

OSHA Overview

I. Occupational Safety & Health Administration (OSHA)

- A. Established as an agency of the U.S. Department of Labor (DOL) in 1971, following passage of the Occupational Safety and Health Act on December 30, 1970 (OSH Act).
- B. OSHA's stated mission is to promote the safety and health of American workers by:
- setting and enforcing standards;
 - providing training, outreach and education;
 - establishing partnerships; and
 - encouraging continual process improvement in workplace safety and health.
- C. Who does OSHA regulate?
- OSHA regulates employers and their employees in the 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, and all other territories under the jurisdiction of the Federal government.
 - Coverage extends to any "person engaged in a business affecting commerce who has employees," with certain exclusions
 - Those not regulated by OSHA include:
 - self-employed persons
 - farms at which only immediate members of the farm employer's family are employed
 - working conditions regulated by other Federal agencies under other Federal statutes
 - any State or political subdivision of a State
- D. Delegation of OSHA program authority to States
- OSHA can delegate authority to States that want to develop and enforce occupational safety and health program at the State level. (OSH Act, Section 18)
 - Interested States must submit a "State Plan" to OSHA for review and approval.
 - State Plan must be at least as effective as comparable Federal standards.
 - State Plan must include comprehensive coverage of public employees of the State and its political subdivisions.
 - Currently 26 States/jurisdictions have approved State Plans
 - 22 have complete approval for both public and private sector employment (AK, AZ, CA, HI, IN, IA, KY, MD, MI, MN, NV, NM, NC, OR, PR, SC, TN, UT, VT, VA, WA, WY)
 - 4 have approval only for public sector employment (CT, NJ, NY, VI)

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II. OSHA Legal Authority

A. Occupational Safety and Health Act of 1970, PL 91-956

- 29 U.S.C. Chapter 12 (Dept. of Labor)
- 29 U.S.C. Chapter 15 (Occupational Safety and Health)

B. OSHA Standards

- Standards require conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.
- Standards are set forth in regulations (C.F.R.) and are generally organized by type of work. For example:
 - General Industry (29 C.F.R. § 1910)
 - Shipyard Employment (29 C.F.R. § 1915)
 - Construction (29 C.F.R. § 1926)
- Employers are required to comply with specific regulatory standards (others too, e.g., building owners under the asbestos standard) and general duty clause.
- Top 10 Most Frequently Cited OSHA Standards in FY2007:
 1. Scaffolding, general requirements, construction
 2. Fall protection, construction
 3. Hazard communication standard, general industry
 4. Control of hazardous energy (lockout/tagout), general industry
 5. Respiratory protection, general industry
 6. Powered industrial trucks, general industry
 7. Electrical, wiring methods, components and equipment, general industry
 8. Ladders, construction
 9. Machines, general requirements, general industry
 10. Electrical systems design, general requirements, general industry
- Standards for which OSHA assessed the highest penalties in FY2007:
 1. Scaffolding, general requirements, construction
 2. Fall protection, construction
 3. Control of hazardous energy (lockout/tagout), general industry
 4. Excavations, requirements for protective systems, construction
 5. Machines, general requirements, general industry
 6. General duty clause
 7. Powered industrial trucks, general industry
 8. Excavations, general requirements, construction
 9. Aerial lifts
 10. Guarding floor and wall openings and holes, general industry

C. General Duty Clause

- Catchall provision
- Section 5(a)(1) of the OSH Act (29 U.S.C. § 654) requires employers to furnish to each of their employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.
- Typically used by OSHA as basis for citation when there is no specific OSHA standard that applies to a particular hazard in the workplace, but where OSHA believes that there is a recognized hazard that the employer should have taken reasonable steps to prevent or abate but did not.
- An employer who is in compliance with an OSHA standard is deemed to be in compliance with the requirement of section 5(a)(1) of the OSH Act, but only to the extent of the condition, practice, means, method, operation, or process covered by the standard. 29 C.F.R. § 1910.5(f).
- Generally, OSHA must establish the following elements in order to prove a violation of the General Duty Clause:
 - the employer failed to keep the workplace free of a hazard to which employees of that employer were exposed;
 - the hazard was recognized;
 - the hazard was causing or was likely to cause death or serious physical harm; and
 - there was a feasible and useful method to correct the hazard.
- See OSHA Field Inspection Reference Manual (CPL 2.103) Section III.C.2.c.

III. OSHA Inspection and Enforcement Programs

A. Inspection Types

- Unprogrammed – These are inspections of worksites performed in response to alleged hazardous working conditions, such as reports of imminent danger, fatalities/catastrophies (FAT/CAT), complaints and referrals. They also include followup and monitoring inspections scheduled by the Area Office.
- Programmed – These are inspections of worksites which have been scheduled based upon objective or neutral selection criteria. They target worksites based on national scheduling plans or special emphasis program.
- In FY2007, OSHA conducted a total of 39,324 inspections.
 - 16,288 - Unprogrammed Inspections
 - 23,035 - Programmed Inspections

B. Inspection Scope

- Comprehensive
- Partial

C. Inspection Programs

- Site Specific Targeting (SST)
- National Emphasis Programs (NEP)
- Local Emphasis Programs (LEP)
- Enhanced Enforcement Program (EEP)
- Focused Inspection Program

D. OSHA Inspection Priorities:

1. Reports of imminent dangers
2. Fatalities or accidents serious enough to send 3 or more employees to the hospital
3. Employee complaints
4. Referrals from other governmental agencies
5. Targeted inspections (*e.g.*, SST and special emphasis programs)

IV. OSHA's Cooperative and Voluntary Compliance Programs

A. Employers who participate in selected voluntary compliance programs may be exempt from programmed inspections and may receive special recognition or other benefits associated with occupational safety and health excellence.

B. OSHA Cooperative and Voluntary Compliance Programs

- Voluntary Protection Program (VPP)
- Safety and Health Achievement Recognition Program (SHARP)
- Alliance Program
- Strategic Partnerships
- On-Site Consultation Service