



**A FIRE SUPPRESSION CONTRACTOR**

# **SAFETY MANUAL**



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## INTRODUCTION

**FireTech, LLC** is dedicated to providing a safe and healthy work environment for all of our employees, sub-contractors, and customers. **FireTech, LLC** shall follow operating practices that will safeguard employees, the public, and company operations. We believe all accidents are preventable and have put steps in place to prevent such accidents. Therefore, we will make every effort to prevent accidents and comply with all established safety and health laws and regulations. Accordingly, management will provide sufficient staffing, funds, time, and equipment so that employees can work safely and efficiently.

Additionally, all sub-contractors of **FireTech, LLC** will be given a copy of all Safety Policies when arriving at the job site. They must review these policies through an orientation, and sign a statement indicating his/her understanding and acceptance of these rules.

This manual has allowed for the inclusion of additional data that may become available in the future.

A Safety Director has been placed on duty to coordinate the safety program. The Safety Director's duties require the development and updating of a safety manual, Orientation of employees to the safety manual, field monitoring to ensure safety procedures are being followed, and interceding on behalf of management should an OSHA inspection occur. The services of NATIONAL SAFETY CONSULTING have been obtained to perform the Safety Director duties.

**FIRETECH, LLC**  
**1353 Baur Ave.**  
**St. Louis, Mo. 63132-1901**

## **SAFETY POLICY STATEMENT**

Our employees are this company's single most valuable asset. Protecting your safety and health is our highest priority. The officers, managers and supervisors are accountable for safeguarding your well being by planning and implementing safety into every aspect of our work operations and setting the example for employee conduct. Our Safety Program has been developed to assist our supervisors in achieving and maintaining accident free jobsites. However, a team effort which involves every employee in this Safety Program is essential to our success.

Your role in prevention of accidents is important. Exercise good judgement and habits in your work. Follow all safety rules. Immediately report all accidents and unsafe conditions to your supervisor. Ask questions and make suggestions on how to improve jobsite safety.

**BE AWARE OF YOUR SURROUNDINGS.**

**ALL INJURIES ARE PREVENTABLE.**

## **RESPONSIBILITIES**

### **MANAGEMENT:**

- Management has the responsibility for accident prevention in the performance of all company activities.
- Management is responsible for assuring that all projects comply with applicable government regulations, company policy, and the policies imposed upon the company by contractual agreement.
- Management displays its concern for the well-being of its employees through its active participation and support of the accident prevention program.
- Management has an obligation to support and when necessary to direct the company's safety director in the execution of his duties.

### **SUPERINTENDENT:**

- The Superintendent must consider both existing and anticipated safety hazards associated with the job.
- The Superintendent must make provisions for employee safeguarding, by allowing for the procurement of personal protective equipment, and safe tools and equipment.
- The Superintendent must take into consideration the protection of the public and the protection of the owner's private property.
- It is the Superintendents responsibility to plan and conduct all operations with full regard to safety and shall insure compliance with all federal, state, and local safety regulations, all jobsite rules and operating procedures, and implement additional rules and procedures as required to further accident prevention at the jobsite and hold the responsibility for accident prevention within their crew.
- The Superintendent shall participate in accident investigations, safety meetings, site inspections and general safety awareness.

### **EMPLOYEES:**

- Employees are responsible for complying with all job safety rules and regulations.
- Employees are responsible for reporting all accidents and for correcting and/or reporting any unsafe acts or conditions to their superintendent.
- Employees are encouraged to participate fully in the accident prevention program.
- Employees have an obligation to question management and superintendents concerning any direction(s) or safety precaution(s) they do not understand.
- Employees must attend all training sessions to reinforce the skills needed to perform their jobs in a safe manner in and around their work area.

### **SAFETY INSPECTOR:**

- The Safety Inspector will provide safety meeting (tool box talks) to the Superintendent be read and signed at the safety meetings.
- The Safety Inspector is responsible to consult on matters such as recognizing the safety requirements and help in developing the objectives for jobsite accident prevention programs consult field Superintendents concerning the need for such programs, and the implementation of the programs. The responsibility for the fulfillment and success of the jobsite safety objectives rests with the Superintendent.
- The Safety Inspector shall consult the company and Superintendent on safety-related matters, keeping both groups current with inspection results, accident reports, corrective actions, general accident statistics and trends changes in government safety regulations, (OSHA), and other pertinent information.
- The Safety Inspector will help monitor the completion of the 300 Log.

### **SAFETY MEETINGS / ONGOING WEEKLY TRAINING**

As part of FireTech, LLC commitment to safety, each employee will participate in a weekly 10 minute “Huddle Talk/Toolbox Talk” that will focus on a safety issue that may be present during work hours or at an individual job site. At the conclusion of these meetings, each present employee will sign a sheet stating they understand and will comply with the material covered. This sheet will be faxed to the main office for record keeping.

# **TAB 1**

**SAFETY POLICY**

## **SAFETY POLICY AND PROCEDURES**

### **SAFETY INSPECTIONS AND REPORTING**

Employees are urged to report all alleged safety violations to the Company Safety Director. In the event no action is taken or the problem has not been eliminated, the employee may notify OSHA directly at (202) 219-8546. An employer representative will accompany all OSHA related inspections.

The Company Safety Director will make frequent on-site safety inspections. All or any violations will be reported to the Authorized Company Contact. Continued and repeat violations may cause personal employee penalty. Depending on the severity of the infraction, this penalty could include temporary suspension, or termination. Each citation against an employee requires a full and fair hearing.

In the event an employee is noticed doing an unsafe act that is violation of the safety procedures

Outlined in this manual, a SAFETY VIOLATION NOTICE will be filled out and placed in the employee's personnel file. Depending on the seriousness of the infraction, action up to and including termination may be pursued.

### **PERSONAL PROTECTION EQUIPMENT AND CLOTHING**

The company will supply hard hats, safety glasses and other PPE, when needed. This equipment is provided for your safety and should be worn at all times while at the work site. Failure to do so could result in injury.

All employees should avoid wearing shredded shirts, pants, or dangling materials on their clothing while working around any rotary type burrowing equipment.

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As part of **FireTech, LLC** commitment to safety, each employee will participate in a weekly 10 minute "Huddle Talk/Toolbox Talk" that will focus on a safety issue that may be present during work hours or at an individual job site. At the conclusion of these meetings, each present employee will sign a sheet stating they understand and will comply with the material covered. This sheet will be faxed to the main office for record keeping.

## **ACCIDENTS**

All accidents must be reported to **FireTech, LLC** immediately.

If you are involved in an accident:

1. Call the office 314-292-6250 or have someone else do it for you.
2. Stop at once to investigate and help anyone who is injured.
3. Photograph the scene (if possible). Don't rely on memory.
4. Locate interview and get statements from any witnesses.
5. Keep calm.
6. Put out emergency warning devices as soon as possible.
7. Identify yourself to other party by giving your name, address and license number.
8. It is unlawful to leave the scene of an accident until the police have been notified and grant permission to move the vehicle. It is your duty to cooperate with the police in every possible way.

All accidents must be reported to **FireTech, LLC** immediately. Once completed the form must be faxed to National Safety Consulting at 636-728-0731.

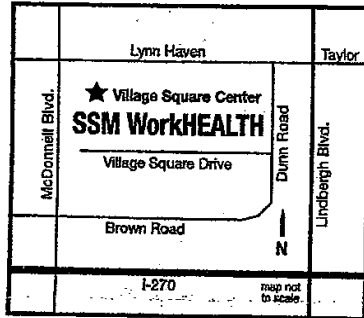
## **EMERGENCY PROCEDURES**

Each work site will have a notice of action for emergency procedures. All employees should follow a standard practice:

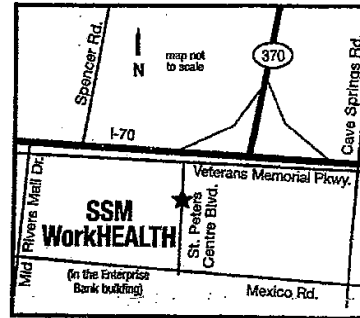
1. In the event of a serious injury or death to an employee or bystander.
  - a. Call 911 immediately. Give exact details of the injury and your location. Answer any questions given by the dispatcher.
  - b. Call company office 314-292-6250 Amy.
  - c. Wait further instructions from the company or authorized company representative.
  - d. Office to contact National Safety Consulting.
2. Broken Line (gas, electric, water, cable, etc.)
  - a. Each crew must have utility company emergency number. Call the utility company first. Then call 911.
  - b. Call company office 314-292-6250.
  - c. Company contact to call Safety Director a (314) 267-1325 or (636) 532-2999.
  - d. Immediately evacuate anyone from danger area.
  - e. Wait for additional instructions from utility company, **FireTech, LLC** or the Safety Director at National Safety Consulting.



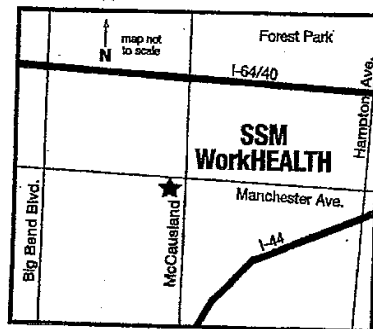
Monday–Friday • 8:00 a.m. – 5:00 p.m.  
In the event of a work-related injury or illness, contact:



**SSM WorkHEALTH**  
1 Village Square Center, Ste. A  
Hazelwood, MO 63042  
314-731-WORK (9675)



**SSM WorkHEALTH**  
300 St. Peters Centre Blvd., Ste. 150  
St. Peters, MO 63376  
636-928-WORK (9675)



**SSM WorkHEALTH**  
2321 B McCausland Ave.  
St. Louis, MO 63143  
314-645-WORK (9675)

**After hours, contact the Emergency Department at:**

SSM DePaul Health Center  
12303 DePaul Drive  
Bridgeton, MO 63044  
314-344-6360

SSM St. Joseph Health Center-Wentzville  
500 Medical Drive  
Wentzville, MO 63385  
636-327-1101

SSM St. Joseph Hospital West  
100 Medical Plaza  
Lake St. Louis, Mo 63367  
636-625-5300

SSM St. Joseph Health Center  
300 First Capitol Drive  
St. Charles, MO 63301  
636-947-5111

SSM St. Joseph Hospital of Kirkwood  
525 Couch Avenue  
Kirkwood, MO 63122  
314-966-1528  
St. Claire Fenton

SSM St. Mary's Health Center  
6420 Clayton Road  
St. Louis, MO 63117  
314-768-8360

[www.ssmworkhealth.com](http://www.ssmworkhealth.com)

## **FIRST AID KITS**

Each work site will be supplied by the company with an emergency, minor first aid kit. It is the responsibility of the Site Supervisor to take inventory of the kit and request any needed replacement items. The Safety Director, during routine field inspections, may ask to see the contents of the first aid kit to ensure compliance.

## **HOUSEKEEPING**

All empty cups, straws, paper sacks, and wrappers must be removed from all vehicles and work sites. Normal excesses such as scrap wire, rubber insulation, wood scraps, and metal shards must also be removed.

## **SEAT BELTS**

Seat belts must be worn at all times when a company vehicle or equipment is in use. In the event of an accident, the Highway Patrol or Local Law Enforcement will note if seat belts were in use. If seat belts were not in use, a citation or penalty will be forthcoming from FireTech, LLC

## **WORK SITE SAFETY**

It is the responsibility of each employee to make a determination as to the topographic safety of the work site. Examples include a steeper grad in topography, or an unknown location of a utility line.

When burrowing or excavating within the safety corridor without accurate knowledge of the depth of the lines, an authorized person must hand dig to determine location and depth of the lines.

## **TRENCHING**

All trenching more than five feet in depth requires either shoring or incremental benching. Benching is in four-foot stages. Both sides of the ditch or trench expanded by four feet for each four-foot depth beyond the first five feet. Never go into a trench without an observer above. A ladder must be in place at both ends of a trench or every 25 feet. A foreman must have an emergency procedure understood by all involved in deep trenching.

**MISSOURI: 1/800/DIG-RITE (1/800/344/7483) or 811**

**ILLINOIS: JULIE 1/800/892/0123 or 811**

The walls and faces of trenches 5ft. or more deep, and all excavations in which employees are exposed to danger from moving ground or cave-in, shall be guarded by a shoring system, sloping of the ground, or some other equivalent means. If sloping is performed, the soil must be evaluated by a competent person.

In excavations which employees may be required to enter, excavated or other material shall be effectively stored and retained at least 2ft. or more from the edge of the excavation.

Daily inspections of excavations shall be made by a competent person (Forman). If evidence of possible cave-in or slides is apparent, all work in the excavation shall cease until precautions have been taken to safeguard the employees.

Trenches 5ft. deep or more shall have an adequate means of exit, such as ladders or steps, located so as to require no more than 25ft. of lateral travel.

Excavations 6ft. or more in depth require guardrails or other fall protection measures. Trenches less than 6ft. may have to be flagged to alert vehicles and pedestrian traffic.

All trenching more than five feet in depth requires either shoring or incremental stair stepping. Stair stepping is in four foot stages. Both sides of the ditch or trench expanded by four feet for each four foot depth beyond the first four feet. Never go into a trench without an observer above. A ladder must be in place at both ends of a trench. A foreman must have an emergency procedure understood by all involved in deep trenching.

### **DRIVER COURTESY AND SAFETY**

When driving in a company owned vehicle, any action or demeanor that is shown has a direct affect on FireTech, LLC. Be courteous to other drivers and obey all traffic laws.

Any incident that is reported to the company using the form provided (TAB 10) will be addressed immediately and dealt with accordingly.

### **LOADING / UNLOADING EQUIPMENT FROM TRAILER**

Two workers must be involved in this operation. The operator of the equipment must drive it on or off of the trailer. The other member of the crew must observe, guide and direct the operator off of the trailer.

### **OVERHEAD WORK**

All overhead work in high traffic pedestrian area must be flagged off and a ground person present to prevent unauthorized entry into the area. Warning cones must be placed around the work area and warning tape blocking off the area.

### **RIDING ON EQUIPMENT**

Employees shall not ride on any vehicle or equipment unless it is provided with a seat.

## **FALL PROTECTION**

All employees working at elevations of six (6) feet or greater are required to have some form of fall protection (stable platform with guardrails and toe plate or personal fall protection equipment.) Personal fall protection equipment shall include a full body harness with a shock-absorbing lanyard. Work performed at leading edges at least six (6) feet or greater also require fall protection. All floor openings and holes shall be securely covered with enough materials with structural strength to support twice the anticipated load. Floor covers shall be marked with orange paint "FLOOR HOLE KEEP OFF". Guardrails shall be erected around all pit and trench openings. All JLG lifts require wearing a safety harness and require the lanyard to be secured at the proper designated hook. Operation of the lifts shall be covered in both film and written tests. Results of the test will be part of the employee's file. Documentation is required prior to operation of lifts by FireTech, LLC employees or by employees of sub-contractors. See manual section on man lifts.

## **LIFTING**

Know that your daily activities will include lifting objects of different size and weight. If you know lifting will be a part of your workday, stretch and loosen muscles before doing so. If the load is too large, get help or use a piece of equipment designed for the procedure. ALWAYS BEND AT YOUR KNEES AND LIFT WITH YOUR LEGS. Also, notify your site foreman if you are currently under any lifting restrictions.

## **CONFINED SPACE**

A confined space is one that meets the definition of a confined space and has one or more of the following characteristics:

- (1) Contains or has the potential to contain a hazardous atmosphere.
  - (2) Contains a material that has a potential for engulfing and/or entrapment.
  - (3) Has an internal configuration that may cause the entrant to be trapped or asphyxiated, (examples: inwardly converging walls or a floor that slopes downward and tapers to a smaller cross section).
  - (4) Contains any or all recognized serious safety or health hazards. Do not begin work or stop work immediately and notify Safety Director for inspection and approval if a confined space danger is present.
- Form is in Tab 10.

## **SCAFFOLDING SAFETY**

Only a qualified person may design or build scaffolds. All constructed scaffolding must adhere to specified assembly requirements. Scaffolding over 6 ft. in height must have standard guardrails and a toe plate attached. Fall protection must also be used at this height. Inspect the scaffolding each time before use and notify job supervisor if weak or damaged areas are found so they can be replaced immediately.

## **CRAIN, FORKLIFT & HEAVY EQUIPMENT SAFETY**

Only trained and authorized operators are permitted to operate a forklift or heavy equipment. All operators will be approved by the Supervisor or Safety Director and operators must participate in forklift training. Operators should operate the forklift at a safe speed, passing on the right with the cargo at a safe level so vision is not impaired. If no cargo is being transported then fork must be kept at the lowest level possible. Prior to use inspect the forklift for damage or non-functioning parts and report any defects to supervisor. Adjustments and repairs should be made by authorized personnel only. **THERE SHOULD BE NO PASSENGERS ON FORKLIFT AT ANY TIME.** Use the horn at exits, corners, at intersections, and when approaching pedestrians. Mobile equipment should never be left alone while in use. Before leaving, turn off engine, neutralize controls, set brake, and lower fork. Seat belt must also be worn at all times.

The following are the minimum safety practices for the operation of cranes, fork lifts and heavy equipment (bulldozers, backhoes, etc.):

- a. Only trained and authorized operators are permitted to operate a forklift or heavy equipment.
- b. Passengers are not permitted on heavy equipment.
- c. Mobile equipment should never be left unattended without first shutting off power, neutralizing controls, setting brakes, and lowering forks or bucket. Do not park on an incline.
- d. Always look in the direction equipment is traveling, looking backward when backing up, even for a short distance. Keep a clear view of the path. When forward vision is obstructed, drive in reverse.
- e. When traveling, with or without a load, keep forks or bucket as low as possible.
- f. Avoid following pedestrians or other vehicles too closely, especially when operating on inclines or in noisy areas.
- g. Ascend/descend all ramps and inclines slowly. Wait for passengers to exit the ramp before attempting to ascend/descend. When descending, always use low gear and the slowest speed control. Do not descend ramps with the load at the front of the forklift. Never ascend in reverse. When ascending, loaded forklifts should be driven with the load up grade.

### Operational Safety Requirements:

Daily safety checks of all machines and/or materials used in hoisting procedures is required.

### General Jobsite Safety Requirements

1. Nearness to power lines, ground stability, weather conditions, etc. must be checked for safety prior to hoisting.
2. Employees are required to verify the weight of the load with the customer before hoisting begins, and to check to insure that the slings and attachments that are used in the lift are the proper size for the load involved.
3. Employees must check that all hitches are made correctly before the load is moved. Check all hitches after a strain is placed upon the load.
4. Employees are required to use approved hand signals or communication equipment

### Collision:

1. Watch for traffic and beware of blind spots when driving the truck.....take it SLOW
2. Watch for overhead obstructions
3. Travel very slow on bumpy or sloped ground and when driving near other workers or pedestrians
4. Driver and passengers musts "BUCKLE-UP" before driving the vehicle

### Electrocution:

1. Maintain at least a 20 foot clearance from power lines and apparatus. No aerial platform insulated or not, provides any electrical protection to the occupant if there is phase-to-phase or phase-to-ground contact.

### Hazard/Risk Analysis:

Whenever operating heavy equipment in the vicinity of energized electrical utility lines the potential for electrocution exists. Even house drops and telephone circuits can be energized with enough voltage to kill. Lifts allow personnel to perform work above ground, creating a fall hazard. Operators must be aware of hazards including falls, tip-over and electricity.

## **LADDERS**

All ladders must be inspected prior to use. All ladders must be equipped with approved safety feet. Extension ladders must be secured (tied into place) to prevent slipping. Stepladders must be placed on flat, stable surface and fully opened with arms locked. When working from a ladder, the area must be flagged off to protect the worker on the ladder. Both extension and stepladders are designed for specific purposes and must be only used for those purposes. The interchanging of ladders against the intended purpose is strictly prohibited. If any ladder fails the inspection prior to use, it must be Red Tagged "OUT OF SERVICE" and removed from the job site.

### **Ladders**

- a. Manufactured ladders must comply with OSHA, ANSI, manufacturer and job specifications.
- b. Ladders with broken or missing rungs and/or broken or split side rails should not be used.
- c. All portable ladders should be equipped with non-skid safety feet and should be placed on a stable base. All access areas should be kept clear.
- d. Wood ladders should not be painted except for an identification mark.
- e. Ladders should be maintained free of lines, ropes, hoses, wires, cables, oil, grease, and debris. No objects should be left on ladders.
- f. Single portable ladders over 30 feet in length should not be used.
- g. Side rails should extend 36 inches above the landings. All ladders in use should be tied, blocked, or otherwise secured to prevent accidental displacement.
- h. Never stand or sit on the top rung of a step ladder.
- i. Never climb or work from the back of a ladder.
- j. Never work with another person on the same ladder.
- k. The subcontractor should provide training programs on ladders for all their workmen.

## **ELECTRICAL SAFETY**

Electrical cords and tools shall be inspected prior to each use. Defective cords and/or tools shall be removed from service. If a defective cord or tool is discovered, contact your Safety Director immediately to ensure it will be red tagged "OUT OF SERVICE". This will ensure proper identification and removal will take place. Ground Fault Circuit Interrupters (GFCI) will be used on all electrical outlets. All electrical tools will be Three (3) Pronged for grounding purposes.

### **Electrical**

- a. The subcontractor Safety Director is responsible for complying with the National Electrical Code and all Federal, State, and local codes. Any electrical work not in compliance should be brought to the Safety Director's / job superintendent's attention immediately.
- b. Only knowledgeable, certified electricians are to perform electrical work.
- c. Employees should not work close to any unprotected electrical power circuit unless that circuit is de-energized and grounded.
- d. All switches must be enclosed and grounded. Panel boards must have provisions for closing and locking the main switch and fuse box compartment.
- e. Extension cords used with portable electric tools and appliances must be heavy duty (no less than 12 gauge conductors) of the three wire grounding type, and must conform to OSHA standards. **NO FLAT ELECTRICAL CORDS ARE ALLOWED ON SITE.**
- f. All electrical tools and cords must be protected by a ground fault circuit interrupter.
- g. Voltages must be clearly labeled on all electrical equipment and circuits. Circuits must also be clearly marked for the areas of service they provide.
- h. Prior to performing any work, electricians must "lockout and tag-out" the equipment or machinery. The only exception is when power is required for "megging" circuits.
- i. Electrical cords and trailing cables should be covered, elevated or otherwise protected from damage. Any exposed wiring and cords with frayed or deteriorated insulation must be reported immediately.
- j. Extension cords should be used as little as possible and all plugs must be the dead front type.
- k. Temporary lighting should be used in areas where there is not adequate natural or artificial lighting. Temporary lights must be equipped with guards to prevent accidental contact with bulbs.
- l. Working spaces, walkways, and similar locations must be kept clear of cords.
- m. Electrical tools and equipment must be appropriately protected when used in wet or damp areas.
- n. Supervisors must obtain advanced approval from the Safety Director before bringing any heavy equipment over 18 feet high on site. Any wide load over ten feet requires an escort. A power outage approval must also be obtained.

## 8. Small Tools

- a. The Supervisors should provide proper storage for tools.
- b. Repair all damaged or worn tools promptly. Temporary and makeshift repairs are prohibited. Tools that can't be properly repaired should be discarded immediately. The contractor reserves the right to require any subcontractor to stop work for using any defective or improperly used tool.
- c. The subcontractor will supply all required tools unless otherwise specified. All equipment must conform to OSHA Safety and Health Regulations for General Industry Part 1910.
- d. Power tools should not be used if safety equipment has been removed.
- e. Employees using tools that cause objects to be thrown should wear personal protective gear, including proper eye and hearing protection.
- f. Gas powered tools should not be used in unventilated areas and gas should be dispensed from U.L. approved cans only. All gas-powered tools must be turned off before being refueled.
- g. Portable grinders must have hood-type guards and side enclosures that cover the spindle and at least 50% of the wheel. All wheels should be inspected regularly for fractures, etc. Defects should be promptly reported to the foreman / superintendent.
- h. Bench grinders should have deflector shields and side cover guards. Tool rests should have a maximum clearance of 1/8" from the wheel.
- i. Air-supply lines should be inspected regularly and maintained in good condition.
- j. To prevent "whipping" in the event of hose separation or failure, air sources supplying hoses should be protected with an excess flow valve. Completely bleed all air from tools before disconnecting them.
- k. Only trained employees are to use OSHA specified powder-actuated tools.
- l. Trained employees should inspect all powder-actuated tools on a daily basis. Any tool not found to be in proper working condition must immediately be removed from service.
- m. All powder-actuated tools should be of the low velocity, cushioned pistol grip, and piston type design.
- n. Powder-actuated tools should not be used in areas where hazardous ignitable dust, gases, or liquids are present.
- o. All maintenance work on powder-actuated tools must be performed according to manufacturer specifications and must be done by qualified persons only.
- p. Do not raise or lower power tools by their electrical cord or pneumatic line.
- q. Powder-actuated tools should be locked-up when not in use to prevent unauthorized persons from using them.

### **Machine Guarding**

- a. It is the responsibility of the Supervisors to see that guards are installed on machines where needed.
- b. Employees should report any malfunctions of the guards to the foreman / superintendent.
- c. The foreman / superintendent should determine if the machine should be locked and tagged-out until the guard can be fixed or replaced. All Supervisors to provide their own lock out and tagged-out kits as necessary. Machinery with the guards removed shall not be used.

### **WELDING AND CUTTING**

Welders must be protected from toxic fumes, burns, fires, explosions, electric shock, radiation, noise, and heat stress. Only those trained to operate an electric arc welder should use it.

1. Always check the cables, ground clamp, electrode holder, gauges, and switches to make sure they are all working properly.
2. Report any faulty or defective equipment to your Foreman.
3. Make sure the welder is properly installed and grounded.
4. You must assess the work area before you start. Work in well ventilated areas and use an exhaust system if you weld in a confined space.
5. Use a respirator when welding or cutting hazardous metals or metals with hazardous coatings.
6. Wear all necessary PPE when welding including welding helmets, masks, fire retardant gloves, aprons, and safety footwear.
7. Make sure the work area is fire safe by using fire resistant materials as barriers and removing nearby combustible materials.
8. Never do welding, cutting, or other hot work on used drums, barrels, tanks, or other containers.
9. Always have a fire extinguisher, fire blanket, and a first aid kit in the immediate area.
10. If you feel dizzy or sick, stop welding and get help.
11. Remove the rod from the stinger and disconnect the power when the welder is unattended or not in use.
12. A non-combustible shield or screen should be used to protect bystanders from welding flash.

### **DESIGNATED MEETING PLACE FOR A ROLL CALL**

There should be a designated meeting place for the employees to gather in the event there is an emergency, explosion, fire, collapse of structure, tornado, etc. The first day of the job a specific site should be designated and marked. All new hires should be made aware of the site. The Foreman will be responsible for the head count and is the only one authorized to sign the head count. In the event there is a person missing, the foreman of the crew the missing person was working with will give an accurate estimate as to the last location the worker was seen.

The emergency personnel will do the rescue. Give accurate but brief descriptions of the situation. Notify the emergency personnel of any extenuation circumstances and how long the person has been missing.

## **FIRE PREVENTION**

1. Good housekeeping is the first rule of fire prevention. Oily rags, paper shavings, trim, etc. should be cleaned up and placed in trash receptacles.
2. All flammable liquids should be stored in an approved manner and dispensed in approved safety containers.
3. Open fires of any kind are not permitted.
4. Combustible materials or equipment in combustible containers should be stored properly. Fire extinguishers should be kept within close proximity to any combustible container.
5. Fire extinguishers should be recharged and inspected regularly. A tag indicating the date of recharging should be affixed to each extinguisher.
6. Access to fire hydrants should be maintained at all times. Fire hydrants should never be blocked or obstructed in any way.
7. No material should be stored within three feet of an electrical panel, outlet, or fire suppression equipment.

If the fire looks like it is getting out of hand. Call 911 and evacuate everyone from the area.

## **BLOODBORNE PATHOGENS**

Protection against infected blood and body fluids.

1. Always wear personal protection when dealing with bloody fluids, such as gloves, masks and eye protection
2. Gloves: Latex, the type that medical personnel wear should be kept in the first aid kit at all times on all jobs.
3. Masks: Wear a mask that will shield your nose and mouth from blood splashing while working with anyone injured.
4. Clean up blood and body fluids promptly and always wash hands with soap and water. Dispose of everything that comes in contact with blood or fluids, like rags, clothes, bandages and gloves.
5. One-way masks or resuscitation bags should be used when performing artificial respiration or CPR.

Material Use and Waste Management.

1. All hazardous waste must be stored and collected in special areas.
2. No hazardous material is to be abandoned on the job site.
3. No waste haulers, disposers, recyclers, or scavengers are allowed on the job site without the contractor's approval.
4. All hazardous waste removed from the job site must have the Contractor's authorization. No outside waste is to be disposed of using the Contractor's facilities. Dumpsters are to be inspected frequently and any potentially hazardous material is to be placed in the appropriate storage area.
5. No used oil or paint is to accumulate on the job site. All spills are to be cleaned up and disposed of immediately.

## **TAG LINE**

When lifting or lowering loads with a crane, a tag line shall always be used. The line shall be sufficient in length to reach the expected level of the load. Do not tie two tag lines together. The knot will become a focal point for a pull accident. Always let the operator know there is a tag line with a person guiding the load. Be extremely careful of the tag line becoming ensnarled around other equipment, or a worker. Tape or braid any loose end. Do not use a frayed tag line.

## **LOCK OUT / TAG OUT**

The lock out procedure shall be followed to protect workers from injury due to inadvertent start up of power driven equipment. Lock out procedure is to render inoperative electrical systems, pumps, pipelines, valves and all such energy systems that may accidentally be energized or started up while employees are working on them or before they are mechanically ready and released for service. All energy sources shall be locked out and a **“DANGER”** tag affixed to the equipment or system indicating who installed the lock and the reason the system was locked out.

**ALL EQUIPMENT MUST BE TURNED OFF OR DISCONNECTED WHEN BEING REPAIRED, INSPECTED, CLEANED OR NOT IN USE.**

Lock out / Tag out forms can be found behind TAB 10.

## RECEIPT OF SAFETY MANUAL

By signing below, I confirm that I have attended the Hazard Communication and Safety Manual Policies Orientation of **FireTech, LLC**.

Name

Print

Date \_\_\_\_\_

[illegible]

# TAB 2

TOOLBOX TALKS/SIGN OFF

### Toolbox Talks/Huddle Talks

Provided weekly by supervisors and office.

## **GUIDE TO CONDUCTING SAFETY MEETINGS /EMPLOYEES**

### **Purpose**

Conducting weekly meetings (tool box talks) is an essential element in a successful safety program. Weekly safety meetings allow company management to convey its commitment to safety to its employees and allow project management the opportunity to provide employees with safety information regarding their work environment and work operations. Furthermore, it provides employees with a forum to voice their safety concerns.

### **When and Where**

Safety meetings should be conducted at the same time and on the same day each week if possible. Preferably at the start of the work shift and should be conducted in a surrounding that is absent of distractions and loud noises.

### **Discussion Leader**

The discussion leader for a safety meeting is looked upon as being an owner, superintendent, safety inspector; however, anyone can serve as a discussion leader as long as they take the job seriously.

### **Meeting Length**

Safety meetings should be at least five minutes in length and last no longer than 10 minutes unless special circumstances call for more time to be taken.

After the safety topic has been read and discussed, the men should sign that they have attended and understand the topic of discussion. The sheet should then be placed in the safety manual under Tab 2. and a copy be faxed to NSC for record keeping in the event OSHA needs to inspect them. 636-728-0731.

## **GUIDE TO CONDUCTING SAFETY MEETINGS/MANAGEMENT**

### **Purpose**

To set up, discuss and provide employees with safety procedures regarding their work environment and work operations.

### **Management Meeting Schedule**

Meetings should be scheduled for the same week, day and time each month and last at least 30 minutes and no longer than 1 hour.

### **Committee Members**

The safety committee should be made up of 3 people from management, 2 company workers and the safety director.

### **Discussion Chairman**

The person who conducts the safety meeting should be the person who is over safety for the company, the owner, superintendent, or safety inspector.

### **Committee Agenda**

Chairman calls the meeting to order.

Chairman asks for a roll call (should be at least 6 members, 3 management, 2 company workers, and the safety inspector).

Minutes from previous meeting to be read. If this is first meeting, the minutes begin at this meeting.

- Approve or correct the minutes
- Old business report
- Report from the Safety Inspector (Safety Inspector attends the meeting but is not a voting member)
- Review completion of previous assigned safety tasks

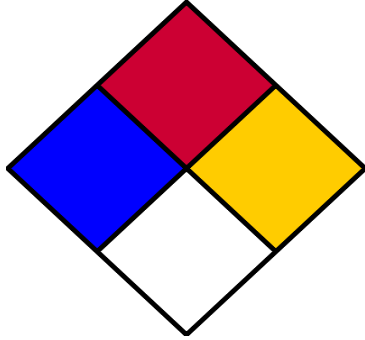
Allow sufficient time for discussion of Safety Topics. Try to stay on course and not drift into other areas of concern.

- New Business.
- Designate responsibility for implementing any safety policies. (Example: Hard Hats. Who is going to implement the policy?)
- Designate tasks the Safety Inspector needs to concentrate on or rely on the Safety Inspector to make suggestions
- Compare the 300 log recordable injuries as the year progresses.

Chairman calls for motion to adjourn.

# TAB 3

## HAZARDS COMMUNICATIONS PROCEDURE



## HAZARDOUS MATERIAL IDENTIFICATION SYSTEM

### FLAMMABILITY HAZARD (RED)

- 4 Materials that rapidly or completely vaporize at atmospheric pressure and normal ambient temperatures and burn rapidly or are readily dispersed in the air and burn readily. (Below 73°F)
- 3 Liquids and solids that can be ignited under almost all ambient temperature conditions. (Below 100°F)
- 2 Materials that must be moderately heated or exposed to relatively high ambient temperatures before ignition can occur. (Below 200°F)
- 1 Materials that must be preheated before ignition occurs (Above 200°F)
- 0 Materials that will not burn

### HEALTH HAZARD (BLUE)

- 4 Materials that on very short exposure could cause death or major residual injury even though prompt medical treatment was given. (Deadly)
- 3 Materials that on very short exposure could cause serious temporary or residual injury even though prompt medical treatment was given. (Extreme Danger)
- 2 Materials that on intense or continued exposure could cause temporary incapacitation or possible residual injury unless prompt medical treatment was given. (Hazardous)
- 1 Materials that on exposure would cause irritation but only minor injury even if no hazard beyond that of ordinary combustible material. (Slightly Hazardous)
- 0 Material that on exposure under fire conditions would offer no hazard beyond that ordinary combustible material. (Normal Material)

### REACTIVITY HAZARD (YELLOW)

- 4 Materials that in themselves are readily capable of detonation or of explosive decomposition or reaction at normal temperatures and pressures. (May Detonate)
- 3 Materials that in themselves are capable of detonation or explosive reaction but require a strong initiating source, or must be heated under confinement before initiation, react explosively with water. (Shock & Heat May Detonate)
- 2 Materials that in themselves are normally unstable and readily undergo violent chemical change but do not detonate, or may react violently with water, or may form potentially explosive mixtures with water. (Violent Chemical Change)
- 1 Materials that in themselves are normally stable but which can become unstable at elevated temperatures or react with water with some release of energy but not violently. (Unstable if Heated)
- 0 Materials that in themselves are normally stable; even when exposed to fire, and do not react with water. (Stable)

### SPECIAL INFORMATION (WHITE)

The white block is designated for special information about the chemical. For example, it may indicate that the material is radioactive by displaying the standard radioactive symbol, or unusually water-reactive by displaying a large W with a line through it (~~W~~). Typical symbols include:

<del>W</del>	Water Reactive		
OXY	Oxidizer or Oxidizing Properties	TOX	Toxic
COR	Corrosive	IGN	Ignitable
	Radioactive		
EXP	Explosive		

## **Hazard Communication for FireTech, LLC**

On November 25, 1983 OSHA published the Hazard Communication Standard, also known as the “Right-To-Know-Law”. This standard requires chemical manufacturers and importers to assess the hazards of chemicals that they produce or import, and to transmit this information to employers and employees. This is to be accomplished by means of hazard communication programs, including labels on containers of hazardous chemicals, material safety data sheets (MSDS) to provide more detailed information on the hazards and proper handling procedures, training of workers potentially exposed to the hazards, and access to written records.

The underlying purpose of this program is to reduce the incidence of chemical source illnesses and injuries through increased availability of information about the hazards of chemicals. If employers have more information about the hazards, they will be able to design and implement better protective measures for their employees. If employees have such information, they will be better able to protect themselves and to support and participate in their employer’s protective program.

FireTech, LLC has developed this written program to comply with the requirements of 29 CFR 1926.59, and to ensure that the necessary information for the safe use, handling, and storage of chemicals is provided and readily accessible to all employees.

This program includes guidelines on the identification of chemical hazards and the preparation and proper use of container labels, placards and other types of warning devices.

### **RESPONSIBILITY**

FireTech, LLC’s Corporate Safety Director is the overall coordinator of the company program.

1. Unless notified otherwise, the job site Foreman is designated as the person responsible for implementing this written program at the field level.

### **CHEMICAL INVENTORY**

On site:

Chemical inventory list and MSDS are available from the Foreman.

1. Hazardous chemicals brought onto the job site by FireTech, LLC will be included on the hazardous chemical inventory list.
2. Copies of the chemical inventory and material safety data sheets shall be maintained in the FireTech, LLC job site office and available through the Foreman.

### **CONTAINER LABELING**

1. All chemicals on site shall be stored in their original or approved containers with a proper attached label, except small quantities for immediate use. Any containers not properly labeled should be given to the Foreman for labeling or proper disposal. Labels that are no longer legible shall be replaced.
2. Labels shall provide information regarding the chemical products or substances in the container, hazard warnings, name, address, and telephone number of the manufacturer or other responsible party, and any target organs affected by the chemical.
3. Workers may dispense chemicals from original containers only in small quantities intended for immediate use. Any chemical left over when work is completed must be returned to the original container.
4. No unmarked containers of any size are to be left in the work area unattended.
5. Manufacturer’s labels will be relied upon whenever possible and maintained. Containers that are labeled or the manufacturer’s label has been removed or is no longer legible shall be re-labeled.
6. FireTech, LLC and its subcontractors shall ensure that each container is labeled to identify hazardous chemicals inside and any appropriate hazard warnings.

## **CHEMICALS IN UNLABELED PIPES**

1. Work activities may sometimes be performed in areas where chemicals are transferred through unlabeled pipes.
2. Prior to starting work in these areas, the employee shall contact the Foreman to contact the Owner or FireTech, LLC representative for information regarding:
  - a. The chemical in the pipes
  - b. Potential hazards
  - c. Safety precautions that should be taken

## **MATERIAL SAFETY DATA SHEETS (MSDS)**

1. Employees working with a hazardous chemical may request a copy of the MSDS form the General Foreman.
2. MSDSs should be available on site to provide immediate reference to any hazardous chemical safety information.
3. If a chemical or material that is not listed in the chemical inventory is sent to the job site, the General Foreman shall contact the manufacturer or the Safety Director to obtain a copy of the MSDS.
4. In the event a worker becomes ill or is injured while working with a hazardous chemical, a copy of the MSDS shall be forwarded to the treating medical facility.

## **EMPLOYEE TRAINING**

Employees shall be trained to work safely with hazardous chemicals. Each employee will be trained in at least the following information (See Job Site Hazard Communication Training)

1. An overview of the requirements of the Hazard Communication Program.
2. Information regarding any operations on the job site where hazardous chemicals are present.
3. Location and availability of the written Hazard Communication Program and MSDS.
4. Methods that may be used to detect a release of a hazardous chemical in the workplace.
5. Physical and health hazards associated with hazardous chemicals.
6. Safe work practices, emergency response, first aid, and the use of personal protective equipment.
7. How to read labels and review a MSDS to obtain appropriate hazard information.
8. Information on the Hazard Communication Standard including:
  - a. Labeling and warning systems
  - b. Material Safety Data Sheets

## **PERSONAL PROTECTIVE EQUIPMENT (PPE)**

1. Employees working with hazardous chemicals shall follow the PPE guidelines outlined in the MSDS.
2. Employees may obtain PPE from the Foreman.

## **EMERGENCY RESPONSE**

1. Any incident of overexposure or spill of a hazardous chemical/substance shall be reported to the General Foreman immediately.
2. Reference the MSDS to determine emergency first aid procedures and actions to take in cleaning up after an accidental spill, leak, or release.
3. The Foreman or immediate supervisor shall be responsible for ensuring that proper emergency response actions are taken in spill, leak, or release situations.
4. In the event a worker becomes ill or is injured while working with a hazardous chemical, a copy to the MSDS shall be forwarded to the treating medical facility.

## **HAZARDS OF NON-ROUTINE TASKS**

1. Supervisors shall inform employees of any special tasks that may arise which would involve possible exposure to hazardous chemicals.
2. A review of safe work procedures and the use of required PPE shall be conducted prior to the start of such tasks. Where necessary, areas will be posted to indicate the nature of the hazard involved.

### **INFORMING OTHER EMPLOYERS**

When employees may be exposed to hazardous chemicals while working on the job site, the Foreman or Project Manager to obtain a list of hazardous chemicals being used at the job site and copy of all applicable MSDSs.

Likewise, it shall be the responsibility of all subcontractors to provide the appropriate MSDSs to FireTech, LLC, for all hazardous chemicals being used by their company on the job site.

### **ADDITIONAL INFORMATION**

Further information on this written program, the Hazard Communication Standard, and applicable MSDSs are available at National Safety Consulting The phone number is 314-267-1325.

## **Job Site Hazard Communication Training**

### **Introduction**

In 1983 OSHA published the Hazard Communication Standard, also known as the “Right-To-Know-Law”, which gives workers the right to know the hazards and chemicals in their workplace. It also requires that manufacturers determine whether products they produce are hazardous and communicate that information to distributors and users by means of container labels and Material Safety Data Sheets (MSDS).

The main reason behind the Hazard Communication Standard is to increase employee awareness of the hazards associated with chemical substances in the workplace. The Hazard Communication Standard requires that workers be educated about chemical hazards in the workplace and appropriate protective measures.

Specific items to be covered by your job site training include:

- Types of chemical hazards
- Labeling
- Material Safety Data Sheets
- Personal Protective Equipment (PPE)
- Emergency Response

### **Types of Chemical Hazards**

Chemical hazards in the workplace can be best understood by learning about the various types of hazards presented by the many chemicals one might encounter on the job. By knowing and understanding different types of hazards, proper protection for workers can be taken. The types of hazards discussed here include:

- Flammable & Combustible Liquids
- Corrosive Materials
- Oxidizers
- Poisonous Material

### **Flammable Liquid**

Any liquid with a flash point below 100°F. (Flash point is the minimum temperature at which a liquid gives off enough vapors to form an ignitable mixture in the air) Gasoline and acetone are common examples of flammable liquids.

### **Combustible Liquid**

Any liquid with a flash point above 100°F and below 200°F such as diesel fuel or kerosene.

### **Corrosive Materials**

Any liquid or solid that causes visible destruction or irreversible damage to human skin. It may also be a liquid that has a severe corrosion rate on steel. Wet concrete is considered a corrosive substance because of the destructive properties it has on human skin (i.e. concrete burns).

## **Oxidizer**

Any material that will supply oxygen and accelerate the combustion of organic matter. Oxidizers are generally sensitive to heat shock and friction and can react spontaneously with organic matter to create a fire.

## **Poisonous Material**

Any substance that is known to be so toxic to humans as to pose a severe health hazard. Poisons can be inhaled, absorbed through the skin, ingested, or injected. For transportation purposes, poisons are classified as either Poison A (the most toxic) or Poison B (somewhat less toxic). Hydrogen cyanide is a Poison A and parathion and sodium cyanide are Poison B's.

### **Labels**

Different forms of labels have been developed to easily convey the hazards a material might pose. Many of these labels are applied to a container by the manufacturer and are part of standardized and widely accepted systems. The labels to be discussed here are:

- DOT (Department of Transportation)
- HMIS (Hazardous Material Identification System)

#### **DOT (Department of Transportation)**

The DOT requires labels on small containers and placards on tanks and trailers any time a material is transportation. These labels are diamond-shaped and indicate the nature of the hazard presented by the cargo. The nine (9) classes of hazardous materials under the DOT system are:

Class 1	Explosives
Class 2	Nonflammable and flammable compressed gases
Class 3	Flammable liquids
Class 4	Flammable solids, spontaneously combustible materials, materials Dangerous when wet
Class 5	Oxidizers and Organic Peroxides
Class 6	Class A & B poisons, Etiologic (disease-causing) materials
Class 7	Radioactive materials
Class 8	Corrosives
Class 9	Miscellaneous hazardous materials not covered by any other class

#### **HMIS (Hazardous Material Identification System)**

The HMIS labels are multi-colored labels that convey information with regard to the following categories:

- Health Hazard (Blue)
- Flammability (Red)
- Reactivity Hazard (Yellow)
- Personal Protective Requirements or Specific Hazard (White)

For each of the first three categories, a numerical value from 0-4 is provided, from 0 meaning the minimal hazard to 4 meaning a severe hazard.

The fourth category will list either personal protective equipment that needs to be worn when working with this particular chemical, or list specific hazards that this chemical presents such as water reactive, oxidizer, corrosive, toxic, etc. See the attachment on Hazardous Materials Identification System in this Appendix.

## **Material Safety Data Sheets (MSDS)**

Material Safety Data Sheets (MSDS) provide more detailed information about specific chemicals. The information provided on an MSDS covers a wide range of topics from the chemical name and material components, to the health hazards data and special protection information. See the attachment on Reading Material Safety Data Sheets.

## **Personal Protective Equipment**

Depending upon which chemical you are working with will dictate what forms of PPE you will need to properly protect yourself. PPE includes respiratory equipment, protective suits, gloves, boots, eye protection etc. The section on Special Protection and Precautions on the MSDS will tell you the level of PPE needed to work with specific chemicals.

## **Emergency Response**

When working with hazardous materials, emergencies are a constant possibility. Emergencies happen unexpectedly and require immediate response. In order to respond quickly and appropriately, plans need to be made to deal with possible situations. Emergencies can range from work-related emergencies (such as chemical exposure, physical injury- falls, cuts, heat stress, etc.) to chemical-related accidents (such as fire, explosion, or spills). Your supervisor will inform you as to the appropriate action to take for the type of emergency, and information can be found on the MSDS to instruct workers what to do in case of spills and exposure. Typically, if an employee needs to seek medical attention due to exposure to a chemical in the workplace, it is helpful to forward a copy of the MSDS to the treating medical facility.

# **TAB 4**

## **MSDS**

# FireTech, LLC

## READING MATERIAL SAFETY DATA SHEETS

The Material Safety Data Sheet (MSDS) is written information that you can help protect you from exposure to chemicals you find on the job. The MSDS is part of our Hazard Communication Program. Each company can design its own MSDS form, and the sections may be in different order. But the basic kinds of information on any MSDS will be the same.

### Section 1: Chemical Name

List the identity of the substance (the name on the label), date the MSDS was prepared, the name and address of the manufacturer, and usually a phone number for emergencies and more information.

### Section 2: Hazardous Ingredients/Chemical Identity

Includes names of substances in the chemical that might be dangerous, and safe exposures limits such as Permissible Exposure Limit or PEL (set by OSHA) or the Threshold Limit Value or TLV. Also lists common names for the chemical.

### Section 3: Physical Characteristics

Describes many physical qualities of the chemical. And lets you know what's usual or safe. For example, how the chemical looks and smells, boiling and melting temperatures (important in case a chemical might become a gas you could breathe); evaporation rate (known as percent volatile); how easily the chemical dissolves; and how heavy it is (this tells you if it will sink, float, or dissolve in water).

### Section 4: Fire and Explosion Data

Tells you the lowest temperature when the chemical could catch fire (flash point). Lets you know if it's flammable (catches fire below 100°F) or combustible (catches fire above 100°F). Lists the best way to put out a fire involving that chemical.

### Section 5: Reactivity

Describes what happens if this chemical comes in contact with air, water, or other chemicals. Describes conditions (like heat) or materials (like water) that can cause the chemical to react by burning, exploding, or releasing dangerous vapors. The chemical is called "incompatible" or "unstable" with these conditions or substances.

### Section 6: Health Hazards

Lists ways the chemical might enter your body, like splashing on your skin or being breathed in as a vapor as well as possible symptoms of overexposure. Lets you know if overexposure might make existing medical conditions worse, and describes emergency first aid procedures.

### Section 7: Usage, Handling, and Storage

Describes how to clean up after an accidental spill, leak, or release, including special procedures. Tells you how to handle, store, and dispose of chemicals safely. Remember, if there is an accident, notify your supervisor immediately, and take care of it yourself only if you are trained to do so and are wearing the proper equipment.

### Section 8: Special Protection and Precautions

Explains special Personal Protective Equipment (PPE) and other equipment to use when working with the chemical, special procedures, extra health and safety information, signs that should be posted, and other information not covered in other sections.

# TAB 5

## SUBSTANCE ABUSE POLICY

## **FireTech, LLC**

### **SUBSTANCE ABUSE POLICY**

It is recognized that if employees use, store, possess, manufacture, distribute, or illegal substances in the work place, it is a violation of this policy and it poses serious risks to the safety and health of the entire work force, as well as to the future well-being of each and every employee. Prescription drugs may only be used as directed by the individual for which that prescription is issued by a licensed physician.

If this problem exists, it could damage the quality of services the company renders to its customers, cause damage to persons and property due to accidents and carelessness, lower morale within the work place, threaten the very ability of the company to compete in the market place, and ultimately threaten the financial security of both the company and the work force alike.

Subject to the following conditions, the Employer shall have the right to require an employee to submit to urinalysis for illegal substances prior to assignment to projects where customer specifications or governmental regulations mandate such testing. In addition, the Employer shall have the right to implement Random Testing, "For Cause" testing and Post Accident testing as outlined below:

#### Random Testing

Random drug and alcohol testing may be conducted. Employees selected for Random Testing shall report to the drug testing laboratory the same day that they are notified that they have been selected so long as proper laboratory facilities are provided during working hours. The testing and selection shall be conducted by a third party. Random Testing will be based on an agreement between NSC/SAFETY TEMPS,LTD and customer.

#### "For Cause" Testing

When there is cause to believe that the employee has used or is under the influence of alcohol or illegal drugs during working hours, the employee may be required to submit to testing for drugs and alcohol. All contractor representatives, general foremen and foremen working on projects that require "For Cause" Illegal Substance Abuse and Alcohol Testing must receive appropriate training to determine and recognize "impaired" behavior. Any contractor representative, Foreman or foreman who requests an individual be tested shall sign a statement identifying the reasons for the "For Cause" testing to be conducted.

#### Post Accident Testing

The program may require that an employee submit to testing for drugs and alcohol. Employees may be subject to testing after a work related accident involving medical treatment (other than first aid), or which results in a lost work day to the individual or which involves significant property damage. Employee injuries that are considered to have occurred through no fault of the employee shall be excluded from testing.

## Testing Guidelines

All Substance Abuse testing under this Memorandum of Understanding shall be carried out under the following conditions:

1. The Employer shall be responsible for all expenses incurred in carrying out drug testing, including, but not limited to lost time, travel time, travel expense and all costs of testing, except under item 6.
2. Only employees who are in the Random Testing Selection Pool or who agree to be tested and be placed in the Random Testing Selection Pool will be employed on projects covered by this agreement.
3. All testing shall become under the control and supervision of a physician with confidentiality protected in accordance with the "American Occupational Medical Association's Code of Ethical Conduct for Physicians Providing Occupational Medical Services" (adopted by the Board of Directors of AOMA's July 23, 1976) and "drug Screening in the Work Place Ethical Guidelines" (adopted July 26, 1986), and the Medical Review Officer Manual, as developed by the National Institute on Drug Abuse (published September 1988).
4. Urine testing shall be performed only by laboratories listed by current federal standards.
5. A "positive" drug test result shall mean test levels on both the screening test and the confirmatory test that are recognized as positive by current federal standards.
6. An employee testing "positive" shall have the right to have the second portion of his/her urine sample independently retested by an HHS-certified laboratory of his/her choice and at his/her expense. If the independent retest is "negative," the employee shall be allowed to resume work and be reimbursed for the cost of such independent test.
7. Substance to be tested, (confirmatory test levels which are recognized as positive by current federal standards)

Substance	Threshold Limit
Alcohol	0.04%
Amphetamines	300 ng/ml
Cocaine metabolites	300 ng/ml
Marijuana metabolites	20 ng/ml
Opiate metabolites	300 ng/ml
Phencylidine	25 ng/ml
Barbiturates	300 ng/ml
Benzodiazepines	300 ng/ml
Methadone	300 ng/ml
Methaqualone	300 ng/ml
Propoxyphene	300 ng/ml

8. Employee records including positive test results shall be treated with the highest degree of confidentiality by the Employer. Such records shall not be distributed to other parties. If a grievance is brought before the Joint Labor Management Committee as a result of a positive test, the Employer shall have the right to present, as evidence, any and all employee records including positive test results.
9. It is understood, however, that the Employer shall have the right to document negative or "drug free" results for individual employees to customers, government agencies or the Union. In the case of alcohol testing verification, the Employer will document to the customer, government agency or the Union that all employees currently employed on the job site is in compliance with the alcohol section of the policy.

### Alcohol Statement

1. The parties recognize that Alcohol Abuse differs from abuse of Illegal Drugs in that alcohol may be legally obtained and used, and each employee has the right to decide whether or not to drink on his own time so long as job safety and job performance are not impaired. However, improper use of alcohol affecting job safety or efficiency is unacceptable.
2. Unauthorized consumption of alcohol or alcohol impairment on any given job or project during working hours or in an Employer vehicle at any time, will be cause for termination.

### Reassignment Upon Positive Substance Abuse Test

- ❖ Refer to Local Union 268 for additional information.

### **JOINT LABOR MANAGEMENT COMMITTEE INVOLVEMENT**

In the interest of securing a drug-free work-place, protecting employee rights and securing employment opportunities, suggestions, and issues of concern and compliance problems should be communicated in writing to the Joint Labor Management Committee.

# TAB 6

OSHA PUBLIC LAW

# Public Law 91-596, 91st Congress, S.2193, December 29, 1970. [\(1\)](#)

## An Act

**84 STAT. 1590**

To assure safe and healthful working conditions for working men and women; by authorizing enforcement of the standards developed under the Act; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; by providing for research, information, education, and training in the field of occupational safety and health; and for other purposes.

**Occupational Safety  
and Health Act of  
1970**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Occupational Safety and Health Act of 1970."*

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**Footnote (1)** See [Historical and Statutory notes](#) at the end of this Act for changes and amendments affecting the OSH Act since its passage in 1970.

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### **2. Congressional Findings and Purpose**

(a) The Congress finds that personal injuries and illnesses arising out of work situations impose a substantial burden upon, and are a hindrance to, interstate commerce in terms of lost production, wage loss, medical expenses, and disability compensation payments.

**29 USC 651.**

(b) The Congress declares it to be its purpose and policy, through the exercise of its powers to regulate commerce among the several States and with foreign nations and to provide for the general welfare, to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources --

(1) by encouraging employers and employees in their efforts to reduce the number of occupational safety and health hazards at their places of employment, and to stimulate employers and employees to institute new and to perfect existing programs for providing safe and healthful working conditions;

(2) by providing that employers and employees have separate but dependent responsibilities and rights with respect to achieving safe and healthful working conditions;

(3) by authorizing the Secretary of Labor to set mandatory occupational safety and health standards applicable to businesses affecting interstate commerce, and by creating an Occupational Safety and Health Review Commission for carrying out adjudicatory functions under the Act;

(4) by building upon advances already made through employer and employee initiative for providing safe and healthful working conditions;

- (5) by providing for research in the field of occupational safety and health, including the psychological factors involved, and by developing innovative methods, techniques, and approaches for dealing with occupational safety and health problems;
- (6) by exploring ways to discover latent diseases, establishing causal connections between diseases and work in environmental conditions, and conducting other research relating to health problems, in recognition of the fact that occupational health standards present problems often different from those involved in occupational safety;
- (7) by providing medical criteria which will assure insofar as practicable that no employee will suffer diminished health, functional capacity, or life expectancy as a result of his work experience;
- (8) by providing for training programs to increase the number and competence of personnel engaged in the field of occupational safety and health;
- (9) by providing for the development and promulgation of occupational safety and health standards;
- (10) by providing an effective enforcement program which shall include a prohibition against giving advance notice of any inspection and sanctions for any individual violating this prohibition;
- (11) by encouraging the States to assume the fullest responsibility for the administration and enforcement of their occupational safety and health laws by providing grants to the States to assist in identifying their needs and responsibilities in the area of occupational safety and health, to develop plans in accordance with the provisions of this Act, to improve the administration and enforcement of State occupational safety and health laws, and to conduct experimental and demonstration projects in connection therewith;
- (12) by providing for appropriate reporting procedures with respect to occupational safety and health which procedures will help achieve the objectives of this Act and accurately describe the nature of the occupational safety and health problem;
- (13) by encouraging joint labor-management efforts to reduce injuries and disease arising out of employment.

**84 STAT. 1591**

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### **3. Definitions**

For the purposes of this Act --

**29 USC 652.**

- (1) The term "Secretary" means the Secretary of Labor.
- (2) The term "Commission" means the Occupational Safety and Health Review Commission established under this Act.
- (3) The term "commerce" means trade, traffic, commerce, transportation, or

**For Trust Territory**

communication among the several States, or between a State and any place outside thereof, or within the District of Columbia, or a possession of the United States (other than the Trust Territory of the Pacific Islands), or between points in the same State but through a point outside thereof.

coverage, including the Northern Mariana Islands, see *Historical and Statutory Notes, infra*.

(4) The term "person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

(5) The term "employer" means a person engaged in a business affecting commerce who has employees, but does not include the United States (not including the United States Postal Service) or any State or political subdivision of a State.

(6) The term "employee" means an employee of an employer who is employed in a business of his employer which affects commerce.

(7) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(8) The term "occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

(9) The term "national consensus standard" means any occupational safety and health standard or modification thereof which (1), has been adopted and promulgated by a nationally recognized standards-producing organization under procedures whereby it can be determined by the Secretary that persons interested and affected by the scope or provisions of the standard have reached substantial agreement on its adoption, (2) was formulated in a manner which afforded an opportunity for diverse views to be considered and (3) has been designated as such a standard by the Secretary, after consultation with other appropriate Federal agencies.

**84 STAT. 1592**

(10) The term "established Federal standard" means any operative occupational safety and health standard established by any agency of the United States and presently in effect, or contained in any Act of Congress in force on the date of enactment of this Act.

**December 29, 1970**

(11) The term "Committee" means the National Advisory Committee on Occupational Safety and Health established under this Act.

(12) The term "Director" means the Director of the National Institute for Occupational Safety and Health.

(13) The term "Institute" means the National Institute for Occupational Safety and Health established under this Act.

(14) The term "Workmen's Compensation Commission" means the National Commission on State Workmen's Compensation Laws established under this Act.

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#### **4. Applicability of This Act**

(a) This Act shall apply with respect to employment performed in a workplace in a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, Wake Island, Outer Continental Shelf Lands defined in the Outer Continental Shelf Lands Act, Johnston Island, and the Canal Zone. The Secretary of the Interior shall, by regulation, provide for judicial enforcement of this Act by the courts established for areas in which there are no United States district courts having jurisdiction.

29 USC 653.  
For Canal Zone and Trust Territory coverage, including the Northern Mariana Islands, see *Historical and Statutory Notes, infra*.  
67 Stat. 462.  
43 USC 1311 note.

(b)(1) Nothing in this Act shall apply to working conditions of employees with respect to which other Federal agencies, and State agencies acting under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021), exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

73 Stat. 688.

(2) The safety and health standards promulgated under the Act of June 30, 1936, commonly known as the Walsh-Healey Act (41 U.S.C. 35 et seq.), the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), Public Law 91-54, Act of August 9, 1969 (40 U.S.C. 333), Public Law 85-742, Act of August 23, 1958 (33 U.S.C. 941), and the National Foundation on Arts and Humanities Act (20 U.S.C. 951 et seq.) are superseded on the effective date of corresponding standards, promulgated under this Act, which are determined by the Secretary to be more effective. Standards issued under the laws listed in this paragraph and in effect on or after the effective date of this Act shall be deemed to be occupational safety and health standards issued under this Act, as well as under such other Acts.

49 Stat. 2036  
79 Stat. 1034.  
83 Stat. 96.  
72 Stat. 835.  
79 Stat. 845;  
Ante, p. 443.

(3) The Secretary shall, within three years after the effective date of this Act, report to the Congress his recommendations for legislation to avoid unnecessary duplication and to achieve coordination between this Act and other Federal laws.

Report to Congress.

(4) Nothing in this Act shall be construed to supersede or in any manner affect any workmen's compensation law or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, diseases, or death of employees arising out of, or in the course of, employment.

84 STAT. 1593

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#### **5. Duties**

(a) Each employer --

29 USC 654.

(1) shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees;

(2) shall comply with occupational safety and health standards promulgated under this Act.

(b) Each employee shall comply with occupational safety and health standards and all

rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.

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## **6. Occupational Safety and Health Standards**

(a) Without regard to chapter 5 of title 5, United States Code, or to the other subsections of this section, the Secretary shall, as soon as practicable during the period beginning with the effective date of this Act and ending two years after such date, by rule promulgate as an occupational safety or health standard any national consensus standard, and any established Federal standard, unless he determines that the promulgation of such a standard would not result in improved safety or health for specifically designated employees. In the event of conflict among any such standards, the Secretary shall promulgate the standard which assures the greatest protection of the safety or health of the affected employees.

**29 USC 655.  
80 Stat. 381;  
81 Stat. 195.  
5 USC 500.**

(b) The Secretary may by rule promulgate, modify, or revoke any occupational safety or health standard in the following manner:

(1) Whenever the Secretary, upon the basis of information submitted to him in writing by an interested person, a representative of any organization of employers or employees, a nationally recognized standards-producing organization, the Secretary of Health and Human Services, the National Institute for Occupational Safety and Health, or a State or political subdivision, or on the basis of information developed by the Secretary or otherwise available to him, determines that a rule should be promulgated in order to serve the objectives of this Act, the Secretary may request the recommendations of an advisory committee appointed under section 7 of this Act. The Secretary shall provide such an advisory committee with any proposals of his own or of the Secretary of Health and Human Services, together with all pertinent factual information developed by the Secretary or the Secretary of Health and Human Services, or otherwise available, including the results of research, demonstrations, and experiments. An advisory committee shall submit to the Secretary its recommendations regarding the rule to be promulgated within ninety days from the date of its appointment or within such longer or shorter period as may be prescribed by the Secretary, but in no event for a period which is longer than two hundred and seventy days.

**Advisory  
committee,  
recommendations**

(2) The Secretary shall publish a proposed rule promulgating, modifying, or revoking an occupational safety or health standard in the Federal Register and shall afford interested persons a period of thirty days after publication to submit written data or comments. Where an advisory committee is appointed and the Secretary determines that a rule should be issued, he shall publish the proposed rule within sixty days after the submission of the advisory committee's recommendations or the expiration of the period prescribed by the Secretary for such submission.

**84 STAT. 1594  
Publication in  
Federal Register.**

(3) On or before the last day of the period provided for the submission of written data or comments under paragraph (2), any interested person may file with the Secretary written objections to the proposed rule, stating the grounds therefor and requesting a public hearing on such objections. Within thirty days after the last day for filing such objections, the Secretary shall publish in the Federal Register a notice specifying the occupational safety or health standard to which objections have been filed and a hearing requested, and specifying a time and place for such hearing.

**Hearing Notice.**

**Publication in  
Federal Register.**

(4) Within sixty days after the expiration of the period provided for the submission of written data or comments under paragraph (2), or within sixty days after the completion of any hearing held under paragraph (3), the Secretary shall issue a rule promulgating, modifying, or revoking an occupational safety or health standard or make a determination that a rule should not be issued. Such a rule may contain a provision delaying its effective date for such period (not in excess of ninety days) as the Secretary determines may be necessary to insure that affected employers and employees will be informed of the existence of the standard and of its terms and that employers affected are given an opportunity to familiarize themselves and their employees with the existence of the requirements of the standard.

(5) The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. Whenever practicable, the standard promulgated shall be expressed in terms of objective criteria and of the performance desired.

**Toxic Materials.**

(6)(A) Any employer may apply to the Secretary for a temporary order granting a variance from a standard or any provision thereof promulgated under this section. Such temporary order shall be granted only if the employer files an application which meets the requirements of clause (B) and establishes that (i) he is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date, (ii) he is taking all available steps to safeguard his employees against the hazards covered by the standard, and (iii) he has an effective program for coming into compliance with the standard as quickly as practicable. Any temporary order issued under this paragraph shall prescribe the practices, means, methods, operations, and processes which the employer must adopt and use while the order is in effect and state in detail his program for coming into compliance with the standard. Such a temporary order may be granted only after notice to employees and an opportunity for a hearing: *Provided*, That the Secretary may issue one interim order to be effective until a decision is made on the basis of the hearing. No temporary order may be in effect for longer than the period needed by the employer to achieve compliance with the standard or one year, whichever is shorter, except that such an order may be renewed not more than twice (I) so long as the requirements of this paragraph are met and (II) if an application for renewal is filed at least 90 days prior to the expiration date of the order. No interim renewal of an order may remain in effect for longer than 180 days.

**Temporary variance order.**

**84 STAT. 1595**

**Notice, hearing.**

**Renewal.**

**Time limitation.**

(B) An application for temporary order under this paragraph (6) shall contain:

(i) a specification of the standard or portion thereof from which the employer seeks a variance,

(ii) a representation by the employer, supported by representations from qualified persons having firsthand knowledge of the facts represented, that he is unable to comply with the standard or portion thereof and a detailed statement of the reasons therefor,

(iii) a statement of the steps he has taken and will take (with specific dates) to protect employees against the hazard covered by the standard,

(iv) a statement of when he expects to be able to comply with the standard and what steps he has taken and what steps he will take (with dates specified) to come into compliance with the standard, and

(v) a certification that he has informed his employees of the application by giving a copy thereof to their authorized representative, posting a statement giving a summary of the application and specifying where a copy may be examined at the place or places where notices to employees are normally posted, and by other appropriate means.

A description of how employees have been informed shall be contained in the certification. The information to employees shall also inform them of their right to petition the Secretary for a hearing.

(C) The Secretary is authorized to grant a variance from any standard or portion thereof whenever he determines, or the Secretary of Health and Human Services certifies, that such variance is necessary to permit an employer to participate in an experiment approved by him or the Secretary of Health and Human Services designed to demonstrate or validate new and improved techniques to safeguard the health or safety of workers.

(7) Any standard promulgated under this subsection shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure. Where appropriate, such standard shall also prescribe suitable protective equipment and control or technological procedures to be used in connection with such hazards and shall provide for monitoring or measuring employee exposure at such locations and intervals, and in such manner as may be necessary for the protection of employees. In addition, where appropriate, any such standard shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at his cost, to employees exposed to such hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure. In the event such medical examinations are in the nature of research, as determined by the Secretary of Health and Human Services, such examinations may be furnished at the expense of the Secretary of Health and Human Services. The results of such examinations or tests shall be furnished only to the Secretary or the Secretary of Health and Human Services, and, at the request of the employee, to his physician. The Secretary, in consultation with the Secretary of Health and Human Services, may by rule promulgated pursuant to section 553 of title 5, United States Code, make appropriate modifications in the foregoing requirements relating to the use of labels or other forms of warning, monitoring or measuring, and medical examinations, as may be warranted by experience, information, or medical or technological developments acquired subsequent to the promulgation of the relevant standard.

**Labels, etc.**

**Protective  
equipment, etc.**

**84 STAT. 1596  
Medical  
examinations.**

**80 Stat. 383.**

(8) Whenever a rule promulgated by the Secretary differs substantially from an existing national consensus standard, the Secretary shall, at the same time, publish in the Federal Register a statement of the reasons why the rule as adopted will better effectuate the purposes of this Act than the national consensus standard.

**Publication in  
Federal Register.**

(c)(1) The Secretary shall provide, without regard to the requirements of chapter 5, title 5, United States Code, for an emergency temporary standard to take immediate effect upon publication in the Federal Register if he determines (A) that employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards, and (B) that such emergency standard is necessary to protect employees from such danger.

**Temporary  
standard.  
Publication in  
Federal Register.  
80 Stat. 381;  
81 Stat. 195.  
5 USC 500.**

(2) Such standard shall be effective until superseded by a standard promulgated in accordance with the procedures prescribed in paragraph (3) of this subsection.

**Time limitation.**

(3) Upon publication of such standard in the Federal Register the Secretary shall commence a proceeding in accordance with section 6(b) of this Act, and the standard as published shall also serve as a proposed rule for the proceeding. The Secretary shall promulgate a standard under this paragraph no later than six months after publication of the emergency standard as provided in paragraph (2) of this subsection.

(d) Any affected employer may apply to the Secretary for a rule or order for a variance from a standard promulgated under this section. Affected employees shall be given notice of each such application and an opportunity to participate in a hearing. The Secretary shall issue such rule or order if he determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard. The rule or order so issued shall prescribe the conditions the employer must maintain, and the practices, means, methods, operations, and processes which he must adopt and utilize to the extent they differ from the standard in question. Such a rule or order may be modified or revoked upon application by an employer, employees, or by the Secretary on his own motion, in the manner prescribed for its issuance under this subsection at any time after six months from its issuance.

**Variance rule.**

**84 STAT. 1597**

(e) Whenever the Secretary promulgates any standard, makes any rule, order, or decision, grants any exemption or extension of time, or compromises, mitigates, or settles any penalty assessed under this Act, he shall include a statement of the reasons for such action, which shall be published in the Federal Register.

**Publication in  
Federal Register.**

(f) Any person who may be adversely affected by a standard issued under this section may at any time prior to the sixtieth day after such standard is promulgated file a petition challenging the validity of such standard with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such standard. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall not, unless otherwise ordered by the court, operate as a stay of the standard. The determinations of the Secretary shall be conclusive if supported by substantial evidence in the record considered as a whole.

**Petition for judicial  
review.**

(g) In determining the priority for establishing standards under this section, the Secretary shall give due regard to the urgency of the need for mandatory safety and health standards for particular industries, trades, crafts, occupations, businesses, workplaces or work environments. The Secretary shall also give due regard to the recommendations of the Secretary of Health and Human Services regarding the need for mandatory standards in determining the priority for establishing such standards.

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## **7. Advisory Committees; Administration**

(a)(1) There is hereby established a National Advisory Committee on Occupational Safety and Health consisting of twelve members appointed by the Secretary, four of whom are to be designated by the Secretary of Health and Human Services, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and composed of representatives of management, labor, occupational safety and occupational health professions, and of the public. The Secretary shall designate one of the public members as Chairman. The members shall be selected upon the basis of their experience and competence in the field of occupational safety and health.

29 USC 656.  
Establishment;  
membership.

80 Stat. 378  
5 USC 101.

(2) The Committee shall advise, consult with, and make recommendations to the Secretary and the Secretary of Health and Human Services on matters relating to the administration of the Act. The Committee shall hold no fewer than two meetings during each calendar year. All meetings of the Committee shall be open to the public and a transcript shall be kept and made available for public inspection.

Public transcript.

(3) The members of the Committee shall be compensated in accordance with the provisions of section 3109 of title 5, United States Code.

60 Stat. 416.

(4) The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are deemed necessary to the conduct of its business.

(b) An advisory committee may be appointed by the Secretary to assist him in his standard-setting functions under section 6 of this Act. Each such committee shall consist of not more than fifteen members and shall include as a member one of more designees of the Secretary of Health and Human Services, and shall include among its members an equal number of persons qualified by experience and affiliation to present the viewpoint of the employers involved, and of persons similarly qualified to present the viewpoint of the workers involved, as well as one or more representatives of health and safety agencies of the States. An advisory committee may also include such other persons as the Secretary may appoint who are qualified by knowledge and experience to make a useful contribution to the work of such committee, including one or more representatives of professional organizations of technicians or professionals specializing in occupational safety or health, and one or more representatives of nationally recognized standards-producing organizations, but the number of persons so appointed to any such advisory committee shall not exceed the number appointed to such committee as representatives of Federal and State agencies. Persons appointed to advisory committees from private life shall be compensated in the

**84 STAT. 1598**

80 Stat. 416.

same manner as consultants or experts under section 3109 of title 5, United States Code. The Secretary shall pay to any State which is the employer of a member of such a committee who is a representative of the health or safety agency of that State, reimbursement sufficient to cover the actual cost to the State resulting from such representative's membership on such committee. Any meeting of such committee shall be open to the public and an accurate record shall be kept and made available to the public. No member of such committee (other than representatives of employers and employees) shall have an economic interest in any proposed rule.

**Recordkeeping.**

(c) In carrying out his responsibilities under this Act, the Secretary is authorized to --

(1) use, with the consent of any Federal agency, the services, facilities, and personnel of such agency, with or without reimbursement, and with the consent of any State or political subdivision thereof, accept and use the services, facilities, and personnel of any agency of such State or subdivision with reimbursement; and

(2) employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, except that contracts for such employment may be renewed annually; compensate individuals so employed at rates not in excess of the rate specified at the time of service for grade GS-18 under section 5332 of title 5, United States Code, including travel time, and allow them while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

**Ante, p. 198-1.**

**80 Stat. 499;  
83 Stat. 190.**

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## **8. Inspections, Investigations, and Recordkeeping**

(a) In order to carry out the purposes of this Act, the Secretary, upon presenting appropriate credentials to the owner, operator, or agent in charge, is authorized --

**29 USC 657.**

(1) 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; and

(2) 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.

**84 STAT. 1599**

(b) In making his inspections and investigations under this Act the Secretary may require the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of a contumacy, failure, or refusal of any person to obey such an order, any district court of the United States or the United States courts of any territory or possession, within the jurisdiction of which such person is found, or resides or transacts business, upon the application by the Secretary, shall have jurisdiction to issue to such person an order requiring such person to appear to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

**Subpoena power.**

(c)(1) Each employer shall make, keep and preserve, and make available to the Secretary or the Secretary of Health and Human Services, such records regarding his activities relating to this Act as the Secretary, in cooperation with the Secretary of Health and Human Services, may prescribe by regulation as necessary or appropriate for the enforcement of this Act or for developing information regarding the causes and prevention of occupational accidents and illnesses. In order to carry out the provisions of this paragraph such regulations may include provisions requiring employers to conduct periodic inspections. The Secretary shall also issue regulations requiring that employers, through posting of notices or other appropriate means, keep their employees informed of their protections and obligations under this Act, including the provisions of applicable standards.

**Recordkeeping.**

(2) The Secretary, in cooperation with the Secretary of Health and Human Services, shall prescribe regulations requiring employers to maintain accurate records of, and to make periodic reports on, work-related deaths, injuries and illnesses other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

**Work-related deaths, etc.; reports.**

(3) The Secretary, in cooperation with the Secretary of Health and Human Services, shall issue regulations requiring employers to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under section 6. Such regulations shall provide employees or their representatives with an opportunity to observe such monitoring or measuring, and to have access to the records thereof. Such regulations shall also make appropriate provision for each employee or former employee to have access to such records as will indicate his own exposure to toxic materials or harmful physical agents. Each employer shall promptly notify any employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by an applicable occupational safety and health standard promulgated under section 6, and shall inform any employee who is being thus exposed of the corrective action being taken.

(d) Any information obtained by the Secretary, the Secretary of Health and Human Services, or a State agency under this Act shall be obtained with a minimum burden upon employers, especially those operating small businesses. Unnecessary duplication of efforts in obtaining information shall be reduced to the maximum extent feasible.

**84 STAT. 1600**  
**29 USC 657.**

(e) Subject to regulations issued by the Secretary, a representative of the employer and a representative authorized by his employees shall be given an opportunity to accompany the Secretary or his authorized representative during the physical inspection of any workplace under subsection (a) for the purpose of aiding such inspection. Where there is no authorized employee representative, the Secretary or his authorized representative shall consult with a reasonable number of employees concerning matters of health and safety in the workplace.

(f)(1) Any employees or representative of employees who believe that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice to the Secretary or his authorized representative of such violation or danger. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employees or representative of employees, and a copy shall be provided the employer or his agent no later than at the time of inspection, except that,

upon the request of the person giving such notice, his name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released, or made available pursuant to subsection (g) of this section. If upon receipt of such notification the Secretary determines there are reasonable grounds to believe that such violation or danger exists, he shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if such violation or danger exists. If the Secretary determines there are no reasonable grounds to believe that a violation or danger exists he shall notify the employees or representative of the employees in writing of such determination.

(2) Prior to or during any inspection of a workplace, any employees or representative of employees employed in such workplace may notify the Secretary or any representative of the Secretary responsible for conducting the inspection, in writing, of any violation of this Act which they have reason to believe exists in such workplace. The Secretary shall, by regulation, establish procedures for informal review of any refusal by a representative of the Secretary to issue a citation with respect to any such alleged violation and shall furnish the employees or representative of employees requesting such review a written statement of the reasons for the Secretary's final disposition of the case.

(g)(1) The Secretary and Secretary of Health and Human Services are authorized to compile, analyze, and publish, either in summary or detailed form, all reports or information obtained under this section.

**Reports,  
publication.**

(2) The Secretary and the Secretary of Health and Human Services shall each prescribe such rules and regulations as he may deem necessary to carry out their responsibilities under this Act, including rules and regulations dealing with the inspection of an employer's establishment.

**Rules and  
regulations.**

(h) The Secretary shall not use the results of enforcement activities, such as the number of citations issued or penalties assessed, to evaluate employees directly involved in enforcement activities under this Act or to impose quotas or goals with regard to the results of such activities.

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## **9. Citations**

(a) If, upon inspection or investigation, the Secretary or his authorized representative believes that an employer has violated a requirement of section 5 of this Act, of any standard, rule or order promulgated pursuant to section 6 of this Act, or of any regulations prescribed pursuant to this Act, he shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the Act, standard, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. The Secretary may prescribe procedures for the issuance of a notice in lieu of a citation with respect to de minimis violations which have no direct or immediate relationship to safety or health.

**84 STAT. 1601  
29 USC 658.**

(b) Each citation issued under this section, or a copy or copies thereof, shall be prominently posted, as prescribed in regulations issued by the Secretary, at or near each place a violation referred to in the citation occurred.

(c) No citation may be issued under this section after the expiration of six months following the occurrence of any violation.

**Limitation.**

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## **10. Procedure for Enforcement**

(a) If, after an inspection or investigation, the Secretary issues a citation under section 9(a), he shall, within a reasonable time after the termination of such inspection or investigation, notify the employer by certified mail of the penalty, if any, proposed to be assessed under section 17 and that the employer has fifteen working days within which to notify the Secretary that he wishes to contest the citation or proposed assessment of penalty. If, within fifteen working days from the receipt of the notice issued by the Secretary the employer fails to notify the Secretary that he intends to contest the citation or proposed assessment of penalty, and no notice is filed by any employees or representative of employees under subsection (c) within such time, the citation and the assessment, as proposed, shall be deemed a final order of the Commission and not subject to review by any court or agency.

**29 USC 659.**

(b) If the Secretary has reason to believe that an employer has failed to correct a violation for which a citation has been issued within the period permitted for its correction (which period shall not begin to run until the entry of a final order by the Commission in the case of any review proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties), the Secretary shall notify the employer by certified mail of such failure and of the penalty proposed to be assessed under section 17 by reason of such failure, and that the employer has fifteen working days within which to notify the Secretary that he wishes to contest the Secretary's notification or the proposed assessment of penalty. If, within fifteen working days from the receipt of notification issued by the Secretary, the employer fails to notify the Secretary that he intends to contest the notification or proposed assessment of penalty, the notification and assessment, as proposed, shall be deemed a final order of the Commission and not subject to review by any court or agency.

(c) If an employer notifies the Secretary that he intends to contest a citation issued under section 9(a) or notification issued under subsection (a) or (b) of this section, or if, within fifteen working days of the issuance of a citation under section 9(a), any employee or representative of employees files a notice with the Secretary alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the Secretary shall immediately advise the Commission of such notification, and the Commission shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section). The Commission shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's citation or proposed penalty, or directing other appropriate relief, and such order shall become final thirty days after its issuance. Upon a showing by an employer of a good faith effort to comply with the abatement requirements of a citation, and that abatement has not been completed because of factors beyond his reasonable control, the Secretary, after an opportunity for a hearing as provided in this subsection, shall issue an order affirming or modifying the abatement requirements in such citation. The rules of procedure prescribed by the Commission shall provide affected employees or representatives of affected employees an opportunity to participate as parties to hearings under this subsection.

**84 STAT. 1602**

**80 Stat. 384.**

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## **11. Judicial Review**

(a) Any person adversely affected or aggrieved by an order of the Commission issued under subsection (c) of section 10 may obtain a review of such order in any United States court of appeals for the circuit in which the violation is alleged to have occurred or where the employer has its principal office, or in the Court of Appeals for the District of Columbia Circuit, by filing in such court within sixty days following the issuance of such order a written petition praying that the order be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission and to the other parties, and thereupon the Commission shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside in whole or in part, the order of the Commission and enforcing the same to the extent that such order is affirmed or modified. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Commission. No objection that has not been urged before the Commission shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, the court may order such additional evidence to be taken before the Commission and to be made a part of the record. The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code.

**29 USC 660.**

**72 Stat. 941;  
80 Stat. 1323.**

**84 STAT. 1603**

**62 Stat. 928.**

(b) The Secretary may also obtain review or enforcement of any final order of the Commission by filing a petition for such relief in the United States court of appeals for the circuit in which the alleged violation occurred or in which the employer has its principal office, and the provisions of subsection (a) shall govern such proceedings to the extent applicable. If no petition for review, as provided in subsection (a), is filed within sixty days after service of the Commission's order, the Commission's findings of fact and order shall be conclusive in connection with any petition for enforcement which is filed by the Secretary after the expiration of such sixty-day period. In any such case, as well as in the case of a noncontested citation or notification by the Secretary which has become a final order of the Commission under subsection (a) or (b) of section 10, the clerk of the court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary and the employer named in the petition. In any contempt proceeding brought to enforce a decree of a court of appeals entered pursuant to this subsection or subsection (a), the court of appeals may assess the penalties provided in section 17, in addition to invoking any other available remedies.

(c)(1) No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this Act.

(2) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of this subsection may, within thirty days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of this subsection have been violated, he shall bring an action in any appropriate United States district court against such person. In any such action the United States district courts shall have jurisdiction, for cause shown to restrain violations of paragraph (1) of this subsection and order all appropriate relief including rehiring or reinstatement of the employee to his former position with back pay.

(3) Within 90 days of the receipt of a complaint filed under this subsection the Secretary shall notify the complainant of his determination under paragraph 2 of this subsection.

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## **12. The Occupational Safety and Health Review Commission**

(a) The Occupational Safety and Health Review Commission is hereby established. The Commission shall be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate, from among persons who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act. The President shall designate one of the members of the Commission to serve as Chairman.

**29 USC 661.  
Establishment;  
membership.**

**84 STAT. 1604**

(b) The terms of members of the Commission shall be six years except that (1) the members of the Commission first taking office shall serve, as designated by the President at the time of appointment, one for a term of two years, one for a term of four years, and one for a term of six years, and (2) a vacancy caused by the death, resignation, or removal of a member prior to the expiration of the term for which he was appointed shall be filled only for the remainder of such unexpired term. A member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

**Terms.**

(c)(1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

**80 Stat. 460.**

"(57) Chairman, Occupational Safety and Health Review Commission."

(2) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

**Ante, p. 776.**

"(94) Members, Occupational Safety and Health Review Commission."

(d) The principal office of the Commission shall be in the District of Columbia. Whenever the Commission deems that the convenience of the public or of the parties may be promoted, or delay or expense may be minimized, it may hold hearings or conduct other proceedings at any other place.

**Location.**

(e) The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission and shall appoint such administrative law judges and other employees as he deems necessary to assist in the performance of the Commission's functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates: Provided, That assignment, removal and compensation of administrative law judges shall be in accordance with sections 3105, 3344, 5372, and 7521 of title 5, United States Code.

5 USC 5101,  
5331.  
Ante, p. 198-1.

(f) For the purpose of carrying out its functions under this Act, two members of the Commission shall constitute a quorum and official action can be taken only on the affirmative vote of at least two members.

Quorum.

(g) Every official act of the Commission shall be entered of record, and its hearings and records shall be open to the public. The Commission is authorized to make such rules as are necessary for the orderly transaction of its proceedings. Unless the Commission has adopted a different rule, its proceedings shall be in accordance with the Federal Rules of Civil Procedure.

Public Records.

(h) The Commission may order testimony to be taken by deposition in any proceedings pending before it at any state of such proceeding. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Commission. Witnesses whose depositions are taken under this subsection, and the persons taking such depositions, shall be entitled to the same fees as are paid for like services in the courts of the United States.

28 USC app.

(i) For the purpose of any proceeding before the Commission, the provisions of section 11 of the National Labor Relations Act (29 U.S.C. 161) are hereby made applicable to the jurisdiction and powers of the Commission.

61 Stat. 150;  
Ante, p. 930.

(j) A administrative law judge appointed by the Commission shall hear, and make a determination upon, any proceeding instituted before the Commission and any motion in connection therewith, assigned to such administrative law judge by the Chairman of the Commission, and shall make a report of any such determination which constitutes his final disposition of the proceedings. The report of the administrative law judge shall become the final order of the Commission within thirty days after such report by the administrative law judge, unless within such period any Commission member has directed that such report shall be reviewed by the Commission.

84 STAT. 1605  
Report

(k) Except as otherwise provided in this Act, the administrative law judges shall be subject to the laws governing employees in the classified civil service, except that appointments shall be made without regard to section 5108 of title 5, United States Code. Each administrative law judge shall receive compensation at a rate not less than that prescribed for GS-16 under section 5332 of title 5, United States Code.

80 Stat. 453.

Ante, p. 930.

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### **13. Procedures to Counteract Imminent Dangers**

(a) The United States district courts shall have jurisdiction, upon petition of the Secretary, to restrain any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious

29 USC 662.

physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Act. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct, or remove such imminent danger and prohibit the employment or presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove such imminent danger or to maintain the capacity of a continuous process operation to resume normal operations without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner.

(b) Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order pending the outcome of an enforcement proceeding pursuant to this Act. The proceeding shall be as provided by Rule 65 of the Federal Rules, Civil Procedure, except that no temporary restraining order issued without notice shall be effective for a period longer than five days.

28 USC app.

(c) Whenever and as soon as an inspector concludes that conditions or practices described in subsection (a) exist in any place of employment, he shall inform the affected employees and employers of the danger and that he is recommending to the Secretary that relief be sought.

(d) If the Secretary arbitrarily or capriciously fails to seek relief under this section, any employee who may be injured by reason of such failure, or the representative of such employees, might bring an action against the Secretary in the United States district court for the district in which the imminent danger is alleged to exist or the employer has its principal office, or for the District of Columbia, for a writ of mandamus to compel the Secretary to seek such an order and for such further relief as may be appropriate.

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#### **14. Representation in Civil Litigation**

Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this Act but all such litigation shall be subject to the direction and control of the Attorney General.

84 STAT. 1606  
29 USC 663.  
80 Stat. 613.

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#### **15. Confidentiality of Trade Secrets**

All information reported to or otherwise obtained by the Secretary or his representative in connection with any inspection or proceeding under this Act which contains or which might reveal a trade secret referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act. In any such proceeding the Secretary, the Commission, or the court shall issue such orders as may be appropriate to protect the confidentiality of trade secrets.

29 USC 664.

62 Stat. 791.

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#### **16. Variations, Tolerances, and Exemptions**

The Secretary, on the record, after notice and opportunity for a hearing may provide

29 USC 655.

such reasonable limitations and may make such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of this Act as he may find necessary and proper to avoid serious impairment of the national defense. Such action shall not be in effect for more than six months without notification to affected employees and an opportunity being afforded for a hearing.

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## **17. Penalties**

(a) Any employer who willfully or repeatedly violates the requirements of section 5 of this Act, any standard, rule, or order promulgated pursuant to section 6 of this Act, or regulations prescribed pursuant to this Act, may be assessed a civil penalty of not more than \$70,000 for each violation, but not less than \$5,000 for each willful violation.

**29 USC 666.**  
Maximum allowed criminal fines under this subsection have been increased by the Sentencing Reform Act of 1984, 18 USC § 3551 et seq., see *Historical and Statutory Notes, infra*.

(b) Any employer who has received a citation for a serious violation of the requirements of section 5 of this Act, of any standard, rule, or order promulgated pursuant to section 6 of this Act, or of any regulations prescribed pursuant to this Act, shall be assessed a civil penalty of up to \$7,000 for each such violation.

(c) Any employer who has received a citation for a violation of the requirements of section 5 of this Act, of any standard, rule, or order promulgated pursuant to section 6 of this Act, or of regulations prescribed pursuant to this Act, and such violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of up to \$7,000 for each violation.

(d) Any employer who fails to correct a violation for which a citation has been issued under section 9(a) within the period permitted for its correction (which period shall not begin to run until the date of the final order of the Commission in the case of any review proceeding under section 10 initiated by the employer in good faith and not solely for delay or avoidance of penalties), may be assessed a civil penalty of not more than \$7,000 for each day during which such failure or violation continues.

(e) Any employer who willfully violates any standard, rule, or order promulgated pursuant to section 6 of this Act, or of any regulations prescribed pursuant to this Act, and that violation caused death to any employee, shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than six months, or by both; except that if the conviction is for a violation committed after a first conviction of such person, punishment shall be by a fine of not more than \$20,000 or by imprisonment for not more than one year, or by both.

**84 STAT. 1607**

(f) Any person who gives advance notice of any inspection to be conducted under this Act, without authority from the Secretary or his designees, shall, upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment for not more than six months, or by both.

(g) Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be

maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than six months, or by both.

**(h)(1)** Section 1114 of title 18, United States Code, is hereby amended by striking out "designated by the Secretary of Health and Human Services to conduct investigations, or inspections under the Federal Food, Drug, and Cosmetic Act" and inserting in lieu thereof "or of the Department of Labor assigned to perform investigative, inspection, or law enforcement functions".

**65 Stat. 721;  
79 Stat. 234.**

**(2)** Notwithstanding the provisions of sections 1111 and 1114 of title 18, United States Code, whoever, in violation of the provisions of section 1114 of such title, kills a person while engaged in or on account of the performance of investigative, inspection, or law enforcement functions added to such section 1114 by paragraph (1) of this subsection, and who would otherwise be subject to the penalty provisions of such section 1111, shall be punished by imprisonment for any term of years or for life.

**62 Stat. 756.**

**(i)** Any employer who violates any of the posting requirements, as prescribed under the provisions of this Act, shall be assessed a civil penalty of up to \$7,000 for each violation.

**(j)** The Commission shall have authority to assess all civil penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations.

**(k)** For purposes of this section, a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

**(l)** Civil penalties owed under this Act shall be paid to the Secretary for deposit into the Treasury of the United States and shall accrue to the United States and may be recovered in a civil action in the name of the United States brought in the United States district court for the district where the violation is alleged to have occurred or where the employer has its principal office.

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## **18. State Jurisdiction and State Plans**

**(a)** Nothing in this Act shall prevent any State agency or court from asserting jurisdiction under State law over any occupational safety or health issue with respect to which no standard is in effect under section 6.

**84 STAT. 1608  
29 USC 667.**

**(b)** Any State which, at any time, desires to assume responsibility for development and enforcement therein of occupational safety and health standards relating to any occupational safety or health issue with respect to which a Federal standard has been promulgated under section 6 shall submit a State plan for the development of such standards and their enforcement.

(c) The Secretary shall approve the plan submitted by a State under subsection (b), or any modification thereof, if such plan in his judgement --

(1) designates a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State,

(2) provides for the development and enforcement of safety and health standards relating to one or more safety or health issues, which standards (and the enforcement of which standards) are or will be at least as effective in providing safe and healthful employment and places of employment as the standards promulgated under section 6 which relate to the same issues, and which standards, when applicable to products which are distributed or used in interstate commerce, are required by compelling local conditions and do not unduly burden interstate commerce,

(3) provides for a right of entry and inspection of all workplaces subject to the Act which is at least as effective as that provided in section 8, and includes a prohibition on advance notice of inspections,

(4) contains satisfactory assurances that such agency or agencies have or will have the legal authority and qualified personnel necessary for the enforcement of such standards,

(5) gives satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards,

(6) contains satisfactory assurances that such State will, to the extent permitted by its law, establish and maintain an effective and comprehensive occupational safety and health program applicable to all employees of public agencies of the State and its political subdivisions, which program is as effective as the standards contained in an approved plan,

(7) requires employers in the State to make reports to the Secretary in the same manner and to the same extent as if the plan were not in effect, and

(8) provides that the State agency will make such reports to the Secretary in such form and containing such information, as the Secretary shall from time to time require.

(d) If the Secretary rejects a plan submitted under subsection (b), he shall afford the State submitting the plan due notice and opportunity for a hearing before so doing.

**Notice of Hearing.**

(e) After the Secretary approves a State plan submitted under subsection (b), he may, but shall not be required to, exercise his authority under sections 8, 9, 10, 13, and 17 with respect to comparable standards promulgated under section 6, for the period specified in the next sentence. The Secretary may exercise the authority referred to above until he determines, on the basis of actual operations under the State plan, that the criteria set forth in subsection (c) are being applied, but he shall not make such determination for at least three years after the plan's approval under subsection (c). Upon making the determination referred to in the preceding sentence, the provisions of

**84 STAT. 1609**

sections 5(a)(2), 8 (except for the purpose of carrying out subsection (f) of this section), 9, 10, 13, and 17, and standards promulgated under section 6 of this Act, shall not apply with respect to any occupational safety or health issues covered under the plan, but the Secretary may retain jurisdiction under the above provisions in any proceeding commenced under section 9 or 10 before the date of determination.

(f) The Secretary shall, on the basis of reports submitted by the State agency and his own inspections make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan (or any assurance contained therein), he shall notify the State agency of his withdrawal of approval of such plan and upon receipt of such notice such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan.

**Continuing  
evaluation.**

(g) The State may obtain a review of a decision of the Secretary withdrawing approval of or rejecting its plan by the United States court of appeals for the circuit in which the State is located by filing in such court within thirty days following receipt of notice of such decision a petition to modify or set aside in whole or in part the action of the Secretary. A copy of such petition shall forthwith be served upon the Secretary, and thereupon the Secretary shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless the court finds that the Secretary's decision in rejecting a proposed State plan or withdrawing his approval of such a plan is not supported by substantial evidence the court shall affirm the Secretary's decision. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

**Plan rejection,  
review.**

**72 Stat. 941;  
80 Stat. 1323.**

**62 Stat. 928.**

(h) The Secretary may enter into an agreement with a State under which the State will be permitted to continue to enforce one or more occupational health and safety standards in effect in such State until final action is taken by the Secretary with respect to a plan submitted by a State under subsection (b) of this section, or two years from the date of enactment of this Act, whichever is earlier.

**December 29, 1970**

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## **19. Federal Agency Safety Programs and Responsibilities**

(a) It shall be the responsibility of the head of each Federal agency (not including the United States Postal Service) to establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standards promulgated under section 6. The head of each agency shall (after consultation with representatives of the employees thereof) --

**29 USC 668.**

(1) provide safe and healthful places and conditions of employment, consistent with the standards set under section 6;

(2) acquire, maintain, and require the use of safety equipment, personal protective equipment, and devices reasonably necessary to protect employees;

(3) keep adequate records of all occupational accidents and illnesses for proper

**84 STAT. 1610**

evaluation and necessary corrective action;

**Recordkeeping.**

(4) consult with the Secretary with regard to the adequacy as to form and content of records kept pursuant to subsection (a)(3) of this section; and

(5) make an annual report to the Secretary with respect to occupational accidents and injuries and the agency's program under this section. Such report shall include any report submitted under section 7902(e)(2) of title 5, United States Code.

**Annual Report.**

(b) The Secretary shall report to the President a summary or digest of reports submitted to him under subsection (a)(5) of this section, together with his evaluations of and recommendations derived from such reports.

**80 Stat. 530.  
Report to President.**

(c) Section 7902(c)(1) of title 5, United States Code, is amended by inserting after "agencies" the following: "and of labor organizations representing employees".

(d) The Secretary shall have access to records and reports kept and filed by Federal agencies pursuant to subsections (a)(3) and (5) of this section unless those records and reports are specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy, in which case the Secretary shall have access to such information as will not jeopardize national defense or foreign policy.

**Records, etc.;  
availability.**

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## **20. Research and Related Activities**

(a)(1) The Secretary of Health and Human Services, after consultation with the Secretary and with other appropriate Federal departments or agencies, shall conduct (directly or by grants or contracts) research, experiments, and demonstrations relating to occupational safety and health, including studies of psychological factors involved, and relating to innovative methods, techniques, and approaches for dealing with occupational safety and health problems.

**29 USC 669.**

(2) The Secretary of Health and Human Services shall from time to time consult with the Secretary in order to develop specific plans for such research, demonstrations, and experiments as are necessary to produce criteria, including criteria identifying toxic substances, enabling the Secretary to meet his responsibility for the formulation of safety and health standards under this Act; and the Secretary of Health and Human Services, on the basis of such research, demonstrations, and experiments and any other information available to him, shall develop and publish at least annually such criteria as will effectuate the purposes of this Act.

(3) The Secretary of Health and Human Services, on the basis of such research, demonstrations, and experiments, and any other information available to him, shall develop criteria dealing with toxic materials and harmful physical agents and substances which will describe exposure levels that are safe for various periods of employment, including but not limited to the exposure levels at which no employee will suffer impaired health or functional capacities or diminished life expectancy as a result of his work experience.

(4) The Secretary of Health and Human Services shall also conduct special research, experiments, and demonstrations relating to occupational safety and health as are necessary to explore new problems, including those created by new technology in

**84 STAT. 1611.**

occupational safety and health, which may require ameliorative action beyond that which is otherwise provided for in the operating provisions of this Act. The Secretary of Health and Human Services shall also conduct research into the motivational and behavioral factors relating to the field of occupational safety and health.

(5) The Secretary of Health and Human Services, in order to comply with his responsibilities under paragraph (2), and in order to develop needed information regarding potentially toxic substances or harmful physical agents, may prescribe regulations requiring employers to measure, record, and make reports on the exposure of employees to substances or physical agents which the Secretary of Health and Human Services reasonably believes may endanger the health or safety of employees. The Secretary of Health and Human Services also is authorized to establish such programs of medical examinations and tests as may be necessary for determining the incidence of occupational illnesses and the susceptibility of employees to such illnesses. Nothing in this or any other provision of this Act shall be deemed to authorize or require medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others. Upon the request of any employer who is required to measure and record exposure of employees to substances or physical agents as provided under this subsection, the Secretary of Health and Human Services shall furnish full financial or other assistance to such employer for the purpose of defraying any additional expense incurred by him in carrying out the measuring and recording as provided in this subsection.

**Toxic substances,  
records.**

**Medical  
examinations.**

(6) The Secretary of Health and Human Services shall publish within six months of enactment of this Act and thereafter as needed but at least annually a list of all known toxic substances by generic family or other useful grouping, and the concentrations at which such toxicity is known to occur. He shall determine following a written request by any employer or authorized representative of employees, specifying with reasonable particularity the grounds on which the request is made, whether any substance normally found in the place of employment has potentially toxic effects in such concentrations as used or found; and shall submit such determination both to employers and affected employees as soon as possible. If the Secretary of Health and Human Services determines that any substance is potentially toxic at the concentrations in which it is used or found in a place of employment, and such substance is not covered by an occupational safety or health standard promulgated under section 6, the Secretary of Health and Human Services shall immediately submit such determination to the Secretary, together with all pertinent criteria.

**Toxic substances,  
publication.  
December 29, 1970**

(7) Within two years of enactment of the Act, and annually thereafter the Secretary of Health and Human Services shall conduct and publish industry wide studies of the effect of chronic or low-level exposure to industrial materials, processes, and stresses on the potential for illness, disease, or loss of functional capacity in aging adults.

**Annual studies.**

(b) The Secretary of Health and Human Services is authorized to make inspections and question employers and employees as provided in section 8 of this Act in order to carry out his functions and responsibilities under this section.

**Inspections.**

(c) The Secretary is authorized to enter into contracts, agreements, or other arrangements with appropriate public agencies or private organizations for the purpose of conducting studies relating to his responsibilities under this Act. In carrying out his responsibilities under this subsection, the Secretary shall cooperate with the Secretary of Health and Human Services in order to avoid any duplication of efforts under this

**Contract authority.**

**84 STAT. 1612**

section.

(d) Information obtained by the Secretary and the Secretary of Health and Human Services under this section shall be disseminated by the Secretary to employers and employees and organizations thereof.

(e) The functions of the Secretary of Health and Human Services under this Act shall, to the extent feasible, be delegated to the Director of the National Institute for Occupational Safety and Health established by section 22 of this Act.

**Delegation of functions.**

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## **21. Training and Employee Education**

(a) The Secretary of Health and Human Services, after consultation with the Secretary and with other appropriate Federal departments and agencies, shall conduct, directly or by grants or contracts (1) education programs to provide an adequate supply of qualified personnel to carry out the purposes of this Act, and (2) informational programs on the importance of and proper use of adequate safety and health equipment.

**29 USC 670.**

(b) The Secretary is also authorized to conduct, directly or by grants or contracts, short-term training of personnel engaged in work related to his responsibilities under this Act.

(c) The Secretary, in consultation with the Secretary of Health and Human Services, shall (1) provide for the establishment and supervision of programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe or unhealthful working conditions in employments covered by this Act, and (2) consult with and advise employers and employees, and organizations representing employers and employees as to effective means of preventing occupational injuries and illnesses.

(d)(1) The Secretary shall establish and support cooperative agreements with the States under which employers subject to this Act may consult with State personnel with respect to --

(A) the application of occupational safety and health requirements under this Act or under State plans approved under section 18; and

(B) voluntary efforts that employers may undertake to establish and maintain safe and healthful employment and places of employment. Such agreements may provide, as a condition of receiving funds under such agreements, for contributions by States towards meeting the costs of such agreements.

(2) Pursuant to such agreements the State shall provide on-site consultation at the employer's worksite to employers who request such assistance. The State may also provide other education and training programs for employers and employees in the State. The State shall ensure that on-site consultations conducted pursuant to such agreements include provision for the participation by employees.

(3) Activities under this subsection shall be conducted independently of any enforcement activity. If an employer fails to take immediate action to eliminate employee exposure to an imminent danger identified in a consultation or fails to

correct a serious hazard so identified within a reasonable time, a report shall be made to the appropriate enforcement authority for such action as is appropriate.

(4) The Secretary shall, by regulation after notice and opportunity for comment, establish rules under which an employer --

(A) which requests and undergoes an on-site consultative visit provided under this subsection;

(B) which corrects the hazards that have been identified during the visit within the time frames established by the State and agrees to request a subsequent consultative visit if major changes in working conditions or work processes occur which introduce new hazards in the workplace; and

(C) which is implementing procedures for regularly identifying and preventing hazards regulated under this Act and maintains appropriate involvement of, and training for, management and non-management employees in achieving safe and healthful working conditions, may be exempt from an inspection (except an inspection requested under section 8(f) or an inspection to determine the cause of a workplace accident which resulted in the death of one or more employees or hospitalization for three or more employees) for a period of 1 year from the closing of the consultative visit.

(5) A State shall provide worksite consultations under paragraph (2) at the request of an employer. Priority in scheduling such consultations shall be assigned to requests from small businesses which are in higher hazard industries or have the most hazardous conditions at issue in the request.

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## **22. National Institute for Occupational Safety and Health**

(a) It is the purpose of this section to establish a National Institute for Occupational Safety and Health in the Department of Health and Human Services in order to carry out the policy set forth in section 2 of this Act and to perform the functions of the Secretary of Health and Human Services under sections 20 and 21 of this Act.

**29 USC 671.  
Establishment.**

(b) There is hereby established in the Department of Health and Human Services a National Institute for Occupational Safety and Health. The Institute shall be headed by a Director who shall be appointed by the Secretary of Health and Human Services, and who shall serve for a term of six years unless previously removed by the Secretary of Health and Human Services.

**Director,  
appointment,  
term.**

(c) The Institute is authorized to --

(1) develop and establish recommended occupational safety and health standards; and

(2) perform all functions of the Secretary of Health and Human Services under sections 20 and 21 of this Act.

(d) Upon his own initiative, or upon the request of the Secretary of Health and Human Services, the Director is authorized (1) to conduct such research and experimental programs as he determines are necessary for the development of criteria for new and improved occupational safety and health standards, and (2) after consideration of the results of such research and experimental programs make recommendations

**84 STAT.1613**

concerning new or improved occupational safety and health standards. Any occupational safety and health standard recommended pursuant to this section shall immediately be forwarded to the Secretary of Labor, and to the Secretary of Health and Human Services.

(e) In addition to any authority vested in the Institute by other provisions of this section, the Director, in carrying out the functions of the Institute, is authorized to --

(1) prescribe such regulations as he deems necessary governing the manner in which its functions shall be carried out;

(2) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purposes of the Institute and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(3) receive (and use, sell, or otherwise dispose of, in accordance with paragraph (2)), money and other property donated, bequeathed, or devised to the Institute with a condition or restriction, including a condition that the Institute use other funds of the Institute for the purposes of the gift;

(4) in accordance with the civil service laws, appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this section;

(5) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

**80 Stat. 416.**

(6) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

**83 Stat. 190.**

(7) enter into contracts, grants or other arrangements, or modifications thereof to carry out the provisions of this section, and such contracts or modifications thereof may be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), or any other provision of law relating to competitive bidding;

(8) make advance, progress, and other payments which the Director deems necessary under this title without regard to the provisions of section 3324 (a) and (b) of Title 31; and

(9) make other necessary expenditures.

(f) The Director shall submit to the Secretary of Health and Human Services, to the President, and to the Congress an annual report of the operations of the Institute under this Act, which shall include a detailed statement of all private and public funds received and expended by it, and such recommendations as he deems appropriate.

**Annual report  
to HHS,  
President, and  
Congress.**

(g) LEAD-BASED PAINT ACTIVITIES.

(1) Training Grant Program. --

(A) The Institute, in conjunction with the Administrator of the Environmental Protection Agency, may make grants for the training and education of workers and supervisors who are or may be directly engaged in lead-based paint activities.

(B) Grants referred to in subparagraph (A) shall be awarded to nonprofit organizations (including colleges and universities, joint labor-management trust funds, States, and nonprofit government employee organizations) --

(i) which are engaged in the training and education of workers and supervisors who are or who may be directly engaged in lead-based paint activities (as defined in Title IV of the Toxic Substances Control Act),

15 USC 2681 et. seq.

(ii) which have demonstrated experience in implementing and operating health and safety training and education programs, and

(iii) with a demonstrated ability to reach, and involve in lead-based paint training programs, target populations of individuals who are or will be engaged in lead-based paint activities.

Grants under this subsection shall be awarded only to those organizations that fund at least 30 percent of their lead-based paint activities training programs from non-Federal sources, excluding in-kind contributions. Grants may also be made to local governments to carry out such training and education for their employees.

(C) There are authorized to be appropriated, a minimum, \$10,000,000 to the Institute for each of the fiscal years 1994 through 1997 to make grants under this paragraph.

(2) Evaluation of Programs. -- The Institute shall conduct periodic and comprehensive assessments of the efficacy of the worker and supervisor training programs developed and offered by those receiving grants under this section. The Director shall prepare reports on the results of these assessments addressed to the Administrator of the Environmental Protection Agency to include recommendations as may be appropriate for the revision of these programs. The sum of \$500,000 is authorized to be appropriated to the Institute for each of the fiscal years 1994 through 1997 to carry out this paragraph.

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### **23. Grants to the States**

(a) The Secretary is authorized, during the fiscal year ending June 30, 1971, and the two succeeding fiscal years, to make grants to the States which have designated a State agency under section 18 to assist them --

29 USC 672.

(1) in identifying their needs and responsibilities in the area of occupational safety and health,

(2) in developing State plans under section 18, or

(3) in developing plans for --

84 STAT. 1614

(A) establishing systems for the collection of information concerning the nature and frequency of occupational injuries and diseases;

(B) increasing the expertise and enforcement capabilities of their personnel engaged in occupational safety and health programs; or

(C) otherwise improving the administration and enforcement of State occupational safety and health laws, including standards thereunder, consistent with the objectives of this Act.

(b) The Secretary is authorized, during the fiscal year ending June 30, 1971, and the two succeeding fiscal years, to make grants to the States for experimental and demonstration projects consistent with the objectives set forth in subsection (a) of this section.

(c) The Governor of the State shall designate the appropriate State agency for receipt of any grant made by the Secretary under this section.

(d) Any State agency designated by the Governor of the State desiring a grant under this section shall submit an application therefor to the Secretary.

(e) The Secretary shall review the application, and shall, after consultation with the Secretary of Health and Human Services, approve or reject such application.

(f) The Federal share for each State grant under subsection (a) or (b) of this section may not exceed 90 per centum of the total cost of the application. In the event the Federal share for all States under either such subsection is not the same, the differences among the States shall be established on the basis of objective criteria.

(g) The Secretary is authorized to make grants to the States to assist them in administering and enforcing programs for occupational safety and health contained in State plans approved by the Secretary pursuant to section 18 of this Act. The Federal share for each State grant under this subsection may not exceed 50 per centum of the total cost to the State of such a program. The last sentence of subsection (f) shall be applicable in determining the Federal share under this subsection.

(h) Prior to June 30, 1973, the Secretary shall, after consultation with the Secretary of Health and Human Services, transmit a report to the President and to the Congress, describing the experience under the grant programs authorized by this section and making any recommendations he may deem appropriate.

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## **24. Statistics**

(a) In order to further the purposes of this Act, the Secretary, in consultation with the Secretary of Health and Human Services, shall develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics. Such program may cover all employments whether or not subject to any other provisions of this Act but shall not cover employments excluded by section 4 of the Act. The Secretary shall compile accurate statistics on work injuries and illnesses which shall include all disabling, serious, or significant injuries and illnesses, whether or not involving loss of time from work, other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

**29 USC 673.**

(b) To carry out his duties under subsection (a) of this section, the Secretary may --

**84 STAT. 1615**

(1) promote, encourage, or directly engage in programs of studies, information and communication concerning occupational safety and health statistics;

(2) make grants to States or political subdivisions thereof in order to assist them in developing and administering programs dealing with occupational safety and health statistics; and

(3) arrange, through grants or contracts, for the conduct of such research and investigations as give promise of furthering the objectives of this section.

(c) The Federal share for each grant under subsection (b) of this section may be up to 50 per centum of the State's total cost.

(d) The Secretary may, with the consent of any State or political subdivision thereof, accept and use the services, facilities, and employees of the agencies of such State or political subdivision, with or without reimbursement, in order to assist him in carrying out his functions under this section.

(e) On the basis of the records made and kept pursuant to section 8(c) of this Act, employers shall file such reports with the Secretary as he shall prescribe by regulation, as necessary to carry out his functions under this Act.

**Reports.**

(f) Agreements between the Department of Labor and States pertaining to the collection of occupational safety and health statistics already in effect on the effective date of this Act shall remain in effect until superseded by grants or contracts made under this Act.

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## **25. Audits**

(a) Each recipient of a grant under this Act shall keep such records as the Secretary or the Secretary of Health and Human Services shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is made or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

**29 USC 674.**

(b) The Secretary or the Secretary of Health and Human Services, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of any grant under this Act that are pertinent to any such grant.

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## **26. Annual Report**

Within one hundred and twenty days following the convening of each regular session of each Congress, the Secretary and the Secretary of Health and Human Services shall each prepare and submit to the President for transmittal to the Congress a report upon the subject matter of this Act, the progress toward achievement of the purpose of this

**29 USC 675.**

Act, the needs and requirements in the field of occupational safety and health, and any other relevant information. Such reports shall include information regarding occupational safety and health standards, and criteria for such standards, developed during the preceding year; evaluation of standards and criteria previously developed under this Act, defining areas of emphasis for new criteria and standards; an evaluation of the degree of observance of applicable occupational safety and health standards, and a summary of inspection and enforcement activity undertaken; analysis and evaluation of research activities for which results have been obtained under governmental and nongovernmental sponsorship; an analysis of major occupational diseases; evaluation of available control and measurement technology for hazards for which standards or criteria have been developed during the preceding year; description of cooperative efforts undertaken between Government agencies and other interested parties in the implementation of this Act during the preceding year; a progress report on the development of an adequate supply of trained manpower in the field of occupational safety and health, including estimates of future needs and the efforts being made by Government and others to meet those needs; listing of all toxic substances in industrial usage for which labeling requirements, criteria, or standards have not yet been established; and such recommendations for additional legislation as are deemed necessary to protect the safety and health of the worker and improve the administration of this Act.

**84 STAT. 1616**

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## **27. National Commission on State Workmen's Compensation Laws**

(a)(1) The Congress hereby finds and declares that --

**29 USC 676.**

(A) the vast majority of American workers, and their families, are dependent on workmen's compensation for their basic economic security in the event such workers suffer disabling injury or death in the course of their employment; and that the full protection of American workers from job-related injury or death requires an adequate, prompt, and equitable system of workmen's compensation as well as an effective program of occupational health and safety regulation; and

(B) in recent years serious questions have been raised concerning the fairness and adequacy of present workmen's compensation laws in the light of the growth of the economy, the changing nature of the labor force, increases in medical knowledge, changes in the hazards associated with various types of employment, new technology creating new risks to health and safety, and increases in the general level of wages and the cost of living.

(2) The purpose of this section is to authorize an effective study and objective evaluation of State workmen's compensation laws in order to determine if such laws provide an adequate, prompt, and equitable system of compensation for injury or death arising out of or in the course of employment.

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## **28. Economic Assistance to Small Businesses**

(a) Section 7(b) of the Small Business Act, as amended, is amended --

**72 Stat. 387;  
83 Stat. 802.  
15 USC 636.**

(1) by striking out the period at the end of "paragraph (5)" and inserting in lieu thereof "; and"; and;

(2) by adding after paragraph (5) a new paragraph as follows:

"(6) to make such loans (either directly or in cooperation with banks or other lending

institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in effecting additions to or alterations in the equipment, facilities, or methods of operation of such business in order to comply with the applicable standards promulgated pursuant to section 6 of the Occupational Safety and Health Act of 1970 or standards adopted by a State pursuant to a plan approved under section 18 of the Occupational Safety and Health Act of 1970, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph."

(b) The third sentence of section 7(b) of the Small Business Act, as amended, is amended by striking out "or (5)" after "paragraph (3)" and inserting a comma followed by "(5) or (6)".

(c) Section 4(c)(1) of the Small Business Act, as amended, is amended by inserting "7(b)(6)," after "7(b)(5),".

80 Stat. 132.  
15 USC 633.

(d) Loans may also be made or guaranteed for the purposes set forth in section 7(b)(5) of the Small Business Act, as amended, pursuant to the provisions of section 202 of the Public Works and Economic Development Act of 1965, as amended.

79 Stat. 556.  
42 USC 3142.

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## **29. Additional Assistant Secretary of Labor**

(a) Section 2 of the Act of April 17, 1946 (60 Stat. 91) as amended (29 U.S.C. 553) is amended by --

75 Stat. 338.

(1) striking out "four" in the first sentence of such section and inserting in lieu thereof "five"; and

**84 STAT. 1619**

(2) adding at the end thereof the following new sentence, "One of such Assistant Secretaries shall be an Assistant Secretary of Labor for Occupational Safety and Health."

(b) Paragraph (20) of section 5315 of title 5, United States Code, is amended by striking out "(4)" and inserting in lieu thereof "(5)".

80 Stat. 462.

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## **30. Additional Positions**

Section 5108(c) of title 5, United States Code, is amended by --

5 USC 5108(c).

(1) striking out the word "and" at the end of paragraph (8);

(2) striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding immediately after paragraph (9) the following new paragraph:

(10)(A) the Secretary of Labor, subject to the standards and procedures prescribed by this chapter, may place an additional twenty-five positions in the Department of Labor in GS-16, 17, and 18 for the purposes of carrying out his responsibilities under the Occupational Safety and Health Act of 1970;

(B) the Occupational Safety and Health Review Commission, subject to the standards and procedures prescribed by this chapter, may place ten positions in GS-16, 17, and 18 in carrying out its functions under the Occupational Safety and Health Act of 1970."

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### **32. Separability**

If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

**29 USC 677.**

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### **33. Appropriations**

There are authorized to be appropriated to carry out this Act for each fiscal year such sums as the Congress shall deem necessary.

**84 STAT. 1620**  
**29 USC 678.**

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### **34. Effective Date**

This Act shall take effect one hundred and twenty days after the date of its enactment.

Approved December 29, 1970.

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### **LEGISLATIVE HISTORY:**

HOUSE REPORTS: No. 91-1291 accompanying H.R. 16785

(Comm. on Education and Labor) and No. 91-1765 (Comm. of Conference).

SENATE REPORT: No. 91-1282 (Comm. on Labor and Public Welfare).

CONGRESSIONAL RECORD, Vol. 116 (1970):

Oct. 13, Nov. 16, 17, considered and passed Senate.

Nov. 23, 24, considered and passed House, amended, in lieu of H.R. 16785.

Dec. 16, Senate agreed to conference report.

Dec. 17, House agreed to conference report.

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## HISTORICAL AND STATUTORY NOTES

### Format.

This reprinting of the Act retains the format originally created by Congress in the OSH Act of 1970, Pub. L. 95-251 (**see also** Statutes at Large, 84 Stat. 1590). The format of this version will differ slightly from that published in the United States Code, which, among other things, contains lengthier section headings, inserts subsection headings, has a different style of citation to other sections of the U.S.C., and refers to Pub. L. 95-251 as the "chapter" rather than the "Act."

### Amendments.

Amended by Public Law 93-237, January 2, 1974; Public Law 95-251, March 27, 1978; Public Law 97-375, December 21, 1982; Public Law 98-620, November 8, 1984; Public Law 101-508, November 5, 1990; Public Law 102-550, October 28, 1992; Public Law 103-272, July 5, 1994; Public Law 105-197, July 16, 1998; Public Law 105-198, July 16, 1998; Public Law 105-241, September 29, 1998.

The Act was first amended on January 2, 1974, by section 2(c) of Pub. L. 93-237, which replaced the phrase "7(b)(6)" in section 28(d) of the OSH Act with "7(b)(5)".

On March 27, 1978, Pub. L. 95-251 replaced the term "hearing examiner(s)" with "administrative law judge(s)" in all federal laws, including sections 12(e), 12(j), and 12(k) of the OSH Act.

The U.S. entered into a treaty in 1977, *Panama Canal Treaty of 1977*, Sept. 7, 1977, U.S.-Panama, T.I.A.S. 10030, 33 U.S.T. 39, which was implemented by legislation. Panama Canal Act of 1979, Pub. L. 96-70, 93 Stat. 452 (1979). Although no corresponding amendment to the OSH Act was enacted, the Canal Zone ceased to exist in 1979. The U.S. continued to manage, operate and facilitate the transit of ships through the Canal under the authority of the Panama Canal Treaty until December 31, 1999, at which time authority over the Canal was transferred to the Republic of Panama.

On December 21, 1982, Pub. L. 97-375, Congress struck the sentence in section 19(b) of the act that directed the President of the United States to transmit annual reports of the activities of federal agencies included in subsection (a)(5) of section 19 to the House of Representatives and the Senate.

On October 12, 1984, Pub. L. 98-473 (commonly referred to as the "Sentencing Reform Act of 1984") instituted a classification system for criminal offenses punishable under the United States Code. Under this system, an offense with imprisonment terms of "six months or less but more than thirty days," such as that found in 29 U.S.C. § 666(e) for a willful violation of the OSH Act, is classified as a criminal "Class B misdemeanor." 18 U.S.C. § 3559(a)(7). The criminal code increases the monetary penalties for criminal misdemeanors beyond what is provided for in the OSH Act: a fine for a Class B misdemeanor resulting in death, for

example, is not more than \$250,000 for an individual, and is not more than \$500,000 for an organization. 18 U.S.C. §§ 3571(a)(4), (c)(4). The criminal code also provides for authorized terms of probation for both individuals and organizations. 18 U.S.C. §§ 3551, 3561. The term of imprisonment for individuals is the same as that authorized by the OSH Act. 18 U.S.C. § 3581(b)(7).

On November 8, 1984, Pub. L. 98-620, Congress struck the last sentence in section 11(a) of the Act that required petitions filed under the subsection to be heard expeditiously.

On November 5, 1990, Pub. L. 101-508 amended the Act by increasing the penalties for willful or repeated violations of the Act in section 17(a) from \$10,000 for each violation to "\$70,000 for each violation, but not less than \$5,000 for each willful violation," and increased the limitation on penalties in sections (b), (c), (d), and (i) from \$1000 to \$7000 for serious and other-than-serious violations, failure to correct violative conditions, and violations of the Act's posting requirements.

On October 28, 1992, Pub. L. 102-550 [titled the "Housing and Community Development Act of 1992"] amended section 22 of the Act by adding subsection (g), which requires NIOSH to institute a training grant program for lead-based paint activities.

On July 5, 1994, section 7(b) of Pub. L. 103-272 [titled "An Act to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation...and to make other technical improvements in the Code"] repealed section 31 of the OSH Act, "Emergency Locator Beacons." Section 1(e) of the same Public Law, however, enacted a modified version of section 31 of the OSH Act. This provision, titled "Emergency Locator Transmitters," is codified at 49 U.S.C. § 44712.

On July 16, 1998, Pub. L. 105-197 amended section 21 of the Act by adding subsection (d), which requires the Secretary to establish a compliance assistance program by which employers can consult with state personnel regarding the application of and compliance with OSHA standards independent of any enforcement activity.

On July 16, 1998, Pub. L. 105-198 amended section 8 of the Act by adding subsection (h), which forbids the Secretary to use the results of enforcement activities to evaluate the employees involved in such enforcement or to impose quotas or goals.

On September 29, 1998, Pub. L. 105-241 amended sections 3(5) and 19(a) of the Act to include the United States Postal Service as an "employer" subject to OSHA enforcement.

Other jurisdictional notes: Although no corresponding amendments to the OSH Act have been made, OSHA no longer exercises jurisdiction over the entity formerly known as the Trust Territory of the Pacific Islands. The Trust Territory, which consisted of the Former Japanese Mandated Islands, was established in 1947 by the Security Council of the United Nations, and administered by the United States. *Trusteeship Agreement for the Former Japanese Mandated Islands*, Apr. 2-July 18, 1947, 61 Stat. 3301, T.I.A.S. 1665, 8 U.N.T.S. 189.

From 1947 to 1994, the people of these islands exercised the right of self-determination conveyed by the Trusteeship four times, resulting in the division of the Trust Territory into four separate entities. Three entities: the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands, became "Freely Associated States," to which U.S. Federal Law does not apply. There is a presumption of applicability of federal law to the fourth entity, the Commonwealth of Northern Mariana Islands, which elected to become a "Flag Territory" of the United States. *See Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America*, Article V, Section 502(a) as contained in Pub. L. 94-24, 90 Stat. 263 (Mar. 24, 1976)[citations to amendments omitted]; 48 U.S.C. § 1801 and note (1976); *see also Saipan Stevedore v. Director, Office of Workers' Compensation Programs*, 133 F.3d 717, 722 (9th Cir. 1998)(Longshore and Harbor Workers' Compensation Act applies to the Commonwealth of Northern Mariana Islands pursuant to section 502(a) of the Covenant because the Act has general application to the states and to Guam). For up-to-date information on the legal status of these freely associated states and territories, contact the Insular Affairs division of the Department of the Interior.

#### Change of Name.

The phrase "Secretary of Health and Human Services" was substituted for "Secretary of Health, Education and Welfare" in sections 6, 7, 8, and 20-26 of the Act pursuant to section 509(b) of Pub. L. 96-88 (Oct 17, 1979).

#### Codifications.

12(c): Amended sections 5314 and 5315 of Title 5 by placing the Chairman and Members of the Occupational Safety and Health Review Commission in the Executive Schedule Pay system.

12(e): The reference to section 5362 of Title 5 in section 12(e) of the Act was changed to section 5372, by Pub. L. 95-454 (Oct. 13, 1978), which redesignated section 5361 to 5365 of Title 5 as sections 5371 to 5375.

17(h): Included Department of Labor employees within the provisions of 18 U.S.C. §§ 1111 and 1114, which provide guidelines for prosecuting persons who have killed or attempted to kill an officer or employees of the United States or any agency engaged in or on account of the performance of official duties. This section has since been amended and does not specifically reference Department of Labor employees, as the language in 17(h) suggests.

19(c): Amended 5 U.S.C. § 7902(c)(1) to add "labor organizations representing employees" to the group of persons authorized to serve on the Secretary of Labor's Advisory Committee as established under 941(b)(1) of title 33.

22(e)(8): "Section 3648 of the Revised Statutes, as amended (31 U.S.C. 529)" was recodified to read "section 3324(a) and (b) of Title 31" on authority of Pub. L. 97-258 (Sept. 13, 1982).

28: Economic Assistance to Small Business. As noted above, section 28(d) of the OSH Act was amended by section 2 of Pub. L. 93-237 (Jan. 2, 1974).

Section 2(b)(1) of Pub. L. 93-237 repealed section 7(b)(6) of the Small Business Act [15 U.S.C. § 636], which had been added by section 28 of the OSH Act in 1970. Although it repealed the 7(b)(6) language, Pub. L. 93-237 created a similar provision in 7(b)(5) of the Small Business Act. This provision eliminated the specific reference in 7(b)(6) to the OSH Act, but replaced it with "any Federal law." Section 2(b)(2) of the Public Law consequently amended section 28(d) of the OSH Act by striking out "7(b)(6)" and inserting in lieu thereof "7(b)(5)." Section 7(b)(5) of the Small Business Act was later repealed by section 1913(a) of Pub. L. 97-35 (1981).

Sections 29-30. Additional Assistant Secretary of Labor; Additional Positions. Sections 29 and 30, which created an Assistant Secretary position in Occupational Safety and Health along with several subordinate positions, are included here for instant reference, but do not necessarily reflect the current federal personnel system or present-day agency staffing. The version of 29 U.S.C. § 553 current as of July 22, 1999, for example, refers to "nine" Assistant Secretaries, not the "five" suggested in section 29. References to "GS-16, 17, and 18," in Section 30 are similarly obsolete: Pub. L. 101-509 (1990) substituted the reference in 5 U.S.C. § 5108(c) to "positions at GS-16, 17, and 18" with "positions above GS-15."

#### Omitted Text.

Section 27. National Commission on State Workmen's Compensation Laws. Only subsection (a) of section 27, which lists Congressional findings on workers' compensation, is included in this reprinting of the Act. Omitted subsections (b)-(j) outline the membership of the Commission and the procedural requirements to be followed. Subsection (d)(2) directs the Commission to transmit a final report to Congress and the President by July 31, 1972. Subsection (j) states that the Commission will cease to exist ninety days after the submission of this final report.

Section 31. Emergency Locator Beacons. The Emergency Locator Beacon provision of the OSH Act [49 U.S.C. § 1421] is not included in this reprinting. As noted above, this section was repealed by Pub L. 103-272 (July 5, 1994): "An Act to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation...and to make other technical improvements in the Code." The same law that repealed section 31 of the OSH Act enacted a modified version of the provision, titled "Emergency Locator Transmitters," which is codified at 49 U.S.C. § 44712.

# TAB 7

EMPLOYEE WORKPLACE RIGHTS

# **OSHA: Employee Workplace Rights**

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U.S. Department of Labor  
Occupational Safety and Health Administration

OSHA 3021  
2000 (Reprinted)

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**This information booklet is intended to provide a generic, non-exhaustive overview of a particular standards-related topic. This publication does not itself alter or determine compliance responsibilities, which are set forth on OSHA standards themselves and the *Occupational Safety and Health Act*. Moreover, because interpretations and enforcement policy may change over time, for additional guidance on OSHA compliance requirements, the reader should consult current administrative interpretations and decisions by the Occupational Safety and Health Review Commission and the courts.**

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This information will be made available to sensory impaired individuals upon request.  
Voice phone: (202) 693-1999.

## **OSHA INSPECTIONS**

If a hazard is not being corrected, an employee should contact the OSHA area office (or state program office) having jurisdiction. If the employee submits a written complaint and the OSHA area or state office determines that there are reasonable grounds for believing that a violation or danger exists, the office conducts an inspection.

### **EMPLOYEE REPRESENTATIVE**

Under Section 8(e) of the Act, the workers' representative has a right to accompany an OSHA compliance officer (also referred to as a compliance safety and health officer, CSHO, or inspector) during an inspection. The representative must be chosen by the union (if there is one) or by the employees. Under no circumstances may the employer choose the workers' representative.

If employees are represented by more than one union, each union may choose a representative. Normally, the representative of each union will not accompany the inspector for the entire inspection, but will join the inspection only when it reaches the area where those union 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.

### **HELPING 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, describe past worker complaints about hazards, and inform the inspector if working conditions are not normal during the inspection.

### **OSHA STANDARDS AND WORKPLACE HAZARDS**

Before OSHA issues, amends or deletes regulations, the agency publishes them in the *Federal Register* so that interested persons or groups may comment.

The employer has 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 OSHA law itself. If more information is needed about workplace hazards than the employer can supply, it can be obtained from the nearest OSHA area office.

Under the OSH Act, employers have a general duty to provide work and a workplace free from recognized hazards. Citations may be issued by OSHA when violations of standards are found and for violations of the general duty clause, even if no OSHA standard applies to the particular hazard.

The employer also must display in a prominent place the official OSHA poster that describes rights and responsibilities under the OSH Act.

## **RIGHT TO KNOW**

Employers must establish a written, comprehensive hazard communication program that 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 work area, the means the employer uses to inform employees of the hazards of non-routine tasks (for example, the cleaning of reactor vessels), hazards associated with chemicals in unlabeled pipes, and the way the employer will inform other employers of the hazards to which their employees may be exposed.

## **ACCESS TO EXPOSURE AND MEDICAL RECORDS**

Employers must inform employees of the existence, location, and availability of their medical and exposure records when employees first begin employment and at least annually thereafter. 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 records at least 3 months before the employer ceased to do business. OSHA standards require the employer to measure exposure to harmful substances, the employee (or representative) has the right to observe the testing and to examine the records of the results. If the exposure levels are above the limit set by the standard, the employer must tell employees what will be done to reduce the exposure.

## **COOPERATIVE EFFORTS 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 union representative (if there is a union). Information on OSHA requirements can be obtained from the OSHA area office. If there is a state occupational safety and health program, similar information can be obtained from the state. OSHA provides special recognition through its Voluntary Protection Programs (VPPs) to work sites where employers and employees work together to achieve safety and health excellence.

# TAB 8

MISSOURI ONE CALL

# Missouri One Call

**1-800-344-7483**

## **STOP! CALL BEFORE YOU DIG**

### **FREE SAFETY MEETING FOR YOUR WORKFORCE**

- To familiarize you and your employees with the 800 number.
- To maintain the high quality of all underground services.
- To remind your crews of the importance of calling for utility locates.
- To remind your excavators of the hidden dangers they may encounter.
- To raise awareness of the impact on you, your company, and the community when a buried facility is damaged.

#### **Southwestern Bell Telephone Company offers at no charge:**

- 30 to 45 minute "Call Before You Dig" safety meeting.
- Video presentation from "Underground Focus Magazine".
- Copy of the Missouri One Call "Excavator's Manual".
- Question and answer session. The time and place can be arranged at your convenience, day or night, Monday-Saturday.

If you are an independent contractor, if you work for a municipality, a fence contractor, a landscape or sprinkler contractor, a utility, or a pipeline company, or if you do any excavating, boring, grading, blasting, or any kind of digging, please call to schedule a meeting.

Additional groups who may be interested in having a speaker on this topic include professional organizations or associations, clubs, trade unions, neighborhood groups. We are eager to serve the community and promote safety.

For more information please call:

Paul Staats

St. Louis Market Area (314, 417, 573, 636, & 660)

Office: 314-963-4942

Pager: 1-888-270-3359

Cellular: 314-623-5905

E-mail [ps9698@momail.sbc.com](mailto:ps9698@momail.sbc.com)

# **TAB 9**

**OSHA INJURY/ILLNESS FORM**

## **OSHA RECORDKEEPING AND PROCEDURES**

Record keeping and all forms are maintained on a calendar year basis and are maintained at the company office, company address, city, state, zip.

### **OSHA No. 300 Log and Summary of Occupational Injuries and Illnesses**

Each recordable occupational injury or illness is logged on the form within (6) working days from the time the employer learns of the injury. It is the duty of the Safety Director to ensure compliance and recording of this regulation.

The OSHA No. 300 Log is posted during the month of February where employees may customarily review and evaluate it's content. An employee may contact the Safety Director (National Safety Consulting) at any time to review a copy of this log.

### **OSHA No. 101 Supplementary Record**

These records include insurance and/or workers compensation forms. These forms are kept on record for (5) years and it is the duty of the Safety Director to ensure the accuracy of these documents.

### **OSHA No. 2203 Poster**

This poster states the employee's rights under the Occupation Safety and Health Act of 1970. The poster is posted where employees may review it at any time.

**ALL EMPLOYEES ARE AWARE THAT OSHA HAS THE AUTHORIZATION TO  
CONDUCT WORKPLACE INSPECTIONS.**

**EMPLOYEES ARE ALSO AWARE OF THEIR RIGHT TO HAVE A COMPANY OR  
EMPLOYER DESIGNATED SAFETY INSPECTOR ACCOMPANY THE OSHA  
INSPECTOR DURING A WORKPLACE OR FIELD INSPECTION.**

# TAB 10

## ADDITIONAL FORMS

**FIRST AID LOG FORM**

Date(S) \_\_\_\_\_  
Foreman: \_\_\_\_\_  
\_\_\_\_\_

Project Name:                      Address:                      Job Number

---

Print Full Name of Employee:	Injury/Illness types:	Health Care Provided:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Print First Aid Providers Name/  
Signature: \_\_\_\_\_

## NOTICE OF DISCIPLINARY ACTIONS

Name of company\_\_\_\_\_

Date\_\_\_\_\_Job#\_\_\_\_\_Job Name/Location\_\_\_\_\_

Type of warning that was given: First\_\_\_Second\_\_\_Third\_\_\_ Verbal\_\_\_ Written\_\_\_.

---

Employees full name (please print above this line)

You are being issued this notice for failure to comply with the Company's Rules of Conduct.

- \_\_\_\_Poor or irregular attendance.
- \_\_\_\_Leaving the work place without supervisor's approval.
- \_\_\_\_Insubordination.
- \_\_\_\_Gambling.
- \_\_\_\_Refusing to accept work assignments.
- \_\_\_\_Failure to observe safety, sanitary and medical rules/practices.
- \_\_\_\_Solicitation.
- \_\_\_\_Recurring tardiness.
- \_\_\_\_Loafing.
- \_\_\_\_Engaging in horseplay.
- \_\_\_\_Failing to immediately report an accident/injury.
- \_\_\_\_Other\_\_\_\_\_

(Describe)

Please see that this does not happen again. Repetition of the offense will make it necessary to take appropriate action which may subject you to suspension or discharge without further notice.

Has the employee been verbally warned in the past concerning this or any other violation?\_\_\_\_Yes\_\_\_\_NO

Was the employee given re-instruction and have they given you satisfactory evidence of understanding?\_\_\_\_\_

Were proper procedures followed in the matter of entitlements as regards to Labor Agreements?\_\_\_\_\_

\_\_\_\_\_  
Signature of Forman/Gen. Forman

\_\_\_\_\_  
Signature of Employee

# **Accident Investigation Report**

**DIVISION:**

**SUPERVISOR:**

**INJURED NAME:** \_\_\_\_\_ **AGE:** \_\_\_\_\_

**JOB LOCATION:**

**TRADE:** \_\_\_\_\_ **DATE OF INCIDENT:** \_\_\_\_\_ **TIME:** \_\_\_\_\_

**MEDICAL TREATMENT:**

**NATURE OF INJURY:**

**EXPLAIN HOW INJURY OCCURRED:**

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---

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---

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**WHAT PREVENTATIVE MEASURES HAVE BEEN TAKEN?**

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**Supervisor's Signature:**

\_\_\_\_\_ **Date** \_\_\_\_\_

# **Supervisor's Accident Investigation Report**

Employer:\_\_\_\_\_

Injured Name:\_\_\_\_\_Age:\_\_\_\_\_

Job/Location:\_\_\_\_\_Trade:\_\_\_\_\_

Date of Incident:\_\_\_\_\_Time:\_\_\_\_\_am/pm

Medical Treatment By:\_\_\_\_\_

Nature of Injury:\_\_\_\_\_

What Happened?\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

How Did This Incident  
Happen?\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

What Is Being Done To Prevent  
Recurrence?\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Supervisor's Signature\_\_\_\_\_Date\_\_\_\_\_

## REQUEST FOR DRIVERS LICENSE INFORMATION

I hereby certify that my name is \_\_\_\_\_

I further certify that my date of birth is \_\_\_\_\_, that my driver's

License number is \_\_\_\_\_, that my present address is

---

And my telephone number is \_\_\_\_\_

To obtain my drivers' license record information.

Signed \_\_\_\_\_

Date \_\_\_\_\_

**CONFINED SPACE ENTRY PERMIT**

Permit No. \_\_\_\_\_ Forman \_\_\_\_\_ Project No. \_\_\_\_\_

Describe hazards of work: \_\_\_\_\_

Mark the following (Yes, No, NA) on procedures you've taken as follows.

1.	Confined Space Program Sect.7 reviewed in detail with Entrants and Attendants		Yes	No	NA
2.	Lock-Out Program is operational.				
3.	Hot work Permit Program is operational.				
4.	All rescue equipment in place per Confined Space Program Sect.7.				
5.	Emergency oxygen, first-aid kit and rescue equipment is on standby and checked.				
6.	Pre-determined rescue site for first-aid has been established.				
7.	Ventilation equipment (approved for tested atmosphere available and full use planned				
8.	Atmospheric testing equipment has been properly calibrated.				
9.	Testing equipment battery condition checked & new spare is on standby.				
10.	Alarm sensors, monitors and/or dosimeters placed or assigned to all appropriate personnel.				
11.	Effective communications established and checked between Entrants and Attendant.				
12.	Work crew medically qualified for respirator use as per respirator program Sect.5 guidelines.				
13.	Non-sparking tools & "explosive proof" lighting, etc have been assigned.				
14.	Team trained, assigned and briefed in first aid /CPR training				
15.	Fire watch assigned if Hot-Work Permit is required.				

Atmospheric Test Conducted

Initial Test Date \_\_\_\_\_ Time \_\_\_\_\_

% Oxygen Test Reading results \_\_\_\_\_

% LEL Test results \_\_\_\_\_

Toxic Chemical Level Test results & Test method \_\_\_\_\_

Re-test Times \_\_\_\_\_

\*\*\*

Name & serial # of Calibration & testing devices used \_\_\_\_\_

Test equipment Calibration date \_\_\_\_\_

Equipment Calibrated & tested by \_\_\_\_\_

\*\*\*

TO CANCEL, WRITE CANCELLED ACROSS THE FACE OF THIS PERMIT

This confined space has been tested and inspected, and entry is authorized between the hour of \_\_\_\_\_

Valid date of approved entry \_\_\_\_\_ Assigned Attendant \_\_\_\_\_

Firewatch Monitor \_\_\_\_\_

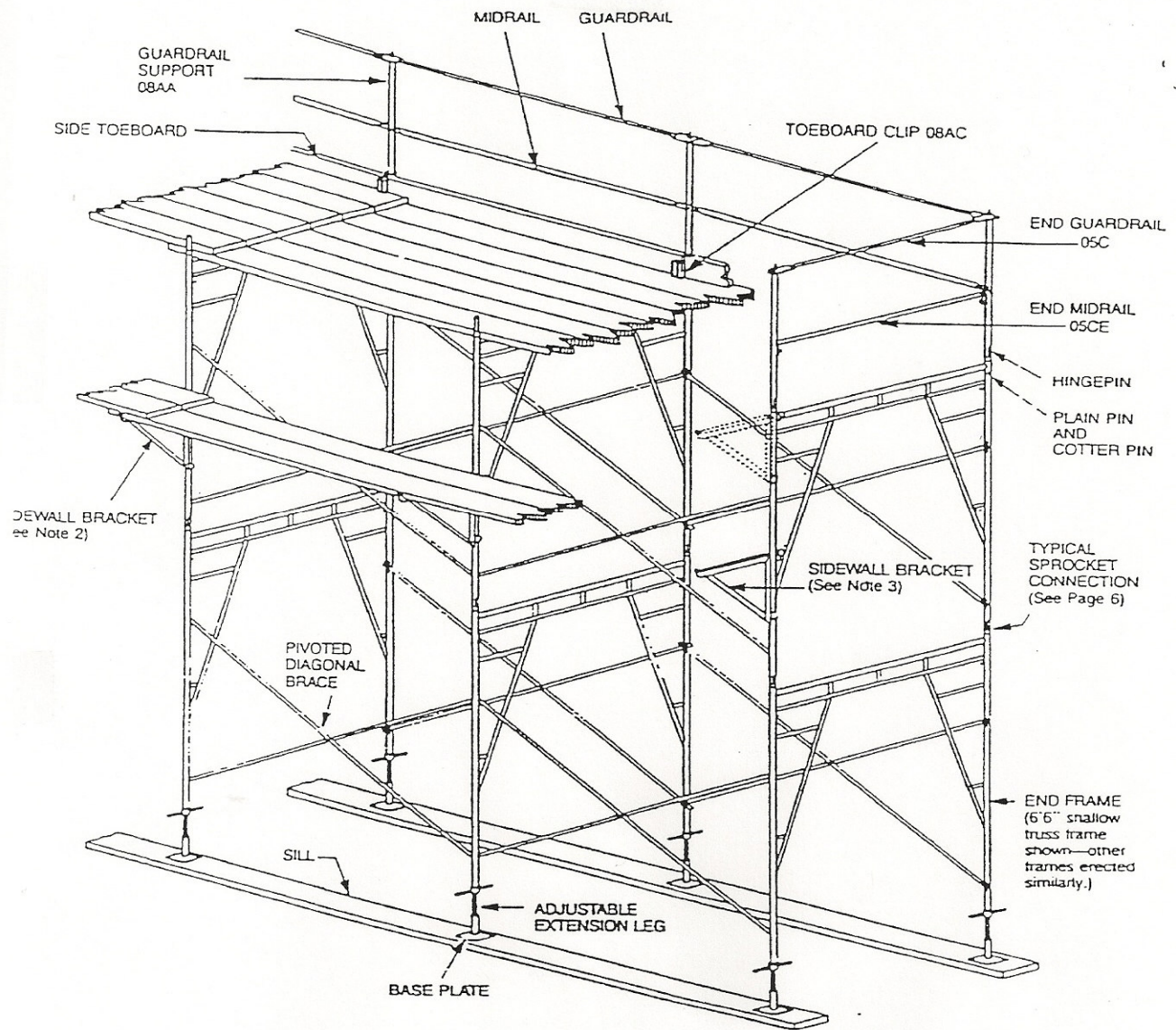
Authorized entry persons \_\_\_\_\_

Use back of form to list additional Authorized entry persons.

Permit Signed & approved by (Project Man) \_\_\_\_\_

Permit Received & Posted by (Entry Sup.) \_\_\_\_\_

(Forward to safety department at the end of the project)



## **STATIONARY SCAFFOLDS**

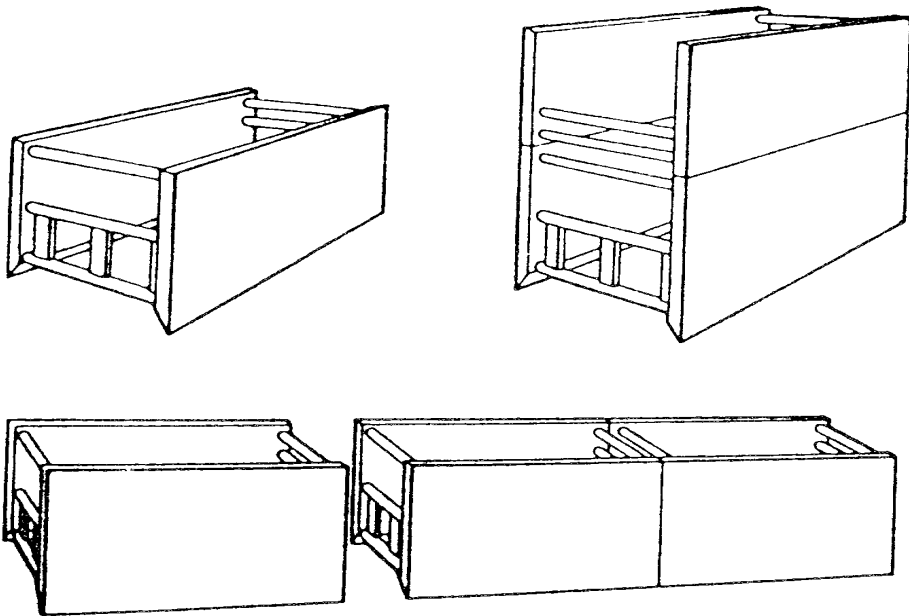
1. Install and use Step Units attachable Climbing Ladders or other appropriate ladders for access to all platforms.
2. Sidewall brackets must be seated properly and securely on frames: assure brackets do not become unseated when planks are placed on them.
3. Install guardrail protection at ends of sidewall bracket runs.
4. Install planking in accordance with scaffolding rules.
5. Install guardrails, midrails, and toeboards along all open sides and ends of working platforms. If platforms or planks are at intermediate heights, see guardrail instructions.
6. When scaffolds are to be partially or fully enclosed, additional specific precautions must be taken to assure frequency and adequacy of ties attaching the scaffolding to the building because of increased load conditions resulting from effects of wind and weather.

# **SCAFFOLD INSPECTION CHECKLIST**

Project Name: \_\_\_\_\_ Inspected by: \_\_\_\_\_ Date: \_\_\_\_\_

	Yes	No
1. Are scaffold planks graded for scaffold use and in safe working condition.		
2. Are scaffold frames free of defects.		
3. Are scaffolds capable of supporting 4 times their maximum intended load.		
4. Have competent persons been in charge of erection.		
5. Have scaffolds been inspected by a competent person each shift.		
6. Have screw jacks been used to level and plumb the scaffold instead of unstable objects such as concrete blocks, loose bricks, etc.		
7. Are base plates and/or screw jacks in firm contact with sills and frame.		
8. Have scaffolds been erected on firm footing.		
9. Is scaffold level and plumb.		
10. Are scaffold frames braced and braces properly attached.		
11. Are guardrails in place on all open sides and ends of scaffolding over 10 ft., or personal fall protection provided.		
12. Has proper access been provided. (no climbing on or across braces)		
13. Has overhead protection from falling objects such as toe boards or screening been provided where necessary.		
14. Have scaffolding frames and rolling casters been pinned.		
15. Has scaffold been tied to structure at least every 26 ft. in length.		
16. Is scaffold free of makeshift devices or ladders to increase working height.		
17. Are scaffold platforms planked as fully as possible between guardrails with gaps 1 inch or less between planks.		
18. Are walkways at least 18 inches wide and guardrails provided at deviations over 10 feet.		
19. Do planks that overlap have a minimum of 12 feet overlap and extend 6 inches beyond supports.		
20. Do planks that do not overlap extend 6 inches beyond supports or cleated on both ends.		

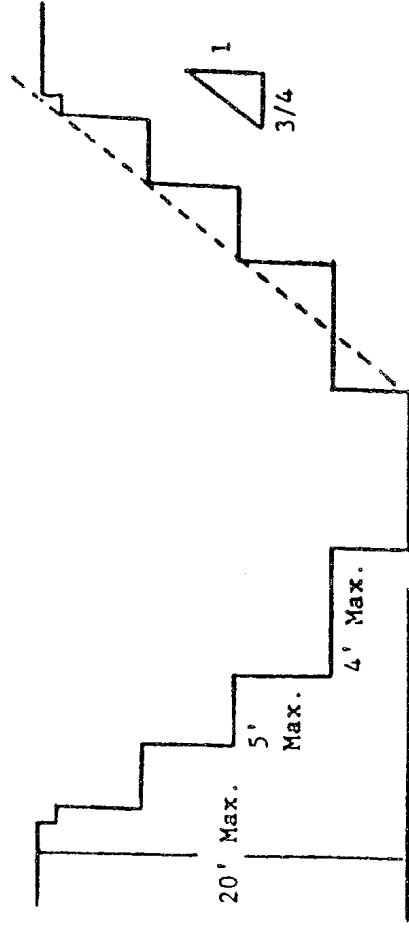
# BOX TRENCHING



## SHIELDING TYPES

- Trench boxes are generally used in open areas, but they also may be used in combination with sloping and benching. The box must extend at least 18 inches above the surrounding area if there is sloping towards the excavation.

# SLOPING AND BENCHING



Multiple Bench



# LOCKOUT SAFETY PROCEDURES



EQUIPMENT LOCATION \_\_\_\_\_

MODEL \_\_\_\_\_ MFG. \_\_\_\_\_

PROCEDURE AUTHORIZED BY \_\_\_\_\_ PHONE \_\_\_\_\_ DEPT. \_\_\_\_\_

OSHA regulations state that "The procedures shall clearly and specifically outline the scope, purpose, authorization, rules and techniques to be utilized for the control of hazardous energy, and the means to enforce compliance including, but not limited to the following:

- A). A specific statement of the intended use of the procedure.
- B). Specific procedural steps for shutting down, isolating, blocking and securing machines or equipment to control hazardous energy.
- C). Specific procedural steps for the placement, removal and transfer of lockout devices or tagout devices and the responsibility for them; and
- D). Specific requirements for testing a machine or equipment to determine and verify the effectiveness of lockout devices, tagout devices, and other energy control measures."

## SOURCES OF ENERGY FOR THIS EQUIPMENT:

- |  |                                    |                                    |
|--|------------------------------------|------------------------------------|
| <input type="checkbox"/> Electrical 120 V.A.C. | <input type="checkbox"/> Gas       | <input type="checkbox"/> Hydraulic |
| <input type="checkbox"/> Electrical _____      | <input type="checkbox"/> Steam     | <input type="checkbox"/> Chemical  |
| <input type="checkbox"/> Electrical _____      | <input type="checkbox"/> Pneumatic | <input type="checkbox"/> _____     |
| <input type="checkbox"/> Compressed Air        | <input type="checkbox"/> Thermal   | <input type="checkbox"/> _____     |

## STORED ENERGY (Remember energy can be stored!)

- |   |   |                                |
|---|---|--------------------------------|
| <input type="checkbox"/> Raised Load        | <input type="checkbox"/> Air Tank           | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Coiled Springs     | <input type="checkbox"/> Chemical           | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Charged Capacitors | <input type="checkbox"/> Hydraulic Pressure | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Battery            | <input type="checkbox"/> Pneumatic Pressure | <input type="checkbox"/> _____ |

## SPECIFIC INSTRUCTIONS FOR LOCKOUT: