

## **Safety 1B, Activity 2**

### **Read the article on OSHA**

The following article will give you the basis for OSHA involvement with agencies.

### **OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA)**

In 1970, the Occupational Safety and Health Act, Public Law 91-596 was proposed. The act was passed in response to a significant increase of accidents and fatalities in the workplace. Section 19 of this Act required federal agencies to develop safety and health programs to meet the intent of the Act. The intent of the Act is that all employees are entitled to a work environment that is free from recognizable hazards which can cause or are likely to cause serious injury or death.

Executive Order 12196 was issued by the President in 1980 to more clearly define federal agency's responsibilities under Section 19 of the Act. It committed civilian agencies to comply with 29 CFR 1960 Federal Safety Program to conduct inspections, evaluations and, if violations of standards are found, to issue a Notice of Unsafe or Unhealthful Working Conditions. OSHA cannot issue fines or file criminal charges in the federal sector.

29 CFR 1960.8(A) authorizes OSHA to take actions on recognizable safety and health hazards even in the absence of a specific OSHA standard. If no OSHA standard exists, the agency safety standard becomes the accepted standard.

If an agency does not comply with their own safety standards, they can be cited by OSHA. As an example, since there are no OSHA standards for wildland firefighting, the 10 Standard Orders were created to mitigate hazards on a fire incident. When these 10 Standard Orders are not followed, firefighting personnel are exposed to recognized hazards, which could invoke OSHA compliance activity.

What this means to your fire management program is follow established procedures. Do not break or bend the rules. The OSHA notices resulting from the South Canyon Incident are for not enforcing safety procedures such as the 10 Standard Orders and Downhill/Indirect Line Construction Standards.

#### **A. OSHA Inspections**

1. Reason for and scope of inspections:

**(Be aware that the Agency will be doing an investigation concurrently while OSHA is conducting theirs. There will be some iteration but we continue to move forward with our investigation)**

a. Fatalities.

In the event of death of a federal employee, you can expect OSHA to conduct an inspection. Scope of the inspection may be restricted to events surrounding the fatality or the compliance officer may expand the investigation to include other parts of your facility, up to and including a general inspection.

This change in scope will be based upon the existing condition the compliance officer observe s while conducting their investigation. If they see problems, they cannot ignore them.

b. Serious Accidents (3 or more employees hospitalized).

Scope of the inspection may be limited to events relating to the injuries of the employees. At the discretion of the compliance officer, based upon their observations, the scope of the investigation may be expanded.

c. Employee Complaints.

These can trigger OSHA inspections. Inspections may be limited to the complaint items. Based on employee interviews and the compliance officer observations, the scope of the investigation may be expanded.

d. News Events.

An accident that may or may not involve an injury, but is seen on the evening news or in the newspaper, may trigger an investigation. The scope may be limited to the accident or expanded based upon the compliance officer's observations. Example: A dozer building a fire break on ridge top rolls into the ravine. Even though the employee was not injured because the safety equipment was used, the local news media turned the incident into a "news event." This may trigger an OSHA investigation.

2. OSHA Inspections;

a. When the OSHA compliance officer (CSHO) arrives on the unit, they should ask to speak to the agency administrator.

b. The CSHO should present their credentials. If they don't, ask to see them. You need to be sure they are who they say they are.

c. An opening conference will occur. At that time, the agency administrator will identify the staff they want involved. CSHO will ask if theirs is a bargaining unit. If there is, the CSHO will ask that a bargaining unit representative be included in the investigation.

d. During the opening conference, CSHO should explain the reason and scope of their inspection. The agency administrator will appoint a staff representative. (If it is a fire related inspection, the FPM may be the representative.)

e. If the inspection involves a fire incident, a representative of the Incident Commander should also be appointed to take part in the inspection.

f. OSHA will request records and documents. These could include training records, qualification records, Incident Action Plans, Fireline Handbook and other related documents. It is best to anticipate these requests and have the documents available.

g. The best way to respond to questions posed by a Compliance Officer is to answer fully and truthfully. If you do not know the answer to questions, say so. You do not need to answer questions you are not asked.

h. The Compliance Officer may want to interview employees in private. Provide a place for this.

i. The CSHO will want to visit the site. Accompany them to the site. You may want to provide them transportation, depending upon location. If we require PPE for a visit to that site, provide that for the CSHO. They must comply with agency standards for PPE.

j. Once the Compliance Officer has completed the inspection, a closing conference will be scheduled at which time the Compliance Officer should review all apparent violations. A report will be issued later with instructions on how to proceed.

This is your time to discuss the apparent violations, explain procedures and provide additional information. This should be a non-emotional presentation of facts and information. This is your chance to influence what will be reported.

If you don't believe you have violated a standard or disagree with the apparent violations, this is your opportunity to express that information to the compliance officer.

k. Do not allow a confrontational relationship to develop with OSHA compliance staff. Remember: OSHA has the same goal as you do--that all your employees go home unhurt.

## **B. Conduct of Agency Representative During Inspection**

1. Take detailed notes of discussions with the compliance officer.
2. During the inspection, don't agree or disagree, just continue to take notes. This is not the time to discuss right or wrong.
3. May want to take a camera. If the CSHO takes photos, you should also take photos.
4. As amiably as possible, show the CSHO anything they want to see.

## **C. OSHA Jurisdiction.**

1. All federally owned lands.
2. Accidents or incidents involving all federal employees.
3. Contract firefighters would be under OSHA jurisdiction because they are private sector employees.
4. OSHA does not have authority over political subdivisions; therefore, it has no jurisdiction over state employees. However, in states that have OSHA approved state plans, the plan may cover state firefighters. Example is California.
5. Native American Lands and OSHA (Nation Sovereignty).

a. OSHA has no jurisdiction over operations, which are owned and operated by tribal governments.

b. Once Native Americans are mobilized outside tribal jurisdiction or are paid by someone other than the tribal government, they come under OSHA jurisdiction.

The best defense to an OSHA inspection is to follow the rules. If you are in compliance with your own safety procedures, chances are there will be few violations.