



# REPORTING SERIOUS INJURY AND THE CAL/OSHA INSPECTION

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# AN OVERVIEW

Reporting Serious Injuries

Preparing for the Inspection

Why it Matters

OSHA Inspections

# REPORTING SERIOUS INJURIES (CA)

What? Immediate contact with the Division (Cal/OSHA)

Why? To give the Division and opportunity to investigate

When? When notice of a death or serious injury / illness

Who? A person acting on behalf of the employer

How? Call or telegraph closes Division office (no e-mail)

# REPORTING SERIOUS INJURIES (CA)

Preparing for this:

- Know when reporting is required

- Have a plan to discover serious injuries

- Communicate and educate

  - Those with knowledge of injury

  - Must also have knowledge of rule.

# REPORTING SERIOUS INJURIES (CA)

The Rule: Title 8 California Code of Regulations 342(a)

- Employer shall immediately report
  - To the Division's nearest office
  - Serious injury, illness or death
  - Occurring in the place of employment
- OR
- In connection with any employment

# REPORTING SERIOUS INJURIES (CA)

The Rule: Title 8 California Code of Regulations 342(a)

- Immediately Defined:

As soon as practically possible but no longer than **8 hours** after the employer knows or with diligent inquiry would have known of the death or serious injury or illness.

The 24 hour “exigent circumstances” exception.

# REPORTING SERIOUS INJURIES (CA)

The Rule: Title 8 California Code of Regulations 342(a)

- Serious Injury or Illness Defined (T8 CCR 330(h)):

Any injury or illness occurring in a place of employment or in connection with any employment which requires inpatient hospitalization for a period in excess of 24 hours for other than medical observation or in which an employee suffers a loss of any member of the body or suffers any serious degree of permanent disfigurement. (Not crimes or auto accidents)

# REPORTING SERIOUS INJURIES (CA)

The Rule: Title 8 California Code of Regulations 342(a)

- Serious Injury or Illness Defined (T8 CCR 330(h)):
  - Q: When does hospitalization trigger reporting? Is it 24 hours plus 8?
  - A: It depends upon the overall circumstances.
    - Is release before 24 hours likely?
    - Does nature of the injury indicate more than 24 hours of hospitalization?



# REPORTING SERIOUS INJURIES (CA)

The Rule: Title 8 California Code of Regulations 342(a)

- Serious Injury or Illness Defined (T8 CCR 330(h)):
  - Q: Define loss of body member (does it include bone loss?) and serious disfigurement.
  - A: The Appeals Board has concluded that partial amputation of fingers constitutes a “loss of a member”.
  - Bone loss used by the Division to define **BUT WATCH**
  - Serious disfigurement determined on a case by case basis.

# REPORTING SERIOUS INJURIES (CA)

The Rule: Title 8 California Code of Regulations 342(a)

- Serious Injury or Illness Defined (T8 CCR 330(h)):
  - Q: Is loss of consciousness reportable?
  - A: Only if a trigger of serious injury/illness exists.
  - Q: Does outpatient surgery trigger the reporting rqmt.
  - A: Only if a trigger of serious injury/illness exists (amputation).

# REPORTING SERIOUS INJURIES (CA)

The Rule: Title 8 California Code of Regulations 342(a)

- Duty to report when:
  - Employer knows of the serious injury
  - With diligent inquiry would have known.
  - Question: What are the requirements to call Cal-OSHA for terminated employees who are hospitalized?
  - Answer: It depends.
    - Does employer know of the hospitalization?
    - Does nature of injury make inquiry reasonable?

# REPORTING SERIOUS INJURIES (CA)

The Rule: Title 8 California Code of Regulations 342(a)

- Duty to report when:
  - Employer knows of the serious injury
  - With diligent inquiry would have known.
  - Continuing duty: If the injury becomes “serious” after the original event, may trigger a reporting requirement.

# REPORTING SERIOUS INJURIES (CA)

The Rule: Title 8 California Code of Regulations 342(a)

- Due Diligence:
  - Have a plan to closely follow employee's condition
  - Ask employees to designate emergency contact
  - Make sure those with information as to condition also have information as to reporting requirement and timeline

# EFFECTS OF CITATIONS

Citations – the IMIS

Penalties – up to \$140,000.00 / citation

Repeat Citations

Willful Citations

Workers' Comp – S&W claims

Referrals

- EPA
- DLSE
- District Attorney – YES: potential criminal liability

# PREPARING FOR AN INSPECTION

## Review your paper programs

- IIPP
- HIPP
- Confined Space
- Hazard Communication - SDS
- Other required written programs

# PREPARING FOR AN INSPECTION

## Implement your programs

(do what they say you are going to do)

- Tell people about them
- Inspections
- Training
- Documentation





# PREPARING FOR AN INSPECTION

## Employee pop-quizzes

- What's an IIPP?
- What's an SDS? Where are they?
- What is acclimatization?
- What are the signs and symptoms of heat illness?
- Who do you go to with safety questions?
- Have you been trained to do this job?
- How often do you have safety training?
- Are you forklift-certified?



# WHEN TO EXPECT AN INSPECTION

Complaints

Accidents

High Hazard Employers (Ex-mod > 1.25)

Industry Sweeps (Heat, etc.)

WE'RE FROM CAL/OSHA  
AND WE'RE HERE TO HELP



# THE OPENING CONFERENCE

Who handles this?

- Designate a Representative
  - Who are you going to call?
  - Who is going to call you?
- If that person is not available
  - Have a plan
  - Educate employees about plan
  - A reasonable wait is okay

# THE OPENING CONFERENCE

## First Things

- Ask for ID cards and business cards
- Read their business cards
  - Safety Engineer
  - Industrial Hygienist
  - Bureau of Investigation



# THE OPENING CONFERENCE

## First Things

- Ask why they are there
- Ask what they want to see
  - Specific location
  - Specific machine
  - Specific operation
  - Note: Inspections can be specific or “wall-to-wall”
- The Complaint non-disclosure response.

# THE OPENING CONFERENCE

No warnings, no appointments

- “Reasonable time” during work day

Purpose is to write citations

- Statements by supervisor, manager, higher are employer admissions
- Every conversation is an interview

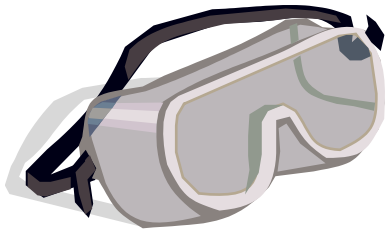
Be polite

No chit-chat about work



# THE WALK-AROUND

Enforce your safety / PPE rules





# THE WALK-AROUND

Consider your path to the site

- No time for the “scenic route”

Consider sending a scout ahead

# THE WALK-AROUND

## The DOSH Team

- One or more inspectors
  - Measurement tools
    - As simple as a measuring tape
    - As complex as gas sniffers
  - Cameras
  - Video equipment
- Employee(s)

# THE WALK-AROUND

## Your Team

- Team Leader, with notebook
- Safety Manager
- Note taker / Photographer
- Mechanic

# THE WALK-AROUND

## Photographs

- One or more to each of DOSH's
- Discoverable, but better than relying on DOSH alone
- Perspective is no small issue
- The big picture needs to be part of the picture



# THE WALK-AROUND

## Employee Interviews

- Employee has last say who attends
- If you are in...
  - Take notes
  - Keep comments short
  - Do not allow yourself to become part of the interview
  - Do not help the inspector (do not hinder)
- Distinguish supervisors and non-supervisors

# THE WALK-AROUND

## Employee Interviews

- If you're out...
  - Make a note to interview the team member later
    - What were you asked?
    - What did you say?
    - What was the inspector interested in?



# THE WALK-AROUND

- Avoid becoming part of the inspection
- Don't be too helpful
  - "Here, take my watch and count how long it takes to walk to the eyewash station."
- Don't opine
  - "Geez, what could have prevented this?"
- Watch for leading questions
  - "So she was a slow learner, huh?"

# THE DOCUMENT REQUEST

Programs

- IIPP, HIPP, HazComm, Confined Space, etc.

Inspections

Training

Investigations

Other

# THE IIPP AND IMPLEMENTATION

## Title 8 CCR 3203

- Establish, implement and maintain an effective Program
  - Identification and evaluation of workplace hazards
  - Inspections
  - Documentation
    - When, who, what and CORRECTION

# THE DOCUMENT REQUEST

## Document Requests

- Three days to produce
- Log 300 / 300A (four hours)
- HIPPA: Upon Request
- Do not create documents if they do not exist
- Generally public record



# THE EXIT CONFERENCE

Time to ask questions and listen

- What did you find?
- What citations are you considering?
- What safety regulations are you thinking of?
  - Do NOT correct them if they're wrong

# THE 1BY: NOTICE OF INTENT

A word about the Cal/OSHA 1BY

- Verified response
- Will be used by OSHA at hearing
- **Is** admissible

# CONCLUSION

Thank you for your attention!