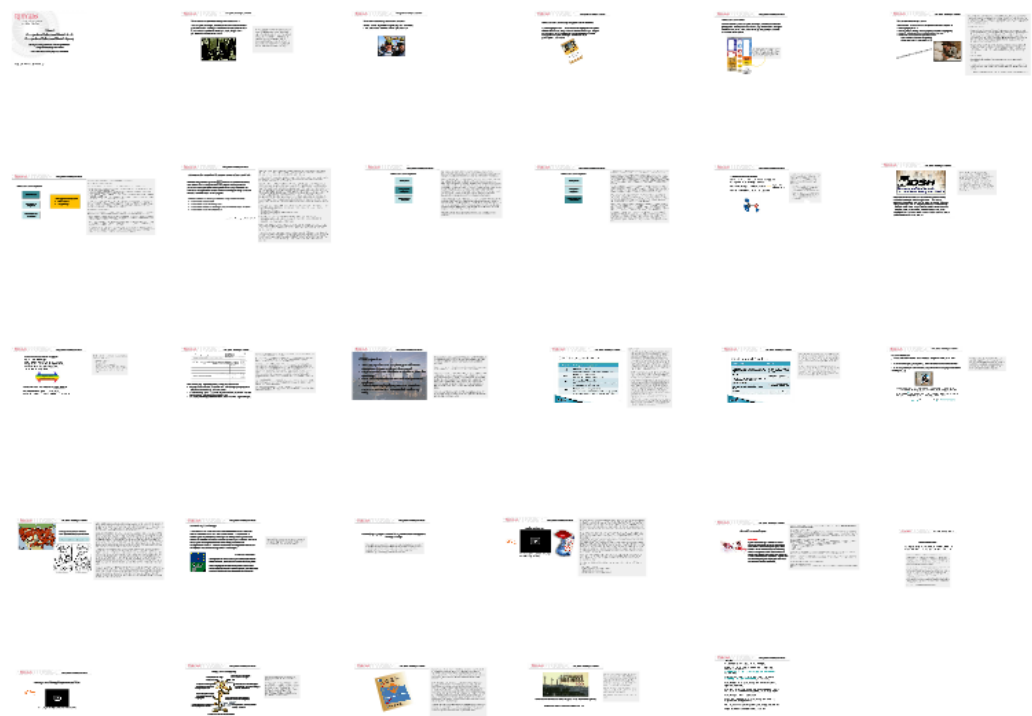

RUTGERS

School of Management
and Labor Relations

Week 5
Occupational Safety and Health Act & Occupational Safety and Health Agency

Ashley Conway, Assistant Teaching Professor
Occupational Safety and Health
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What is the Occupational Safety and Health Act ?

The Occupational Safety and Health Act of 1970 is a labor law that prescribes minimum safety and health standards for most workers and authorizes inspections, citations, and monetary and civil penalties to enforce those standards.

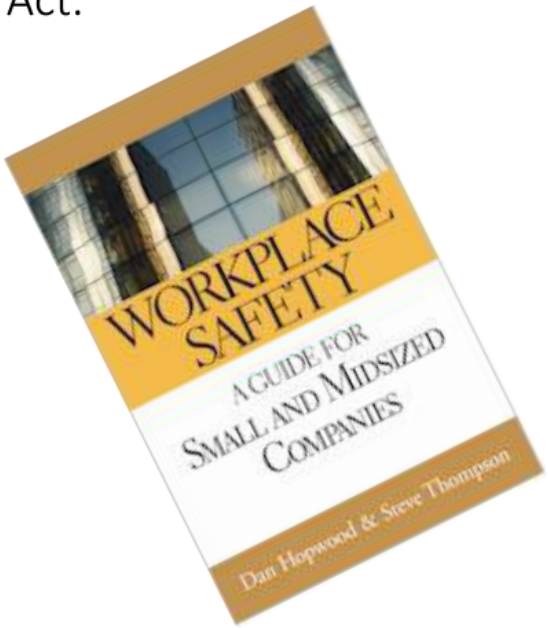
The Occupational Safety and Health Act (often abbreviated to “OSH Act”) was signed by President Nixon in December, 1970. As you learned in Week 2, the creation of comprehensive federal regulations had been a goal of the U.S. labor movement and worker safety and health reformers for over a century.

What are the stated goals of the OSH Act?

"To assure so far as possible every working man and woman in the nation safe and healthful working conditions…"

How does the OSH Act say the goals will be achieved?

"…each employer shall furnish to each of his employees a workplace which is as free from recognized hazards that are causing or likely to cause death or serious physical harm to his employees and shall comply with occupational safety and health standards promulgated under this Act."



How does OSHA work?

The OSH Act sets up the Occupational Safety and Health Administration (OSHA) within the Department of Labor and gives OSHA the authority to establish and enforce rules and standards regulating safety and health in the Nation's workplaces.

This flow chart will give you an idea of how complex the rule making process is. No surprise that it can take years to pass rules. It is not unusual for a rule to get close to implementation only get stuck in a Congressional committee for years, if not decades. The diacetyl case illustrated this dynamic.

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Who is not covered by OSHA?

Most American workers are covered by OSHA with the exception of:

- Self-employed persons
- Federal, state, or local public employees (8.6 million employees)
- Workers in states with approved state OSHA programs
- Workers covered by laws or agencies such as:
  - Mine Safety and Health Act (MSHA)
  - Department of Transportation (DOT)

EXAM Alert

An estimated 8.5 million workers

Most employees in the nation come under OSHA's jurisdiction. OSHA covers private sector employers and employees in all 50 states, the District of Columbia, and other U.S. jurisdictions either directly through Federal OSHA or through an OSHA-approved state program. State-run health and safety programs must be at least as effective as the Federal OSHA program.

OSHA doesn't cover:

- State and Local Government Workers Employees who work for state and local governments are not covered by Federal OSHA, but have OSH Act protections if they work in a state that has an OSHA-approved state program. Four additional states and one U.S. territory have OSHA approved plans that cover public sector employees only. This includes: Connecticut, Illinois, **New Jersey,** New York, and the Virgin Islands. Private sector workers in these four states and the Virgin Islands are covered by Federal OSHA.
- Federal Government Workers Federal agencies must have a safety and health program that meet the same standards as private employers. Although OSHA does not fine federal agencies, it does monitor federal agencies and responds to workers' complaints. The United States Postal Service (USPS) is covered by OSHA.
- Self-employed
- Immediate family members of farm employers that do not employ outside employees
- Workplace Hazards regulated by another Federal agency (for example, the Mine Safety and Health Administration, the Federal Aviation Administration, the Coast Guard)

Source: Occupational Safety and Health Administration, "Who OSHA Covers"

How does OSHA regulate?

Enforcement

EXAM Alert

Cooperative Programs

Information and Education

Two types of standards:
- Permanent
- Temporary

OSHA regulates through the enforcement of standards promulgated by the agency.

What are the sources of these standards?

After the Act was signed into law through 1973 the OSHA adopted existing standards from various sources:

- Consensus standards –recognized standards-developing organizations such as the National Fire Protection Agency and the American National Standards Institute.
- Proprietary standards – prepared by experts and issued by industrial or professional groups such as Underwriters Laboratory (UL) and American society of Mechanical Engineers.
- Federal standards – established by other acts of agencies in effect when the OSH Act was passed; such as standards for construction and long shoring.
- Other agency standards – regulations established by agencies not included by the scope of the OSH Act; such as the Department of Interior's Bureau of Mines' Coal Mine and Safety Standards.

As you will see from the diacetyl presentation,, it is a difficult, lengthy process for OSHA standards to be adopted, so too OSHA standards must go through a lengthy process to be changed. So even though standards may be updated by the entities who originally created them, those standards adopted by OSHA in the early 70's have remained largely unchanged. As you will read this week, this fact is troubling to workplace health and safety advocates critics as technology and knowledge improves about hazards and standards remain unchanged.

Permanent and temporary standards

There are permanent standards adopted by OSHA through its rules-making procedure and emergency temporary standards that allow standards to go into effect immediately if there is imminent danger to workers and no existing standards.

- Workers cannot assume that all hazards are covered by OSHA standards. If a hazard is identified, standards should be checked as a first step in strategizing to deal with it. It cannot be assumed that absence of a standard means absence of risk. Also, even when there is a standard it may be inadequate.

- Where OSHA has not adopted specific standards, employers are responsible for following Section 5 (a) 1: General Duty Clause: employers "shall furnish...a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees."

- The power to enforce regulations is viewed as critical to achieving the goal of OSHA by unions and advocates of worker health and safety. OSHA's regulatory authority is seen as the heart of the problem with OSHA to many (but not all) small business owners and industries. As the newspaper articles you will be reading this week illustrate, the regulatory powers of OSHA are generally favored by Democratics and opposed by Republicans.

Absence of a standard does not mean absence of risk!

General Duty Clause Section 5(a)(1) of the Occupational Safety and Health Act (OSHA) of 1970, employers are required to provide their employees with a place of employment that "is free from recognizable hazards that are causing or likely to cause death or serious harm to employees."

OSHA's criteria for issuing a General Duty Clause citation:

- there must be a hazard
- the hazard must be recognized
- the hazard causes or is likely to cause serious harm or death
- the hazard must be correctable

National Council for Occupational Safety and Health

Workers cannot assume that all hazards are covered by OSHA standards. If a hazard is identified, standards should be checked as a first step in dealing with it. It cannot be assumed that absence of a standard means absence of risk. Also, even when there is a standard it may be inadequate.

The General Duty Clause is meant to apply where a recognized hazard exists, for which there is not (or not yet), a precise standard. In other words, an unsafe condition not covered by one of OSHA's specific standards is understood to be covered by the General Duty Clause.

One example of this is musculoskeletal disorders (MSDs) resulting from hazardous lifting, repetitive tasks, or awkward postures that our work sometimes forces us to do. For ten years OSHA has unsuccessfully sought to develop an ergonomic standard to deal with these hazards. Other examples are indoor air quality and workplace violence. Many workers have died, been seriously injured or become ill from such hazards, yet there are no specific OSHA standards applicable to these situations! But if the hazard meets certain conditions, the employer may be cited for an OSHA violation under the GDC. It is interesting to note that an ergonomics standard once did exist. It was established under Sec. of Labor, Elizabeth Dole (a republican) and rescinded just two months later by Congress and signed by President George W. Bush. Entities such as the Society for Human Resource Management (SHRM), the leading organization of HR professionals, expressed concern that the standard was based on inadequate science and would cost much more than the projections made by the U.S. Department of Labor. The regulations were also vigorously opposed by the US Chamber of Commerce and other business and industry groups. You will be reading about these efforts to establish ergonomic standards - efforts which continue today.

So even if a hazard isn't addressed with a regulation, workers can and should look to the General Duty Clause, but before OSHA will issue a 5(a)(1) citation a number of conditions must be satisfied. These conditions are:

- there must be a hazard
- the hazard must be recognized
- the hazard causes or is likely to cause serious harm or death
- the hazard must be correctable

For example, there is not a standard for diacetyl (only NIOSH guidelines) although the hazard:

- is recognized (we know that the chemical is strongly correlated to constrictive bronchiolitis obliterans)
- is likely to cause harm or death (this disease is fatal)
- is correctable (as evidenced by the NIOSH guidelines)

Using the General Duty Clause is not as desirable as having a standard, but through the continuous collection of workplace data and documentation the clause can be effectively used. Additionally, every time the General Duty Clause is invoked and a citation issued by OSHA under the clause it adds to the evidence that a regulatory standard is needed.

The power to enforce regulations is viewed as critical to achieving the goal of OSHA by unions and advocates of worker health and safety. OSHA's regulatory authority is seen as the heart of the problem with OSHA to many (but not all) small business owners and industries. As you will read this week, the regulatory powers of OSHA are generally favored by Democratics and opposed by Republicans. There is no hard and fast rule about this – there are certainly Republicans who tend to favor regulations and Democrats who don't but this tends to be the exception.

How does OSHA regulate?

- Enforcement
- **Cooperative Programs**
- Information and Education

OSHA has established and offers a number of cooperative programs. Businesses, labor groups, and other organizations can work cooperatively with the Agency to help prevent fatalities, injuries, and illnesses in the workplace.

Some cooperative initiatives have proven to be very effective, particularly when they address specific work conditions or situations. Ideally, cooperative initiatives are integrated into existing workplace structures such as union health and safety committees. (Many unionized workplaces many unions have health and safety committees to correct job hazards or recognize and prevent potential hazards. Health and safety committees may work in conjunction with management under some type of cooperative union-management agreement. A workplace may also have both types of health and safety committees – independent of management and union management committee.)

Cooperative programs and voluntary compliance programs have been criticized as being a “back door” way to eliminate or erode the enforcement function of OSHA regulations. Dr. Michael Silverstein holds that there is little evidence that OSHA’s consultation and other voluntary programs (23% of the 2003 budget) have had a measurable impact on hazards, injuries and illnesses. You will be reading an article by Dr. Silverstein this week.

Industries and businesses generally promote voluntary compliance over regulation.

How does OSHA regulate?

- Enforcement
- Cooperative Programs
- **Information and Education**

An informed workplace is important on many different levels. People in a work organization from the board room to the shop floor or the front desk need to understand the health and safety issues of their work.

Understanding how to recognize workplace injuries and illnesses and how to report them is an important part of workplace education. Presently, reporting responsibility is left to private industry and employers. It is commonly believed that if a company reports too many injuries and illnesses resulting in time off from work (referred to as lost time) it is more likely that the company will be inspected. Conversely, it is held that if there are few or no incidents of injury or illness then the company will be invisible to OSHA inspectors. As mentioned in Week 3, these beliefs have helped to create a culture of under-reporting at best or outright lying at worse.

Another reason for under-reporting is that adverse health effects from chemicals or hazardous substances are more difficult to recognize than clear cause and effect accidents, such as falls or amputations. Making correlations between illness and work takes the kind of deliberate, sometimes painstaking, scientific inquiry that John Snow did in 19th century England or like Mike Bennett did when he put forth the hypothesis that breathing in paint fumes paint caused brain cancer in members of the UAW local he led (Week 3).

In the early 1990's statistical compilation of workplace fatalities improved with the of the creation of the Census of Fatal Occupational Injuries by the Bureau of Labor Statistics. However, in this decade, the definition of an injury or illness was changed under a Republican lead congress so that fewer workplace incidents are now captured and reported. Changing the definition of what constitutes an occupational injury or illness makes comparing data compiled prior to the definition changes with data collected after the definition changes difficult – rather like comparing "apples with oranges."

In the family occupational safety and health history papers some students mentioned family members who worked with hazardous materials without knowing it at the time. Information and education is a necessary tool to change workplace behaviors with the goal of reducing injuries and illnesses. However, worker education has been criticized as being used as a panacea or substitute for implementing real safety control measures to reduce risk. An example of this is criticism leveled against "behavior-based" safety programs.

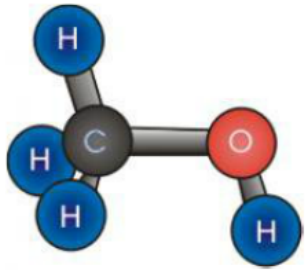
Behavior-based safety programs focus on worker behavior as the root cause for almost all workplace accidents. Proponents of behavior-based safety proponents hold that between 80% to almost 100% of accidents are caused by the unsafe action of employees. Challenging these claims The Steelworkers Union conducted research that concluded that investigations of serious accidents show that there are multiple root causes for them. As you studied last week in Power Dynamics, there are strongly held opinions on many occupational safety issues; the validity of behavior-based safety programs is one such issue.

2 agency standards of note:

American Conference of Governmental Industrial Hygienists developed two standards widely used today:

PEL – Permissible Exposure Limits for chemicals ← *Enforceable OSHA standard*

TLV – Threshold Limit Values for hazardous materials



These standards were mentioned last week but bear repeating because PELs and TLVs are acronyms you will come across in your reading assignments. As you might guess, establishing Permissible Exposure Limits is a source of contention and debate among occupational safety and health power-players.

- The Threshold Limit Value (TLV) of a chemical substance is a level to which it is believed a worker can be exposed day after day for a working lifetime without adverse health effects.
-
- The Permissible Exposure Limit (PEL or OSHA PEL) is a legal limit in the United States for exposure of an employee to a substance or physical agent.

OSHA established the National Institute of Occupational Safety and Health (NIOSH) as research organization under the U.S. Department of Health and Human Services. *NIOSH has no powers of enforcement, but can investigate problems and make scientific recommendations about improvements.* Most new standards are recommendations from NIOSH. NIOSH creates and conducts employee training and education and conducts on-site evaluations (called Health Hazard Evaluations.)

Source: NIOSH

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Workers covered by OSHA have a <u>right</u> to:

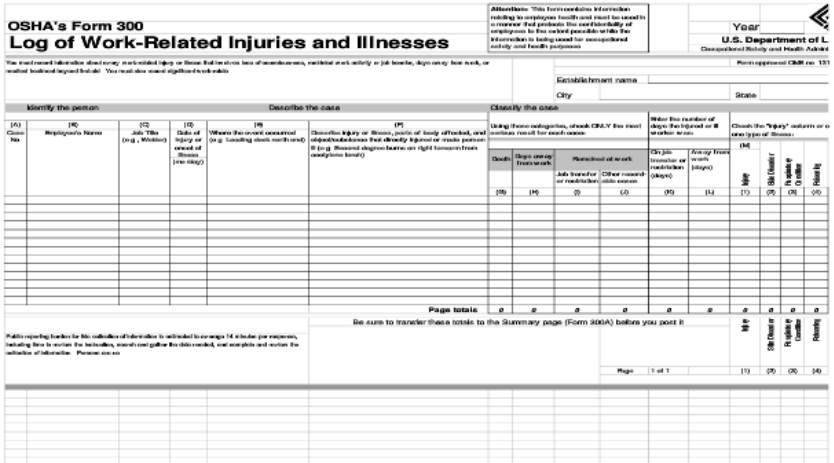
- A safe and healthy workplace
- File an OSHA complaint and request an inspection
- Request and receive health and safety information*
- Not to be fired or discriminated against for for health and safety activities

Workers covered under OSHA have a <u>responsibility</u> to:

- Comply with OSHA regulations and standards.
- Not remove, displace, or interfere with the use of safeguards.

Health and safety information that covered workers have a right to includes:

- OSHA tests for noise
- dusts and fumes
- the OSHA file on the workplace
- injury and illness records that the company is required to maintain (such as OSHA form 200)
- hazardous conditions that exceed permissible limits



OSHA's Form 300

Log of Work-Related Injuries and Illnesses

Year

U.S. Department of L

Establishment name

City

State

Identify the person | Describe the case | Classify the case

(A) Case No.	(B) Employee's Name	(C) Job Title (e.g., Welder)	(D) Date of injury or onset of illness (mo./day)	(E) Where the event occurred (e.g. Loading dock north end)	(F) Describe injury or illness, parts of body affected, and object/substance that directly injured or made person ill (e.g. Second degree burns on right forearm from steam burst)	Using these categories, check ONLY the most serious result for each case: Death	Days away from work	Job transfer or restriction	Other recordable cases	Enter the number of days the injured or ill worker was: Days away from work (days)	Job transfer or restriction (days)	Check the "injury" column or one type of illness: (M) Injury	Skin Disorder	Respiratory Condition	Poisoning	Hearing Loss
						(G)	(H)	(I)	(J)	(K)	(L)	(1)	(2)	(3)	(4)	(5)
					Page totals	0	0	0	0	0	0	0	0	0	0	0

Be sure to transfer these totals to the Summary page (Form 300A) before you post it

Public reporting burden for this collection of information is estimated to average 14 minutes per response, including time to review the instructions, search and gather the data needed, and complete and review the collection of information. Persons are no

Page 1 of 1

Recordkeeping, reporting and posting requirements:

- Employers with more than 10 F/T workers need to keep a yearly log of all reported work-related injuries and illnesses
- A reportable injury – an injury that requires more than First Aid or results in lost work time, restricted duties or job transfer
- A summary of the log is posted for the full month of February of each year

Other types of requirements are imposed by regulation rather than by a standard. OSHA regulations cover such items as recordkeeping, reporting and posting.

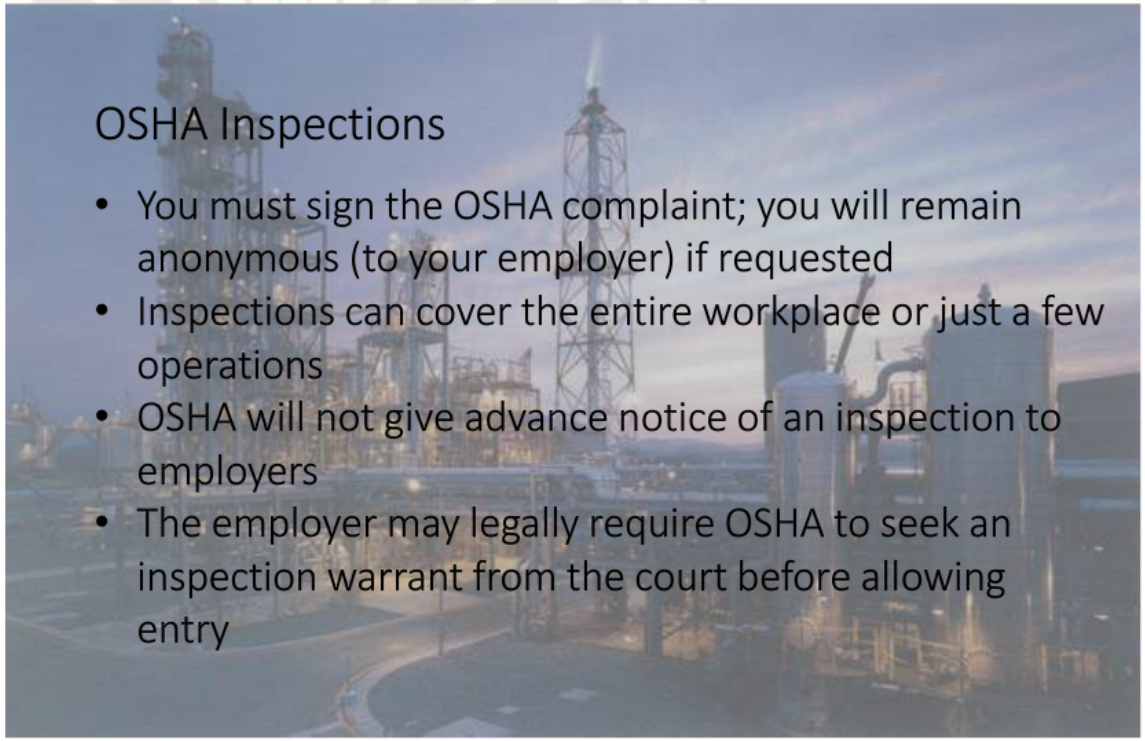
Recordkeeping: With some exceptions for low level hazard industries, every employer covered by OSHA (remember some occupations aren't covered under OSHA) who has more than 10 employees must maintain OSHA-specified records of job-related injuries and illnesses.

The OSHA Form 300 is an injury/illness log. As you can see the form has a separate line entry for each recordable injury or illness. A summary section of the OSHA Form 300, shows the total of the previous year's injury and illness experience, must be posted in the workplace for the entire month of February each year. You may have noticed a summary report of injury and illness posted in your workplace.

If an incident results in one or more fatalities or the hospitalization of 3 or more employees it must be reported to the nearest OSHA office within 8 hours of the occurrence. These incidents are often investigated by OSHA to determine what caused the accident and whether violations of standards contributed to the event. Reviews of OSHA logs can be very useful to identify a pattern of when injury or illness.

Another reporting regulation is that employees also have the right to information about and results of any tests or monitoring the employer conducts related to exposures in the workplace. These include chemical levels, noise, radiation, etc. If W.R. Grace had complied with this a reporting regulation like this, the outcome in Libby might have been different.

Lastly, these records must be maintained for 30 years. Employees having medical tests or monitoring for workplace exposures have the right to those records as well. For example, baseline chest x-rays; radiation badge data, and blood tests for lead levels.



Employees have a right to an OSHA inspection at the workplace. If a complaint is made to OSHA, the reporting employee must sign the complaint but will remain anonymous from the employer if requested.

Inspections can cover the entire workplace or just a few operations. An inspection can take weeks, days, or hours to conduct.

Inspections are conducted without advance notice. Under special circumstances OSHA may give notice to the employer, but such a notice will be less than 24 hours. An example when notice would be given is a an inspection that takes place after regular business hours or that requires special preparation. It is very rare that OSHA gives advance notice of inspection. If advance notice is given to the employer, the union must also be given advance notice.

If an employer refuses to admit an OSHA compliance officer, or if an employer attempts to interfere with the inspection, the OSH Act permits appropriate legal action.

OSHA Inspection Priority

Priority	Category of Inspection
1st	**Imminent Danger:** *Reasonable certainty an immediate danger exists*
2nd	**Fatality/Catastrophe:** *Reported to OSHA; inspected ASAP*
3rd	**Complaints/Referrals:** *Worker or worker representative can file a complaint about a safety or health hazard*
4th	**Programmed Inspections:** *Cover industries and employers with high injury and illness rates, specific hazards, or other exposures.*

OSHA

Inspection Priorities:

- Imminent Danger: Imminent danger situations are given top priority. An imminent danger is any condition where there is reasonable certainty that a danger exists that can be expected to cause death or serious physical harm immediately, or before the danger can be eliminated through normal enforcement procedures. Serious physical harm is any type of harm that could cause permanent or prolonged damage to the body or which, while not damaging the body on a prolonged basis, could cause such temporary disability as to require in-patient hospital treatment. OSHA considers that "permanent or prolonged damage" has occurred when, for example, a part of the body is crushed or severed; an arm, leg or finger is amputated; or sight in one or both eyes is lost. For a health hazard to be considered an imminent danger, there must be a reasonable expectation (1) that toxic substances such as dangerous fumes, dusts or gases are present, and (2) that exposure to them will cause immediate and irreversible harm to such a degree as to shorten life or cause reduction in physical or mental efficiency, even though the resulting harm is not immediately apparent.
- Catastrophes and Fatal Accidents: Second priority is given to investigation of fatalities of one or more employees and catastrophes resulting in hospitalization of three or more employees. Such situations must be reported to OSHA by the employer within 8 hours. Investigations are made to determine if OSHA standards were violated and to avoid recurrence of similar accidents.
- Employee Complaints: Third priority is given to employee complaints of alleged violation of standards or of unsafe or unhealthful working conditions. (Also included in this category are serious referrals of unsafe or unhealthful working conditions from other sources, such as local or state agencies or departments.) Programmed High-Hazard Inspections: Next in priority are programmed, or planned, inspections aimed at specific high-hazard industries, occupations or health substances. Industries are selected for inspection on the basis of factors such as the death, injury, and illness incidence rates, and employee exposure to toxic substances. Special emphasis may be regional or national in scope, depending on the distribution of the workplaces involved. States with their own occupational safety and health programs may use somewhat different systems to identify high-hazard industries for inspection.
- Other Programmed Inspections: random selection of low-hazard and non-manufacturing sites.
- Follow up Inspections: A follow-up inspection determines whether previously cited violations have been corrected. If an employer has failed to abate a violation, the compliance officer informs the employer that he/she is subject to "Notification of Failure to Abate" alleged violations and may face additional proposed daily penalties while such failure or violations continues.

Citations and Penalties

VIOLATION TYPE	PENALTY
WILLFUL A violation that the employer intentionally and knowingly commits or a violation that the employer commits with plain indifference to the law.	OSHA may propose penalties of up to $70,000 for each willful violation, with a minimum penalty of $5,000 for each willful violation.
SERIOUS A violation where there is substantial probability that death or serious physical harm could result and that the employer knew, or should have known, of the hazard.	There is a mandatory penalty for serious violations which may be up to $7,000.
OTHER-THAN-SERIOUS A violation that has a direct relationship to safety and health, but probably would not cause death or serious physical harm.	OSHA may propose a penalty of up to $7,000 for each other-than-serious violation.
REPEATED A violation that is the same or similar to a previous violation.	OSHA may propose penalties of up to $70,000 for each repeated violation.

OSHA

This slide shows the maximum penalty that OSHA can levy for violations. Students are sometimes shocked at how low the fines are – indeed, it begs the question just how much is a limb or even a life worth? This is a question posed in the video on McWane industries that you will be viewing this week.

Its important to remember that OSHA does not set these penalties – that is a legislative responsibility. OSHA has long argued for tougher, more meaningful penalties. With the average fine for a serious violation being about $800, it is easy to see that cutting a small check for a violation might be considered inconsequential to an employer.

Is OSHA beneficial?

- Since OSHA was created in 1971, deaths on the job have been cut in half
- Over the last 30 years, workplace injuries & illnesses have decreased by 40%
- In FY 2002, OSHA provided more than 260,000 workers & employers with health & safety training

A 2012 study in *Science* found that OSHA's random workplace safety inspections caused a "9.4% decline in injury rates" and a "26% reduction in injury cost" for the inspected firms.[3] The study found "no evidence that these improvements came at the expense of employment, sales, credit ratings, or firm survival."

Source: Levine, David I.; Toffel, Michael W.; Johnson, Matthew S. (2012-05-18). "Randomized Government Safety Inspections Reduce Worker Injuries with No Detectable Job Loss". *Science*.

Has OSHA benefited workers? Both sides - those who think that safety and health is the obligation of the employer and those who think that the free-market will ultimately provide the right amount of health and safety – interpret health and safety statistics differently.

These political cartoons illustrate two very different opinions of OSHA.

Note: David Michaels is no longer the head of OSHA. The *acting head of OSHA is Loren Sweatt.*

We all know the sound of two hands clapping.

But what is the sound of one hand clapping?

OSHA has been a political lightning rod since its creation. Critics on the right consider it the embodiment of big government creating and enforcing expensive and ineffective standards and wielding unnecessary penalties that hurt small businesses. Critics on the left chastise OSHA for failing to fulfill its mission and claim that OSHA is the victim of timid Democratic administrations and Republican administrations stuck in ideologies that are against using authority to reduce harm and fatalities.

So why does OSHA still exist and why has its funding remained relatively stable? According to David Weil (an internationally recognized expert in employment and labor market policy), the agency's stability reflects the push and pull between Congress the White House. For instance, efforts to radically trim OSHA's budget during the Reagan administration was resisted by a Democratic Congress. During the Clinton and Obama administrations, efforts to increase OSHA funding and enforcement were blocked by the Republican led Congress. OSHA's political stability derives in part from the presence of well-organized groups interested in the outcome of occupational safety and health issues, particularly lobbying groups representing small and large business (for reduced appropriations and enforcement) and the AFL-CIO and its labor-union affiliates (defending budgets and expanded scope and authority for the agency).

This dichotomy can be illustrated by looking at who the President appoints as the Assistant Secretary of Labor (the Asst. Sec. of Labor also serves as the Director of OSHA). Under President Bush, Edwin J. Foulke, Jr. was appointed to the position. At the time of his appointment Foulke was a labor lawyer at Fisher & Phillips - a firm that represents business and corporate interests. Foulke was an outspoken critic of OSHA. President Obama appointed David Michaels to the position, who at the time of his appointment was a research epidemiologist and chair of the Department of Environmental and Occupational Health (EOH) at George Washington University. Michaels had a long history of publicizing and working to resolve occupational and environmental safety and health hazards, especially those related to the chemical industry. Foulke and Michaels are each a reflection of the positions and agendas of the administrations they served under.

This resilience continues in a political push-pull world because of waxing and waning public concern over workplace safety and health. Work safety and health is a personal issue for people who work in dangerous or unhealthy jobs. As you know from doing your family history, everyone has a story about their work and their family's work – stories that contribute to their point of view on work health and safety. The media's interest in drama, danger, disaster, and death periodically brings the issue of workplace health and safety to the forefront. Historically, the publics' and the medias' interest in occupational safety and health is a necessary condition that sets the stage for change.

A Roadmap for Change

"The OSH Act of 1970 was landmark legislation, straddling the border between labor law and public health. It expressed a stunning set of principles, notably that every working man and woman is entitled to safe and healthy working conditions, and that employers are responsible for work being free from all recognizable hazards. The full realization of Congress's vision will be beyond reach without significant new steps."

- Michael Silverstein

Although the Silverstein article you will read this week is critical of OSHA, ***take care not to miss his main point.***

Not all employers are anti-OSHA; some maintain that OSHA standards lead to a safer workplace, and also result in greater productivity and profitability for businesses.

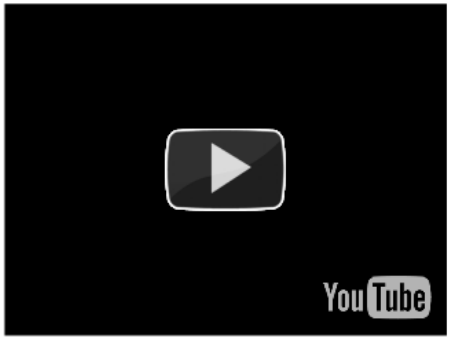
Despite OSHA's deficiencies and the need for improvement acknowledged by both "sides", the agency continues to be an important institution that, arguably, has improved the health and safety of workers in the United States.

Lockout/Tagout, Right to Refuse Work, Blood-borne Pathogens & Strategic Change

Although the main focus of this course is theoretical and getting the “big picture” of occupational safety and health issues, the second part of this week’s lecture will introduce you to some of the basic controls used to reduce the risk of workplace hazards.. Be sure to view the video clips to gain a basic understanding of the safety procedures and measures.

LockOut/TagOut

WATCH THE VIDEO



Safety Training Videos. (2011) Lock-Out/Tag-Out Safety Video Program. (2:13)

Lockout-Tagout (LOTO) is a safety procedure which is used in industry and research settings to ensure that dangerous machines are properly shut off and not started up again prior to the completion of maintenance or servicing work. It requires that hazardous power sources be "isolated and rendered inoperative" before any repair procedure is started. "Lock and tag" works in conjunction with a lock usually locking the device or the power source with the hasp, and placing it in such a position that no hazardous power sources can be turned on. The procedure requires that a tag be affixed to the locked device indicating that it should not be turned on.

Modern machinery can contain many hazards to workers, from things like electrical, mechanical, pneumatic, or hydraulic sources. For example, a typical industrial machine may contain things like hot fluids, moving presses, blades, propellers, electrical heaters, conveyor belts with pinch points, moving chains, and ultraviolet light.
Disconnecting or making safe the device is known as isolation. This is accompanied by the tagging of the device to let others know not to de-isolate the device.
A lock selected by color, shape or size (e.g. a red padlock) is used to designate a standard safety device, locking and securing hazardous energy. No two keys or locks should ever be the same. A person's lock and tag must not be removed by anyone other than the individual who installed the lock and tag unless removal is accomplished under the direction of the employer. Employer procedures and training for such removal must have been developed, documented and incorporated into the employer's energy control program.
In industry this is an OSHA standard that spells out the steps employers must take to prevent accidents associated with hazardous energy.

A good LOTO procedure will vary to fit the needs and practices of the plant. Elements to be included are: who is responsible (or authorized party), how to prepare for and initiate a LOTO, and how to return to service. In order for LOTO to work, all employees working in a LOTO area must know about and understand the procedure.

As we have learned with most OSHA standards, there are exceptions to the standard. LOTO does not apply to:

- Certain electrical hazards
- Agricultural, maritime or construction industries
- Oil or gas well drilling and servicing
- Other standards may apply to these exceptions.

Blood-borne Pathogens

CAUTION!

If you are stuck by a needle or other sharp or get blood or other potentially infectious materials in your eyes, nose, mouth, or on broken skin, immediately flood the exposed area with water and clean any wound with soap and water or a skin disinfectant if available. Report this immediately to your employer and seek immediate medical attention.

OSHA – Blood borne Pathogens and Needle stick Prevention. Retrieved 9/30/2014 from: https://www.osha.gov/SLTC/bloodbornepathogens/gen_guidance.html

What are blood borne pathogens?
Blood borne pathogens are infectious microorganisms in human blood that can cause disease in humans. These pathogens include, but are not limited to, hepatitis B (HBV), hepatitis C (HCV) and human immunodeficiency virus (HIV). Needle sticks and other sharps-related injuries may expose workers to blood borne pathogens. Workers in many occupations, including first aid team members, housekeeping personnel in some industries, nurses and other healthcare personnel may be at risk of exposure to blood borne pathogens.

What can be done to control exposure to blood borne pathogens?
In order to reduce or eliminate the hazards of occupational exposure to blood borne pathogens, an employer must implement an exposure control plan for the worksite with details on employee protection measures. The plan must describe:

- how an employer will use a combination of engineering and work practice controls
- ensure the use of personal protective clothing and equipment
- provide training, medical surveillance'
- hepatitis B vaccinations
- signs and labels

Engineering controls are the primary means of eliminating or minimizing employee exposure and include the use of safer medical devices, such as needle-less devices, shielded needle devices, and plastic capillary tubes.

Even if you are not in an occupation that routinely comes into contact with blood, such as health care provider, emergency responder, or law enforcement, knowing what to do if you are unintentionally exposed to blood or body fluids can help protect you from serious diseases.

What OSHA standard do you think applies to this hazard?

Section 5(a)(1): General Duty Clause.
OSHA does not have a blood borne pathogen standard – this is another example of when the General Duty Clause would be used.

Right to refuse work

An employee may refuse work when faced with an imminent danger of death or serious injury … and only as a last resort.

What does OSHA say about a worker's right to refuse to perform unsafe work?

Although nothing in the OSHA law specifically gives an employee the right to refuse to perform an unsafe or unhealthful job assignment, OSHA's regulations, which have been upheld by the U.S. Supreme Court, provide that an employee may refuse to work when faced with an imminent danger of death or serious injury. The conditions necessary to justify a work refusal are very stringent, however, and a work refusal should be taken only as a last resort. If time permits, the employee should report the unhealthful or unsafe condition to OSHA or another appropriate regulatory agency.

Let's take a look at what OSHA considers imminent danger:

There must be a threat of death or serious physical harm. "Serious physical harm" means that a part of the body is damaged so severely that it cannot be used or cannot be used very well.

For a health hazard there must be a reasonable expectation that toxic substances or other health hazards are present and exposure to them will shorten life or cause substantial reduction in physical or mental efficiency. The harm caused by the health hazard does to have to happen immediately.

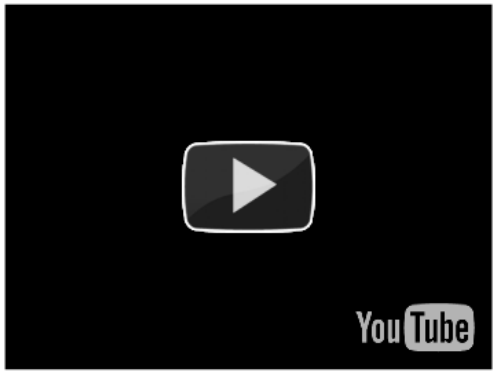
The threat must be immediate or imminent. This means that you must believe that death or serious physical harm could occur within a sort time, for example before OSHA could investigate the problem.

Just an aside, on Exam #1 there is a question about the right to refuse work that most students get wrong. Perhaps because refusing to do a task that will put one in danger seems so common-sense; but refusing work can (and does) result in losing a job. Understanding how and when to properly refuse to work is important information to have.

Source: OSHA web site http://www.osha.gov/Publications/3021.html

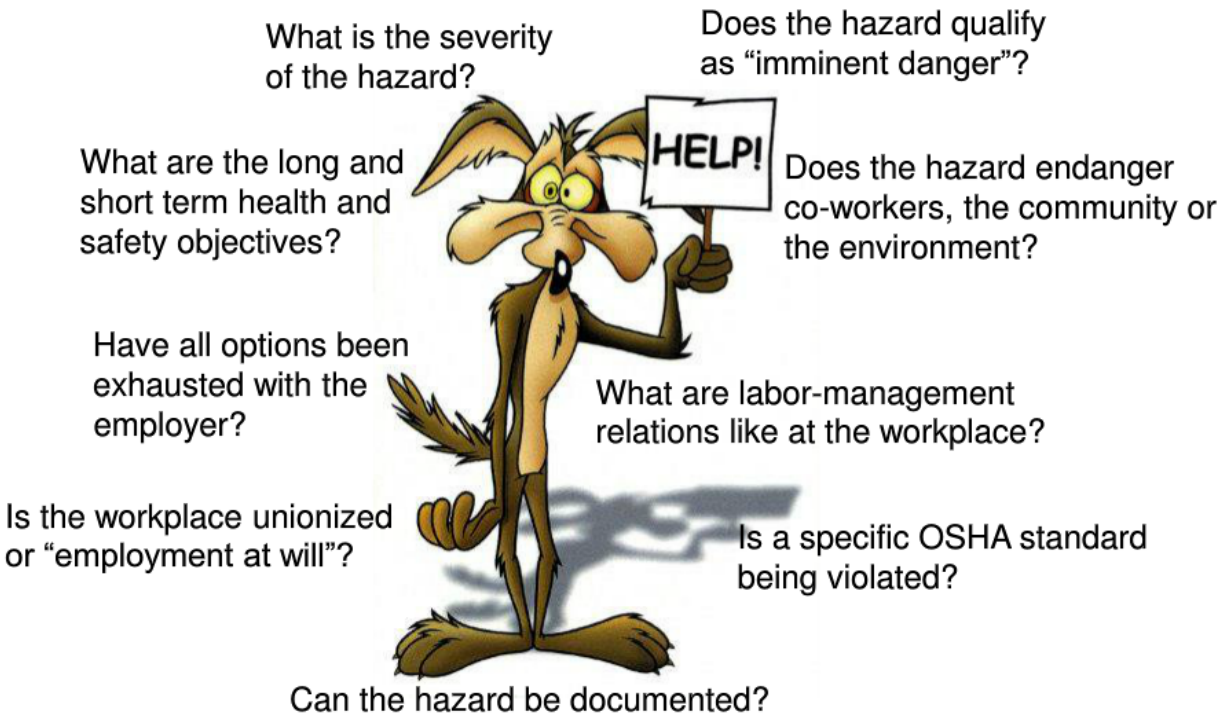
The Right and Wrong Way to Refuse Work

WATCH THE VIDEO



Prevent-It, Canada. Right to Refuse Unsafe Work. (0:38)

Using OSHA Strategically



When there is a hazard at your workplace what should you do? When and how should OSHA be involved?

When and how OSHA is involved in a workplace safety and health issue ultimately depends on circumstances that are specific to the workplace. The decision to involve OSHA should be made in consultation with union representatives and, depending on the circumstances, the employer. Devising and implementing a comprehensive plan of action in concert with other stakeholders (within and outside of the workplace) will generally make the best use of OSHA.

Change is hard. Even change that will result in the elimination or control of a workplace hazard may be met with resistance from employers, supervisors, even co-workers who stand to benefit. Having a plan of action, supporters or allies to partner with, and a way to look back at your efforts and evaluate them are important components in a successful change effort.

If your workplace is unionized, notify your union of the hazard. CBAs (collective bargaining agreements or contracts) have procedures for identifying and addressing occupational safety and health hazards. Sometimes an ally in making health and safety changes might be the boss or maybe you are the boss. It is often easy to focus on bad employers and overlook the examples of employers and companies doing a good job of responsibly providing a safe, healthy environment for people to do their job in. Working toward the safest environment possible with the goal of work hazards being at an "irreducible minimum" can best be reached with collaborative efforts between workers (and the organizations representing them), employers, and government.

Whatever approach to workplace health and safety is the right one for your workplace, the most important step is to become involved. As you have seen from the cases studied so far, change starts with one person who observes the problem and does something to make it better!

Watch the PBS FRONTLINE video *A Dangerous Business Revisited*. (56:43)

Access the video on the Week 5 page in Canvas

The case you will be learning about this week is McWane Foundries. To watch the PBS Frontline video, *A Dangerous Business Revisited*, go to the Week 5 page in Canvas and click on the link. There are also links to interesting updates and backstories about the case on the FRONTLINE web site that you might want to explore.

Be sure to view the second presentation. It is a short one and will give you some background on federal governmental agencies.

That's it for this week's presentation – have a safe week!