



## CHAPTER 23

### OSHA Compliance Inspection Policy

#### POLICY

It is the policy of the Flight Department to comply with all applicable government regulations concerning the safety and health of employees. It is also Department policy to fulfill its responsibilities by cooperating with duly authorized compliance inspectors, while preserving its rights as an employer. This policy establishes minimum guidelines for facility managers in handling any on-site government safety or health inspection.

#### SCOPE

This policy applies to all Flight Department facilities operating in the United States.

#### RESPONSIBILITY

The Safety Manager is responsible for issuing the Aviation Services Department Safety Policy and updating the policy as necessary to comply with current regulations.

Facility managers and Safety Representatives shall maintain familiarity with this policy. In the event of a safety or health inspection, the facility manager shall act as the Flight Department representative. The facility Safety Representatives, if available, shall also be present to assist facility management in this role.

#### GENERAL

The Occupational Safety and Health (OSH) Act of 1970 grants representatives of the Department of Labor the right to inspect any place of employment in order to determine whether an employer is in compliance with the Act's safety and health standards. Compliance inspections are initiated and prioritized based upon the following criteria:

| Reason for Inspection                       | Description   |
|---|---|
| National, regional, local emphasis programs | Hazard-based, equipment-based, industry-based.  |
| Site-Specific Targeting Program             | Based on injury rates (usually 4-5 times the national average).   |
| Complaints                                  | Most commonly from employee complaints  |
| Referrals from other agencies               | Referrals from local building inspectors, EPA inspectors, etc.  |
| Follow-up from prior inspection             | OSHA often conducts follow-up inspections of employers who have previously been cited.  |
| Plain-view                                  | More common in the construction industry, where OSHA inspectors drive by a jobsite and notice a potentially unsafe situation. |
| Fatality/catastrophe reports                | When employers report a fatality, multiple hospitalization, or OSHA learns of these through media reports or other sources.   |

The following are general guidelines to which the Compliance Officer can be expected to adhere during the course of a safety or health inspection:

- Inspections will normally be made during the regular working hours of the facility. Advance notice of inspections is generally prohibited by the Occupational Safety and Health Act, except under specific circumstances.
- The OSHA Compliance Officer will display his/her official credentials and request to meet the employer representative.

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- The Compliance Officer may be required by an employer to obtain a search warrant based on probable cause prior to the inspection. It is the policy of the Department not to exercise this right unless specifically advised to do so by Corporate Legal.
- The Compliance Officer must state the reason for the inspection, i.e., imminent danger, employee complaint, etc.
- Forcible interference with the conduct of inspections or other official duties of the Compliance Officer or other OSHA personnel is a criminal offense.
- Cameras and sampling equipment, such as noise dosimeters and air sampling meters, may be used by the Compliance Officer.
- Under the “plain view” exception, OSHA may issue a citation for any observed violations, even though the subject of the alleged violation is outside the scope of the consent.

Department representatives shall:

1. Immediately upon notification of an OSHA inspection, begin a written log of the inspection. Note the time of arrival, breaks, opening and closing conference, departure, etc. Take thorough and accurate notes of everything the Compliance Officer mentions or questions during the inspection, including conversations with employees, unless held in private. This log, along with the report of OSHA Inspection, which can be found in Appendix I of this section, will subsequently be relied upon in enforcement proceedings or settlement negotiations if citations are issued.
2. Notify the Safety Manager of the inspection. The Safety Manager shall notify the Director of Aviation Services.
3. Request and photocopy the Compliance Officer's credentials. Contact the appropriate OSHA Regional Office, listed in Appendix II of this section, to verify the officer's identity.
4. Request the reason for the visit. If the reason is due to an employee complaint, a copy of the written complaint shall be requested.
5. Remain cordial and cooperative during the inspection process. Ensure the Compliance Officer is escorted at all times while in the facility. Designate an office or area for the Compliance Officer to examine records.
6. Bring any requested records to the officer, rather than allowing unrestricted access to files. Provide only those records specifically requested, not entire files. Attempt to restrict the scope of the inspection to the subject of the inspection request.
7. Determine if the Compliance Officer will be using any environmental monitoring equipment. If practicable, conduct concurrent sampling utilizing Company or contract monitoring equipment.
8. Obvious alleged violations pointed out by the Compliance Officer shall be corrected immediately, if practicable. This exhibits “good faith” which reflects the Department's concern for safety. This good faith effort may also avoid a citation.

## OPENING CONFERENCE

The Compliance Officer is required to conduct an opening conference prior to any walk-through or physical inspection. The Department representative, the facility Safety Representatives, if available, and an employee representative, if required by the Compliance Officer or requested by employees, shall be in attendance. Separate conferences may be conducted for the Department representative and the employee representative (if one is required) at the request of either party.

The Compliance Officer will present appropriate credentials, furnish a copy of the employee complaint or warrant (if applicable), and state the reason for the inspection. The Compliance Officer will:

- Outline, in general terms, the scope of the inspection, including records review, employee interviews, physical inspection, and the closing conference with management to discuss the inspection findings.

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- Provide copies of laws, standards, regulations, and promotion materials, as applicable.
- Provide information on how additional copies of other applicable materials may be obtained.

## REVIEW OF RECORDS

During the inspection, the Compliance Officer may request to review specific safety and health-related records. OSHA 300 logs will be reviewed to determine whether the facility's Lost Workday Incident (LWDI) rate is in excess of the industry average. A high LWDI rate may trigger a more comprehensive inspection.

The Compliance Officer may review other records such as:

- OSHA 301 or equivalent.
- Required specific written programs contained in the Department Safety Manual.
- Required equipment inspection and maintenance records.
- Compliance with posting requirements.

The Compliance Officer is allowed access to employee medical records under 29 CFR 1913.10(b)(4) for the limited purpose of verifying employer compliance with the medical surveillance recordkeeping requirements of 29 CFR 1910.1020, "Access to Employee Exposure and Medical Records." The Company Medical Officer maintains these records. Review of the content of such medical records may require a written access order or express employee consent. The Department representative shall ensure that proper consent is obtained prior to the release of such records.

## PHYSICAL INSPECTION

The Compliance Officer shall be required to comply with all applicable facility safety rules, including those prescribing personal protective equipment. The Department representative shall take detailed notes of everything the Compliance Officer mentions or questions during the inspection, including conversations between the Compliance Officer and any employees, unless the conversations are held in private. If employees elect to have private interviews, a notation shall be made to this effect.

Photographs should be taken of everything the Compliance Officer photographs or points out as questionable.

Answer all questions honestly, but do not volunteer any information. This will often lead to expanding the scope of the inspection. If the inspector identifies a violation, do not attempt to provide an explanation, state it is a violation or defend the occurrence. This could be considered an admission of guilt.

Alleged violations that are obvious shall be corrected immediately, if practicable. This is not an admission of guilt, but rather demonstrates a good faith effort to comply with regulations and to ensure the safety of employees. Any alleged violations that are questionable should be discussed with the Compliance Officer and so documented in the notes. The Department representative shall take duplicate samples (e.g., labels, etc.) of those which the Compliance Officer takes.

Efforts shall be made to confine the scope of the inspection and employee interviews to those in the written complaint or as discussed in the opening conference. This can often be accomplished by determining the route to the location. If there is disagreement on the scope of the investigation, a break shall be suggested and all parties will reconvene in the conference room to discuss the issue. In an attempt to resolve the dispute, the Safety Manager may be contacted. The Compliance Officer shall be extended the courtesy to call the OSHA supervisor.

Copies of internal reports, such as safety audit reports, accident investigation reports, or other investigation records, shall only be made available to the Compliance Officer upon specific request or when the Department representative deems this information will support the Department's position on an issue. Copies of any such reports provided to the Compliance Officer shall be attached to the Report of OSHA Inspection.

OSHA Compliance Officers are also trained in the pertinent regulations enforced by other government agencies. Any apparent violations will be referred by OSHA to the appropriate agency.

## CLOSING CONFERENCE

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A closing conference will be held after the physical inspection. The Department Representative shall resist any effort on the part of the Compliance Officer to defer the closing conference to a later date. All personnel in attendance at the opening conference shall attend the closing conference. Separate closing conferences may be held with the Department representative and the employee representative (if one is required) at the request of either party.

The closing conference is conducted to advise the Department of any violations observed and abatement requirements. The Compliance Officer will provide copies of and explain any regulations allegedly violated. Official citations are issued only by the OSHA Area Director after the inspection. The Compliance Officer will not provide a written summary at the time of the closing conference. Therefore, it is critical that the Department representative maintain complete and accurate notes. A copy of the Compliance Officer's written summary may later be obtained from the OSHA Area Director upon request.

The Department representative shall make no statements during the closing conference that could be construed as an admission of the alleged violations at issue or as a limitation of the Department's right to contest the citation. Admissions of liability may be used against the Department in later enforcement proceedings, if convened.

The Department representative should use this forum as a means to determine:

- If the inspection is the result of a complaint, whether or not the Compliance Officer feels the complaint is justified.
- Whether any deficiencies were noted during the inspection.
- Whether any citations are forthcoming.

The Department representative may brief the Compliance Officer on any aspects of the Department Safety Program that specifically relate to any alleged violations. The Compliance Officer shall be encouraged to set reasonable abatement periods for any alleged violations being contemplated.

## POST-INSPECTION PROCEDURES

The Safety Manager shall be updated on the outcome of the OSHA inspection. The "Report of OSHA Inspection" form shall be completed and submitted to the Safety Manager as soon as possible. The notes taken during the inspection shall be maintained and a copy should be attached to the Report of OSHA Inspection. Any alleged violations mentioned by the Compliance Officer that are apparent shall be corrected as soon as possible.

## CITATIONS – GENERAL

Alleged citations and proposed penalties, if any, will be received from the OSHA Area Director via certified or registered mail. A copy of any citations shall be posted at or near the place of the violation. General citations shall be posted on the facility safety bulletin board or in the vicinity of the OSHA poster. Citations shall be posted for three days or until the condition noted is abated, whichever is greater, regardless of whether abatement has been made prior to receipt of any citations.

The official abatement period begins upon first receipt of any citations. Therefore, a notation of the date of receipt must be affixed to the notice. A copy of all citations shall be immediately forwarded to the Safety Manager.

The Manager of Safety Training and Standards, and the Safety Manager shall review all citations for possible action such as notice of contest, variances, extensions, etc. Abatement procedures shall be recommended to the facility management, if applicable.

## CONTESTED CITATIONS

Notice of contest for a citation must be postmarked no later than the 15<sup>th</sup> working day after receipt of the citation. Contested citations shall be sent to the OSHA Area Director via certified or registered mail. A copy of the citation contest letter must be posted in the facility adjacent to the citation concerned for employee information.

An informal conference shall be requested with the Area Director to provide an opportunity to resolve disputed citations and penalties without necessity of recourse of litigation. If citations and penalties cannot be resolved in an informal conference, a Review Commissioner will assign the case to a hearing before an administrative law judge.

## UNCONTESTED CITATIONS

Uncontested citations and penalties become final order and must be paid and corrected within the designated abatement period. Facility management shall notify the OSHA Area Director in writing that the cited conditions have

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been corrected by the abatement date set in the citation. The notification shall be sent via registered or certified mail. A copy of the notification shall be provided to the Safety Manager.

Notification of abatement completion shall explain the specific action taken with regard to each violation and the approximate date the corrective action was completed. A check for the amount of penalties assessed must accompany the letter to the Area Director. All penalties paid are an expense of the facility cited.

## FOLLOW-UP INSPECTION

A return visit by the Compliance Officer may be made at any time after the initial inspection. This inspection may be conducted to verify:

- The citation has been posted as required.
- Violations as noted in the citation have been corrected.
- Employees are adequately protected during the abatement period.
- Appropriate administrative or engineering abatement steps have been taken.

If a return visit occurs and the Compliance Officer finds that abatement has not been completed by the designated abatement date, additional penalties can be assessed up to \$1,000 per day per employee exposed for each citation concerned until abatement.

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## Appendix I - Report of OSHA Inspection

Name of Inspector: \_\_\_\_\_ Badge #: \_\_\_\_\_

Arrival Time: \_\_\_\_\_ Facility Visited: \_\_\_\_\_

Date/Time of Opening Conference: \_\_\_\_\_

Purpose of Visit (attach a copy of written complaint, if applicable):

|                    |                         |              |
|--------------------|-------------------------|--------------|
| 1. Imminent Danger | 2. Fatality/Catastrophe | 3. Complaint |
| 4. Referral        | 5. Programmed           | 6. Follow-up |
| 7. Records         |                         |              |

Review names, job titles, and comments of all employees interviewed:

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Description of all monitoring devices used (give details of location monitored, contaminant, and results, if available):

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Was any equipment/procedure cited as hazardous? Explain.

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Date/Time of Closing Conference: \_\_\_\_\_ Departure Time: \_\_\_\_\_

Citation(s) anticipated (give details):

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(Over)

