Introduction to OSHA

A Brief Look at the Osh Act
The Need for Legislation

• More than 90 million Americans spend their days on the job.
• Our most valuable national resource.
• Until 1970, no uniform and comprehensive provisions existed for their protection against workplace safety and health hazards.
The Need for Legislation

• In 1970, Congress considered these annual figures:
  • 14,000 worker deaths
  • 2.5 million workers disabled
  • 300,000 new occupational disease cases

• A total of 5,915 fatal work injuries were recorded in 2000, a decline of about 58% percent from 1970, according to the Census of Fatal Occupational Injuries, conducted by the Bureau of Labor Statistics, U.S. Department of Labor.
Public Law 91-596

OSH Act

Occupational Safety & Health Act of 1970
An Act

• "... 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."
• Reduce workplace hazards;
• Implement new or improve existing safety and health programs;
• Provide for research in solving occupational safety and health problems
OSHA’S Purpose - Section 2

- Establish employer and employee responsibilities for safety and health conditions.
- Build on employer/employee safety and health initiatives.
- Focus on occupational health to prevent diseases occurring in the work environment.
OSHA’S Purpose - Section 2

• Establish training programs to increase the number and competence of occupational safety and health personnel;

• Develop mandatory job safety and health standards and enforce them effectively;

• Develop recordkeeping and reporting requirements;
OSHA’S Purpose - Section 2

- Provide for the development, analysis, evaluation and approval of state occupational safety and health programs.
As defined by the Act, an employer is any "person engaged in a business affecting commerce who has employees, but does not include the United States or any State or political subdivision of a State."
The Act’s Coverage - Section 4

- Coverage of the Act extends to all employers and their employees in the 50 states, the District of Columbia, Puerto Rico, and all other territories under Federal Government jurisdiction.

- Coverage provided either directly by federal OSHA or through an OSHA-approved state program.

- Replaces some previously established federal laws.
The Act’s Coverage

- Manufacturing,
- Construction,
- Longshoring,
- Agriculture,
- Law and medicine,
- Charity and disaster relief,
- Organized labor,
- Private education.
Not Covered

- Self-employed persons (i.e. : homeowners);
- Farms at which only immediate members of the farm employer's family are employed;
- Working conditions regulated by other federal agencies under other federal statutes. *

* Areas not covered specifically are still covered by OSHA.
Provisions for Federal Employees

- Federal agency heads responsible for providing safe and healthful working conditions for their employees.
- Act requires agencies to comply with standards consistent with those OSHA issues.
Provisions for Federal Employees

• No OSHA $$$ penalties against another federal agency for failure to comply with OSHA standards (Exception: U.S. Postal Service; enacted 1998).

• Compliance issues unresolved at the local level are raised to higher organizational levels until resolved.

• OSHA does not have authority to protect federal employee "whistleblowers."
Provisions for State & Local Governments

- OSHA provisions do not apply to state and local governments

- States desiring to gain OSHA approval for a private sector occupational safety and health program must provide a program that also covers state and local government workers.
State Plan States: AK, AZ, CA, CT, HI, IN, IA, KY, MD, MI, MN, NV, NJ, NM, NY, NC, OR, PR, SC, TN, UT, VT, VI, VA, WA, WY
Provisions for State & Local Governments

- State plans may also cover only public sector employees (city, municipal, state).
- Twenty-three states and territories operate plans covering both the public and private sectors and three states - Connecticut, New Jersey, and New York - operate public employee only plans.
• OSHA is responsible for promulgating legally enforceable standards.

• Responsibility of employers to become familiar with standards applicable to their establishments.
Duties - Section 5

- Where OSHA has not promulgated specific standards, employers are responsible for following the Act's general duty clause {Section 5(a)(1)}.
- "Each employer - shall furnish...a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees."
Occupational Safety & Health Standards Section 6

• (6)(a) OSHA given authority to promulgate start-up standards without rulemaking
• (6)(b) Rulemaking procedure
• (6)(c) Emergency temporary standards
• (6)(d) Variances
New Standards

• 3 ways to promulgate a standard:
  1. National Consensus Standard Adoption
  2. Informal (standard) Rulemaking
  3. Emergency Temporary Standard
Informal Rulemaking

• Notice is required to be given to interested parties, through the Federal Register, of proposed regulations. It also allows parties an opportunity for comment in a non-adversarial, administrative hearing.

• The public hearing will be set by the Sec. of Labor
Rulemaking

• The Secretary of Labor must decide within 60 days after the period for written comment or oral hearing has expired whether to adopt, modify, or revoke the standard.

• The Secretary must then provide a supplemental statement of significant issues in the decision.
Advisory Committees; Administration- Section 7

- 7(a)(1) Establishes National Advisory Committee on OSH
- 7(c)(1) Authorizes OSHA to use the services and personnel of States or Federal agencies to provide consultation services
- **8(a)** OSHA representatives are authorized to:
  1. enter without delay, at reasonable times, &
  2. inspect during regular working hours and at reasonable times and to question privately employers and employees
- **8(b)** Subpoena power
- **8(c)** Recordkeeping and posting
- **8(f)** Employees right of complaint
Citations - Section 9

• 9(a) If an employer violates Section 5 of Act or any standard, rule or order related to Section 6 a citation will be issued. Each citation will:
  – Be in writing
  – Describe the particular violation
  – Fix a reasonable abatement period

• 9(b) Posting of citations

• 9(c) Time limit - 6 months to issue citation
• 10(a) Employers right of contest; Citations can be contested before the Safety and Health Review Commission, an independent quasi-judicial branch of the Department of Labor

• 10(c) Employee’s right of contest of abatement dates
Judicial Review - Section 11

- 11(a) Appeals & review of Commission order
- 11(c) Prohibits discrimination against employees filing complaints under OSHA
• Establishes membership and terms of Review Commission (OSHRC)
• OSHRC acts independently of OSHA
• http://www.oshrc.gov
Procedures to Counteract Imminent Dangers - Section 13

- Allows OSHA to petition for (obtain) a restraining order in cases of Imminent Danger.
- U.S. District Court Issues
- Area Director requests through Solicitor of Labor
- OSHA will:
  - Advise employer of imminent danger
  - Advise employees of rights
  - Petition District Court for relief
Confidentiality of Trade Secrets - Section 15

• OSHA considers trade secrets to be confidential information.

• NOTE: Procedures for handling trade secrets are set forth in the Field Inspectors Reference Manual (FIRM)
Penalties Section 17

- Penalties were increased in 1990
- Willful & repeated violations to a maximum of $70,000
- Minimum $5,000 willful
- Serious & other than serious to $7,000
- Failure to abate to a maximum of $70,000 for each day violation continues
Federal agencies (exception: Post Office) are required to establish their own safety and health programs.

Executive Order 12196 further defines the responsibilities of Federal Agencies.
Most OSHA research is carried out by the National Institute for Occupational Safety and Health (NIOSH)

NIOSH is under the control of the Department of Health and Human Services (HHS)
Training and education responsibilities are shared by the Department of Labor (DOL) and HHS.

Training is authorized directly or through grants.
Establishes NIOSH as a part of HHS
• DOL is authorized to collect and analyze statistics of occupational fatalities, injuries, and illnesses.

• Data is collected and compiled by the Bureau of Labor Statistics (BLS).
Standards Development

- OSHA can begin standards-setting procedures on its own initiative, or in response to petitions from other parties, including:
  - Secretary of Health and Human Services (HHS);
  - National Institute for Occupational Safety and Health (NIOSH);
  - U.S. Environmental Protection Agency (EPA);
  - State and local governments;
  - Standards-producing organization;
  - Employer or labor representatives; or any other interested person.
Origin of OSHA Standards

• Three sources:
  – Consensus standards
  – Proprietary standards
  – Federal laws already in effect
Consensus Standards

• Developed by industry-wide standard developing organizations
  – American National Standards Institute (ANSI)
  – National Fire Protection Association (NFPA)
• Discussed and substantially agreed upon through consensus by industry
Examples of Consensus Standards


• NFPA No. 30-1969, *Flammable and Combustible Liquids Code*, is the source for Part 1910 Section 106.
Proprietary Standards

- Prepared by professional experts within specific industries, professional societies and associations

- Determined by straight membership vote not consensus
Example of Proprietary Standards

• Compressed Gas Association, Pamphlet P-1, *Safe Handling of Compressed Gasses in Containers*

• Examples of other associations
  – Associated General Contractors (AGC)
  – National Hombuilders Association of America
  – National Fire Protection Association (NFPA)
Pre-Existing Federal Law

- Federal Supply Contracts Act (Walsh-Healey)
- Federal Service Contracts Act (McNamara-O’Hara)
- Contract Work Hours and Safety Standards Act (Construction Safety Act)
Horizontal and Vertical Standards

• Most standards are horizontal meaning “general”

• Horizontal standards apply to any employer in any industry

• Vertical standards are relevant only to a particular industry

• Standards applying to longshoring, construction, or grain handling are vertical standards
Code of Federal Regulations

- Federal laws passed by different branches of government
- Regulations are first published or revised in the *Federal Register*
- The Code of Federal Regulations is updated annually to incorporate revisions and new regulations
- OSHA (and construction) regulations are updated each July 1st
Title 29 Chapter XVII

- Title 29, Chapter XVII is set aside for OSHA
- The regulations are broken down into Parts
- Part 1926, are the “Construction Standards”
- Each Part is then broken into major Subparts
Part 1926 Major Subparts

- Subpart D - Occupational Health and Environmental Controls
- Subpart E - Personal Protective and Life Saving Equipment
- Subpart F - Fire Protection and Prevention
- Subpart G - Signs, Signals and Barricades
- Subpart H - Materials Handling, Storage, Use, and Disposal
Part 1926 Major Subparts

• Subpart I - Tools - Power and Hand
• Subpart J - Welding and Cutting
• Subpart K - Electrical
• Subpart L - Scaffolding
• Subpart M - Floor and Wall Openings
• Subpart N - Cranes, Derricks, Hoists, Elevators and Conveyors
Part 1926 Major Subparts

• Subpart O - Motor Vehicles
• Subpart P - Excavations
• Subpart Q - Concrete and Masonry Construction
• Subpart R - Steel Erection
• Subpart S - Underground Construction
• Subpart Z - Stairways and Ladders
• Each Subpart is then broken down into Sections
Reading Standards

- 29 CFR 1926.451 (g)(4)(i)
- 29 United States Code Title
- CFR Code of Federal Regulations
- 1926 Part - Part 1926 covers Construction
- {Subpart - Subpart L; 1926.450: Scaffolds}
- 451 Section Number
- (g) Major Paragraph; Fall Protection
- (4) Paragraph Subsection; Guardrail Systems
- (i) Guardrail systems shall be installed along all open sides and ends of platforms.
### Subpart L - Scaffolds

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1926.451 General Requirements - Scaffolds

- 451(a) Capacity
- 451(b) Scaffold platform construction
- 451(c) Criteria for supported scaffolds
- 451(d) Criteria for suspended scaffolds
- 451(e) Access
- 451(f) Use
Advisory Committees

• If OSHA determines that a specific standard is needed, any of several advisory committees may be called upon to develop specific recommendations.

• There are two standing committees
Advisory Committees

• All advisory committees must have members representing management, labor and state agencies.

• H&S professions and the general public also may be represented.
Advisory Committees

• National Advisory Committee on Occupational Safety and Health (NACOSH), which advises the Secretary of HHS and to the Secretary of Labor on matters regarding administration of the Act.

• Advisory Committee on Construction Safety and Health, advises the Secretary of Labor on formulation of construction safety and health standards and other regulations.
NIOSH

- Recommendations for standards also may come from NIOSH, established by the Act as an agency of the Department of HHS.
- Conducts research, & advises OSHA.
Standards Adoption

• Once OSHA has developed plans to propose, amend or revoke a standard, it publishes these intentions in the *Federal Register* as a "Notice of Proposed Rulemaking," or often as an earlier "Advance Notice of Proposed Rulemaking."
Standards Adoption

• An "Advance Notice" or a "Request for Information" is used, when necessary, to solicit information that can be used in drafting a proposal.

• Usually provide 60 days or more for the public to respond.

• Public hearings are then scheduled.
Standards Adoption

- After the close of the comment period and public hearing, if one is held, OSHA must publish in the *Federal Register* the full, final text of any standard amended or adopted and the date it becomes effective, along with an explanation of the standard and the reasons for implementing it.
Emergency Temporary Standards

- ETS’s take effect immediately!
- First, OSHA must determine that workers are in grave danger due to exposure to toxic substances or agents determined to be toxic or physically harmful or to new hazards.
- Then, OSHA publishes the emergency temporary standard in the Federal Register, where it also serves as a proposed permanent standard.
- Example: HAZWOPER
Recordkeeping
• Before the Act became effective, no centralized and systematic method existed for monitoring occupational safety and health problems.

• Statistics on job injuries and illnesses were collected by some states and by some private organizations; national figures were based on not-altogether-reliable projections.
Recordkeeping and Reporting

- Employers of 11 or more employees must maintain records of occupational injuries and illnesses as they occur.
- The purposes of keeping records are to permit survey material to be compiled, to help define high hazard industries, and to inform employees of the status of their employer's record.
Recordkeeping and Reporting

- OSHA recordkeeping is not required for certain retail trades and some service industries.

- Exempt employers must still comply with OSHA standards, display the OSHA poster, and report to OSHA within 8 hours:
  - Any inpatient hospitalization.
  - Loss of an eye and/or amputation.
Keeping Employees Informed

- Each employer must post at prominent location(s) in the workplace.
- Includes:
  - Job Safety and Health Protection workplace poster (OSHA 2203 or state equivalent) informing employees of their rights and responsibilities under the Act.
  - 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.
Keeping Employees Informed

• Log and Summary of Occupational Injuries and Illnesses.

• All employees have the right to examine any records kept by their employers regarding their exposure to hazardous materials, or the results of medical surveillance.