



# OSHA RESPONSE FAQ

Subject matter expertise by:



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*This information has been prepared as guidance for OMA members. These answers to frequently asked questions are not specific to any employer's situation, and do not constitute professional or legal advice. It is recommended that employers consult with safety professionals and legal counsel versed in OSHA matters, preferably in a proactive manner before a fatality, injury, or inspection occurs.*

## 1. WE'VE HAD A WORKER FATALITY. WHAT DO WE DO?

**NOTIFY OSHA WITHIN EIGHT (8) HOURS OF THE FATALITY.** If you are not made aware of the fatality until later (e.g., the injured worker passes away in the hospital several days after the incident), you must notify OSHA within eight (8) hours of being notified of the fatality.

### OSHA CAN BE NOTIFIED BY:

- calling the nearest **OSHA Area Office** during normal business hours;
- calling the 24-hour OSHA hotline at **1-800-321-OSHA** (6742); or
- online at **[www.OSHA.gov/report.html](http://www.OSHA.gov/report.html)**.



There are some exceptions. If the fatality was the result of a motor vehicle accident on a public street or highway, or on commercial or public transportation, you do not have to report to OSHA. If the fatality occurred in a construction work zone, the previous exception does not apply, and you must report the fatality. If the fatality occurs after 30 days of the work-related incident, you do not have to report the fatality to OSHA, but the fatality must still be entered on the OSHA 300 log, if you are required to maintain one.

If you suspect the fatality was the result of a non-work-related cause, such as a heart attack, you still must notify OSHA. The OSHA Area Director will decide whether to conduct an inspection or not, based on the circumstances of the incident.

### You will need to report the following information:

- Establishment name
- Location of work-related incident
- Time of work-related incident
- Type of reportable event
- Number of employee fatalities
- Name, gender, age, and next of kin information of employee fatalities
- Site point of contact and phone number
- Brief description of incident



OSHA will respond to all fatality events to conduct an accident investigation inspection, unless the fatality is determined to be clearly non-work related.

## RECOMMENDED ACTIONS:

- Control the scene. Keep unauthorized personnel out.
- Record witness information and witness statements as soon as possible while it is freshest in their minds and before their account of the incident changes. Be sure to have witnesses review, date, and sign their statements, acknowledging accuracy.
- Take steps to correct the hazardous condition, if it can be done safely, or remove all other workers from the hazardous condition to prevent workers, witnesses and other individuals from being exposed.
- Ensure employees are notified of the corrective actions and hazardous conditions.
- Document conditions and corrective actions taken to make sure no other workers are exposed to potentially fatal hazards.
- Immediately initiate an accident investigation/analysis to determine the root cause of the incident.
- When OSHA arrives, they will discuss the scope of the inspection. Try to limit OSHA to only the areas covered by their scope, to keep them from expanding their scope. Only provide what they ask for, and only take them to areas related to the incident.
- Retain your own record of the OSHA inspection by photographing or videotaping the process yourself.
- Prepare OSHA 300 logs and any written programs, trainings and documents related to the incident. OSHA will likely request to review these documents.
- OSHA will also want to speak with any witnesses and management personnel involved. Be aware that OSHA will instruct each non-management witness that they have a right to initiate a retaliation claim if they are treated adversely as a result of giving a statement to OSHA.



## 2. WE'VE HAD A WORKER AMPUTATION, HOSPITALIZATION OR LOSS OF AN EYE. WHAT DO WE DO?

**NOTIFY OSHA WITHIN 24 HOURS OF THE AMPUTATION, HOSPITALIZATION OR LOSS OF AN EYE.** If you are not made aware of the amputation immediately following the incident, you must notify OSHA within 24 hours of becoming aware of the amputation.

### YOU CAN NOTIFY OSHA BY:

- calling the nearest **OSHA Area Office** during normal business hours;
- calling the 24-hour OSHA hotline at **1-800-321-OSHA** (6742); or
- online at **[www.OSHA.gov/report.html](http://www.OSHA.gov/report.html)**.



If the Area Office is closed, you still must notify OSHA, either by calling the 800 number or report it online using the OSHA website. Leaving a voicemail or sending an email are not acceptable methods.

There are some exceptions. If the amputation or loss of an eye was the result of a motor vehicle accident on a public street or highway, or on commercial or public transportation, you do not have to report to OSHA. If the amputation or loss of an eye occurred in a construction roadway work zone, this exemption does not apply, and you must report the amputation or loss of an eye. If the amputation or loss of an eye occurs after 24 hours of the work-related incident, you do not have to report it to OSHA, but must still be entered on the OSHA 300 log, if you are required to maintain one.

#### You will need the following information:

- Establishment name
- Location of work-related incident
- Time of work-related incident
- Type of reportable event
- Number of employees who suffered amputations or loss of an eye
- Names of employees who suffered amputations or loss of an eye
- Site point of contact and phone number
- A brief description of the work-related incident



#### RECOMMENDED ACTIONS:

- Control the scene. Keep unauthorized personnel out.
- Record witness information and witness statements as soon as possible while it is freshest in their minds and before their account of the incident changes. Be sure to have witnesses review, date, and sign their statements, acknowledging accuracy.
- Take steps to correct the hazardous condition if it can be done safely or remove all other workers from the hazardous condition to prevent workers, witnesses and other individuals from being exposed.
- Ensure employees are notified of the corrective actions and hazardous conditions.
- Document conditions and corrective actions taken to make sure no other workers are exposed to potentially fatal hazards.
- Immediately initiate an accident investigation/analysis to determine the root cause of the incident.
- If/When OSHA arrives, they will discuss the scope of the inspection. Try to limit OSHA to only the areas covered by their scope to keep them from expanding their scope. Only provide what they ask for, and only take them to areas related to the incident. Retain your own record of the OSHA inspection by photographing or videotaping the process yourself.
- Prepare OSHA 300 logs and any written programs, trainings and documents related to the incident. OSHA will likely request to review these documents.
- OSHA will also want to speak with any witnesses and management personnel involved. Be aware that OSHA will instruct each non-management witness that they have a right to initiate a retaliation claim if they are treated adversely as a result of giving a statement to OSHA.



### 3. WE'VE REPORTED AN AMPUTATION, HOSPITALIZATION OR LOSS OF AN EYE TO OSHA, AND THEY SAID THEY ARE NOT OPENING AN INSPECTION, BUT ARE CONDUCTING A RAPID RESPONSE INVESTIGATION (RRI). WHAT DOES THAT MEAN?

With the increased reporting requirements, OSHA does not have the resources to initiate an inspection for all reported injuries. In response, OSHA developed an off-site investigation procedure called a Rapid Response Investigation. More information can be found at [OSHA's interim procedure document](#).



All fatalities or hospitalizations of two or more workers will initiate an inspection, as well as incidents involving employers with prior history of similar or severe hazards. Otherwise, the OSHA Area Director will decide if an on-site inspection or an RRI will occur, based on a series of questions. If you receive notice that OSHA will conduct an RRI, they will ask you, as the employer, to conduct an investigation, verify abatement of hazards within five (5) working days and certify the posting of the RRI report in a conspicuous place. Failure to report back to OSHA (or they determine the response is not adequate), may initiate an on-site inspection.

The OSHA office will ask a series of questions about the incident and use your answers to determine if they will initiate an on-site inspection or have you conduct an internal investigation (RRI). All information provided to OSHA, informally or otherwise, becomes part of an official record and may constitute a public record.

### 4. HOW DOES OSHA DEFINE AN AMPUTATION?

OSHA defines an amputation as the traumatic loss of a limb or other external body part. Amputations include a body part that has been severed, cut off, amputated (either completely or partially).

Examples include:

- fingertip amputations, with or without bone loss;
- medical amputations resulting from irreparable damage;
- amputations of body parts that have since been reattached.



Amputations do not include avulsions, enucleations, degloving, scalping, severed ears, or broken or chipped teeth. These exclusions are still subject to OSHA recordkeeping rules and may need to be included on the OSHA 300 Injury Log.

### 5. WHAT DOES IT MEAN TO HAVE A WORKER "ADMITTED INTO THE HOSPITAL," REQUIRING REPORTING TO OSHA?

You are only required to report a work injury resulting in a hospitalization to OSHA within 24 hours if the injured worker(s) are formally admitted to the in-patient service of a hospital or clinic for care or treatment. A visit to the emergency room for treatment or observation only is not reportable unless they are admitted as inpatient care.



## 6. OSHA CALLED, AND WE HAVE RECEIVED AN INFORMAL COMPLAINT. HOW DO WE RESPOND?

The most important thing to remember if you receive a call from OSHA notifying you of an employee complaint is to not panic. Remain calm and respectful towards the compliance officer. Listen carefully to what they have to say and express genuine concern for the well-being of your employees, clarifying that employee safety is of the utmost importance to you. Explain that you fully intend to review the allegations and correct any issues as soon as possible. Always be sure to thank the OSHA representative for their time.

Once you receive the official complaint letter from OSHA, you must post a copy of it in a location where it is visible to all employees. The OSHA-7 complaint form must remain posted for three (3) working days or until the hazardous conditions have been corrected. After signing the OSHA “certificate of posting,” fax it back to the number provided.

Be sure to act quickly and prepare a reply letter no more than three (3) days after receiving the complaint. **YOU HAVE NO MORE THAN FIVE (5) DAYS TO FULLY ADDRESS THE SITUATION AND REPLY.** When drafting your reply letter, use a clear format and match the tone and format of the letter which you received. As with any OSHA matter or citation, it is recommended you consult with a safety expert or legal counsel versed in OSHA citations and procedure before finalizing this response.

- Include the name of the representative who signed the complaint letter
- Include your complaint number on the subject line
- Match your letter’s salutation to the one used in the complaint letter
- State your intended solutions to the complaint in the introduction



In the remainder of your letter, explain the acts taken by your company in order to resolve the unsafe conditions mentioned in the complaint letter. Do not use this time to try to deny any allegations. The most simple and quickest resolution to the situation is to address the allegations and explain what has been done to remedy the situation. You may also want to provide documentation which may assist in closing your case (e.g., receipts, air monitoring results, photographs, etc.). Send the letter by certified mail in order to guarantee on-time delivery and receipt.

Typically, if OSHA accepts your findings and abatement actions, they will close the complaint. If the complainant provided their name and contact information, OSHA will follow up with the complainant to ensure they agree and are happy with your investigation and corrective actions. The complainant still has the right to request an on-site inspection if they disagree with any part of your investigation. Remember, citations are not issued from informal complaint inquiries and they are not published publicly on the OSHA database like inspections; however, OSHA will retain documentation on all informal complaint inquiries.

If, after three (3) business days, you have not heard anything from OSHA, follow up with the representative who initially contacted you and ask for a status report on your case.

## 7. OSHA IS ON-SITE TO CONDUCT AN INSPECTION IN RESPONSE TO A WORKER COMPLAINT. HOW DO WE RESPOND?

Compliance officers are required to begin their inspections with an initial opening conference to present their credentials and explain the purpose of their inspection and the inspection procedure.

When the officer arrives, invite the compliance officer into your facility, but do not allow the opening conference to commence until all management personnel are on-site. Procedures and a training protocol should be created for receptionists and security to follow in the event of a compliance officer arriving on-site. You can ask the officer to wait in your lobby or a conference room, but be sure the room does not contain other company information. OSHA will typically wait up to 60 minutes for you to assemble your team, but anything beyond 60 minutes may be interpreted as denial of entry.



During the opening conference, the inspector will present credentials, state why they are on-site, and discuss complaint items. OSHA's internal policy requires compliance officers to initiate a complaint inspection within five (5) working days after receiving the complaint. Immediately after the opening conference, the inspector will request to conduct the walk-around inspection, based on the scope of their visit. Be sure to understand the scope of their inspection and only provide information requested as it pertains to their scope. Do not provide more information than what OSHA requested, and do not offer to show the entire facility off or to discuss safety aspects that apply to areas other than that within the scope of the inspection. While their scope is what they intend to inspect, they can expand their scope based on plain-view hazards, which could result in additional citations.

The inspector should be accompanied by as few management personnel as possible. Ideally, the person(s) accompanying the inspector have been through inspections or have been trained on what to expect. During the inspection, be sure to define the areas which the inspector will need to see and confine the visit to those areas, using the shortest route to get there. Do not offer a plant tour to the inspector, as they can cite for any violations within "plain view," regardless of the purpose of the inspection. If the area which the inspector needs to visit is on the opposite end of the facility, escort them via a pre-determined route. The inspector will likely take notes and photos or video during the visit. Be sure to take the same notes and photographs/video for your records, particularly departments or equipment inspected and individuals who were interviewed. The compliance officer is required to respond to each complaint item in full, regardless of how far-fetched it may seem. If there are health-related complaint items, the compliance officer will likely conduct personal air monitoring.

The compliance officer will likely request the current plus prior three (3) years' injury and illness logs, as well as annual summaries of injuries and illnesses, so ensure that those are readily available. If you are unclear what is to be provided, as for time in which to provide those within the coming days, consult with your safety professional or legal counsel, to be sure you are responding to exactly what is called for. Additionally, they will check for the presence of conspicuously posted OSHA posters, and health and safety programs such as hazard communication, emergency evacuation, and bloodborne pathogens. These are typically placed in lunchrooms, break rooms, or the like. Please know your obligations if you have multiple facilities and if workers are located at temporary facilities.

Citations will not be issued during the on-site inspection. They are usually issued a few weeks to months after the on-site inspection. OSHA has six (6) months to complete an inspection and issue citations. Once a citation is received,

the employer must post the citation within three (3) working days, even if contesting the citation. Failure to do so is a violation and can result in a penalty.

**If citations are issued, an employer has several available options.**

1. If the employer does not dispute the citation, it must remedy the citation within the time permitted and remit the fine. If additional time is needed to remedy, this should be negotiated with the inspector.
2. The employer may contest the citation, the proposed abatement, or the fine, but this must be done within 15 working days.
3. Employers may request an informal conference with the Area Director within 15 working days of the citation(s) – this is a hard deadline and extensions are not granted. Some advantages to this informal conference include possible penalty reduction, extension of abatement dates, and potential deletion of citation(s). The Area Director may alter citations and will ask the employer to sign a settlement agreement once all parties have agreed to the terms.

Citations that are not resolved at an Area Director conference must be timely contested. Failure to do so results in the citation becoming a final order.

Employers have the opportunity to defend citations through various hearing and appeal levels, and there may be opportunities to settle the dispute at various points prior to full adjudication of the dispute. Employers using this avenue must nonetheless be mindful of their obligations to certify that the conditions have been remediated.

It is critical that employers understand the consequences of not timely responding to citations.

## 8. OSHA IS CONDUCTING AN INSPECTION IN RESPONSE TO A WORKER INJURY. NOW WHAT?

OSHA's policy requires the inspector to initiate an inspection within five (5) working days of the reported injury. The inspection will typically begin with an opening conference where the inspector will provide their credentials and purpose of the inspection. The opening inspection on an accident investigation may be very short compared to a complaint or programed inspection. Following the opening conference, an inspection of the facility will commence. The inspection in response to a worker injury is a lot like a complaint inspection, except OSHA will verify the cause of the injury and will likely conduct more thorough interviews. These inspections are focused solely on the conditions that caused the reported injury but may expand, based on plain-view hazards or observations. Note that OSHA typically does not permit a management representative to be present for interviews of non-management personnel. Discussing preparation for inspections with a safety consultant or legal counsel versed in OSHA matters is helpful to understanding what an employer should or should not do in terms of educating employees about what to expect.



After a reportable injury, it is very important to secure the scene and make sure the hazardous condition is abated to prevent future injury. After securing the site, begin interviewing witnesses as soon as possible, while the information is still fresh in the witnesses' minds and before they can discuss their recollections with each other. Corroborating stories can alter witness recollections very rapidly, so it is important to get each eyewitness individual account before it is affected by the perceptions of others.

## 9. WE HAVE RECEIVED A NOTICE FROM THE BUREAU OF LABOR STATISTICS (BLS) REQUESTING INJURY AND ILLNESS INFORMATION. WHAT DO I PROVIDE?

If you receive a Survey of Occupational Injuries and Illnesses Form from the Bureau of Labor Statistics, you must promptly complete the form and return it, following the instructions on the form.

Every year, the BLS sends an injury and illness form to randomly selected employers and uses the information to create the nation's occupational injury and illness statistics. You do not have to send the BLS information unless you receive a survey form.

Even if you are exempt from keeping injury and illness records, the BLS may inform you in writing that it will be collecting injury and illness information from you in the coming year. If you receive this notice, you must keep the injury and illness records and make a survey report for the year covered by the survey.



## 10. WHO MUST KEEP AN OSHA 300 LOG?

All employers with more than 10 employees are required to maintain an OSHA 300 Log, unless you are an establishment in a certain low-hazard industry. **29 CFR 1904 Subpart B Appendix A** lists all partially exempt industries.

**If you are not an exempt employer, the following injury and illness recordkeeping forms must be kept:**

- The Log of Work-Related Injuries and Illnesses (Form 300);
- The Summary of Work-Related Injuries and Illnesses (OSHA Form 300A); and
- The Injury and Illness Incident Report (OSHA Form 301) for each injury.



## 11. HOW DO OSHA 300 LOGS WORK WHEN WE HAVE MORE THAN ONE LOCATION?

If you have more than one establishment which is expected to be in operation for one year or longer, separate OSHA 300 Logs and OSHA 300A Annual Summaries must be kept. If you have multiple establishments, all of which will exist for less than one year, you do not have to keep separate OSHA 300 Logs for each establishment.

**You may keep the records for all your establishments at your headquarters or at a central location if you can:**

- Transmit information about the injuries and illnesses from the establishment to the central location within seven (7) calendar days of receiving information that a recordable injury or illness has occurred; and
- Produce and send the records from the central location to the establishment within the time frames required by 29 C.F.R. §1904.35 and §1904.40 when you are required to provide records to a government representative, employees, former employees, or employee representatives.



If you have employees who work at several different locations or do not work at any of your establishments at all, they must be linked to one of your establishments for recordkeeping purposes.

If one of your employees is injured while visiting or working at another one of your establishments, you must record the injury or illness on the OSHA 300 Log of the establishment at which the injury occurred. If the employee is injured or becomes ill and is at none of your establishments, you must record the case on the OSHA 300 Log at the establishment which the employee normally works.

## 12. WHO RECORDS INJURIES FOR TEMPORARY WORKERS AND CONTRACT WORKERS?

The injury would go on the log of the employer that supervises the contractors or temporary workers on a day-to-day basis. If you assign and direct work daily, their injury would go on your log. If you assign a project or task to a contractor or temporary supervisor to complete, and they assign and supervise their workers to complete that task without your regular direction, it would go on their injury log. The injury should not be reflected on both logs. Self-employed contractors are exempt from the OSHA Act and regulations.



## 13. WHO MUST FILE THEIR OSHA 300A FORMS ELECTRONICALLY?

If your establishment had 250 or more employees, at any time during the previous calendar year, and you are required to keep records, you must electronically submit information from the OSHA 300A Summary of Work-Related Injuries and Illnesses to OSHA. You must submit the information once a year, no later than March 2 of the year after the calendar year covered by the form.



If your establishment had 20 or more employees, but fewer than 250 employees, at any time during the previous calendar year, and your establishment is classified as an industry listed in Appendix A of 1904.41, then you must electronically submit information from OSHA Form 300A Summary of Work-Related Injuries and Illnesses to OSHA. You must submit the information once a year, no later than March 2 of the year after the calendar year covered by the form.