OSHSPA Report:

Grassroots Safety & Health in the Workplace

Occupational Safety and Health State Plan Association

1999–2000
State Plan Activities Report

Request copies by contacting the state plan program
in your state or territory—see contact information at back of booklet.

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Alaska


Arizona

California


Connecticut


Hawaii

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produced by:
Division of Occupational Safety & Health (DOSH)
California Department of Industrial Relations


Indiana

Iowa


Kentucky


Maryland

Michigan

OSHSPA: linking state & federal jurisdictions

OSHSPA, the Occupational Safety and Health State Plan Association, links the 25 state plan jurisdictions, federal occupational safety and health jurisdictions, and Congress. OSHSPA holds three meetings a year at which state program representatives share information and discuss common problems. It also provides information to states or territories considering application for state plan status. OSHSPA representatives appear before congressional committees and other agencies to report on workplace safety and health issues.

The 25 states and territories operating state plan programs—and the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA)—share this common goal: a safe and healthful workplace for every worker through prevention of injuries, illnesses and fatalities on the job. They take responsibility for developing and enforcing workplace safety and health standards in their jurisdiction. The state and territorial programs cover 40 percent of the nation's work force, conducting enforcement inspections and providing consultative services. They also provide free training and outreach, encouraging employers and their employees to follow safe and healthful work practices.

According to Section 18 of the federal OSH Act of 1970: "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 and 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." State standards and their enforcement must be "at least as effective" as federal OSHA in promoting safe and healthful working conditions.

States and territories may elect to develop their own unique workplace safety and health program. State plans are approved and monitored by federal OSHA, which funds up to 50 percent of an approved plan's operating costs. Benefits of a state plan include coverage for public sector employees, as well as creating new programs that address hazards specific to the state's industries.

State plan programs covering private and public sectors:

Alaska—Arizona—California—Hawaii—Indiana—Iowa—Kentucky—Maryland—Michigan—Minnesota—Nevada—New Mexico—North Carolina—Oregon—Puerto Rico—South Carolina—Tennessee—Utah—Vermont—Virgin Islands—Virginia—Washington—Wyoming

State plan programs covering public sector only—private sector coverage by federal OSHA:

Connecticut—New York—New Jersey
note: New Jersey received initial federal approval on January 11, 2001.

States covered by federal OSHA, private sector only:

Alabama—Arkansas—Colorado—Connecticut—Delaware—District of Columbia—Florida—Georgia—Idaho—Illinois—Kansas—Louisiana—Maine—Massachusetts—Mississippi—Missouri—Montana—Nebraska—New Hampshire—New Jersey—New York—North Dakota—Ohio—Oklahoma—Pennsylvania—Rhode Island—South Dakota—Texas—West Virginia—Wisconsin


Minnesota


Nevada


New Mexico


New York

North Carolina

Strategic & performance plans: focus on outcomes

In 1998 federal OSHA required all state plans to include an annual performance plan in their grant application and to meet requirements of the Government Performance and Results Act (GPRA). States were required to submit a five-year strategic plan for 1999-2003. State programs were required to adopt OSHA's first strategic goal: to "improve workplace safety and health for all workers, as evidenced by fewer hazards, reduced exposures, and fewer injuries, illnesses and fatalities." Strategic and performance planning focuses on safety and health outcomes rather than activities. In their outcome goals OSHA and all states included decreased injury and illness rates and fatalities for selected industries or worksites.

Previous to the 1998 federal requirement, a number of states—including **Michigan**, **North Carolina**, **Oregon**, **Washington** and **Wyoming**—had originated unique performance agreements with OSHA. **Oregon's** performance agreement with federal OSHA, first in the nation, was awarded in November 1998 the vice presidential *Hammer Award*, which recognizes outstanding efforts to make government more efficient and less expensive.

Washington's agreement streamlined targeting based on safety and health priorities in partnership with business and labor, and enhanced coordination between WISHA enforcement, consultation and risk management. **Michigan** developed a plan with substantial stakeholder input. Teams developed strategies for each of the 23 performance goals, which relate directly to OSHA's strategic goals and begin with baselines for future performance comparison. The plan is on their Web site (see inside back cover).

State plans maintain a strong enforcement presence for employers not meeting their safety and health responsibilities by focusing on worksites and industries with the highest injury and illness rates. One important aspect of a state's strategic and performance planning is coordination of enforcement, consultation, education and training in targeting hazards, industries and occupations identified in the strategic plans. Cooperative programs and partnerships supplement traditional enforcement methods. Another significant component is emphasis on increased employer and worker awareness of the value and importance of safety and health programs through expanded delivery of targeted outreach. State goals identified in their strategic plan establish the parameters by which federal OSHA evaluates the state program.

Protecting public sector employees

Even though the OSH Act of 1970 specifically excludes from federal coverage states' public agencies and their political subdivisions, the state plans are required to provide occupational safety and health protection to public sector employees. This is a significant requirement and benefit of the state plan programs, as some of the most hazardous workplaces are in the public sector: firefighting, emergency response, corrections, law enforcement, publicly-funded health care facilities, and transportation workers. Under the state plan program, public employees receive protection equal to that of private sector employees.

A number of states have special emphasis programs for public employees as well as the private sector. Special emphasis programs in state and local hospitals and nursing homes deal with ergonomics and bloodborne pathogens, and **New Mexico** developed a standard that is more effective than OSHA's standard on firefighting.

The **Connecticut** and **New York** state plans cover only public sector employees—federal OSHA covers private sector employees in these states. **New Jersey** was recently approved for its plan covering public sector employees only.


Oregon


Puerto Rico


South Carolina


Tennessee


Utah

Ergonomics: the fit between worker & work

California adopted the first workplace ergonomic standard in the nation, effective July 3, 1997. The standard is triggered only when at least two employees at the employer's worksite who are performing identical tasks are diagnosed with repetitive motion injuries (RMI) by a licensed physician within twelve consecutive months.

California's workplace repetitive motion injury standard deals with musculoskeletal injuries caused by a repetitive job, process or operation. The Cal/OSHA ergonomic standard contains three independent elements:

- Worksite evaluation of each job, process or operation of identical work activity—such as assembly, loading, word processing.
- Control measures to correct in a timely manner the exposures causing repetitive motion injury.
- Employee training.

The Cal/OSHA Consultation Service gives presentations on workplace ergonomics, back injury prevention and musculoskeletal disorders to help employers and employees understand the scope of the problem and use preventive measures to minimize repetitive motion injury. Publications on the subject are available from the California Department of Industrial Relations Web site (see inside back cover).

Washington adopted a new ergonomics rule on May 26, 2000, which differs from California's workplace repetitive motion injury standard—its requirements are triggered by specific hazards in the workplace rather than occurrence of musculoskeletal disorder symptoms or injuries. Intended to reduce work-related musculoskeletal hazards (WMSDs) that cripple or injure more than 50,000 Washington workers each year, the Washington rule was adopted after a 20-month rulemaking process that included conferences across the state, extensive work with two large advisory committees, publishing a proposed rule with supporting documents, and 14 public hearings in seven cities statewide.

Key elements of Washington's ergonomics rule are:

- The rule applies only to employers with "caution zone" jobs where an employee's typical work activities include exposure to specific physical risk factors listed in the rule.
- Employers with caution zone jobs must ensure that employees working in or supervising these jobs receive ergonomics awareness education. These employers also must analyze the caution zone jobs to determine whether they involve hazards that need to be controlled.
- Employers may choose their own method and criteria for identifying and reducing hazards—as long as they are at least as effective as a number of widely used methods listed in the rule—or may use the checklist provided in the ergonomics rule.
- If the analysis of caution zone jobs shows that exposures are above a hazardous level, the employer must reduce exposures to below that level or to the extent technologically and economically feasible.
- Employers must provide for and encourage employee participation.
- An extended implementation schedule based on industry type and employer size allows employers, especially small businesses, ample time to prepare for compliance.
- The department will assist employers and employees in implementing the rule. These activities include developing guides and models, identifying industry best practices, establishing inspection policies and procedures, conducting demonstration projects, and sharing information on workplace ergonomics.
- Employers may continue to use effective methods of reducing hazards that were in place before the rule adoption date as long as the methods, taken as a whole, are as effective as the requirements of the rule.


Vermont


Virgin Islands


Virginia


Washington


Wyoming

Requirements of Washington's ergonomics rule are phased in over a two through six year period, depending on the size of the business and its industry sector. First to comply in the state will be larger businesses in the 12 industries showing the highest risk of WMSDs. These employers have two years to come into compliance with several of the requirements and three years for total compliance. Smaller businesses not in the 12 highest-risk industries are given up to five years to come into compliance with those requirements and six years for total compliance.

Some employers and labor organizations are eligible for direct financial incentives—safety and health grants or workers' compensation premium discounts—to help them implement the ergonomics rule. The state has convened a panel of experts to help determine whether employer and employee technical assistance activities are successful and sufficient before compliance with the new rule begins. Copies of Washington's ergonomics rule, supporting documents, and other workplace ergonomics information and links are available on the Washington Department of Labor and Industries Web site (see inside back cover).

North Carolina provides consultation on ergonomics, and the North Carolina Ergonomics Resource Center (NCERC) is a partnership between the state's Department of Labor and North Carolina State University. Funds were appropriated to the Department of Labor for establishment of the center, which is housed at the university. NCERC opened in November 1994. Its services cover ergonomics consulting and training workshops, on-site ergonomic training individually tailored to a company's needs, a variety of publications, a series of ergonomics tips dealing with specific industries and environments, and two employee video training packages.

Emphasizing applied research and timely delivery of programs, NCERC identifies, analyzes and corrects ergonomic deficiencies in the workplace. Its primary goal is to act as a bridge for technology transfer and information exchange between the university, state agencies and industry.

Michigan's MIOSHA Strategic Plan includes musculoskeletal disorders as one of the targeted injuries and illnesses to be reduced 15 percent over the next five years. Even without a standard, MIOSHA can enforce the General Duty requirement and issue citations and penalties in the most extreme cases. Citations are issued where the state finds repetitive motion injuries of which the employer was aware and knew how to prevent, but did not make any reasonable effort to prevent them.

MIOSHA works to "*educate before we regulate*." For a number of years the MIOSHA Safety Education and Training Division has been working with employers and employees to reduce MSD injuries. Solutions are at times complex, as the focus is the way a job is done and how the employee relates to that task. In other instances, the solution is simply changing the height of the work surface. Engineering controls are the preferred way to reduce or eliminate the exposure altogether. Administrative controls, such as rotating work assignments to avoid worker exposure, may also be effective. Personal protective equipment can also reduce exposure to some ergonomic hazards.

MIOSHA has an advisory committee that was established in 1991 as a proactive voluntary compliance initiative. The committee's main goals are to promote training regarding ergonomics and to advise on workplace ergonomics issues. The committee also oversees an awards program that recognizes voluntary ergonomic innovations and activities. The MIOSHA ergonomics recognition awards are given to companies that either do innovative ergonomics activities or can show through performance a significant reduction in ergonomics-related injuries.

Alaska Arizona California Connecticut Hawaii

Other states report: **Connecticut** is developing training programs to complement its ergonomics enforcement, and plans to make such training available on CDs. **Oregon** plans no regulatory action, and is conducting increased training and outreach. A stakeholder advisory group has been formed to work on volunteer programs, a conference, publications and a Web site.

Utah has not adopted an ergonomics regulation, yet has worked with nursing homes and similar types of businesses since 1993 on the benefits of applying ergonomic principles and practices to help reduce workplace injuries and illnesses. **Virgin Islands** has not adopted state-specific ergonomics regulations, and its General Duty Clause is used when an employer should have known existing abatement methods for an injury that occurred.

Although it does not have a state ergonomic standard, **Minnesota** was one of the first states to examine and cite ergonomic problems in the workplace. The ergonomics team, which produced *Guidelines for Resident Handling in Long-term Care Facilities*, conducts comprehensive inspections of selected facilities that include a thorough review of injury and illness records, a complete walkaround inspection, and abatement recommendations.

Federal perspective:

On March 20, 2001, the President signed a joint resolution of Congress disapproving federal OSHA's ergonomics standard and, at the same time, pledging to find a solution to ergonomic-related problems affecting the nation's work force. Federal OSHA's ergonomics program standard had been issued November 14, 2000, and took effect January 16, 2001. Congress acted under authority of the congressional Review Act of 1996. As a result, the standard is no longer in effect, and employers and workers are not bound by federal requirements. In testimony before the U.S. Senate, the Secretary of Labor has stressed an approach based on cooperation and prevention, rather than the adversarial approach of years past.

State efforts to reduce the number and severity of musculoskeletal disorders caused by risk factors in the workplace also continue. California and Washington have already adopted ergonomics standards and will enforce them.

Needlesticks: states protecting workers

Attention nationwide is focused on incorporating into OSHA requirements the new technologies of engineered sharps devices and systems without needles. Needlestick injuries are the primary mode of transmission of bloodborne pathogens in the workplace. On July 1, 1999, Cal/OSHA adopted major revisions to its bloodborne pathogens standard to strengthen protection of health care workers from the transmission of bloodborne pathogens, particularly Hepatitis B, Hepatitis C and HIV. **California** is first in the nation to place stronger requirements on employers to use needles and other sharps devices engineered to reduce the chances of inadvertent needlestick injuries.

California's revised standard covers all employers whose employees may be reasonably anticipated to have contact with blood or other potentially infectious material—including emergency and public safety services, correctional and custodial care facilities—and providers of services to these employers, such as plumbers and launderers, whose employees risk exposure to bloodborne pathogens.


Indiana


Iowa


Kentucky


Maryland


Michigan

Many factors came together to prompt the revised standard, including state legislation requiring amendments to the existing standard, an advisory committee convened by Cal/OSHA, demands by unions representing health care workers for protective action, intensive media coverage and industry input. The concerted action by all parties involved helped ensure that health care workers not continue to incur needlestick injuries despite the availability of new technology.

Unions representing health care workers view the adoption of the California requirements and issuance of the new federal compliance directive as an important milestone in their effort to obtain protection for health care workers from potentially life-threatening exposures to bloodborne pathogens.

The Cal/OSHA standard as adopted has two major components: where a choice is available, a needleless system must be used; and if a needleless system is not available, needles or other sharps with anti-stick features must be used. Other revisions are:

- New requirements for using needleless systems and sharps devices with anti-stick features, including some exceptions. Additional requirements for workers actually involved in providing health care to be actively involved in developing a program to evaluate and select needleless systems and sharps devices with anti-stick features appropriate for the procedures conducted.
- A requirement to keep a sharps injury log that records the date and time of each sharps injury resulting in an exposure incident. Employers must record the type and brand of device involved in the exposure incident and the details of the incident that will be useful in taking preventive action in the future. The requirement to maintain a sharps log is unique to Cal/OSHA. The log should serve as a tool for the employer, occupational health researchers and Cal/OSHA in evaluating the effectiveness of devices.
- Addition of Hepatitis C as a specifically named bloodborne pathogen.
- A series of new requirements, which improve the effectiveness of the exposure control plan.

Issues in California to be resolved are: training employees, including frontline workers in decision-making, and ensuring that employers select the best and safest devices available. Publications and resources are on the California Department of Industrial Relations Web site (see inside back cover).

Since California's breakthrough in July 1999, Alaska, Hawaii, Minnesota and Tennessee subsequently passed legislation for changes to their bloodborne pathogen standards. **Hawaii's** state legislators adopted Senate Resolution 112, S.D. 1 for all health care facilities to have a workplace safety protocol in place by January 1, 2000. **Alaska** adopted a statute that requires employers to use new needlestick controls and mandates training. The new legislation took effect January 1, 2001.

Tennessee legislators enacted a law requiring the commissioners of labor and health to jointly review sharps injury technology to include needles with engineered sharps injury protection and systems without needles—and to jointly determine the environments where standards require that sharps injury prevention technology be employed.

Employers are required to revise their exposure control plans to reflect improvements in sharps prevention technology. They also must do the following to comply with Tennessee law:

- Document the type and brand of device in use when there is an exposure incident.
- Document when sharps injury prevention devices are not used because they are medically contraindicated or not more effective than alternative measures used by the employer to prevent exposure incidents.

Minnesota Nevada New Mexico New York North Carolina

Minnesota's new law, which aims at reducing occupational exposure to bloodborne diseases through sharps injuries, is enforced by Minnesota OSHA in conjunction with the bloodborne pathogens standard. The exposure control plan must document evaluation and implementation of the engineering controls designed to eliminate or minimize exposure to bloodborne pathogens. If an engineering control is evaluated but not put into use, an explanation of why the device was not used should be included in the update to the exposure control plan.

The new law specifies that employee involvement must be through the employer's safety committee, and this committee is responsible for recommending use of effective engineering controls. Half of the safety committee members must be representatives of job classifications that could use or encounter any device in the category evaluated. Employers not required to establish such a committee must involve their employees in evaluating the engineering controls. Committee recommendations are not binding on the employer.

Employers must establish internal procedures to document the route of exposure and detail the circumstances of any exposure incident. This information should include: engineering controls in use at the time; work practices followed; description and brand name of the device in use; protective equipment or clothing used at the time of the exposure incident; location where the incident occurred; employee training; and the injured employee's opinion about whether any other engineering, administrative or work-practice control could have prevented the injury. The new law is on their Web site (see inside back cover).

Three states introduced legislation on needlesticks. **Washington** during the 1999 and 2000 legislative sessions introduced legislation to require safer devices in health care settings and that frontline health care workers be involved in the selection process. In **Utah** the Utah Nurses Association attempted to get legislation passed. **Michigan** introduced legislation related to needleless systems and needles with engineered sharps.

Two states have passed legislation requiring the agency to prepare a study and make recommendations. **Iowa's** labor commissioner and Department of Public Health are to "…study state and federal laws and regulations relating to protection of persons who may be at risk of needlestick injuries in the course of employment," with a report to be submitted "…to the governor and the general assembly by December 15, 2001. The report shall include any recommendations for changes in state law or rules…" The Consultation and Education Bureau are providing presentations and training to longterm health care facilities and hospitals on needlesticks, sharps containment and bloodborne pathogens.

The **Maryland** legislature set a committee of Department of Health and MOSH staff to review existing bloodborne pathogen standards and recommend ways to improve worker protection against needlesticks in the health care industry. State-specific regulations are pending a legislative hearing.

Puerto Rico approved a Local Emphasis Program on bloodborne pathogens exposure in clinic and reference laboratories covering 677 establishments identified by the Board of Medical Technicians. Emphasis is on the severity of violations to the regulations, and the concentrated enforcement is expected to eliminate these serious issues. In 1996 PROSHO successfully litigated a discrimination case on behalf of three employees required by their employer to either sign a waiver to the hepatitis B vaccine or bring a certificate of vaccination as a condition for keeping their jobs. The court ordered back pay with accrued interest and reinstallation.


Oregon


Puerto Rico


South Carolina


Tennessee


Utah

Federal perspective:

The Needlestick Safety and Prevention Act, which was passed unanimously by Congress, took effect November 6, 2000. The act specified revisions to federal OSHA's bloodborne pathogens standard and directed the agency to make these changes within six months. The revisions clarify the need for employers to select safer needle devices as they become available, and to involve employees in identifying and choosing the devices. The changes went into effect April 18, 2001.

Specifically, the changes to the federal standard obligate employers to consider safer needle devices when they conduct their annual review of their exposure control plan. The agency is planning a 90-day outreach and education effort before enforcing the regulations.

Preventing the hazard of workplace violence

Workplace violence is an occupational safety and health hazard that demands action. Whether the risk of violence comes from a coworker, client, patient or the public, employers must be provided with tools to develop comprehensive plans that reduce levels of risk. State programs are developing formal rules as well as voluntary guidelines to help prevent this type of workplace hazard. **Alaska**, **California**, **Indiana**, **Minnesota**, **New Mexico**, **Utah**, **Virgin Islands**, **Virginia** and **Washington** have conducted special emphasis or training programs related to workplace security. Indiana and Minnesota have issued general duty clause citations on workplace violence.

Oregon takes a strong information and training approach to raise awareness and encourage action. By creating several publications and working directly with the Associated Oregon Industries and other groups, statewide education network training forums address this emerging area. Oregon offers on-line training for employers: *Developing Your Violence Prevention Program*.

California's 1994 conference on workplace security, the first of its kind, was part of a drive to promote additional research and develop guidelines for preventing workplace violence. California issued *Guidelines for Security and Safety of Health Care and Community Service Workers*, *Cal/OSHA Guidelines for Workplace Security* and a *Model Injury and Illness Prevention Program for Workplace Security*.

Cal/OSHA has been investigating violent worksite events since 1993. Although workplace violence is part of a larger societal problem, the employer in California is still required to provide a safe and healthful place of employment. Employers at risk of robbery or other violent assaults must include workplace security in their injury and illness prevention program. And in response to the growing recognition of violence in the workplace, government agencies that oversee workplace safety are incorporating security issues into safety plans. Fatalities from assaults and violent acts accounted for 18.8 percent of the 1999 California workplace fatality total, down from 23.4 percent in 1998 and decreasing steadily: from 194 in 1995 to 111 in 1999.

Minnesota's Workplace Violence Prevention Program helps employers and their employees reduce the incidence of violence in their workplaces by providing on-site consultation, telephone assistance, education and training seminars and a resource center. This program targets workplaces at high risk of violence: convenience stores, service stations, taxi and transit operations, restaurants and bars, motels, guard services, patient care facilities, schools, social services, residential care


Vermont Virgin Islands Virginia Washington Wyoming

facilities and correctional institutions. The program is administered by the Workplace Safety Consultation (WSC) Division and Workplace Violence Prevention Team of enforcement and consultation staff.

Outreach tools developed by the team include a brochure, *Workplace Violence: Are You at Risk?*, to increase awareness of workplace violence and outline steps to minimize its threat, and a guide, *Minnesota Workplace Violence Prevention–A Comprehensive Guide for Employers and Employees*, providing sample policies, checklists and tools to help assess and prevent violent incidents.

Washington developed safety and health standards for the late night retail industry in 1990, and uses enforcement and consultation for hazard abatement and prevention. The Workplace Violence Awareness and Prevention workshop helps participants assess risk factors and develop preventive measures. A written guide covering these topics and a sample prevention program were developed by WISHA with over 30 representatives of labor, business and the academic community. WISHA's video *Is It Worth Your Life?* with real-life scenarios demonstrates what workers and employers can do to prevent injuries. The video is distributed to employer networks and associations.

In 1997 the Washington State Department of Labor and Industries' Safety and Health Assessment and Research for Prevention program completed a comprehensive study of workplace violence based on federal and state data for 1992-95. Homicide was the fourth leading cause of workplace deaths in Washington, and most incidents were consistent with well-known risk factors. Most were committed by persons unknown to the victims, and most of the victims worked in retail trade, security services or transit. The majority of non-fatal injuries also occurred in predictable settings, but in contrast to the fatal assaults, most of these injuries occurred in a setting where the victim and attacker were in a custodial or client-caregiver relationship such as health care or social services. While the trend for assaults against private sector workers in the state was downward, that for state government workers was rising. This study counters the notion that violence on the job is a random event and impervious to remedy. Prevention strategies such as hazard assessment and de-escalation training address risk factors in the work setting.

Utah believes that substance abuse and workplace violence need to be addressed together because of their relationship to each other. Utah has provided seminars for employers and their employees on workplace violence prevention and drug-free workplace programs for the past five years. Since statistics show that over 70 percent of those using illegal drugs are employed, the effect of illegal drug use in the workplace is an issue that demands attention. Since 1997 Utah has been promoting its *Take Safety Seriously* campaign during prime time with award-winning 30-second spot television announcements, and is one of the first states to produce these infomercials on the effects of substance abuse in the workplace.

Virgin Islands' Workplace Violence Prevention Program helps employers and their employees reduce the incidence of violence in their workplaces by providing on-site consultation, telephone assistance, education and training seminars and a resource center. In 1999 there were three workplace violence employee-to-employee incidents that required workers' compensation claims filing. VIDOSH recognizes the need to address workplaces at high risk of violence: convenience stores, service stations, taxi and transit operations, restaurants and bars, motels, guard services, patient care facilities, schools, social services, residential care facilities and correctional institutions. Staff are being trained to provide workplace violence prevention assistance.

During the 2000 session of the General Assembly, the **Virginia** Department of Labor and Industry was requested to study workplace violence in the commonwealth and submit its written findings and recommendations to the governor and 2001 session of the General Assembly.

Alaska Arizona California Connecticut Hawaii

Employer & employee assistance

State legislatures and state plan administrators alike believe that enforcement is just one tool for decreasing worker injuries, illnesses and fatalities. Federal OSHA and state plans use incentives that promote voluntary compliance, as well as employer/employee education and training to identify and abate worksite hazards. States have a broad array of programs focusing on voluntary compliance with workplace safety and health regulations—including free consultation visits to employers' worksites, voluntary protection incentives, safety and health conferences, publications and guidelines for model programs. Through the strategic planning process, these activities are coordinated with the enforcement program in each state to focus on priorities identified by their strategic plans.

Many innovative solutions developed by the states have been adopted by federal OSHA.

Training & education initiatives:

During the fiscal year 1999, states provided training programs for more than a quarter million employers and their employees on topics such as confined spaces, hazard communication on chemicals in the workplace, trenching and excavation safety, bloodborne pathogens, tuberculosis, eliminating ergonomic hazards and violence in the workplace. **California**, **Michigan**, **Minnesota** and **Oregon** have made their occupational safety and health standards available in electronic format.

Oregon provided 707 workshops covering 41 topics to more than 13,580 employers and employees. Topics ranged from safety committee operations, hazard identification, accident investigation, safety leadership and accountability for traffic control and fall protection.

Oregon continues to bring interactive training on-line. Ten Internet courses are offered through OR-OSHA's web site—including three new ones on ergonomic awareness, developing an effective ergonomic program, and developing a violence prevention program—and 435 participants took Oregon's electronic courses in FY 1999. Oregon also has a Web-based self-assessment tool for employers to confidentially evaluate their safety and health program and identify areas for improvement, asking the participant a wide range of questions about the employer's safety and health program and then providing a numerical score on the program. Participants are encouraged to work with OR-OSHA consultants on deficient areas and to report progress in a one-year follow-up.

Oregon is reaching small business through its *Safety and the Small Business* education program, which offers them practical hands-on training in developing a safety program. OR-OSHA partnered with the Workers' Compensation Division to deliver *Employer Coverage* and *Employer-at-Injury, Preferred Worker* workshops across the state.

OR-OSHA undertook a major initiative designed to provide its staff with clear understanding of the seven elements of safety and health program management. This internal training ensures that OR-OSHA staff are presenting a uniform and consistent message to employers. After completing the week-long training, staff can evaluate and effectively communicate the strengths and weaknesses of an employer's safety and health program.

Washington uses the Internet to deliver safety information and training. WISHA launched interactive *Forklift Safety* and *Flagging Safety* packages and is adding online *Respiratory Protection* training. WISHA safety professionals in partnership with the Construction Advisory Council produced online videos *Residential Construction—Siding Safety and Roofing Safety* in English and Spanish, to be followed by *Framing Safety*. WISHA also published *Guarding Mechanical Power Transmission Parts*, available in hardcopy and on the WISHA Homepage, and has launched an Internet portal for safety and health training: *WISHA University*.

Iowa worked closely with the OSHA Training Institute, a local community college and the American Federation of State, County and Municipal Employees to provide nationwide training on such topics as confined space entry and lockout/tagout via their Interactive Communication Network. IOSH staff also received training on electrical hazards through the OSHA Training Institute pilot via this network.

North Carolina set up a training network through its statewide community college system to teach a variety of safety and health topics. By tapping into this system, employers and employees both have easy access to the information. North Carolina also partnered with the **South Carolina** Department of Labor, Licensing and Regulation, the North and South Carolina Departments of Transportation, and the Carolinas' Associated General Contractors to reduce the dangers of working in high places. A two-hour safety seminar on fall protection was telecast to sites across both Carolinas.

Virginia, in an effort to combat the rising number of injuries and fatalities among loggers, developed a voluntary compliance program in cooperation with the Virginia Department of Forestry, Virginia Tech School of Forestry, and Virginia Forestry Association. Safety and health training is provided at the logging worksite. Loggers who request on-site training are contacted at home in the evening to establish a meeting time and place. Materials including safety checklists, a safety manual, and lists of logging injuries are reviewed with loggers. Group training sessions arranged by Department of Forestry regional representatives are also conducted for loggers and their families.

Virginia's Consultation Services Program produced two training videos with a grant from OSHA. *Getting Started with Safety* outlines steps to begin a safety program and the benefits of having one. *Common Safety Problems* describes five safety problems common to most small businesses. Both videos are used to help small businesses establish effective safety programs. These materials are available for other state consultation programs to customize for their own use.

Recognizing that construction is an especially high-hazard industry, **Minnesota** established a bimonthly training seminar specifically for them—Construction Breakfasts well attended by construction employers, employees and union representatives. Average attendance is 125. The discussions include analysis of recent construction accidents, new standards, workers' compensation and other safety and health topics pertinent to the construction industry. Training and outreach go together in the Minnesota program and provide much the same service to stakeholders as the new compliance assistance positions do in federal OSHA offices. One position was added to the four in FY 2000 to provide better/faster response to stakeholder questions.

Through cooperative efforts of the Associated General Contractors of Kentucky and **Kentucky** OSH Division of Education and Training, free job safety and health training is brought to construction worksites in a training van equipped with audio-visual equipment. The mobile classroom makes training accessible to more contractors and their employees while dramatically reducing down time at the site.

The Safety Partnership Program (SPP) is a new training effort in Kentucky. It offers long-term assistance to smaller employers with a history of high injury and illness rates and high workers' compensation costs. SPP helps employers develop a proactive approach to safety and health management, which improves production, increases employee morale, and significantly reduces workers' compensation costs. Employers are required to make a three year commitment, and management as well as employees must be willing to fully participate. Participants are assigned a team of safety and health consultants from Kentucky's Division of Education and Training, and receive priority over all other training service requests. Once SPP requirements are fulfilled, employers can apply for the Voluntary Protection Partnership (VPP).

Because the demand for training in employer workplaces is high, **Puerto Rico** is delivering


Minnesota


Nevada


New Mexico


New York

North Carolina

training and conference sessions open to general audiences in different towns on the island. Information on each session is published in the newspaper to reach and benefit a higher number of employers, employees, students and the general public.

Puerto Rico emphasizes training to small employers of less than 100 employees. As part of its Strategic Plan, PROSHO has chosen laundries, dry cleaning businesses and bakeries as target industries. These employers receive preference in consultation visits and training. Puerto Rico also translated two NIOSH publications into Spanish and adapted them for use in training.

New York recognizes that many public employers need help complying with regulations that require a written program, and has developed model programs to help employers comply with the bloodborne pathogen and permit-required confined space standards.

The New York State Labor Department sponsored sharps injury prevention conferences in the state's eastern, western, central and southern regions. Conference speakers included physicians, epidemiologists, infection control specialists and safety and health professionals with expertise in needlestick prevention devices, AIDS, Hepatitis C and Hepatitis B prevention, post-exposure follow-up treatments, and challenges in enforcing the OSHA bloodborne pathogen standard. New York State Department of Labor Safety and Health staff organized the conferences, which drew more than 500 participants throughout the state. Participants received information on bloodborne diseases and resources for prevention and intervention. Vendors displayed and demonstrated products, including needleless systems and a variety of needle covering devices. The publication *Needlestick Injury Prevention Solutions*, funded by a grant from the New York State Department of Labor Safety and Health Inspectors and Industrial Hygienists, provided additional information. Feedback was very positive.

Two industrial hygienists of the New York State Department of Labor Division of Safety and Health participated in the OSHA training on the recent Bloodborne Pathogens Standard Enforcement Compliance Directive in Atlanta, then provided peer training on the directive to New York safety and health inspectors and consultation staff statewide. A variety of sharps injury prevention devices were demonstrated at the training sessions as part of the re-emphasis on engineering controls.

Wyoming developed four training programs for specific work force segments:

- Three-Day Collateral Duty Health and Safety Program for staff who have safety duties in addition to their primary duties.
- Management Excellence Safety Seminar directed toward corporate officers and owners of businesses to demonstrate the value of safety efforts.
- Construction Safety Program for foremen, superintendents and safety personnel.
- Behavior Based Safety introductory seminar.

California participated in seminars statewide on subjects related to high incidences of workplace injury/illness, such as fall injury protection, ergonomic and agricultural hazards. The outreach sessions during 1998-99 attended by employers and employees represented an estimated 590,000 workers. Cal/OSHA Consultation Service materials range from model programs and guides to training videos. Their *Easy Ergonomics* guide for general industry won national acclaim, and a new video features employers from the state's diverse industries who explain how the consultation service helped them attain their safety and health objectives, heightened employee morale and helped their bottom line.

Michigan businesses who had very successful experiences with the Onsite Consultation Program helped MIOSHA produce a video explaining the onsite services. The companies wanted to spread the message that inviting MIOSHA into the workplace can pay big dividends, and the video is designed to help


Oregon Puerto Rico South Carolina Tennessee Utah

employers decide whether they're getting the maximum benefit from their current safety and health program.

Risk of injuries in the **Virgin Islands** construction industry will be on a high scale of probability during a $500 million, three-year expansion of the local oil refinery Hovensa. VIDOSH began conducting a four-hour safety orientation for hundreds of local prospective employees who were applying for positions in Hovensa's expansion project.

Maryland's MOSH developed for middle management employees a safety and health curriculum based on the cost of loss control initiatives that follow the 1989 OSHA guidelines for safety and health program development. **New Mexico** conducted joint training with the New Mexico Department of Health and University of New Mexico Medical School. **Utah** continues to provide training, education and consultative services for associations, employers and the public requesting assistance, using current guidelines from NIH, CDC, NIOSH and states such as New York and California.

Tennessee OSHA is working to develop partnerships with associations and stakeholders, striving to improve the strategic planning process and targeting programs, and has produced a 20-minute video overview of special emphasis programs for statewide distribution. **Nevada** has produced promotional videos in Spanish and English on their consultation program, and spot announcements aired on local television stations.

Bilingual & multilingual communications:

Bilingual and multilingual publications on workplace safety and health are produced by **California**, **Minnesota**, **New Mexico**, **Oregon**, **Puerto Rico**, **South Carolina**, **Utah**, and **Virgin Islands**. Most of the state plans publish their *Safety and Health Protection on the Job* poster in English and Spanish.

California publishes posters and booklets in English and Spanish for the agriculture work force. A brochure on job safety and booklet on bloodborne pathogens are published in English, Spanish, Tagalog, Chinese, Korean and Vietnamese.

Minnesota publishes its *Safety and Health Protection on the Job* poster in English, Spanish, Hmong, Cambodian, Vietnamese and Laotian. The poster summarizes employee rights under the Minnesota Occupational Safety and Health Act.

Puerto Rico has two official languages, Spanish and English. All government and private transactions are usually conducted in Spanish, and all state laws and regulations must be in both languages. The safety and health poster advising employers and employees of their responsibilities and rights is in both languages, as are some NIOSH and OSHA publications, all the state-adopted occupational safety and health standards, and citations issued. This reduces the probability of violating employer or employee rights through lack of understanding the language.

Virgin Islands distributes Spanish literature and brochures provided by **Puerto Rico** OSH to its extensive Spanish-speaking work force. In 1999 its consultation program offered a course, *Derechos de el Empleado Bajo la Ley OSHA* (Employees' Rights Under the OSHA Act), which was attended by Spanish-speaking public employees.

Oregon developed workshops in Spanish on hazard identification and ergonomics awareness. **South Carolina** and **Virginia** publish a bilingual workplace safety and health poster, and **Wyoming** its strategic and performance planning material.


Vermont


Virgin Islands


Virginia


Washington


Wyoming

Safety & health conferences:

Alaska, **California**, **Connecticut**, **Hawaii**, **Iowa**, **Kentucky**, **Maryland**, **Michigan**, **Minnesota**, **Nevada**, **New Mexico**, **Oregon**, **Puerto Rico**, **South Carolina**, **Tennessee**, **Virgin Islands**, **Virginia** and **Washington** held or participated in safety and health conferences.

Iowa has held an annual governor's safety and health conference for 26 years. The conference is organized by a committee of representatives from labor, industry and the public sector, and draws attendance from many segments of the state population. Nationally known speakers are featured. The conference is so successful the committee established scholarships totaling $9,500 for seven college students who are safety and health majors.

Oregon's biennial governor's conference draws more than 3,000 participants to the Portland Convention Center. Education in a conference format is also offered in all the state's geographical regions, as well as a second major safety and health conference every other year in Eugene.

This year marks the fiftieth anniversary of the **Washington** State Governor's Industrial Safety and Health Conference, which will be held September 26-27, 2001 at the Washington State Convention and Trade Center in Seattle. Expected attendance is 4,500. The annual conference alternates between western Washington in Seattle and eastern Washington in Spokane.

Kentucky's annual governor's conference was first held in 1985. This joint effort of business, labor, government and academia is facilitated by the Kentucky Labor Cabinet and Kentucky Safety and Health Network. It averages 50 sessions, 115 exhibitors and 1,800 participants. Complementing the governor's conference held in Louisville each spring are mid-year symposiums offered at a variety of locations throughout the commonwealth during the late fall.

The **Tennessee** Safety Congress, sponsored by TOSHA and Tennessee chapters of the American Society of Safety Engineers, is an assembly of safety and health professionals sharing information and ideas on programs and educational techniques that promote good workplace safety and health practices. The Congress is nationally recognized for its high quality and diverse activities.

For more than 40 years **Michigan** has sponsored an annual conference on industrial ventilation systems. Staffed by ventilation experts of the United States and Canada, the weeklong conference features general ventilation information and the newest control technologies. The 1999 conference was attended by 200 conferees from across the U.S. who received 36 hours of classes and lectures.

MN OSHA is an active participant in the annual **Minnesota** safety and health conference sponsored by the Minnesota Safety Council. The conference has been held for the past 66 years and draws more than 1,700 participants. The conference includes exhibitor/vendor booths and numerous seminars on safety-related topics—including regulatory compliance, ergonomics, behavioral issues, risk control, commercial vehicle safety, basic workplace safety and safety management.

Maryland's OSH, along with its safety council and a number of safety organizations, sponsors an annual safety and health conference that draws an average 500 people. **Puerto Rico** has an annual three-day safety and health conference with workshops on compliance requirements and updating professionals in safety and health and related disciplines. **Virgin Islands** sponsors a biannual safety and health conference on St. Croix and an annual conference on St. Thomas. In June 2000 **Virginia** hosted its fifth annual safety and health conference, which brought employers, employees and associations together to discuss current safety and health initiatives in Virginia.

Alaska Arizona California Connecticut Hawaii

Voluntary compliance:

In fiscal year 99, state programs conducted more than 12,000 on-site consultation visits, identifying and directing the abatement of about 62,000 serious hazards. No penalties are proposed nor citations issued for hazards that are found by the consultant.

Voluntary Protection Programs (VPP) recognize worksites with exemplary safety and health programs that get tangible results from reducing industrial hazards and occupational disease, as evidenced in an injury/illness rate below the average within their industry. Initiated in California, the concept was adopted by the federal government and is now successful nationwide.

Companies whose managers and employees are working together to build comprehensive safety and health programs with proven performance levels are receiving local and national recognition through the VPP. Some states also offer the Safety and Health Achievement Recognition Program (SHARP), which provides an incentive for employers to develop a comprehensive injury and illness prevention program that involves employees in a significant way.

- **Arizona** adopted the VPP STAR program in 1995.
- **California** has eleven worksites participating in Cal/VPP, which also initiated a pilot project to certify non-fixed-site worksites of construction contractors.
- **Iowa** initiated a program in 1992.
- **Kentucky** certified its first VPP participant in August 1997.
- **Maryland** is the newest state to adopt state plan changes incorporating VPP. The program was developed after comprehensive pilot studies. Maryland has a site-specific agreement with Clark Construction Company on the Cambridge Hyatt resort in eastern Maryland. This is a cooperative partnership based on preliminary site surveys and review of records for both subs and the general contractor. MOSH has piloted several site-specific cooperative construction project agreements over the last three years.
- **Michigan** initiated Star and Merit VPPs, and in January 1998 these programs became available to the public sector.
- **Minnesota** has offered a program since 1996 that combines elements of VPP and SHARP. Thirteen participants have achieved MNSHARP status. Minnesota's VPP program MNSTAR was initiated in 1999; three MNSTAR certifications have been awarded. Large companies must agree to mentor two small businesses to be eligible for MNSHARP recognition.
- **North Carolina** initiated the "Carolina Star" program in 1993, recognizing companies whose lost workday case rate is 50 percent below the state average for that industry. Sixteen sites have received the award since 1994. The state is currently working on an additional recognition level for companies that exceed the minimum occupational safety and health requirements, yet have not satisfied the stringent Carolina Star requirements.
- **Oregon** developed a VPP program with the help of a joint labor-management committee in 1997. Oregon has awarded Star status—its highest recognition—to one site and Merit status to a second site. Twenty-one worksites have been awarded SHARP certificates, and seven of these earned second-year certificates. Over 100 more companies are working toward their SHARP designation, and Oregon hopes the SHARP recipients will also work toward VPP participation.
- **Puerto Rico** received and evaluated three applications to its VPP program during 1998. Two employers were certified in the Guanín, equivalent to Star, and one certified Cemí, equivalent to Merit. Puerto Rico also has a Taíno program designed for small businesses.
- **South Carolina's** Office of Voluntary Programs inaugurated the "Palmetto Star" in 1994.
- **Tennessee's** consultation team implemented the Volunteer Star, VPP and SHARP programs.
- **Virginia** launched VPP and SHARP initiatives patterned after OSHA's model in 1995.


Indiana


Iowa


Kentucky


Maryland


Michigan

- **Washington** has two VPP Star sites and three merit sites. Numerous other sites are working to submit applications.
- **Wyoming** has two employers in its "Cowboy Star and Merit" program. The first entrant was the City of Casper, the second is Chevron Production Company. Employers can also participate in the SHARP program, as well as Wyoming's unique Employer Voluntary Technical Assistance Program (EVTAP) that was begun in 1982.

Many state plan states are following federal OSHA's lead in providing electronic access to occupational safety and health information via the Internet, offering a wealth of program and reference information day and night. Users retrieve standards, policy manuals, information on appeal rights, public hearing notices and material safety data sheets from terminals in their workplaces, homes, schools and libraries. In some states the public can read proposed rule changes on the Internet and comment by e-mail. A directory of state plan Web sites is on the inside back cover of this report.

Partnerships:

States have maintained partnerships for many years with employer, employee and other organizations in a voluntary, cooperative, problem-solving relationship. States have jointly sponsored safety and health conferences and sought input from the occupational safety and health community on standards, initiatives and emphasis programs. Employer and employee training and outreach have been coordinated with other agencies and organizations that have expertise in a particular field.

Employers who reach a partnership agreement with federal OSHA or a state plan are not exempted from programmed inspections—the exemption is available only to employers who qualify to participate in the Voluntary Protection Program (VPP) and the Safety and Health Acheivement Recognition Program (SHARP).

In **Alaska** a partnership with fisheries is pending. In **Hawaii** partnerships with Associated Builders and Contractors, General Contractors' Association, and Dick Pacific provide a safe and healthful work environment for the state's construction work force. The **Minnesota** Workplace Safety Consultation has partnership agreements with five contractors on five large construction sites.

Kentucky organized a private, non-profit safety and health network with participants representing business, labor, government and academia. Their mission is to increase awareness of safety and health in the workplace through educational programs, scholarships and endowments, and statewide symposiums. Kentucky is the first state plan program entering into Platinum Partnership agreement with Associated Builders and Contractors.

Michigan signed a partnership agreement between MIOSHA and the Michigan Road Builders Association with the goal of assuring road and bridge worker safety. MIOSHA also signed an agreement with the Associated General Contractors of Michigan to achieve construction work force safety through shared goals and objectives. Both contracts are designed to further cooperation and communication, and evaluated to measure progress and set future goals.

New Mexico made Safety and Health Agreement Regarding Enforcement (SHARE) agreements with several of the state's largest highway contractors specific to the *Big I* construction project. Agreement length is three years with quarterly joint reviews and monthly self audits.

North Carolina worked with the North Carolina Forestry Association to reduce the number of tree felling fatalities through specific training initiatives. The NC Homebuilders Association and Carolinas'


Minnesota


Nevada


New Mexico


New York

North Carolina

Associated General Contractors also partnered with the state to reduce the construction fatality rate, and a two-hour safety seminar on fall protection was telecast to sites across North and South Carolina.

The following formed partnerships with **Oregon** OSHA to increase worker safety and health:

- American Society of Safety Engineers, Mid-Willamette Chapter—this partnership coordinates the Governor's Occupational Safety and Health Conference held every two years with industry-specific workshops and multiple sessions covering a broad range of industries.
- Oregon Pulp & Paper Workers Council of AWPPW, Labor and Education Research Center, Center for Research Occupational and Environmental Toxicology, PACE—this partnership coordinates the Pulp & Paper Workers Health and Safety Conference held annually with industry-specific workshops and multiple sessions covering topics related to the pulp and paper industry.
- Joint Emphasis Program (JEP)—this is a partnership with safety directors of participating construction companies in the Portland metropolitan area and apprenticeship training directors to develop training on construction-related topics. JEP is a cooperative effort of management, labor and government whose goals are to focus on hazards, design curriculum, provide training to safety personnel, foremen, supervisors and OR-OSHA staff, and to communicate the problems and solutions to the industry and public. Training has been presented on ladder safety and the revised respirator code.
- Central Oregon Safety & Health Association—this partnership coordinates the Central Oregon Occupational Safety and Health Conference held annually with workshops and multiple sessions covering a broad range of industries.

Tennessee OSHA is negotiating partnership agreements with several construction associations. Tennessee uses an approach that has yielded tremendous benefits: industry-TOSHA discussion groups when new standards and requirements are proposed, such as bloodborne pathogens, hazard communication, and electrical power generation, transmission and distribution standards.

Utah has had partnerships for many years with the Associated General Contractors, Utah Manufacturers' Association, the Local Trades Council, Utah Safety Council, Utah Farm Bureau Federation, the NIOSH regional educational center, Rocky Mountain Center for Occupational and Environmental Health, and other professional, safety and trade organizations to promote safety and health and help reduce injuries and illnesses. Utah appreciates their long-term working relationship with federal partners of the Salt Lake Technical Center's health response team, laboratory staff and computer experts—all of whom are a national resource for workplace safety and health.

Virginia's Safety Network programs link large businesses with small businesses to promote workplace safety through shared expertise and resources. Begun in 1993 as the Blue Ridge Safety Network, this program has grown to include eight local chapters covering nearly half of Virginia. Employers numbering 230 participate in the networks, which provided 39 training seminars in 1998.

The Hazard Impact Partnership (HIP) program is a **Washington** State Department of Labor and Industries' effort to help Washington businesses become safer workplaces. A cross-agency planning team agreed in 1998 that the new initiative must have agency-wide representation and coordination, be a joint effort with selected industries and labor, include small businesses, be realistic, implement agency priorities, and be able to be replicated. HIP focuses on industries rather than individual employers, uses data specific to the selected industry, develops mutual expectations and creates measurements to determine success.

Nursing homes are the first focus industry, with emphasis on reducing back and shoulder injuries. Participating nursing homes received up-front reductions in workers' compensation premiums to enable them to purchase equipment for a "zero-lift" environment. Participants already report reductions in lost


Oregon


Puerto Rico


South Carolina


Tennessee


Utah

workdays and improved resident comfort during transfers. During FY 2000 participants reduced back injuries 43 percent and shoulder injuries 61 percent.

During project startup the department produced two new publications, *Frequently Asked Questions about Portable Total Body Patient/Resident Lifts* and *Frequently Asked Questions about Sit-to-Stand Patient/ Resident Devices,* to encourage use of zero-lift technology in resident and patient care facilities—both are available on its Web site (see inside back cover). Other activities include: performing job modifications on open claims for nurses and nursing assistants; documenting best practices currently used in skilled nursing facilities and sharing the information throughout the industry; and evaluating the interventions to determine the effectiveness of each and which ones can be modified and replicated in other industries. The department's Safety and Health Assessment and Research for Prevention (SHARP) program received a NIOSH grant to complete this evaluation. WISHA provides technical expertise in risk management and occupational health and conducts annual site visits to participating nursing homes.

During FY 2000 Washington implemented a similar program for the sawmill industry. The sawmill HIP plan was developed by a joint work group that included agency staff, sawmill business owners and representatives, and organized labor. The project's first phase includes five volunteer demonstration sites that will identify causes of musculoskeletal disorders among lumber handlers, explore remedies and develop a core set of best practices. The second phase of the project will extend implementation of these best practices to sawmills region-wide.

Federal perspective:

Federal OSHA regards partnership programs as key to leveraging federal resources and expanding the use of best practices in occupational safety and health. The program officially began on November 13, 1998, when OSHA issued the policy directive *OSHA Strategic Partnerships for Worker Safety and Health*. OSHA has received positive feedback attesting to the viability of this approach.

OSHA offers employers a comprehensive partnership agreement in which each participating employer must commit to implementing an effective safety and health program. Many states have already adopted standards which require employers to implement and maintain a safety and health program that consists of management leadership and employee involvement as well as hazard analysis, prevention, control and training.

Financial incentives, awards, grants:

Business and labor organizations in **Washington** requested legislation to appropriate some of the state's medical aid fund for an occupational safety and health impact grant program. The medical aid fund is a portion of the workers' compensation system into which workers pay dividends, and its use must benefit workers. Approved by the 1999 Washington State Legislature, with $5 million appropriated for the first biennium and $5 million each successive year, the grant program is administered by the Department of Labor and Industries in consultation with the WISHA Advisory Committee.

The grants are intended to help prevent injuries and illnesses, save lives, and educate Washington employers and employees about workplace hazards and safe work practices. The program is particularly aimed at small businesses that lack the injury and illness prevention resources of larger companies. Using a competitive application process, grants can be awarded to trade and business associations, employers, employee groups or organizations and labor unions. Applicants can form partnerships with educational institutions and other organizations.

The four grant categories are: education and training; technical innovation to develop engineering


Vermont Virgin Islands Virginia Washington Wyoming

controls or other technical solutions for injury and illness problems; best practices for the application of hazard control; and innovative statewide programs to address safety and health. Nearly 200 applications with $38 million in requests were narrowed to 32 recipients with collective budgets totaling $4.7 million. The expected outcome and results of each project will be built into the grant contracts and monitored by staff to ensure completion of milestones. The projects reflect a diversity of Washington industries, companies, labor unions and government agencies.

Three **Indiana** companies received the inaugural Governor's Workplace Safety Award in March 1999 at the Hoosier Safety Council's 13th annual convention. The awards recognize the most innovative safety and health initiatives among Indiana's workplaces. All of the award recipients have taken a proactive stance to educate workers, develop new safety technology and forge partnerships to maintain a safe workplace. Sponsored by the state's Department of Labor, Bureau of Safety Education and Training in partnership with the Hoosier Safety Council, the awards salute companies who believe safety in the workplace should be the number one priority of every employer.

Oregon administers two grant programs for public and private sector employers to improve workplace safety and health. Training grants awarded for developing innovative educational programs are funded from the civil penalties paid by employers. The Oregon Worksite Redesign Program provides grants from workers' compensation funding sources to conduct research and development for worksite modifications designed to reduce nondisabling claims or preclude them from becoming disabling claims, to preclude on-the-job injuries from recurring, to reduce disability by returning injured workers to the job sooner, and to help injured workers remain employed.

Wyoming gives employers a 75 percent penalty reduction if they lower their workers' compensation claims 25 percent over a 12-month period, and offers employers a 50 percent penalty reduction if they fix hazards the same day. Another option is to waive all penalties if the employer agrees to work cooperatively with consultation for three years.

With a .25 percent workers' compensation premium tax the **Utah** Labor Commission promotes workplace safety and health through consultation, media outreach and workplace safety grants. **Puerto Rico's** Quick Fix program provides a 15 percent additional reduction in penalties for safety and health violations abated during the inspection. **Hawaii's** 5 percent workers' compensation premium discount is offered for workplace safety and health programs certified effective.

State-specific standards: nationwide models

The regulatory process can work more quickly at the state level, and state plan programs have set standards that have sometimes been a model and forerunner of standards later adopted or expanded by federal OSHA at the national level. Individual states and territories have promulgated standards addressing hazards specific to local industry, often involving labor and management representatives in the process.

Two examples of the ability of states to protect workers through standards addressing specific hazards are the ergonomic standards adopted by California and Washington, and the amendments to the bloodborne pathogen standard adopted by California, Alaska, Minnesota and Tennessee to protect

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workers from needlestick injuries. Other examples are permit requirements, crane regulations, state-specific logging standards, safety and health program standards and regulations on environmental tobacco smoke.

Permit requirements:

Alaska, **California**, **Hawaii**, **Iowa**, **Nevada** and **Virginia** have permit requirements for asbestos handling. Iowa requires businesses engaged in the removal or encapsulation of asbestos to hold a permit for that purpose, and asbestos workers must be licensed. California and Nevada require pre-job conferences for certain high-hazard construction projects.

California also requires permits before an employer may undertake the following work:

- Constructing trenches or excavations five feet or deeper and into which a person is required to descend.
- Construction or demolition of a building, structure, false-work or scaffolding more than three stories high.
- Constructing or dismantling vertical shoring systems more than three stories high.
- Helicopter operations during construction of a building or structure.
- Underground use of diesel engines in mines and tunnels.

Utah passed a bill in 1995 authorizing 0.25 percent, about $1 million of the workers' compensation premiums, for workplace safety and health programs including consultation and training. Utah uses pre-construction conferences extensively for large projects. A single point of contact helps customers with their questions and concerns.

Crane regulations:

California, **Hawaii**, **Nevada**, **Maryland**, **New Mexico**, **Oregon** and **Puerto Rico** have state-specific regulations on crane operations. Oregon requires certification for operators of cranes that are five tons or more. **Maryland** has a unique standard for personnel platforms suspended from cranes, derricks and hoists in general industry.

California inspects fixed and mobile tower cranes within ten business days of receiving an application for an operating permit. The Division of Occupational Safety and Health (DOSH) inspects tower cranes—including freestanding, climbing, mobile and self-erecting tower cranes—twice a year. DOSH must be notified 24 hours in advance whenever a tower crane begins operation, is climbed or dismantled—and when a mobile tower crane begins operation.

A crane certifier who tests, examines or certifies cranes and derricks in lifting service that exceed three tons rated capacity is required to be licensed by DOSH, or to be approved by DOSH as a surveyor to certify cranes under the authority and supervision of a licensed crane certifier.

Puerto Rico requires crane inspectors to be licensed by its Department of Labor and Human Resources. This regulation was signed by the Governor of Puerto Rico in April 2000 and covers the manufacture, installation, alteration and repairs of cranes, inspection and certification of cranes, issuance of licenses and applicant's requirements, expiration and renewal duties of licensed inspectors, maintenance of records and suspension.

Logging:

Alaska, **California**, **Minnesota**, **North Carolina**, **Oregon**, **Tennessee**, **Vermont**, **Virginia**, **Washington** and **Wyoming** have state-specific standards on logging practices. Many of these states developed comprehensive logging standards in the early 1970s. **Alaska** also developed safety codes for highline, tractor and helicopter logging.

Indiana Iowa Kentucky Maryland Michigan

Though **Minnesota** has not adopted state-specific standards for loggers, the Loggers' Safety Education Program administered by the Workplace Safety Consultation (WSC) Division provides safety training in eight-hour seminars throughout Minnesota. To receive workers' compensation premium rebates from the state's Targeted Industry Fund, logger employers must maintain current workers' compensation coverage, and they or their employees must have attended during the previous year a logging safety seminar sponsored or approved by the WSC Division.

North Carolina has a longstanding partnership with the North Carolina Forestry Association that includes training on tree felling safety, Logging Demo Day, Forestry Day, and participation in annual regional meetings of arborists and tree trimmers. The Southern Chapter of the International Society of Arboriculture assisted the state in achieving its strategic goal of reducing fatalities relating to tree felling.

Since 1998 **Virginia** has implemented a local emphasis program on logging as a cooperative effort among the West Virginia and Virginia area offices of federal OSHA, and other state and federal forestry agencies and associations.

With the assistance of an advisory committee of logging representatives, the **Washington** logging standard was adopted in a clear-rule writing style and updated to meet current industry needs. The scope of the standard was expanded to cover log road construction and other forest activities that use logging machinery and power saws. Under the revised standard each worksite must have at least one serviceable, operable two-way radio, phone or radio/phone combination available to reach emergency services. The regulation went into effect December 1999.

Confined space:

In 1973 **Washington** developed a confined space standard covering all industries. **Utah** developed confined space entry requirements for farming operations in 1987. Before federal OSHA adopted its 1993 permit-required confined space standard, **Virginia** had maintained confined space standards for the general, construction and telecommunications industries since 1987.

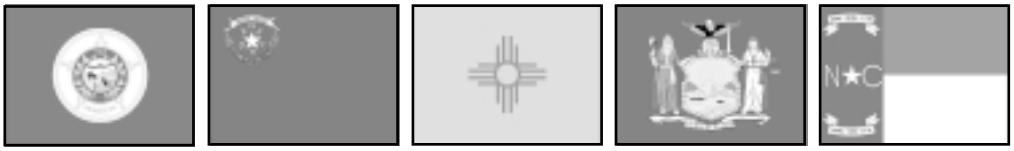
In 1988 **Minnesota** adopted a confined space entry standard for construction and general industry that classifies all confined spaces from Class I, least hazardous, to Class III, most hazardous. Class I permits are issued annually, Class II and III permits at the time of entry.

Hazcom right-to-know:

Many states had right-to-know laws before federal OSHA implemented the hazard communication standard in 1984. Although the national standard initially covered only manufacturing and later expanded, in **Tennessee**, labor, management, TOSHA, and the Tennessee General Assembly cooperated to expand coverage to all workers. The standard requires initial and annual retraining of employees, information to be given to TOSHA and to the public upon request, and notification and warning to firefighters to allow better response to emergencies involving hazardous substances. TOSHA personnel visited all employers in Standard Industrial Classification codes 20-39 who failed to submit required chemical lists. With this additional effort, over 98 percent of employers responded.

Minnesota's employee right-to-know law adopted in 1983 covers more than hazardous substances. It also covers harmful physical agents—such as noise, heat, ionizing and non-ionizing radiation—and infectious agents. MNOSHA has required training on all infectious agents, including bloodborne pathogens, since 1983.

Alaska's hazard communication regulations cover noise and radiation in addition to workplace chemicals and hazardous physical agents. Alaska also publishes physical agent data sheets describing the hazards for employers.



Minnesota Nevada New Mexico New York North Carolina

Michigan covers piping systems containing hazardous substances, and requires employers to post employee notices on where material safety data sheets (MSDS) are kept, who to contact to review the MSDS, and notification when a new chemical hazard is introduced in the workplace.

From its inception in 1988, **Iowa's** right-to-know legislation covered all industry sectors, including construction, as well as right-to-know laws for the general public and in public emergency response. **California** maintains an information system that alerts employers and workers to the dangers of toxic substances in the workplace.

Lead in construction:

Maryland adopted a comprehensive lead-in-construction standard in 1983 combining information, education and enforcement to protect construction workers. The state also requires laboratories to report high blood-lead levels. **Virginia** adopted a regulation to monitor lead contractors' compliance with state and federal requirements for removal and disposal of lead.

Petroleum:

Utah adopted standards in 1980 that cover all types of oil and gas well drilling and servicing. **Wyoming** set regulations in 1970 covering oil and gas well drilling and servicing, and expanded its coverage in 1984 to include special servicing. **Alaska** also developed unique safety codes for the petroleum industry.

High voltage:

Vermont's standard for electric power generation, transmission and distribution requires two qualified lineworkers whenever energized lines and equipment are involved. There are limited exceptions for work done in emergency situations and from bucket trucks. The standard also requires contractors to certify their lineworkers as qualified and to provide this information to utilities prior to starting work.

Virginia's Overhead High Voltage Line Safety Act requires employers to work with the owners of overhead power lines to de-energize or guard power lines against accidental contact while work is being conducted around such lines. This standard includes employee training requirements.

Off-highway vehicles:

Recognizing that the hazards of off-highway vehicles exist in industrial settings as well as on construction sites, **Kentucky** adopted safety standards for off-highway motor vehicles and equipment used in general industry locations. **Minnesota** adopted a standard in 1999 to provide protection to operators and ground crews working with and around mobile earthmover equipment on construction sites.

Cold weather shelter:

Because **Minnesota's** climate can adversely affect working outdoors at certain times during the year, Minnesota adopted a unique job-site shelter standard in 1978 that requires employers to provide heated privies and shelters for employee mealtimes and clothing change when working in cold weather.

Farm labor housing:

Every **California** employer operating a labor camp is required to obtain a permit issued by the Department of Housing and Community Development (DHCD) or by a local government agency authorized to issue such permits. The employer must post or have available a valid and current permit. DHCD makes pre-occupancy inspections as part of the permit process. After occupancy, inspections are made in response to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complaints. Cal/OSHA cites the employer when a permit is lacking, and makes a referral to DHCD.

California's Targeted Industries Partnership Program (TIPP) combines and coordinates resources from state, federal and local agencies to enforce labor laws and educate employers and their employees. TIPP currently targets the garment manufacturing, restaurant and agricultural industries, which have long histories of labor law, employment tax and safety and health violations. TIPP's four lead agencies—the state Division of Labor Standards Enforcement, Division of Occupational Safety and Health, Employment Development Department, and the U.S. Department of Labor's Wage and Hour Division—develop TIPP's agenda and recruit other state and local agencies to participate in that agenda. TIPP has coordinated up to twelve agencies in a single enforcement action.

TIPP began operating in November 1992 as a joint enforcement and educational outreach program charged with bringing about compliance with state and federal labor laws. Many employees are recent immigrants without access to information concerning their rights as workers, or to the agencies that can help them with their wage and hour problems. Recognizing that farm workers who labor in fields remote from government agencies need special accommodation for their grievances, TIPP set up a toll-free telephone hotline staffed by bilingual professionals to receive farm worker questions and complaints.

Many businesses that violate the laws do so out of ignorance of their responsibilities as employers. As part of TIPP's educational effort, after each inspection all the TIPP partners participate in a conference with the employer to disclose their findings and answer questions regarding the laws that TIPP enforces. During the inspection, TIPP investigators routinely interview the workers to answer their questions and to ascertain whether the employer is complying with the wage, safety and health laws.

For over 20 years **North Carolina** has been a leader in committing resources to provide protection for agricultural workers. The Agricultural Safety and Health Section of the North Carolina Division of Occupational Safety and Health conducts pre-occupancy inspections of migrant housing, and enforces OSHA regulations after the housing has been occupied. North Carolina adopted a field sanitation standard in 1983 that covers all migrant and seasonal farm workers, regardless of the number of employees engaged in hand labor operations in the field.

Oregon issues raised by OR-OSHA stakeholders during the 1999 growing season precipitated changes to the agricultural labor housing regulations. Committee members representing labor, the agricultural community, elected officials and affected state agencies revised regulations on housing and related facilities. Some of the changes are:

- One-room living areas no longer need a second emergency exit.
- Owners will not be cited for the housekeeping practices of housing occupants.
- Recyclable materials that are returnable for a refund are not considered garbage or refuge.
- Operators must post street numbers to be visible from the street to emergency vehicles.
- Requirements for toilets, handwashing and bathing facilities must be posted on the unit.

Effective October 1, 2000, housing operators are required to provide a mattress or pad for any bed or bunk, and the bed or bunk must keep the mattress at least six inches off the floor. Each unit is required to have a working smoke detector at the time of initial occupancy. Tents must be either made of or treated with flame-retardant materials.

The 1999 **Washington** state legislature passed legislation requiring the Department of Labor and Industries and the Department of Health to adopt joint rules for the licensing, operation and inspection of temporary worker housing. The departments were required to establish a formal agreement identifying the roles of each agency with respect to enforcement of temporary worker housing rules.


Vermont


Virgin Islands


Virginia


Washington


Wyoming

The state departments working together with the U.S. Department of Labor, worker advocates and the agricultural industry developed regulations that will improve housing conditions for farm workers living in temporary on-farm housing during the harvest seasons. The single set of standards will be enforced by both agencies, avoiding the confusion in past years. The new rules will be stable and predictable so that growers and workers alike know what to expect.

Virginia's field sanitation standard for agriculture ensures the availability of drinking water for all employees regardless of the number.

Workplace-specific safety & health programs

Statistics show that many occupational accidents and illnesses are preventable through an effective safety and health program. For a workplace program to be effective, the employer should develop a comprehensive plan emphasizing both management commitment and employee participation. Development and conscientious implementation of such a program should result in lower injury, illness and fatality rates along with lower workers' compensation costs.

Safety and health programs further the goal of changing the workplace environment to increase employer and worker awareness of, commitment to, and involvement in safety and health. Federal OSHA has 70 partnerships with 4,600 employers nationwide that stress the importance of employer and employee commitment to developing a safety culture which becomes an integral part of operations.

Alaska, **California**, **Connecticut**, **Hawaii**, **Minnesota**, **Nevada**, **New Mexico**, **North Carolina**, **Tennessee** and **Washington** require employers to develop and maintain comprehensive safety and health programs—which contain the elements of worksite analysis to identify actual and potential hazards, technical and administrative control of the hazards, and training for all personnel, including supervisors and managers.

California law requires all employers to set up effective written injury and illness prevention programs. Employers must conduct periodic worksite inspections to identify unsafe conditions and work practices, and eliminate any hazards found.

Minnesota requires employers in industries with high injury and illness incidence and severity rates to develop a written workplace safety and health program. Employers of 25 or more employees are required to establish a joint labor-management safety committee, and those with fewer than 25 employees must establish a committee if their pure premium rate is in the top 25 percent for all classes.

Washington requires every employer to develop a written plan addressing the hazards of that business. The plan must include a safety and health committee of employer and employee representatives, and employee training in safe work practices. The state's video, *Staying a Step Ahead,* helps employers and their employees establish accident prevention programs on their own without waiting first for on-site consultation.

Hawaii requires written safety and health programs at all businesses. **Nevada** requires a written safety program of employers with 11 or more employees, and employers with more than 25 employees must have a safety committee. **North Carolina** requires employers with a high rate of workers' compen-

Alasaka Arizona California Connecticut Hawaii

sation claims to have written safety and health programs, and to establish formal safety and health committees. **Oregon** requires labor-management workplace safety and health committees for most employers in the state.

Laws: violations causing worker death or serious injury

Arizona, **California**, **Iowa**, **Maryland**, **Minnesota**, **North Carolina, Oregon** and **Virginia** laws provide for additional penalties regarding violations that result in worker deaths or serious injuries.

Virginia law provides criminal penalties up to $70,000 or imprisonment up to six months or both for the first occurrence of any willful violation that causes the death of an employee. A second occurrence can double both the fine and length of sentence. Virginia's policy is to recommend criminal prosecution for manslaughter against any person whose flagrant, culpable and wanton violation of VOSH laws results in the death of an employee. Virginia has successfully prosecuted a criminal willful violation and a manslaughter charge. A $7,000 penalty is assessed for a serious fatality-related violation, a $70,000 penalty is assessed for a repeat or willful fatality-related violation, and no adjustments are made.

Arizona statute directs the Industrial Commission to assess an additional $25,000 penalty against any employer for each employee who suffers permanent disability or death as the result of a willful or repeated OSH violation. The following provisions must be met: the citation was a final order; workers' compensation benefits were paid as a result of the employee's permanent disability or death; and the OSH violation did not result from employee disobedience. The additional penalty is paid to injured employees or their dependents.

During its 2000 session, the Legislature amended the **Minnesota** Occupational Safety and Health Act by increasing the minimum penalty assessed in cases where a violation causes or contributes to the death of an employee. The minimum non-negotiable fine for all citations connected to the death of an employee if there is a willful or repeat violation is $50,000. If there is no willful or repeat violation, the minimum fine is $25,000. The legislation went into effect July 2000.

In **Iowa** a case in which an employee died after falling about 60 feet from a communication tower under construction has been referred to the County Attorney's office for criminal willful proceedings. **Oregon** law provides for a civil penalty of up to $10,000 or imprisonment up to six months or both, if a willful violation of the OSHA Act materially contributed to the death of an employee.

California law provides that if a repeat or willful violation caused death or serious injury, illness or exposure, the penalty is not reduced for any reason other than size of employer and no abatement credit is given. Legislation provides that any employer or employee who has direction or management of any place of employment or employee, and who willfully violates any occupational safety or health standard, order, special order or Section 25910 of the Health and Safety Code—and that violation caused an employee's death or permanent/prolonged bodily impairment—is guilty of a public offense. The penalty is county jail imprisonment up to one year or a fine of up to $100,000 or both—or state prison for 16 months to three years or a fine of up to $250,000 or both. If the defendant is a corporation or limited liability company, the fine may not exceed $1,500,000.


Indiana


Iowa


Kentucky


Maryland


Michigan

If the conviction is for a violation committed within seven years of a conviction under subdivision (b), (c) or (d) of Section 6423 or subdivision (c) of Section 6430, the penalty is state prison for a term of 16 months to three years or a fine of up to $250,000 or both. If the defendant is a corporation or limited liability company, the fine can range from $500,000 to $2,500,000.

If the conviction is for a violation committed within seven years of a first conviction of the defendant for any crime involving violation of subdivision (a), the penalty is imprisonment in state prison for two to four years or a fine of up to $250,000 or both. If the defendant is a corporation or limited liability company, the fine can range from $1 million to $3,500,000.

Targeting, emphasis & cooperative compliance programs

A number of state plans have site-specific targeting data available from their state workers' compensation system. The foundation of an effective enforcement program is the ability to target workplaces with the most hazardous conditions, and state plans use a variety of data sources to direct their enforcement and consultation efforts toward businesses with a high rate of preventable injuries and illnesses. Site-specific claims history rather than industry-wide data is a better indicator of worksite safety and health deficiencies.

States may also participate in the federal OSHA Data Initiative to collect data from individual employers for targeting high-risk worksites. The Data Initiative gives OSHA a new targeting tool: the ability to determine the lost-workday injury and illness (LWDII) rate for every employer included in the sample.

The annual survey has been mailed since 1996 to 80,000 employers in non-construction industries. To verify the accuracy of information submitted, OSHA audits a sample of employers. From the information submitted by employers in the Data Initiative, each state determines its cut-off rate for site-specific targeting inspections. For example, in 1999 federal OSHA targeted workplaces with an LWDII rate above 16. The national LWDII rate for 1997 and 1998 was about 3, three injuries or illnesses resulting in lost workdays for every 100 full-time workers.

Washington was the first state in the nation to have both an exclusive state fund workers' compensation system and an OSH program, WISHA, in the same agency. This provides an unequaled opportunity to use injury, illness and claims data to identify hazardous industries and problem employers. WISHA targets employers for services coordinated by enforcement, consultation, education and training, and risk management.

In 1994 **Wyoming's** state plan operation combined with its workers' compensation system, allowing it to target based on company-specific information. To schedule compliance visits, Wyoming uses data such as cost of claims and the number of claims compared to size of employment.

Oregon's Department of Consumer and Business Services administers workers' compensation laws, a non-exclusive state fund, and workplace safety and health programs. For workplace inspections, OR-OSHA merges workers' compensation claim data with state employment data, targeting employers with accidents.

Utah's Labor Commission administers a workers' compensation system and non-exclusive state fund, resulting in accessible information for effective targeting of industries and employers. **Vermont** uses

workers' compensation data to develop a safety inspection schedule, using information on the total number of injuries, the number of lost-time injuries, and employment at the firm. **North Carolina** and **Arizona** have also developed inspection targeting programs that use workers' compensation data to identify individual employers with high rates of claims.

Michigan pioneered a general industry safety inspection scheduling program that relies on survey data as well as site-specific injury information. Michigan also responded with a special emphasis program to two catastrophic explosions at a single fireworks manufacturer that killed 12 employees, including the owner. The MIOSHA program was initiated to inspect manufacturers of fireworks and other explosives for safety and health hazards. As a result of the inspections and fatality investigations, 88 serious and 52 other-than-serious violations were cited with proposed penalties of $794,600. This was a joint effort of the Occupational Health Division and General Industry Safety Division, and training was held for the compliance staff prior to the inspections.

A special *Fireworks Safety Seminar* co-sponsored by MIOSHA's Safety Education & Training Division was conducted to alert other employers in this industry to the hazards and to prevent comparable occurrences. Invitees included 27 companies in Michigan. Workshops were given by MIOSHA, the Michigan State Police Fire Marshal Division, and the Michigan State Police Motor Carrier Division. Representatives from the federal Bureau of Alcohol, Tobacco and Firearms and the CIS Office of Fire Safety served on a panel of experts at the seminar's conclusion.

Minnesota OSHA initiated a local emphasis program in 1997 to address perchloroethylene exposures in industry. A number of companies were randomly selected for inspection from a list of drycleaners and other industries reporting large use of perchloroethylene to the Minnesota Pollution Control Agency. In 1998 Minnesota added a local emphasis program for automobile body repair shops following review of IMIS (Integrated Management Information System) data revealing that more than half of all automobile repair shops inspected by Minnesota had received a citation, and that most of the citations were for multiple violations. Hazards most frequently found in auto body shops include isocyanate exposures, flammability hazards and deficient spray booths.

The Minnesota First program began in 1996 for high injury rate employers with 100 or more employees. The program combines the core elements of partnership, employee involvement, and safety and health program development toward the goal of reducing injuries, illnesses and hazards in the inspected workplaces. Employers who develop an action plan and improve their safety and health program are eligible for penalty reductions of up to 70 percent, a two year exemption from general schedule inspections, and access to a safety and health consultant for the length of the action plan. During the first four years of the program, the Minnesota First team conducted an average 34 inspections. The list of possible participants for 1999 included 89 employers.

In 1995 **Puerto Rico's** PROSHO started a local emphasis program (LEP) for toxic gas release to identify and provide assistance to employers whose industrial activities expose or may expose employees to serious hazards related to toxic gas. Under PROSHO's 1999 annual performance plan, LEPs will be started for trenching and excavation, tunneling and urban trains. In a PROSHO LEP on bloodborne pathogens exposure in clinic and reference laboratories covering 677 establishments identified by the Board of Medical Technicians, emphasis is on the severity of violations to the regulations.

Indiana implemented an LEP on scaffolding that proved very successful in identifying and controlling hazards. The typical scaffold LEP inspection now has four times the average number of serious violations compared to previous similar inspections.


Oregon


Puerto Rico


South Carolina


Tennessee


Utah

Iowa is formulating a cooperative compliance program that will take advantage of both their consultation and enforcement sections to better serve Iowa's employers and employees.

In 1998 **Virginia** implemented the Virginia Compliance Alternative Partnerships (CAP) program, which targets employers with the highest workplace injury and illness rates, seeking cooperative agreements with employers to work toward the goal of a safer and more healthful workplace. A pilot program was tested and the program is being refined with input from Virginia's business and labor communities.

California's Cal/OSHA received funding under workers' compensation reform for an expanded targeted inspection program, and a targeted consultation program with a more proactive focus. Consultation visits are offered to high-hazard employers as an alternative to targeted inspections. The targeted consultation program emphasizes reducing the number of repetitive motion injuries (RMIs), including back injuries, and has developed model injury and illness prevention training programs to prevent RMIs.

Cal/OSHA's lead-in-construction special emphasis program success was followed by broader emphasis programs in the agriculture and construction industries. ASHIP, the Agricultural Safety and Health Inspection Project, was launched in 1999. This emphasis program is designed to compensate for the fact that agricultural production is one of the most hazardous industrial activities in California, yet few complaints are made by agricultural workers. During the summer and fall peak production seasons a large number of employees are exposed to serious hazards, which include machinery-related accidents such as tractors, field sanitation hazards such as absence of toilet and drinking water facilities, heat stress, back injuries from using short-handled agricultural tools, and skin conditions such as lacerations from exposure to pruning knives and dermatitis from exposure to soil contaminants.

Resolving discrimination against workers reporting hazards

According to federal OSHA records, **Michigan's** Employee Discrimination Division (EDD) has the fastest resolution time in the nation. Complaints are normally settled within three months. One case that went to the Michigan Supreme Court clearly shows the total commitment of the MIOSHA program to protect employee rights. In 1991 the case was investigated by EDD, which determined a dismissed employee should be reinstated with full seniority and back pay including interest. The company appealed the decision first to the department's Office of Hearings, then to Wayne County Circuit Court, next to the Michigan Court of Appeals, and finally the Michigan Supreme Court. Eight and a half years later the case was finally resolved, and it was determined the company would issue to the employee two payments totaling $40,000 including interest. Though this case is not typical, during every step of the proceedings, there was judicial and administrative support for the protection of employee rights.

Kentucky's uniquely structured system for addressing discrimination against employees who exercise their rights under the safety and health statutes includes reinstatement under order of the Secretary, pending litigation outcome. Citations and penalties up to $10,000—in addition to reinstatement and back pay to the employee—may be assessed against employers who have discriminated. Cases are appealed through the Kentucky Occupational Safety and Health Review Commission. Under Kentucky law, liens may be placed against employers who are in violation of any requirement of the Kentucky safety and health statutes, once administrative and judicial appeals have been exhausted.


Vermont


Virgin Islands


Virginia


Washington


Wyoming

Settlement agreements set precedents

Settlement agreements have been used by **Indiana**, **Kentucky**, **Oregon**, **South Carolina**, **Tennessee**, **Utah**, **Vermont** and **Virginia** at either the pre-citation or post-contest level. Historic settlement agreements were negotiated by **Michigan**, **Washington** and **California** in 1999, and **Oregon** negotiated 27 settlement agreements.

The **Michigan** Department of Consumer and Industry Services (CIS) concluded its seven-month investigation of a fatal explosion at the Ford Rouge Complex power plant with an unprecedented $7 million settlement agreement with Ford Motor Company and the UAW. One of the worst automotive industry accidents in Michigan, the February 1999 explosion in the power plant at the Ford Rouge Complex in Dearborn resulted in the death of six workers and serious injury to 14 others.

The unique and innovative resolution included a record $1.5 million penalty, the largest monetary sanction ever levied in Michigan as a result of a MIOSHA investigation. Other elements of the $7 million agreement were: $1.5 million for programs to achieve lasting improvements in safety; $1 million for research to increase understanding of industrial safety and health; $1.5 million for medical research; $1 million for a scholarship fund; and $500,000 potential reimbursement to MIOSHA for costs associated with third-party litigation.

This settlement agreement was historic in many aspects, including size of penalty. The scope of the agreement goes beyond the boundaries of the Ford Rouge Complex. Establishing significant safety and health research, monitoring and training programs will help Ford provide a safe working environment for its employees nationwide. Both Ford and the UAW came independently to MIOSHA to seek a constructive resolution. Because all three parties creating the agreement came together voluntarily, the non-adversarial environment produced a common goal of protecting workers and improving workplace safety.

In **Washington** during FY 1999 following two unrelated fatality investigations in different industries, the Washington State Department of Labor and Industries negotiated settlement agreements that were unprecedented in the history of state-administrated occupational safety and health programs, and ranking among the top compliance agreements ever obtained by federal OSHA. The combined settlement terms exceed $6.9 million, including a total of $1.7 million in penalties.

In November 1998 six workers at the Equilon-owned refinery in Anacortes, Washington died in a fire as they were attempting to restart the delayed coking unit after a storm had interrupted power and shut down refinery operations the previous day. The tragic event marked the worst industrial catastrophe since the Department of Labor and Industries began enforcing the Washington Industrial Safety and Health Act (WISHA) more than 26 years ago.

WISHA concluded its six-month investigation in May 1999, with an unprecedented $4.4 million compliance agreement designed to make the Equilon-owned refinery safer and more healthful for workers. Equilon Enterprises is a joint operation of Shell and Texaco. The innovative settlement, future-focused in approach, included a record $1.1 million penalty, the highest penalty that had ever been assessed by a state program, and among the largest penalties issued nationwide.

In addition to paying the penalty and correcting deficiencies found in the investigation, Equilon agreed to: hire an independent consultant to conduct a comprehensive audit for compliance with process safety management requirements throughout the refinery and to correct all identified deficiencies, at a total cost of at least $350,000; donate $1 million to the union's Fallen Worker Scholarship Fund in memory of the six workers; promote lasting improvements in workplace safety and health beyond the refinery by donating $350,000 to the City of Anacortes for a new ladder/pumper fire engine; and donate an additional $1 million to an educational organization within the state for establishing a Workplace Safety and Health Institute. The agreement calls for the Department of Labor and Industries, Equilon, and the Paper,

Alaska Arizona California Connecticut Hawaii

Allied-Industrial, Chemical and Energy Workers International Union Local 8-591 to jointly identify the educational organization and work with it to develop a governing structure and operating mission.

In September 1999 WISHA concluded its investigation of a fatal fall at an aircraft maintenance plant with a $2.5 million compliance agreement. The previous March a 64-year-old worker at the Paine Field, Everett facility fell from a portable stairway stand used for access to airliners and died five days later of head trauma. WISHA's agreement with the B.F. Goodrich Aerospace MRO Group, the largest aerospace maintenance, repair and overhaul facility in the country, calls for: payment of a $600,000 penalty; an $800,000 investment to promote worker and community safety; the company's acknowledgment that nine worker safety rules were violated, one willfully; the company to make $1.1 million in safety improvements beyond what is required for correcting the violations, including a third-party audit to verify compliance with the agreement.

These creative and significant enforcement actions provide immediate and ongoing benefits to Equilon and B.F. Goodrich workers. The agreements provided for timely abatement of hazards and eliminated protracted legal battles that would have held compliance and abatement in limbo pending outcome of the conventional enforcement and appeal process. The settlement terms send a strong message to all employers that workers' lives will not be compromised.

In **California** Cal/OSHA spent six months on an exhaustive investigation of the February 1999 Tosco refinery accident that killed four workers and seriously injured a fifth. The division's investigations found that Tosco failed to shut down the naphtha piping operations prior to maintenance work that involved cutting into and removing a portion of the line. As a consequence, naphtha flowed through the line onto hot surfaces of the adjoining fractionator tower and ignited, causing a fire that spread up and down the tower and engulfed the four workers.

The Cal/OSHA team coordinated its on-site investigations with federal OSHA and the U.S. Chemical Safety and Hazard Investigation Board, Bay Area Air Quality Management District and Contra Costa County Department of Health Services. Cal/OSHA cited Tosco Refining Company for 33 alleged violations of state workplace safety and health regulations. The total amount of the proposed penalties was $810,750—the highest penalty amount ever issued against a single employer by Cal/OSHA. The division conducted a concurrent criminal investigation through its Bureau of Investigations, and the case was referred to the district attorney's office for prosecution.

The Contra Costa County District Attorney filed criminal charges against Tosco, which pleaded no contest and agreed to pay the maximum fine of $945,000. In addition, Tosco reimbursed Contra Costa County up to $100,000 for its investigative and legal costs. Tosco offered to contribute $1 million to the county to aid in development of the Los Medanos Health Clinic, which the county had identified as a needed facility because of recent closure of Los Medamos Community Hospital.

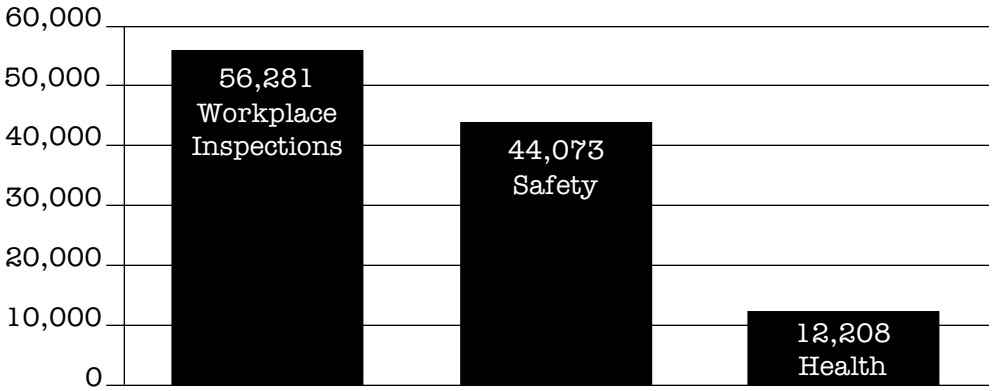
Tosco shut down the Avon Refinery in March 1999 at the request of the Contra Costa County Board of Supervisors while county, state and federal agencies conducted their investigations. A safety consultant hired by the county found serious shortcomings in the refinery's safety emphasis and labor-management communications, and Tosco agreed to implement 72 recommendations aimed at improving its operations. The plant reopened in July 1999 and was subsequently sold.

Oregon is expanding its use of conditional settlement agreements in which the employer is granted reduced penalties in exchange for agreeing to specific conditions. In FY 1999, 27 agreements were reached. Though conditions of the agreements vary widely depending on the employer and violations involved, many agreements require employers to use OR-OSHA consultation services, develop or improve current safety and health programs, or provide specific employee training.

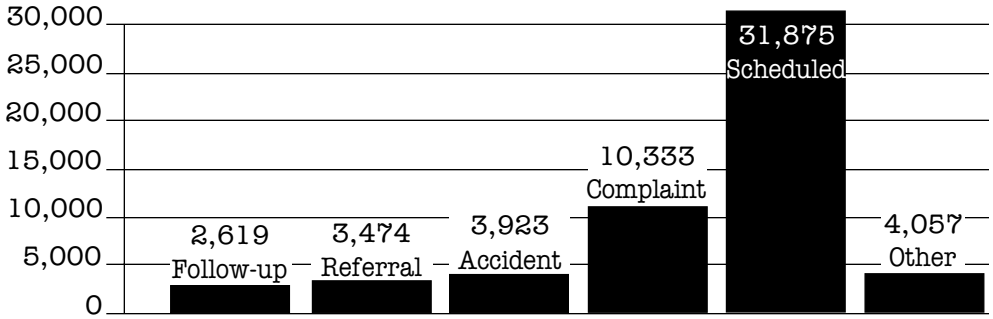
Indiana Iowa Kentucky Maryland Michigan

State Plan Statistics:

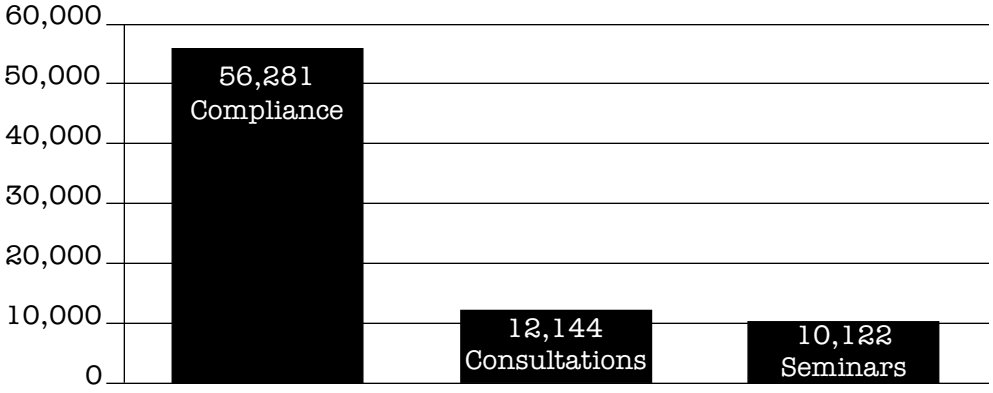
FY 99 Compliance Inspection Totals



FY 99 Compliance Inspections by Type



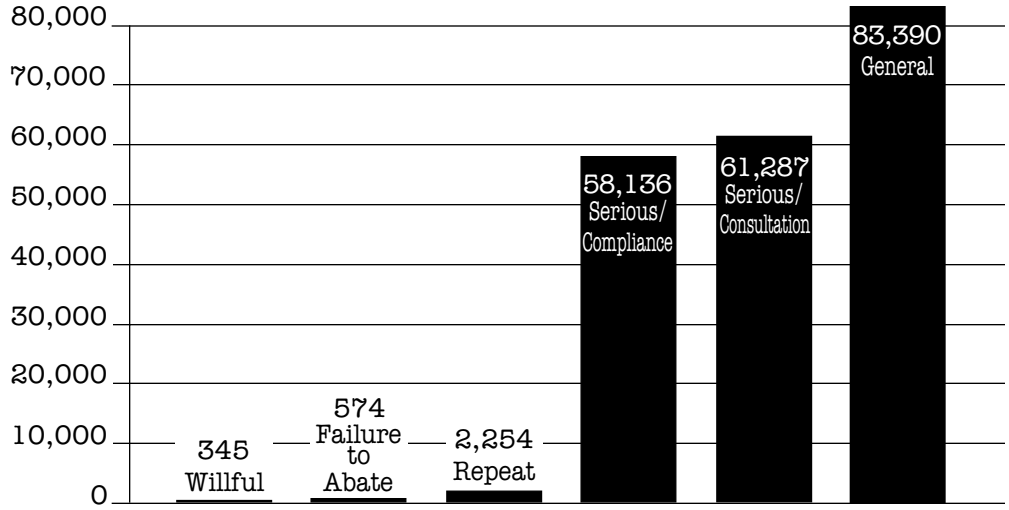
FY 99 On-site Visits by Type



Minnesota Nevada New Mexico New York North Carolina

October 1, 1998—September 30, 1999

FY 99 Violation/Hazard Totals



Average Number of Violations per Inspection	3.55
Total Penalties Assessed	$ 59,384,441
Average Penalty per Serious Violation	$ 695
Percentage of Inspections with No Violations	28 percent
Total Number of Contested Cases	5,773
Percentage of Inspections with Citations Contested	14 percent

Total **Employers** Covered	**3,288,028**
Private Sector Employers	3,183,572
Public Sector Employers	104,456
Total **Employees** Covered	**53,211,536**
Private Sector Employees	44,742,525
Public Sector Employees	8,469,011

FY 99 State Plan Expenditure Totals & Positions by Type

Federal 23(g) Enforcement Funds	$ 80,326,650
State 23(g) Enforcement Funds	$ 107,751,192
Federal 21(d) Consultation Funds	$ 16,947,942
State 21(d) Consultation Funds	$ 10,714,062
Safety Compliance Staff	816
Health Compliance Staff	498
Safety Consultation Staff	237
Health Consultation Staff	166
Training and Education Staff	113

Oregon Puerto Rico South Carolina Tennessee Utah

State Plan Directory

Alaska Department of Labor
P.O. Box 21149
Juneau, AK 99802-1149
Program Phone: 907-465-4855
Fax: 907-465-3584

Industrial Commission of **Arizona**
800 W. Washington
Phoenix, AZ 85007-2922
Program Phone: 602-542-5795
Fax: 602-542-1614

California Department of Industrial Relations
P.O. Box 420603
San Francisco, CA 94142-0603
Cal/OSHA Program Phone: 415-703-5100
Fax: 415-703-5135

Connecticut Department of Labor
38 Wolcott Hill Road
Wethersfield, CT 06109
Conn-OSHA Program Phone: 860-566-4550
Fax: 860-566-6916

Hawaii Department of
Labor and Industrial Relations
830 Punchbowl Street
Honolulu, HI 96813
Program Phone: 808-586-9116
Fax: 808-586-9104

Indiana Department of Labor
402 West Washington Street, Room W195
Indianapolis, IN 46204-2751
Program Phone: 317-232-3325
Fax: 317-233-3790

Iowa Division of Labor
1000 E. Grand Avenue
Des Moines, IA 50319-0209
Program Phone: 515-281-3469
Fax: 515-281-7995

Kentucky Labor Cabinet
1047 U.S. Highway 127 South, Suite 4
Frankfort, KY 40601
Program Phone: 502-564-3070 ext.240
Fax: 502-564-1682

Maryland Division of Labor and Industry
Department of Labor, Licensing and Regulation
1100 North Eutaw Street, Room 613
Baltimore, MD 21201-2206
MOSH Program Phone: 410-767-2215
Fax: 410-767-2003

Michigan Department of
Consumer and Industry Services
Bureau of Safety and Regulation
P.O. Box 30643
Lansing, MI 48909-8143
Program phone: 517-322-1814
Fax: 517-322-1775

Minnesota Department of Labor and Industry
443 Lafayette Road
St. Paul, MN 55155
OSHA Program Phone: 651-296-2116
Fax: 651-297-2527

Nevada Division of Industrial Relations
400 West King Street, Suite 400
Carson City, NV 89703
Program Phone: 775-687-3032
Fax: 775-687-6305

New Jersey Department of Labor
Market and Warren Streets
P.O. Box 110
Trenton, NJ 08625
Program Phone: 609-292-3923
Fax: 609-292-4409


Vermont


Virgin Islands


Virginia


Washington


Wyoming

New Mexico Environment Department
P.O. Box 26110
Santa Fe, NM 87502
Program Phone: 505-827-4230
Fax: 505-827-4422

New York Department of Labor
W. Averell Harriman State Office Building – 12
Room 500
Albany, NY 12240
Program Phone: 518-457-3518
Fax: 518-457-6908

North Carolina Department of Labor
4 West Edenton Street
Raleigh, NC 27601-1092
OSH Program Phone: 919-807-2863
Fax: 919-807-2856

Oregon Occupational Safety and Health Division
Department of Consumer & Business Services
350 Winter Street NE, Room 430
Salem, OR 97310-0220
Program Phone: 503-378-3272
Fax: 503-947-7461

Puerto Rico Department of
Labor and Human Resources
505 Munoz Rivera Avenue
Hato Rey, PR 00918
Program Phone: 787-754-2119/2171
Fax: 787-767-6051

South Carolina Department of
Labor, Licensing, and Regulation
P.O. Box 11329
Columbia, SC 29211
Program Phone: 803-734-9644
Fax: 803-734-9772

Tennessee Department of Labor
710 James Robertson Parkway
Nashville, TN 37243-0659
Program Phone: 615-741-2793
Fax: 615-741-3325

Utah Labor Commission
P.O. Box 146650
Salt Lake City, UT 84114-6650
Program Phone: 801-530-6901
Fax: 801-530-6390

Vermont Department of Labor and Industry
National Life Building – Drawer 20
Montpelier, Vermont 05620-3401
Program Phone: 802-828-2765
Fax: 802-828-2195

Virgin Islands Department of Labor
2203 Church Street
Christiansted, St. Croix, VI 00820-4660
Program Phone: 340-772-1315
Fax: 340-772-4323

Virginia Department of Labor and Industry
13 South 13th Street
Richmond, VA 23219
Program Phone: 804-786-2377
Fax: 804-371-6524

Washington Department of Labor and Industries
P.O. Box 44600
Olympia, WA 98504-4600
Program Phone: 360-902-5430
Fax: 360-902-5529

Wyoming Department of Employment
Workers' Safety and Compensation Division
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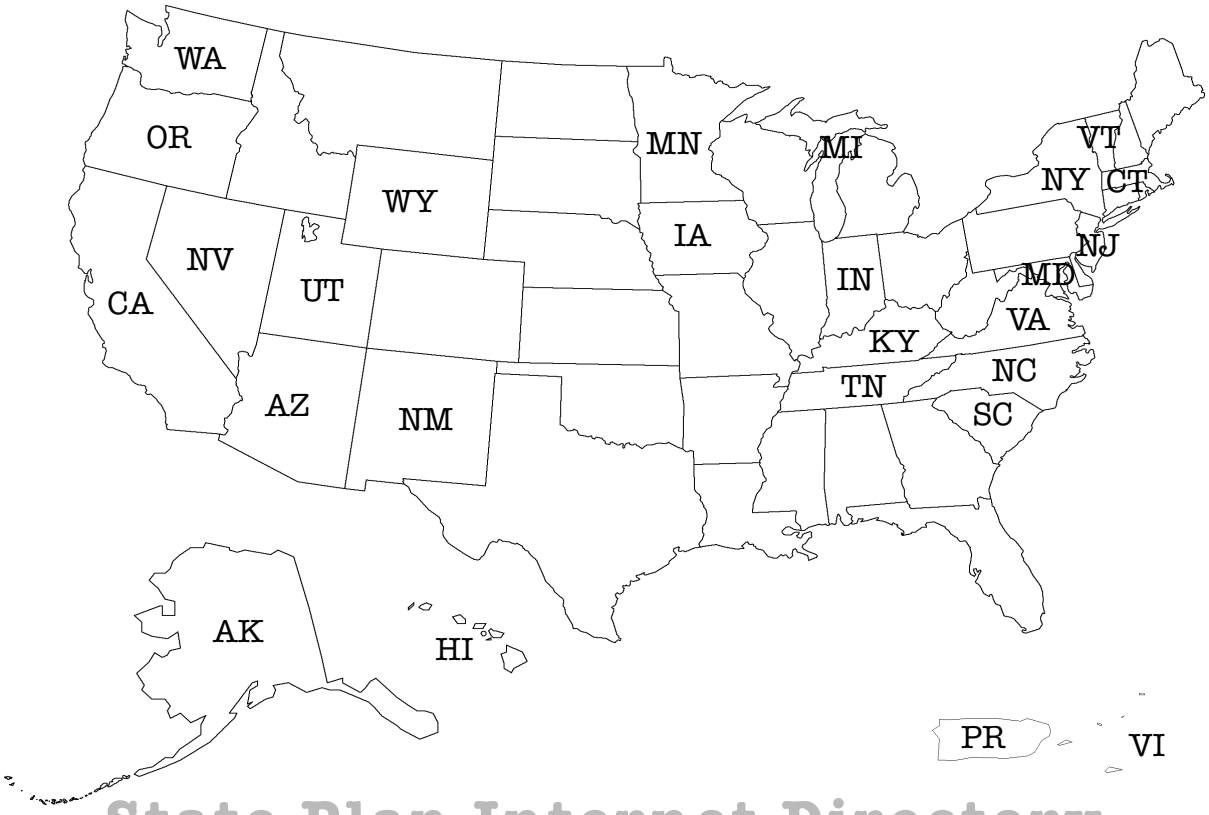

State Plan Internet Directory

Alaska—AK
http://www.labor.state.ak.us/lss/lss.htm

Arizona—AZ
http://www.ica.state.az.us

California—CA
http://www.dir.ca.gov/dosh

Connecticut—CT (public sector only)
http://www.ctdol.state.ct.us/osha/osha.htm

Hawaii—HI
http://www.state.hi.us/dlir/hiosh/

Indiana—IN
http://www.state.in.us/labor/

Iowa—IA
http://www.state.ia.us/government/wd/labor/index.html

Kentucky—KY
http://www.state.ky.us/agencies/labor/kyosh.htm

Maryland—MD
http://www.dllr.state.md.us/labor/mosh.html

Michigan—MI
http://www.commerce.state.mi.us/bsr/

Minnesota—MN
http://www.doli.state.mn.us/mnosha.html

Nevada—NV
http://www.state.nv.us/b&i/ir/

New Jersey—NJ (public sector only)
http://www.state.nj.us/labor

New Mexico—NM
http://www.nmenv.state.nm.us/

New York—NY (public sector only)
http://www.labor.state.ny.us/html/safety/saf_hlth.htm

North Carolina—NC
http://www.dol.state.nc.us/osha/osh.htm

Oregon—OR
http://www.orosha.org

Puerto Rico—PR
no Web site at press time

South Carolina—SC
http://www.llr.state.sc.us/OCSAFE.HTM

Tennessee—TN
http://www.state.tn.us/labor-wfd/

Utah—UT
http://www.labor.state.ut.us/uosh/ususha.htm

Vermont—VT
http://www.state.vt.us/labind/vosha.htm

Virgin Islands—VI
no Web site at press time

Virginia—VA
http://www.dli.state.va.us/programs/index.htm

Washington—WA
http://www.wa.gov/lni/wisha/

Wyoming—WY
http://www.wydoe.state.wy.us

Federal OSHA link to state plan Web sites
http://www.osha.gov
click on About OSHA, then click on State Plans