



# TOSHA Inspection Overview

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# Objectives:

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We will discuss the difference between TOSHA & OSHA

We will discuss the ins & outs of a routine safety and/or health inspection

We will explain the employer's rights/responsibilities post inspection

We will discuss citations/penalties and contest procedures

Have you ever  
wondered  
what it is like  
to have TOSHA  
show up at  
your door

- OR, thought...
- What is TOSHA— isn't that the same as OSHA?

# What is the difference between OSHA and TOSHA??

- Both agencies are about protecting the health of workers; reducing injuries/illnesses, and saving lives
- State agency vs Federal agency
  - OSHA has only limited jurisdiction in TN and 22 other state plans
- Both agencies use the same standards/regulations; TOSHA does not cover:
  - 29 CFR 1915 Shipyard Employment
  - 29 CFR 1917 Marine Terminals
  - 29 CFR 1918 Maritime, Shipbuilding, and Longshoring
- TN uses state laws such as the following to issues citations that are more stringent than OSHA standards
  - RTK law
  - TN Sharps Injury Prevention law
  - TN Z-1-A tables enforced for PEL
- Penalty amounts

# But, just focusing on TOSHA...

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## 7 Main Divisions:

- Safety and Health Compliance
- Public Sector Compliance (*Fed OSHA does not protect PS workers*)
- Consultation
- Discrimination (*Fed OSHA handles 23 different types of whistleblower activities*)
- Training & Education
- Standards & Procedures
- TN Volunteer Star Program (*VPP--Voluntary Protection Program*)

# TOSHA does not cover:

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- Employers without employees:
  - Sole owners
  - Self employed
- General public
- Students
- Volunteers
- Medical Patients

# How does TOSHA know where to inspect?

>160,000 employers and 2.1 million employees in the state but only about 70 CSHOs

Imminent danger situations; fatalities; complaints/referrals; general scheduled inspections

Special Emphasis programs: falls, excavations, amputations, noise, CO, lead, hexavalent chrome, combustible dust, etc.

Targeting initiatives: metal working, construction, & nursing homes

Public Sector locations (>500) inspected every 2 yrs

# Inspection process:

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Inspection includes:

- opening conference
- walk-around inspection
- closing conference
- possible sampling (noise, air contaminants, etc.)

Inspections are unannounced

- Exceptions for PS and fatalities, etc.

Inspections usually take one day (up to 6 mo)

Refusal of entry



# Opening Conference:



Present credentials



Speak to the highest ranking official and gather any union/employee reps to get basic company information



Discuss the “scope” of the inspection



Review OSHA logs; first report of injury; check for postings, etc.



Request copies of the S & H Programs/policies & training docs for review during the closing conference



Consultants; attorneys, etc.

# Walk-around inspection

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1

look for & identify hazards according to the scope of inspection

2

expand scope of inspection (when warranted—hazards in plain view, etc.)

3

interview employees

- Attorneys or consultants' involvement

4

take photos/make sketches, take measurements, etc.

5

If sampling needs to be conducted, CSHO may return on another day

# Closing Conference:

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Discuss with employer the hazards found

Assign abatement dates

Go through the closing conf guide (rights/responsibilities)

- May or may not receive citations and/or penalties
- May request an informal within 20 calendar days of receipt to appeal (15 working days for feds)
- May request and extension of time for abatement
- Cannot discriminate against any 'ees who were contacted during inspection

\*\*Attorneys/consultants--this is not the time to try and settle the issues

# Post Inspection Expectations:



Possible citations and penalties

S, W, R, O, FTA



Abatement certification and/or verification



Appeal measures

Informal conference

Notice of contest

- Attorney Settlement Meeting



Review Commission Hearing

Attorneys and RC 3-person panel



Further Appeals

# Current TOSHA Penalties:

\*Public Sector does not issue any penalties nor can PS entities (except for state agencies) contest the notice of hazards.

Type of Violation	Maximum Penalty
Serious/Other than Serious	\$70,000/\$1,000
Repeated	\$70,000
Willful	\$70,000
Failure to Abate	\$7,000 per day

# Current OSHA penalties:

\*\*TOSHA penalties are subject to change if the legislature approves the federal mandate to increase the penalties in order to meet the requirement to be “at least as effective as” the federal OSHA program.

Type of Violation	Maximum Penalty
Serious/Other than Serious	\$14,502
Repeated	\$145,027
Willful	\$145,027
Failure to Abate	\$14,502 per day

# Other Hot Topics:

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## Multi-Employer Worksites

- Controlling, creating, exposing, correcting employers

## Independent contractors

- IRS 20 questions

## Temporary employees

- Supervisor sent with employees
- Training
- PPE

Questions?

