When OSHA knocks, employers should be prepared to answer

Federal and state agencies conduct nearly 100,000 inspections every year, making the odds of your worksite being inspected fairly low. But just as safety professionals need to ensure a worksite is prepared to identify and abate even the rarest of safety hazards, employers always should be ready for the possibility of an OSHA inspection.

“You may not get an inspection in your facility for the next 30 years. However, you always have to be ready,” said Rick Kaletsky, a Connecticut-based consultant and former OSHA compliance officer.

Knowing what happens during an OSHA inspection and what to do can help ensure things run smoothly – for both your organization and the inspector.

Preparing for an inspection

Before OSHA arrives, establish a procedure you will follow if an inspector shows up, recommends JoAnn Dankert, senior consultant with the National Safety Council.

Your plan should identify a person at your facility, such as the safety manager or the owner, who will be responsible for escorting the inspector around the facility. Select a meeting space for opening and closing conferences to take place. An employee representative also will be allowed to attend these conferences and the walkaround. At organized sites, a union contract will spell out who that representative may be; in other situations, a member of the safety committee could join the process.

Make sure you’re dealing with a bona fide OSHA inspector by asking to see the person’s identification. The ID will include the inspector’s photo, name and office; it will not be a badge. Write down the inspector’s name and office. If you’re still unsure of whether the inspector is from the government, Kaletsky suggested calling the local OSHA office to check. Look up the phone number yourself – don’t rely on a number provided by the potential impostor.

In what is known as an opening conference, the compliance officer will

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OSHA rejects Arizona residential fall protection standards

OSHA has rejected Arizona’s fall protection standards for residential construction, meaning all employers in the state must comply with federal standards.

In 2010, OSHA began requiring residential construction workers to use conventional fall protection when workers were at heights of 6 feet or higher. Two years later, Arizona, which is a State Plan state, passed a law requiring conventional fall protection when workers were 15 feet up or higher.

All State Plan states must create standards that are “at least as effective” as federal standards. OSHA deemed the Arizona Division of Occupational Safety and Health’s new rules based on the state law to be not as effective. A Feb. 6 Federal Register notice announcing the rejection pointed out notable differences between the federal and state agency’s rules, including:

- Arizona’s 15-foot trigger height for using conventional fall protection, as opposed to OSHA’s 6-foot trigger height
- Arizona’s single fall protection plan for all worksites
- Arizona’s exceptions to the requirement for conventional fall protection

Separate legislation passed by Arizona lawmakers in 2014 contained a provision that would automatically repeal the residential fall protection standards if federal OSHA rejected them. ADOSH confirmed that repeal and announced enforcement of the federal standard beginning Feb. 7.

Additionally, to assist employers, ADOSH has been hosting a series of free classes on complying with federal fall protection requirements. The classes take place twice a month in Phoenix and once a month via webinar.

The rejection comes following several months of back-and-forth conversations between ADOSH and OSHA, with the state asserting that the federal agency never fully explained how Arizona’s approach to fall protection was not as effective as OSHA’s.

In August, the federal agency proposed rescinding ADOSH’s “final approval” status in the construction industry to allow OSHA to enforce federal construction safety standards in the state. In the Feb. 6 Federal Register notice, OSHA said it was deferring the decision on rescinding ADOSH’s final approval status pending the state agency’s enforcement of a residential fall protection standard at least as effective as OSHA.

Read the rejection notice at http://1.usa.gov/1AbOuqb.

Q: Is a conventional yellow floor stand sign acceptable to warn of slippery floors?

A: It could be, but you must ensure the sign(s) is adequately conspicuous and properly placed in respect to the slippery surfaces and the access paths to those areas.

I observed a situation in a store where the ”CAUTION WET FLOOR” sign was definitely insufficient to prevent exposure to a fall. The sign was obvious upon approach, but a significant amount of water (not immediately obvious) was on the tile floor in front of the sign and on all sides of it. The water came from a leak in the ceiling, with no bucket or similar receptacle catching the drops. Neither mopping nor “wet-vacing” could reasonably keep up with the drip pace.

Further, no barrier was erected to preclude access to the span of wet tile. Coincidently, a yellow plastic chain (generally used to keep customers out of certain aisles) was available within a few feet of the wet area. Even that chain was not used to preclude entry into the area, where the hazard was exacerbated by a customer bathroom being very close. It was possible to reach the bathroom without stepping onto the slippery surface, but such action would require a carefully selected route and gingerly steps.

Former OSHA inspector turned consultant Rick Kaletsky is a 43-year veteran of the safety industry. He is the author of “OSHA Inspections: Preparation and Response,” published by the National Safety Council. Now in its 2nd edition, the book has been updated and expanded. Order a copy at www.nsc.org, and contact Kaletsky with safety questions at safehealth@nsc.org.
In Other News...

OSHA issues health bulletin on grain-industry fumigants

Fumigants used in the grain industry contain chemicals that can lead to workers acquiring diseases and other permanent health problems, OSHA warned in a Jan. 6 Safety and Health Information Bulletin.

Toxic chemicals such as methyl bromide and phosphine are found in fumigants, which are used for insect control on stored grain. Workers who handle both fumigants and fumigated grain can develop heart and vascular disease, cancer or suffer permanent central nervous system damage, according to the SHIB.

OSHA recommended employers carefully monitor fumigated grain shipments and storage facilities, and use industrial hygiene practices to protect workers. Read the bulletin at [http://1.usa.gov/1EAiFbJ](http://1.usa.gov/1EAiFbJ).

Hazard alert: Stone countertop workers at risk of silicosis

Employees who manufacture, finish or install natural and manufactured stone countertops are at risk of crystalline silica exposure, and employers should take steps to protect them, OSHA and NIOSH said Feb. 18 in a joint hazard alert.

Rocks and sand contain silica, from which exposure to even a small amount can lead to lung cancer or other diseases, OSHA warned.

The alert details why silica is a concern in the stone countertop industry and provides mitigation methods, including:
- Using water spraying systems
- Wet sweeping or using high-efficiency particulate air-filtered vacuuming
- Isolating dust-producing operations with enclosures or walls
- Using NIOSH-approved N95 respirators

Go to [http://1.usa.gov/1xdjMGA](http://1.usa.gov/1xdjMGA) to read the hazard alert.

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**OSHA STANDARD INTERPRETATIONS**

OSHA requirements are set by statute, standards and regulations. Interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. Enforcement guidance may be affected by changes to OSHA rules.

### The use of hearing aids as hearing protection devices

**Standard:** 1910.95(j)(1)

**Date of response:** Sept. 2, 2014

**Background:** An employee with a congenital hearing loss works in an environment with noise levels measured between 85 and 93 decibels A-weighted (dBA). The employee in question utilizes a full insertion, programmable hearing aid that limits noise passing through the device at or below 85 dBA. In the 10 years employed, the individual has had no discernable standard threshold shift (STS).

**Question:** If the hearing aid manufacturer can produce documentation of a noise reduction rating (NRR) for a programmable hearing aid, would OSHA consider that device as an adequate hearing protector under 29 CFR 1910.95?

**Response:** Yes, an assigned NRR is a manufacturer’s rating of the device’s effectiveness to attenuate noise. As you are likely aware, the adequacy of hearing protection is determined by the effectiveness in attenuating or reducing noise that reaches the inner ear. This measure of effectiveness is called the NRR. The NRR is a laboratory-derived numerical estimate of attenuation that is provided by the hearing protector. The U.S. Environmental Protection Agency (EPA) requires manufacturers of hearing protection devices to identify the noise reduction capability of all hearing protectors sold in the United States, and to present the NRR on the package label of the device. We are aware that some manufacturers of hearing aids have also designed hearing protection into their devices with an assigned NRR.

To evaluate the adequacy of any hearing protector’s attenuation, the employer must refer to the mandatory Appendix B to 29 CFR 1910.95, as required in paragraph 1910.95(j)(1). The NRR of the hearing protector is compared to an individual worker’s noise environment to determine whether the exposure is attenuated to the level required by the OSHA standard. For employees with no STS, the hearing protector must attenuate noise exposure to an 8-hour time-weighted average of at least 90 dBA, as required in paragraph 1910.95(j)(2). For employees who have experienced an STS, the hearing protector must attenuate exposure to 85 dBA or below, as per paragraph 1910.95(j)(3).

**Thomas Galassi**

Director of the Directorate of Enforcement Programs

explain what prompted the inspection. The parameters of the inspection will be explained, including what machines or procedures will be observed. The inspector also will ask for basic information about the facility or documents, such as injury and illness logs. Employers will learn about their rights, including how to contest potential citations.

Walkaround

Before the walkaround begins, the OSHA inspector may ask if your facility has any unique dangers. Ensure inspectors are wearing appropriate personal protective equipment for your site. Although some inspectors may bring their own PPE, be prepared to provide them with the necessary gear.

During the walkaround, the inspector will take photos and notes and ask questions. Employers should do the same, recommends John Newquist, an Illinois-based consultant and former OSHA assistant regional administrator.

Certain employees may be selected for a one-on-one interview with the compliance officer. Identify a private area – a conference room, for example – that can be used for these interviews. The questions will be simple – covering topics such as the type of training provided – and employers should tell their workers to answer any questions truthfully, Newquist said.

In conclusion ...

A closing conference takes place shortly after an inspection ends, although not necessarily on the same day. The inspector will not ask for any money or threaten the employer with large fines unless a fee is paid immediately, as has occurred in scams involving people posing as compliance officers.

During the closing conference, the compliance officer will summarize hazards found during the inspection, and may mention citations that could result from some of those hazards, Newquist said. He or she also will review what happens in the event citations are issued. OSHA has six months after the closing conference to file citations, which will arrive by certified mail.

You do not need to wait until the agency gets back to you with citations before taking proactive steps. Check in with OSHA, and inform the agency if you have corrected any of the hazards pointed out during the inspection.

Correcting hazards not formally cited does not imply guilt, Newquist noted: Not every hazard the inspector points out will lead to a citation, and correcting those hazards sends a positive message to OSHA. Although not a guarantee, the agency may not follow through with issuing a citation if an employer corrects a hazard ahead of time.