

**DIVISION OF OCCUPATIONAL SAFETY AND HEALTH
POLICY AND PROCEDURES MANUAL**

REFUSAL OF ENTRY

P&P C-25
and 25X
Issue Date:
2/1/87
Revised: 8/1/94,
2/1/95

AUTHORITY: California Labor Code Sec. 6307 and 6314, and California Code of Civil Procedure Sec. 1822.50 through 1822.57.

POLICY: It is the policy of the Division of Occupational Safety and Health to secure an inspection warrant when permission to inspect a place of employment is refused, or when circumstances reasonably justify the Division not seeking permission to inspect a place of employment.

PROCEDURES:

A. CONSENT TO INSPECTION

1. Initial Contact

After initial contact with the employer, compliance personnel shall present to the employer their State of California Identification.

2. Opening Conference and Inspection Request

- a. After presenting appropriate credentials, compliance personnel shall conduct an Opening Conference with the employer and, at the conclusion of the Opening Conference, request permission from the employer to conduct a physical inspection of the worksite.
- b. If the employer refuses to grant permission to the Division to conduct an inspection, compliance personnel shall inform the employer that the Division has the authority to seek an inspection warrant.

NOTE: Compliance personnel may cite an employer for a violative condition which is clearly visible from a public location even if the employer denies permission to conduct an inspection.

3. Refusal to Grant (or Withdrawal of) Permission

Compliance personnel shall interrupt their inspection and leave the worksite when any of the following conditions occur:

- a. At the time compliance personnel make initial contact, the employer refuses to give permission to enter the workplace;
- b. After compliance personnel conduct an Opening Conference, the employer refuses to permit compliance personnel to conduct the walkaround portion of the inspection; or
- c. At any time during the course of the inspection, the employer withdraws to continue any part of the inspection.

NOTE: If a subcontractor who is to be inspected at an multi-employer construction worksite refuses to grant permission for an inspection, and the general contractor does not overrule the subcontractor, compliance personnel shall inform the general and subcontractor that the Division has the authority to seek an inspection warrant and leave the worksite.

4. Division Management Notification

- a. When an employer refuses or withdraws permission to inspect a worksite, or continue an inspection, compliance personnel shall promptly notify the District Manager of the employer's refusal or withdrawal to inspect a worksite.
- b. The District Manager shall in turn promptly notify the Regional Manager of an employer's refusal, or withdrawal, of permission to inspect a worksite.

B. INSPECTION WARRANT PROCESS

1. Legal Unit Notification

- a. When compliance personnel notify the District Manager of an employer's refusal, or withdrawal, of permission to inspect a worksite, the District Manager shall notify the appropriate Legal Unit Office (North or South) and request that the Legal Unit prepare a Declaration in support of an Inspection Warrant and an Inspection Warrant.
- b. The District Manager shall fax a completed Warrant Request Form (Cal/OSHA Form 25) to the appropriate Legal Unit Office (North or South). See Attachment A.

2. Legal Unit Evaluation

- a. After receipt of an Warrant Request Form, the Legal Unit shall determine if the facts support issuance of an Inspection Warrant by evaluating the information contained on the Warrant Request Form and consulting with the District Manager and compliance personnel about the factual basis relating to the employer's refusal to permit an inspection.
- b. The Legal Unit shall prepare an Inspection Warrant based on the information contained in the Cal/OSHA Form 25 and any other available information demonstrating that a comprehensive inspection of the worksite is needed.
- c. After preparation of the Inspection Warrant has been completed, the Legal Unit shall send the Declaration in support of an Inspection Warrant and the Inspection Warrant to the District Manager.

3. Judicial Approval and Signature

- a. After receipt of the Declaration and Inspection Warrant, compliance personnel shall take the original of the Declaration and the original and two copies of the Inspection Warrant to the Superior Court in the county in which the place of employment to be inspected is located to obtain judicial approval and signature of the Inspection Warrant.
- b. Compliance personnel shall present the Declaration and Inspection Warrant to the Superior Court and request that the court:
 1. Grant an Inspection Warrant which permits the Division to conduct a comprehensive inspection of the worksite;
 2. Make the Inspection Warrant valid for the full fourteen (14) days provided by statute;
 3. Waive the twenty-four (24) notice requirement of the Code of Civil Procedure Sec. 1822.56, based on the statutory prohibition against advance notice in Labor Code Sec. 6321 and the need for immediate execution; and

NOTE: If the court refuses to waive the notice requirement, compliance personnel shall: (a) notify the District Manager, who shall in turn notify the Regional Manager, the Deputy Chief for Field Operations and the Legal Unit that advance notice will be given as so directed by the court; and (b) indicate that advance notice was given in Item 19 on the Cal/OSHA Form 1.

4. Approve and sign the Inspection Warrant.
 - c. If the judge raises any legal issues pertaining to the Declaration or Inspection Warrant, or refuses to approve and sign the Inspection Warrant, compliance personnel shall immediately contact the Legal Unit for assistance.
4. Employer Service
 - a. After obtaining the signed Inspection Warrant, compliance personnel shall return to the worksite as soon as possible and within the period of time specified on the Inspection Warrant, and show the original Inspection Warrant to the employer and leave a copy with the employer.

NOTE: Some Superior Court Clerks will retain the original Inspection Warrant and certify a copy for service on the employer.

- b. If an employer, when presented with an Inspection Warrant, wishes to grant permission for the inspection and not have issuance of an Inspection Warrant "on their record," compliance personnel shall explain that the Inspection Warrant is a court order and that the Division has no discretion but to serve the Warrant.
 - c. After serving the employer with a copy of the Inspection Warrant, compliance personnel shall conduct an inspection of the worksite, complete the inspection within the time specified on the Inspection Warrant, complete the Warrant Follow-up Form (Cal/OSHA Form 25X) and return the Form 25X to the Legal Unit. See Attachment B.
5. Return To Inspection Warrant Forms
 - a. After completing the inspection, and prior to expiration of the Inspection Warrant, compliance personnel shall complete one of the Return to Inspection Warrant Forms, whichever is appropriate, and file the original Inspection Warrant and the original Return Form with the Superior Court Clerk. See Attachments C and D.
 - b. Compliance personnel shall also send a copy of the Inspection Warrant and a copy of the Return to Warrant Form which was filed with the Superior Court Clerk to the Legal Unit, and place copies of the Warrant and Return Form in the inspection file.

C. REFUSAL TO ALLOW INSPECTION PURSUANT TO AN INSPECTION WARRANT

1. If an employer refuses to allow compliance personnel to conduct an inspection of the employer's worksite pursuant to a lawful Inspection Warrant, compliance personnel shall leave the worksite and immediately notify the District Manager of the employer's refusal. The District Manager shall in turn notify the Legal Unit of the employer's refusal.
2. The Legal Unit shall determine an appropriate course of action which may include one of the following:
 - a. Seeking an Order to Assist from the same court which granted the Inspection Warrant to enforce the Inspection Warrant for the Division; or
 - b. Other necessary legal process to obtain enforcement of the Inspection Warrant.

D. OFFICE PROCEDURES AND FORM DISTRIBUTION

1. If an Inspection Warrant is required, compliance personnel shall complete the Cal/OSHA Form 25 and submit the Form 25 to the District Manager for review and approval.
2. Office Support Staff shall fax the Cal/OSHA Form 25 to the Legal Unit and notify, if approved, the Legal Unit by telephone that the District is requesting an Inspection Warrant.
3. After service of the Inspection Warrant, compliance personnel shall complete the Cal/OSHA Form 25X and one or more of the Returns to Inspection Warrant Forms and file the original Inspection Warrant and the original Return Form with the Superior Court Clerk, place copies in the inspection file and route copies to the Legal Unit.

E. FORMS COMPLETION

Compliance personnel shall complete Cal/OSHA Form 25, Cal/OSHA Form 25X and appropriate Returns to Inspection Warrant as appropriate.

Attachments:

- A -- [Cal/OSHA 25](#)
- B -- [Cal/OSHA 25X](#)
- C -- [Cal/OSHA 25C](#)
- D -- [Cal/OSHA 25D](#)