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WHAT TO DO WHEN AN OSHA COMPLIANCE OFFICER ARRIVES AT YOUR WORKSITE

The Occupational Safety and Health Administration continues to vigorously enforce workplace regulations through a complicated and comprehensive program of workplace inspections. Such inspections permit OSHA Compliance Officers to enter an employer's premises, at times without the employer's consent, and scrutinize the employer's compliance with OSHA regulations. For the unwary employer, these inspections can be alarming and can even result in significant cost. The following is a series of tips to help you be better prepared for a worksite inspection.

Your initial contact with the Compliance Officer ("CO") and the first moments of the inspection can be the most important. Try to stay calm and remain in control of the situation. You should ask to see the CO's credentials and, if necessary, verify the credentials by calling the local OSHA Area Office. Inform the appropriate management officials that the CO is on site. Ask the CO to wait in an appropriate location, preferably a location that is nearby and does not have a view of the worksite. Then, notify your attorney. Politely ask the CO to wait until the appropriate management officials and/or attorney have arrived before conducting the inspection. Rectify any readily "fixable" violations before the inspection begins, such as cluttered aisles or blocked exits.

OSHA regulations and case law suggest that an employer has a reasonable amount of time (one to two hours) to request that their designated representative be present at the

inspection. Employers should not be hurried into allowing an inspection without the benefit of having those persons present.

At the beginning of the inspection, you should request an "opening conference." The purpose of the opening conference is to find out what OSHA rules the CO believes you may have violated, the scope of the proposed inspection of your worksite, and which records the CO wishes to inspect and discuss safeguarding your trade secrets, if any. At this point, you should also consider whether to request a search warrant.

Once the OSHA CO knocks on your door, areas of noncompliance can turn quickly into penalties. Taking proactive steps to ensure compliance status now could save companies money in the long run. In helping clients deal with OSHA over the last twenty years, we have found that active representation by knowledgeable counsel at the time of an OSHA inspection is an essential component of an employer's overall OSHA program. If you would like us to help you confidentially assess your OSHA compliance status for a flat fee, please call a member of our OSHA Practice Group.

OSHA Practice Group E-Newsletter is an electronic publication of the law firm of Reinhart Boerner Van Deuren s.c., and is prepared by attorneys in its OSHA Practice Group. This publication is intended to afford timely notice to our clients and friends of current events in OSHA regulations and to provide general information about OSHA issues. It is not intended, nor should it be used, as a substitute for specific legal advice regarding particular factual situations.

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