

# **SAFETY**

**Occupational Safety and Health  
Administration**

- The United States **Occupational Safety and Health Administration** (OSHA) is an agency of the United States Department of Labor.
- It was created by Congress under the Occupational Safety and Health Act, signed by President Richard M. Nixon, on December 29, 1970.
- Its mission is to prevent work-related injuries, illnesses, and deaths by issuing and enforcing rules (called standards) for workplace safety and health.

# OSHA Authority

- OSHA's statutory authority extends to most nongovernmental workplaces where there are employees.
- State and local government workers are excluded from Federal coverage, however, states operating their own workplace safety and health programs under plans approved by the U.S. Department of Labor are required to extend their coverage to public sector (state and local government) employees.
- Section 2 (11) of the OSH Act encourages states to do this.

- The Williams-Steiger Occupational Safety and Health Act, which created OSHA also created the National Institute for Occupational Safety and Health (NIOSH) as a research agency focusing on occupational health and safety.

- OSHA regulations [29 CFR Part 1956] also permit states to develop approved plans that cover only public sector workers.
- In these states, private sector employment remains under Federal OSHA jurisdiction.
- Twenty-two states and territories operate plans covering both the public and private sectors and four — Connecticut, New Jersey, New York and the US Virgin Islands — operate public employee only plans.

- In 2000 the United States Postal Act made the U.S. Post Service the only quasi-governmental entity within OSHA's jurisdiction.
- This change permits OSHA to fine the US Postal Service as if it were a regular non-governmental organization.

# History

- OSHA was widely criticized in its early years for confusing, burdensome regulations.
- A good deal of the early conflict came about because of arbitrary and inconsistent enforcement during OSHA's early years.
- In addition, businesses were expected to retrofit guards and other safety devices on existing equipment and to implement other hazard controls, often at considerable expense, to bring them in line with then-current best safety practices.
- Other requirements, such as mandated training, communication, and extensive documentation were seen as even more difficult and expensive.

- With time, manufacturers of industrial equipment have included OSHA-compliant safety features on new machinery.
- Enforcement has become more consistent across jurisdictions, and some of the more outdated or irrelevant rules have been repealed or are not enforced.

- During the Jimmy Carter administration, under the leadership of University of Cincinnati toxicologist Eula Bingham, OSHA began to concentrate more on health hazards, such as toxic chemicals. Bingham also launched the "New Directions" program, OSHA's first worker training grant program.

- With the Ronald Reagan and George H.W. Bush administrations came efforts to weaken OSHA enforcement and rulemaking, although several important rules were issued including hazard communication (right to know about chemical exposures) and blood-borne pathogens (to protect workers against illnesses such as hepatitis and AIDS).

- The Reagan administration also launched OSHA's Voluntary Protection Program (VPP), OSHA's first foray into voluntary programs and partnerships with industry.
- In the VPP, management, labor, and OSHA establish cooperative relationships at workplaces that have implemented a comprehensive safety and health management system.
- Approval into VPP is OSHA's official recognition of the outstanding efforts of employers and employees who have achieved exemplary occupational safety and health.

- The Bill Clinton administration began a reorganization of OSHA's approach, focusing more on "stakeholder" satisfaction through compliance assistance.
- When the Republicans took over Congress in 1994, one of their goals was reducing some of the agency's ability to issue standards.
- Some Republican sponsored bills were stopped by the Democratic minority and moderate Republicans, but other legislation passed, such as the Small Business Regulatory Enforcement Fairness Act of 1996 and the Congressional Review Act.
- Ergonomic injuries (also known as musculoskeletal injuries) such as back injuries and carpal tunnel syndrome, account for 1/3 of all serious injuries suffered by American workers.

- In 2000, OSHA issued the ergonomics standard after ten years of study and struggles with a Republican-controlled Congress and business associations such as the Chamber of Commerce and National Association of Manufacturers that were unconvinced that additional government regulation was the right way to address the issue of ergonomic injuries to American workers.

- In March 2001, the Republican controlled Congress voted to repeal the standard and the repeal was one of the first major pieces of legislation signed by President George W. Bush.
- Since the repeal of the ergonomics standard, OSHA has issued three ergonomics guidelines, and only a small handful of ergonomic citations under the Act's "general duty" clause.
- The Bush administration largely replaced the process of issuing mandatory regulations with voluntary guidelines and put additional resources into other, previously existing voluntary programs, as well as new "Alliance" program.

- General Accounting Office issued a report recommending that the Agency collect more data from participants in order to better ascertain the benefits of the program.
- A GAO report released in 1992 concluded that employers participating in the program benefited from significant cost reductions in workers' compensation premiums while improving labor productivity.

# OSHA Authority

- During the 2017 transition period, **Thomas Galassi** is serving as acting deputy assistant secretary for the Occupational Safety and Health Administration (OSHA), and overseeing the agency's national and field offices. Before the transition, Mr. **Galassi** was the director of OSHA's Directorate of Enforcement Programs (DEP).

- It is a some times held misconception that the Agency promotes "voluntary compliance" when, in fact, all employers are required by law to comply with all final published rules promulgated under the Occupational Safety and Health Act of 1970.

# Controversy

- Much of the debate about OSHA regulations and enforcement policies revolves around the cost of regulations and enforcement, versus the actual benefit in reduced worker injury, illness and death.
- A 1995 study of several OSHA standards by the Office of Technology Assessment (OTA) found that regulated industries as well as OSHA typically overestimate the expected cost of proposed OSHA standards.

- OSHA has come under considerable criticism for the ineffectiveness of its penalties, particularly criminal penalties.
- OSHA is only able to pursue a criminal penalty when a willful violation of an OSHA standard results in the death of a worker.
- The maximum penalty is a misdemeanor with a maximum of 6-months in jail.
- In response to the criticism, OSHA, in conjunction with the Department of Justice, has pursued several high-profile criminal prosecutions for violations under the Act, and has announced a joint enforcement initiative between OSHA and the United States Environmental Protection Agency (EPA) which has the ability to issue much higher fines than OSHA.

- Meanwhile, Congressional Democrats, labor unions and community safety and health advocates are attempting to revise the OSH Act to make it a felony with much higher penalties to commit a willful violation that results in the death of a worker.
- Some local prosecutors are charging company executives with manslaughter and other felonies when criminal negligence leads to the death of a worker.

- In its 30 plus years of existence OSHA has been able to secure only 12 criminal convictions.
- This has been attributed to lack of resources.
- OSHA has been accused of being more devoted to the numbers of inspections than to actual safety.
- OSHA has also been criticized for taking decades to develop new regulations.
- Industry associations and unions have resorted to court action to force OSHA to promulgate new standards such as the Hexavalent Chromium standard.

# Regulatory Impact

- Here are some of the changes in industrial safety regulation brought about by OSHA:

# Guards on all Moving Parts

- By 1970, there were guards to prevent inadvertent contact with most moving parts that were accessible in the normal course of operation.
- With OSHA, use of guards was expanded to cover essentially all parts where contact is possible.

# Permissible exposure limits (PEL)

- Maximum concentrations of chemicals stipulated by regulation for chemicals and dusts.
- They cover around 600 chemicals.
- Most are based on standards issued by other organizations in 1968 or before.

# Personal Protective Equipment (PPE)

- Broader use of respirators, gloves, coveralls, and other protective equipment when handling hazardous chemicals; goggles, face shields, ear protection in typical industrial environments

# Lockout/tagout

- In the 1980s, requirements for locking out energy sources (securing them in an "off" condition) when performing repairs or maintenance.

# Confined Space

- In the 1990s, specific requirements for air sampling and use of a "buddy system" when working inside tanks, manholes, pits, bins, and similar enclosed areas

# Hazard Communication (HazCom)

- Also known as the "Right to Know" standard, was issued as 29CFR1910.1200 on November 25, 1983 (48 FR 53280), requires developing and communicating information on the hazards of chemical products used in the workplace.

# Process Safety Management (PSM)

- Issued in 1992 as 29CFR1910.119 in an attempt to reduce large scale industrial accidents.
- Although enforcement of the standard has been spotty, its principles have long been widely accepted by the petrochemical industry.

# Bloodborne Pathogens (BBP)

- In 1990, OSHA issued a standard designed to prevent health care (and other) workers from being exposed to bloodborne pathogens such as hepatitis B and HIV.

# Excavations and Trenches

- OSHA regulations specify that trenches and excavations wherein workers are working 5 feet or more down must be provided with safeguards in addition to proper sloping and storage of excavated material in order to prevent collapses/cave-ins.

# Exposure to Asbestos

- OSHA has established requirements in 29 CFR 1910.1001 for occupational exposure to asbestos.
- These requirements apply to most workplaces - most notably excepted is construction work.
- "Construction work" means work for construction, alteration and/or repair including painting and decorating.
- Occupational exposure requirements for asbestos in construction work can be found in 29 CFR 1926.1101.