OSHA Inspection Tip: Take Photos

Photos Make a Difference

They say a picture is worth a thousand words. But some pictures are worth a lot more than that. Like the one that saved a construction company over $40,000! The company used a photograph taken by a company representative during the walk around phase of an OSHA inspection, to successfully challenge a $43,000 citation. The moral: Documenting how OSHA inspectors conduct an inspection, especially during the walk around phase, can help you challenge fines or get them reduced. And while the story involves trenching safety, the advice applies to any hazard or workplace condition.

The Story

The company's safety director says that an OSHA inspector showed up unannounced at one of the company's construction sites. During the walk around, the inspector took measurements of an excavation. He later cited the company for not having the proper supports at the excavation. The company disputed the measurements. A photo taken by a worker, whom the company had previously appointed to be its representative in case of an inspection, clearly showed the inspector was improperly holding the tape measure at an angle when he measured the excavation. As a result, his measurements were completely wrong. The company produced the photo at the subsequent hearing and got all the charges dismissed.

The Moral

This story points out the importance of the walk around phase of OSHA inspections. This is when the inspector walks around your workplace looking for potential hazards. What the inspector sees (and doesn't see) usually determines how extensive the investigation will be, how long it will last, whether you'll be cited and, if so, how much you'll pay. (**Note:** Canadian OHS inspectors engage in a similar process, although it's not referred

to as a walk around.)

The walk around is also when mistakes are most likely to occur. Yes, OSHA inspectors do make mistakes, some of which can cost you thousands or even tens of thousands of dollars. To protect yourself you need to catch those mistakes. Your best chance of doing that is to appoint somebody from your company as your representative to accompany the inspector during the walk around and instruct that person to take photos, notes, and measurements.

The Strategy

Section 1903.8 of the OSHA regulations gives you the right to have a representative accompany an OSHA inspector during an inspection. Designate a worker to serve as your representative. Tell representatives what to do so they're prepared for an inspection. There are model instructions you can adapt at the bottom of this page.

Use the notes, photos, and other data the representative gathers during the walk around to challenge citations and get penalties reduced. Among other things, you may be able to use the information to contradict an inspector's testimony during a hearing the way the construction company's safety director in the example above did.

Instructions for OSHA Inspections

Here are written instructions you can add or adapt to your policies and procedures regarding OSHA inspections. Tell your representative to:

- Make a complete and accurate record of everything the inspector does during the walk around;
- Take notes of everything the inspector says, including all questions asked and how they were answered;
- Take all the same measurements, photographs, tape recordings, and videos the inspector does; and
- Photograph and/or videotape the inspector taking photos, measurements, etc. *Example*: If the inspector takes a photo of a blocked fire exit, the representative should also

photograph the exit. If the exit is cleared five minutes later, the representative should photograph it again to document that you fixed the problem while the inspector was still at your facility.