



**Occupational
Safety and Health
Administration**

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OSHA: Employee Workplace Rights

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U.S. Department of Labor
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Introduction

The Occupational Safety and Health (OSH) Act of 1970 created the Occupational Safety and Health Administration (OSHA) within the Department of Labor and encouraged employers and employees to reduce workplace hazards and to implement safety and health programs. The Act gave employees many new rights and responsibilities. This booklet discusses these rights and responsibilities and encourages employees to work cooperatively with employers to promote safe and healthful workplaces that add value to everyone: businesses, workplaces, and workers' lives.

Worker Rights Under the OSH Act

The law encourages workers to be active players in their workplace's safety and health effort. It gives employees the right to

- Review copies of appropriate standards, rules, regulations, and requirements that the employer is required to have available at the workplace;
- Request information from the employer on safety and health hazards in the workplace, appropriate precautions to take, and procedures to follow if the employee is involved in an accident or is exposed to toxic substances;
- Gain access to relevant employee exposure and medical records;
- Request an OSHA inspection if they believe hazardous conditions or violations of standards exist in the workplace;
- Accompany an OSHA compliance officer during the inspection tour, or have an authorized employee representative do so;
- Respond to questions from the OSHA compliance officer;

- Observe any monitoring or measuring of hazardous materials and see the resulting records, as specified under the OSH Act and required by OSHA standards;
- Review or have an authorized representative review the employer's Log of Work-Related Occupational Injuries and Illnesses (OSHA 300) at a reasonable time and in a reasonable manner;
- Object to the timeframe set by OSHA for the employer to correct a violation by writing to the OSHA area director within 15 working days from the date the employer receives the citation;
- Submit a written request to the National Institute for Occupational Safety and Health for information on whether any substance in the workplace has potentially toxic effects in the concentration being used, and, if requested, have their names withheld from the employer;
- Be notified if the employer applies for a variance from an OSHA standard, and have an opportunity to testify at a variance hearing and appeal the final decision;
- Have their names withheld from their employer, by request to OSHA, if they sign and file a written complaint;
- Be advised of OSHA actions regarding a complaint, and request an informal review of any decision not to inspect the site or issue a citation; and
- File a complaint if punished or discriminated against for acting as a "whistleblower" under the OSH Act or 13 other federal statutes for which OSHA has jurisdiction, or for refusing to work when faced with imminent danger of death or serious injury and there is insufficient time for OSHA to inspect.

Worker Rights to Information

Employer responsibilities

Employers have a legal obligation to inform employees of OSHA safety and health standards that apply to their workplace. Upon request, the employer must make available copies of those standards and the OSH Act. The employer also must prominently display the official OSHA poster that describes rights and responsibilities under the OSH Act.

Protecting employees who work with hazardous materials

Employers must establish a written, comprehensive hazard communication program to ensure that employees who work with or near hazardous materials are informed of the hazards and provided proper protection. A hazard communication program includes provisions for container labeling, material safety data sheets, and an employee training program. The program must include

- A list of the hazardous chemicals in each workplace and material safety data sheets for each;
- Methods the employer uses to inform employees of the hazards of non-routine tasks (for example, the cleaning of reactor vessels) and the hazards associated with chemicals in unlabeled pipes in their work areas; and
- A description of methods the employer at a multi-employer worksite will use to inform other employers at the site of the hazards to which their employees may be exposed.

Employee rights when an employer files a variance

Some employers may not be able to comply fully with a new safety and health standard in the time provided due to shortages of personnel, materials, or equipment. In these situations, employers may apply to OSHA for a temporary variance from the standard. In other cases,

employers may prefer to use methods or equipment that differ from those prescribed by OSHA, but which the employer believes are equal to or better than OSHA's requirements. In these cases, the employer may seek a permanent variance for the alternative approach.

The employer's application for a permanent or temporary variance must include certification that

- The employer has informed workers of the variance application;
- The employee representative receives a copy of the variance application; and
- The employer has posted a summary of the application wherever notices are normally posted in the workplace.

Employers also must inform employees that they have the right to request a hearing on the application. OSHA encourages employees, employers, and other interested groups to participate in the variance process. Notices of variance applications are published in the Federal Register inviting all interested parties to comment on the action.

Worker Rights to Access Records and Test Results

Access to exposure and medical records

Employers must inform employees of the existence, location, and availability of their medical and exposure records when they begin employment and then at least annually.

Employers also must provide these records to employees or their designated representatives upon request.

Whenever an employer plans to stop doing business and there is no successor employer to receive and maintain these records, the employer must notify employees of their right of access to

these records at least three months before closing the business.

Right to observe monitoring procedures and see testing results

OSHA standards require the employer to measure exposure to harmful substances. The employee (or employee representative) has the right to observe the testing and examine the records of the results. If the exposure levels are above the limit set by an OSHA standard, the employer must tell employees what will be done to reduce the exposure.

During an OSHA inspection, an OSHA industrial hygienist may conduct exposure tests if health hazards may be present in the workplace. The inspector may take samples to measure levels of dust, noise, fumes, or other hazardous materials.

OSHA will inform the employee or employee representative who participates in the inspection as to whether the employer is in compliance with OSHA standards. The inspector also will gather detailed information about the employer's efforts to control health hazards, including results of tests the employer may have conducted.

Right to review injury and illness records

An employer with more than 10 employees must maintain records of all work-related injuries and illnesses, and the employees or their representative have the right to review those records. Some industries with very low injury rates are exempt from these recordkeeping requirements.

Worker Rights to Promote Workplace Safety

Working cooperatively to reduce hazards

OSHA encourages employers and employees to work together to reduce hazards. Employees

should discuss safety and health problems with the employer, other workers, and, if a labor union exists, union representatives. The OSHA area office can provide information on OSHA requirements. If the worksite is in a state with its own OSHA-approved occupational safety and health program, the state can provide similar information. (See page 16 for more information about state programs.)

Right to refuse to perform unsafe work

Although nothing in the OSHA law specifically gives an employee the right to refuse to perform an unsafe or unhealthful job assignment, OSHA's regulations, which have been upheld by the U.S. Supreme Court, provide that an employee may refuse to work when faced with an imminent danger of death or serious injury. The conditions necessary to justify a work refusal are very stringent, however, and a work refusal should be taken only as a last resort. If time permits, the employee should report the unhealthful or unsafe condition to OSHA or another appropriate regulatory agency.

Recourse if the employer does not correct a hazard

An employee may file a complaint by phone, mail, email, or fax with the nearest OSHA office and request an inspection if there are unsafe or unhealthful working conditions. When doing so, the employee request that OSHA not reveal his or her name. If the OSHA area or state office determines that there are reasonable grounds for believing that a violation or danger exists, the office will investigate.

To file a complaint, call (800) 321-OSHA (6742); contact the nearest OSHA regional, areas, state plan, or consultation office; or file an online complaint at www.osha.gov. The teletypewriter (TTY) number is (877) 889-5627.

Worker Rights During the Inspection Process

Right to representation

The OSH Act gives employees or a workers' representative the right to accompany an OSHA compliance officer (also referred to as a compliance safety and health officer, CSHO, or inspector) during an inspection. The labor union, if one exists, or the employees must choose the representative. Under no circumstances may the employer choose the workers' representative.

If more than one union represents the employees, each union may choose a representative. Normally, union representatives will accompany the inspector in the areas of the facility where their members work. An OSHA inspector may conduct a comprehensive inspection of the entire workplace or a partial inspection limited to certain areas or aspects of the operation.

Right to help the compliance officer

Workers have a right to talk privately to the compliance officer on a confidential basis, whether or not a workers' representative has been chosen. Workers are encouraged to

- Point out hazards;
- Describe accidents or illnesses that resulted from those hazards;
- Discuss past worker complaints about hazards; and
- Inform the inspector if working conditions are not normal during the inspection.

Rights to information following the inspection

At the end of the inspection, the OSHA inspector will meet with the employer and the employee representatives in a closing conference to discuss how any hazards that may have been found will be abated. If it is not practical to hold a joint conference, the compliance officer will hold separate

conferences. OSHA will provide written summaries, on request.

How to challenge the abatement period

Whether or not the employer accepts OSHA's findings, the employee (or representative) has the right to contest the time OSHA allows for correcting a hazard. This contest must be filed in writing with the OSHA area director within 15 working days after the citation is issued. The Occupational Safety and Health Review Commission, an independent agency that is not part of the Department of Labor, will decide whether to change the abatement period.

Right to information if no inspection is conducted or no citation issued

The OSHA area director evaluates complaints from employees or their representatives and decides whether they are valid. If the area director decides not to inspect the workplace, he or she will send a certified letter to the complainant explaining the decision and the reasons for it.

OSHA will inform complainants that they have the right to request further clarification of the decision from the OSHA area director. If still dissatisfied, they can appeal to the OSHA regional administrator for an informal review. Similarly, in the event that OSHA decides not to issue a citation after an inspection, employees have a right to further clarification from the area director and an informal review by the regional administrator.

Worker Rights to Protection from Retaliation

Right to confidentiality

Employees who make a complaint to OSHA about safety and health hazards in their workplaces have a right to confidentiality. If the

employee requests that his or her name not be used, OSHA will not tell the employer who filed the complaint or requested an inspection.

Whistleblower protections

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 OSH Act. The law forbids the employer from punishing or discriminating against employees for exercising such rights as

- Complaining to the employer, union, OSHA, or any other government agency about job safety and health hazards; and
- Participating in OSHA inspections, conferences, hearings, or other OSHA-related activities.

States administering their own occupational safety and health programs must have provisions at least as effective as those in the OSH Act to protect employees from discharge or discrimination. OSHA, however, retains its whistleblower protection authority in all states regardless of the existence of an OSHA-approved state occupational safety and health program.

Workers who believe 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 representative of the employee's choosing can file the complaint for the worker. Following a complaint, OSHA will contact the complainant and conduct an in-depth interview to determine whether an investigation is necessary.

If the evidence shows that the employee has been punished for exercising safety and health rights, OSHA will ask the employer to restore that worker's job, earnings, and benefits. If the employer refuses, OSHA may take the employer to court. In such cases, a Department of Labor attorney will represent the employee to obtain this relief.

Additional whistleblower protections

Since passage of the OSH Act in 1970, Congress has expanded OSHA's whistleblower protection authority to protect workers from discrimination under 13 additional federal statutes. The agency's investigators receive about 2,000 complaints a year from employees who charge their employer with retaliation. Complaints must be reported to OSHA within set timeframes following the discriminatory action, as prescribed by each law.

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 a variety of 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, public or private.

- ***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 new construction of all types 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 of publicly traded companies or brokerage firms or their contractors, subcontractors, or agents, who report violations of the Act, which covers mail, wire, bank, or securities fraud or violations of laws related to fraud against stockholders.

- ***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.

OSHA's publication, "Protecting Whistleblowers," (OSHA 3164) provides additional information. It is available on the agency website at www.osha.gov. If you believe that you have been discriminated against, call (800) 321-OSHA (6742) to be connected to the nearest OSHA office to report your complaint.

Worker Rights in State-Plan States

States that assume responsibility for their own occupational safety and health programs must have provisions at least as effective as Federal OSHA's, including the protection of employee rights.

Any interested person or group, including employees, with a complaint concerning the

operation or administration of a state plan may submit a complaint to the appropriate

OSHA regional administrator. (See contact lists at the end of this booklet.) The OSHA regional administrator will investigate the complaints and inform the state and the complainant of these findings. When appropriate, OSHA will recommend corrective action.

Worker Responsibilities

Although OSHA does not cite employees for violations, the OSH Act requires that each employee "shall comply with all occupational safety and health standards and all rules, regulations, and orders issued under the Act" that are applicable. Each employee should

- Read the OSHA poster at the jobsite;
- Comply with all applicable OSHA standards;
- Follow all lawful employer safety and health rules and regulations, and wear or use prescribed protective equipment while working;
- 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 the workplace; and
- Exercise rights under the OSH Act in a responsible manner.

OSHA Assistance, Services, and Programs

OSHA can provide extensive help through a variety of programs, including assistance about safety and health programs, state plans, work-

place consultations, voluntary protection programs, strategic partnerships, alliances, and training and education. An overall commitment to workplace safety and health can add value to your business, your workplace, and your life.

Establishing a safety and health management system

Working in a safe and healthful environment can stimulate innovation and creativity and result in increased performance and higher productivity. The key to a safe and healthful work environment is a comprehensive safety and health management system.

OSHA has electronic compliance assistance tools, or eTools, on its website that walks users through the steps required to develop a comprehensive safety and health program. The eTools are posted at www.osha.gov, and are based on guidelines that identify four general elements critical to a successful safety and health management system:

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

State programs

The Occupational Safety and Health Act of 1970 (OSH Act) encourages states to develop and operate their own job safety and health plans. OSHA approves and monitors these plans and funds up to 50 percent of each 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 federal OSHA's.

Currently, 26 states and territories have their own plans. Twenty-three cover both private and

public (state and local government) employees and three states, Connecticut, New Jersey, and New York, cover only the public sector. For more information on state plans, visit www.osha.gov.

Consultation assistance

Consultation assistance is available on request to employers who want help establishing and maintaining a safe and healthful workplace. Funded largely by OSHA, the service is provided at no cost to small employers and is delivered by state authorities through professional safety and health consultants.

Safety and Health Achievement Recognition Program

Under the consultation program, certain exemplary employers may request participation in OSHA's Safety and Health Achievement Recognition Program (SHARP). Eligibility for participation includes, but is not limited to, receiving a full-service, comprehensive consultation visit, correcting all identified hazards, and developing an effective safety and health management system.

Employers accepted into SHARP may receive an exemption from programmed inspections (not complaint or accident investigation inspections) for 1 year initially, or 2 years upon renewal. For more information about consultation assistance, visit www.osha.gov.

Voluntary Protection Programs

Voluntary Protection Programs (VPP) are designed to recognize outstanding achievements by companies that have developed and implemented effective safety and health management programs. There are three VPP programs: Star, Merit, and Demonstration. All are designed to

- Recognize employers who that have successfully developed and implemented effective and comprehensive safety and health

management programs;

- Encourage these employers to continuously improve their safety and health management programs;
- 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.

VPP participation can bring many benefits to employers and employees, including fewer worker fatalities, injuries, and illnesses; lost-workday case rates generally 50 percent below industry averages; and lower workers' compensation and other injury- and illness-related costs. In addition, many VPP sites report improved employee motivation to work safely, leading to a better quality of life at work; positive community recognition and interaction; further improvement and revitalization of already-good safety and health programs; and a positive relationship with OSHA.

Additional information on VPP is available from OSHA regional offices listed at the end of this booklet. Also, see "Cooperative Programs" on OSHA's website.

Cooperative partnerships

OSHA has learned firsthand that voluntary, cooperative partnerships with employers, employees, and unions can be a useful alternative to traditional enforcement and an effective way to reduce worker deaths, injuries, and illnesses. This is especially true when a partnership leads to the development and implementation of a comprehensive workplace safety and health management system.

Alliance program

Alliances 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.

Alliances are open to all, including trade or professional organizations, businesses, labor organizations, educational institutions, and government agencies. In some cases, organizations may be building on existing relationships with OSHA through other cooperative programs.

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 three categories: training and education; outreach and communication; and promotion of the national dialogue on workplace safety and health.

Strategic Partnership Program

OSHA Strategic Partnerships are agreements among labor, management, and government to improve workplace safety and health. These partnerships encourage, assist, and recognize the efforts of the partners to eliminate serious workplace hazards and achieve a high level of worker safety and health. Whereas OSHA's Consultation Program and VPP entail one-on-one relationships between OSHA and individual worksites, most strategic partnerships build cooperative relationships with groups of employers and employees.

For more information about this program, contact your nearest OSHA office or visit our website.

Occupational safety and health training

The OSHA Training Institute in Arlington Heights, Ill., 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.

In addition, 20 OSHA Training Institute Education Centers at 35 locations throughout the United States deliver courses on OSHA standards and occupational safety and health issues to thousands of students a year.

Training grants

OSHA awards grants to nonprofit organizations to provide safety and health training and education to employers and workers in the workplace. Grants often focus on high-risk activities or hazards or may help nonprofit organizations in training, education, and outreach.

OSHA expects each grantee to develop a program that addresses a safety and health topic named by OSHA, recruit workers and employers for the training, and conduct the training. Grantees are also expected to follow up with students to find out how they applied the training in their workplaces.

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

Other assistance materials

OSHA has a variety of materials and tools on its website at www.osha.gov. These include eTools such as Expert Advisors and Electronic Compliance Assistance Tools, information on specific health and safety topics, regulations, directives, publications, videos, and other information for employers and employees.

OSHA also has an extensive publications program. For a list of items, visit OSHA's website at www.osha.gov or contact the OSHA Publications Office, U.S. Department of Labor, 200 Constitution

Avenue, NW, N-3101, Washington, DC 20210.
Telephone (202) 693-1888 or fax to (202) 693-2498.

In addition, OSHA's CD-ROM includes standards, interpretations, directives, and more. It is available for sale from the U.S. Government Printing Office. To order, write to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or phone (202) 512-1800.

To contact OSHA

To report an emergency, file a complaint, or seek OSHA advice, assistance, or products, call (800) 321-OSHA (6742) or contact your nearest OSHA regional office listed at the end of this publication. The teletypewriter (TTY) number is (877) 889-5627.

Employees can also file a complaint online and get more information on OSHA federal and state programs by visiting OSHA's website at www.osha.gov.

OSHA Regional Offices

Region I

(CT,* ME, MA, NH, RI, VT*)
Boston, MA 02203
(617) 565-9860

Region II

(NJ,* NY,* PR,* VI*)
201 Varick Street, Room 670
New York, NY 10014
(212) 337-2378

Region III

(DE, DC, MD,* PA,* VA,* WV)
The Curtis Center
170 S. Independence Mall West Suite 740 West
Philadelphia, PA 19106-3309
(215) 861-4900

Region IV

(AL, FL, GA, KY,* MS, NC,* SC,* TN*)
Atlanta Federal Center
61 Forsyth Street SW, Room 6T50
Atlanta, GA 30303
(404) 562-2300

Region V

(IL, IN,* MI,* MN,* OH, WI)
230 South Dearborn Street, Room 3244
Chicago, IL 60604
(312) 353-2220

Region VI

(AR, LA, NM,* OK, TX)
525 Griffin Street, Room 602
Dallas, TX 75202
(214) 767-4731 or 4736 x224

Region VII

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

Region VIII

(CO, MT, ND, SD, UT,* WY*)
1999 Broadway, Suite 1690
PO Box 46550
Denver, CO 80202-5716
(303) 844-1600

Region IX

(American Samoa, AZ,* CA,* HI, NV,* Northern Mariana Islands)
71 Stevenson Street, Room 420
San Francisco, CA 94105
(415) 975-4310

Region X

(AK,* ID, OR,* WA*)

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, visit www.osha.gov or call (800) 321-OSHA (6742).



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