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## OSHA COMPLIANCE

### MAJOR TOPICS

- Rationale for the OSH Act
- OSHA's Mission and Purpose
- OSH Act Coverage
- OSHA Standards
- Record Keeping and Reporting
- Keeping Employees Informed
- Workplace Inspections
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Since the early 1970s, the amount of legislation passed—and the number of subsequent regulations—concerning workplace safety and health have increased markedly. Of all the legislation, by far the most significant has been the **Occupational Safety and Health Act (OSH Act)**. Prospective and practicing construction professionals must be knowledgeable about the OSH Act and the agency established by it—the **Occupational Safety and Health Administration (OSHA)**. This chapter provides students with the information they need about the OSH Act, OSHA, and other pertinent federal legislation and agencies.

### RATIONALE FOR THE OSH ACT

Perhaps the most debilitating experience one can have on the job is to be involved in or exposed to a work-related accident or illness. Such an occurrence can be physically and psychologically incapacitating for the victim, psychologically stressful for the victim's co-workers, and extraordinarily

expensive for the victim's employer. In spite of this, until 1970, laws governing workplace safety were limited and sporadic. Finally, in 1970, Congress passed the OSH Act with this stated purpose: "To assure so far as possible every working man and woman in the nation safe and healthful working conditions and to preserve our human resources."<sup>1</sup>

According to the U.S. Department of Labor, in developing this comprehensive and far-reaching piece of legislation, Congress considered the following statistics:

- Every year, an average of 14,000 deaths were caused by **workplace accidents**.
- Every year, 2.5 million workers were disabled in workplace accidents.
- Every year, approximately 300,000 new cases of occupational diseases were reported.<sup>2</sup>

Clearly, a comprehensive, uniform law was needed to help reduce the incidence of work-related injuries, illnesses, and deaths. The OSH Act addressed this need; it is contained in Title 29 of the Code of Federal Regulations (CFR), Parts 1900 through 1910. The act also established OSHA, which is part of the U.S. Department of Labor and is responsible for administering the OSH Act.

### OSHA'S MISSION AND PURPOSE

According to the Department of Labor, the mission and purpose of OSHA can be summarized as follows:<sup>3</sup>

- Encourage employers and employees to reduce workplace hazards.
- Implement new safety and health programs.
- Improve existing safety and health programs.
- Encourage research that leads to innovative ways of dealing with workplace safety and health problems.
- Establish the rights of employers regarding the improvement of workplace safety and health.
- Establish the rights of employees regarding the improvement of workplace safety and health.
- Monitor job-related illnesses and injuries through a system of reporting and record keeping.
- Establish training programs to increase the number of safety and health professionals and to improve their competence continually.

- Establish mandatory workplace safety and health standards, and enforce those standards.
- Provide for the development and approval of state-level workplace safety and health programs.
- Monitor, analyze, and evaluate state-level safety and health programs.

## OSH ACT COVERAGE

The OSH Act applies to most employers. If an organization has even one employee, it is considered an employer and must comply with applicable sections of the act. This includes all types of employers from manufacturing and construction to retail and service organizations. There is no exemption for small businesses, although organizations with 10 or fewer employees are exempted from OSHA inspections and the requirement to maintain injury/illness records.

Although the OSH Act is the most comprehensive and far-reaching piece of safety and health legislation ever passed in this country, it does not cover all employers. In general, the OSH Act covers employers in all 50 states, the District of Columbia, Puerto Rico, and all other territories that fall under the jurisdiction of the U.S. government. Exempted employers are as follows:

- Persons who are self-employed
- Family farms that employ only immediate family members
- Federal agencies covered by other federal statutes (in cases where these other federal statutes do not cover working conditions in a specific area or areas, OSHA standards apply)
- State and local governments (except to gain OSHA's approval of a state-level safety and health plan, states must provide a program for state and local government)
- Coal miners (coal mines are regulated by mining-specific laws)

Federal agencies are required to adhere to safety and health standards that are comparable to and consistent with OSHA standards for private sector employees. OSHA evaluates the safety and health programs of federal agencies. However, OSHA cannot assess fines or monetary damages against other federal agencies as it can against private sector employers.

There are many OSHA requirements to which employers must adhere. Some apply to all employers—except those exempted—whereas others apply only to specific types of employers. These requirements cover such areas of concern as the following:

- Fire protection
- Electrical safety
- Sanitation
- Air quality
- Machine use, maintenance, and repair
- Posting of notices and warnings
- Reporting of accidents and illnesses

- Maintaining written compliance programs
- Employee training

In addition to these, other more important and widely applicable requirements are explained later in this chapter.

## OSHA STANDARDS

The following statement by the U.S. Department of Commerce summarizes OSHA's responsibilities related to standards:

In carrying out its duties, OSHA is responsible for promulgating legally enforceable standards. OSHA standards may require conditions, or the adoption or use of one or more practices, means, methods, or processes reasonably necessary and appropriate to protect workers on the job. It is the responsibility of employers to become familiar with standards applicable to their establishments and to ensure that employees have and use personal protective equipment when required for safety.<sup>4</sup>

The general duty clause of the OSH Act requires that employers provide a workplace that is free from hazards that are likely to harm employees. This is important because the general duty clause applies when there is no specific OSHA standard for a given situation. Where OSHA standards do exist, employers are required to comply with them as written.

## How Standards Are Developed

OSHA develops standards on the basis of its perception of need and at the request of other federal agencies, state and local governments, other agencies that set standards, labor organizations, and even individual private citizens. OSHA uses the committee approach for developing standards—both standing committees within OSHA and special ad hoc committees. Ad hoc committees are appointed to deal with issues that are beyond the scope of the standing committees.

OSHA's standing committees are the National Advisory Committee on Occupational Safety and Health (NACOSH) and the Advisory Committee on Construction Safety and Health. NACOSH makes recommendations on standards to the U.S. secretary of health and human services and the secretary of labor. The Advisory Committee on Construction Safety and Health advises the secretary of labor on standards and regulations related specifically to the construction industry.

The **National Institute for Occupational Safety and Health (NIOSH)** was established by the OSH Act. Whereas OSHA is part of the Department of Labor, NIOSH is part of the Department of Health and Human Services. NIOSH has an education and research orientation. The results of this agency's research are often used to assist OSHA in developing standards.

## OSHA Standards Versus OSHA Regulations

OSHA issues both standards and regulations. Construction professionals need to know the difference between the two. OSHA standards address specific hazards, such as working in confined spaces, handling hazardous waste, or working

with dangerous chemicals. Regulations are more generic in some cases than standards and more specific in others. However, even when they are specific, regulations do not apply to specific hazards. Regulations do not require the rigorous review process that standards go through. This process is explained in the next section.

### How Standards Are Adopted, Amended, or Revoked

OSHA can adopt, amend, or revise standards. Before any of these actions can be undertaken, OSHA must publish its intentions in the *Federal Register* in either a notice of proposed rule making or an advance notice of proposed rule making. The **notice of proposed rule making** must explain the terms of the new rule, delineate proposed changes to existing rules, or list rules that are to be revoked. The advance notice of proposed rule making may be used instead of the regular notice when it is necessary to solicit input before drafting a rule.

After publishing the notice, OSHA must conduct a public hearing if one is requested. Any interested party may ask for a public hearing on a proposed rule or rule change. When this happens, OSHA must schedule the hearing and announce the time and place in the *Federal Register*.

The final step, according to the Department of Labor, is as follows:

After the close of the comment period and public hearing, if one is held, OSHA must publish in the *Federal Register* the full, final text of any standard amended or adopted and the date it becomes effective, along with an explanation of the standard and the reasons for implementing it. OSHA may also publish a determination that no standard or amendment needs to be issued.<sup>5</sup>

### How to Read an OSHA Standard

OSHA standards are typically long and complex and are written in the language of lawyers and bureaucrats, making them difficult to read. However, reading OSHA standards can be simplified somewhat if one understands the system.

OSHA standards are part of the CFR published by the Office of the Federal Register. The regulations of all federal agencies are published in the CFR. Title 29 contains all of the standards assigned to OSHA; it is divided into several parts, each carrying a four-numeral designator (such as Part 1910 or Part 1926). These parts are divided into sections, each carrying a numerical designation. For example, 29 CFR 1926.1 means *Title 29, Part 1926, Section 1, Code of Federal Regulations*.

These sections are divided into four different levels of subsections, each with a particular type of designator as follows:

- First Level: Alphabetical, using lowercase letters: (a) (b) (c) (d)
- Second Level: Numerical, using numerals: (1) (2) (3) (4)
- Third Level: Numerical, using roman numerals: (i) (ii) (iii) (iv)
- Fourth Level: Alphabetical, using uppercase letters: (A) (B) (C) (D)

Occasionally, the standards go beyond the fourth level of subsection. In these cases, the sequence just described is repeated with the designator shown in parentheses underlined. For example: (a), (1), (i), (A).

Understanding the system used for designating sections and subsections of OSHA standards can guide readers more quickly to the specific information needed. This helps to reduce the amount of cumbersome reading needed to determine what is necessary to comply with the standards.

### Temporary Emergency Standards

The procedures described in the previous section apply in all cases. However, OSHA is empowered to pass temporary standards on an emergency basis without undergoing normal adoption procedures. Such standards remain in effect only until permanent standards can be developed.

To justify passing **temporary emergency** standards, OSHA must determine that workers are in imminent danger from exposure to a hazard not covered by existing standards. Once a temporary standard has been developed, it is published in the *Federal Register*. This step serves as the notification step in the permanent adoption process. At this point, the standard is subjected to all of the other adoption steps outlined in the preceding section.

### How to Appeal a Standard

After a standard has been passed, it becomes effective on the date prescribed. This is not necessarily the final step in the appeals process, however. A standard, either permanent or temporary, may be appealed by any person who is opposed to it.

An appeal must be filed with the U.S. Court of Appeals serving the geographic region in which the complainant lives or does business. Appeal paperwork must be initiated within 60 days of a standard's approval. However, the filing of one or more appeals does not delay the enforcement of a standard unless the court of appeals handling the matter mandates a delay. Typically, the new standard is enforced as passed until a ruling on the appeal is handed down.

### Requesting a Variance

Occasionally, an employer may be unable to comply with a new standard by the effective date of enforcement. In such cases, the employer may petition OSHA at the state or federal level for a variance. The following different types of variances can be granted.

**Temporary Variance.** When an employer advises that it is unable to comply with a new standard immediately, but may be able to if given additional time, a **temporary variance** may be requested. OSHA may grant such a variance for up to a maximum of one year. To be granted a temporary variance, employers must demonstrate that they are making a concerted effort to comply and taking the steps necessary to protect employees while working toward compliance.

## SAFETY FACTS & FINES

Companies should understand that poor safety practices will not go unnoticed. Employees who are concerned about the conditions in which they work can give OSHA an anonymous tip. That is what happened in Bellefonte, Pennsylvania. An employee complaint to OSHA resulted in an inspection that, in turn, led to 18 citations for serious violations and a fine of \$154,700. The serious citations included (1) failure to provide adequate communication while crane loads were being attached, (2) failure to implement an emergency evacuation plan, and (3) failure to provide adequate eye and face protection for employees.

Application procedures are very specific. Prominent among the requirements are (1) identification of the parts of the standard with which the employer cannot comply, (2) explanation of the reasons why compliance is not possible, (3) detailed explanations of the steps that have been taken so far to comply with the standard, and (4) explanation of the steps that will be taken to comply fully.

According to the U.S. Department of Labor, employers are required to keep their employees informed; they must “certify that workers have been informed of the variance application, that a copy has been given to the employees’ authorized representative, and that a summary of the application has been posted wherever notices are normally posted. Also, employees must be informed that they have the right to request a hearing on the application.”<sup>6</sup>

Variations are not granted simply because an employer cannot afford to comply. For example, if a new standard requires employers to hire a particular type of specialist, but there is a shortage of people with the requisite qualifications, a temporary variance might be granted. However, if the employer simply cannot afford to hire such a specialist, the variance will probably be denied. Once a temporary variance is granted, it may be renewed twice. The maximum period of each extension is six months.

**Permanent Variance.** Employers who feel that they already provide a workplace that exceeds the requirements of a new standard may request a **permanent variance**. They present their evidence, which is inspected by OSHA. Employees must be informed of the application for a variance and notified of their right to request a hearing. Having reviewed the evidence and heard testimony (if a hearing has been held), OSHA can award or deny the variance. If a permanent variance is awarded, it comes with a detailed explanation of the employer’s ongoing responsibilities regarding the variance. If, at any time, the company does not meet these responsibilities, the variance can be revoked.

**Other Variances.** In addition to temporary and permanent variances, an experimental variance may be awarded to companies that participate in OSHA-sponsored experiments to test the effectiveness of new health and safety procedures. Variances also may be awarded in cases in which the secretary of labor determines that a variance is in the best interest of national defense.

When applying for a variance, employers are required to comply with the standard until a decision has been made. If

this is a problem, the employer may petition OSHA for an interim order. If granted, the employer is released from the obligation to comply until a decision is made. In such cases, employees must be informed of the order.

## RECORD KEEPING AND REPORTING

One of the breakthroughs of the OSH Act was the centralization and systematization of **record keeping** and **reporting**. This has simplified the process of collecting health and safety statistics for the purpose of monitoring problems and taking the appropriate steps to solve them.

Over the years, OSHA has made substantial changes to its record keeping and reporting requirements. Employers had complained for years about the mandated injury and illness record-keeping system. Their complaints can be summarized as follows:

- Original system was cumbersome and complicated.
- OSHA record-keeping rule had not kept up with new and emerging issues.
- There were too many interpretations in many of the record-keeping documents.
- Record-keeping forms were too complex.
- Guidelines for record keeping were too long and difficult to understand.

In response to these complaints, OSHA initiated a dialogue among stakeholders to improve the record-keeping and reporting process. Input was solicited and received from employers, unions, trade associations, record keepers, OSHA staff, state occupational safety and health personnel, and state consultation program personnel. OSHA’s goals for the new record-keeping and reporting system were as follows:

- Simplify all aspects of the process.
- Improve the quality of records.
- Meet the needs of a broad base of stakeholders.
- Improve access for employees.
- Minimize the regulatory burden.
- Reduce vagueness—give clear guidance.
- Promote the use of data from the new system in local safety and health programs.

In recording and reporting occupational illnesses and injuries, it is important to have common definitions. The

Department of Labor uses the following definitions for record-keeping and reporting processes:

An occupational injury is any injury such as a cut, fracture, sprain, or amputation that results from a work-related accident or from exposure involving a single incident in the work environment. An occupational illness is any abnormal condition or disorder other than one resulting from an occupational injury caused by exposure to environmental factors associated with employment. Included are acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion, or direct contact with toxic substances or harmful agents.<sup>7</sup>

## KEEPING EMPLOYEES INFORMED

One of the most important requirements of the OSH Act is *communication*. Employers are required to keep employees informed about safety and health issues that concern them. Most of OSHA's requirements in this area concern the posting of material. Employers are required to post the following material at locations where employee information is normally displayed:

- OSHA Poster 2203, which explains employee rights and responsibilities as prescribed in the OSH Act. The state version of this poster may be used as a substitute.
- Summaries of variance requests of all types.
- Copies of all OSHA citations received for failure to meet standards. Unlike other informational material, citations must be posted near the site of the violation. They must remain until the violation is corrected or for a minimum of three days, whichever period is longer.
- The summary page of OSHA's Summary of Work-Related Injuries and Illnesses Report. Each year, the new summary page must be posted by February 1 and must remain posted until April 30.

In addition to the posting requirements, employers must also provide employees who request them with copies of the OSH Act and any OSHA rules that may concern them. Employees must be given access to records of exposure to hazardous materials and medical surveillance that has been conducted.

## WORKPLACE INSPECTIONS

One of the methods OSHA uses for enforcing its rules is the **workplace inspection**. OSHA personnel may conduct workplace inspections unannounced, and, except under special circumstances, giving an employer prior notice is a crime punishable by fine, imprisonment, or both.

When OSHA compliance officers arrive to conduct an inspection, they are required to present their credentials to the person in charge. Having done so, they are authorized to enter, at reasonable times, any site, location, or facility where work is taking place. They may inspect, at reasonable times, any condition, facility, machine, equipment, materials, and

so on. Finally, they may question, in private, any employee or other person formally associated with the company.

Under special circumstances, employers may be given up to 24 hours' advance notice of an inspection. These circumstances are as follows:

- When imminent danger conditions exist
- When special preparation on the part of the employer is required
- When inspection must take place at times other than during regular business hours
- When it is necessary to ensure that the employer, employee representative, and other pertinent personnel are present
- When the local area director of OSHA advises that advance notice results in a more effective inspection

Employers may require that OSHA have a judicially authorized warrant before conducting an inspection. The U.S. Supreme Court handed down this ruling in 1978 (*Marshall v. Barlow's Inc.*).<sup>8</sup> However, having obtained a legal warrant, OSHA personnel must be allowed to proceed without interference or impediment.

The OSH Act applies to approximately 6 million work sites in the United States. Sheer volume dictates that OSHA establish priorities for conducting inspections. These priorities, from most to least important, are as follows: imminent danger situations, catastrophic fatal accidents, worker complaints, planned high-hazard inspections, and follow-up inspections.

After being scheduled, the inspection proceeds in the following steps:

1. The OSHA compliance officer presents his or her credentials to a company official.
2. The compliance officer conducts an **opening conference** with pertinent company officials and employee representatives. The following information is explained during the conference: why the site was selected for inspection, the purpose of the inspection, its scope, and applicable standards.
3. After choosing the route and duration, the compliance officer makes the **inspection tour**. During the tour, the compliance officer may observe, interview pertinent personnel, examine records, take readings, and make photographs.
4. The compliance officer holds a **closing conference**, which involves open discussion between the officer and company and employee representatives. OSHA personnel advise the company representatives of problems noted, actions planned as a result, and assistance available from OSHA.

## CITATIONS AND PENALTIES

Based on the findings of the compliance officer's workplace inspections, OSHA is empowered to issue citations and assess penalties. A citation informs the employer of OSHA

violations. Penalties are typically fines assessed as the result of citations. The types of citations are as follows:

- *Other-than-serious violation.* A violation that has a direct relationship to job safety and health, but probably would not cause death or serious physical harm. A **proposed penalty** for each violation is discretionary. A penalty for an **other-than-serious violation** may be adjusted downward by as much as 95 percent—depending on the employer's good faith (demonstrated efforts to comply with the act), history of previous violations, and size of business.
- *Willful violation.* A violation that the employer intentionally and knowingly commits. The employer either knows that what he or she is doing constitutes a violation or is aware that a hazardous condition exists and has made no reasonable effort to eliminate it. A proposed penalty for a **willful violation** may be adjusted downward—depending on the size of the business and its history of previous violations. Usually, no credit is given for good faith. If an employer is convicted of a willful violation of a standard that has resulted in the death of an employee, the offense is punishable by a court-imposed fine or by imprisonment of the responsible company representative for up to six months, or both.
- *Repeat violation.* A violation of any standard, regulation, rule, or order for which, upon reinspection, a substantially similar violation is found. To be the basis of a **repeat violation** citation, the original citation must be final; a citation under contest may not serve as the basis for a subsequent repeat citation.
- *Failure to correct previous violation.* Failure to correct a previous violation may bring a civil penalty that increases each day the violation continues beyond the prescribed abatement date.<sup>9</sup>

In addition to the citations and penalties described in the preceding paragraphs, employers may also be penalized by additional fines or prison, if convicted of any of the following offenses: (1) falsifying records or any other information given to OSHA personnel, (2) failing to comply with posting requirements, and (3) interfering in any way with OSHA compliance officers in the performance of their duties.

## THE APPEALS PROCESS

### Employee Appeals

Employees may not contest the fact that citations were or were not awarded or the amounts of the penalties assessed. However, they may initiate the **appeals process** on the basis of the following aspects of OSHA's decisions regarding their workplace: (1) the amount of time (**abatement period**) given to an employer to correct a hazardous condition that has been cited and (2) an employer's request for an extension of an abatement period. Such appeals must be filed within 10 working days of a posting. Although opportunities for formal appeals by employees are unlimited, employees may

request an informal conference with OSHA officials to discuss any issue relating to the findings and results of a workplace inspection.

### Employer Appeals

Employers may appeal a citation, an abatement period, or the amount of a proposed penalty. Before actually filing an appeal, however, an employer may ask for an informal meeting with OSHA's area director. The area director is empowered to revise citations, abatement periods, and penalties to settle disputed claims. If the situation is not resolved through this step, an employer may formalize the appeal. Formal **employer appeals** are of two types: (1) a petition for modification of abatement or (2) a notice of contest. The specifics of both are explained in the following paragraphs.

#### Petition for Modification of Abatement (PMA).

The PMA is available to employers who intend to correct the situation for which a citation was issued, but need more time. As a first step, the employer must make a good-faith effort to correct the problem within the prescribed time frame. Having done so, the employer may file a petition for modification of abatement. The petition must contain the following information:

- Descriptions of steps taken to comply so far
- How much additional time is needed for compliance and why
- Descriptions of the steps being taken to protect employees during the interim
- Verification that the PMA has been posted for employee information and that the employee representative has been given a copy

**Notice of Contest.** An employer who does not wish to comply may contest a citation, an abatement period, or a penalty. The first step is to notify OSHA's area director in writing. This is known as filing a **notice of contest**. It must be done within 15 working days of receipt of a citation or penalty notice. The notice of contest must clearly describe the basis for the employer's challenge and contain all of the information about what is being challenged (e.g., amount of proposed penalty or abatement period).

Once OSHA receives a notice of contest, the area director forwards it and all pertinent materials to the **Occupational Safety and Health Review Commission (OSHRC)**. OSHRC is an independent agency that is not associated with OSHA or the Department of Labor. The Department of Labor describes how OSHRC handles an employer's claim:

The Commission assigns the case to an administrative law judge. The judge may disallow the contest if it is found to be legally invalid, or a hearing may be scheduled for a public place near the employer's workplace. The employer and the employees have the right to participate in the hearing; the OSHRC does not require that they be represented by attorneys. Once the administrative law judge has ruled, any party to the case may

request further review by OSHRC. Any of the three OSHRC commissioners also may, at his or her own motion, bring a case before the Commission for review. Commission rulings may be appealed to the appropriate U.S. Court of Appeals.<sup>10</sup>

## STATE-LEVEL OSHA PROGRAMS

States are allowed to develop their own safety and health programs.<sup>11</sup> In fact, the OSH Act encourages it. As an incentive, OSHA will fund up to 50 percent of the cost of operating a state program for states with approved plans. States may develop comprehensive plans covering public and private employers or limit their plans to coverage of public employers only. In such cases, OSHA covers employers not included in the state plan.

To develop an OSHA-approved safety and health plan, a state must have adequate legislative authority and must demonstrate the ability to develop procedures for (1) setting standards, enforcement, and appeals within three years; (2) public employee protection; (3) a sufficient number of qualified enforcement personnel; and (4) education, training, and technical assistance programs. When a state satisfies all of these requirements and accomplishes all developmental steps,

OSHA then certifies that a state has the legal, administrative, and enforcement means necessary to operate effectively. This action renders no judgment on how well or poorly a state is actually operating its program, but merely attests to the structural completeness of its program. After this certification, there is a period of at least 1 year to determine if a state is effectively providing safety and health protection.<sup>12</sup>

Figure 6-1 lists the telephone numbers for state and federal OSHA offices.

## SERVICES AVAILABLE FROM OSHA

In addition to setting standards and inspecting for compliance, OSHA provides services to help employers meet the latest safety and health standards. The services are typically offered at no cost. Three categories of services are available from OSHA: consultation, voluntary protection programs, and training and education services.

**Consultation services** provided by OSHA include assistance in (1) identifying hazardous conditions, (2) correcting identified hazards, and (3) developing and implementing programs to prevent injuries and illnesses. To arrange consultation services, employers contact the consultation provider in their state (Figure 6-2).

The actual services are provided by professional safety and health consultants, who are not OSHA employees. They typically work for state agencies or universities and provide consultation services on a contract basis; OSHA provides the funding. OSHA Publication 3047, entitled *Consultation Services for the Employer*, may be obtained from the nearest OSHA office.

Regional Offices for States under Federal Jurisdiction			
<b>Region 1</b>	Connecticut Massachusetts Maine New Hampshire Rhode Island		<b>617-565-9860</b>
<b>Region 2</b>	New York New Jersey		<b>212-337-2378</b>
<b>Region 3</b>	District of Columbia Delaware Pennsylvania West Virginia		<b>215-596-1201</b>
<b>Region 4</b>	Alabama Florida Georgia Mississippi		<b>404-562-2300</b>
<b>Region 5</b>	Illinois Ohio Wisconsin		<b>312-353-2220</b>
<b>Region 6</b>	Arkansas Louisiana Oklahoma Texas		<b>214-767-4731</b>
<b>Region 7</b>	Kansas Missouri Nebraska		<b>816-426-5861</b>
<b>Region 8</b>	Colorado Montana North Dakota South Dakota		<b>303-844-1600</b>
<b>Region 9</b>			<b>415-975-4310</b>
<b>Region 10</b>	Idaho		<b>201-533-5930</b>
Offices for State Jurisdictions			
Alaska	907-269-4957	New Mexico	505-827-4230
Arizona	602-542-5795	New York*	518-457-2574
California	415-703-5100	North Carolina	919-807-2875
Connecticut*	860-566-4380	Oregon	503-378-3272
Hawaii	808-586-9100	Puerto Rico	787-754-2171
Indiana	317-232-3325	South Carolina	803-734-9632
Iowa	515-281-3606	Tennessee	615-741-2793
Kentucky	502-564-3070	Utah	801-530-6901
Maryland	410-767-2371	Vermont	802-828-2765
Michigan	517-322-1851	Virginia	804-786-6613
Minnesota	651-296-2116	Virgin Islands	340-772-1315
Nevada	702-687-3250	Washington	360-902-5554
New Jersey*	609-292-2313		

FIGURE 6-1 Telephone numbers for state and federal OSHA offices.

\*Public sector only.

## Voluntary Protection Programs

OSHA's **Voluntary Protection Programs (VPPs)** were created to serve the following basic purposes:

1. To recognize companies that have incorporated safety and health programs into their overall management system

State	Telephone	State	Telephone
Alabama	205-348-3033	Nebraska	401-471-4717
Alaska	907-264-2599	Nevada	701-789-0546
Arizona	602-255-5795	New Hampshire	603-271-3170
Arkansas	501-682-4522	New Jersey	609-984-3517
California	415-557-2870	New Mexico	505-827-2885
Colorado	303-491-6151	New York	518-457-5468
Connecticut	203-566-4550	North Carolina	919-733-3949
Delaware	302-571-3908	North Dakota	701-224-2348
District of Columbia	202-576-6339	Ohio	614-644-2631
Florida	850-488-3044	Oklahoma	405-528-1500
Georgia	404-894-8274	Oregon	503-378-3272
Guam	9-011671-646-9246	Pennsylvania	800-381-1241
Hawaii	808-548-7510		412-357-2561 (toll-free)
Idaho	208-385-3283	Puerto Rico	809-754-2134-2171
Illinois	312-917-2339	Rhode Island	401-277-2438
Indiana	317-232-2688	South Carolina	803-734-9579
Iowa	515-281-5352	South Dakota	605-688-4101
Kansas	913-296-4386	Tennessee	615-741-7036
Kentucky	502-564-6895	Texas	512-458-7254
Louisiana	504-342-9601	Utah	801-530-6868
Maine	207-289-6460	Vermont	801-828-2765
Maryland	310-333-4219	Virginia	804-367-1986
Massachusetts	616-727-3463	Virgin Islands	809-772-1315
Michigan	517-335-8250 (Health)	Washington	206-586-0961
	517-322-1814 (Safety)	West Virginia	304-348-7890
Minnesota	612-297-2393	Wisconsin	608-266-8579 (Health)
Mississippi	601-987-3961		414-512-5063 (Safety)
Missouri	314-751-3403	Wyoming	307-777-7786
Montana	406-444-6401		

FIGURE 6-2 State consultation project directory.

2. To motivate companies to incorporate health and safety programs into their overall management system
3. To promote positive, cooperative relationships among employers, employees, and OSHA

OSHA currently operates three programs under the VPP umbrella. Companies participating in any of the VPPs are exempt from regular programmed OSHA inspections. However, employee complaints, accidents that result in serious injury, or major chemical releases are "handled according to routine enforcement procedures."<sup>13</sup> These programs are discussed in the following paragraphs.

**Star Program.** The **Star Program** recognizes companies that have incorporated safety and health into their regular management system so successfully that their injury rates are below the national average for their industry. This is OSHA's most strenuous program. To be part of the Star Program, a company must demonstrate the following:<sup>14</sup>

- Management commitment
- Employee participation
- An excellent work-site analysis program
- A hazard prevention and control program
- A comprehensive safety and health training program

**Merit Program.** The **Merit Program** is less strenuous than the Star Program. It is seen as a stepping stone to

recognize companies that have made a good start toward Star Program recognition. OSHA works with such companies to help them take the next step and achieve Star Program recognition.

**Demonstration Program.** The Department of Labor describes the **Demonstration Program** as follows: "For companies that provide Star-quality worker protection in industries where certain Star requirements can be changed to include these companies as Star participants."<sup>15</sup>

## Training and Education Services

Training and education services available from OSHA take several forms. OSHA operates a training institute in Des Plaines, Illinois, that offers a wide variety of services. The institute has a full range of facilities, including classrooms and laboratories, in which it offers more than 60 courses.

To promote training and education in locations other than the institute, OSHA awards grants to nonprofit organizations. Colleges, universities, and other nonprofit organizations apply for funding to cover the costs of providing workshops, seminars, or short courses on safety and health topics currently high on OSHA's list of priorities. Grant funds must be used to plan, develop, and present instruction. Grants are awarded annually and require that employers match at least 20 percent of the total grant amount.

## EMPLOYER RIGHTS AND RESPONSIBILITIES

OSHA is very specific in delineating the rights and responsibilities of employers regarding safety and health. These rights and responsibilities, as set forth in OSHA Publication 2056, are summarized in this section.

### Employer Rights

The following list of **employer rights** under the OSH Act is adapted from OSHA 2056. Employers have the right to do the following:

- Seek advice and consultation as needed by contacting or visiting the nearest OSHA office.
- Request proper identification of the OSHA compliance officer before an inspection.
- Be advised by the compliance officer of the reason for the inspection.
- Have an opening and closing conference with the compliance officer in conjunction with an inspection.
- Accompany the compliance office on the inspection.
- File a notice of contest with the OSHA area director within 15 working days of receipt of a notice of citation and proposed penalty.
- Apply for a temporary variance from a standard if unable to comply because the materials, equipment, or personnel needed to make necessary changes within the required time are not available.
- Apply for a permanent variance from a standard if able to furnish proof that the facilities or methods of operation provide employee protection at least as effective as that required by the standard.
- Take an active role in developing safety and health standards through participation in OSHA Standards Advisory Committees, nationally recognized standards-setting organizations, and evidence and views presented in writing or at hearings.
- Be assured of the confidentiality of any trade secrets observed by an OSHA compliance officer during an inspection.
- Ask NIOSH for information concerning whether any substance in the workplace has potentially toxic effects<sup>16</sup>.

### Employer Responsibilities

In addition to the rights set forth in the previous subsection, employers have prescribed responsibilities.<sup>17</sup> The following list of **employer responsibilities** under the OSH Act is adapted from OSHA 2056. Employers must do the following:

- Meet the general duty responsibility to provide a workplace free from hazards that are causing or are likely to cause death or serious physical harm to employees and to comply with standards, rules, and regulations issued under the OSH Act.

- Know mandatory standards and make copies available to employees for review upon request.
- Keep employees informed about OSHA.
- Continually examine workplace conditions to ensure that they conform to standards.
- Minimize or reduce hazards.
- Make sure employees have and use safe tools and equipment (including appropriate personal protective equipment [PPE]) that is properly maintained.
- Use color codes, posters, labels, or signs as appropriate to warn employees of potential hazards.
- Establish or update operating procedures and communicate them so that employees follow safety and health requirements.
- Provide medical examinations when required by OSHA standards.
- Provide the training required by OSHA standards.
- Report any fatal accident or one that results in the hospitalization of five or more employees to the nearest OSHA office within 48 hours.
- Keep OSHA-required records of injuries and illnesses, and post a copy of the totals as required.
- At a prominent location within the workplace, post OSHA Poster 2203, which informs employees of their rights and responsibilities.
- Provide employees, former employees, and their representatives access to the Log and Summary of Work-Related Injuries and Illnesses.
- Give employees access to medical and hazard-exposure records.
- Give the OSHA compliance officer the names of authorized employee representatives who may be asked to accompany the compliance officer during an inspection.
- Not discriminate against employees who properly exercise their rights under the act.
- Post OSHA citations at or near the work site involved. Each citation or copy must remain posted until the violation has been abated or for three working days, whichever is longer.
- Abate cited violations within the prescribed period.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

### Employee Rights

Section 11(c) of the OSH Act delineates **employee rights**. These rights are actually protection against punishment for employees who exercise their right to pursue any of the following courses of action:

- Complaint to an employer, union, OSHA, or any other government agency about job safety and health hazards