

FROM THE FIELD

Singing the OSHA blues

BY DAN FOLEY CONTRIBUTING WRITER

“Hi, I’m from OSHA, and I’m here to help you.” No, that’s not really what he said, but it was what I was thinking as my lead tech on a large construction job called to inform me that OSHA was performing a surprise inspection of the jobsite. With 30-plus years in the trade, Ron is unflappable and calmly described the scene as the OSHA team descended on the site. I, on the other hand, was in a state of panic.

Ron had phoned to inform me of the inspection and was asking me how to respond. He described the scene of the inspectors walking in the front door as subs scattered and ran out the back door like rats jumping off a sinking ship. I instructed him to stay on site and answer any and all questions honestly.

Luckily, my crew had hard hats, but several were wearing sneakers instead of work boots. The inspectors were asking for documentation that was not onsite. They were interviewing Ron and also asked to interview some of my field staff alone. Again, I advised Ron to accommodate their requests, answer questions honestly and make note of what documents were requested.

While cursing my bad luck, I tried to understand why OSHA was there in the first place. There had been no injuries or incidents on this site. As a matter of fact, in the 10 years I have owned my company, we have been fortunate not to have suffered any major jobsite injuries. A few stitches here and there and a twisted knee were the

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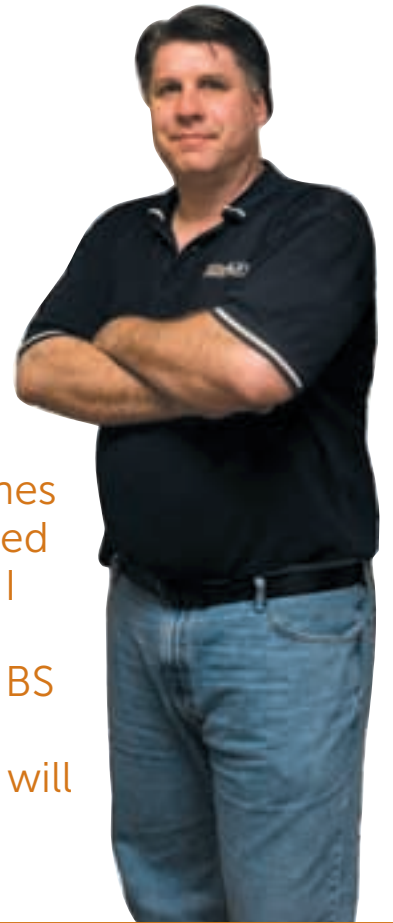
worst I could recall. None required time away from work. Why was OSHA here?

The best theory I could conjure up was that this was a large custom home going up in a nice D.C. suburban neighborhood. The construction was a disruption to the neighbors, and had been ongoing for over a year. Could a well-connected disgruntled neighbor have called out the dogs? This made the most sense as no one had been injured on the site. While this is pure speculation on my part, I could not arrive at a better reason.

Ron brought a list of questions and a stack of documents back to the office. Soon enough, a FedEx package with more documentation arrived. A phone interview with an OSHA inspector was scheduled and conducted. Just what I needed: stacks of paperwork, forms to fill out and interviews to schedule.

I immediately called my friend, confidante and insurance super-agent, Dave Hersey. Dave works for

I sent in the documents I had on hand, admitted to the ones I didn’t have and answered everything asked of me. I did not try to cover up, backdate documents or BS the inspector. Trust me, they have seen it all and will quickly see through any smokescreen or ruse.



Federated Insurance and has handled my insurance since Day One. I consider him to be an integral part of our team and a major contributor to my company’s success.

Dave reminded me of the safety manual we (read he) had put together. After a fruitless search for the original three-ring binder, he e-mailed me a current PDF version. He also sent a record of our documented safety meetings. While we did not meet the letter of the code in terms of quantity and schedule, at least we had documented meetings on record.

After filling out many forms and faxing them in, an interview was scheduled with an OSHA investigator. I dug in for a fight, but it actually went very smoothly. I sent in the documents I had on hand, admitted to the ones I didn’t have and answered everything asked of me. I did not try to cover up, backdate documents or BS the inspector. Trust me, they have seen it all and will quickly see through any smokescreen or ruse.

I explained to the inspector that we try to do the right thing. We are not perfect. “If we are in violation of OSHA code, let me know and I will fix it,” I told the inspector. I think he appreciated my candor and honesty and said he would follow up with his findings after the investigation was complete.

I heard back a few weeks later. We were dinged with three minor violations: 1. Failure to have material safety data sheets (MSDS) on site for chemicals and materials being used. 2. Failure to maintain a chemical information list (CIL) with the state. 3. Failure to maintain the proper OSHA documentation and posters in our office and on the jobsite.

While these violations were minor and carried no financial penalties if they were brought into compliance, I did not like the idea of OSHA violations on our record. I scheduled an informal hearing, which is my right, with the state, to plead my case. I hope that by proving compliance, the violations will be dropped. This hearing has not taken place at this writing, but I will update in a future column.

Looking back, I wish I had been better prepared. You

➔ Turn to FOLEY on p 28

| FROM THE FIELD | CONTINUED FROM PAGE 26

never expect a surprise OSHA inspection, but expect the unexpected. With the benefit of 20/20 hindsight, here is what I would advise:

1. Meet with your insurance agent and plan out a formal safety policy for your company.
2. Have safety manuals current, updated and readily available in both hard copy and electronic format.
3. Document safety meetings. At regular company

meetings, spend the first 10 or 15 meetings discussing safety issues such as eye protection, proper footwear, tool safety, ladders and fall protection, distracted driving, etc. Your insurance agent is more than happy to provide materials for these topics. Make sure you record and document the meeting, the topic and have everyone sign in.

4. Keep MSDS sheets on file for all the materials and chemicals you use. Manufacturers and local reps can

provide this. I was able to find almost all of the sheets on manufacturer websites and my suppliers provided the balance. We now keep a copy at the office and at the jobsite. We also sent a file copy to the state OSHA office.

5. Post the required OSHA documents and posters at the office as well as at jobsites.

As I learned the hard way, it is not enough to keep a safe working environment for your employees, which is a given, and the least you can do as an employer. It is also necessary to comply with OSHA requirements and keep all the required documentation on hand and updated. Yes, this takes time, but most if it can be delegated to office staff or your safety officer. The little time it takes will save you many hours if you are ever investigated or audited. Also, understand that the intent is to provide a safe workplace for your employees.

Learn from my headache and spend a couple hours updating your OSHA documents. You will need them when you least expect it. ●

Dan Foley is president and owner of Foley Mechanical Inc., based in Lorton, Va. FMI specializes in radiant, hydronics and steam systems, as well as mechanical systems for large custom homes. He can be reached at 703/339-8030 or at dfoley50@verizon.net.

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