THEIR HOUSES, PAPERS AND  
EFFECTS, AGAINST UNREASONABLE  
SEARCHES AND SEIZURES SHALL NOT BE  
VIOLATED AND NO WARRANT SHALL  
ISSUE BUT UPON PROBABLE CAUSE,  
SUPPORTED BY OATH...PARTICULARLY  
DESCRIBING THE PLACE TO BE  
SEARCHED."**

## **8(a): REASONABLENESS**

**"OSHA MAY INSPECT AT REASONABLE  
TIMES ANY WORKPLACE DURING  
REGULAR WORKING HOURS AND AT  
OTHER REASONABLE TIMES WITHIN  
SUCH REASONABLE LIMITS AND IN A  
REASONABLE MANNER."**

# **OSHA'S ENFORCEMENT TOOLS**

**WARRANTS**

**SUBPOENAS FOR DOCUMENTS**

**SUBPOENAS FOR WITNESSES**

# **PHASES OF THE INSPECTION**

**OPENING CONFERENCE**

**WALKAROUND**

**CLOSING CONFERENCE**

# **NEED FOR ADVANCE PREPARATION**

**CONTROL ACCESS TO INFORMATION**

**EXAMINE STRENGTHS AND WEAKNESSES**

**PLACE FACILITY IN BEST POSSIBLE LIGHT**

**REVIEW YOUR DOCUMENTS**

**CONTROL PACE AND FLOW OF  
INSPECTION (MANAGE THE TENSION)**

# **PREPARATION FOR INSPECTION**

**DESIGNATE TEAM AND ASSIGN  
RESPONSIBILITIES**

**EQUIP THE TEAM**

**TRAIN THE TEAM**

**MAKE A LOGISTICAL PLAN**

**BRIEF SUPERVISORS**

**DO PRE-INSPECTION AUDIT  
(ELIMINATE THE "GOTCHA'S")**

**REVIEW EXISTING AUDITS**

# **OPENING CONFERENCE**

**DETERMINE SCOPE OF INSPECTION**

**RESOLVE WARRANT ISSUE**

**OBTAIN A COPY OF COMPLAINT**

**SET GROUND RULES FOR INSPECTION**

# **RESOLVING THE WARRANT ISSUE**

**BASIS OF INSPECTION**

**SCOPE OR DURATION OF INSPECTION**

**RECENT ENFORCEMENT INITIATIVES**

**ATTITUDE OF COMPLIANCE OFFICERS**

**IMMEDIATE NEEDS OF FACILITY**

**RESOURCES TO MANAGE INSPECTION**

**LEVEL OF REGULATORY COMPLIANCE**

**LABOR RELATIONS**

# **BENEFITS OF WARRANT**

**CONSTITUTIONAL RIGHT OF PRIVACY**

**RESTRAINT ON OSHA**

**PASSAGE OF TIME**

# **RISKS OF WARRANT**

**POTENTIAL RETALIATION**

**LOSS OF CONTROL OVER INSPECTION**

## **CONSENT**

### **BENEFITS**

**APPEARANCE OF COOPERATION**

**OPPORTUNITY TO MANAGE  
INSPECTION**

**MINIMIZE BUSINESS INTERRUPTION**

### **RISKS**

**SCOPE OF INSPECTION EXPANDS**

**OSHA WILL HAVE PROBABLE CAUSE  
FOR A WARRANT**

# **REASONABLE GROUND RULES**

**SITE INSPECTION**

**ESCORT**

**EMPLOYEE INTERVIEWS**

**DOCUMENT PRODUCTION**

**PHOTOGRAPHS**

**TRADE SECRETS/BUSINESS  
CONFIDENTIAL**

**SAMPLING**

**DAILY BRIEFINGS**

# **TRADE SECRETS**

**OSHA must maintain the confidentiality of Trade Secrets and Business Confidential information.**

**Through Freedom of Information Act Requests, third parties (competitors, plaintiffs, unions, news media) can get copies of all non-confidential documents.**

# **WALKAROUND RIGHTS**

## **SECTION 8(e) OF OSH ACT**

**"THE EMPLOYER...SHALL BE GIVEN AN  
OPPORTUNITY TO ACCOMPANY THE  
SECRETARY...DURING THE PHYSICAL  
INSPECTION OF THE WORKPLACE..."**

# **WALKAROUND**

**SITE INSPECTION**

**ESCORT**

**EMPLOYEE INTERVIEWS**

**DOCUMENT PRODUCTION**

**PHOTOGRAPHS**

**TRADE SECRETS/  
BUSINESS CONFIDENTIAL**

**SAMPLES**

**DAILY BRIEFING**

**PLAIN VIEW DOCTRINE**

# **CLOSING CONFERENCE**

**SUMMARY OF OSHA'S CONCERNS**

**CORRECT ERRORS AND MISIMPRESSIONS**

**AVOID ADMISSIONS**

# **CONCLUSION**

## **EMPLOYER'S RIGHTS**

**DEMAND A WARRANT**

**CONSENT WITH REASONABLE  
GROUND RULES**

**REASONABLE INSPECTION AT  
REASONABLE TIMES**

**PARTICIPATE IN WALKAROUND**

**PROTECT TRADE SECRETS/  
BUSINESS CONFIDENTIAL**

**COPY OF FORMAL COMPLAINT**

# **GUIDING PRINCIPLES TO MANAGING** **INSPECTION**

**CONTROL THE FLOW OF  
INFORMATION**

**MANAGE THE TENSION**

**PREPARE**

**BE CORDIAL AND PROFESSIONAL**

