OSHA: Challenges in Maximizing Effectiveness of a Public Health Agency

David Michaels, PhD, MPH
Assistant Secretary of Labor for Occupational Safety and Health

April 15, 2015
“...one of the most important pieces of legislation, from the standpoint of 55 million people who will be covered by it, ever passed by the Congress of the United States...”

— President Richard M. Nixon
Under the OSH Act of 1970

- Employers must provide safe workplaces
- OSHA’s job is to ensure that employers comply with the law
OSHA levels the playing field for responsible employers competing with those who cut corners and costs on worker safety.
OSHA’s Mission: Prevent Work Injury and Illness

- More than 4,000 Americans die from workplace injuries every year.
- Perhaps as many as 50,000 workers die from illnesses in which workplace exposures were a contributing factor.
- More than 3 million cases of non-fatal workplace injuries are recorded annually by employers.
Who bears the cost of worker injuries?

- 50% Out of Pocket
- 21% Workers' Compensation
- 13% Private Health Insurance
- 11% Federal Government
- 5% State and Local Government
Distribution of Employers, by Commitment to Workplace Safety

- Criminal Penalties
- Inspections & Civil Penalties
- Compliance Assistance & Consultation
- Recognition Programs

NUMBER OF EMPLOYERS

LITTLE | COMMITMENT TO SAFETY | GREAT
Distribution of Employers, by Commitment to Workplace Safety

NUMBER OF EMPLOYERS

LITTLE

COMMITMENT TO SAFETY

GREAT

SVEP

Criminal Penalties

Inspections & Civil Penalties

Compliance Assistance & Consultation

Recognition Programs
Deterrence Theory

• OSHA has a range of tools and deterrence strategies, appropriate for different employers and different situations.

• Given (very) limited resources, OSHA’s challenge is to apply the most efficient mix in order to maximize the abatement of hazards, and therefore the prevention on injuries, illnesses and fatalities.
OSHA Regulations Save Lives

- **1978 Cotton Dust Standard**
  virtually eliminated brown lung disease
- **1987 Grain Handling Standard**
  grain bin explosions reduced 42%
- **1989 Excavation & Trenching Standard**
  fatalities reduced 35%
- **1991 Bloodborne Pathogens and 2001 Needlestick Safety & Prevention Act**
  Hepatitis B infections in healthcare workers reduced 90%
OSHA Standards

Do OSHA standards kill jobs?
Vinyl Chloride Exposure Limit Is Opposed by Plastics Industry

By JANE E. BRODY
Special to The New York Times

WASHINGTON, June 25 — Representatives of the plastics industry pressed today for a relaxation of proposed Federal rules governing worker exposure to vinyl chloride, a chemical that has been linked to 21 cases of a rare, fatal liver cancer.

Industry spokesmen said that the proposed standard was medically unnecessary, technologically unfeasible and would lead to the loss of as many as 2.2 million jobs.

At the opening of what is expected to be a long Labor Department hearing on the proposed new standard of no exposure to detectable levels of the widely used chemical, industry spokesmen clashed with representatives of labor and Government and university scientists who testified that even stricter standards than those...
Clearly, those actions signify U.S. vinyl producers’ confidence that they have solved the “OSHA problem” that threatened the viability of their industry less than two years ago. They have installed the equipment needed to meet the worker-exposure requirements set by the Occupational Safety and Health Administration, but without inflating production costs to the point where PVC’s growth might be stunted.
OSHA Standards

OSHA standards don’t kill jobs. They stop jobs from killing workers.
20 million visitors to OSHA’s website annually.
206,000 responses to OSHA 1-800 calls for help.
18,000 Spanish-speaking callers helped
26,000 e-mail requests for assistance answered.
6,000 outreach activities by Regional & Area Offices.
27,000 small businesses helped through Consultation.
Federal OSHA Inspections

FY 2007 – FY 2014

FY07  FY08  FY09  FY10  FY11  FY12  FY13  FY14

39,324  38,667  39,004  40,993  40,648  40,961  39,228  36,163
OSHA’s new inspection weighting system

- Some inspections are more complex than others
- Weighting helps OSHA focus on inspections that can have the biggest impact on workers’ lives
New inspection weighting system

Meaningful and Impactful Inspections

- Chemical exposures
- Workplace violence
- Musculoskeletal disorders
- Process Safety Management
Public Perception of OSHA

76% believe government is doing a good job setting standards for workplaces.
Public Perception of OSHA

On other issue areas, there are only modest differences between how Democrats and Republicans rate federal government performance.

For example, Republicans and Democrats are about equally likely to say the federal government is doing a good job ensuring that food and medicine are safe (73% each), setting fair and safe workplace standards (77% of Republicans vs. 79% of Democrats) and responding to natural disasters (78% vs. 82%).

Pew Research Center study: Beyond Distrust: How Americans View Their Government
Our Challenge, As I See It

• At least 3 million, and possibly as many as 5 million workers are injured on the job every year.

• The number and rate of workplace injuries and fatalities are changing only marginally from year to year.

• We know less about, and are probably having an even smaller impact, on work illnesses.
What must we do to dramatically reduce the number of work injuries, illnesses and fatalities occurring in the US today?
What must we do to **dramatically** reduce the number of work injuries, illnesses and fatalities occurring in the US today?

• Whatever we are doing now isn’t enough

• What must we do to change the behavior of **millions** of employers?
Will Compliance with OSHA Regulations Make My Workplace Safe?

*Safer, but not Safe!*

Some fatalities and serious injuries will *not* be prevented by simply complying with OSHA regulations.
WHY?

• OSHA regulations don’t cover all hazards.
  • In some cases, not even the big ones

• Many OSHA standards are out of-date

• Regulations can’t address every situation
But More Importantly......

- Compliance is Static
- Safety is Dynamic
- Safety is Culture
Distribution of Employers, by Workplace Safety Culture

Dysfunctional  Reactive  Compliant  Proactive  Exemplary

NUMBER OF EMPLOYERS

DANGEROUS  SAFER  SAFE

WORKPLACE SAFETY CULTURE
Seven Core Elements

- Management leadership
- Worker participation
- Hazard identification and assessment
- Hazard prevention and control
- Education and training
- Program evaluation and improvement
- Coordination and Communication on Multi-Employer Worksites
Safety & Health Program Management Guidelines

NOVEMBER 2015: Updated draft published

- Based on best thinking and experiences of successful employers
- Will help small and medium-sized employers find and fix hazards before workers are harmed
- Shows how multiple employers on same worksite can coordinate efforts to ensure all workers are given equal protection
Temporary Workers

- 3 million people are employed by staffing companies every week.
- 11 million temporary and contract employees are hired by U.S. staffing firms over the course of a year.

Source: American Staffing Association
August 16, 2012

Lawrence “Day” Davis’ first day at work.
What would you do?
Why Are Temp Workers At High Risk of Injury?

- New workers are at increased risk of injury.
Fig. 1. The relationship between experience on the job and the average monthly accident rate per 1,000 hours of operation for a non-turnover group and a turnover group.
Why Are Temp Workers At High Risk of Injury?

- New workers are at increased risk of injury.
- Host employers don’t have the same commitment to temporary employees as to permanent ones.
- Employer who bears the risk of the injury (temp agency) does not control safety and health investment.
Temporary Worker Initiative

- Extensive outreach and education
Outreach & Education

- Alliance with American Staffing Association
- Issued Temporary Worker Recommended Practices
- Developing Compliance Assistance Bulletins
  - Record Keeping
  - PPE
  - Whistleblower Protection
Temporary Worker Initiative

- Extensive outreach and education
- In all inspections, OSHA’s inspectors ask about presence of temp workers, the hazards to which they are exposed, and the training they have received.
Joint Employment

Legally, both the host employer and the staffing agency are employers of the temporary worker.

Shared control over worker = Shared responsibility for worker
Temporary Worker Initiative

- Extensive outreach and education
- In all inspections, OSHA’s inspectors ask about presence of temp workers, the hazards to which they are exposed, and the training they have received
- *We are seeing an impact!*
Severe Injury Reporting Program

As of January 1, 2015:

- All employers are required to notify OSHA when an employee is killed on the job or suffers a work-related hospitalization, amputation, or loss of an eye.

- A fatality must be reported within 8 hours.

- An in-patient hospitalization, amputation, or eye loss must be reported within 24 hours.
OSHA instituted the new reporting program to:

- Better target the Agency’s **compliance assistance and enforcement efforts** in places where workers are at greatest risk

- Engage more **high-hazard employers** in identifying and eliminating serious hazards
RAPID RESPONSE INVESTIGATION (RRI)

- Collaborative, problem-solving approach
- Invites an employer and an OSHA Area Office expert to work together toward shared goal:

  Find and fix hazards, and improve overall safety
Incident Investigations: A Guide for Employers

Incident Investigations help employers:

- prevent injuries and illnesses
- save lives
- save money
- demonstrate commitment to safety and health
- promote positive workplace morale

Incident Investigation Guide:

- provides a systems approach to help identify and control the root causes of all incidents and prevent their recurrence
There is an instinctive “blame the worker” mentality that we must combat.
“Human Errors are Consequences not Causes”

-James Reason
Severe Injury Reporting:

YE A R ON E F IN D IN G S

- **10,388** severe injuries reported, including **2,644** amputations and **7,636** hospitalizations
- This is an average of **30** worker injuries every day of the year
- Most reported injuries (62%) were addressed by **employer investigation**, not OSHA inspection
Year One of OSHA’s Severe Injury Reporting Program: An Impact Evaluation

By David Michaels, PhD, MPH
Assistant Secretary of Labor for Occupational Safety and Health

Every year, tens of thousands of men and women across the United States are severely injured on the job, sometimes with permanent consequences to themselves and their families.

But until last year, the Occupational Safety and Health Administration (OSHA) lacked timely information about where and how most of those injuries were occurring, limiting how effectively the agency could respond. Too often, we would investigate a fatal injury only to find a history of serious injuries at the same workplace. Each of those injuries was a wake-up call for safety that went unheeded.

Now, under a requirement that took effect Jan. 1, 2015, employers must report to OSHA within 24 hours any work-related amputation, in-patient hospitalization, or loss of eye. (The requirement to report a fatality within 8 hours was unchanged.) Injuries may be reported directly to an OSHA field office, to the OSHA toll-free number, or via an online form. Details are available at www.osha.gov/report.html. OSHA instituted the new reporting requirements to:

1. Enable the agency to better target our compliance assistance and enforcement efforts to places where workers are at greatest risk, and
2. Engage more high-hazard employers in identifying and eliminating serious hazards.

Experience in the field and data from more than 10,000 reports of severe injuries tell us that both goals are being met. We are confident that the severe injuries triggered by these reports have eliminated the potential for many more thousands of injuries in U.S. workplaces.
Amazon Fined Almost Nothing for Failing to Report Workplace Injuries

OSHA found that the retailer exposed employees to significant workplace hazards.

The e-commerce behemoth Amazon has been issued a citation and a fine of $7,000 by a federal regulator for failing to report 26 work-related injuries at a New Jersey warehouse last year. Reports have not yet surfaced as to whether or not the Seattle-based retailer—which had sales of nearly $30 billion in the fourth quarter of last year—will survive the disciplinary fine.
Bipartisan Budget Act of 2015

- Requires OSHA to adjust its civil monetary penalties to account for inflation
- OSHA’s penalties were last adjusted in 1990
- Interim final rule by July 1
- Final rule by August 1
Protecting Workers from Chemical Hazards

- Each year in the U.S., many thousands of workers are made sick or die from occupational exposures to hazardous chemicals.

- The number of chemicals found in workplaces today far exceeds the number regulated by OSHA.

- The vast majority of existing permissible exposure limits (PELs) have not been updated since 1971.
Recent OSHA Efforts to Improve Protection of Workers from Chemical Hazards

- Transitioning to Safer Chemicals: A Toolkit for Employers and Workers
www.osha.gov/dsg/safer_chemicals
Recent OSHA Efforts to Improve Protection of Workers from Chemical Hazards

- Transitioning to Safer Chemicals: A Toolkit for Employers and Workers
- Annotated PELs Tables
### OSHA Annotated Table Z-1

<table>
<thead>
<tr>
<th>Substance</th>
<th>CAS No. (a1)</th>
<th>OSHA PEL (a) ppm (a2)</th>
<th>OSHA PEL (a) mg/m³ (a3)</th>
<th>Ca/OSHA PEL (b) ppm</th>
<th>Ca/OSHA REL (c) (C)</th>
<th>ACGIH TLV (d) ppm</th>
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</thead>
<tbody>
<tr>
<td>Acetaldehyde</td>
<td>75-07-0</td>
<td>200</td>
<td>360</td>
<td>(C) 25 ppm</td>
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<td>Acetic acid</td>
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<td>Acetic anhydride</td>
<td>108-24-7</td>
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<td>20</td>
<td>(C) 5 ppm</td>
<td>5 ppm</td>
<td>(C) 1 ppm</td>
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<td>Acetone</td>
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<td>2400</td>
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<td>14</td>
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<td>Acetylene dichloride; see 1,2-Dichloroethylen</td>
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<td>14</td>
<td>1 ppm</td>
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<tr>
<td>Acetylene tetrabromide</td>
<td>107-02-9</td>
<td>0.1</td>
<td>0.21</td>
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<td>(C) 0.1 ppm</td>
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<td>Acrylonitrile</td>
<td>75-96-1</td>
<td>0.3</td>
<td>0.03 mg/m³</td>
<td>0.03 mg/m³; See Appendix A</td>
<td>0.03 mg/m³ (IPV)</td>
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<td>Acrylonitrile; see 1910.1045</td>
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<td>Section 5213</td>
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<td>See Appendix A</td>
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<td>Adrin</td>
<td>309-00-2</td>
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<td>0.25 mg/m³</td>
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<td>Allyl chloride</td>
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<td>Allyl glycidyl ether (AGE)</td>
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<td>alpha-Aleuquina</td>
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<td>Total dust</td>
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<td>Respirable fraction</td>
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<td>5 mg/m³</td>
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<td>10 mg/m³</td>
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<td>5 mg/m³</td>
<td>5 mg/m³</td>
<td>5 mg/m³</td>
<td>1 mg/m³</td>
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<tr>
<td>Respirable fraction</td>
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<td>5 mg/m³</td>
<td>5 mg/m³</td>
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<td></td>
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<tr>
<td>4-Aminodiphenyl; see 1910.1011</td>
<td>92-07-1</td>
<td>Section 5209</td>
<td>15</td>
<td>See Appendix A</td>
<td>As low as possible</td>
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<td>2-Aminophenol; see Ethanolamine</td>
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<td>2-Aminopyridine</td>
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<td>Ammonia</td>
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<td>35</td>
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[View the Tables](http://www.osha.gov/dsg/annotated-pels)

**Important Note on ACGIH TLV**

- [Main Page](http://www.osha.gov/dsg/annotated-pels)
- [Table Z-1](http://www.osha.gov/dsg/annotated-pels)
- [Table Z-2](http://www.osha.gov/dsg/annotated-pels)
- [Table Z-3](http://www.osha.gov/dsg/annotated-pels)
Recent OSHA Efforts to Improve Protection of Workers from Chemical Hazards

- Transitioning to Safer Chemicals: A Toolkit for Employers and Workers
- Annotated PELs Tables
- Publication of Request for Information on Permissible Exposure Limits
Protecting Poultry Processing Workers
New Poster for Poultry Workers

PROTECT YOUR HEALTH
Report Your Injuries and Illnesses

- All workers have the right to a safe workplace.
- OSHA and the Food Safety and Inspection Service encourage you to report the early signs of work-related injuries and illnesses including:
  - hand pain and/or numbness,
  - looking or stinging in fingers,
  - swelling in the hands, wrists, or forearms,
  - waking at night with hand numbness or tingling,
  - back or shoulder pain.
- Getting medical care early for work-related injuries and illnesses can improve healing and prevent serious disease.
- You have the right to report all signs and symptoms of injuries and illnesses without fear of being disciplined, punished, fired, demoted, transferred, or retaliated against in any way.
- Injuries and illnesses to report include cuts; bruises; skin rashes; breathing difficulties; hearing problems; back, shoulder, hand, and wrist pain; and signs of infectious disease such as fever and diarrhea.
- Your employer must tell you how to report signs and symptoms of injuries and illness. You must be able to report these injuries and illnesses promptly.

- If you have been disciplined, punished, fired, demoted, transferred, or retaliated against in any way for reporting the signs and symptoms of an injury or illness, you can file a complaint with OSHA at 1-800-321-6742. This type of complaint must be made to OSHA immediately (within 30 days).
- You have the right to request an OSHA inspection if you believe that there are unsafe or unhealthy conditions in your workplace.
- Your request will be kept confidential. You have the right to have a representative—such as a clergy member or attorney—contact OSHA on your behalf. If you have questions, or need more information, call OSHA at 1-800-321-6742.
- OSHA is here to help.

For more information:

EMPLOYERS MUST:

- Provide a safe workplace.
- Report any workplace-related injury to OSHA within 8 hours; and report any amputation, hospitalization, or loss of an eye to OSHA within 24 hours.

OSHA®
Occupational Safety and Health Administration
1-800-321-OSHA (6742)
www.osha.gov

PROTEJA SU SALUD
Reporte sus Lesiones y Enfermedades

- Todos los trabajadores tienen derecho a un lugar de trabajo seguro.
- Tanto OSHA como el Servicio de Inspección de Alimentos (FSIS) por sus siglas en inglés le urgen a reportar cualquier síntoma o lesión como resultado de su trabajo, como:
  - El dolor y/o sensación de adormecimiento en las manos.
  - La rigidez en los dedos.
  - La hinchazón en las manos, muñecas o antebrazos.
  - El despeñar en la noche con entumecimiento o adormecimiento en las manos o.
  - El dolor en la espalda o los hombros.
  - Objetivos la más pronto posible, atención médica para lesiones y enfermedades laborales pueden reducir la discapacidad y prevenir enfermedades graves.
- Usted tiene el derecho a reportar toda lesión o síntoma de lesiones y enfermedades, sin temor a ser discriminado, castigado, despedido, desacreditado, transferido, o de sufrir cualquier represalia.
- Las lesiones y enfermedades a reportar incluyen cortes, momientos, encajes en la piel, dificultad respiratoria, problemas de audición, dolor de espalda, hombros, manos o muñecas, y síntomas de enfermedades infecciosas como la fiebre o la diarrea.

Su empleador tiene que decirle cómo reportar las señales y síntomas de lesiones y enfermedades. Usted debe poder reportar estas lesiones y enfermedades lo más pronto posible.
- Si usted ha sido disciplinado, castigado, despedido, bajado de puestos, transferido, o si ha sufrido cualquier represalia por reportar las señales o síntomas de una lesión o enfermedad, puede presentarse una queja con OSHA al 1-800-321-6742. Estas quejas deben ser presentadas inmediatamente (en menos de 30 días).
- Usted tiene el derecho de pedir una inspección de OSHA si cree que hay condiciones peligrosas o inseguras en su lugar de trabajo. Su pedido será confidencial. Algunos representantes suyos, como un abogado o un miembro del clero—puede comunicarse con OSHA a su nombre. Si usted tiene preguntas, o necesita más información, puede llamar a OSHA al 1-800-321-6742. La llamada es confidencial. Estamos aquí para ayudar.

Para más información:

LOS EMPLEADORES Tienen QUE:

- Proveer un lugar de trabajo seguro.
- Reportar cualquier muerte o enfermedad laboral en menos de 8 horas; y reportar cualquier amputación, hospitalización, o pérdida de un ojo a OSHA en menos de 24 horas.
KFC’s Chicken ‘Supplier of the Year’ Fined $1.4 million After Workers Lose Fingers and a Leg in Accidents

Young Workers Mangled, Fired by Employers Following Amputations

OSHA Cites Case Farms and Cal-Clean after a teen contractor lost his leg and a co-worker lost fingers.
Core Values?

Case Farms is a fully integrated poultry farming and processing group of dedicated individuals comprised of over 3200 employees and 475 grower farms that work together to produce consistent quality poultry products every time for every customer.

Our quality commitment begins fresh on the farm with our genetics operation and continues through our breeding facilities, hatcheries, broiler grow-out facilities, processing plants, and logistics services. Our commitment to quality is our customer’s complete satisfaction with Case Farms products.

A core component to Case Farms quality commitment is to ensure the welfare and health of our chickens. All chickens are farm raised cage free and fed a diet that is predominantly corn and soy-based with no added hormones. We follow the National Chicken Council’s poultry welfare guidelines and all our locations are routinely audited to ensure compliance. Specially designed environmental management and disease prevention programs help ensure the health and well-being of the birds in our care. Should the use of antibiotics become necessary, they are used under the direction and supervision of a licensed and accredited Case Farms Veterinarian. We do not use any antibiotics that are not licensed and approved for use in food animals by the FDA or USDA. Case Farms does not use Cephalosporins or Quinolones, which have been defined as critically important to humans. Healthy chickens are directly related to a safe food supply and we strive daily to assure both.

www.casefarms.com