



OSHA Inspections & Enforcement: What Electrical Contractors Need to Know Now Webinar Recap

Presenters: Phillip Russell & Jeff Leslie, Ogletree Deakins

The Four Pillars of OSHA Defense

- This framework should apply to every hazard and task:
 - **Rule-** Establish clear safety policies for hazards
 - **Training-** Ensure workers are properly trained on those rules
 - **Compliance Monitoring-** Conduct audits, inspections, and job hazard analyses
 - **Enforcement-** Discipline violations consistently
- Together, these form the foundation of the legal concept known as the **Unpreventable Employee Misconduct Defense**. But more importantly, they demonstrate that the company “did everything it could” to ensure safety.
- Impact:
 - Can reduce or eliminate citations
 - Strengthens defensibility, even in serious incidents
 - Directly improves workplace safety

Understanding OSHA Authority & Your Rights

- OSHA inspections are largely based on **employer consent**, not enforcement power.
- OSHA typically cannot enter **without permission or a warrant**; warrants are extremely rare.
- Employers have the right to:
 - Understand inspection scope
 - Control access and timing
 - Prepare personnel before interviews
 - Document and track requests
- OSHA does not determine guilt; **citations are allegations**, not final rulings.
- Cases are ultimately decided by the Occupational Safety & Health Review Commission (OSHRC).

What to Expect from the OSHA Inspection Process

- A typical inspection includes:
 - Arrival of Compliance Officer (CSHO)
 - Opening Conference
 - Walk-Around Inspection
 - Document Requests
 - Employee Interviews
 - Closing Conference
 - Potential Citation
- OSHA has **6 months** to issue a citation after an alleged violation.

Preparation is Critical

- Preparation should happen **before** OSHA ever arrives.
- Essential preparation steps:
 - Establish a designated inspection response team
 - Define clear roles and responsibilities
 - Train frontline supervisors and foremen on what to do when OSHA arrives
 - Develop a walk-around plan
 - Maintain organized records (training, audits, safety programs)
- Preparation is like a fire drill; it prevents panic and ensures a controlled response.

Managing the Opening Conference

- The opening conference sets the tone for the **entire** inspection.
- Key Actions:
 - Verify OSHA credentials
 - Ask: Why are you here? What is the scope?
 - Request a copy of any complaint
 - Agree on inspection parameters
- Operate professionally but assertively; knowing your rights improves outcomes.

Walk-Around Best Practices

- The walk-around is one of the highest risk stages.
- Critical Do's
 - Always escort inspectors; never leave them unattended
 - Take **identical photos/videos** as OSHA
 - Ask questions when observations are unclear
 - Ensure a team member inspects the route beforehand
- Critical Don'ts
 - Do not allow **active work or demonstrations**
 - Avoid discussing incidents or speculation
 - Do not admit fault or provide unnecessary commentary
- **Anything** observed or said during this phase can be used as evidence.

Documentation & Requests

- Only OSHA logs must be provided within 4 hours
- **All** other documents can be prepared thoughtfully
- Track all requests and responses carefully
- **Recommendation:** Request document lists in writing and maintain a documentation log

Employee Interviews- The Highest Risk Area

- Employee interviews often determine the **outcome** of cases.
- Employer Rights & Strategy:
 - You can prepare employees beforehand
 - Employees must be told to:
 - Tell the truth
 - Avoid guessing or speculating
 - Reference training when appropriate
- Important Distinctions:
 - **Hourly employees:** May be interviewed privately
 - **Supervisors/management:** Company has the right to representation
- **Risk Insight:** Cases are frequently lost due to **inconsistent or unprepared employee statements**.

Internal Investigations

- Companies should conduct their **own** investigations following incidents.
- Two-Tier Approach:
 - **Privileged Investigation**- internal, protected by legal counsel
 - **Non-privileged Summary**- shared with OSHA if needed
- **Benefit:** Allows candid analysis while controlling what is disclosed

OSHA Citations & Next Steps

If a citation is issued:

- Immediate Priorities:
 - Confirm receipt date (15 working day contest deadline)
- Review:
 - Violation type (serious, willful, repeat)
 - Narrative description
 - Business impact
- Strategy Focus:
 - Impact on reputation and operations matters more than fines
 - Narrative language is negotiable
 - Evidence reviews are critical

Multi-Employer Worksites

- On shared job sites, OSHA uses a multi-employer doctrine:
 - Controlling Employer (e.g., general contractor)
 - Creating Employer (created hazard)
 - Exposing Employer (employees exposed)
- Each role carries **different** responsibilities and liability levels.

Common Risks & Enforcement Trends

- Increased focus on **willful violations**
- Greater enforcement on hazards with prior knowledge
- Continued emphasis on:
 - Heat exposure
 - Electrical safety
- **Core principle:** Willful violations often stem from knowing about hazards and doing nothing.

Final Recommendations

- Train frontline personnel. Foremen and supervisors are often the first to encounter OSHA. They must know:
 - Who to notify
 - How to respond
 - What not to say
- Build a culture of preparedness. Preparation across teams ensures:
 - Calm, professional inspections
 - Reduced liability
 - Safer job sites
- Successful OSHA outcomes are driven by:
 - Strong safety programs
 - Consistent enforcement
 - Proactive preparation
 - Controlled, informed responses during inspections
- Electrical contractors who prepare **before OSHA arrives** and **manage inspections strategically** are far better positioned to protect both their workforce and their business.