CalOSHA Inspections Meeting Kit

Cal/OSHA inspectors make unannounced visits to ensure California workplaces are safe and healthy. If your business has a documented uncontrolled hazard and, as a result, receives a Cal/OSHA citation, the resulting penalties, legal issues, lowered employee morale and publicity can have serious business impacts. Managers, supervisors and employees need to know what to expect during a Cal/OSHA inspection and how to respond appropriately.

CAL/OSHA CONDUCTS SITE INSPECTIONS IN CASES OF IMMINENT DANGER OR INDUSTRIAL ACCIDENTS

A fatal injury to one or more employees; a serious injury or illness; a serious exposure; or the inpatient hospitalization, regardless of duration, of three or more employees (a catastrophe) will trigger an accident investigation and must be reported to Cal/OSHA within eight hours. Inspectors also focus on high-hazard work sites and industries with loss rates at or above Bureau of Labor Statistics averages.

Inspectors will also visit worksites as a response to employee complaints posing an imminent danger. At times, employee complaints may be considered low risk. These are handled with a letter reporting general information and a request to follow-up and report back within a certain time period. Conduct investigations into these complaints, gather documentation, and submit it in writing on time to the Cal/OSHA office. Note that the name of the complaining employee will be kept confidential. It is against the law to retaliate against employees for reporting safety hazards and concerns.

WHEN DOES CAL/OSHA PERFORM A RANDOM

INSPECTION?

Cal/OSHA’s inspection program targets workplaces with a likelihood of health and safety hazards and/or standards violations. Due to constitutional limitations on government searches and seizures, the agency must have reasonable cause to conduct an inspection. However, courts have granted Cal/OSHA broad discretion in determining reasonable

INSPECTIONS AND CAL/OSHA STANDARDS

By conducting inspections Cal/OSHA enforces job safety and health standards. In some cases, they issue citations and fines. Cal/OSHA inspects workplaces when it receives a report of a death or serious injury, or when there is a complaint by an employee or employee representative.

Cal/OSHA may also inspect workplaces that are on its list of “high hazard” industries. In this case, Cal/OSHA randomly selects a workplace for inspection. Cal/OSHA may also inspect an employer because it has been identified as having a higher injury rate than other employers in its industry.

CAL/OSHA COMPLAINTS

A complaint about a workplace hazard can be filed with Cal/OSHA by phone, fax, mail, or online. A “formal” complaint is one where the employee or employee representative gives Cal/OSHA his/her name. If the person gives a name, Cal/OSHA is required to keep it confidential.

If a worker wants to remain anonymous and does not give a name, the complaint is considered a “non-formal” complaint. Complaints from the public, including former employees of a company, are also considered non-formal.

Each complaint is classified by the Cal/OSHA Enforcement district office to determine what inspection priority the complaint should be given. Complaints about an “imminent” hazard that puts a worker

in immediate danger of being killed or seriously injured are given immediate priority for investigation. Work-related deaths are also investigated immediately. Cal/OSHA gives non-formal complaints lower priority.

THE AFTERMATH – CAL/OSHA INSPECTION

After an inspection, if Cal/OSHA believes that an employer has violated any standards or regulations, the agency issues a citation. Citations describe the alleged violations, list any proposed penalties (fines), and give a deadline for correcting the hazards.

There are several categories of violations: serious, willful, repeat, failure to abate, or other-than-serious. Penalties are based on the category as well as the severity and extent of the violation. For a "serious" violation, the penalty can be up to $25,000. Penalties can be adjusted based on the size, good faith, and history of the employer. Cal/OSHA has specific criteria it uses to evaluate an employer's good faith.

The citation must be posted by the employer at or near each place where a serious violation occurred. For other violations, the citation must be posted in a place readily seen by all employees. It must be posted for a period of three working days or until the problem is corrected, whichever is longer.

EMPLOYERS APPEAL TO CAL/OSHA CITATIONS

Employers who receive a citation may appeal to the Occupational Safety and Health Appeals Board to try to change the violations cited, the penalties proposed, the deadline for correcting hazards, or the solutions required. The appeal must be made in writing within 15 working days of receiving the citation.

FINAL WORD

Regular workplace inspections are not a drain on resources, as some managers may believe, but the exact opposite. They ensure that everything runs smoothly and without interruption, all the while keeping the workforce safe and productive.