



## WHEN MN-OSHA KNOCKS: AN EMPLOYER'S RESPONSE GUIDE

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Even with the best safety and health program, many safety-conscious employers eventually face a Minnesota OSHA ("MN-OSHA") inspection. Indeed, MN-OSHA conducts safety and health inspections in five scenarios:

- (1) Imminent Danger: MN-OSHA will inspect a site when it has been alerted to a danger that could reasonably be expected to immediately cause death or serious physical harm or before the imminence of such danger can be eliminated. Such inspections may result from employee complaints, a voluntary on-site state agency consultation, or from other sources.
- (2) Fatality and Catastrophe Investigations: MN-OSHA will conduct a fatality or catastrophe investigation if an accident: (a) causes one or more deaths; (b) results in the hospitalization of three or more employees; or (c) causes significant publicity.
- (3) Investigation of Complaints/Referrals: An inspection will be conducted in response to formal (i.e., written) and informal (i.e. verbal) complaints.
- (4) Referrals: An inspection will occur after state personnel or consultants in on-site consultation programs make reports of unabated hazards.
- (5) Programmed Inspections: Random inspections generally occur for employers who work in a high hazard industry.

While MN-OSHA is generally prohibited from giving advance notice of an inspection, an inspection is likely to occur in times of labor unrest, after a work-related fatality or catastrophe, after the employer has received significant negative media coverage concerning a safety or health issue in the workplace, or in a high-hazard industry. By preparing standard operating procedures in advance of a MN-OSHA inspection, employers can minimize the stress of an inspection and minimize exposure to citations and penalties. At minimum, the procedures should:

- Identify which company representative(s) are responsible for handling MN-OSHA inspections. Supervisors should alert the company representative immediately of the presence of an MN-OSHA inspector.

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□ Train the company representatives concerning an employer's rights during an MN-OSHA inspection.

□ Remind company representatives to obtain as much information from the inspector as possible during the opening conference (when MN-OSHA first appears), including the inspector's background, and the purpose of the inspection and the intended scope of the investigation.

□ Limit the inspector's access to appropriate areas within the scope of MN-OSHA's investigation. For instance, in the case of an employee complaint, MN-OSHA access to the job site should be limited to the areas alleged within the complaint.

□ Describe the company's position on situations where MN-OSHA may be required to obtain a warrant to conduct the inspection.

□ Describe the company representative's duties during an MN-OSHA inspection, such as accompanying the inspector at all times during the inspection.

□ Describe the company's position on whether it will allow private on-site interviews of employees, and if so, when and how those interviews will be conducted.

□ Describe the company's duties and responsibilities during the inspection of a multiple employer job-site.

We believe the best approach to safety in the workplace is a proactive one. As such, we routinely assist employers in preparing safety and health policies and procedures. Nevertheless, since even the best safety practices will not avoid an OSHA inspection, we also assist employers in preparing standard operating procedures to follow in the event of an on-site OSHA investigation. The standard operating procedures assist employers in protecting their rights during an investigation and controlling the rogue inspector. We have also defended employers throughout the country in OSHA litigation matters.

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**Friday, June 18, 2004**

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Wyndham Hotel - Bloomington, MN

**Registration Fee: \$25.00**

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The seminar is sponsored by Manufacturers Alliance and is open to members (\$30.00) and non-members (\$40.00). To register, please call 763-533-8239 or register on-line at [www.mfrall.com](http://www.mfrall.com) (click on "Events," then "Workshops").

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