

University of South Carolina Lancaster Safety Manual

INTRODUCTION TO OSHA

Introduction

Many of the health and safety programs and procedures in this Health and Safety Guide are derived from federal [Occupational Safety and Health Administration \(OSHA\)](#) regulations. This section provides some background information about OSHA and OSHA standards, inspections, citations and penalties. It is also the intent of this section to distinguish between the role of OSHA and the role of the University of South Carolina Environmental Health and Safety (EHS).

Scope and Application

OSHA regulations cover many activities at colleges and universities. Although OSHA regulations were written specifically for employees, the University is committed to providing a safe work environment, free of recognizable hazards. Most of the programs in these Safety Program Guides extend to faculty, staff, undergraduates and graduate students.

For any particular health and safety program at the University of South Carolina, the scope and application of specific OSHA regulations are described within the pertinent section of this guide.

Description

The Occupational Safety and Health Act (OSHAct) of 1970 was passed by Congress "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." Under the OSHAct, OSHA was established within the Department of Labor and was authorized to regulate health and safety conditions for all employers with few exceptions.

The state of South Carolina manages its own OSHA program within the SC Department of Labor, Licensing and Regulation.

Purpose

Under the OSHAct, OSHA was created to:

- encourage employers and employees to reduce workplace hazards and to implement new or improve existing safety and health standards;
- provide for research in occupational safety and health and develop innovative ways of dealing with occupational safety and health problems;
- establish "separate but dependent responsibilities and rights" for employers and employees for the achievement of better safety and health conditions;
- maintain a reporting and recordkeeping system to monitor job-related injuries and illnesses;
- establish training programs to increase the number and competence of occupational safety and health personnel; and,
- develop mandatory job safety and health standards and enforce them effectively.

Standards

The OSHA standards affecting the University fall into two major categories: (1) General Industry and (2) Construction. These standards may require the adoption or use of one or more practices, means, methods, or processes reasonably necessary or appropriate to provide protection on the job. It is the supervisor's

responsibility to become familiar with the applicable standards and to ensure that employees follow procedures, including the use of personal protective equipment, as required.

General Duty Clause

Where OSHA has not promulgated specific standards to address a given situation, employers are responsible for following the intent of the OSHAct's general duty clause. The general duty clause states that each employer shall furnish "a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm to [its] employees." In those cases where a specific standard does not exist, OSHA will use the general duty clause for the issuance of citations and fines.

Development and Adoption of Standards

The procedure to set a standard can be started in several different ways. OSHA can simply begin the process on its own initiative or in response to petitions from other parties. Once OSHA has developed plans to propose, amend, or delete a standard, it publishes these intentions in the Federal Register as a Notice of Proposed Rulemaking or often as an Advanced Notice of Proposed Rulemaking. The notice will include the terms of the new rule and provide a specific time for the public to respond. Interested parties may submit written arguments and pertinent evidence and may request a public hearing on the proposal when none has been announced in the notice.

After close of the comment period or public hearing, OSHA must publish in the Federal Register the full, final text of the adopted standard and the date it becomes effective, along with an explanation of the standard and the reasons for implementing it.

Keeping Employees Informed

Departments are responsible for keeping employees informed about OSHA and the various safety and health matters with which they are involved. OSHA requires that each department post certain materials at a prominent location in the workplace. These include:

- Job Safety and Health Protection (workplace poster, OSHA 2203) informing employees of their rights and responsibilities under the OSHAct;
- summaries of petitions for variances from standards or recordkeeping procedures;
- copies of OSHA citations for violations of standards. These must remain posted at or near the location of the alleged violations for three days or until the violations are abated, whichever is longer.

Occasionally, OSHA standards or NIOSH (National Institute for Occupational Safety and Health) research activities will require an employer to measure and record employee exposure to potentially harmful substances. Employees have the right (in person or through their authorized representative) to be present during the measuring and to examine records of the results. Each employee or former employee has the right to see his or her examination records and must be told if exposure has exceeded the levels set by standards. The employee must also be told what corrective actions are being taken.

Workplace Inspections

OSHA is authorized to conduct workplace inspections to enforce its standards. All establishments covered under the OSHAct, including University of South Carolina, are subject to inspection by OSHA compliance safety and health officers.

Under the Act, an OSHA compliance officer is authorized to:

- "Enter without delay and at reasonable times any factory, plant, establishment, construction site or other areas, workplace, or environment where work is being performed by an employee of the employer"; and 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 equipment therein, and to question privately any such employer, owner, operator, agent or employee."

Nearly all inspections are conducted without any advanced notice. However, when advance notice of an inspection is given, the employer must inform his or her employees' representatives or arrange for OSHA to do so. OSHA usually does not have a warrant for an inspection when they first arrive and may not conduct warrant less inspections without an employer's consent. It may, however, inspect after acquiring a search warrant or its equivalent based on administrative probable cause.

If an OSHA Inspector Shows Up at Your Doorstep

If an OSHA Compliance Officer contacts anyone via phone or mail, contact the Employee Safety Officer at 6-7085. We will assist the department in determining what steps, if any, need to be taken.

If an OSHA Compliance Officer arrives at your department to conduct an inspection, the following procedure should be followed:

1. Ask the Compliance Officer for credentials - a badge or identification card specifying that the person is an agent of OSHA.
2. Ask whether the Compliance Officer has a warrant for the inspection. Do not demand a warrant; simply inquire whether or not one exists.
3. Before an inspection, the Compliance Officer will conduct an opening conference, during which the Compliance Officer explains why he or she is there and what he or she wishes to do. Ask the Compliance Officer to wait while you assemble the appropriate people for the opening conference.
4. Contact and the Safety Officer to inform them about the arrival of the Compliance Officer. Do not begin the opening conference without a representative from the campus Safety Officer or USC EHS present.
5. After the opening conference, the Compliance Officer will conduct a walk-around inspection. USC EHS and department representatives must accompany the Compliance Officer during the inspection. If affected employees in the department are represented by a union, ask employees to designate a union representative to be present during the inspection.
6. After the inspection, department representatives and USC EHS will meet to discuss the outcome and plan for action, as needed.
7. If a notice of violation is received, it must be posted in the area of the offense for at least three days.
8. Any fines issued by OSHA are the responsibility of the department. Consult with USC EHS and the USC Legal Department before paying fines.

In order to have the most "effective" inspection, the following suggestions should be considered:

- Answer any questions truthfully, without directly admitting guilt. Never knowingly give false statements or intentionally mislead a Compliance Officer. If you do not know the answer to a question, explain that you are not certain and that you will look into the matter further, as necessary.

- Do not offer information unless asked for it. Do not talk about accidents or incidents that have occurred in the past unless specifically asked to do so.
- Be courteous. Do not be rude to the Compliance Officer or argue with him or her. Do not discuss political views regarding OSHA or the federal government.

Types of Inspections

There are five types of inspections that OSHA conducts. These are listed in their order of importance, as determined by OSHA:

1. **Imminent Danger** - Imminent danger situations are given top priority. An imminent danger is any condition where there is reasonable certainty that a danger exists that can be expected to cause death or serious physical harm immediately or before the danger can be eliminated through normal enforcement procedures. When an imminent danger situation is found, the compliance officer will ask the employer to voluntarily abate the hazard and to remove endangered employees from exposure. Should the employer refuse, OSHA will apply to the nearest federal District Court for legal action to correct the situation.
2. **Catastrophic and Fatal Accidents** - Second priority is given to investigation of fatalities and catastrophes resulting in hospitalization of three or more employees.
3. **Employee Complaints** - Each employee has the right to request an OSHA inspection when the employee feels that he or she is in imminent danger from a hazard or when he or she feels that there is a violation of an OSHA standard that threatens physical harm. If the employee so requests, OSHA will withhold the employee's name from the employer.
4. **Programmed High Hazard Inspections** - OSHA establishes programs of inspection aimed at specific high hazard industries, occupations, or health hazards. Workplaces are selected for inspection on the basis of death, illness and injury rates, employee exposure to toxic substances, and the like.
5. **Re-inspections** - Establishments cited for alleged serious violations may be re-inspected to determine whether the hazards have been corrected.

Citations and Penalties

After the OSHA Compliance Officer reports findings to his or her office, the area director determines what citations, if any, will be issued and what penalties will be proposed. The types of violations and penalties which may be proposed are:

- **Other than serious violation** - A violation that has a direct relationship to job safety and health, but probably would not cause death or serious physical harm. The maximum proposed penalty for this type of violation is \$7000.
- **Serious violation** - A violation where there is substantial probability that death or serious physical harm could result, and that the employer knew, or should have known, of the hazard. The maximum proposed penalty for this type of violation is \$7000. Imminent danger situations are also cited and penalized as serious violations.
- **Willful violation** - A violation that the employer intentionally and knowingly commits. The employer either knows that the operation constitutes a violation, or is aware that a hazardous condition exists and made no reasonable effort to eliminate it. The penalty range for this type of violation is \$5000 to \$70,000.
- **Repeated violation** - A violation of any standard, regulation, rule, or order where, upon re-inspection, another violation of the same previously cited section is found. Repeated violations can bring fines of up to \$70,000.
- **Failure to Abate** - Failure to correct any violations may bring civil penalties of up to \$7000 per day for every day the violation continues beyond the prescribed abatement date.

Other regulatory violations and penalties include:

- falsifying records, reports or applications can bring a fine of \$10,000 and/or six months in jail upon conviction;
- violations of posting requirements can bring civil penalties of up to \$7000;
- assaulting a compliance officer, or otherwise resisting, opposing, intimidating or interfering with a compliance officer in the performance of his or her duties is a criminal offense, subject to a fine of not more than \$5000 and/or 3 years in jail; and
- conviction of a willful violation that has resulted in the death of an employee can lead to individual fines of up to \$250,000 and/or 6 months in jail and corporate fines of up to \$500,000.

Roles and Responsibilities

Department

- With assistance from USC EHS, determine which OSHA regulations or standards apply to areas or functions of your department. EHS may assist in this determination.
- Review the status of the applicable health and safety programs and regulatory compliance within the department.
- Develop an action plan to address any deficiencies or problems.
- Ensure supervisors understand and enforce the requirements of the applicable standards.
- Periodically conduct self-audits of the safety programs within the department.
- Contact USC EHS if an OSHA Inspector calls or arrives for inspection.
- Any incident resulting in one or more fatalities or hospitalization of three or more workers must be reported to OSHA within eight hours of being informed of the incident. Contact EHS immediately upon learning of such an incident. EHS will report the information to OSHA.

Supervisors

- Become familiar with the program and regulatory requirements for operations under your supervision.
- Enforce any requirements.
- Periodically conduct self-audits of the safety programs under your supervision.
- Report all safety concerns to the Departmental Safety Coordinator.

USC EHS

- Assist departments in conducting a Departmental Safety Profile.
- Assist in developing programs and procedures within the departments.
- Provide training and other assistance as needed.
- Assist departments in addressing specific health and safety concerns.
- Assist departments during OSHA inspections.
- Assist in preparing a response to OSHA citations or concerns.
- Report incidents to OSHA, as appropriate.

Individual

- Follow all health and safety guidelines and procedures.
- Wear personal protective equipment, where needed.
- Report all health and safety concerns to supervisors, Departmental Safety Managers or EHS.

For More Information

- Contact USC EHS at 777-5269 with any questions about OSHA.
- Full text of the Occupational Safety and Health Act or specific standards are available through EHS or via the [OSHA web page](#).
- The OSHA Compliance Officer Field Inspection Reference Manual, Interpretations, Memorandum of Understanding, and several other references are available through EHS or [OSHA web page](#).