

All About
OSHA

**Occupational Safety
and Health Administration**

www.osha.gov

OSHA 2056-07R
2003

This booklet provides a general overview of basic topics related to OSHA and how it operates. Information provided does not determine compliance responsibilities under OSHA standards or the *Occupational Safety and Health Act of 1970*. Because interpretations and enforcement policy may change over time, you should consult the agency for the most up-to-date information. Much of it is available at the website: www.osha.gov. The website also includes locations and phone numbers for OSHA offices around the country. If you do not have access to the website, call (800) 321-OSHA (6742). This information is available to sensory impaired individuals upon request. Voice phone: (202) 693-1999; teletypewriter (TTY) number: (877) 889-5627.

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Occupational Safety
and Health Administration
U.S. Department of Labor

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More than three decades ago, the *Occupational Safety and Health Act of 1970* created the Occupational Safety and Health Administration to help employers and employees reduce injuries, illnesses, and deaths on the job in America. Since then, workplace fatalities have been cut by 62 percent and occupational injury and illness rates have declined 40 percent. At the same time, U.S. employment has doubled and now includes nearly 115 million workers at 7 million sites.

OSHA provides national leadership in occupational safety and health. The agency seeks to find and share the most effective ways to get results—to save lives and prevent injuries and illnesses. The message is simple—Safety and health add value: To your business. To your workplace. To your life.

For business, protecting workers' safety and health is the right thing to do. It saves money and adds value to the organization. When workers stay whole and healthy, businesses experience lower workers' compensation insurance costs, reduced medical expenditures, decreased payout for return-to-work programs, fewer faulty products, and lower costs for job accommodations for injured workers. There are also indirect benefits such as increased productivity, lower costs for training replacement workers, and decreased costs for overtime.

Every workplace is a community. Safety and health add value to workplaces by increasing morale, improving productivity, and reducing turnover. The best companies build a reputation that is synonymous not only with an excellent product, but also an outstanding work environment where safety and health is a core value.

Every employee benefits when safety and health is a priority at the workplace. Every worker wants to make a contribution through his or her job, yet the primary purpose of work is to make a living. Safety and health add value to the lives of workers by enabling them to maintain their incomes and provide for their families. Getting hurt or sick is not just physically painful. On-the-job injuries and illnesses can significantly reduce income, increase stress, and hinder a full family life.

Establishing a safe and healthful working environment requires every employer and every worker to make safety and health a top priority. The entire workforce—from the CEO to the most recent hire—must recognize the value of safety and health and acknowledge that this is central to the mission and key to the corporate vision and identity.

OSHA provides leadership and encouragement to employers and workers to help them recognize and realize the value of safety and health on the job. The agency's ultimate goal will always be to reduce injuries, illnesses, and deaths to zero.

Purpose & History

OSHA's establishment

OSHA stands for the Occupational Safety and Health Administration, an agency of the U.S. Department of Labor. The U.S. Congress, led by U.S. Senator Harrison A. Williams Jr. and U.S. Representative William A. Steiger, passed the *Occupational Safety and Health Act of 1970* (the *OSH Act*)¹ “...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.” The legislation, signed into law by President Richard M. Nixon on Dec. 29, 1970, established OSHA and its sole responsibility to provide worker safety and health protection.

Who OSHA affects

Nearly everyone in America works or has someone in the immediate family who does. Whether you are an employer, employee, or have a family member who works, you need to know about OSHA. The more you know about OSHA, the better you can protect yourself, your coworkers, or your employees and contribute to safe and healthful working conditions for all Americans.

Why OSHA is necessary

Until 1970, no uniform or comprehensive provisions existed to protect against workplace safety and health hazards. At that time:

- Job-related accidents accounted for more than 14,000 worker deaths,
- Nearly 2.5 million workers were disabled by workplace accidents and injuries,
- Ten times as many workdays were lost from job-related disabilities as from labor strikes, and
- The estimated new cases of occupational diseases totaled 300,000.

In terms of lost productivity and wages, medical expenses, and disability compensation, the burden on the nation's commerce was staggering. The human cost was beyond calculation.

Today, OSHA helps to safeguard the right to a safe and healthful work environment for nearly 115 million workers—America's most valuable national resource.

OSHA's impact

Since OSHA's creation in 1970, the nation has made substantial progress in occupational safety and health. OSHA and its many partners in the public and private sectors have:

- Cut the work-related fatality rate by 62 percent,
- Reduced overall injury and illness rates by 42 percent,
- Virtually eliminated brown lung disease in the textile industry, and
- Reduced trenching and excavation fatalities by 35 percent.

¹ Public Law 91-596, Dec. 29, 1970; as amended by P.L. 101-552, Nov. 5, 1990; as amended by P.L. 105-198, July 16, 1998; as amended by P.L. 105-241, Sept. 29, 1998.

OSHA's continued role

Despite these important successes, significant hazards and unsafe conditions still exist in U.S. workplaces.

Each year:

- Almost 6,000 Americans die from workplace injuries;
- Perhaps as many as 50,000 workers die from illnesses in which workplace exposures were a contributing factor;
- Nearly 6 million people suffer non-fatal workplace injuries; and
- The cost of occupational injuries and illnesses totals more than \$170 billion.

What OSHA does

OSHA uses three basic strategies, authorized by the *Occupational Safety and Health Act*, to help employers and employees reduce injuries, illnesses, and deaths on the job:

- Strong, fair, and effective enforcement;
- Outreach, education, and compliance assistance; and
- Partnerships and other cooperative programs.

Based on these strategies, OSHA conducts a wide range of programs and activities to promote workplace safety and health. The agency:

- Encourages employers and employees to reduce workplace hazards and to implement new safety and health management systems or improve existing programs;
- Develops mandatory job safety and health standards and enforces them through worksite inspections, employer assistance, and, sometimes, by imposing citations, penalties, or both;

- Promotes safe and healthful work environments through cooperative programs, partnerships, and alliances;
- Establishes responsibilities and rights for employers and employees to achieve better safety and health conditions;
- Supports the development of innovative ways of dealing with workplace hazards;
- Maintains a reporting and record-keeping system to monitor job-related injuries and illnesses;
- Establishes training programs to increase the competence of occupational safety and health personnel;
- Provides technical and compliance assistance and training and education to help employers reduce worker accidents and injuries;
- Works in partnership with states that operate their own occupational safety and health programs; and
- Supports the Consultation Service.

OSH Act

OSHA Coverage

Who the act covers

The *OSH Act* covers all private-sector employers and their employees in the 50 states and all territories and jurisdictions under federal authority. Those jurisdictions include the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Johnston Island, the Canal Zone, and the Outer Continental Shelf Lands as defined in the *Outer Continental Shelf Lands Act*.

OSHA coverage includes:

- Employers and employees in varied fields that include but are not limited to manufacturing, construction, longshoring, shipbuilding, ship breaking, ship repair, agriculture, law, medicine, charity and disaster relief, organized labor, and private education; and
- Religious groups to the extent that they employ workers for secular purposes.

The *OSH Act* covers employers and employees either directly through federal OSHA or through an OSHA-approved state program. (For more information about state programs, see page 11.)

Who is not covered

The *OSH Act* does not cover:

- The self-employed;
- Immediate members of farming families on farms that do not employ outside workers;

- Employees whose working conditions are regulated by other federal agencies under other federal statutes. These include mine workers, certain truckers and transportation workers, and atomic energy workers;
- Public employees in state and local governments; some states have their own occupational safety and health plans that cover these workers.

Responsibilities and Rights Under the *OSH Act*

Employer Responsibilities

If you are an employer, you **must**:

- Meet your general duty responsibility to provide a workplace free from recognized hazards;
- Keep workers informed about OSHA and safety and health matters with which they are involved;
- Comply, in a responsible manner, with standards, rules, and regulations issued under the *OSH Act*;
- Be familiar with mandatory OSHA standards;
- Make copies of standards available to employees for review upon request;
- Evaluate workplace conditions;
- Minimize or eliminate potential hazards;
- Provide employees safe, properly maintained tools and equipment, including appropriate personal protective equipment, and ensure that they use it;

- Warn employees of potential hazards;
- Establish or update operating procedures and communicate them to employees;
- Provide medical examinations when required;
- Provide training required by OSHA standards;
- Report within eight hours any accident that results in a fatality or the hospitalization of three or more employees;
- Keep OSHA-required records of work-related injuries and illnesses;
- Post a copy of OSHA 300A, Summary of Work-Related Injuries and Illnesses, for the previous year from February 1 to April 30;
- Post, at a prominent location within the workplace, the OSHA “It’s The Law” poster (OSHA 3165) informing employees of their rights and responsibilities;
- Provide employees, former employees, and their representatives access to the Log of Work-Related Occupational Injuries and Illnesses (OSHA 300) at a reasonable time and in a reasonable manner;
- Provide access to employee medical records and exposure records to the employee and others as required by law;
- Cooperate with OSHA compliance officers;
- Not discriminate against employees who properly exercise their rights under the *OSH Act*;
- Post OSHA citations and abatement verification notices at or near the worksite involved; and
- Abate cited violations within the prescribed period.

Employer Rights

If you are an employer, you have the right to:

- Seek free advice and on-site consultation;
- Be involved in job safety and health through your industry association;
- Request and receive proper identification of OSHA compliance officers;
- Be advised by the compliance officer of the reason for an inspection;
- Have an opening and closing conference with the compliance officer;
- Accompany the compliance officer on the inspection;
- File a notice of contest to dispute inspection results;
- Request an informal settlement agreement process after an inspection;
- Apply for a variance from a standard’s requirements when technical expertise and materials are unavailable and other means have been provided to protect employees;
- Take an active role in developing safety and health programs;
- Be assured of the confidentiality of any trade secrets;
- Submit a written request to the National Institute for Occupational Safety and Health (NIOSH) for information on whether any substance in your workplace has potentially toxic effects in the concentrations being used; and
- Submit information or comments to OSHA on the issuance, modification, or revocation of OSHA standards and request a public hearing.

In the event of a workplace emergency:

Call (800) 321-OSHA (6742) if there is a life-threatening situation. OSHA will refer callers immediately to the nearest OSHA area or state office if the state is a state-plan state.

For more information on any OSHA program, contact your nearest OSHA area or regional office listed on the website at www.osha.gov or by calling the toll-free number.

Employee Responsibilities

Employees are expected to comply with all applicable standards, rules, regulations, and orders issued under the *OSH Act*.

If you are an employee, you **should**:

- Read the OSHA “It’s The Law” poster (OSHA 3165) at the jobsite;
- Comply with all applicable OSHA standards;
- Follow all employer safety and health rules and regulations, and wear or use prescribed protective equipment while engaged in work;
- Report hazardous conditions to the supervisor;
- Report any job-related injury or illness to the employer, and seek treatment promptly;
- Cooperate with the OSHA compliance officer conducting an inspection; and
- Exercise your rights under the *OSH Act* in a responsible manner.

Employee Rights

If you are an employee, you have the right to:

- Review copies of appropriate OSHA standards, rules, regulations, and requirements that the employer should have available at the workplace;
- Request information from your employer on safety and health hazards, precautions, and emergency procedures;
- Receive adequate training and information;
- Request that OSHA investigate if you believe hazardous conditions or violations of standards exist in your workplace;
- Have your name withheld from your employer if you file a complaint;

- Be advised of OSHA actions regarding your complaint and have an informal review of any decision not to inspect or to issue a citation;
- Have your authorized employee representative accompany the OSHA compliance officer during an inspection;
- Respond to questions from the OSHA compliance officer;
- Observe any monitoring or measuring of hazardous materials and see any related monitoring or medical records;
- Review the Log and Summary of Work-Related Injuries and Illnesses (OSHA 300 and 300A) at a reasonable time and in a reasonable manner;
- Request a closing discussion following an inspection;
- Submit a written request to the National Institute for Occupational Safety and Health for information on whether any substance in your workplace has potentially toxic effects in the concentrations being used and have your name withheld from your employer;
- Object to the abatement period set in a citation issued to your employer;
- Participate in hearings conducted by the Occupational Safety and Health Review Commission;
- Be notified by your employer if he or she applies for a variance, and testify at a variance hearing and appeal the final decision; and
- Submit information or comments to OSHA on the issuance, modification, or revocation of OSHA standards and request a public hearing.

If your workplace is unsafe or unhealthful...

to file a complaint...

If your workplace has unsafe or unhealthful working conditions, often the best and fastest way to get it corrected is to notify your supervisor or employer. Employees also may file a complaint by phone, mail, email, or fax with the nearest OSHA office and request an inspection. You may request that OSHA not reveal your name. To file a complaint, call (800) 321-OSHA (6742) or contact the nearest OSHA regional, area, state plan, or consultation office listed at www.osha.gov.

The teletypewriter (TTY) number is (877) 889-5627.

You can also file a complaint online. Most online complaints are addressed by OSHA's phone/fax system. That means they may be resolved informally over the phone with your employer. Written, signed complaints submitted to OSHA area or state-plan offices are more likely to result in on-site OSHA inspections. Complaints from workers in OSHA-approved state-plan states will be forwarded to the appropriate state plan for response. If you are

concerned about confidentiality, you may prefer to file your complaint from your home computer or a computer in your local library.

Download the OSHA complaint form, complete it and then fax or mail it to your local OSHA office or you may simply contact your local OSHA office to receive a copy of the complaint form. Be sure to include your name, address, and telephone number so we can contact you. NOTE: To view and print the complaint form, you must have the Adobe Acrobat Reader on your computer.

to refuse unsafe work...

Refusing to do a job because of potentially unsafe workplace conditions is not ordinarily an employee right under the law and may result in disciplinary action by your employer. However, if you have reasonable grounds to believe that you are exposed to an imminent danger on the job, you do have the right to refuse to do a job. Remain at the job-site until the problem can be resolved because OSHA may not be able to protect you if you walk off the job.

For more information, visit the

Legal Protections

Additional employee protections

A number of different laws provide employees legal protections for getting involved in safety and health matters. The *OSH Act*, for example, provides employees the right to seek safe and healthful conditions on the job without fear of punishment. Under Section 11(c) of the act, employees may exercise such rights as:

- Voicing concerns to an employer, union, OSHA, any other government agency, or others about job safety or health hazards;
- Filing safety or health grievances;
- Participating in a workplace safety and health committee or in union activities concerning job safety and health;
- Participating in OSHA inspections, conferences, hearings, or other OSHA-related activities; and

- Refusing to work when a dangerous situation threatens death or serious injury where there is insufficient time to contact OSHA and where the employee has sought from his or her employer and been unable to obtain a correction of the dangerous conditions.

Protections against employer retaliation

An employer may not retaliate if an employee exercises these or any other rights under the *OSH Act*. This means that an employer may not take these actions against any worker who expresses concern or files a complaint about safety and health conditions or participates in job safety-related activities:

- Fire,
- Demote,
- Take away seniority or other earned benefits,
- Transfer to an undesirable job or shift, or
- Threaten or harass the worker.

Whistleblower protections

Since passage of the *OSH Act* in 1970, Congress has expanded OSHA's whistleblower protection authority to protect workers from discrimination under 14 federal statutes.

These statutes, and the number of days employees have to file a complaint, are:

- ***Occupational Safety and Health Act of 1970 (30 days)***

Provides discrimination protection for employees who exercise rights guaranteed under the act, such as filing a safety and health complaint with OSHA and participating in an inspection.

- ***Surface Transportation Assistance Act (180 days)***

Provides discrimination protections for truck drivers and other employees relating to the safety of commercial motor vehicles. Coverage includes all buses for hire and freight trucks with a gross vehicle weight greater than 10,001 pounds.

- ***Asbestos Hazard Emergency Response Act (90 days)***

Provides discrimination protection for individuals who report violations of environmental laws relating to asbestos in elementary and secondary school systems.

- ***International Safety Container Act (60 days)***

Provides discrimination protection for employees who report violations of the act, which regulates shipping containers.

- ***Energy Reorganization Act (180 days)***

Provides discrimination protection for employees of operators and subcontractors of nuclear power plants licensed by the Nuclear Regulatory Commission and for employees of contractors working under contract with the Department of Energy.

- ***Clean Air Act (30 days)***

Provides discrimination protection for employees who report violations of the act, which provides for the development and enforcement of standards regarding air quality and air pollution.

- ***Safe Drinking Water Act (30 days)***

Provides discrimination protection for employees who report violations of the act, which requires that all drinking water systems in public buildings and in new construction be lead free.

• **Federal Water Pollution Control Act (30 days)**

Provides discrimination protection for employees who report hazardous pollution of waters that provide a natural habitat for living things. Also called the Clean Water Act.

• **Toxic Substances Control Act (30 days)**

Provides discrimination protection for employees who report violations of regulations involving the manufacture, distribution, and use of certain toxic substances.

• **Solid Waste Disposal Act (30 days)**

Provides discrimination protection for employees who exercise certain rights under the act, which provides assistance for the development of facilities for the recovery of energy and other resources from discarded materials and regulates hazardous waste management. Also called the Resource Conservation and Recovery Act.

• **Comprehensive Environmental Response, Compensation, and Liability Act (30 days)**

Provides discrimination protection for employees who exercise rights under the act, which provides liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and for the cleanup of inactive hazardous waste disposal sites.

• **Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (90 days)**

Provides discrimination protection for employees of air carriers, contractors, or subcontractors of air carriers who raise safety concerns.

• **Corporate and Criminal Fraud Accountability Act of 2002 (90 days)**

Provides discrimination protection for employees or contractors of publicly traded companies or brokerage firms who report mail, wire, bank, or securities fraud or violations of laws related to stockholder fraud. Also called the Sarbanes-Oxley Act.

• **Pipeline Safety Improvement Act of 2002 (180 days)**

Provides discrimination protection for employees who report violations of the federal law regarding pipeline safety and security or who refuse to violate such provisions.

Public-Sector Employees

Federal worker coverage

Section 19 of the *OSH Act* makes federal agency heads responsible for providing safe and healthful working conditions for their employees. OSHA conducts federal workplace inspections in response to employee reports of hazards.

The *OSH Act* also requires agencies to comply with standards consistent with those for private-sector employers. Under a 1998 amendment to the act, it covers the U.S. Postal Service the same as any private-sector employer.

OSHA's federal sector authority

In its federal sector authority, OSHA:

- Cannot propose monetary penalties against another federal agency for failure to comply with OSHA standards; and
- Does not have authority to protect federal employee "whistleblowers." The *Whistleblower Protection Act of 1989* allows present and former

To comply with the *OSH Act*, federal agencies must:

- Operate comprehensive safety and health programs,
- Record and analyze injury and illness data,
- Provide appropriate safety and health training to all employees, and
- Conduct inspections to ensure compliance with OSHA standards.

federal employees (except for corporations and certain intelligence agencies) to file their reports of reprisal with the Office of Special Counsel at the U.S. Merit Systems Protection Board. (For more information about whistleblower protections, see page 8.)

State and local government worker coverage

OSHA provisions cover the private sector only. However, some states have their own OSHA-approved occupational safety and health programs. These state programs must cover state and local workers and must be at least as effective as federal OSHA requirements. (For more information about state programs, see page 11.)

Advisory Groups

OSHA has several standing or ad hoc advisory committees that advise the agency on safety and health issues. These committees include representatives of management, labor, and state agencies as well as one or more designees of the Secretary of Health and Human Services (HHS). Members also may include representatives of occupational safety and health professions and the general public.

The two standing, or statutory, advisory committees are:

- The National Advisory Committee on Occupational Safety and Health (NACOSH), which

advises, consults with, and makes recommendations to the Secretaries of Labor and HHS on matters regarding administration of the *OSH Act*; and

- The Advisory Committee on Construction Safety and Health (ACCSH), which advises the Secretary of Labor on construction safety and health standards and other regulations.

Other continuing advisory committees include:

- The Federal Safety and Health Advisory Committee (FACOSH), which advises the Secretary of Labor on all aspects of federal agency safety and health;
- The Maritime Advisory Committee for Occupational Safety and Health (MACOSH), which advises the Secretary of Labor on workplace safety and health programs, policies, and standards in the maritime industry; and
- The National Advisory Committee on Ergonomics, which advises OSHA on initiatives to reduce ergonomic-related injuries and illnesses in the workplace.

OSHA may occasionally form short-term advisory committees to advise the agency on specific issues.

State Programs

State safety and health programs

State plans are OSHA-approved job safety and health programs operated by individual states instead of federal OSHA. The *OSH Act* encourages states to develop and operate their own job safety and health plans and precludes state enforcement of OSHA standards unless the state has an approved plan. OSHA approves and monitors all state plans.

Once a state plan is approved under Section 18(b) of the *OSH Act*, OSHA funds up to 50 percent of the program's operating costs. State plans must provide standards and enforcement programs as well as voluntary compliance activities that are at least as effective as the federal program.

State plans covering the private sector also must cover state and local government employees. OSHA rules also permit states to develop plans that cover only public sector (state and local government) employees. In these cases, private sector employment remains under federal OSHA jurisdiction. Twenty-three states operate complete plans and three cover only the public sector. These states are listed on the OSHA website at www.osha.gov.

OSHA approval for state plans

To gain OSHA approval as a “developmental plan,” the first step in the state plan approval process, a state must have adequate legislative authority and

must demonstrate that within three years it will provide standards-setting, enforcement, and appeals procedures; public employee protection; a sufficient number of competent enforcement personnel; and training, education, and technical assistance programs.

In states with approved plans, OSHA generally limits its enforcement activity to areas not covered by the state and suspends all concurrent federal enforcement.

Once the state is operating at least as effectively as federal OSHA and meets other requirements, OSHA grants final approval of the plan and ceases federal authority in those areas over which the state has jurisdiction.

State program coverage

States with approved plans cover most private sector employees as well as state and local government workers in the state. Federal OSHA continues to cover federal employees and certain other employees specifically excluded by a state plan—for example, those who work in maritime industries and on military bases.

State workplace inspections

States with approved state plans respond to accidents and workplace complaints and conduct random unannounced inspections, just like federal OSHA. The states issue citations and proposed penalties under state law and adjudicate disputes through a state review board or other procedure.

State Programs



Federal monitoring of state plans

Federal OSHA closely monitors state programs. Anyone finding inadequacies or other problems in the administration of a state program may file a Complaint About State Program Administration (CASPA) with the appropriate OSHA regional administrator. OSHA investigates all these complaints and, where they are found to be valid, requires appropriate corrective action.

Employer rights and responsibilities

State plans must guarantee the same employer and employee rights as OSHA. Employer and employee responsibilities in states with their own occupational safety and health programs are generally the same as in states under federal OSHA.

State safety and health standards

State safety and health standards under approved plans must be identical to or at least as effective as federal OSHA standards and must keep pace with federal standards. State plans must adopt standards comparable to federal standards within six months after a federal standard takes effect. Most state plan standards are very similar to federal standards, but states with approved plans may have different and independent standards.

To find out if your state operates an OSHA-approved state program, visit www.osha.gov.

Standards & Guidance

Requirements

In general, standards require that employers:

- Maintain conditions or adopt practices reasonably necessary and appropriate to protect workers on the job;
- Be familiar with and comply with standards applicable to their establishments; and
- Ensure that employees have and use personal protective equipment when required for safety and health.

Hazards addressed

OSHA issues standards for a wide variety of workplace hazards, including:

- Toxic substances,
- Harmful physical agents,
- Electrical hazards,
- Fall hazards,
- Trenching hazards,
- Hazardous waste,
- Infectious diseases,
- Fire and explosion hazards,
- Dangerous atmospheres, and
- Machine hazards.

In addition, where there are no specific OSHA standards, employers must comply with the *OSH Act's* “general duty clause.” The general duty clause, Section 5(a)(1) requires that each employer “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 employees.”

The Standards-Setting Process

Deciding to develop a standard

OSHA can begin standards-setting procedures on its own initiative or in response to petitions from other parties, including:

- The Secretary of Health and Human Services (HHS);
- The National Institute for Occupational Safety and Health (NIOSH);
- State and local governments;
- Nationally recognized standards-producing organizations and employer or labor representatives; and
- Any other interested parties.

Each spring and fall, the Department of Labor publishes in the *Federal Register* a list of all regulations that have work under way. The *Regulatory Agenda* provides a schedule for the development of standards and regulations so employers, employees, and other interested parties know when they can be expected.

How OSHA develops standards

OSHA publishes its intention to propose, amend, or revoke a standard in the *Federal Register*, either as:

- A Request for Information or an Advance Notice of Proposed Rulemaking or announcement of a meeting to solicit information to be used in drafting a proposal; or
- A Notice of Proposed Rulemaking, which sets out the proposed new rule's requirements and provides a specific time for the public to respond.

Interested parties may submit written information and evidence. OSHA also may schedule a public hearing to consider various points of view.

After reviewing public comments, evidence, and testimony, OSHA publishes:

- The full 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; or
- A determination that no standard or amendment is necessary.

Input from other government agencies

Other government agencies, such as NIOSH, can recommend standards to OSHA. The *OSH Act* established the National Institute for Occupational Safety and Health under the Department of HHS as the research agency for occupational safety and health. NIOSH conducts research on various safety and health problems, provides technical assistance to OSHA, and recommends standards for OSHA's adoption. (For more information, call (800) 35-NIOSH or visit the agency's website at www.cdc.gov/niosh.)

Emergency temporary standards

Under certain limited conditions, OSHA can set emergency temporary standards that take effect immediately and remain in effect until superseded by a permanent standard. To take such an action, OSHA must determine that:

- Workers are in grave danger due to exposure to substances or agents determined to be toxic or physically harmful or to new hazards; and
- An emergency standard is necessary to protect them.

OSHA then publishes the emergency temporary standard in the *Federal Register*, where it also serves as a proposed permanent standard. The usual procedures for adopting a permanent standard apply, except that a final ruling should be made within six months.

Congressional jurisdiction over OSHA standards

OSHA submits all final rules to Congress and the General Accounting Office for review. Congress has the authority to repeal a standard by passing a joint resolution under an expedited procedure established by the *Small Business Regulatory Enforcement and Fairness Act*, or *SBREFA*, but has done so only once. For the repeal to take effect, the joint resolution must be signed by the President.

Employer recourse

An employer who is unable to comply with new requirements or anyone who disagrees with a new standard can:

- Petition a court for judicial review;
- Request a permanent, temporary, or experimental variance from a standard or regulation; or
- Apply for an interim order to continue working under existing conditions while OSHA considers a variance request.

Petitions to modify or withdraw standards or requirements

Employers or employees may petition OSHA to modify or revoke standards just as they may petition the agency to develop standards. OSHA continually

reviews its standards to keep pace with developing and changing industrial technology.

Filing a petition for judicial review

Anyone who may be adversely affected by a final or emergency standard may file a petition for judicial review. The objecting party must file the petition within 60 days of the rule's publication with the U.S. Court of Appeals for the circuit in which the petitioner lives or has his or her primary place of business.

Filing an appeals petition will not delay enforcement of a standard, unless the Court of Appeals specifically orders it. OSHA issues permanent standards only after careful consideration of the arguments and data received from the public in written submissions and at hearings.

Guidelines versus standards

A guideline is a tool to assist employers in recognizing and controlling hazards. It is voluntary and not enforceable under the *OSH Act*. Failure to implement a guideline is not itself a violation of the *OSH Act's* general duty clause.

Guidelines are more flexible than standards. They can be developed quickly and can be changed easily as new information becomes available with scientific advances. Guidelines make it easier for employers to adopt innovative programs to suit their workplaces, rather than inflexible, one-size-fits-all solutions to issues that may be unique to an industry or facility.

Variances

A variance grants an employer formal permission to deviate from a standard's requirements or time frame.

Employer requests for variances

Employers may ask OSHA for a variance from:

- A newly promulgated standard or regulation if they cannot fully comply by the effective date due to shortage of materials, equipment, or professional or technical personnel; or
- Requirements of a standard or regulation if they can demonstrate that their alternative or alternatives provide employees with protection as effective as that provided by the standard or regulation.

Types of variances

An employer applies for a **temporary variance** if he or she cannot comply with a standard or regulation by its effective date because professional or technical personnel, material, or equipment are not available, or because the necessary construction or alteration of facilities cannot be completed in time. While operating under a temporary variance, an employer generally must meet specific conditions specified by OSHA.

An employer who can prove that working conditions, practices, means, methods, operations, or processes at his or her worksite are as safe and healthful as they would be if the employer complied with the standard may apply for a **permanent variance**. Pending OSHA approval to grant a permanent variance, an employer must comply with the OSHA standard.

An employer may apply for an **experimental variance** if he or she is participating in an effort to demonstrate or validate new job safety and health techniques, and either the Secretary of Labor or the Secretary of HHS has approved that experiment.

Impact of variance applications on citations

Variances are not retroactive. An employer who has been cited for violating a standard may not seek relief from that citation by applying for a variance.

The fact that a citation is outstanding does not prevent an employer from filing a variance application. However, if the citation is being contested by the employer, the OSHA Administrator has the option to decline to accept the variance application for the provision(s) under contest.

For more information about variances

For further information and help in applying for a variance, contact the nearest OSHA office listed on the agency website at www.osha.gov or by calling (800) 321-OSHA (6742).

Reporting

OSHA's reporting requirements

All employers must report to OSHA within eight hours of learning about:

- The death of any employee from a work-related incident, and
- The in-patient hospitalization of three or more employees as a result of a work-related incident.

In addition, employers must report all fatal heart attacks. Deaths from motor vehicle accidents on public streets (except those in a construction work zone) and in accidents on commercial airplanes, trains, subways or buses do not need to be reported.

These reports may be made by telephone or in person to the nearest OSHA area office listed at www.osha.gov or by calling OSHA's toll-free number, (800) 321-OSHA (6742).

Employers may be subject to other requirements in other OSHA standards as well.

Recordkeeping

Benefits

OSHA's recordkeeping requirements, as set out in the *OSH Act*, established an effective, centralized, nationwide system for monitoring occupational safety and health problems—a vital requirement for gauging problems and solving them. Keeping records allows OSHA to compile survey material, helps identify high-hazard industries, and informs employees about their employers' workplace safety record. These records also help employers identify potential sources of injuries and illnesses at their worksites.

Employer requirements

OSHA's reporting and recordkeeping regulations require employers to:

- Maintain records in each establishment of occupational injuries and illnesses as they occur and make those records accessible to employees;

- Keep injury and illness records and post from February 1 through April 30 an annual summary of occupational injuries and illnesses for each establishment. A company executive must certify the accuracy of the summary;
- Record any fatality regardless of the length of time between the injury and death;
- Provide, upon request, pertinent injury and illness records for inspection and copying by any representative of the Secretaries of Labor or HHS, or the state during any investigation, research, or statistical compilation;
- Comply with any additional recordkeeping and reporting requirements in specific OSHA standards.

Exempt employers

Employers with 10 or fewer employees are exempt from maintaining the OSHA log of injuries and illnesses unless the Bureau of Labor Statistics (BLS) or OSHA notifies them that they have been selected to participate in a mandatory data collection.

OSHA also exempts employers in certain low-hazard industries such as real estate agencies and clothing stores, as defined in the recordkeeping standard. Exempt employers must still comply with requirements to display an OSHA “It’s The Law” poster (OSHA 3165) and report to OSHA within eight hours any accident that results in one or more fatalities or the hospitalization of three or more employees.

A few exempt employers will have to maintain records if OSHA or BLS selects them to participate in a

mandatory data collection. The agency will notify those employers in advance and supply them the necessary forms and instructions.

What cases to record

To determine which work-related injuries and illnesses must be recorded, consult the decision tree on page 18.

Exceptions to the recording requirements

To be considered work-related, there must be a significant degree of aggravation to a preexisting injury or illness. In addition, cases arising from eating food and drinking beverages, blood donations, and exercise programs do not need to be recorded. Common cold and flu cases also do not need to be recorded. There are specific criteria for determining when mental illnesses are considered work-related and when cases should be recorded if employees are traveling or working at home. For more information, visit www.osha.gov.

Maintaining recordkeeping forms

Employers must log injuries and illnesses on recordkeeping forms, keep the logs current and retain them for five years at each establishment. Logs must be available for inspection by representatives of OSHA, HHS, BLS, or the designated state agency within four hours of the request. Employers are required to update logs to reflect any changes that occur.

Do not send any recordkeeping forms to OSHA or any other agency. The employer maintains forms and posts the annual summary in the workplace. If OSHA inspects the workplace, the employer will be required to produce the forms.

Reporting and Recordkeeping Requirements

OSHA recordkeeping regulations require many employers to maintain records of workplace injuries, illness, and deaths. Employers must:

- Maintain injury and illness records,
- Report all fatalities,
- Report each accident that hospitalizes three or more employees,
- Make records accessible to employees,
- Allow OSHA access to records, and
- Post an annual summary of injuries and illnesses.

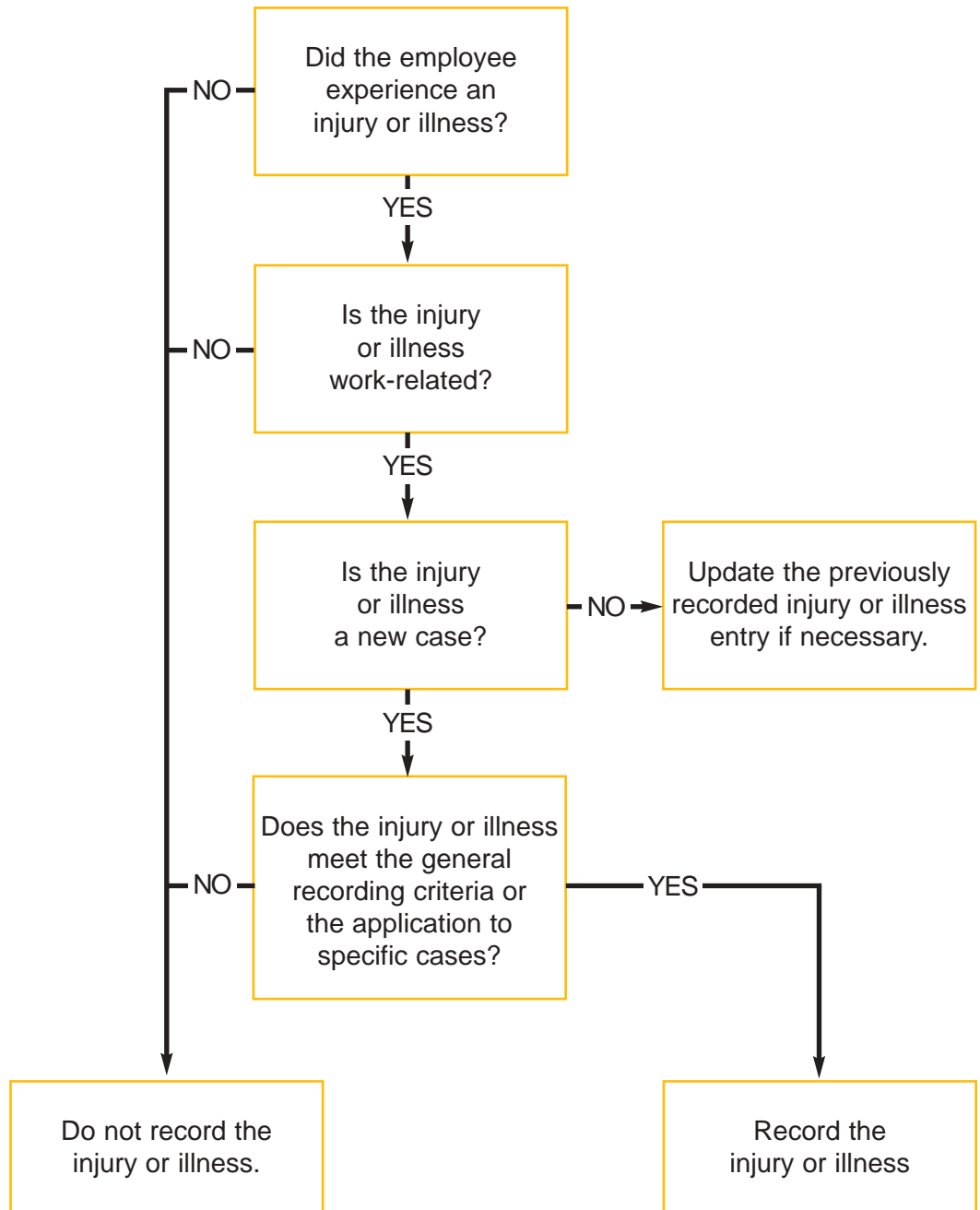
Determining if an injury or illness is work-related

An employer must consider an injury or illness to be work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a preexisting injury or illness. Most injuries and illnesses

resulting from events or exposures in the work environment are presumed to be work-related.

Employers with multiple worksites

Employers must keep injury and illness records for each establishment. OSHA defines an establishment as a “single



physical location where business is conducted or where services are performed.”

An employer whose employees work in dispersed locations must keep records at the place where the employees report for

work. In some situations, employees do not report to work at the same place each day. In that case, records must be kept at the place from which they are paid or at the base from which they operate.

Industries Partially Exempt from OSHA Recordkeeping Requirements*

SIC Code	Industry Description	SIC Code	Industry Description
525	Hardware Stores	725	Shoe Repair and Shoeshine Parlors
542	Meat and Fish Markets	726	Funeral Service and Crematories
544	Candy, Nut, and Confectionery Stores	729	Miscellaneous Personal Services
545	Dairy Products Stores	731	Advertising Services
546	Retail Bakeries	732	Credit Reporting and Collection Services
549	Miscellaneous Food Stores	733	Mailing, Reproduction, and Stenographic Services
551	New and Used Car Dealers	737	Computer and Data Processing Services
552	Used Car Dealers	738	Miscellaneous Business Services
554	Gasoline Service Stations	764	Reupholstery and Furniture Repair
557	Motorcycle Dealers	78	Motion Picture
56	Apparel and Accessory Stores	791	Dance Studios, Schools, and Halls
573	Radio, Television, & Computer Stores	792	Producers, Orchestras, Entertainers
58	Eating and Drinking Places	793	Bowling Centers
591	Drug Stores and Proprietary Stores	801	Offices and Clinics Of Medical Doctors
592	Liquor Stores	802	Offices and Clinics Of Dentists
594	Miscellaneous Shopping Goods Stores	803	Offices Of Osteopathic Physicians
599	Retail Stores, Not Elsewhere Classified	804	Offices Of Other Health Practitioners
60	Depository Institutions (banks and savings institutions)	807	Medical and Dental Laboratories
61	Nondepository Institutions (credit institutions)	809	Health and Allied Services, Not Elsewhere Classified
62	Security and Commodity Brokers	81	Legal Services
63	Insurance Carriers	82	Educational Services (schools, colleges, universities and libraries)
64	Insurance Agents, Brokers, and Services	832	Individual and Family Services
653	Real Estate Agents and Managers	835	Child Day Care Services
654	Title Abstract Offices	839	Social Services, Not Elsewhere Classified
67	Holding and Other Investment Offices	841	Museums and Art Galleries
722	Photographic Studios, Portrait	86	Membership Organizations
723	Beauty Shops	87	Engineering, Accounting, Research, Management, and Related Service
724	Barber Shops	899	Services, Not Elsewhere Classified

*The Bureau of Labor Statistics is in the process of converting its industry-specific data from Standard Industrial Classification (SIC) codes to the North American Industry Classification System (NAICS). In the future, OSHA will change its classifications from SIC to NAICS codes.

Information
Employers
Must Post

Employers must display at each establishment, wherever they normally post notices to employees, the following:

- A copy of the totals from the previous year's summary of occupational injuries and illnesses, OSHA 300A (February through April);
- OSHA "It's The Law" poster (OSHA 3156), or the state equivalent, informing employees of their rights and responsibilities under the *OSH Act*;
- Summaries of petitions for variances from standards of recordkeeping procedures; and
- Copies of all OSHA citations for violations of standards. These must remain posted at or near the location of alleged violations for three days, or until the violations are corrected, whichever is longer.

www.osha.gov

Recordkeeping forms

Three forms are needed for recordkeeping:

- **OSHA 300, Log of Work-Related Injuries and Illnesses**

Employers must log each recordable occupational injury and illness on this form within six working days from the time the employer learns of it. A complete copy current to within 45 calendar days must be present at all times in the establishment if the employer prepares the log at a central location using automatic data processing equipment. A substitute for the OSHA 300 is acceptable if it is as detailed, readable, and understandable as the OSHA 300.

- **OSHA 301, Injury and Illness Incident Report.**

Each employer must complete the OSHA 301 form within seven calendar days from the time the employer learns of the work-related injury or illness. This form includes more data about how the injury or illness occurred.

Employees and former employees are guaranteed access to their individual OSHA 301 forms. Employee representatives will be provided access to the "information about the case" section of the OSHA 301 form in establishments where they represent employees.

- **OSHA Form 300A, Summary of Work-Related Injuries and Illnesses.**

This form was created to make it easier to post and calculate incident rates. Employers must post copies of the previous year's records no later than February 1 and keep them in place through April 30.

Recording zero injuries or illnesses

If there were no injuries or illnesses during the year, employers must enter "zero" on the totals line of the form and post it. The form must be signed and certified by a company executive.

Employee privacy

Employers must withhold the names of individuals with sensitive injuries such as sexual assaults, HIV infections, and mental illness.

OSHA's annual survey

Each year, OSHA collects injury and illness information from employers through the OSHA Data Initiative to better direct agency resources and improve worker protections. All employers in construction and manufacturing with 40 or more employees are eligible to be included in the initiative. In addition, employers from 67 other industries in other industrial sectors are selected, generally if they are in industries rated as "high hazard" or with high injury and illness rates. Establishments are selected for inclusion in the annual survey based on previous reported injury and illness rates, an OSHA intervention, or the periodic revisiting of former participants in the annual survey.

OSHA asks employers selected for participation to send information already collected on the 300A summary form, required by the OSHA occupational injury and illness recordkeeping regulation.

Programs & Services

How OSHA carries out its mission

OSHA conducts a broad range of programs and activities to promote workplace safety and health and protect the nation's workers. These programs and activities are based on three strategies:

- Strong, fair, and effective enforcement;
- Outreach, education, and compliance assistance; and
- Partnerships and other cooperative programs.

Strong, Fair, and Effective Enforcement

Compliance officer authority

The *OSH Act* authorizes OSHA compliance officers—at reasonable times, in a reasonable manner, and within reasonable time limits—to:

- Enter any factory, plant, establishment, construction site, or other areas of the workplace or environment where work is being performed;
- Inspect and investigate during regular working hours any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials;
- Inspect and investigate at other times any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials; and
- Question privately any employer, owner, operator, agent or employee during an inspection or investigation.

Compliance officer qualifications

OSHA compliance officers have specialized knowledge and experience in the occupational safety and health field, including industrial hygiene, safety engineering, toxicology, and occupational medicine. They receive vigorous training on OSHA standards and how to recognize safety and health hazards. Many staff members have specialized credentials such as certified industrial hygienist (CIH) or certified safety professional (CSP) certifications.

Advance notice of inspections

OSHA generally conducts inspections without advance notice. In fact, anyone who alerts an employer in advance of an OSHA inspection can receive a criminal fine of up to \$1,000 or a six-month jail term or both.

However, under special circumstances, OSHA may give the employer advance notice of an inspection—but no more than 24 hours. These special circumstances include:

- Imminent danger situations, which require correction immediately;
- Inspections that must take place after regular business hours or require special preparation;
- Cases where OSHA must provide advance notice to assure that the employer and employee representative or other personnel will be present; and
- Situations in which OSHA determines that advance notice would produce a more thorough or effective inspection.

Programs & Services



The *OSH Act* authorizes OSHA to conduct workplace inspections to enforce its standards. Every establishment covered by the *OSH Act* is subject to inspection by OSHA compliance safety and health officers.

Employers receiving advance notice of an inspection must inform their employees' representative or arrange for OSHA to do so.

Search warrants

An employer has the right to require the compliance officer to obtain an inspection warrant before entering the worksite. OSHA may inspect after acquiring a judicially authorized search warrant based on administrative probable cause or evidence of a violation.

OSHA may take appropriate steps, including legal action, if an employer still refuses to admit a compliance officer, or if an employer attempts to interfere with an inspection.

Inspection priorities

OSHA cannot inspect all 7 million workplaces covered by the *OSH Act* each year. The most hazardous workplaces need primary attention. OSHA, therefore, has established a system of inspection priorities in order to make the most positive impact on occupational safety and health. The agency inspects under the following conditions:

Imminent danger, or 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. OSHA gives top priority to imminent danger situations.

Catastrophes and fatal accidents resulting in the death of any employee or the hospitalization of three or more employees.

Employee complaints involving imminent danger or an employer violation that threatens death or serious physical harm. (For more information about complaint procedures and employee rights, see pages 6 and 7.)

Referrals from other individuals, agencies, organizations, or the media.

Planned, or programmed, inspections in industries with a high number of hazards and associated injuries.

Follow-ups to previous inspections.

The Inspection Process – Off-site Investigations

“Phone/fax” investigations

There are two ways that OSHA can respond to a complaint. OSHA can either perform an on-site inspection or an off-site investigation, also known as a “phone/fax investigation.”

Although every worker has a right to receive an on-site inspection if certain conditions are met, there are times when a phone/fax (or letter) investigation may be a better alternative. OSHA responds more quickly to lower-priority hazards using a phone/fax approach. This enables the agency to concentrate resources on the most serious workplace hazards. Employees who request a phone/fax investigation do not give up the right to request an on-site inspection of potential violations and hazards if they are not satisfied with the investigation. Workers should call their nearest OSHA area office to discuss their options.

If an off-site investigation is appropriate, the agency telephones the employer,

describes the alleged hazards, and then follows up with a fax or letter. The employer must respond in writing within five days, identifying any problems found and noting corrective actions taken or planned. If the response is adequate, OSHA generally will not conduct an inspection. The employee or employee representative who filed the original complaint will receive a copy of the employer's response and, if still not satisfied, may then request an on-site inspection.

If the employee or employee representative files a written complaint that meets certain conditions, then OSHA may conduct an on-site inspection. Those conditions include claims of serious physical harm that have already resulted in disabling injuries or illnesses or claims of imminent danger situations; written, signed complaints requesting inspections; and situations where the employer provided an inadequate response to a phone/fax investigation.

The Inspection Process – On-site Inspections

What to expect

A typical OSHA inspection includes four stages:

- Presentation of inspector credentials;
- Opening conference;
- Inspection walkaround; and
- Closing conference.

How an inspection begins

When arriving at a worksite, the OSHA compliance officer displays official credentials and asks to meet an appropriate employer representative. Employers should always insist on

seeing the compliance officer's credentials.

An OSHA compliance officer carries U.S. Department of Labor credentials bearing his or her photograph and a serial number that an employer can verify by phoning the nearest OSHA office. Posing as a compliance officer is a violation of law; suspected imposters should be promptly reported to local law enforcement agencies.

Opening conference

In the opening conference, the compliance officer:

- Explains why OSHA selected the establishment for inspection;
- Obtains information about the establishment;
- Explains the purpose of the visit, the scope of the inspection, walkaround procedures, employee representation, employee interviews, and the closing conference; and
- Determines whether an OSHA-funded consultation is in progress or whether the facility has received an inspection exemption. If so, the compliance officer usually terminates the inspection.

The compliance officer asks the employer to select an employer representative to accompany him or her during the inspection. OSHA welcomes, but does not require, an employee representative to accompany the inspector.

Under no circumstances may the employer select the employee representative for the walkaround. OSHA does, however, encourage employers and employees to meet together.

Inspection walkaround

After the opening conference, the compliance officer and accompanying representatives proceed through the establishment, inspecting work areas for potentially hazardous working conditions. The compliance officer will discuss possible corrective actions with the employer. OSHA may consult, at times privately, with employees during the inspection walkaround.

An inspection walkaround may cover only part of an establishment, particularly if the inspection resulted from a specific complaint, fatality, or catastrophe or is part of a local or national emphasis program. Other inspections may cover the entire facility, “wall to wall.”

Trade secrets observed by the compliance officers are kept confidential. Federal employees who release

confidential information without authorization are subject to a \$1,000 fine, one year in jail, or both, and removal from office or employment.

Records reviews

The compliance officer checks posting and recordkeeping practices, including whether the employer has:

- Maintained records of deaths, injuries, and illnesses;
- Posted OSHA’s Summary of Work-Related Injuries and Illnesses (OSHA 300A) from February 1 to April 30; and
- Prominently displayed the OSHA “It’s The Law” poster (OSHA 3165).

The compliance officer also examines records, where required, of employee exposure to toxic substances and harmful physical agents.

Selecting employee representatives

If ...	Then ...
the employees are represented by a recognized bargaining representative,	the union usually will designate the employee representative to accompany the compliance officer.
there is a plant safety committee and no recognized bargaining representative,	the employee members of that committee or the employees at large will designate the employee representative.
there is neither a recognized bargaining representative nor a plant safety committee,	the employees themselves may select the employee representative, or the compliance officer will determine if any other employees would suitably represent the interests of employees.
there is no authorized employee representative,	the compliance officer must consult with a reasonable number of employees concerning safety and health matters in the workplace. Such consultations may be held privately.

On-the-spot corrections

Some apparent violations detected by the compliance officer can be corrected immediately. The compliance officer records such corrections to help evaluate the employer's good faith for compliance.

Apparent violations that have been corrected may still serve as the basis for a citation or notice of proposed penalty or both.

After the walkaround

After the inspection walkaround, the compliance officer holds a closing conference with the employer and the employee representatives, either jointly or separately.

During the closing conference, the compliance officer:

- Discusses with the employer all unsafe or unhealthful conditions observed on the inspection and indicates all apparent violations for which a citation may be recommended;
- Tells the employer of his or her appeal rights, anti-discrimination rights under 11(c) of the *OSH Act*, and procedures for contesting citations within 15 working days after receiving the citation; and
- Informs the employer of his or her obligations regarding any citations that may be issued.

The compliance officer will hold a separate closing conference with the employees or their representative, if requested, to discuss matters of direct interest to employees and to inform them of their rights after an inspection.

Information in an OSHA citation

Citations inform the employer and employees of:

- Regulations and standards the employer allegedly violated;
- Any hazardous working conditions covered by the *OSH Act's* general duty clause;
- The proposed length of time set for abatement of hazards; and
- Any proposed penalties.

Additional information provided

The compliance officer:

- Informs employers of their rights under the *Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)*. *SBREFA* requires that all federal agencies have in place a policy to reduce or, under appropriate circumstances, waive penalties for violations of standards by small businesses;
- Informs employers that Regional Small Business Regulatory Fairness Boards created under *SBREFA* exist to hear cases if employers are not satisfied with agency resolutions of enforcement matters;
- Explains that OSHA area offices offer assistance and can answer questions about programs and activities.

Disclosures of penalties

Only the OSHA area director has the authority to tell the employer what penalties the agency will propose. OSHA has up to six months following an inspection to issue a final report. After reviewing the full inspection report, the OSHA area director will:

- Issue citations without penalties;

- Issue citations with proposed penalties; or
- Determine that neither are warranted.

Violations and Penalties

Types of penalties

Under the *OSH Act*, OSHA may cite the following violations and propose the following penalties:

- **Other-than-Serious:** A violation that has a direct relationship to job 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.
- **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. OSHA may propose a mandatory penalty of up to \$7,000 for each serious violation.
- **Willful:** A violation that the employer intentionally and knowingly commits or a violation that the employer commits with plain indifference to the law. The employer either knows that what he or she is doing constitutes a violation, or is aware that a hazardous condition existed and made no reasonable effort to eliminate it. OSHA may propose penalties of up to \$70,000 for each willful violation, with a minimum penalty of \$5,000 for each willful violation.

In addition to OSHA citations and penalties, the U.S. Department of Justice may bring a criminal action against an employer whose willful violation of a standard results in the death of an employee. If a court convicts such an employ-

er, the offense is punishable by a court-imposed fine or by imprisonment for up to six months, or both. The court may impose a fine for a criminal conviction of up to \$250,000 for an individual or \$500,000 for a corporation.

- **Repeated:** A violation of any standard, regulation, rule, or order where OSHA finds a substantially similar violation during a reinspection. OSHA may propose penalties of up to \$70,000 for each repeated violation. To be the basis of a repeat citation, the original citation must be final. A citation under contest may not serve as the basis for a subsequent repeat citation.
- **Failure to Abate:** OSHA may propose an additional penalty of up to \$7,000 for **each day** an employer fails to correct a previously cited violation beyond the prescribed abatement date.

Penalties for other violations

Employers may be assessed penalties for:

- Violating posting requirements can bring a civil penalty of up to \$7,000. (OSHA does not fine for failing to post the “It’s The Law” poster (OSHA 3165);)
- Falsifying records, reports, or applications, upon conviction in a court, can bring a criminal fine of \$10,000 or up to six months in jail, or both;
- Assaulting a compliance officer or otherwise resisting, opposing, intimidating or interfering with a compliance officer in the performance of his or her duties is a criminal offense. Anyone convicted of such an action is subject to a criminal fine of not

more than \$5,000 and imprisonment for not more than three years.

Adjustments to proposed penalty amounts

The agency may adjust a penalty downward depending on the employer’s good faith (demonstrated efforts to comply with the *OSH Act*), history of previous violations, and size of business. When the adjusted penalty amounts to less than \$100, OSHA does not propose any penalty. For serious violations, OSHA may also reduce the proposed penalty based on the gravity of the alleged violation. No good faith adjustment will be made for alleged willful violations.

Criminal penalties

An employer who is convicted in a criminal proceeding of a willful violation of a standard that has resulted in the death of an employee may be fined up to \$250,000 (or \$500,000 if

the employer is a corporation) or imprisoned up to six months, or both. A second conviction doubles the possible term of imprisonment.

Contesting Inspection Results

Employee questions regarding inspection results

Employees may request an informal conference with OSHA to discuss any issues raised by an inspection, citation, notice of proposed penalty, or employer’s notice of intent to contest. OSHA must conduct an informal conference within the 15 working day contest period. In addition, if OSHA initiated an inspection due to an employee complaint, the employee or authorized employee representative may request an informal review of any decision not to issue a citation.

Employees may contest:

- The time specified in the citation for abatement of a hazardous condition; and

Violation Categories and Possible Penalties

<i>Type of Violation</i>	<i>Minimum Penalty Per Violation</i>	<i>Maximum Penalty Per Violation</i>
Other-than-serious		\$7,000
Serious	\$100*	\$7,000
Posting		\$7,000
Willful	\$5,000	\$70,000
Willful, with fatality, first conviction		\$250,000/\$500,000 or six months in prison or both **
Willful, with fatality, second conviction		\$250,000/\$500,000 or one year in prison or both **
Repeated	\$5,000	\$70,000
Failure to abate		\$7,000 per day

* Set as OSHA policy in the Field Inspection Reference Manual (FIRM)

** The monetary criminal fine is set by *Title 18 of the U.S. Code* (Crimes and Criminal Procedure), Section 3571, which states that individuals found guilty of an offense may not be fined more than \$250,000, and organizations not more than \$500,000.

- An employer's petition for modification of abatement (PMA) requesting an extension of the abatement period. Employees must contest the PMA within 10 working days of its posting or within 10 working days after an authorized employee representative has received a copy.

Employees, however, may not contest citations, penalties, or lack of penalties.

Employer appeals of inspection results

When issued a citation or notice of a proposed penalty, an employer may request an informal conference with OSHA's area director to discuss the case. OSHA authorizes its area directors to reach settlement agreements with employers that adjust citations and penalties to avoid prolonged legal disputes. As with informal conferences requested by employees, OSHA must conduct an informal conference requested by an employer within the 15-working-day contest period.

Petitions for modification of abatement

If an employer who has been cited for violations cannot meet the abatement dates as issued or amended at the informal conference, the employer must submit a request for an extension of time. This is called a petition for modification of abatement, or PMA. A PMA must be filed in writing with the area director who issued the citation no later than the close of the next working day following the date the director originally set for abatement.

Notices of contest

If an employer decides to contest the citation, the time set for abatement, and/or the proposed penalty, he or she has 15 working days after receiving the citation and notice of proposed penalty to notify the OSHA area director in writing. An oral disagreement is not sufficient. This written notification is called a notice of contest.

Any employer, employee, or employee representative also may request an informal conference within the 15 working day contest period to discuss inspection results. Based on information and evidence presented at the informal conference, OSHA may enter into an informal settlement agreement with the employer, which could involve changes to citations, penalties, or abatement dates.

There is no specific format for the notice of contest. It must, however, clearly identify the employer's basis for filing a contest of the citation, notice of proposed penalty, abatement period, or notification of failure to correct the violation.

Reviews of notices of contest

If the written notice of contest has been filed within the required 15 working days, the OSHA area director forwards it to the Occupational Safety and Health Review Commission (OSHRC). The commission is an independent federal agency created by the *OSH Act* to decide contested OSHA citations and penalties. It is not associated with OSHA or the Department of Labor.

The commission will assign an administrative law judge to hear the case. The administrative law judge may:

- Find the contest legally invalid and disallow it, or
- Set a hearing for a public place near the employer's workplace.

The employer and the employees have the right to participate in the hearing.

Employer appeals of administrative judge rulings

Once the administrative law judge has ruled, any party to the case may request a further review by the commission. Any of the three OSHRC commissioners also may, at his or her own motion, bring a case before the commission for review. Employers and OSHA may appeal commission rulings to the appropriate U.S. Court of Appeals.

Outreach, Education, and Compliance Assistance

Outreach materials on OSHA's website

OSHA's website provides extensive information about the agency as well as standards, interpretations, directives, technical advisors, compliance assistance, and additional information. The site also includes eTools—interactive software—such as Expert Advisors and Electronic Compliance Assistance Tools, information on specific health and safety topics, regulations, directives, videos, and other information for employers and employees. The address is www.osha.gov.

OSHA also produces *QuickTakes*, a bimonthly e-news memo filled with timely information, updates, and results from OSHA about safety and health in

America's workplaces. Subscriptions are free; just click on the agency website at www.osha.gov.

In addition, OSHA's website includes several special features:

- Spanish-language pages that provide workplace safety and health information in Spanish;
- A Small Business page, designed to increase awareness among small business owners about their responsibilities under the *OSH Act*, and resources to help them;
- A Workers' page that explains workers' rights and responsibilities under the *OSH Act*; and
- A Teen Workers page that addresses safety and health issues for workers under age 18.

These and other web-based resources are available at www.osha.gov.

Compliance assistance materials

OSHA has an extensive publications program. The agency publishes booklets and fact sheets detailing various facets of OSHA policy and regulations. These include numerous publications on regulatory topics such as hazard communication, asbestos, and blood-borne pathogens, and on programs such as consultation, voluntary protection, grants, and training and education. The agency also publishes guidance documents, such as guidelines on ergonomics for specific industries and recommendations for addressing violence in the workplace.

Many publications are now available in Spanish as well as English to ensure that Spanish-speaking workers also have access to important workplace safety and health information.

OSHA cannot succeed in its mission without fully informed employers and employees. OSHA has a variety of products, programs, and services to help employers comply with its regulations and improve workplace safety and health.

All OSHA publications can be downloaded at no cost from the agency website at www.osha.gov. In addition, most are available in hard-copy form, some at no cost from OSHA and others as sale items from the U.S. Government Printing Office. For a list of available publications, visit www.osha.gov, call (800) 321-OSHA (6742), or fax to (202) 693-2498.

You can obtain publications for sale by writing: U.S. Government Printing Office, 710 N. Capitol St. NW, Washington, DC 20401; or calling (202) 512-0132 (phone); or (202) 512-1355 (fax). Or visit GPO's online bookstore, www.access.gpo.gov/su_docs/sale/abkst024.html.

OSHA also has several videos available for loan through the OSHA Publications Office. Call (800) 321-OSHA (6742) or visit the agency website at www.osha.gov for more information.

Education and Training

OSHA Training Institute

The OSHA Training Institute in Arlington Heights, Ill., a suburb of Chicago, provides basic and advanced training and education in safety and health for federal and state compliance officers, state consultants, other federal agency personnel, and private sector employers, employees, and their representatives.

Institute courses cover areas such as electrical hazards, machine guarding, ventilation, and ergonomics. Nearly 60 courses are available for private sector workers dealing with subjects such as

safety and health in the construction industry and methods of voluntary compliance with OSHA standards.

The Training Institute facility includes classrooms, laboratories, a library, and an audiovisual unit. The laboratories contain various demonstrations and equipment, such as power presses, woodworking and welding shops, a complete industrial ventilation unit, and a sound demonstration laboratory.

OSHA Training Institute Education Centers

OSHA's Office of Training and Education also administers the OSHA Training Institute Education Centers program. Under this program, certain nonprofit organizations offer the most frequently requested OSHA Training Institute courses for the private sector and other federal agency personnel at locations throughout the United States.

The education centers complement the training provided at the OSHA Training Institute. They are selected through a national competition based on occupational safety and health experience, non-academic training background, classroom and laboratory availability, and the ability to provide training throughout the region. OSHA provides no funding to the education centers. They support their OSHA training through their normal tuition and fees.

The education centers also help OSHA administer the OSHA Outreach Training Program—the agency's primary way to train workers in the basics of occupational safety and health. Through the program, individuals who complete a one-week OSHA training course are authorized to teach 10-hour or 30-hour courses in

construction or general industry safety and health standards. These individuals go on to train thousands more students each year.

Other Sources

In addition, OSHA's 73 area offices offer a variety of informational services such as personnel for speaking engagements, publications, audiovisual aids on workplace hazards, and technical advice.

OSHA training grant program

OSHA awards grants to nonprofit organizations to provide safety and health training and education to employers and workers in the workplace in subjects where OSHA believes there is a current lack of workplace training. Grants often focus on high-risk activities or hazards or may help nonprofit organizations establish ongoing training, education, and outreach efforts.

Organizations awarded grants use funds to develop training and educational programs, reach out to workers and employers for whom their program is appropriate, and provide these programs to workers and employers. Grantees follow up with students to find out how they applied the training in their workplace.

For more information contact OSHA Office of Training and Education, 2020 Arlington Heights Rd., Arlington Heights, IL 60005; or call (847) 297-4810.

For more information on grants, training, and education, visit OSHA's website at www.osha.gov.

Compliance Assistance

OSHA help for employers and employees

OSHA works closely with the states to help employers and employees comply with OSHA standards and regulations through an active compliance assistance program.

Compliance assistance specialists in each OSHA area office respond to requests for help from a variety of groups, including small businesses, trade associations, union locals, and community and faith-based groups. Compliance assistance specialists also are available for seminars, workshops, and speaking events. They can help employers establish safety and health management systems for their workplaces or refer them to the OSHA Consultation Service for assistance.

Safety and health management systems

A comprehensive safety and health management system is the key to a safe and healthful work environment. A workplace that is safe and healthful benefits both employers and employees. In addition to protecting workers from injuries and illnesses, it can stimulate innovation and creativity and result in increased performance and higher productivity.

OSHA Consultation Service

The OSHA Consultation Service is a free service that enables employers to identify potential hazards at their work-sites and ways to correct them, improve their occupational safety and health management systems, and even qualify for a one-year exemption from routine

Elements of a successful safety and health management system:

- Management leadership and employee involvement,
- Worksite analysis,
- Hazard prevention and control, and
- Safety and health training.

OSHA inspection. The service is delivered by state governments using well-trained professional staff. Most consultations take place on-site, though limited services away from the worksite are available.

Employer benefits

Besides helping employers identify and correct specific hazards, OSHA's consultation service provides free, on-site assistance in developing and implementing effective workplace safety and health programs that emphasize preventing worker injuries and illnesses. In addition, OSHA's regional offices can help with compliance, ergonomics, bloodborne pathogens, and small business concerns.

OSHA's comprehensive consultation assistance includes an appraisal of:

- Mechanical systems, physical work practices, and environmental hazards of the workplace; and
- Aspects of the employer's present job safety and health program.

Employers also may receive training and education services, as well as limited assistance away from the worksite.

Who qualifies for consultation assistance

Consultation assistance is available to smaller employers (with fewer than 250 employees at a fixed site and no more than 500 nationwide) who want help in establishing and maintaining a safe and healthful workplace.

Cost of consultation assistance

Consultation programs are funded largely by OSHA and run by state agencies at no cost to the employer who requests help. OSHA does not propose penalties or issue citations for hazards identified by the consultant. The employer's only obligation is to correct all serious hazards and potential safety and health violations the consultant identifies.

Employer privacy protections

State authorities provide consultation assistance to the employer with the assurance that his or her name and firm and any information about the workplace will not be routinely reported to OSHA enforcement staff.

Enforcement action

No citations are issued or penalties proposed for hazards identified by the consultant. The purpose of the program is to help smaller employers identify and fix hazards in their workplaces. However, if an employer does not correct violations identified through consultation assistance, the consultant may refer the employer for a possible inspection.

SHARP

Certain exemplary employers may request participation in OSHA's Safety and Health Achievement Recognition Program (SHARP). Eligibility for participation in SHARP includes receiving a comprehensive consultation

visit, demonstrating exemplary achievements in workplace safety and health by abating all identified hazards, and developing and implementing an excellent safety and health program.

Employers accepted into SHARP may receive an exemption from programmed inspections—not complaint or accident investigation inspections—for one year.

For more information about consultation assistance in your state, visit www.osha.gov.

Partnerships and Other Cooperative Programs

OSHA's cooperative programs

Voluntary, cooperative relationships among employers, employees, unions, and OSHA can be a useful alternative to traditional OSHA enforcement and an effective way to reduce worker deaths, injuries, and illnesses. OSHA has several types of cooperative programs:

- Alliances
- OSHA Strategic Partnerships,
- Voluntary Protection Programs, and the
- Safety and Health Recognition Program (SHARP).

Alliances

Alliances, OSHA's newest type of cooperative program, enable organizations committed to workplace safety and health to collaborate with OSHA to prevent injuries and illnesses in the workplace. OSHA and its allies work together to reach out to, educate, and lead the nation's employers and their employees in improving and advancing workplace safety and health.

Why participate

There are many benefits to participating in an Alliance with OSHA. Through this program, organizations will:

- Build trusting, cooperative relationships with the agency;
- Network with others committed to workplace safety and health;
- Leverage resources to maximize worker safety and health protection; and
- Gain recognition as a proactive leader in safety and health.

Who can participate

Alliances are open to all groups, including:

- Trade or professional organizations,
- Businesses,
- Labor organizations,
- Educational institutions, and
- Government agencies.

In some cases, organizations may be cooperating with OSHA for the first time. In others, they may be building on existing relationships with the agency that were developed through other cooperative programs such as strategic partnerships, the Voluntary Protection Programs, and consultation.

How Alliances work

There are few formal program requirements for Alliances, which are less structured than other cooperative agreements, and the agreements do not include an enforcement component. However, OSHA and the participating organizations must define, implement, and meet a set of short- and long-term

goals that fall into one or more of three categories:

- Training and education,
- Outreach and communication, and
- Promoting the national dialogue on workplace safety and health.

After an Alliance is signed

OSHA and its allies will form an implementation team. The team, consisting of OSHA and the organization's representatives, will develop strategies and begin implementing programs or processes for meeting the defined goals.

For more information about national Alliances, contact OSHA's Office of Outreach Services and Alliances at (202) 693-2340 or visit www.osha.gov. For information about regional or local alliances, contact the appropriate regional office listed on page 37 or call (800) 321-OSHA (6742).

OSHA Strategic Partnership Programs (OSPP)

OSHA Strategic Partnerships are voluntary, written, long-term agreements to form cooperative relationships between OSHA and groups of employers, employees, employees' union representatives, and sometimes other stakeholders (for example, trade and professional associations, universities, and other government agencies.) OSPs aim to have a measurable, positive impact on the American workplace by encouraging, assisting, and recognizing partners' efforts to eliminate serious hazards and to achieve a high level of worker safety and health.

What OSHA Strategic Partnerships do

These partnerships help participants:

- Establish effective safety and health management systems;
- Train managers and employees to recognize, and then eliminate or control, hazards common to their industry and their particular worksite;
- Give employees the opportunity to become involved meaningfully in their own protection; and
- Create ways for partners to share expertise and other resources.

How partnerships improve worker safety and health

Many OSHA Strategic Partnerships are designed to lead to the development and implementation of comprehensive workplace safety and health management systems. OSHA has found that a systems approach is the best strategy for reducing deaths, injuries, and illnesses on the job. Other partnerships focus on the elimination or control of a specific industry hazard.

Benefits of participating

Participating in an OSHA Strategic Partnership offers such benefits as:

- Declines in workplace injuries and illnesses, and consequent reductions in workers' compensation and other injury- and illness-related costs;
- Improved employee motivation to work safely, leading to better quality and productivity;

- Development or improvement of safety and health management systems;
- Positive community recognition and interaction; and
- Partnership with OSHA.

Voluntary Protection Programs

Voluntary Protection Programs (VPP) represent one part of OSHA's effort to extend worker protection beyond the minimum required by OSHA standards. There are three VPP programs: Star, Merit, and Demonstration. OSHA designed them to:

- Recognize outstanding achievement of employers and employees who are working together to provide high-quality worker protection by implementing effective safety and health management systems;
- Motivate other employers to achieve excellent safety and health results in the same outstanding way; and
- Establish a cooperative relationship between employers, employees, and OSHA.

How VPP can help employers and employees

VPP participation can mean:

- Improved employee motivation to work safely, leading to better quality and productivity;
- Lost workday case rates generally 50 percent below industry averages;
- Reduced workers' compensation and other injury- and illness-related costs;

- Positive community recognition and interaction;
- Further improvement and revitalization of already good safety and health management systems; and
- Partnership with OSHA.

How OSHA monitors VPP sites

OSHA reviews an employer's VPP application and conducts an on-site review to verify that the safety and health systems described are operating effectively at the site. OSHA continues to conduct regular evaluations of approved sites.

All participants must submit to their OSHA regional office in February of each year a copy of the most recent annual evaluation conducted at the site. This evaluation must include the injury and illness numbers and rates for the past year.

OSHA inspections at VPP sites

Sites participating in a VPP are not scheduled for regular, programmed inspections. OSHA, however, handles any employee complaints, serious accidents, or significant chemical releases that may occur according to routine enforcement procedures.

OSHA Quotes

What employers and employees are saying about the value of working with OSHA to promote workplace safety and health

Employers and employees are recognizing that OSHA has changed and that the agency wants to work cooperatively with them to help improve their workplaces. More and more, employers are coming to seek out OSHA's assistance and support as they introduce new ways of doing things that protect their workers and strength their businesses.

Here's just a sampling of what people are saying...

About the business sense behind workplace safety and health:

"We can't make a quality product with an unsafe process." – [Ken Lindgren, DACO, Inc.](#)

"It makes sense to run an effective safety and health program because your people deserve it, your customers demand it, and your business practices and future will not be there without it." – [Dan Fergus, Genesee Stampings](#)

"Safety is a pass/fail item, in that if you fail at safety, the other stuff doesn't matter." – [Mac Armstrong, Air Transport Association](#)

"If you want to be the best company out there, then it's not enough to have good wages, benefits, and profitability. You have to have a good safety program in place and make sure you have a safe company." – [Gordon Hannaford, Point-Five Windows](#)

About the quality-of-life benefits of safety and health:

"I want to see and hear my grandchildren, and because of the safety program at Curtis Lumber, I'm going to be able to." – [John Meier, Curtis Lumber](#)

"We feel that it is our duty to have every employee return home to his or her family sound and healthy every day." – [John Obel, NexTech](#)

About working with OSHA through its programs and services:

"The health and safety of our people has always been of paramount importance to us. Our goal of zero incidents required teamwork like OSHA's Strategic Partnership Program, combined with relentlessly pursuing the elimination of unsafe actions and conditions." – [Walter Berry, Bollinger Shipyards, Inc.](#)

"It's funny how so many people are afraid of OSHA and afraid of the big fines. But in the Consultation Program, they're not there to issue fines. They're there to help you. It's a wonderful, wonderful program that has a lot to offer." – [Keri Alwin, Laser Technologies, Inc.](#)

"I must admit, when the company first proposed a partnership with OSHA, I was apprehensive. Now I'm convinced that this was the right thing to do." – [Nathan Bailey, Ford-Visteon](#)

About sharing what they've learned about workplace safety and health:

"We're big on sharing what we know about safety and health. We know that our program is making a difference and we want to give other facilities an opportunity to learn how to protect their workers, too." – [Sherry Welch, Citizens Memorial Healthcare Foundation](#)

Regional Offices

Region I

(Connecticut,* Massachusetts, Maine, New Hampshire, Rhode Island, Vermont*)

JFK Federal Building, Room E340
Boston, MA 02203
(617) 565-9860

Region II

(New Jersey,* New York,* Puerto Rico,* U.S. Virgin Islands*) 201 Varick

Street, Room 670
New York, NY 10014
(212) 337-2357

Region III

(Delaware, District of Columbia, Maryland,* Pennsylvania,* Virginia,* West Virginia)

The Curtis Center
170 S. Independence Mall West
Suite 740 West
Philadelphia, PA 19106-3309
(215) 861-4900

Region IV

(Alabama, Florida, Georgia, Kentucky,* Mississippi, North Carolina,* South Carolina,* Tennessee*)

Atlanta Federal Center
61 Forsyth Street SW, Room 6T50
Atlanta, GA 30303
(404) 562-2300

Region V

(Illinois, Indiana,* Michigan,* Minnesota,* Ohio, Wisconsin)

230 South Dearborn Street,
Room 3244
Chicago, IL 60604
(312) 353-2220

Region VI

(Arkansas, Louisiana, New Mexico,* Oklahoma, Texas)

525 Griffin Street, Room 602
Dallas, TX 75202
(214) 767-4731 or 4736 x224

Region VII

(Iowa,* Kansas, Missouri, Nebraska)

City Center Square
1100 Main Street, Suite 800
Kansas City, MO 64105
(816) 426-5861

Region VIII

(Colorado, Montana, North Dakota, South Dakota, Utah,* Wyoming*)

1999 Broadway - Suite 1690
Denver, CO 80202-5716
(303) 844-1600

Region IX

(American Samoa, Arizona,* California,* Hawaii, Nevada,* Northern Mariana Islands)

71 Stevenson Street, Room 420
San Francisco, CA 94105
(415) 975-4310

Region X

(Alaska,* Idaho, Oregon,* Washington*)

1111 Third Avenue, Suite 715
Seattle, WA 98101-3212
(206) 553-5930

*These states and territories operate their own OSHA-approved job safety and health programs (Connecticut, New Jersey, and New York plans cover public employees only). States with approved programs must have a standard that is identical to, or at least as effective as, the federal standard.

Note: To get contact information for OSHA area offices, OSHA-approved state plans, and OSHA consultation projects, please visit us online at www.osha.gov or call us at **(800) 321-OSHA (6742)**.

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**Occupational Safety
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