Conducting a Mock OSHA Inspection

Get It Right Before the Real Inspectors Show Up

A SPECIAL REPORT FOR SAFETY EXECUTIVES
Conducting a Mock OSHA Inspection

PBP Executive Reports are straightforward, fast-read reports designed for time-pressed executives and managers. PBP Executive Reports excel at cutting the fluff, eliminating jargon and providing just the information today’s business leaders need to improve organizational performance.

This PBP Executive Report was researched and produced by the veteran editorial team at Progressive Business Publications, a leading provider of essential information for business people. It contains the best thinking on how employers can conduct a mock OSHA inspection at their facility in an effort to stay in compliance with regulations and prepare for an actual visit from an OSHA inspector.

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Executive Summary

Make no mistake – OSHA is back in the enforcement business.

After nearly a decade of relatively lax enforcement and an emphasis on cooperation, OSHA under President Obama has made it clear it’s ramping up inspections and citations.

OSHA has received two consecutive budget increases, and a large chunk of that new cash is going directly to hiring more inspectors focused on finding safety violations at businesses across all industries.

As Labor Secretary Hilda Solis said shortly after her appointment was confirmed: “There’s a new sheriff in town.”

But that focus on enforcement is just the tip of the iceberg.

OSHA administrator David Michaels says the agency wants to increase the sting companies feel if they do get hit with a citation. The agency is pushing for higher penalties and even individual criminal charges at companies with considerable violations.

What’s more, OSHA is demanding that companies identify their own hazards, regardless of what standards are on the books, through the proposed Injury Illness Prevention Program (i2p2) and an increased use of the General Duty Clause (GDC), which states that employers must maintain a facility that is free from recognized hazards.

The message is clear: Employers must keep workplaces safe. And if they don’t, OSHA is coming after them with everything it’s got.

That’s why it’s more important than ever to make sure your facility complies with OSHA regs and that employees know what steps to take if an inspector shows up.

Many companies have found success conducting mock OSHA inspections – drills where one employee (usually the safety manager but always a safety pro at the organization) poses as an inspector and goes through the facility just like an OSHA rep would.

The “inspector” leaves no stone unturned in his/her search to assure the facility and its operations comply with applicable regs and can speak with employees to see how they’d react talking to a real OSHA inspector.

There is no shortage of consultants happy to charge a fee for conducting mock inspections for companies seeking to double-check their compliance.

But with a basic understanding of how an OSHA inspection works and what to
look for in a specific facility, safety managers can conduct their own mock inspection, making the drill more specific to their individual company’s needs while saving on costly outside consultant fees.

This report identifies the best practices for conducting a mock OSHA inspection. It also provides insider information from actual inspectors on what they look for – and what ticks them off – during the inspection process.

This crucial information can help prevent hefty fines and prepare employees for an unexpected visit from a real inspector.

**Included in this Executive Report:**

- OSHA gets bite to go with its bark
- Setting the scope of a mock inspection
- Conducting the inspection
- The opening conference
- The walkthrough
- The closing conference
- The inside scoop: What inspectors said
- The benefits of a mock inspection
OSHA is changing. It is growing fangs. So it’s essential that any organization preparing for a mock OSHA inspection understand what changes are already on the books and where things are headed.

For a mock inspection to be effective, employers and employees need to know what changes OSHA has made since Obama took office – and stay prepared for what changes might be on the way.

**OSHA gets more bite to go with its bark**

In a recent letter marking the 40th anniversary of the passage of the Occupational Safety and Health Act, OSHA head Michaels sent a letter to agency members outlining where OSHA is headed.

It’s a revealing look at where the agency’s priorities lie – and what safety managers need to be aware of when conducting a mock inspection.

Here’s what OSHA has planned.

**More fines and larger amounts**

Michaels put into words what everyone knows, but few would say outright: For many companies, it’s cheaper to pay the OSHA fine than to comply with workplace rules.

Employers generally believe the chances of getting inspected are relatively low and safety citations are simply seen as part of the cost of doing business.
To combat that approach, OSHA is taking major steps to ramp up the cost of noncompliance.

The agency has started classifying more and more fines as willful or repeat, meaning the company ignored known OSHA standards or has been fined for similar safety shortcomings in the past.

What’s more, OSHA now has the power to levy fines per employee for failure to comply with regulations, thanks to a recent legal ruling.

For example, if a number of employees aren’t wearing the required PPE, OSHA used to write one fine that covered the overall PPE standard violation.

But now, inspectors can write up individual violations for each employee missing PPE, making the total penalty associated with the PPE violation significantly higher.

**Jail time for managers**

But OSHA’s not stopping at upping the dollar amounts on fines. In severe instances, they want to put the people responsible for the hazards behind bars.

OSHA’s announced its intentions to ramp up criminal charges associated with some more serious hazards.

The two main proposed changes:

- violations now classified as misdemeanors would be upgraded to felonies, and
- “any officer or director” could face criminal charges for failing to
correct the hazard – including safety managers.

This can be a major motivating factor for employees and managers alike. And when it comes to mock inspections, it can be the difference in making sure employees take the process seriously and management generates the buy-in needed to make it successful.

More enforcement, less cooperation

Not only is OSHA hiring additional inspectors, it’s also moving staffers currently working in compliance assistance programs into enforcement roles.

That means the chances of an inspection are much higher, and the chances of partnering with your local OSHA office to work together to stay in compliance are reduced.

Michaels was critical of what he called “paper programs” that look like they’re improving worker safety but aren’t.

He vowed to eliminate any cooperative programs that don’t line up with the new enforcement-heavy OSHA policies.

That makes the accuracy of a mock inspection that much more essential.

If OSHA shows up, it’s not likely to be an amiable visit. Companies should be prepared for an inspection without any compliance help from the agency.

Increased use of General Duty Clause

In addition to increasing the penalties for not complying with the regs they’ve got on the books, the agency also wants to fine companies for hazards that don’t have defined standards.

How are inspectors doing it?

Through the once-ignored General Duty Clause (GDC).

General Duty Clause

OSHA’s General Duty Clause states that:

“Each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.”
If OSHA finds a hazard that isn’t associated with a specific standard, inspectors are encouraged to cite the GDC and say the employer failed to “provide a workplace free of recognized hazards.”

Here’s a recent example of that.

A Wal-Mart employee in New York was trampled to death by an out-of-control crowd of shoppers during a Black Friday store opening gone awry. Although OSHA doesn’t have a specific standard dealing with crowd control and trampling, it fined Wal-Mart anyway using the GDC.

The main way employers are getting burned by the GDC is for ergonomics violations.

After a decade of wrangling, OSHA still does not have an ergonomics standard. But that’s not stopping Michaels’ inspectors from issuing plenty of ergo citations under the GDC.

For anyone preparing a mock OSHA inspection, that’s a major thing to keep in mind. Being in compliance with individual regulations is a good start, but it’s not enough.

OSHA inspectors are encourage to look for any safety hazards, whether they fall specifically under an OSHA standard or not.

And that’s especially where ergonomics issues are like to get firms into hot water.

**Better whistleblower protection**

When Michaels promised to strengthen the OSHA Whistleblower Protection Program, he pledged to reach out to labor, community and faith-based organizations to make sure workers understand their right to report safety issues to OSHA without fear of retribution from companies.

That means that no matter how solid your safety program, and no matter how good your employee suggestion system, the chances of a whistleblower sparking an inspection at your facility have never been higher.

That’s why it’s so crucial that a mock inspection include a component that deals with how employees react to an inspection.
An emphasis on recordkeeping

Until recently, OSHA inspectors worked to shed their reputation of being nitpickers who cited companies for small infractions like failing to display a safety posters or missing a label on a cleaning product.

OSHA promised to start paying less attention to little details and spend more time looking for more significant workplace hazards.

But Michaels wrote that the agency’s increasing its focus on accurate recordkeeping. That means inspectors are going to be taking a close look at everyone’s books, including OSHA 300 logs.

With this renewed emphasis, the recordkeeping portion of any mock inspection becomes increasingly essential.

Employers, managers and supervisors need to know what documentation they’ll be expected to produce and be able to present it to inspectors easily and confidently.

Record review is often one of the first things an inspector will do. How these early interactions play out goes a long way in setting the tone for the rest of the inspection.

Giving employees a chance to practice retrieving and presenting these records could help make an actual inspection go a lot smoother.

Setting the scope of a mock inspection

One of the first steps in planning a mock inspections is to determine the scope or breadth of the review you want to undertake.

There are only a few reasons why OSHA chooses to inspect facilities, so modeling mock inspections after one specific type of OSHA inspection is one way to make sure the simulation will be as close as possible to the real thing.
Imminent danger

If an OSHA inspector spots a hazard at a facility, he or she will often conduct an inspection soon after to nail the company with a hefty violation.

These types of inspections are common on construction sites or outdoor work where passersby have a clear view of the work underway – and violations like missing fall protection or PPE are easy to spot.

If a safety manager notices workers not complying with safety rules in an area where the public can see them, it could be a good reason to hold a mock inspection to make sure employees understand that if an OSHA inspector sees them breaking the rules, a full-on inspection is inevitable.

Catastrophes and fatal accidents

If there’s a major incident or injury at a facility, there’s a good chance OSHA’s going to show up and start asking questions.

Companies are required to report fatalities or injuries resulting in three or more people being treated at a hospital to their local OSHA office.

That makes these firms sitting ducks for inspectors.

Near-misses can be a useful way to simulate this type of situation. If there’s almost a catastrophe, simulate what an inspection would look like had employees been hurt or killed.

Complaints and referrals

If an employee or other person complains to OSHA, there’s a good chance inspectors will show up to investigate. While it may in fact just be a disgruntled worker who feels the company hasn’t taken a complaint seriously, it is an invitation for OSHA to sweep into a facility and do a top-to-bottom inspection.

Companies with good employee suggestion programs open the door to useful feedback from workers.

A good safety management plan includes making sure that employees get feedback on the issues they’ve brought to light.
That said, firms should be prepared for inspections prompted by a whistleblower.

To simulate such an inspection, consider what would happen if a safety suggestion was directed to OSHA as a complaint, rather than to your safety team.

Then conduct the mock inspection within the scope of that complaint or suggestion.

**Programmed inspection**

Outside of specific action from the company – such as a fatality or a visible hazard – OSHA also chooses to inspect facilities based on a number of factors or classifications, including:

- high-hazard industries
- companies with high injury rates
- national, regional or local emphasis programs, and
- unusually high lost-workday injury rates.

Many companies conduct mock inspections when OSHA office announces a special emphasis program aimed at their industry.

Additionally, firms in high-hazard industries are always more likely to be inspected, making mock inspections that much more important.

To simulate this kind of inspection, consider conducting a mock inspection after a period with an unusually high (or unusually low) accident rate.

As part of the inspection, ask workers and supervisors to answer for the recent fluctuation in the numbers.

**Special attention for too few incidents?**

In addition to targeting companies with high lost-workday injury rates, OSHA will often inspect facilities with low injury rates as well.

The reason?

If it looks too good to be true, OSHA might think so, too. An unusually low injury rate could suggest a company is not fully reporting on-the-job injuries.
Conducting the inspection

To simulate a real inspection, it’s best to break the mock inspection process up into three parts:

- an opening conference
- the walkthrough inspection, and
- a closing conference.

By grouping a mock inspection into these three categories, safety managers can emphasize different parts of the inspection process where their companies may need the most work.

The opening conference

An OSHA inspection begins the moment inspectors arrive. To have the biggest impact, mock inspections should be treated the same way. There are no second chances once an inspector’s inside a facility, so the same should be true for mock visits.

Choosing an inspector

The first step in conducting a mock OSHA inspection should be choosing who will portray the inspector.

While it’s tempting to select the biggest nitpicker or the employee who looks the most intimidating with a clipboard, the mock inspector should be someone with a deep understanding of the company’s safety policy and its operations.

In most instances, that person is the company safety director. During a real inspection, the safety director is normally the person accompanying the
OSHA team. In a mock inspection, it’s best to have the safety director stay in the role of OSHA escort.

For smaller companies with just one safety pro on staff, one solution is to get a high-ranking manager to act as the OSHA rep.

Another idea is to recruit a safety expert from another company and have that person to act as the inspector.

**Establishing a point person**

Deciding who will be responsible for taking an inspector through the facility is perhaps the most crucial part of making sure an actual inspection goes as well as can be expected.

This is the person (most often a safety manager, plant manager or C-level exec) who will be with the inspector at all times. How he or she handles things will impact how the inspector perceives a company’s safety policies and practices.

A confident point person who can answer questions quickly will likely be treated more favorably by an inspector. If the person dodges questions or stumbles over responses, the inspector may feel compelled to look deeper into potential hazards and maybe even issue more citations.

It’s a tough balance to strike between being open and demonstrating that the company’s in compliance, while not giving the inspector any leeway for finding additional hazards.
Analyzing how the chosen point person handles a mock inspection is essential in determining how prepared an organization is for an actual OSHA inspection.

The initial meeting

The opening meeting with an OSHA rep is the formal start to the inspection. In this session, the inspector should lay out the scope of the visit and why the company is being inspected.

A mock inspection should be no different. The “inspector” should go over the scope and reason for the inspection to see how the designated point person reacts.

Once the scope of the inspection is set, it’s the point person’s job to hold the inspector to that stated range of inspection activities – no walkthrough of the office if the warehouse is the target of the inspection, for example.

Mock inspectors looking to trip up the designated point person can try to expand on the scope of the inspection to test the point person’s ability to rein in an actual inspector.

Requesting records

Either during this initial meeting or shortly after it, an inspector will ask to see applicable safety records and data. This may include:

- OSHA 300 injury and illness logs
- written safety policies and procedures
- accident reports and investigation results
- discipline procedures and actions taken, and
- training policies and records.

Once again, the point person should be able to quickly produce any documentation the mock inspector requests. He or she should also be able to talk knowledgeably about the records and policies.

Companies are not required to provide information that could be considered a trade secret or proprietary, and don’t usually have to provide
the results of internal audits.

Make sure the point person is aware of this and declines any request to hand over those kinds of documents.

The walkthrough

Once the scope of the inspection is set and the mock inspector has collected the necessary company records, the actual walkthrough of the facility can begin.

This is where the mock inspector will search for hazards, see operations in action and conduct interviews with employees.

This is the most critical part of the mock inspection where companies really get an idea of how prepared they are for the real deal.

Choosing a route

The route a mock inspector and point person take through the facility will determine what areas of operation are visible and which employees will come into contact with the mock inspector.

In some cases, it makes sense to establish set routes before an inspector shows up – this will help the company control what the inspector sees and whom he or she speaks with.

But in other cases, it can be a good experience for the point person to have to determine the route as the mock inspection progresses. Again, the point person should have the confidence to steer the mock inspector through the facility without it looking like he or she is attempting to hide potential trouble spots, always keeping in mind the original intent of the inspector’s visit.

Employee interviews

For OSHA inspectors, conducting employee interviews is a major part of the process. While some employees may be less inclined to talk to an OSHA inspector, it’s a crucial part of the simulated inspection – and often one that
requires special attention.

Employees don’t always know what they should and shouldn’t say to an inspector, and companies have many different strategies for how frontline employees interact with inspectors.

While a point person should never appear to intimidate employees to keep them from speaking with an inspector, he or she can remind workers that they have no obligation to speak with the OSHA rep.

Testing how the point person handles inspectors talking with workers is key part of the mock inspection process.

Along those same lines, identifying which employees are comfortable speaking with an inspector can make a real inspection go much more smoothly.

Collecting samples and documentation

During a real OSHA inspection, agency officials will often collect samples or take photos or video during during the walkthrough. These efforts are worthwhile during a mock inspection as well. Not only will it make the simulation more like an actual inspection, but it will make presenting the results of the mock inspection easier.

Make sure the designated point person knows what to do if a mock inspector starts taking pictures or pulling samples. The key here is to have employees accompanying the inspector take similar photos or collect additional samples that can be compared to what inspectors have documented.

This evidence can be crucial if the company decides to contest a citation. The evidence collected by the point person is often used to refute OSHA’s findings, so making sure employees know how to gather evidence during a mock inspection is especially important.
The closing conference

Once the walkthrough is over, it can be tempting to wrap up the mock inspection and let everyone get back to work.

After all, the purpose of a closing conference during a real inspection is to have inspectors alert the organization to hazards that were uncovered.

For companies that run a high risk of being issued citations, it’s best to keep workers playing the roles of mock inspector and point person. At a real closing conference, OSHA inspectors will often ask companies to agree to abate alleged hazards. How company representatives handle this request could have a huge impact on the organization’s efforts to contest the citation or avoid repeat fines.

Reviewing the results

A realistic mock closing conference is the best opportunity to look at the results of the inspection with everyone involved and evaluate what was learned.

While the mock inspection is still fresh in everyone’s mind, it’s best to document results right away. Look for potential trouble spots that would have caused bigger headaches had it been an actual OSHA visit.

Sharing the information

Once the results have been compiled, that information can be presented to other employees. It’s good to start off sharing the results with the safety team or those employees involved with the mock inspection – anyone the mock inspector dealt with directly.

And the results should be shared with higher levels of the organization as well. If the mock inspection was a success, it can be proof to C-level executives that their emphasis on safety is paying off and that the firm is prepared for a dreaded OSHA visit.

Conversely, if the simulation didn’t go well, the results can serve as a wake-up call to higher ups that more needs to be done to upgrade the organization’s safety program.
Creating an action plan

Developing a series of action steps is essential. In some cases, that may entail eliminating a discovered hazard immediately or holding training on talking to an OSHA inspector for applicable workers as soon as possible.

Or it may just involve setting targets for the next mock inspection and deciding what should be done differently the next time around.

Whatever steps need to be taken, it’s important to set out a clear action plan for what should happen next.

The inside scoop: What inspectors said

Most safety managers have a good idea of what OSHA inspectors are looking for during an inspection, and OSHA provides a lot of information on how an inspection should proceed.

With that information, it’s possible to model a mock inspection so that it closely imitates the real thing.

But there’s an even better source out there: actual OSHA inspectors. Two inspectors spoke at the 2010 American Society of Safety Engineers’ safety conference on what they look for during an inspection. Here’s what they had to say.

‘Don’t make me wait’

Before the point person even meets the inspector, the entire process can get off on the wrong foot if the OSHA rep has to wait. If they have to wait more than an hour, they begin to grow suspicious that the company isn’t organized, and that it’s trying to hide something.

Because this is such a hot button for inspectors, it’s worth making it part of any mock OSHA inspection. Whether employees know about the inspection drill or not, make sure the simulation gets underway in a reasonable amount of time, and be ready to address it in the closing conference if the mock inspector is forced to wait too long.
They’ll get the info they want

Fact: Employees have a right to refuse to speak with inspectors. But inspectors also have a right to get a court subpoena if they want to hear what the employee has to say. And according to these inspectors, if they aren’t able to talk to the employee during the inspection, they’ll usually exchange business cards with the worker and speak with him or her on the phone when no supervisors or other employees are around to hear the conversation.

For this reason, advising employees not to talk to inspectors if they don’t perform well during a mock inspection is not always a wise move. OSHA reps will find a way to talk to employees if it’s important to them, and it’s better if they do it while company representatives are present.

Other pitfalls to avoid

Veteran OSHA inspectors can spot when a company’s trying to hide something. Other pet peeves these inspectors listed include trying to surround them with employees so they can’t get a good look at operations and dodging straightforward questions by offering wishy-washy answers.

Best bet: Use a mock inspection to eliminate the need for these kinds of tactics, not to perfect the best strategies to dupe inspectors. The inspection simulation should focus on finding and eliminating hazards OSHA would spot if inspectors were really there.

The benefits of a mock inspection

Here are a few additional benefits to holding a simulated inspection. Companies that know exactly what they want to get out of a mock OHSA visit can conduct their test inspection more efficiently and produce more worthwhile results.
Check for compliance

The most basic mock inspections have little to do with prepping employees for a conversation with an actual inspector or managers doing their best inspector impressions.

Armed with applicable OSHA standards for their facility, a safety manager or other team member can walk through the site and look for hazards from an inspector’s perspective.

This basic walkthrough is especially useful for companies that know OSHA is targeting a specific hazard, or for firms that have recently started new areas of operations and want to be sure they’re in compliance.

The effect on operations

One of the challenges of an OSHA inspection (that the agency often downplays) is the effect a visiting inspector can have on productivity and operations.

Full-site inspections can often take a day or more and can sometimes delay operations indefinitely if serious hazards are identified.

By conducting a mock inspection, supervisors and managers can get an idea of how an actual inspection will affect operations and day-to-day work with fewer consequences.

Prepare for a known inspection

Once OSHA has found hazards at a facility, inspectors are almost guaranteed to show up again. So for companies who have already run into trouble with OSHA, a mock inspection is a great way to prepare for the inevitable return visit.

These inspections should logically focus on hazards inspectors identified during their first visit to help reduce the risk of those costly “failure-to-abate” fines.

But don’t ignore the potential for new hazards.

OSHA is notorious for tracking down new violations on repeat visits, and the agency’s recent focus on enforcement means inspectors will be
keeping a close eye out for new hazards they may have missed the first time around.

Additionally, this mock inspection is a good way to prevent mistakes that were made the first time around from repeating during a follow-up inspection. If records weren’t in place or employees weren’t prepared to talk to inspectors, a mock inspection can help managers make sure these issues are corrected before OSHA’s next visit.

**A surprise drill**

Just as it’s impossible to predict a fire or a workplace injury, companies never know exactly when an OSHA inspector will drop by for a costly visit.

A mock inspection can also serve as a “fire drill” of sorts. Announcing that an inspector has just shown up in the middle of a busy workday, then watching to see how employees and supervisors react, can be a useful indicator in determining how prepared the company will be for the real deal.

Giving employees the heads up on what their exact responsibilities are during a real inspection is essential, but catching them off guard and seeing how they handle the situation is an important first step in preparing for an actual inspection.
Checklist for Conducting a Mock OSHA Inspection

This checklist follows the process laid out in this Executive Report for developing and executing a mock inspection. Each step is explained in full in the report.

- Determine the scope of the inspection and why it is being conducted.
- Decide who will be the “inspector.”
- Designate the point person who will guide the inspector.
- Conduct the opening conference.
- Review and provide necessary logs and records.
- Choose a clear inspection route for the walk-through.
- Perform the walk-through: ID hazards, interview employees, collect samples and take pictures.
- Hold the closing conference.
- Review results and create inspection report.
- Make adjustments/fixes based on findings.
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