



# 25th Annual Salinas Valley Ammonia Safety Day

## Busting Regulatory Myths

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# Busting Cal/OSHA Myths

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The Cal/OSHA PSM Unit thanks the Ammonia Safety Day Committee for composing this list of “regulatory myths” that would benefit from clarification and/or de-bunking.

My staff found some of these “myths” fun to answer...

# 1. Nothing in favor of the employer comes from an informal conference

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## **False...**

It is the policy of Cal/OSHA to encourage any employer who has been issued a citation or notice, to participate in an informal conference with Division personnel and discuss any evidence which affects the existence of the alleged violative condition, the classification of the alleged violation and/or the Division's calculation of the proposed civil penalty in order to promote, if possible, resolution of any issues of disagreement between the employer, or another affected person, and the Division.

The Cal/OSHA PSM Unit settles 97% of inspections at the informal conference. This may include reduction of citation classification, reduction of penalty, combining of citations or the withdrawal of citations based on additional evidence not supplied during the inspection.

## 2. Two SCBAs are required at each facility outside the engine room

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### **TRUE, but lets discuss...**

ASHRAE 15 1994

11.6 Self-Contained Breathing Apparatus (SCBA)... At least one approved self-contained breathing apparatus, suitable for the refrigerant used, shall be located outside of, but close to, the machinery room. A second, backup, self-contained breathing apparatus shall also be provided.

ASHRAE Standard 15-2016, Safety Standard for Refrigeration Systems, **does not require that SCBA's be placed outside of the refrigeration machinery room.**

Note, **A BIG NOTE**, It is important to note that the change to Standard 15 for SCBAs required outside of machinery rooms does not imply that personal protective equipment is no longer needed. Specific requirements for respiratory protection are generally established by other agencies.



3. Respirator fit testing must be quantitative type in all cases

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**TRUE**


Within the ammonia refrigeration industry, employees use FFAPR cartridge respirators. A FFAPR requires a fit factor of 500 and must be tested for fit by a quantitative fit test (QNFT) not QLFT.

4. 40 hour Incident Command Course is required to be an incident commander at the facility?
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## Maybe

5192(q)(6)(E)

Incident Commander/On-scene Manager: Incident commanders, who will assume control of the incident scene beyond the first responder awareness level, **shall receive at least 24 hours of training equal to** the first responder operations level and in addition have competency in the following areas; and the employer shall so certify:

1. Know and be able to implement the employer's incident command system.
  2. Know how to implement the employer's emergency response plan.
  3. Know and understand the hazards and risks associated with employees working in chemical protective clothing.
  4. Know how to implement the local emergency response plan.
  5. Know of the state emergency response plan and of the Federal Regional Response Team.
  6. Know and understand the importance of decontamination procedures.
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## 5. They can be “bribed”

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“They” I’m assuming us, and the answer is **FALSE**...

The act of taking or receiving something with the intention of influencing the recipient in some way favorable to the party providing the bribe. Bribery is typically considered illegal and can be punishable by jail time or stiff fines if authorities find out about the bribe.

6. Is it true that inspections are scheduled to coincide with Regional Safety days?

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**False...**

CSHO's are usually at the same Regional Safety days as you all are.

If a CSHO is staying the night, they may come visit an employer after the Regional Safety day. But this is rare...



## 7. Does the Agency have an agenda?

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### **ABSOLUTELY**

Cal/OSHA, protects and improves the health and safety of working men and women in California through the following activities:

- Setting and enforcing standards
- Providing outreach, education, and assistance
- Issuing permits, licenses, certifications, registrations, and approvals

Yes, This Is Our Agenda...



8. The Agency supports itself through enforcement of collections

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**False**

All penalties collected go to the General Fund.



9. There is peer to peer competition for writing violations

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**False**

No incentive to do so...Plus CSHO's work independently and on occasion see each other in the office.

## 10. There is a quota system

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### **False**

There are annual goals set for number of inspections and hours put to an inspection, but no quota on citations.

# 11. Inspectors receive bonuses

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**False**

I wish... but no, no bonuses...

12. Inspectors believe they know everything about all things

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**False**

No, just PSM 😊 But really, we utilize some of the same consultants that you use. Some of these consultants that you utilize actually provide my staff with training.

13. How “far” can a facility go to challenge/fight a citation?

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All the way to the California Supreme Court.

OVERAA CONSTRUCTION, Plaintiff and Appellant, v. CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD, Defendant and Respondent; Department Of Industrial Relations, Division of Occupational Safety and Health, Real Party in Interest and Respondent.

No. C051245.

Decided: January 31, 2007



## 14. When does the Agency involve the District Attorney?

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If a CSHO becomes aware that there are conditions which may constitute criminal violations, CSHO's shall refer the case to the Bureau of Investigation (BOI)

The function of the Bureau of Investigation (BOI) is to conduct criminal investigations and to refer the results of such investigations when appropriate to a city attorney or district attorney for necessary action.



15. The Agency always bring in EPA and other authorities in their cases

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**Partially True**

For inspections in petroleum refineries this is true.

For inspections at ammonia refrigeration facilities, it's rare, but possible.

16. Having a recent inspection does not protect a company from undergoing a PQV Inspection

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**True**

PQV Inspections are independent from compliant or accident type inspections.

17. How does the agency deal with whistleblowers?

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Whistleblowers are treated like confidential complainants. They are protected by Labor Code 6310(b)



## 19. The Agency is anxious to shut companies down...

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CSHO's will only consider "shutting a company down" if there is an imminent hazard to employees...

Examples...




20. Is there a grading system for the  
“Attitude Check”

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Yes, it's called Good Faith.

An Employer may receive 0,5 or 10% Good Faith on  
an Inspection.



21. Cal-OSHA does not enforce the  
“General Duty Clause”

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**True**

Cal/OSHA does not have a “General Duty Clause.”  
Cal/OSHA can only cite for violations of the Title 8  
Safety Orders

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Questions...

