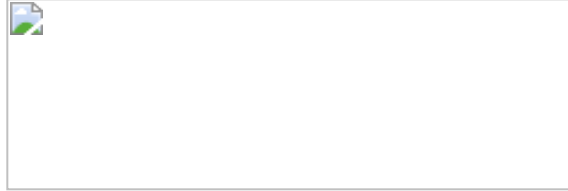


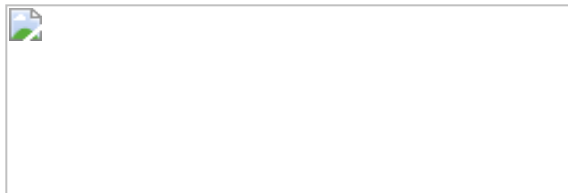
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The U.S. Occupational Safety and Health

Administration - a Brief Description of OSHA



Author: Gláuber Maciel Santos

Washington, DC

1. Before OSHA

Before 1970, American occupational safety and health policy focused primarily on voluntary action by both employers and employees. Employers were free to shape and organize the labor process, whereas workers would seek protection from occupational hazards by changing jobs or, if unionized, negotiating through collective bargaining or even pressuring employers through strikes. In fact, worker participation either wasn't considered or was ineffective. State action was limited to worker's compensation and factory legislation, because of the predominantly liberal thinking of that time.

In the mid 1960s, several public officials, health professionals, and labor activists started promoting the idea of workplace reform. The existing system, whose core remained untouched for decades, would at last surrender to social change, since the political climate began to favor social regulation of industry and the marketplace.

2. The Occupational Safety and Health Act

On December 29, 1970, the U.S. Congress passed the Williams–Steiger Occupational Safety and Health Act, which became effective on April 28, 1971, when the Occupational Safety and Health Administration – OSHA, an agency of the U.S. Department of Labor, was formally established.

Since then, employers have to comply with several standards and regulations promulgated under this Act, which are published in Title 29 of the Code of Federal Regulations.

Both employers and employees have certain responsibilities and rights under the OSH Act. The following checklists, though extensive, try to summarize them. At this point, we encourage the reader who is not interested in a detailed and rather technical framework of the main current regulations to move on to the next chapter.

2.1. Employer Responsibilities

As an employer, you must:

- Meet your general duty responsibility to provide a workplace free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees, and comply with standards, rules, and regulations issued under the Act;
- Be familiar with mandatory OSHA standards and make copies available to employees for review upon requests;
- Inform all employees about OSHA;
- Examine workplace conditions to make sure they conform to applicable standards;
- Minimize or reduce hazards;
- Make sure employees have and use safe tools and equipment (including appropriate personal protective equipment), and that such equipment is properly maintained;
- Use color codes, posters, labels, or signs when needed to warn employees of potential hazards;

- Establish or update operating procedures and communicate them so that employees follow safety and health requirements;
- Provide medical examinations when required by OSHA standards;
- Provide training required by OSHA standards (e.g., hazard communication, lead, etc.);
- Report to the nearest OSHA office within 8 hours any fatal accident or one that results in the hospitalization of three or more employees;
- Keep OSHA-required records of work-related injuries and illnesses, and post a copy of the totals from the last page of the official form during the entire month of February each year. This applies to employers with 11 or more employees;
- Post, at a prominent location within the workplace, the OSHA poster that informs employees of their rights and responsibilities. In states operating OSHA-approved job safety and health programs, the state's equivalent poster and/or federal OSHA's may be required;
- Provide employees, former employees, and their representatives access to the Log and Summary of Occupational Injuries and Illnesses at a reasonable time and in a reasonable manner;
- Provide access to employee medical records and exposure records to employees or their authorized representatives;
- Cooperate with OSHA compliance officer by furnishing names of authorized employee representatives who may be asked to accompany the compliance officer during an inspection. If none, the compliance officer will consult with a reasonable number of employees concerning safety and health in the workplace;
- Not discriminate against employees who properly exercise their rights under the Act;
- Post OSHA citations at or near the worksite involved. Each citation, or copy thereof, must remain posted until the violation has been abated, or for three working days, whichever is longer;
- Abate cited violations within the prescribed period.

2.2. Employer Rights

As an employer, you have the right to:

- Seek advice and off-site consultation as needed by writing, calling or visiting the nearest OSHA office. OSHA will not inspect merely because an employer requests assistance;
- Be active in your industry association's involvement in job safety and health;
- Request and receive proper identification of the OSHA compliance officer prior to inspection;
- 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 with the OSHA area director within 15 working days of receipt of a notice of citation and proposed penalty;
- Apply to OSHA for a temporary variance from a standard if unable to comply because of the unavailability of materials, equipment or personnel needed to make necessary changes within the required time;
- Apply to OSHA for a permanent variance from a standard if you can furnish proof that your facilities or method of operations provide employee protection at least as effective as the required by the standard;
- Take an active role in developing safety and health standards through participation in OSHA Standards Advisory Committees, through nationally recognized standards-setting organizations and through evidence and views presented in writing or at hearings;
- Be assured of the confidentiality of any trade secrets observed by an OSHA compliance officer during an inspection;
- 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.

2.3. Employee Responsibilities

Although OSHA does not cite employees for violations of their responsibilities, each employee "shall comply with all occupational safety and health standards and all rules, regulations, and orders Issued under the Act" that are applicable.

As an employee, you should:

- Read the OSHA poster at the job site;
- 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 if he or she inquires about safety and health conditions in your workplace;
- Exercise your rights under the Act in a responsible manner.

2.4. Employee Rights

As 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 in the area, on precautions that may be taken, and on procedures to be followed if an employee is involved in an accident or is exposed to toxic substances;
- Receive adequate training and information on workplace safety and health hazards;
- Request that the OSHA area director investigate if you believe hazardous conditions or violations of standards exist in your workplace;
- Have your name withheld from your employer, upon request to OSHA, if you file a written and signed complaint;

- Be advised of OSHA actions regarding your complaint and have an informal review, if requested, of any decision not to inspect or to issue a citation;
- Have your authorized employee representative accompany the OSHA compliance officer during the inspection tour;
- Respond to questions from the OSHA compliance officer, particularly if there is no authorized employee representative accompanying the compliance officer;
- Observe any monitoring or measuring of hazardous materials and have the right to see these records, and your medical records, as specified under the Act;
- Have your authorized representative, or yourself, review the Log and Summary of Occupational Injuries at a reasonable time and in a reasonable manner;
- Request a closing discussion with the compliance officer following an inspection;
- Submit a written request to NIOSH 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 if you so request;
- Object to the abatement period set in the citation issued to your employer by writing to the OSHA area director within 15 working days of the issuance of the citation;
- 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 from an OSHA standard, testify at a variance hearing, and appeal the final decision;
- Submit information or comment to OSHA on the issuance, modification, or revocation of OSHA standards, and request a public hearing.

Employees have a right to seek safety and health on the job without fear of punishment. That right is spelled out in Section 11(c) of the Act.

The law says employers shall not punish or discriminate against workers for exercising rights such as:

- Complaining to an employer, union, OSHA or any other government agency about job safety and health hazards;
- Filing safety or health grievances;
- Participating on 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.

If an employee is exercising these or other OSHA rights, the employer is not allowed to retaliate for such activities in any way, such as through firing, demotion, taking away seniority or other earned benefits, transferring the worker to an undesirable job or shift, or threatening or harassing the worker.

If the employer has knowingly allowed the employee to do something in the past (such as leaving work early), he or she may be violating the law by punishing the worker for doing the same thing following a protest about hazardous conditions. If the employer knows that a number of workers are doing the same thing wrong, he or she cannot legally single out for punishment the worker who has taken part in safety and health activities.

Workers believing they have been punished for exercising safety and health rights must contact the nearest OSHA office within 30 days of the time they learn of the alleged discrimination. A union representative can file the 11(c) complaint for the worker. The worker does not have to complete any forms. An OSHA staff member will complete the forms, asking what happened and who was involved.

Following a complaint, OSHA investigates. If an employee has been illegally punished for exercising safety and health rights, OSHA asks the employer to restore that worker's job earning and benefits. If necessary, and if it can prove discrimination, OSHA takes the employer to court. In such cases, the worker does not pay any legal fees.

3. Purposes

OSHA's main purposes are the following:

- To encourage employers and employees to reduce workplace hazards and to implement new, or improve existing, safety and health programs;
- To provide for research in occupational safety and health and to develop innovative ways for dealing with occupational safety and health problems;
- To establish separate but dependent responsibilities and rights, for employers and employees, for the achievement of better safety and

health conditions;

- To maintain a reporting and recordkeeping system to monitor job-related injuries and illnesses;
- To establish training programs to increase the number and competence of occupational safety and health personnel;
- To provide for the development, analysis, evaluation, and approval of state occupational safety and health programs;
- To develop and promulgate mandatory job safety and health standards and enforce them effectively through the conducting of workplace compliance inspections and the issuance of citations for alleged noncompliance.

It is with this last mandate that OSHA is most frequently identified, since employers have to make an effort to comply with the Act and be prepared to deal with OSHA inspections.

4. Coverage

In general, OSHA's coverage extends to employers and employees in the fifty states, the District of Columbia, Puerto Rico, and all other territories under federal government jurisdiction. Coverage may be provided either by federal OSHA or through an OSHA-approved state program.

The Act defines an employer as 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". Therefore, the Act applies to virtually every kind of business, with the exception of self-employed persons, farms at which only immediate members of the farm employer's family are employed, and working conditions regulated by other federal agencies under other federal statutes.

Although federal employees are not covered by the Act, federal agency heads are responsible for establishing effective and comprehensive occupational safety and health programs and providing safe and healthful working condition for their employees. In fact, inspections of federal workplaces are conducted because of an executive order that requires agencies to comply with standards consistent with those issued by OSHA for private sector employees. However, OSHA cannot propose monetary penalties against another federal agency for failure to comply with these standards. Instead, compliance issues unresolved at the local level are raised to higher organizational levels until resolved.

5. Standards

The first OSHA standards were derived from federal laws that were in effect when the OSH Act became law, as well as consensus and proprietary standards. Nevertheless,

OSHA has already promulgated several other standards. OSHA can begin standards-setting procedures on its own initiative or in response to petitions from other parties. These standards may require the adoption of any procedure appropriate to protect workers on the job.

OSHA standards may be divided in four major categories: general industry, maritime, construction, and agriculture. However, even if no specific standards are promulgated that cover a certain type of work, employers are still obligated to follow the Act's general duty clause, which states that 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".

Employers may ask OSHA for a variance from a standard or regulation if they cannot fully comply by the effective date, due to shortages of materials, equipment, or technical personnel, or can prove that their facilities or methods of operation provide employee protection "at least as effective" as that required by OSHA. Thus, OSHA may grant temporary, permanent, or experimental variances to these employers.

6. Injury and Illness Records and Reports

OSHA made it possible for the U.S. to have a centralized and systematic method for monitoring occupational safety and health problems, since it enforces requirements concerning occupational injury and illness recordkeeping.

An occupational injury is any injury such as a cut, fracture, sprain, or amputation that results from a work-related accident or from exposure involving a single incident in the work environment.

An occupational illness is any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. Included are acute and chronic illnesses or diseases that may be caused by inhalation, absorption, ingestion, or direct contact with toxic substances or harmful agents.

In general, employers with 11 or more employees, as well as any employer selected by the Bureau of Labor Statistics – BLS to participate in the Annual Survey of Occupational Injuries and Illnesses, must maintain records of occupational injuries and illnesses as they occur.

All occupational illnesses must be recorded irrespective of severity, while occupational injuries must be recorded if they result in death, any lost workday, restriction of work or motion, loss of consciousness, transfer to another job, or medical treatment other than first-aid.

The forms used for recordkeeping are the Log and Summary of Occupational Injuries and Illnesses and the Supplementary Record of Occupational Injuries and Illnesses. They must be filled each year and kept for five years at the establishment. A copy of the

annual summary must be posted at the establishment, wherever notices to employees are customarily posted, no later than February 1 of the following year.

Moreover, any employer must report to OSHA, within 8 hours, any on-the-job accident that results in the death of an employee or in the hospitalization of three or more employees.

Employers may apply for recordkeeping variances if they wish to set up a system different from the one required by OSHA regulations.

7. Workplace Inspection

OSHA has authority to conduct workplace inspections in order to enforce its standards. OSHA compliance safety and health officers, trained in OSHA standards and in recognition of safety and health hazards, may inspect any establishment covered by the Act. Similarly, states with their own occupational safety and health programs also have their own compliance officers.

Under the Act, "upon presenting appropriate credentials to the owner, operator or agent in charge", an OSHA compliance officer is authorized to "enter without delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer".

Moreover, OSHA compliance officers have authority to "inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, owner, operator, agent or employee".

Appropriate legal action may be taken if an employer refuses to admit an OSHA compliance officer or attempts to interfere with the inspection. However, OSHA may not conduct inspections without the employer's consent, unless it manages to acquire a warrant from a judge, according to a 1978 Supreme Court ruling.

Inspections must be conducted without advance notice. Failure to comply with this determination may bring a criminal fine of up to US\$ 1,000 and/or a six-month jail term. However, there are special circumstances under which OSHA should alert the employer in advance, always within a period not greater than 24 hours, such as:

- Imminent danger situations which require corrections as soon as possible;
- Inspections that must take place after regular business hours, or that require special preparation;
- Cases where notice is required to assure that the employer and employee representative or other personnel will be present;

- Situations in which the OSHA area director determines that advance notice would produce a more thorough or effective inspection.

8. Inspection Priorities

In 1996 there were approximately 6.2 million workplaces covered by the Act. This makes it impossible for OSHA to conduct regular inspections of all of them. Therefore, a system of inspection priorities has been established.

Imminent danger situations are given top priority. An imminent danger is 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. In this case, the compliance officer will ask the employer to voluntarily abate the hazard and to remove endangered employees from exposure. If he or she doesn't do so, OSHA may apply to the Federal District Court for an injunction prohibiting further work as long as unsafe conditions exist.

Second priority is given to fatal accidents and catastrophes that result in the hospitalization of three or more employees. Investigations are performed to determine whether OSHA standards were violated and to avoid recurrence of similar accidents.

Third priority is given to formal employee complaints of alleged violations of standards or of unsafe or unhealthful working conditions, as well as to referrals from other government authorities about specific workplace hazards. Each employee has the right to request an OSHA inspection when he or she believes an imminent danger situation is being faced or OSHA standards are being violated. If requested, OSHA will withhold the employee's name from the employer, will inform the employee about the actions taken regarding the complaint, and will hold an informal review of any decision not to inspect. Many of these employee complaints are now handled by telephone and fax, without the need for onsite inspection.

Fourth in priority are programmed inspections aimed at specific high-hazard industries, workplaces, occupations, or health-damaging substances, as well as other industries identified in OSHA's current inspection procedures. Industries are selected for inspection on the basis of factors such as the injury incidence rates, previous citation history, employee exposure to toxic substances, or random selection.

Next in priority are follow-up inspections, which determine whether previously cited violations have been corrected. If not, the compliance officer issues a Notification of Failure to Abate and proposes additional daily penalties while the violations continue.

9. Inspection Process

Prior to the inspection, the compliance officer will become familiar with as many relevant facts as possible about the workplace, such as the inspection history of the establishment, the nature of the business, and the particular standards that might apply.

This preparation provides the compliance officer with knowledge of the potential hazards and industrial processes that may be encountered and aids in selecting appropriate personal protective equipment for use against these hazards during the inspection.

When the OSHA compliance officer arrives at the establishment, he or she displays official credentials and asks to meet an appropriate employer representative.

In the opening conference, the compliance officer explains how the establishment was selected and what the likely scope of the inspection will be. The compliance officer also ascertains whether an OSHA-funded consultation visit is in progress or whether the facility is pursuing or has received an inspection exemption through the consultation program. If so, the inspection may be terminated.

The compliance officer explains the purpose of the visit, the scope of the inspection, and the standards that apply. The employer is given information on how to obtain a copy of applicable safety and health standards as well as a copy of any employee complaint that may be involved (with the employee's name deleted if the employee has requested anonymity).

The employer is asked to select an employer representative to accompany the compliance officer during the inspection. An authorized employee representative also is given the opportunity to attend the opening conference and to accompany the compliance officer during the inspection.

If a recognized bargaining agent represents the employees, the agent ordinarily will designate the employee representative to accompany the compliance officer. Similarly, if there is a plant safety committee, the employee members of that committee will designate the employee representative (in the absence of a recognized bargaining agent). Where neither employee group exists, the employees themselves may select the employee representative, or the compliance officer may determine if any employee suitably represents the interest of other employees. Under no circumstances may the employer select the employee representative for the walkaround.

The Act does not require that there be an employee representative for each inspection. Where there is no authorized employee representative, however, the compliance officer must consult with a reasonable number of employees concerning safety and health matters in the workplace.

After the opening conference, the compliance officer and accompanying representatives proceed through the establishment to inspect work areas for safety and health hazards,

The compliance officer determines the route and duration of the inspection. While talking with employees, he or she must make every effort to minimize any work interruptions. The compliance officer observes safety and health conditions and practices; consults with employees privately, if necessary; takes photos and instrument readings; examines records, collects air samples, measures noise levels, and surveys

existing engineering controls; and monitors employee exposure to toxic fumes, gases, and dusts.

An inspection tour may cover part or all of an establishment, even if the inspection resulted from a specific complaint, fatality, or catastrophe.

Trade secrets observed by the compliance officer will be kept confidential. An inspector who releases confidential information without authorization is subject to a \$1,000 fine and/or 1 year in jail. The employer may require that the employee representative have confidential clearance for any area in question.

Employees are consulted during the inspection tour. The compliance officer may stop and question workers, in private, about safety and health conditions and practices in their workplaces. Each employee is protected under the Act from discrimination by the employer for exercising his or her safety and health rights.

OSHA places special importance on posting and recordkeeping requirements. The compliance officer will inspect records of deaths, injuries, and illnesses, which the employer is required to keep. He or she will check to see that a copy of the totals from the last page of the Log and Summary of Occupational Injuries and Illnesses has been posted and that the OSHA workplace poster, which explains employees' safety and health rights, is prominently displayed.

Where records of employee exposure to toxic substances and harmful physical agents have been required, they are also examined for compliance with the recordkeeping requirements.

The compliance officer also explains the requirements of the Hazard Communication Standard. Under that rule, employers must establish a written, comprehensive communication program that includes provisions for container labeling, material safety data sheets, and an employee-training program. The program must contain a list of the hazardous chemicals in each work area and the means the employer will use to inform employees of the hazards of non-routine tasks.

During the course of the inspection, the compliance officer points out to the employer any unsafe or unhealthful working conditions observed. At the same time, the compliance officer offers possible corrective action if the employer so desires.

Some apparent violations detected by the compliance officer can be corrected immediately. When they are corrected on the spot, the compliance officer records such corrections to help in judging the employer's good faith in compliance. Although corrected, the apparent violations may still serve as the basis for a citation and, if appropriate, a notice of proposed penalty. The penalties for some types of violations may be reduced if they are corrected immediately.

At the conclusion of an inspection, the compliance officer conducts a closing conference with the employer and the employee representative. It is a time for free discussion of

problems and needs, a time for frank questions and answers.

The compliance officer also gives the employer a copy of a booklet named Employer Rights and Responsibilities Following an OSHA Inspection, briefly discusses the information contained therein, and answers any questions.

The compliance officer discusses with the employer all unsafe or unhealthful conditions observed during the inspection and indicates all apparent violations for which a citation and a proposed penalty may be issued or recommended. The compliance officer will not indicate any specific proposed penalties; however, the employer is informed of appeal rights.

During the closing conference, the employer may wish to produce records to show compliance efforts and to provide information that can help OSHA determine how much time may be needed to abate an alleged violation.

When appropriate, more than one closing conference may be held. This is usually necessary when health hazards are being evaluated or when laboratory reports are required.

The compliance officer should explain that OSHA area offices are full-service resource centers that inform the public of OSHA activities and programs, such as new or revised standards, including the status of proposed standards, comment periods, or public hearings; provide technical experts and materials, including courses offered at the OSHA Training Institute; refer callers to other agencies and professional organizations as appropriate; and promote effective safety and health programs through voluntary protection programs and expanded employer abatement assistance efforts.

If an employee representative does not participate in either the opening or the closing conference held with the employer, a separate discussion is held with the employee representative, if requested, to discuss matters of direct interest to employees.

10. Citations and Penalties

After the compliance officer reports findings, the area director determines whether citations will be issued and whether penalties will be proposed.

Citations inform the employer and employees of the regulations and standards alleged to have been violated and of the proposed length of time set for their abatement. The employer will receive citations and notices of proposed penalties by certified mail. The employer must post a copy of each citation at or near the place a violation occurred, for 3 days or until the violation is abated, whichever is longer.

The following are the types of violations that may be cited and the penalties that may be proposed:

- Other-than-Serious Violation – A violation that has a direct relationship to job safety and health, but probably would not cause

death or serious physical harm. A penalty from \$0 to \$7,000 for each violation may be assessed. A penalty for an other-than-serious violation may be adjusted downward by as much as 95 percent, depending on the employer's good faith (demonstrated efforts to comply with the Act), history of previous violations, and size of business. When the adjusted penalty amounts to less than \$100, usually no penalty is proposed;

- Serious Violation – A violation where there is a substantial probability that death or serious physical harm could result. The penalty for a serious violation is assessed from \$1,500 to a maximum of \$7,000 depending on the gravity of the violation. A penalty for a serious violation may be adjusted downward based on the employer's good faith, history of previous violations, and size of business;
- Willful Violation – A violation that the employer intentionally and knowingly commits. The employer is aware that a hazardous condition exists, knows that the condition violates a standard or other obligation of the Act, and makes no reasonable effort to eliminate it. Penalties of up to \$70,000 may be proposed for each willful violation. The minimum willful penalty is \$5,000. 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 6 months, or both. A second conviction doubles the possible term of imprisonment;
- Repeated Violation – A violation of any standard, regulation, rule, or order where, upon reinspection, a substantially similar violation is found and the original citation has become a final order. Repeated violations can bring a fine of up to \$70,000 for each such violation. To calculate repeated violations, the initial penalty is adjusted for the size and then multiplied by a factor of 2, 5, or 10, depending on the size of the firm;
- Failure to Abate – Failure to correct a prior violation may bring a civil penalty of up to \$7,000 for each day that the violation continues beyond the prescribed abatement date.

Additional violations for which citations and proposed penalties may be issued are as follows:

- Falsifying records, reports, or applications can, upon conviction, bring a criminal fine of \$10,000 or up to 6 months in jail, or both;
- Violations of posting requirements bring a civil penalty of \$7,000;

- 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 and is subject to a fine of not more than \$5,000 and imprisonment for not more than 3 years.

Citations and penalty procedures may differ somewhat in states with their own occupational safety and health programs.

11. Appeals Process

If an inspection was initiated because of an employee complaint, the employee or authorized employee representative may request an informal review of any decision not to issue a citation.

Employees may not contest citations, amendments to citations, proposed penalties, or lack of penalties. They may, however, contest the time allowed for abatement of a hazardous condition. They also may contest an employer's Petition for Modification of Abatement that requests an extension of the proposed abatement period. Employees must contest the petition within 10 working days of its posting or within 10 working days after an authorized employee representative has received a copy.

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 intention to contest.

Within 15 working days of the employer's receipt of a citation, the employer who wishes to contest must submit a written objection to OSHA. The OSHA area director forwards the objection to the Occupational Safety and Health Review Commission – OSHRC, which operates independently of OSHA.

When issued a citation and notice of proposed penalty, an employer may request an informal meeting with OSHA's area director to discuss the case. OSHA encourages employers to have such informal conferences with the area director if the employer has issues arising from the inspection that they wish to discuss or if they wish to provide additional information. The area director is authorized to enter into settlement agreements that revise citations and penalties to avoid prolonged legal disputes and that result in speedier hazard abatement (alleged violations contested before OSHRC do not need to be corrected until the contest is ruled upon by OSHRC).

Upon receiving a citation, the employer must correct the cited hazard by the abatement date unless he or she contests the citation or abatement date. Factors beyond the employer's control, however, may prevent the completion of corrections by that date. In such a situation, the employer who has made a good faith effort to comply may file a petition to modify the abatement date (Petition for Modification of Abatement).

The written petition must specify the steps taken to achieve compliance, the additional time needed to comply, the reasons additional time is needed, and interim steps being taken to safeguard employees against the cited hazard during the intervening period. The employer must certify that a copy of the petition was posted in a conspicuous place at or near each place where a violation occurred and that the employee representative received a copy of it.

If the employer decides to contest either the citation, the abatement period, or the proposed penalty, he or she has 15 working days from the time the citation and proposed penalty are received to notify the OSHA area director in writing. Failure to do so will result in the citation and proposed penalty becoming a final order of the OSHRC without further appeal. An orally expressed disagreement will not suffice. This written notification is called a Notice of Contest.

Although there is no specific format for the Notice of Contest, it must clearly identify the employer's basis for filing: the citation, notice of proposed penalty, abatement period, or notification of failure to correct violations.

A copy of the Notice of Contest must be given to the employee's authorized representative. If no affected employees are represented by a recognized bargaining agent, a copy of the notice must be posted in a prominent location in the workplace or given personally to each unrepresented employee.

If the written Notice of Contest has been filed within the required 15 working days, the OSHA area director forwards the case to OSHRC, which will perform a review procedure. The commission is an independent agency not associated with OSHA or the Department of Labor, and assigns the case to an administrative law judge.

A hearing may be scheduled for a public place near the employer's workplace. The employer and the employees have the right to participate in the hearing, even without being represented by attorneys.

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

States with their own occupational safety and health programs have a state system for review and appeal of citations, penalties, and abatement periods. The procedures are generally similar to federal OSHA's, but cases are heard by a state review board or equivalent authority.

12. OSHA Nowadays

With 10 Regional Offices, federal OSHA has a staff of 2,209 employees, including 1,113 inspectors, and a budget of \$336.5 million for Fiscal Year 1998. It covers more than 100 million workers at more than 6 million workplaces. Sharing that responsibility are 25

states that run their own OSHA programs with more than 2,625 employees, including 1,216 inspectors.

OSHA is now committed to a common sense strategy of forming partnerships with employers and employees; conducting fair but firm inspections; developing sensible, easy-to-understand regulation; eliminating unnecessary rules; and assisting employers in developing topnotch safety and health programs.

In Fiscal Year 1997, state consultants, authorized and funded largely by OSHA, conducted 21,596 free consultation visits with employers who asked for help in establishing safety and health programs or dealing with specific hazards at their workplace.

Companies that demonstrate excellence in workplace safety and health may request recognition by OSHA under the Voluntary Protection Program. In 1997, 337 companies were participating in this program. They serve as models of excellence and mentors for other companies that want to improve workplace safety and health.

Moreover, Cooperative Compliance Programs offer partnerships to assist companies that have experienced a high rate of injuries and illnesses at their worksites.

In 1996–97, OSHA eliminated 981 Federal Register pages of regulations and put another 616 pages in plain English. The agency plans to cut about 134 more pages this year and reword three technical standards to make them easier to understand.

In consultations with stakeholders, five issues have been identified for future regulation and thirteen issues for other approaches such as guidelines or educational efforts.

13. OSHA's Performance

Although the workplace death rate has been cut in half since OSHA's creation, 17 workers on average still die every day on the job in the United States. The number of worker fatalities in 1996 was 6,112, the lowest in five years.

Also in 1996, there were 6.2 million injuries or illnesses among private sector firms with 11 or more employees, about 400,000 less than in 1995.

The rate of injuries and illnesses for every 100 workers dropped from 8.9 in 1992 to 7.4 in 1996, the lowest on record. The rate for serious cases, 2.2, also was the lowest on record.

The following table provides a summary of the inspections conducted in Fiscal Year 1997 by federal and state inspectors, including the violations found and the amount of penalties imposed on the firms.

14. OSHA's Strategic Plan

The Occupational Safety and Health Administration's Strategic Plan for FY 1998 – FY 2002 was designed to serve as a high-level policy document to guide the Agency's direction and resource allocation for these program years. It defines OSHA's goals and objectives and provides clear benchmarks for evaluating its performance, by defining performance measures that are outcome-oriented (e.g., reduction in injury and illness rates), rather than activity-oriented (e.g., number of inspections conducted).

With a view to being a world class leader in occupational safety and health, OSHA presents its desire to be a results-oriented agency, using data proactively to identify workplace safety and health problems and apply a comprehensive strategy that combines common sense regulation; a firm, fair and consistent enforcement policy; and wide-ranging approaches to compliance assistance that meet the needs of workers and employers and effectively use the nation's resources.

To achieve this vision, OSHA has established three interdependent and complementary strategic goals to guide the development of programs and activities for the Agency:

- Improve workplace safety and health for all workers, as evidenced by fewer hazards, reduced exposures, and fewer injuries, illnesses, and fatalities.
 - Change workplace culture to increase employer and worker awareness of, commitment to, and involvement in safety and health.
 - Secure public confidence through excellence in the development and delivery of OSHA's programs and services.

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Gláuber Maciel Santos

O ex-bolsista coordena o Grupo Estratégico de Informática da Secretaria de Fiscalização do Trabalho, do Ministério do Trabalho. Representa esse Ministério no Grupo Técnico do Cadastro Nacional de Informações Sociais - CNIS, de âmbito interministerial.

Mail to:



Gláuber Maciel Santos -

glauber@mailcity.com.br

ICM - Instituto Cultural Minerva

IBI - Institute of Brazilian Issues -

The George Washington University

Ensaio de ex-bolsistas -

Conselho Curador do Instituto Cultural Minerva

Presidente: Roberto Campos;

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Diretoria:

Diretor-Geral: Celso F.Quintella

Diretor-Adjunto: Ricardo Lanza Campolina

Secretário-Executivo: Gilberto Paim

Rua da Ajuda, nº 35 - 20º Andar - Rio de Janeiro, RJ, Brasil,20040-000. Tel.: (021) 211-8060 - FAX