

Someone's at the Door — They're From OSHA

Hazards are ever-present in the steel plant environment, and a heightened awareness and emphasis on safety is a necessary priority for our industry. This monthly column, coordinated by members of the AIST Safety & Health Technology Committee, focuses on procedures and practices to promote a safe working environment for everyone.



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Comments are welcome.

If you have questions about this topic or other safety issues, please contact safetyfirst@aist.org.

Please include your full name, company name, mailing address and email in all correspondence.

Established under the Williams-Steiger Occupational Safety and Health Act of 1970, the U.S. Occupational Safety and Health Administration (OSHA) is the arm of the U.S. Department of Labor charged with setting and enforcing standards to ensure safe and healthful working conditions for working men and women. In support of its mission, the agency employs a cadre of Compliance Safety and Health Officers (CSHOs) who are authorized to enter at reasonable times any place of employment covered by the Act in order to conduct inspections and investigations. The results of these visits can include citations, penalties and abatement requirements. It is not always a negative experience; during the inspections, the CSHO may become educated on the process and leave with knowledge on how a company operates. (Note that in some states these duties have been ceded to the state through approved state plans.)

The sheer number of workplace establishments makes the likelihood of a random inspection remote, but that doesn't mean that OSHA visits are rare. An establishment may come to OSHA's attention because of a serious injury or fatality, a news report, or most often by a formal employee complaint. In addition, some industries (such as those in SIC 33 – Primary Metal Industries) are the subject of special emphasis programs that could result in special programmed inspections.

Even if the inspection's results do not include negative findings, an OSHA inspection can take up time and resources. In a majority of instances, there is no advance notice, so the visit can disrupt routines of the participants. A misspoken word, an attempt to be helpful or a poorly planned inspection route can result

in additional cited items. The weeks after the inspection may be taken up with abatement and appeal/negotiation activities. As in many aspects of the business, though, some advance planning and assignment of roles can help minimize the inconvenience — and possibly the penalties. This article will provide some guidelines to help prepare for an inspection.

Before the Inspection

The plan should be brief, in writing and reviewed by all concerned, including top, middle and line management; security; safety; labor relations; union officials; and front desk personnel — anyone who may be involved in the inspection and anyone who may be the first to encounter the CSHO upon his/her arrival. Consider using a checklist format to help everyone involved to stay on task. Primary and backup members of management should be appointed to represent the company during the inspection. In larger plants, it may be necessary to have distinct plans for each major operating department.

When the Inspector Arrives

In smaller facilities, all visitors may be funneled through a reception area with or without a dedicated receptionist. Larger plants will have multiple gates, and an OSHA CSHO may show up unannounced at any of them. Every individual who may be the first to encounter a CSHO (including those who may answer unattended lobby phones) should be trained in the "first contact" procedures.

When the CSHO arrives, the individuals on the management inspection team should be notified. If the

CSHO arrives at one of the security gates of the facility, he/she should be asked to pull over and kindly wait for a member of the management inspection team to arrive in order to escort him/her to the lobby or conference room. The CSHO should be made comfortable in the lobby/waiting area or conference room until the management team is assembled. Be polite and ask the CSHO to remain where the management team will meet him/her. Be aware that the inspection has already begun and anything in plain view is subject to question and review.

When the lead manager is ready to begin, he/she should greet the CSHO and ask for identification. The inspector should show a federal photo ID; be sure to record his/her name. If there is any question regarding the validity of the ID, then a verification call should be made immediately to the local OSHA office; the CSHO understands concerns about industrial espionage and security. In most cases, the CSHO's credentials and ID are usually checked before the CSHO even enters the facility.

Note that you have the right to refuse entry to the CSHO unless a warrant is produced. Note also that the CSHO already has justification for the inspection; either an employee complaint or the authority granted to him/her under the OSHA standards to inspect any workplace at a reasonable time. If a warrant is required, then be aware that the CSHO can be back with one in short order. If the CSHO does come back with a warrant, he/she can come back with multiple CSHOs. What would have been a more focused inspection could turn into a wall-to-wall inspection. Before refusing entry, have a discussion with your legal advisor.

After identity has been verified, escort the CSHO to the room where the opening conference will be held. The room only needs to have the basic necessities for the opening conference — a table, adequate seating, comfortable temperature and privacy. Select the room by location rather than by comfort level.

While preparations for the opening conference are being conducted, supervisors should be made aware that the CSHO could possibly walk through their areas. Shop personnel should ensure that the housekeeping is adequate and that any potential OSHA violations that could result in a citation have been corrected, such as:

- Housekeeping, particularly blocked aisles.
- Out-of-service machinery that is not locked out.
- Guards on pedestal grinders are within range.
- Extension cords/temporary wiring.
- Fire extinguishers not in place and fully charged.
- OSHA log not posted (February through April).

The CSHO knows you're doing this and expects it. Stepping into the plant to find a host of small, easily corrected safety violations sends the wrong message to the CSHO and can set the tone of the entire inspection.

The Opening Conference

When the essential personnel have been assembled, the manager in charge should greet the CSHO and begin the opening conference. Remember that this is a regulatory inspection, not a consultation visit. The number of participants in the opening conference should be limited; the fewer people who are at the table, the less likely it is that someone will make a damaging comment or ask a question that will lead the CSHO into unintended territory. The lead manager, the safety professional and a note taker are suitable participants to begin with. Additional individuals can be called in as needed. The inspector will require an employee representative to participate in the entire process. In a union shop, that representative will be chosen by the union; in a non-union shop, the CSHO and management will decide who should represent the employees.

From the very beginning of the meeting, take copious notes! Every statement, question and answer should be recorded. If the meaning of a statement or question is unclear, feel free to ask for clarification.

After introductions, the meeting should start with some standard questions for the CSHO. As stated earlier, Make sure to record the inspector's answers. Standard questions include:

- Why was the facility chosen for today's inspection?
 - Was there an employee complaint?
 - Is it a programmed inspection, as part of an OSHA initiative?
- What is the intended scope of the inspection?
 - Specific department/area?
 - Particular physical hazards?
 - A particular occupation or process?

Before entering the plant, the inspector will usually do a paperwork check. Items often requested include:

- The current OSHA log and logs for the past five years.
- The company's Injury and Illness Prevention Plan.
- The Hazard Communication program.
- Training records.
- Air and noise sampling records.

The CSHO has the right to examine any records that are required by OSHA standards. If paperwork is requested and you are not sure that it is OSHA-required documentation, consult your legal advisor before honoring the request.

The Plant Inspection

After the opening conference, the CSHO will want to visit the area in question as described in the scope. Wall-to-wall inspections are rare; inspections are often the

result of an employee complaint, and the CSHO is interested primarily in investigating that single issue.

Make sure to follow all of your safety rules while in the plant. The CSHO should have all the required personal protective equipment. If your visitor safety program requires a safety orientation before entering the plant, then take the time to complete it. This is the time to make sure the CSHO sees all of the positive elements of your safety and health program.

Everything in plain view is subject to inspection by the CSHO. Thus, carefully choose your route to where they want to go. You don't have to walk the group through the entire plant or take the most direct route to the area in question. It is recommended to take the inspector outside and enter the plant through a back or side door close to the area that they want to see.

Who Should Participate in the Physical Inspection?

- The management representative who has been assigned in advance.
- A second management representative, if available, for note-taking, etc.
- The selected employee representative.
- A maintenance person who can fix simple violations that are found.
 - “Abated During Inspection” may look good on a citation.

What Should You Carry Along?

- A camera.
 - The CSHO will take photos of violations and other conditions, and you should take a photo of everything the inspector photographs. If you're not sure what he/she shot, ask.
- A notepad.
 - Ask the CSHO to describe anything he/she is concerned about as it is found.
 - When the inspector writes something down, ask what it was and put it in your notes, too.
- Tape measure, flashlight, etc.

The CSHO may wish to do air or noise sampling. The inspection may be the result of an industrial hygiene complaint, or the inspector may simply want to determine whether there is any overexposure. Don't volunteer any previous sampling records; if the CSHO asks for the records, acknowledge the request and refer it to your legal advisor.

Take careful notes and photos during industrial hygiene sampling:

- What type of sampling equipment is being used (e.g., brand, model, etc.)?

- How is it being placed on the employees or in the work area — where, when and for how long? (Photos help.)
- Carefully supervise the employees who are wearing dosimeters to ensure the equipment stays in place and is not tampered with during the sampling. If possible, collect your own samples at the same time.

Key Points to Remember During the Inspection:

- Listen instead of talk.
- There is no need to provide additional information if it is not asked for by the CSHO.
- Explain how equipment/processes work if asked.
- Don't start idle equipment.
- Only answer questions if you are sure of the answer and the effect. “Yes” and “no” answers are best. If you don't know, say so. You can provide answers later, after receiving advice from legal counsel, if needed.
- If an alleged violation is found, ask the CSHO how it could be corrected. Record the answer, including if they don't know how it could be corrected.
- Never admit to a violation.
- Take good notes.
- Be accommodating.
- Only give a copy of your notes or photos to the CSHO if instructed by the company's legal team.

Employee Interviews

The CSHO has the right to interview employees. The interviews are private, but the interviewee may request that the employee representative be present. Management representatives will not be permitted in the interviews.

Interviews may not disrupt your operation. You must make the employee available for the interview on the clock, but at a time when he/she is not needed on the job. The CSHO may need to schedule a time to return to the site to interview an employee if they are not available. Employees are not required to submit to interviews.

The Closing Conference

When the CSHO is ready to share his/her findings, there will be a closing conference either the day of the inspection or a few days later. Attendees should be the same individuals who were present at the opening conference. The CSHO will provide an account of alleged violations detected and the suggested time frame for abatement. Note that this discussion does not constitute a citation and that any citations will come later from the area director of OSHA. During the closing conference, request as much abatement time as you can negotiate.

A professional attitude is necessary at all times. The CSHO should leave your plant with as pleasant an impression as possible under the circumstances.

What Happens Next?

If you have received a formal citation — a week or more after the inspection — the clock starts ticking for the appeal. You have 15 working days to file a formal appeal in writing with the OSHA area director. You should generally file that formal appeal request right away; you can always withdraw the appeal, but if you miss the 15-day deadline, then the citation becomes a final order.

Within the same 15 days, an informal conference can be requested with the area director to discuss the citation and negotiate a settlement. You should take advantage of this opportunity to meet with the area director to discuss the merits of the citations, your ability to abate the conditions within the suggested time period, and to generally show good faith in providing a safe workplace. The area director has the authority to adjust the monetary penalties for cited items, and will often do so in exchange for a commitment to expend the funds on safety and health enhancements.

If the results of the informal conference are unsatisfactory, the appeal can go to the Occupational Safety and Health Review Commission. At this point, the process becomes more expensive, as legal representation becomes formally involved. If the Commission's ruling is unsatisfactory, the matter can then be appealed to the federal court system.

Tips to Help Avoid OSHA Visits

The majority of OSHA visits are the result of employee complaints or a serious injury or illness. Here are some recommended practices that can encourage a positive and safety-focused workplace for your employees:

- Maintain your facility's housekeeping at all times.
- Always be proactive. Don't let violations happen, and fix those that slip through as you find them.
- Treat your employees well. Maintain a culture of trust so they will use the proper chain of command with reporting safety issues instead of calling OSHA.
- Empower employees to fix things they find instead of just reporting them.

Conclusion

A compliance inspection by OSHA is not always a pleasant experience, but preparation and planning may help your company be better prepared. Maintaining a safe and healthful workplace with a positive safety culture can result in less likelihood of interactions with OSHA and a potentially more positive outcome, should a CSHO decide to pay a visit.

References

1. OSHA Standard 29CFR1903, "Inspections, Citations and Proposed Penalties."
2. OSHA Publication 3000 (2018), "Employer Rights and Responsibilities Following a Federal OSHA Inspection." ♦

Did You Know?

ArcelorMittal, Salzgitter Launch Hydrogen Research Initiatives

ArcelorMittal will undertake a research and development project that aims to reduce its carbon footprint through the use of hydrogen.

The steelmaker in March announced that it is investing 65 million euros (US\$72.8 million) in the effort, which will explore hydrogen as an alternative reductant in the direct reduction process. The company said it will collaborate with the University of Freiberg in Germany on the project, which will be based at its plant in Hamburg.

"Our Hamburg site offers optimum conditions for this innovative project: an electric arc furnace with DRI system and iron ore pellets stockyard as well as decades of know-how in this area. The use of hydrogen as a reducing agent shall now be tested in a new shaft furnace," said ArcelorMittal Germany chief executive Frank Schulz.

The project will initially play out on a demonstration scale, targeting 100,000 metric tons of hydrogen-based DRI production. Later plans call for construction of a pilot-scale plant, it said.

ArcelorMittal said it plans to derive hydrogen from the DRI plant's top gas, separating it through the pressure swing adsorption process. But in the future, it hopes to generate hydrogen through renewable resources.

ArcelorMittal is the latest European steelmaker to announce a hydrogen R&D project. voestalpine, SSAB and thyssenkrupp all have announced hydrogen projects, and in March, Salzgitter said it and its partners have begun the second phase of a project that is investigating hydrogen production through steam electrolysis.

Salzgitter is working with German solid oxide cell manufacturer Sunfire GmbH as well as with Tenova and Paul Wurth on the project, which is targeting at least 100 metric tons worth of high-purity hydrogen production.

Salzgitter will funnel the hydrogen into annealing operations at its integrated steelworks, replacing some of the hydrogen it generates from natural gas.