

25.2: Workplace Safety and Health Laws

Learning Objectives

1. Be able to explain OSHA laws.
2. Understand right-to-know laws.

Workplace safety is the responsibility of everyone in the organization. HR professionals and managers, however, play a large role in developing standards, making sure safety and health laws are followed, and tracking workplace accidents. [Occupational Safety and Health Administration \(OSHA\) Laws](#) addresses workplace laws as they relate to safety.

Occupational Safety and Health Administration (OSHA) Laws

In 2009 (the most recent data available at the time of this writing), 4,340 fatalities and 3.3 million injuries were reported¹. This staggering number represents not only the cost to employees' well-being but also financial and time costs to the company. This is why health and safety is a key component of any human resource management (HRM) strategic plan.

What Is OSHA About?



A short video on the purpose of OSHA.

The **Occupational Safety and Health Act (OSHA)**, passed in 1970, created the Occupational Safety and Health Administration, which oversees health and safety in the workplace. The organization's mission is to ensure safe and healthful working conditions for working men and women by setting and enforcing standards and by providing training, outreach, education, and assistance. For example, OSHA offers ten- and thirty-hour courses on workplace hazards and also provides assistance to ensure companies are in compliance with standards. OSHA is part of the US Department of Labor, with the main administrator being the assistant secretary of labor for occupational safety and health. This person reports to the labor secretary, who is a member of the president's cabinet.

Although OSHA applies to all companies, health and safety standards are specifically mentioned for the following types of businesses:

1. Construction
2. Shipyard
3. Marine terminals

Although OSHA standards may appear to apply only to companies in production, manufacturing, or construction, even companies with primarily an office function are required to abide by the laws set by OSHA. Examples (not at all an exhaustive list) of the types of safety laws (for all types of businesses) that are overseen by OSHA are as follows:

1. **Regulations on walking/working surfaces.** According to OSHA, slips, trips, and falls constitute the majority of general industry accidents and 15 percent of all accidental deaths. The standards apply to all permanent places of employment. The provision says that “all passageways, storerooms, and service rooms shall be kept clean and orderly. Every floor and working space shall be kept free of protruding nails, splinters, holes, or loose boards.” These are a few examples included in this provision.
2. **Means of egress (exiting), which includes emergency evacuation plans.** “Every building or structure shall be arranged and maintained as to provide free and unobstructed egress from all part of the buildings. No lock or fastening to prevent free escape from inside the building should be installed (except in penal or corrective institutions).” The provision also says that exits shall be marked by a visible sign.
3. **Occupational noise exposure.** “Protection against the effects of noise exposure shall be provided when the sound levels reach a specified level. Controls should be used to control the sound, and protective equipment should be provided.”
4. **Hazardous handling of materials.** OSHA regulates exposure to four hundred substances and requires communication about the possible chemical hazards to employees.
5. **Protective equipment, such as eye, face, and respiratory protection.** OSHA requires the use of personal protective equipment to reduce employee exposure to hazards. For example, head protection is required when workers are in an area where there is potential for falling, and eye and face protection is required when workers are exposed to eye or face hazards such as flying particles and molten metal.
6. **Sanitation.** Some examples of these OSHA requirements include the following: Potable water should be provided in all places of employment. Vermin control is required in all enclosed workplaces. Toilet facilities must be provided, separate for each sex. The number of toilets provided depends on the number of employees.
7. **Requirement of first aid supplies on-site.** First aid kits are mandatory and should include gauze pads, bandages, gauze roller bandages, and other required items.
8. **Standards for fire equipment.** Fire extinguishers are required to be on-site for use by employees, unless there is a written fire policy that requires the immediate and total evacuation of employees.
9. **Standards for machine guards and other power tools.** Moving machine parts require safeguards (depending upon the industry) to prevent crushed fingers, hands, amputations, burns, or blindness. Safeguards might include a guard attached to the machine.
10. **Electrical requirements and standards.** OSHA electrical standards are designed to protect employees from electric shock, fires, and explosions. Electrical protective devices are required to cover wiring. OSHA also addresses the installation of electrical wiring.
11. **Commercial diving operation requirements.** OSHA provides information on the safety aspects of commercial diving such as pre- and postdive procedures, mixed-gas diving, and necessary qualifications of the dive team.

HR professionals and managers should have a good understanding of these laws and make sure, no matter which industry, that all these standards are followed in the workplace. These standards are normally part of the overall strategic HRM plan of any organization and are even more crucial to organizations involved in manufacturing.

There exist many examples of OSHA violations. For example, in a Queensbury, Pennsylvania, Dick’s Sporting Goods store, OSHA found six violations, including blocked access to a fire extinguisher and workers’ entering a trash compactor with the power supply on. Dick’s was fined \$57,300 by OSHA and told it had fifteen days to comply or contest the findings (Churchill, 2011).

The Most Frequently Violated and Cited OSHA Standards

1. 1926.451—Scaffolding
2. 1926.501—Fall Protection
3. 1910.1200—Hazard Communication
4. 1910.134—Respiratory Protection
5. 1926.1053—Ladders
6. 1910.147—Lockout/Tagout
7. 1910.305—Electrical, Wiring Methods
8. 1910.178—Powered Industrial Trucks
9. 1910.303—Electrical, General Requirements
10. 1910.212—Machine Guarding

Right-to-Know Laws

The **Emergency Planning and Community Right to Know Act (EPCRA)** or more simply, right-to-know laws, were established by Congress in 1986. The purpose of this act was to require local and state governments to provide emergency response plans to respond to a chemical emergency². The other requirement is that these plans must be reviewed on an annual basis. Companies that handle **extremely hazardous substances (EHSs)** in large quantities must develop response plans as well. In addition, any organization that manufactures, processes, or stores certain hazardous chemicals must make available to local fire departments and state and local officials **material data safety sheets**. The material data safety sheet should also be provided to employees, as the data lists not only the chemical components but health risks of the substance, how to handle the material safely, and how to administer first aid in the case of an accident. This requirement also states that inventories of all on-site chemicals must be reported to local and state governments, but the data sheets must also be made public, too.

This law and how it will be reported should be facilitated by the HR professional. Although the HRM may not know the chemical makeup of the materials used, he or she is responsible for facilitating the process to ensure that reporting is done timely and accurately. For organizations that use EHSs often, it is worthwhile to include the reporting process within the orientation training and provide ongoing training as the law changes. The A-Treat Bottling facility in Allentown, Pennsylvania, was cited by OSHA for repeat violations of lacking material safety data sheets for the chemicals it uses in manufacturing, among other infractions such as blocked exits and forklift violations. The fines totaled \$110,880, and the company had fifteen days to comply or contest the allegations³.

It is also important to note that some state standards are different from federal standards, which means the HR professional will need to be aware of the laws in the individual state in which the company is operating.

Human Resource Recall

How do you think the OSHA requirements apply to office work settings?

OSHA Enforcement

The record-keeping aspect of OSHA is perhaps as important as following the laws. Companies having fewer than ten employees in some industries are not required to keep records. The purpose of the record keeping does not imply that the employee or the company is at fault for a illness or injury. In addition, just because a record is kept doesn't mean the employee will be eligible for workers' compensation⁴; compensation. The record-keeping aspect normally refers to the keeping of incidence rates, or the number of illnesses or injuries per one hundred full-time employees per year, as calculated by the following formula:

$$\text{incidence rate} = \frac{\text{number of injuries and illness} \times 200,000}{\text{total hours worked by all employees in the period}}$$

Two hundred thousand is the standard figure used, as it represents one hundred full-time employees who work forty hours per week for fifty weeks per year. An HR professional can then use this data and compare it to other companies in the same industry to see how its business is meeting safety standards compared with other businesses. This calculation provides comparable information, no matter the size of the company. If the incidence rate is higher than the average, the HR professional might consider developing training surrounding safety in the workplace.

Knowing what should be reported and what shouldn't be reported is an important component to OSHA. Figure 25.2.1 provides a decision tree that explains this. Data are reported using a form called OSHA 300, which is shown in Figure 25.2.2

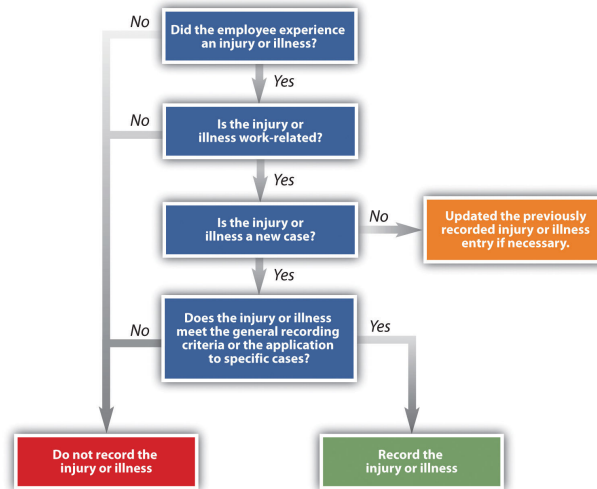


Figure 25.2.1: The OSHA Decision Tree for Determining If an Injury or Illness Should Be Recorded Source: www.osha.gov/recordkeeping/ppt1/RK1flowchart.html (accessed September 2, 2011).

J. SUPERVISOR'S REVIEW SECTION		ACTION VERBS ATTACHMENT													
<p>Based on your understanding of the job as it currently exists, please review the employee's response and provide your own comments in the space provided below. Please do not change the employee's responses.</p> <p>The questionnaire is intended to analyze the job as it is currently being done and not how it might be done in the future. The employee's level of performance in the job is not part of this review and is not to be considered.</p> <table border="1"> <thead> <tr> <th>Section</th> <th>Remarks</th> </tr> </thead> <tbody> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </tbody> </table> <p>Supervisor's Name: _____ Title: _____</p> <p>Supervisor's Signature: _____ Date: _____</p> <p>Telephone Number: _____</p>		Section	Remarks											<p>This list of action verbs should be used to assist you in completing the Summary of Responsibilities section. These verbs are useful in identifying and defining job functions. Although many of the terms may seem obvious, definitions are provided in the interest of consistency:</p> <p>Administer—Manage or direct the execution of affairs. Adopt—Take up and practice as one's own. Advise—Recommend a course of action, offer an informed opinion based on specialized knowledge. Assign—Separate into elements and critically examine. Assignee—Foresee and deal with in advance. Assess—Give an expert judgment of worth or merit. Assess—Accept as satisfactory; exercise final authority with regard to commitment of resources. Assignee—Make preparation for an event, put in proper order. Assignee—Collect or gather together in a predetermined order from various sources. Assign—Specify or designate tasks or duties to be performed by others. Assign—Understand, time for granted. Assign—Give conference, make selection of. Authorize—Approve, empower through vested authority. Calculate—Make a mathematical computation. Coordinate—Pass from person to person or place to place. Class—To remove dirt or make tidy. Class—Class approval of others. Collect—Work jointly with, cooperate with others. Collect—Gather. Consult—Put together information, collect from other documents. Consult—Agree with a position, statement, action, or opinion. Consult—Carry on, direct the execution of. Consult—Consult with others to compare views. Consult—Bring together. Consult—Build, make or modify. Consult—Seek the advice of others. Consult—Measure, interpret, and evaluate actions for conformance with plans or desired results. Consult—Regulate, adjust, or combine the actions of others to attain harmony. Consult—Establish a reciprocal relationship. Consult—Communicate with. Consult—To detect, locate and remove mistakes from a routine of malfunctions from a computer. Consult—Commission another to perform tasks or duties that may carry specific degrees of accountability. Consult—Carry to intended destination. Consult—Conceive, create, and execute according to plan. Consult—Resolve, fix, conclusively. Consult—Disclose, discover, perfect, or unfold a plan or idea. Consult—Come up with something new, purchase by combining or applying known ideas or principles. Consult—Guide work operations through the establishment of objectives, policies, rules, practices, methods, and standards. Consult—Exchange views for the purpose of arriving at a conclusion. Consult—Get rid of. Consult—Spread or disperse information. Consult—Deliver to proper destination. Consult—Prepare papers or documents in preliminary form. Consult—Support or recommend. Consult—Bring into existence. Consult—Forecast future requirements. Consult—Determine or fix the value of. Consult—Put into effect or carry out. Consult—Event.</p>	
Section	Remarks														
<p>K. REVIEWING OFFICIAL'S REVIEW SECTION</p> <p>Based on your understanding of the job as it currently exists, please review the employee's response and provide your own comments in the space provided below. Please do not change the employee's or supervisor's responses.</p> <p>The questionnaire is intended to analyze the job as it is currently being done and not how it might be done in the future. The employee's level of performance in the job is not part of this review and is not to be considered.</p> <table border="1"> <thead> <tr> <th>Section</th> <th>Remarks</th> </tr> </thead> <tbody> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </tbody> </table> <p>Reviewing Official's Name: _____ Title: _____</p> <p>Reviewing Official's Signature: _____ Date: _____</p> <p>Telephone Number: _____</p> <p>This questionnaire is to be forwarded next to your division administrator.</p> <p>Division administrator, please initial to indicate review (Attach additional page(s) for clarifying comments, as necessary.)</p>		Section	Remarks											<p>ACTION VERBS ATTACHMENT</p> <p>Accelerate—Accelerate the process or progress of. Accelerate—Develop or devise. Accelerate—Provide with what is needed, supply. Accelerate—Carry out, execute a plan or program. Accelerate—Make something better. Accelerate—Start or introduce. Accelerate—Critically examine for suitability. Accelerate—To set up for use. Accelerate—Explain something to others. Accelerate—Study through close examination and systematic inquiry. Accelerate—Put forth or to distribute officially. Accelerate—Close an existing state. Accelerate—Watch, observe, or check with an eye to reaching agreement. Accelerate—Make known to. Accelerate—Perform an activity or series of activities. Accelerate—Take part in. Accelerate—Fulfill or carry out some action. Accelerate—Locate and choose position for. Accelerate—Order or project the realization of a course of action. Accelerate—Perform work repeatedly in order to gain proficiency. Accelerate—Make ready for a particular purpose. Accelerate—Begin to carry out an action. Accelerate—Subject something to special treatment, handle in accordance with prescribed procedure. Accelerate—Advance to a higher level or position. Accelerate—Declare a plan or intention. Accelerate—Supply what is needed, furnish. Accelerate—Advance or correct a course of action, offer or suggest for adoption. Accelerate—Fix or make stable. Accelerate—Give an account of, furnish information or data. Accelerate—Inquire into a specific matter from several sources. Accelerate—Examine or examine. Accelerate—Plan in order to correct or improve. Accelerate—Plan a timetable. Accelerate—Gain possession of, make safe. Accelerate—Choose the best suited. Accelerate—Formally approve a document by affixing a signature. Accelerate—To separate or arrange according to a plan. Accelerate—Store precisely in detail or more explicitly. Accelerate—Exclude to activity, urge. Accelerate—Hold or present for the discussion or judgment of others. Accelerate—Personally oversee, direct, inspect, or guide the work of others with responsibility for meeting standards of performance. Accelerate—Teach or guide others in order to bring up to a predetermined standard. Accelerate—Transfer data from one form of record to another or from one method of preparation to another, without changing the nature of the data. Accelerate—Confirm or establish authority, substantiate. Accelerate—To complete or finish.</p>	
Section	Remarks														

Figure 25.2.2: OSHA Reporting Form 300. Public Domain Source: www.osha.gov/recordkeeping/new-osh300form1-1-04.pdf (accessed September 2, 2011).

As mentioned earlier, OSHA is responsible for enforcing standards. Besides requiring reporting, OSHA also performs inspections. OSHA is responsible for 7 million worksites across the country and so, of course, has to prioritize which ones it visits. OSHA has five main priorities for inspecting sites. First, it will inspect imminent danger situations. These are serious dangers that could cause

death or serious harm. The second priority is for those sites where three or more employees were harmed, suffered illness, or were killed. These events are classified as fatalities or catastrophes and must be reported within an eight-hour time frame. The next priority is responding to complaints, which employees are allowed to file anonymously. Organizations that have had previous violations are prioritized next, and finally, planned programs. A planned program might be an organization that has had safety problems in the past and is working with OSHA to remedy the problem.

Most site visits are unannounced and begin with the inspector introducing himself or herself. Prior to this, the inspector has performed research on the organization to be inspected. Once this occurs, a representative of the organization is assigned to accompany the inspector and the inspector discusses the reasons for the site visit. The HR professional is normally responsible for this task.

The inspector then walks around, pointing out any obvious violations, and then the inspector and representative discuss the findings. Within six months a complete report is sent, along with any citations or fines based on what the inspector found. If the organization is in disagreement with the violation or citation, a follow-up meeting with the OSHA director is scheduled and some fines may be reduced if the organization can show how it has improved and met the standards since the original visit.

OSHA has several penalties (per violation) it can assess on organizations, ranging from \$7,000 to \$70,000. The higher penalties often are a result of very serious offenses, in which an employee could have been killed, but also are imposed for willful offenses that the employer was aware could cause serious injury or death and did nothing about them. This is considered blatant indifference to the law. For example, Northeastern Wisconsin Wood Products was issued \$378,620 in fines for willful violations in the summer of 2011. The violations stemmed from repeat visits and citations to the facility, where no safety changes had been made. Some of the willful violations included lack of guards on dangerous machine belts and band saw blades and open-sided floors without a guardrail to prevent falls. Michael Connors, OSHA's regional administrator in Chicago, said, "Northeastern Wisconsin Wood Products has a history of failing to comply with OSHA standards. The company has yet to abate many violations cited in previous inspections and are unduly placing their workers at risk⁴." While any violation of OSHA is serious, a willful violation is more serious, and the fines associated with it represent this.

Fortune 500 Focus

PepsiCo is the world's largest manufacturer, seller, and distributor of Pepsi-Cola products and generates \$119 billion in sales every year⁵. Tropicana juice is owned by Pepsi-Co. In October of 2005, a spark triggered an explosion at a Tropicana juice processing plant in Bradenton, Florida, causing burns to two-thirds of a worker's body. While the worker survived, he underwent multiple surgeries to treat his burns. In this case, OSHA concluded that the fire could have been prevented if Tropicana had followed basic safety requirements such as risk evaluation, given tools to workers that did not produce sparks, and monitored for a buildup of flammable vapors and ventilated the area. OSHA inspectors tallied up a dozen violations, including two serious ones. Vice president of operations Mike Haycock said the plant has an incidence rate that is far lower than others in the industry, and plants around the country have immediately addressed many of the problems and are constantly working to correct other problems (Just-drinks editorial team, 2006).

The irony is that although the Tropicana factory paid \$164,250 in fines to OSHA, the company was part of the VPP or Voluntary Protection Program, whose membership benefits include exemption from regular inspections. Even after the fire, in 2007, OSHA formally reapproved the plant as a "star site," the highest level in VPP, meaning the plant pledged to exceed OSHA standards (Hamby, 2011). OSHA contends the VPP program isn't perfect but is still a useful model to all employers of what can be achieved. For admission into the VPP program, workplaces must show they have fewer accidents and missed work days than average for their industry. According to Robert Tuttle, president of the local Teamsters union representing Tropicana workers, accidents are more common when employees are shifted out of their normal responsibilities, which is more common as the weak economy has led to staff cuts (Gulliver, 2011). Tropicana plants have had more than eighty deaths since 2000, varying from preventable explosions to chemical releases to crane accidents (Hamby, 2011). PepsiCo and Tropicana have taken a hard stance on these types of accidents, as each of the plants now has a safety manager trained on OSHA standards to prevent accidents. In addition, strict operating procedures have been implemented to prevent future problems.

Key Takeaways

- Every year, 4,340 fatalities and 3.3 million injuries occur in the workplace in the United States.
- The *Occupational Safety and Health Act* was passed in 1970, with the goal of providing a safe and healthy work environment for all US workers.

- The *Occupational Safety and Health Administration* is part of the US Department of Labor and was created as a result of the act in 1970.
- OSHA applies to some specific industries, such as construction, shipyards, and marine terminals. However, some of the OSHA regulations apply to all industries.
- Some states may also have safety requirements that may be more stringent than federal laws.
- Right-to-know laws refer to a *material data safety sheet*, which discusses the types of chemicals, proper handling and storage, and first aid in case of an accident. These data sheets should be made available to the general public and employees.
- Right-to-know laws also require specific reporting to local and state agencies on chemicals used in certain quantities for some industries.
- OSHA requires recording keeping for all workplace accidents or illness. Record keeping is usually the responsibility of HR, and reports are made via OSHA Form 300.
- OSHA can inspect any site without prior notification. Usually, OSHA will gather information, visit the site, and ask for a representative. The representative is normally the HR person. The site visit will be performed, followed by discussion with the company representative. Within six months of the visit, a report and any penalties will be communicated.

Exercises

1. Research the Internet for recent OSHA violations and write two paragraphs describing one.
 2. Research possible strategies to reduce OSHA violations and write a paragraph on at least two methods.
- ¹“Workplace Injuries and Illnesses: 2009,” Bureau of Labor Statistics, US Department of Labor, news release, October 21, 2010, accessed April 14, 2011, www.bls.gov/news.release/archives/osh_10212010.pdf.
- ²“Emergency Planning and Community Right-to-Know Act (EPCRA),” United States Environmental Protection Agency, accessed April 15, 2011, www.epa.gov/epahome/r2k.htm.
- ³“OSHA Cites Allentown Soft Drink Company,” NewsWire.com, August 4, 2011, accessed August 21, 2011, <http://www.mmdnewswire.com/us-labor-departmen-57793.html>.
- ⁴“\$378,620 in Fines Issued for Willful Violations,” *Occupational Health and Safety*, July 31, 2011, accessed August 21, 2011, <http://ohsonline.com/articles/2011/07/31/378620-in-fines-issued-to-wisconsin-wood-firm-for-willful-violations.aspx?admgarea=news>.
- ⁵“PepsiCo Annual Report,” accessed September 15, 2011, [www.pepsico.com/Download/PepsiCo Annual Report 2010 Full Annual Report.pdf](http://www.pepsico.com/Download/PepsiCo%20Annual%20Report%202010%20Full%20Annual%20Report.pdf).

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