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Occupational Safety and Health Guide for Local Governments



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About this Resource

The Public Entity Risk Institute (PERI) compiled this resource to help local governments establish effective workplace safety programs. It substantially relies upon standards and materials developed by the United States Department of Labor Occupational Safety and Health Administration (Federal OSHA). Federal OSHA does not directly protect state and local government employees, but its standards often do protect them through federally approved state OSHA plans.

Regulation of safety and health in the public workplace is a matter of state law. However, Federal OSHA will withdraw from enforcement activities in a state, and provide up to 50% funding for a state OSHA plan if the U.S. Secretary of Labor approves the state plan. To qualify for approval, the state plan must cover all employees of state public agencies and political subdivisions and adopt a regulatory scheme at least as effective as Federal OSHA's.¹ Almost half the states have assumed responsibility for occupational safety and health within their borders by obtaining federal approval for their state-specific OSHA plans.

States that adopt their own OSH (Occupational Safety and Health) plans have more flexibility to address hazards important to their industries, and can draft their own standards. Many state plan states, however, substantially adopt Federal OSHA's standards and enforce them through a state agency. States without a federally approved OSH plan are less uniform in their approach to public workplace safety. They either protect their public employees through state specific laws and regulations that are not tied to Federal OSHA, or have no formal legal mechanism to enforce safety in public workplaces. In this patchwork system of different laws governing public workplace safety, Federal OSHA requirements come closest to being a standard, because they apply to the greatest number of local governments through federally approved state plans.

The goal of this resource is to provide local governments with useful summaries of major Federal OSHA requirements, and to help them implement effective workplace safety programs. This information will help local governments identify and address potentially serious workplace hazards, but it is not the key to regulatory compliance in any specific jurisdiction, is not legal advice, and is not a substitute for reviewing OSHA standards. We suggest that readers use this resource as an initial roadmap, and follow the links for additional information on hazards of special interest, and specific regulatory requirements in their own states. Local governments that need information about their regulatory obligations should contact their attorney.

PERI is publishing this resource in installments on its web site, posting each new topic as it is completed. We encourage readers to contact us with any comments, suggestions, or requests for specific topics.

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Chapter 1

Why should local governments worry about Federal OSHA requirements?

Local governments will benefit from learning about Federal OSHA requirements, even if they know that a Federal OSHA inspector will not appear to inspect their work premises, because:

☐ They may be located in one of the 24 states (and two territories)ⁱⁱ that have a federally qualified state occupational safety and health program. *Those states must set job safety and health standards that are at least as effective as comparable Federal OSHA standards, and their plans must cover public employees.* So knowing the federal standards is useful.

☐ They may be located in a state that has no federally qualified state OSHA program, but that does have state job safety and health laws applicable to local governments. Local governments in such states must comply with their state laws.ⁱⁱⁱ OSHA standards and compliance information can help local governments in their state law compliance efforts, and can also help them implement safety programs for hazards not addressed by the state law.

☐ They may be located in a state with no job safety and health laws that apply to public employees. But even if the local government cannot be cited by a government agency for a regulatory violation, employee injuries cost the local government money, disrupt its operations, cause worker discontent and can produce unfavorable publicity. Local governments may not recognize the wide range of hazards in their workplaces because most of the hazards will not have caused an injury . . . yet. OSHA's standards and compliance materials can help local government employers identify and address workplace hazards before they cause a work-related injury. Preventing work-related injuries before they occur is the first line of defense against workers' compensation losses and the other hidden costs of work-related injuries.

At least one of these three reasons applies to every local government. Worker safety is good business and good public relations – even if no federal or state regulatory agency enforces it in your jurisdiction. And Federal OSHA standards

and compliance information can help you make your workplace a safer place.

To identify your state's category, see [Appendix A](#). For contact information for state OSHA plan states, see [Appendix C](#).

Chapter 2

Some Basic OSHA Concepts

a. *OSHA Standards and the General Duty Clause*

The *Occupational Safety and Health Act of 1970* gives Federal OSHA two important ways to establish workplace safety requirements for subject employers: the General Duty Clause, and specific safety and health standards.

The General Duty Clause of the Occupational Safety and Health Act (29 USC §5 (a)(1)) requires employers furnish 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. OSHA does not have to adopt a specific standard to cite an employer for dangerous workplace conditions, because it can cite the employer under the General Duty Clause.

Ergonomic hazards are an example of OSHA's use of the General Duty Clause. Ergonomic injuries are musculoskeletal disorders caused by ongoing, work-related physical demands on the employee. OSHA has adopted a comprehensive plan to address ergonomic injuries under the General Duty Clause, even though it has not successfully implemented a formal ergonomics standard. To help employers address ergonomic hazards, OSHA publishes guidelines and offers other compliance assistance programs. OSHA's ergonomics guidelines do not have the legally binding force of an adopted standard, but OSHA plans to cite employers under the General Duty Clause for ergonomic workplace hazards that create unsafe workplaces.^{iv} OSHA's guidelines and other advisory materials may not have the force of law, but they give employers a strong indication of OSHA's expectations, and how to avoid citation under the General Duty Clause.

Specific Standards- Employers are also required to comply with occupational safety and health standards promulgated under this Act. OSHA can adopt specific and detailed standards - legally binding rules - that govern many aspects of workplace safety for covered employers. One well-known example is OSHA's Standard on Occupational Exposure to Bloodborne Pathogens.

Most OSHA standards that would directly apply to local governments through their state OSHA plans are part of OSHA's General Industry Standard. The General Industry Standard covers in detail the types of hazards commonly found in workplaces. It also adopts for general industry, in some circumstances, the requirements of specific standards developed for the construction, shipyard and longshore and marine terminal industries.^v

Local governments must stay informed about their state's specific occupational safety and health requirements. State OSHA plans can adopt standards that are more stringent than Federal OSHA's standards, and can regulate entire areas that Federal OSHA does not address. For example, both California and Washington State have adopted specific ergonomics standards^{vi}, while Federal OSHA addresses ergonomic hazards under the General Duty Clause. A local government that does not know its state's workplace safety regulatory requirements risks

substantial penalties for noncompliance.

b. *OSHA's Hierarchy of Controls*

OSHA expects employers who identify workplace hazards to correct, control, or eliminate those hazards. OSHA describes four basic categories of controls an employer can use to control workplace hazards: engineering controls, work practice controls, administrative controls and mandatory use of personal protective equipment. This hierarchy of controls applies throughout OSHA's standards.

▮ Engineering controls are physical changes to the equipment or work environment that prevent employee exposure to a workplace hazard. Examples are machine guarding and other techniques that place a physical barrier between the employee and the hazard, modification of workstation layout, and mechanical assistance to move heavy items.

▮ Work practice controls change the way a job is performed to remove the employee from exposure to the workplace hazard. An example is training employees to lift safely to reduce the likelihood of back injuries.

▮ Administrative controls change how or when employees do their work to reduce exposure to work hazard. Examples are limiting work near a dangerous machine or process to hours when the machine is not operating, rotating assignments to limit the hours individual employees work in the presence of a toxic substance, and requiring periodic breaks from repetitive tasks.

▮ Personal protective equipment is equipment or clothing designed to protect employees from injuries or exposure to hazardous or toxic substances. Examples are steel-toed shoes, face and eye shields, earplugs, gloves, and full body suits.

OSHA expects employers to implement controls in the order of the greatest effectiveness. Engineering controls are the preferred method of addressing workplace hazards because they eliminate the hazard. Work practice and administrative controls do not eliminate hazards, but are useful to supplement engineering controls, or where engineering controls are not economically feasible. Personal protective equipment is used if the other methods do not reduce the hazard sufficiently.

c. *OSHA Recordkeeping and Reporting Requirements*

Federal OSHA requires employers that have more than ten employees and are not in a partially exempt industry^{vii} to keep records of work related injuries and illnesses in an OSHA prescribed format. All employers subject to OSHA, even those partially exempted from recording injuries and illnesses, must report to OSHA (or to the agency that administers their federally qualified state OSHA plan) any workplace incident that causes an employee fatality or the hospitalization of three or more employees.

Local governments are not subject to Federal OSHA recordkeeping requirements. They may be subject to recordkeeping and reporting requirements imposed by a federally qualified state OSHA plan or their state government. They are also required to record and/or report most work-related injuries under their states workers' compensation laws.

A complete discussion of OSHA's recordkeeping requirements is beyond the scope of this resource. OSHA provides an index of materials describing its recordkeeping requirements at <http://www.osha.gov/recordkeeping/index.html>. Federal OSHA recently revised its recordkeeping requirements. For a thorough discussion of the current requirements and the changes, which were effective January 1, 2002, see *New OSHA Recordkeeping Rule Simplifies Process*.

d. *OSHA Inspections and Citations*

Federal OSHA (and the state agencies that administer federally approved state OSH plans) can inspect covered workplaces for violations of standards or other recognized hazards that are causing, or are likely to cause, death or serious physical harm to employees.

In most cases, Federal OSHA inspections are conducted without advance notice and during regular working hours for the business. The Compliance Safety and Health Officer (CSHO) may inspect part or all of the work premises. During the inspection, the CSHO may take pictures, film videotapes, sample the environment, and talk to employees.

Unless the circumstances constitute a recognized exception to the warrant requirement (i.e., consent, third party consent, plain view, open field, or exigent circumstances) Federal OSHA recognizes that an employer has a right to require that the CSHO obtain an inspection warrant, and may refuse entry without such a warrant. However, if the employer refuses entry, OSHA has established procedures for obtaining a warrant and returning to the workplace for inspection.

The CSHO meets with the employer after the inspection to discuss any violations, possible abatement measures for those violations, and possible dates by which abatement measures must be implemented. OSHA's area director makes the final decision to issue a Citation and Notification of Penalty, which describes the violations, sets a deadline for correction, and proposes financial penalties. The employer has fifteen working days from the date it receives the citation to appeal. Whether or not the employer appeals the citation, it must post the citation in or near the area where the violation occurred for three working days, or until the violation is corrected, whichever is longer. An employer that fails to correct a violation by the required abatement date, and has not appealed the citation, may be fined up to \$7,000 per day the violation exists past the abatement date.

Federal OSHA can cite employers for several types of violations.

☐ Willful violations exist when the employer knew about a hazardous condition that violated an OSHA standard, regulation or the OSH Act, but made no reasonable effort to correct it. Penalties range from \$5,000 to \$70,000 per willful violation.

☐ Serious violations exist when the workplace hazard could cause an accident or illness that would most likely result in death or serious physical harm, unless the employer did not know or could not have known of the violation. Penalties of up to \$7,000 per violation can be proposed.

☐ Repeated violations exist when the employer has been cited previously for a substantially similar condition and the citation has become final. Penalties of up to \$70,000 per violation can be proposed.

☐ Other than serious violations exist when the violation is directly related to workplace safety and health but is not serious in nature.

Inspection and citation procedures may differ in states that operate federally qualified state OSHA plans, so local governments should become familiar with the requirements of their state law.

Sources and Additional Information:

Division of Occupational Safety and Health of the California Department of Industrial Relations

Employer Rights and Responsibilities Following an OSHA Inspection, US Department of Labor OSHA 3000, 1999 (Revised)

OSHA: Employee Workplace Rights
US Department of Labor, Occupational Safety and Health Administration
OSHA 3021 2000(reprinted)

OSHA Field Inspection Reference Manual, CPL 2.103, 1994, Section 6 -- Chapter II Inspection Procedures

OSHSPA Report: Grassroots Safety and Health in the Workplace, 1999-2000 State Plan Activities Report

Chapter 3

Creating Workplace Safety and Health Programs

OSHA emphasizes that a strong workplace safety and health program is the foundation of any OSHA compliance effort. Without an effective, organized workplace safety and health program, OSHA compliance can be very difficult to achieve. Conversely, OSHA standards and compliance materials can help employers establish effective, organized safety and health programs, even if their workplace is not subject to OSHA's jurisdiction.

The number of OSHA standards, and the detail in which they address each topic, can be intimidating. Most workplaces, however, do not have all the workplace hazards that OSHA addresses. Employers can use an outline of the topics covered by OSHA as the foundation for an initial checklist to identify their potential workplace hazards. Once potential hazards have been identified, OSHA's standards and compliance materials can often help employers devise a plan to address them.

A good workplace safety program is not created by filling in the blanks on a form. It is created to meet the requirements of the individual employer. The size of an entity affects the scale of its safety program. Large entities may have multiple departmental safety committees that report to a central, entity-wide safety committee. Small entities, including small local governments, do not need such a formal structure. A small government's executive is likely to know the employees well, and be well acquainted with its operations. Small governments are therefore ideally positioned to incorporate safety issues into overall management of their operations.

Every entity will approach organization of its safety program differently, based on its own needs. However, the following four elements are generally included in effective safety and health programs:

☐ Management Commitment and Leadership and Employee

Involvement

- Hazard Identification
- Hazard Control
- Workplace Safety Training for all Employees

Beginning a workplace safety and health program can seem overwhelming. But the following general steps (most of which fit within one of the above four categories) can help you develop and implement a workplace safety program. The suggestions are specifically framed for an upper level manager, but can be adapted to fit the entity's needs.

Step 1 Decide to start the safety and health program now

Make the decision to start your workplace safety program now. Recognize that you will not build the program in a day, and that it will never be finished. It will always be a work in progress, which must continually change to address your changing operations.

Step 2 Assign one person to coordinate the safety and health program

An effective safety and health program engages the employer's entire workforce. However, the program is unlikely to move forward unless one person is responsible and accountable for its coordination. If you do not already have an entity-wide safety coordinator, appoint one.

- Choose a safety coordinator who is genuinely interested in a safe and healthy workplace, is willing to make safety coordination a job priority, is persuasive, and is able to motivate fellow employees. The responsible employee need not be a formally trained safety officer.
- Give the safety coordinator the authority required to deal with managers and supervisors who may be resistant to change. Upper management must clearly demonstrate its support of the safety coordinator and its expectations that all employees, including departmental managers and supervisors, will cooperate with the safety coordinator.
- Upper management must show its support for the workplace safety and health program on an ongoing basis.

Step 3 Become familiar with your current safety program and any state workplace safety requirements

Before you can implement a new workplace safety and health program, or change the program you have, you must know the program you currently have in place.

- If your entity already has a safety coordinator in place, meet with the coordinator to evaluate the existing safety and health program. Review all documentation of safety programs, procedures and training.
- Review (or have the safety coordinator review and report to you) the entity's history of work-related injuries and illnesses.
- Meet with department level management and supervisors to identify the department's existing safety programs, procedures and training. Obtain documentation. Ask for the department's assessment of its safety problems and the resources or support it needs to address those problems.

- Talk to the government's risk pool, workers' compensation insurance carrier, or workers' compensation adjuster and ask for their assessment of any workplace safety and health issues you need to address. Ask whether your risk pool or worker's compensation carrier offers any programs to assist with workplace safety and health programs.
- Review any prior safety audits performed in your workplaces.

Step 4 Establish workplace safety and health as management priorities and the responsibility of every employee

Upper management must show all employees that workplace safety and health are among its highest priorities. Launch an internal public relations campaign to keep workplace safety and health on everyone's mind.

- Adopt and post prominently a management-signed safety policy stating management's support for workplace safety and health.
- Have management meet with employees to tell them about the policy and discuss management safety and health objectives.
- Establish an entity-wide safety committee with membership derived from all operational departments. Assign the safety coordinator to chair the committee and ensure that regular meetings occur, with a productive agenda.
- Encourage regular department level safety meetings, including management and employees, to discuss safety issues and present in-services on safety issues.
- Have management continue active and personal involvement in the details of the safety program: for example, management can review all reports of work related injury or workplace hazards; workplace safety and a report from the safety coordinator can be a regular topic on the agenda of management meetings.
- Encourage employee commitment to the safety program by including employees in activities and the decision-making process whenever possible.
- Clearly assign responsibility and accountability for all safety program activities and make safe operations a part of every employee's responsibilities and performance evaluation.
- Provide adequate resources (including financial resources) for safety program activities.
- Confirm that safety program responsibilities have been carried out, and that safety has been included as an item in each employee's performance evaluation.
- Establish and publicize a system that allows employees to report any situation they believe creates a work hazard. Encourage employees to use the system, and promptly follow up on any reports of hazards.
- Encourage employees to make safety and health a lifestyle choice, not just a workplace issue. Consider establishing an employee wellness program that encourages employee efforts to adopt a healthy lifestyle away from the workplace. Program elements can include information about healthy diets; the negative health effects of smoking, alcohol and drug consumption; the benefits of exercise and how to incorporate it into an active life; the use of bicycle helmets; and stress management, among others.

Step 5 Perform a comprehensive assessment of your workplace(s) to

Identify hazards

A comprehensive assessment of your workplaces' safety and health hazards and programs is the core of your workplace safety and health program. This assessment includes, but is not limited to, physical worksite inspections. It is equally important for each department to have current programs to address its safety and health hazards, and train its employees how to address those workplace hazards.

The person performing the inspection needs some degree of expertise in identifying workplace safety and health hazards to be effective. A consultant or safety personnel from your government risk pool or insurance carrier are very helpful, if available. Even if professional assistance is unavailable, however, workplace inspection is an indispensable part of any safety and health program. Before you begin a program of physical worksite inspections, review the specific topics and checklists in this resource; ask your workers' compensation carrier or government risk pool about the types of work hazards common to your types of operations; use any other available sources of information about hazards in your specific operations; and know what types of injuries or illnesses your employees have experienced.

- Review the history of work-related injuries and illness to identify patterns that may reveal serious hazards, and to set priorities for physical worksite inspections.
- Analyze each work environment and each job to determine whether there are any hazards in the work environment (including tools and equipment) or the work procedures.
- Conduct the inspection with a department supervisor, and with the supervisor for each area inspected. Ask questions whenever necessary, and have the supervisor explain each operation, its safety and health hazards, and the programs in place to address those hazards.
- Review any written safety programs. Find out who has access to them, how they are used, when they were last revised, and whether they are current.
- Inspect training records. The department should train employees about all safety and health hazards in the workplace, and keep written records of all employee training sessions, including date of the training, name of the trainer, outline of the content and a sign in sheet including the names of all employees who attended. Training about workplace safety and health hazards can be incorporated into larger training efforts.
- Talk to line employees during the inspection. Find out if safety is part of the worksite culture and how familiar workers are with the safety topics in which they have been trained. If there is a specific safety procedure they must follow, do they know about it?
- Does equipment used on the job have a regular maintenance schedule, is it followed, and is maintenance documented.
- Does the department have a plan for emergencies that is appropriate to its location and operations, and does it conduct regular training and drills? Does each employee know his or her responsibilities in an emergency?

Step 6 Identify, evaluate, choose, and implement strategies for correcting any workplace hazards

Some workplace hazards can be corrected at once. For example, broken or unsafe equipment, such as ladders or tools without appropriate guards, should be immediately discarded, to be certain they are not returned to service after the inspection. Employees

who are not using appropriate personal protective equipment, or following safety procedures, should be corrected on the spot.

Other workplace hazards may take longer to correct. A replacement for a missing machine guard, for example, may not be immediately available. The inspector should discuss with the manager and supervisor the various short-term options for reducing the hazard. Examples include taking the machine out of service, renting a replacement, or adopting work practice or administrative controls to protect employees from exposure to the hazard.

The inspector should also work with the manager and supervisor, and any other employees appropriate for the situation, to identify and evaluate various long-term strategies for addressing the hazard. Consider OSHA's Hierarchy of Controls. Engineering controls are the preferred solution, because they do not rely upon employees to observe certain procedures or to use personal protective equipment.

- Evaluate whether potential control strategies will create any different hazards if implemented.
- Select appropriate controls for each workplace hazard identified, and prepare an action plan with deadlines for implementation. Adopt interim protective measures. Implement the selected controls as soon as feasible. Track the action plan to be certain it is completed.
- Provide personal protective equipment when required. Discard all obsolete, broken, or otherwise unusable personal protective equipment to avoid use

Step 7 Establish a program for employee training and enforcement of safety rules

Training and enforcement are indispensable parts of a workplace safety program, and are required by most OSHA standards.

Establish safe workplace procedures for each job based on the hazards identified in the job analysis, preferably with the involvement of the employees who perform the job. Train all involved employees about the procedures and enforce observance of those procedures, through discipline if necessary.

Train all employees before they begin work about the materials and equipment with which they work, all hazards of their jobs, and how the employer is controlling the hazards. (Federal and state OSHA both provide helpful model training materials and information on many safety topics.)

Train all supervisors about the hazards of their employees' jobs; how to conduct daily worksite inspections; how to reinforce safety training with employees; and how to enforce safety rules, through discipline if necessary.

Train all employees not to begin a job that appears to be unsafe, and to report the unsafe condition to a supervisor immediately.

If personal protective equipment is required for the job, train employees why it is needed, how to use it, and how to inspect and maintain it. Do not make use of personal protective equipment optional. If it is required to protect employees from a workplace hazard, its use should be enforced through discipline if necessary.

Document all training sessions; including who conducted each session; the location and time; the topics covered; and the employees in attendance (use a sign up sheet requiring attendees to sign in). Use these records to track attendance at training and to ensure that all employees required to attend training do so.

Step 8 Track implementation of selected strategy and monitor results

The safety coordinator tracks the implementation of the departmental action plans. Confirm and document that action was taken by the deadlines identified in the action plan. Implement a program of periodic safety inspections to confirm

the plan is still in place.

Require departments to report all suspected work related injuries or illnesses to the safety coordinator – including minor injuries that do not result in lost time from work. Tie this in with workers' compensation reporting.

Analyze the patterns of work-related injuries and illnesses to assess the effect of the action plans, and to identify any new hazards. At least annually, the safety coordinator should prepare a report for upper management on the status of the entity's workplace safety and health program

Step 9 Establish procedures to support ongoing workplace hazard analysis and control

- Regularly conduct a thorough inspection of all workplaces for new or recurrent hazards, using a checklist pertinent to the government's operation. Confirm that previous action plans were implemented, are functioning and remain appropriate. Take corrective action as necessary.
- Annually revisit program goals and accomplishments, and adjust as necessary.
- Require notice to the safety coordinator prior to introduction of a new job, process or activity; conduct a thorough job safety analysis to identify any resulting hazards, and adopt an action plan for controlling them.
- Establish an understandable reporting procedure for work-related injuries and illnesses and train all employees and supervisors about its requirements.
- Review all reports of suspected work-related injury or illness to identifying contributing workplace hazards. Contact the department for additional information and to discuss immediate action, if necessary.
- Assign responsibility for performing a thorough post work-related injury or illness investigation, to identify the root cause of each work-related injury or illness. Train those responsible for investigation (often supervisors) how to do a thorough investigation.
- Establish an inspection and maintenance schedule for all equipment that might produce injury or illness. Correct existing hazards.
- Require supervisors to inspect their work sites daily, and to immediately correct any hazard, or isolate that hazard until it can be corrected; discard obsolete or broken equipment that may pose a safety hazard; and track identified hazards to ensure correction.
- Require good housekeeping in the workplace.
- Develop and regularly practice a plan for employee safety in emergencies, such as natural disasters, fires, incidents of workplace violence, terrorist attack, etc. Revisit the plan periodically to ensure it is current. Include plans for safety of employees with disabilities.
- Develop a plan for ensuring the ready availability of emergency medical care for injured or ill workers.

The above are suggestions for some useful activities in a generic workplace safety and health program. This is not a complete outline of all activities required for compliance with Federal OSHA or any specific state regulations. Your procedures for recording workplace injuries and illnesses and documenting safety program activities, programs and training will differ depending upon the requirements of your jurisdiction. States with federally approved OSHA plans are likely to have documentation requirements similar to those of Federal OSHA. Other states may require less documentation of workplace safety and health programs. All states require employers to record and report most or all work-related injuries and illnesses to a state workers' compensation or industrial commission.

Sources and Additional Information

[OSHA Fact Sheets](#)

[OSHA Handbook for Small Business](#)

[OSHA Safety and Health Program Management Guidelines, Federal Register # 54:3904-3916, published 01/26/1989](#)

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