

The “Do”'s and “Don’t”'s of an OSHA Inspection



by Courtney M. Malveaux, Esq.

A Legal Quickie for the Meritas Small Law Department Committee

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What is OSHA?

▶ **The Occupational Safety and Health Administration**

- Enforces the OSH Act
- Covers all workplaces in half the states and D.C.
- Covers “federal jurisdiction” worksites

▶ **“State Plans”**

- 21 states enforce their own laws in private and public workplaces
- Four states cover public workplaces only
- Must be “at least as effective” as the OSH Act



Who Needs OSHA?



© AP/WIDE WORLD PHOTOS (from the website of the Occupational Safety and Health State Plan Association)



Some “Don't”s Before OSHA Knocks

- ▶ Get a doormat for a safety specialist
- ▶ “Coach” employee responses
- ▶ Falsify reports
- ▶ Fire injured employees

Good afternoon, Tony!
I wasn't expecting you
until a bit later - let me
finish forging this OSHA
documentation and I'll
be with you in a minute.

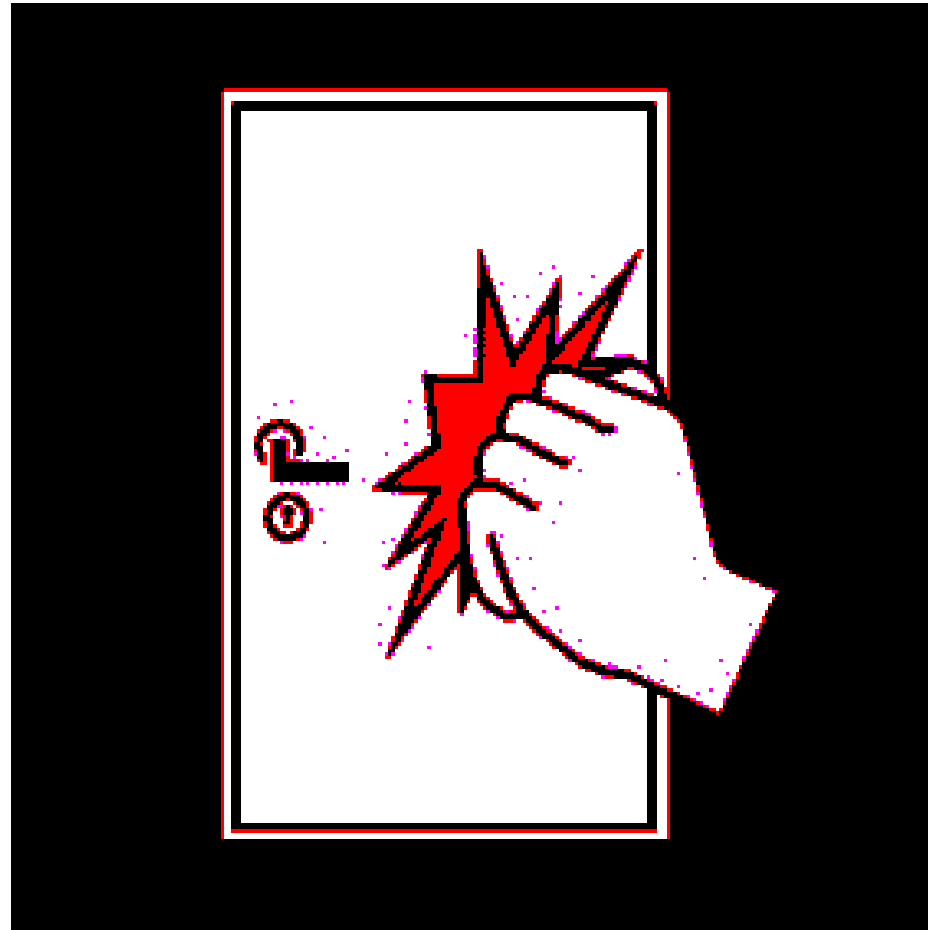


Some “Do”s

- ▶ Protect trade secrets
- ▶ Get a reputable safety and health consultant
- ▶ Review your policies and procedures



The Door Knocks: Inspection Time



Inspection Procedure:

- ▶ Opening Conference
- ▶ Walk around
- ▶ Closing Conference



Some “Don’t”s of an Inspection

- ▶ Block the door
- ▶ Take a spontaneous “lunch”
- ▶ Lie or clam up
- ▶ Stroke a check



Some “Do”s

- ▶ Check the credentials
- ▶ Show courtesy
- ▶ Ask questions
- ▶ Take pictures
- ▶ Let an employee representative participate



After the Inspection: Citation and Informal Conference



Some “Don’t”s After the Inspection

- ▶ Presume you have a target on your back
- ▶ Retaliate for “whistle blowing”
- ▶ Fail to abate



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Some “Do”s

- ▶ Post the citation
- ▶ Consider the cost of contesting
- ▶ Attend Informal Conference
- ▶ Consider voluntary compliance
- ▶ Get counsel from someone with an OSHA background



Courtney M. Malveaux, Esq.



For information on current events in OSHA:

Tel: 804.698.6242

Email: cmalveaux@t-mlaw.com

<http://www.t-mlaw.com/attorneys/courtney-m-malveaux/>

Represents Employers Nationally In:

- OSHA Citations
- Employment Matters
- Government Relations

Regulatory Background:

- Virginia Labor Commissioner through October 2013
- National Association of Governor Labor Officials (Immediate Past President)
- Virginia Safety and Health Codes Board (Industrial Employer Representative)