

## **BEST PRACTICES FOR NAVIGATING MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (MIOSHA) INSPECTIONS**

### **BACKGROUND**

Municipal employers must be prepared to respond professionally and effectively when a MIOSHA (Michigan Occupational Safety and Health Administration) inspector arrives. A well-defined inspection response procedure not only protects the municipality's rights but also demonstrates a commitment to workplace safety and regulatory compliance.

In general, there are four categories of MIOSHA inspections that target municipalities:

- Serious injury/fatality investigations
- Complaint investigations
- Referral from another State agency
- Planned – Programmed (AKA: surprise inspection)

Regardless of the category, all MIOSHA inspections are unannounced, so it's important to be prepared to respond when a MIOSHA inspector arrives at your municipality.

Municipalities are encouraged to provide training to front-line staff and department heads on the following recommendations because a calm, informed response to a MIOSHA inspector can make a significant difference in the outcome of an inspection.

### **THE INSPECTION**

When performing on-site inspections, MIOSHA inspectors follow the guidelines listed in *Chapter 5 Inspection Procedures* of the MIOSHA Field Operations Manual (FOM), which can be accessed at the following link:

<https://www.michigan.gov/leo/-/media/Project/Websites/leo/Documents/MIOSHA/Policies-and-Procedures/Instructions/Agency-Instructions/Field-Operations-Manual.pdf>

In general, on-site inspections are comprised of six phases:

- 1) Initial contact
- 2) Opening conference
- 3) Walkaround inspection
- 4) Employee interviews
- 5) Closing conference
- 6) Abatement (if necessary)

The following is a summary of best practices for municipal representatives to consider during each phase of a MIOSHA inspection:

### 1) Initial Contact

When the inspector arrives at your facility (City Hall, Police Department, Fire Department, DPW, etc.) they will present their MIOSHA credentials and request to speak with the safety coordinator or someone in charge. The person greeting the inspector should be courteous and ask them to wait in a designated reception area.

Be certain to assemble the municipal representatives with a sense of urgency, as delays can be detrimental to the inspection process.

If the Department Head is not available, ensure that a supervisor is notified and can respond to meet with the inspector. It is also recommended that someone from human resources is notified and can respond to meet with the inspector. For municipalities with union employees, a union representative must also be present to meet with the inspector.

DO NOT assign a new employee, line-level employee, or inexperienced supervisor to meet with the inspector as they may not be prepared to answer detailed questions related to the department's safety policies.

Once all municipal representatives are assembled, escort the MIOSHA inspector to a conference room or office, at which time the second phase of the inspection, the opening conference, will commence.

### 2) Opening Conference

During the opening conference, the MIOSHA inspector will explain the purpose and/or reason for the inspection. They will then cover some pre-inspection administrative matters and explain your employer rights under Michigan Health and Safety Act 154 of 1974. A full list of employer rights is available at the following link: <https://www.legislature.mi.gov/documents/mcl/archive/2021/May/mcl-Act-154-of-1974.pdf>

The MIOSHA inspector will then explain the inspection process which will include, at a minimum, the following:

- Review of work-related safety policies and procedures
- Review of last 3 to 5 years of OSHA Injury/Illness logs (Forms 300 & 300A)
- Review of Michigan Employee Right-to-Know posters
- Walkaround inspection of the facility
- Employee Interviews

### 3) Walkaround Inspection

After the opening conference, the inspector will commence with a walkthrough inspection of the facility. It is recommended that two municipal representatives accompany the inspector during the walkaround. During this inspection, the MIOSHA inspector will take photographs, write notes, and engage employees

who may be performing tasks in the workplace. Municipal representatives are encouraged to take pictures and write notes along with the inspector.

**NOTE: If the inspector notes a violation during the walkaround, it is imperative that a municipal representative takes immediate steps to correct the violation in the presence of the inspector.**

For example, if the inspector discovers a grinder with a missing guard, have the guard fixed immediately or dispose of the grinder if the guard cannot be located. This will earn the municipal representative good faith points, which will be discussed later in this summary.

#### 4) Employee Interviews

Following the walkthrough inspection, the MIOSHA inspector will ask to speak with some employees. The number requested may range from 2 to 8, based on the size of the department's payroll. The inspector will hold these interviews in a private office or conference room. These interviews are confidential. However, if the employee is member of a union, they may choose to waive their confidentiality rights and allow their union representative to witness the interview, as long as the union representative is not a supervisor or manager.

#### 5) Closing Conference

When the MIOSHA inspector finishes the employee interviews, they will advise the municipal representatives that the on-site portion of the inspection is complete, and a closing conference will be scheduled for mutually agreed upon date. The closing conference is normally done virtually, however in-person closing conferences are also possible.

During the closing conference, the inspector will explain any MIOSHA standard violations that were discovered during the inspection and any related citations that will be issued. The inspector will also explain the detailed steps that the municipal representatives must take to abate (fix) the violations and the timeframe for which proof of abatement must be provided.

It is important for municipal representatives to take detailed notes during the closing conference to ensure that all the required timelines and other pertinent details are documented.

#### 6) Abatement

Following the closing conference, the MIOSHA inspector will send a packet of information, including any citations issued, to the designated municipal representative. This packet will be sent via U.S. certified mail and will usually arrive approximately three to four weeks following the closing conference.

**It is imperative that this packet be delivered immediately to the designated representative. DO NOT allow the MIOSHA packet to sit in someone else's in-box or be placed on a desk with other mail. Be certain to stamp the packet with the date received.**

The municipal representative must ensure that any citations issued are posted in a conspicuous place within the facility that was inspected. Citations must remain posted for three days. Failure to post citations could result in additional citations being issued.

The municipality has 20 business days to provide proof of abatement for any citations issued. Should the municipality decide to appeal and/or contest the citations before an administrative law judge, they must file the paperwork with the MIOSHA office within 15 business days.

The municipality may also take advantage of a Penalty Reduction Agreement (PRA) whereby they agree to forgo appealing the citation(s) in exchange for a 50% reduction in fines. However, the PRA must be signed and submitted within 5 business days of receiving the inspection packet, further demonstrating the importance of timely receipt of the packet by the municipal representative.

### **GOOD FAITH POINTS**


Municipalities can earn good faith points during the inspection process. These points go towards reducing the fines for any citations issued as a result of safety violations discovered. Municipalities can earn good faith points for following:

- General compliance to MIOSHA safety standards
- Cooperation during all phases of the inspection
- Posting employee Right-to-Know and other required workplace safety notices
- Providing required Personal Protective Equipment (PPE) to employees
- Good housekeeping practices
- Proof of attendance to MIOSHA training seminars (OSHA -10, OSHA-20, etc.)
- Having an organized Safety Committee.

### **CONCLUSION**

While MIOSHA inspections can be a source of stress and disruption to day-to-day municipal operations, it is critical to prepare for these inspections with the mindset that it is not “if” MIOSHA is coming, but “when.” The success of inspections is often directly proportional to the level of effort the municipality has devoted toward implementing best practices in their workplace safety program combined with a well-prepared, informed response by employees during the inspection itself.

**Contact MML Risk Management Services Staff  
or your Loss Control Consultant for more information.**

	<b>Important Phone Numbers</b>
MML Risk Management Services	800.653.2483
Loss Control Services	800.482.2726

**Note:**  
***This document is not intended to be legal advice.  
It only identifies some of the issues surrounding this topic.  
Public agencies are encouraged to review their procedures with an expert  
or a competent attorney who is knowledgeable about the subject.***