

GRASSROOTS WORKER PROTECTION

How State Programs Help to Ensure Safe and Healthy Workplaces



1998 Report from OSHSPA
The Occupational Safety and
Health State Plan Association





WHAT IS A STATE PLAN?

States and territories may elect to develop their own unique occupational safety and health program. These “state plans” are approved and monitored by the federal Occupational Safety and Health Administration, which provides up to 50 percent of an approved plan’s operating costs. A state plan program, including the job safety and health standards which employers are required to meet, must be “at least as effective” as OSHA. Benefits of a state plan include coverage for public sector employees, and the opportunity to promulgate unique standards or to develop innovative programs which address the types of hazards specific to each state’s workplaces.

WHAT IS OSHSPA?

The Occupational Safety and Health State Plan Association (OSHSPA) links the 25 state plan jurisdictions, federal agencies with occupational safety and health jurisdiction, and Congress. The group holds three meetings a year, giving state programs the opportunity to address common problems and share information. It also provides information to states or territories that are considering application for state plan status. OSHSPA representatives have appeared before congressional committees and other bodies to report on job safety and health issues.

ACKNOWLEDGMENT

The OSHSPA Board of Directors would like to thank the state occupational safety and health programs for providing updates to the 1998 Grassroots Worker Protection report.

The board and the state programs would like to thank the Washington State Department of Labor and Industries for editing, designing and producing the 1998 report. In particular, we want to thank the staff of the Federal-State Operations program, including:

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Jim Dunson, Safety and Health Specialist
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and the Public Affairs program, including:
Jim Knutsen, Graphic Designer

ADDITIONAL COPIES

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The report is also posted on the L&I web site at <http://www.wa.gov/lni/wisha/>
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State Plan Programs Covering Both Private and Public Sector (21 states and two territories)

| | | | |
|----------------|------------|-------------|----------------|
| 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 Provided by Federal OSHA)

| | |
|-------------|----------|
| Connecticut | New York |
|-------------|----------|

States Covered by Federal OSHA (29 states and the District of Columbia)

(Private Sector Only — The Act does not provide the authority to cover public sector employees)

| | | | |
|---------------|----------------------|---------------|-------------|
| 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 | | |

*State Plan application in process



TABLE OF CONTENTS

| | |
|--|----|
| SHARING A COMMON GOAL | 1 |
| Map of State Plan States (1) | |
| SAFETY AND HEALTH PIONEERS | 2 |
| WORKPLACES AT RISK | 3 |
| Targeting Through Data (3) Chart of Inspections/Interventions by Type (3) | |
| Local Emphasis Programs (4) Cooperative Compliance Programs (4) | |
| PROTECTION FOR PUBLIC SERVANTS | 4 |
| HAZARD SPECIFIC STANDARDS | 5 |
| Logging (5) Construction (5) Off-Highway Vehicles (5) Fall Protection (5) | |
| Confined Space (6) HazCom/Right-to-Know (6) Lead (6) | |
| Petroleum (7) High Voltage (7) Telecommunications (7) Cranes and Derricks (7) | |
| Agriculture (7) Cold Weather Shelter (8) Ergonomics (8) | |
| WORKPLACE SAFETY AND HEALTH PROGRAMS | 10 |
| PREVENTING WORKPLACE VIOLENCE | 11 |
| PROTECTION FROM ENVIRONMENTAL TOBACCO SMOKE | 12 |
| ENFORCING WORKPLACE SAFETY AND HEALTH STANDARDS | 14 |
| Response to Complaints (14) Discrimination (14) Imminent Danger Restraint (14) | |
| Violations Resulting in Worker Deaths or Serious Injuries (15) | |
| Chart of Violations by Type (15) Violation, Penalty and Contest Data (15) | |
| Settlement Agreements (15) Penalty Collection (16) | |
| VOLUNTARY COMPLIANCE | 16 |
| Consultation Services (17) Voluntary Protection Programs (VPP) (17) | |
| Training and Education Initiatives (18) Safety and Health Conferences (20) | |
| INNOVATIONS — THE HEART OF STATE PLANS | 21 |
| Employer Awards (21) Financial Incentives (22) Clear Rule Writing (22) | |
| Partnerships (23) Electronic Access to Information (23) | |
| Performance Agreements (24) | |
| COMMITMENT TO WORKER SAFETY AND HEALTH | 24 |
| Chart of Consultation and Enforcement Positions (24) | |
| State Plan Coverage Data (25) Chart of Program Funds by Source (25) | |
| STATE PLAN DIRECTORY | 27 |
| 1997-98 OSHSPA BOARD OF DIRECTORS | 30 |



January 30, 1998

When I was sworn in as Assistant Secretary this past November, I pledged to continue the tradition we established in North Carolina of cooperation and communication among business and labor and OSHA to save lives and prevent workplace injuries and illnesses. Covering two-fifths of the nation's workforce, OSHA's 25 State partners have been an invaluable part of this effort.

The State plans have known that we must go beyond the basic enforcement of rules and regulations and involve employees and employers to make workplaces safer and healthier. The States have developed innovative methods of achieving voluntary compliance, including workplace safety and health programs and training and education initiatives. OSHA's Cooperative Compliance Programs benefitted from various State plan efforts to target hazardous employers with preventive education and training assistance.

For years the States have recognized the need for a new framework of monitoring and evaluating State plan performance which acknowledges the level of safety and health experience in States that have been operating their own safety and health programs for decades. This year OSHA will be working with its State partners to develop strategic performance plans which will identify specific results-oriented goals and measures for each State. As OSHA's Federal Strategic Plan, developed in response to the Government Performance and Results Act, sets forth OSHA's goals of reducing injuries, illnesses and fatalities, changing workplace culture to increase employer and worker involvement in safety and health, and securing public confidence through excellence in programs over the next five years, each State will have the opportunity to develop its own specific performance goals and identify its own strategic measures for evaluating its success in achieving those goals.

The next few years promise to be exciting times for OSHA and its State partners. We may hit a bump from time to time, but we are definitely headed in the same direction of focusing our resources where they can do the most good and we will continue to work closely together to protect America's workers.



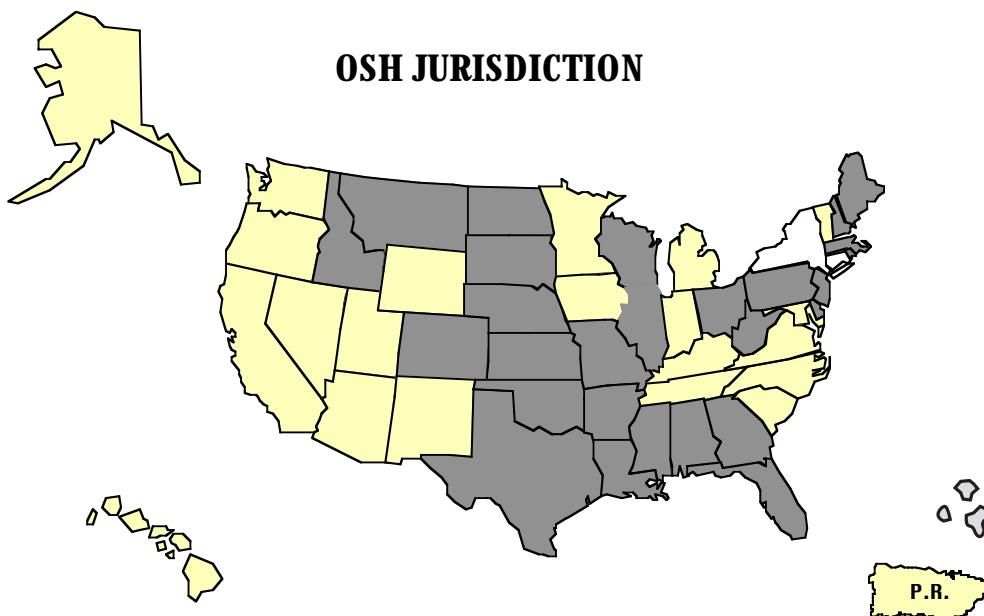
**Charles N. Jeffress
Assistant Secretary**

SHARING A COMMON GOAL

The 25 states and territories which operate state plan programs share a common goal: a safe and healthy workplace for every worker through prevention of on-the-job injuries, illnesses and fatalities. Sharing the mission of the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA), they take responsibility for developing and enforcing occupational safety and health standards in their jurisdiction. These state and territorial programs cover 40 percent of the nation's workforce, conducting enforcement inspections and providing consultative services. They also conduct free training and education programs, teach and encourage employers and employees to work in a safe and healthy manner.

Section 18 of the federal OSH Act of 1970 says that "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 OSHA in promoting safe and healthy working conditions.

This map shows the states covered by federal OSHA (dark green) and the states and territories with state plan programs (light green). Connecticut and New York (white) supplement their private sector OSHA coverage with public sector coverage under a state plan agreement. New Jersey, currently under federal jurisdiction, has applied for state plan status.





SAFETY AND HEALTH PIONEERS

As early as the 19th century, states created laws for worker safety. Soon after statehood was granted in 1837, Michigan adopted worker safety laws, and started a factory inspection program in 1893. Massachusetts issued occupational safety rules around 1875. Iowa began collecting worker injury and illness statistics in 1884, and also began inspecting factories in an attempt to reduce accidents. In 1889, Washington built worker protection into the state's constitution, requiring the legislature to "pass necessary laws for the protection of persons working in mines, factories and other employments dangerous to life or deleterious to health; and fix pains and penalties for the enforcement of the same." California began operating a safety enforcement program in 1913. Oregon adopted a workers' compensation law in 1913, which included provisions for the inspection of certain hazardous industries.

In 1936 the federal government passed the Walsh-Healey Act, providing some protection to workers performing government contracts. The Williams-Steiger Act of 1970 (better known as the OSH Act), provided nationwide standards for the occupational safety and health of America's private sector workforce. By this time, many states had already established a long history of addressing worker safety and health. The OSH Act includes a provision allowing states to operate safety and health programs. In fact, because of states' efforts at developing innovative programs to address the specific occupational hazards found in their geographical region, and because all state plans are required to the extent allowed by state or territorial law to provide coverage to the public sector, state and territorial OSH programs have a unique opportunity to provide a high level of protection to all employees in their jurisdiction.

"It is one of the happy incidents of the federal system that a single courageous state may serve as a laboratory and try novel social and economic experiments..."

*Louis Brandeis,
U.S. Supreme Court Justice,
(March 1932)*

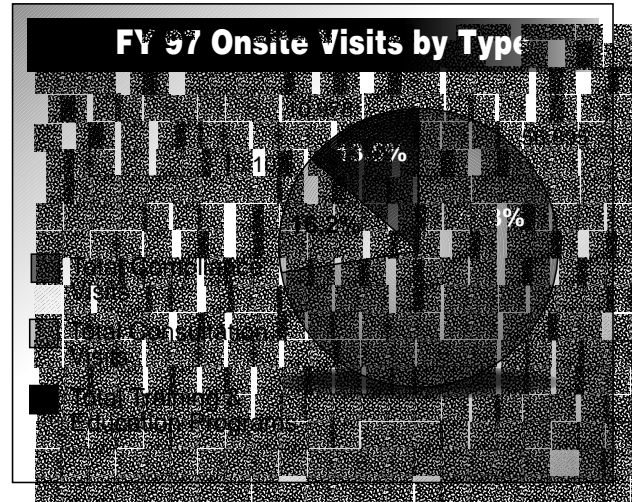
To paraphrase Justice Brandeis, states are the laboratories of democracy. States which have used their resources to model their own unique occupational safety and health program are pioneers in the development of innovative concepts and programs. OSHA has shown a willingness to be a follower as well as a leader by expanding some of

the tools developed and proved by states to the national level. This report describes just some of the many innovations and protections developed and implemented by state and territorial programs.

WORKPLACES AT RISK

TARGETING THROUGH DATA. The foundation of an effective program is the ability to target workplaces that have the most hazardous conditions. State plans use a variety of data sources to direct their enforcement and consultation efforts toward establishments at risk, and those actually experiencing injuries and illnesses that may be prevented by compliance with safety and health standards. Access to site specific claims history rather than industry-wide data better indicates which employers may have safety and health deficiencies.

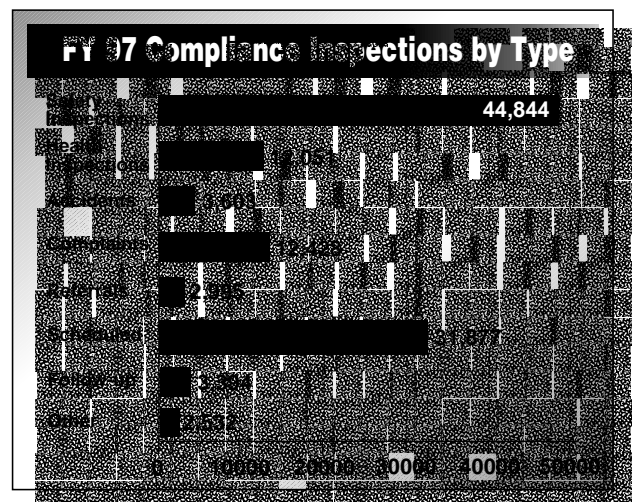
Washington was the first state in the nation to have both an exclusive state-fund workers' compensation system as well as an OSH program (WISHA) within the same agency. This provides an unequaled opportunity to use injury, illness and claims data to identify hazardous industries and problem employers. 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 site specific information. Wyoming uses data such as experience modification rating, loss ratio (claims payments compared to premiums), and the number of claims compared to size of employment to schedule compliance visits.



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

Utah's Labor Commission administers a workers' compensation system and non-exclusive state-fund. The result is accessible information for developing effective targeting of affected 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 which use workers' compensation data to identify those individual employers with high rates of claims. **Michigan** pioneered a general industry safety inspection scheduling program that relies on survey data as well as establishment specific injury information.



LOCAL EMPHASIS PROGRAMS. In 1996, **Minnesota** initiated a local emphasis program in the fiberglass industry to cover operations where employee exposure to the hazards of styrene, noise, MEKP, grinding dust, and repetitive trauma is possible. The inspection sites were selected based on employment figures from the Department of Economic Security, and a summary of Toxic Chemical Reporting which showed companies that released more than 1500 pounds of styrene through either stack or fugitive emissions. Along with the enforcement initiative, an illustrated brochure on fiberglass lay-up and spray-up was developed by the investigative staff. This inspection program has been very successful at finding hazards in this industry and educating employers in compliance methods. At the conclusion of the scheduling year, all companies that were inspected receive a summary report from MNOSHA on relevant inspection findings from all establishments that were included in the local emphasis program.

In 1995, **Puerto Rico's** PROSHO started a local emphasis program (LEP) for toxic gas release to identify and provide assistance to those employers whose industrial activities expose or may expose employees to serious toxic gas related hazards. **Indiana** has implemented an LEP on scaffolding that has proved to be 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.

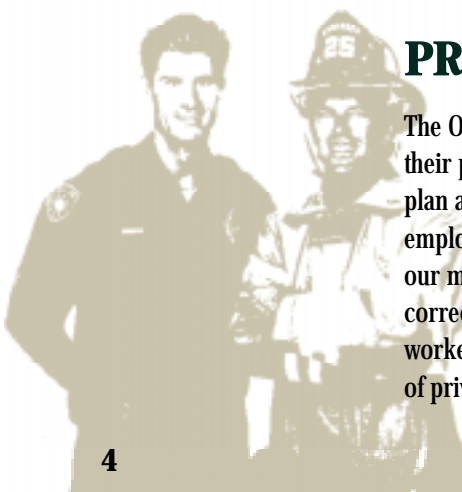
COOPERATIVE COMPLIANCE PROGRAMS. In August, 1996, **Minnesota** implemented the Minnesota First program for high injury rate employers with 100 or more employees. The program combines the core elements of partnership, employee involvement, and safety and health program development toward a goal of reducing injuries, illnesses, and hazards in the inspected workplaces. Benefits include:

- Penalty reductions of up to 70 percent if the employer develops an action plan and improves the effectiveness of the company's safety and health program;
- A two-year exemption from inspections, other than fatalities, serious injuries or complaints;
- No follow-up inspections unless the employer breaks the agreement spelled out in the action plan; and
- Access to a safety and health consultant, at no cost, for the length of the action plan.

Iowa is currently formulating a cooperative compliance program which will take advantage of both their Consultation and Enforcement sections to better serve Iowa's employers and employees.

PROTECTION FOR PUBLIC SERVANTS

The OSH Act of 1970 specifically excludes all employees of public agencies of the states and their political subdivisions from coverage by OSHA. However, states with an approved state plan 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. Some of our most hazardous workplaces are in the public sector — firefighting, emergency response, corrections, law enforcement, publicly-funded health care facilities, and transportation workers. Under a state plan program, public servants can receive protection equal to coverage of private sector employees.



HAZARD SPECIFIC STANDARDS

Individual states and territories have promulgated standards addressing the specific hazards found in their local industry, often involving labor and management representatives in the process. The regulatory process can work more quickly at the state level when compared to the federal level. Standards set by individual state plan programs have sometimes been a model and a forerunner of standards that are later adopted or expanded by OSHA at a national level. Following are some examples of how OSHSPA states and territories have enhanced the safety and health of America's workforce.

Because of the serious hazards found in the logging industry, the states of **Michigan, Oregon, Washington** and **Wyoming** developed comprehensive logging safety rules in the early 1970s. Federal OSHA rules, which previously covered only pulpwood logging, were expanded in 1995 to apply to all logging operations. **Alaska** has developed safety codes for highline, tractor and helicopter-logging.



Nevada adopted a regulation requiring a pre-construction conference for certain high-hazard construction projects, and adopted the 1989 American National Standards Institute (ANSI) standard for steel erection safety. **Virginia's** construction sanitation standard assures that construction workers receive the same level of protection that is provided to migrant and farmworkers under the field sanitation standard. **Kentucky** adopted a bloodborne pathogens standard which applies protective measures to blood exposures on construction sites as well as general industry locations.



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.



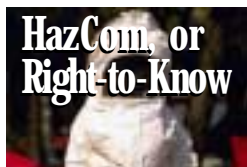
Washington formed the Construction Advisory Committee, an innovative melding of business, labor and government, in 1988. The CAC helped produce an industry-wide fall protection standard, embraced by all parties. In less than three years, compensable claims attributed to falls from elevation dropped significantly. The initial year's 19 percent reduction moved falls from elevation from the second largest category of compensable claims to third, decreasing the total of compensable claims by 10 percent overall, and demonstrating the success of partnerships in significantly impacting workplace safety and health.



Oregon similarly involved stakeholders prior to rule adoption, and established a common set of rules for all industries, with special alternatives for unique situations such as roofing. **Kentucky** promulgated unique standards for fall protection in general industry, not limited to construction. **North Carolina's** fall protection requirements include the use of locking snaphooks and a prohibition of most free climbing in the electric power industry, except for wooden poles in specific situations.



In 1973, **Washington** developed a confined space standard covering all industries. **Maryland's** standard, adopted in 1976, also covers all workers. **Kentucky's** standard applies to construction as well as general industry operations. **Utah** developed confined space entry requirements for farming operations in 1987. **Virginia** has maintained unique confined space standards for construction and telecommunications since 1987. Virginia also adopted federal OSHA's confined space standard for general industry. In 1988, **Minnesota** adopted a confined space entry standard, applicable to both construction and general industry, which classifies all confined spaces from Class I (the least hazardous) to Class III (the most hazardous). Class I permits are issued on an annual basis, and Classes II and III at the time of entry.



Many states had right-to-know laws before OSHA implemented the hazard communication standard in 1984. **Tennessee** adopted HazCom but because application was restricted to the manufacturing sector, a cooperative effort was made by labor, management, TOSHA, and the Tennessee General Assembly to expand coverage to all workers. The standard requires initial and annual retraining of employees, provision of required information to TOSHA (and to the public upon request), and notification and warning to firefighters to allow better response to emergencies where hazardous chemicals are involved. TOSHA personnel visited all employers in Standard Industrial Classification (SIC) codes 20-39 who failed to submit chemical lists as required. With this additional effort, over 98 percent of employers responded.

Minnesota's employee right-to-know law, adopted in 1983, covers more than just hazardous substances. It also covers harmful physical agents (e.g., 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 rules cover noise and radiation in addition to workplace chemicals, including eight hazardous physical agents. Alaska also publishes physical agent data sheets describing the hazards for employers. **Michigan** covers piping systems containing hazardous substances, and requires employers to post employee notices to advise where material safety data sheets (MSDS) are kept, who to contact to review 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 sectors, including construction. In addition, it provides for the general public's and the public emergency response right to know. **California** maintains an information system that alerts employers and workers to the dangers of toxic substances in the workplace.



In 1983, **Maryland** adopted a comprehensive lead-in-construction standard, which is combined with information, education and enforcement to protect construction workers. The state also requires laboratories to report high blood-lead levels. **Utah** adopted a lead-in-construction standard in 1991 after NIOSH released a study on workplace lead exposure. **Virginia** has adopted legislation and a regulation to monitor lead contractors' removal and disposal of lead.

Utah adopted standards in 1980 which cover all types of oil and gas well drilling and servicing. In response to local needs, **Wyoming** promulgated regulations in 1970 covering oil and gas well drilling and servicing, and expanded coverage in 1984 to include special servicing. **Alaska** has also developed unique safety codes for the petroleum industry.



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



Nearly once each month, a communication tower erection worker dies on the job in the United States. The number of towers erected has increased tremendously over the past several years due to use of cellular phones and pagers. Recognizing the need for specific rules/guidelines to address this unique industry, **Michigan** has established an advisory committee of employers and employees to consider draft rules for tower erection.



In **Oregon**, certification is required for operators of cranes that are five tons or more that are used in construction. **Maryland** has a unique standard for personnel platforms suspended from cranes, derricks, and hoists in general industry.



In 1983, **North Carolina** adopted a field sanitation standard covering migrant and seasonal farmworkers. North Carolina's standard provides coverage regardless of the number of employees, and requires pre-occupancy inspection of all migrant labor camps. **Virginia's** field sanitation standard for agriculture ensures the availability of drinking water regardless of the number of employees. **Arizona** has a standard which bans the use of hoes with handles shorter than 48 inches. Since the rule went into effect in 1985, the short-handled hoe, which was common in the early 1980s and caused widespread back problems among agricultural workers, has almost become extinct.



Working with industry, labor, management and the state legislature, **Washington** changed the agriculture standards, providing the same level of protection to farm workers as in other industries. 1996 legislation required the Department of Agriculture and the Department of Labor and Industries to coordinate adoption, implementation and enforcement of a common set of worker protection standards (WPS) relating to pesticides. Both agencies adopted the federal EPA standards for pesticides. Through a memorandum of understanding, these two agencies along with the Department of Health coordinate workplace pesticide inspections. WISHA has responsibility for enforcing the WPS where an employer/employee relationship exists. The Department of Agriculture enforces all other components of the pesticide label.

Oregon cooperatively enacted a law in 1995 establishing an inspection exemption program for small agricultural employers. By participating in consultation and training activities sponsored by OR-OSHA, insurance carriers, industry associations, university outreach programs, or private consultants, employers are exempt from routine scheduled inspections. The law established an Agricultural Advisory Committee which assists the Division in reviewing the state specific standards for the agricultural industry, and how they are administered. The State of Oregon returned registration of farm labor camps to OR-OSHA in 1995, and also transferred the administration of a farm worker housing tax credit program aimed at improving labor camp conditions.



Because **Minnesota's** climate can adversely affect working out-of-doors at certain times during the year, Minnesota adopted a unique job-site shelter standard in 1978 which requires employers to provide heated privies, and appropriate shelters for employees to eat lunches, change clothing, etc. when working in cold weather.



California adopted the first ergonomic standard in the nation, effective July 3, 1997. The regulation, which is legislatively mandated, applies to businesses with 10 or more employees. It does not impose an economic or regulatory burden on worksites where there are no reported problems, but is only triggered when at least two employees performing identical tasks have been diagnosed with repetitive motion injuries (RMIs) within 12 consecutive months. If that occurs, the employer must evaluate the affected worksite, control the exposures that cause RMIs and provide training to employees. A copy of the standard is available on the Internet at <http://www.dir.ca.gov/DIR/OS&H/OSHSB/Ergonomics.html>. Cal/OSHA's Consultation Service is providing information and training to employers on how to comply with the standard and minimize work-related RMIs.

Although they do not have an ergonomic standard, **Minnesota** was one of the first states to examine and cite ergonomic problems in the workplace. They established an ergonomics team to conduct comprehensive inspections of selected facilities including a thorough review of injury and illness records, a complete walkaround inspection of the facility, and abatement recommendations. Minnesota received special funds from the legislature and OSHA to litigate a high profile case with a meatpacking plant. In the subsequent settlement agreement, the employer agreed to a three-year abatement program with plant visits every six months by MNOSHA. Minnesota's ergonomics special emphasis program for 1997/98 is nursing homes, with a goal of identifying and reducing occupational hazards common to nursing homes through education, outreach and inspection. The ergonomics team developed written "Guidelines for Resident Handling in Long-Term Care Facilities" to assist health care employers in preventing/reducing the risk of musculoskeletal injuries. The team conducted outreach sessions for the industry during the Fall of 1997. In 1998 they will conduct random nursing home inspections to assess compliance with OSHA standards and the employers' efforts to reduce the risk of musculoskeletal injuries.

North Carolina implemented a Cooperative Assessment Program for Ergonomics after conducting 40 inspections based on ergonomic related complaints. The program allows employers to negotiate agreements resolving ergonomic hazards before citations are issued. The agreements preclude the necessity of lengthy inspections yet provide the same assurance of abatement which would be achieved through a citation. The state has also taken a giant step toward reducing the incidence of cumulative trauma disorders through the creation of the Ergonomics Resource Center. The center was developed to supplement compliance activity which is often the most protractive method of eliminating ergonomic stressors in the workplace. In-plant consultative assistance, including education and training, helps reduce repetitive motion disorders among workers in a wide variety of occupations. The center was recognized by the Ford Foundation and the John F. Kennedy School of Government at Harvard University as a finalist in the 1996 Innovations in American Government Awards program.

In 1995 **Oregon** established a unique worksite redesign program providing grants from workers' compensation funding sources to conduct research and development in public and private sector workplaces. This joint effort of the Workers' Compensation Division and OR-OSHA uses the ergonomic technical and prevention skills in OR-OSHA to assist employers in solving real workplace injury and illness problems, in ways that can be shared with other employers in the same or related industries.





WORKPLACE SAFETY AND HEALTH PROGRAMS

Many states encourage employers to set up worker protection programs that stress management commitment and employee involvement. At present there are 11 states which require employers to establish a safety and health program designed to prevent injuries and illnesses: **Alaska, California, Connecticut, Hawaii, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Tennessee, and Washington.**

| | |
|-----------------------|---|
| California | 1990 law requires all employers to set up effective injury and illness prevention programs. Employers must conduct periodic inspections of their worksites to identify unsafe conditions and work practices, and eliminate any hazards found. |
| Hawaii | Requires written safety and health programs at all establishments. |
| Minnesota | A Workplace Accident and Injury Reduction Act (AWAIR) of 1990 requires employers in industries with high injury and illness incidence and severity rates to develop a written workplace safety and health program. The Minnesota OSH Act was amended in 1995 to require employers of 25 or more employees to establish a joint labor-management safety committee. Employers with 25 or fewer employees must establish a committee if their pure premium rate is in the top 25 percent for all classes. |
| Nevada | Requires employers with eleven or more employees to establish a written safety program. Employers with more than 25 employees must have a safety committee. |
| North Carolina | Requires employers with a high rate of workers' compensation claims to have written safety and health programs, and to establish formal safety and health committees. |
| Oregon | In the 1987 workers' compensation reform, Oregon required high hazard firms to implement workplace safety committees. This employee involvement approach brings labor and management together in new and meaningful ways. It is the foundation for many significant developments which produced an unprecedented seven year decrease in injury, illness and fatality rates and workers' compensation costs. In 1990 a law passed requiring mandatory labor/management safety and health committees for most Oregon employers. |
| Washington | Washington's law 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 training for employees in safe work practices. WISHA's video, <i>Staying a Step Ahead</i> , helps employers and employees establish accident prevention programs without having to wait until a consultant can schedule an onsite visit. |

PREVENTING WORKPLACE VIOLENCE

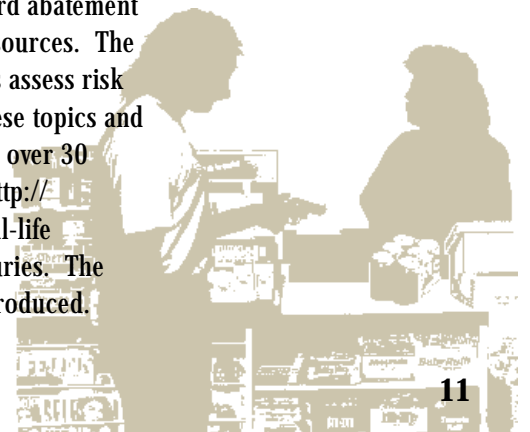


Workplace violence is an occupational safety and health hazard demanding action. Whether the risk of violence comes from a co-worker, client, patient or the public, employees deserve a safe workplace. Employers must be provided with tools to develop comprehensive plans to reduce levels of risk. State programs are developing formal rules as well as voluntary guidelines to help employers prevent this workplace hazard.

Oregon has taken a strong information and training approach to create awareness and encourage action. By creating several publications and working directly with the Associated Oregon Industries and other groups, statewide education network training forums have addressed this emerging area. **Cal/OSHA** held a conference on workplace security to share information, promote additional research, and aid the development of guidelines for preventing workplace violence. Safety and health personnel who attended said they wanted guidelines to address the problem. California has since issued Guidelines for Security and Safety of Health Care and Community Service Workers.

Indiana has issued general duty clause citations on workplace violence. **New Mexico** settled a Section 11(c) discrimination case involving workplace violence. Two employees with a history of fighting were involved in a fight at work. One complained and was subsequently transferred 60 miles away to another duty station. The employer did not reprimand the employee who was the aggressor in all the altercations. **Minnesota** established a team in 1993 to research workplace violence and recommend a course of action for MNOSHA. In 1997, Minnesota established a full-time state funded Violence Prevention Coordinator position. The coordinator was instrumental in developing a “Make the Peace” media campaign to raise employer and employee awareness of personal responsibility for preventing workplace violence. The coordinator participated in 12 training seminars throughout the state, including those conducted under the nursing home special emphasis program, and a teleconference that was telecast to 93 sites and over 2000 employees. In addition, the coordinator established a Workplace Violence Prevention Resource Center to assist the public through outreach. Other services include consultation, training, and technical telephone assistance.

Washington developed safety and health standards for the late night retail industry in 1990, and uses enforcement and consultation resources to encourage hazard abatement and prevention. WISHA provides a variety of information and education resources. The Workplace Violence Awareness and Prevention workshop helps participants assess risk factors and develop preventive measures. A written guidebook covering these topics and a sample prevention program was developed by the Department, along with over 30 representatives of labor, business and the academic community (Internet <http://www.wa.gov/lni/pa/workvil.htm>). The 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 and may be reproduced.



The Department's Safety and Health Assessment and Research for Prevention (SHARP) Program just completed a comprehensive study based on federal and state data for 1992-95 (Internet <http://www.wa.gov/lni/sharp/39-2-97.htm>). Homicide was the fourth leading cause of workplace deaths in **Washington** state, 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. Especially notable is that 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 consequently impervious to remedy. Prevention strategies, such as hazard assessment and de-escalation training, are available to address the risk factors in each work setting.

PROTECTION FROM ENVIRONMENTAL TOBACCO SMOKE

Several states now regulate smoking in the workplace and public access buildings. In 1994, OSHA issued a notice of proposed rulemaking on indoor air quality, including environmental tobacco smoke (secondhand smoke), which would ban workplace smoking unless a separate, enclosed and ventilated room to contain smoke is in place.



In 1988, **Vermont** passed legislation prohibiting smoking in the workplace, or requiring that smoking be confined to a designated enclosed area. Each employer must establish a written smoking policy, or negotiate one through collective bargaining. The policy may permit smoking in a designated unenclosed area if 75 percent of the employees in the workplace agree, and if the layout of the workplace protects non-smoking employees from exposure. Vermont passed additional legislation in 1993, prohibiting smoking in the common areas of all enclosed indoor places of public access, publicly owned buildings and offices. Since 1995, only those businesses issued a cabaret license (i.e., they receive greater than 50 percent of their income from the sale of alcohol) may be designated as smoking areas. If a cabaret is part of a larger facility, the cabaret may be designated as a smoking area provided it is separately enclosed and separately licensed as a cabaret.

New York's highest court ruled in 1994 (*Johannesen v. New York City Department of Housing Preservation and Development*, NYCTAPP, No. 89A), that a worker's asthma, aggravated by exposure to secondhand cigarette smoke in her workplace, is a compensable injury. The New York State Workers' Compensation Board ruled that the employee had sustained an accidental injury as a result of the repeated trauma of exposure to secondhand smoke. The board's decision was upheld by the state Supreme Court Appellate Division on appeal by the city agency.

In 1994, **Maryland** issued a rule covering virtually all workplaces including the hospitality industry, allowing smoking only in separately enclosed and sometimes separately

ventilated rooms. The tobacco industry challenged the law but in 1995, Maryland's highest court upheld the rule, concluding that "significant risk" to employees' health should be regulated. Later the Maryland legislature allowed less restrictive rules for restaurants, hotels, taverns and bars. Maryland has enforced the regulation for over two years now and is seeking an increased level of compliance in the employer community. Maryland's governor has been recognized by the American Heart and Lung Association for leadership in protecting Maryland workers.

Washington's Environmental Tobacco Smoke (ETS) rule banning smoking in offices requires employers to either prohibit smoking or set up separately ventilated smoking areas. The regulation does not apply to restaurants, taverns, factories or other indoor work areas which are not office spaces. In 1994 a lawsuit seeking to overturn the rule was filed by a group of tobacco companies and three small state businesses. They lost at all three levels of state courts in their attempts to have the rule declared invalid. A trial was held in 1996, followed by a ruling that the Department of Labor and Industries was within its statutory authority and fully complied with the law in making the rule. Most smoking complaints are handled by a letter to the employer, outlining the rule and requesting a response that describes corrective action taken. About ten percent result in an inspection, and a fraction of those are assessed a penalty.

California's statewide smoking ban went into effect in 1995. Exceptions apply to lobby areas of hotels, meeting and banquet rooms, gaming clubs, bars and taverns, truck cabs or truck tractors, employers with five or fewer employees under specified conditions, some warehouse facilities, and selected other industries. Any violation of the smoking ban is punishable by a fine not to exceed \$100 for a first violation, \$200 for a second violation and \$500 for a third and subsequent violation within one year. The smoking prohibition is enforced by local law enforcement agencies including local health departments. Cal/OSHA is not required to respond to any complaint regarding the smoking ban unless the employer has been found guilty of three violations within the previous year.

Utah's Indoor Clean Air Act also went into effect in 1995. It supersedes any local ordinances and prohibits smoking in all enclosed indoor places of public access and publicly owned buildings and offices. Exceptions apply to guest rooms in hotels and other lodging places, taverns, private clubs, or facilities rented for public functions. The first violation is subject to a civil penalty of not more than \$100. The second or subsequent violation is subject to a civil penalty of not more than \$500.

In **Iowa**, legislation was enacted in 1979 prohibiting smoking in a public place or in a public meeting except in a designated smoking area. Persons violating the law are subject to a civil fine. **Puerto Rico** now prohibits smoking in public buildings and agencies, hospitals, and restaurants. Smoking areas must be clearly identified with signs and must have adequate ventilation systems to impede the movement of smoke from the smoking area to nonsmoking areas. Violations are subject to a \$250 fine.

Hawaii has a state law prohibiting smoking during the hours of operation in group child care homes and centers, and family child care homes. **Michigan** also prohibits smoking in child care centers and in family day care homes during the hours of operation. In addition, Michigan prohibits smoking in a public place or at a meeting of a public body, except in designated smoking areas.



ENFORCING WORKPLACE SAFETY AND HEALTH STANDARDS

States use a variety of innovative tools to assure employer compliance with occupational safety and health standards. They also protect the rights of employees who file a complaint or who participate in workplace safety and health activities.

RESPONSE TO COMPLAINTS. Most states now use the “phone-fax” method pioneered by OSHA to address some types of safety or health complaints. When a complaint is received that meets a state’s criteria for using this policy, the employer is contacted by phone. A follow-up letter is faxed to the employer, who is asked to investigate the conditions that are alleged to be unsafe. The employer must respond within a short period of time, usually five days. A compliance investigation may be conducted if the employer does not respond, if the response is not satisfactory, or if the state program deems it necessary. Many workplace hazards have been abated faster, using fewer program resources, by using phone-fax.

DISCRIMINATION. **Kentucky’s** anti-discrimination law provides for reinstatement with back pay and other appropriate relief for employees whose rights to complain about unsafe or unhealthful working conditions have been violated. Penalties up to \$10,000 may be assessed against the offending employer, and failure to pay them may result in the placement of liens. The employee may be reinstated pending a final determination by the OSH Review Commission or court, leveling the playing field in cases which might involve prolonged litigation.

Hawaii extends the time to file discrimination complaints to 60 days, and mandates their investigation to be completed within 60 days, allowing quicker remedies for safety and health “whistle-blowers.” **North Carolina’s** discrimination law includes an extended time frame of 180 days for filing a complaint, treble damages, and attorney fees. In **Vermont**, employees who have been subjected to discrimination for a protected activity may file a private action in Superior Court seeking triple wages, damages, costs and reasonable attorney fees.

IMMINENT DANGER RESTRAINT. When a substantial probability that workplace conditions could cause death or serious physical harm exists, states respond quickly to protect workers. **Washington** can issue orders of immediate restraint, and can “red tag” any machine or equipment in violation of a WISHA standard in imminent danger situations. **Minnesota, Maryland** and **Oregon** may issue a “red tag” which prohibits use of equipment or continuing an operational process until the hazard is corrected or removed.

Similarly, **Michigan** can authorize tagging of equipment or a process which is the source of imminent danger. The tag or “cease operation order” prohibits individuals in locations or under conditions where imminent danger exists, except when necessary to correct or remove the imminent danger. Tags can only be removed after inspection of the equipment or process by a program supervisor. **Vermont** may close a workplace or a portion of a workplace where an imminent danger exists without obtaining a temporary restraining order. There is a \$5,000 per day penalty for disobeying an order.

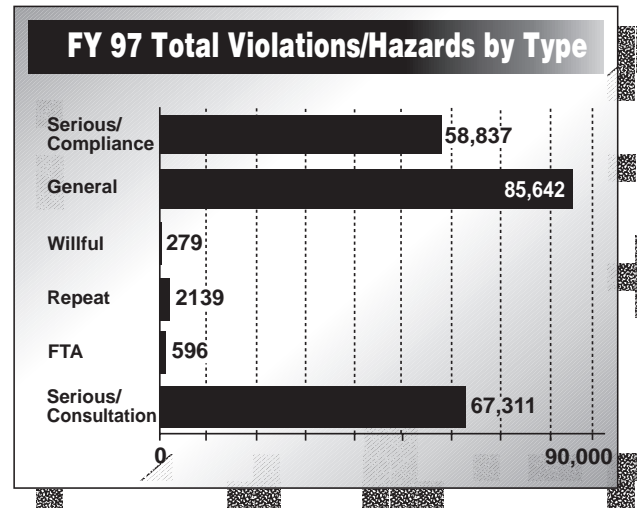
VIOLATIONS RESULTING IN WORKER DEATHS OR SERIOUS INJURIES.

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 which caused the death of an employee. A second occurrence can double both the penalty 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.

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 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' permanent disability or death; and, the OSH violation did not result from employee disobedience. The additional penalty is paid to the injured employee or their dependents.

Minnesota law provides a penalty up to \$25,000 where a serious violation has caused or contributed to the death of an employee. In cases with willful violations involving a worker'

Michigan law provides penalties of \$10,000 and one year in jail for a first conviction, and \$20,000 and three years for a second conviction. **Maryland** law permits criminal penalties for violations of standards covering work around high-voltage lines.



| | |
|---|---------------------|
| Average Number of Violations per Inspection | 3.8 |
| Total Penalties Assessed | \$55,442,084 |
| Average Penalty per Serious Violation | \$666 |
| Percentage of Inspections with No Violations | 32.3 percent |
| Total Number of Contested Cases | 7,794 |
| Percentage of Inspections with Citations Contested | 13.7 percent |

SETTLEMENT AGREEMENTS. **South Carolina** pioneered the use of settlement agreements at the pre-protest or post-contest level. A typical agreement may obligate the employer to request training and education, to develop a safety and health program, and to conduct monthly site inspections. **Indiana** includes establishing a workplace safety committee in nine-point informal settlement agreements. In 1996, **Oregon** developed its first cooperative settlement agreement offering comprehensive consultation and employee training as a post contest option.



Utah started a program in 1990 offering employers with fewer than 100 employees a modified one time settlement agreement to establish a safety and health program using OSHA guidelines, which can be supplemented by an active substance abuse program. The settlement process provides the employer with education, training and consultation. The compliance officer is directly involved in providing information and assistance to the employer, and monitoring progress through documentation provided by the employer, or through a follow-up inspection. The goal of the agreement is to reduce injuries and illnesses, and both direct and indirect workers' compensation costs.

Virginia uses specialized settlement agreements in some cases involving fatal accidents, willful violations or employers with poor safety and health records. These employers may be required to:

- Develop comprehensive safety and health programs;
- Provide VOSH with monthly lists of active construction sites for inspection scheduling purposes;
- Hire a full time safety and health professional to run the company's safety and health program;
- Implement comprehensive and specially targeted training programs for employees and supervisors;
- Require the president or other high ranking management personnel to:
 - Attend safety and health training courses;
 - Periodically visit job sites to assure safe and healthful work practices; and,
- Develop a disciplinary system which includes documenting violations of safety and health work rules, and progressively severe internal penalties up to removal of the unsafe employee.

To provide the incentive to continue focusing on safety and health issues after a case is settled, VOSH has also agreed to excuse a portion of the penalty if no violations of the items cited in the original inspection recur within a set number of years.

PENALTY COLLECTION. **Minnesota** law assesses penalties up to 125 percent of the original amount if not paid within 60 days after becoming a final order. After 60 days, unpaid fines accrue additional penalties until paid in full or until the fine has accrued to 300 percent of the original amount. In 1993, **Utah** simplified the debt collection process. Utah's Act now allows filing a lien in the district court for an uncollected citation penalty. The filed lien has the effect of a judgment of that court. **Kentucky** can have a lien placed on all real and personal property of an employer when a citation has been upheld by a final order of the Review Commission.

VOLUNTARY COMPLIANCE

Enforcement is only part of the answer to reducing the incidence of worker injuries, illnesses and fatalities. A wide array of services help employers voluntarily comply with safety and health standards. These programs include free consultation visits to employers' worksites, Voluntary Protection Programs, training and education programs for employers and employees to teach them how to work in a safe and healthful manner, and conferences on safety and health topics.



CONSULTATION SERVICES. In federal FY 97, state programs conducted 13,107 consultation visits, identifying and directing the abatement of about 67,300 serious hazards. During 1996, as part of **Oregon's** innovative performance agreement with OSHA, a concerted effort was made to help employers build safety and health self-sufficiency. The focus includes comprehensive on-site consultations, assessment of the employer's safety and health program, reassessment and follow-up services to establish progress and the effectiveness of the employer's safety and health management practices. **Connecticut** offers on-site consultations to help smaller firms and agencies that need assistance to interpret complex standards or conduct testing and monitoring, but lack the expertise and resources. No penalties are proposed or citations issued for hazards identified by the consultant.

Utah passed a bill in 1995 authorizing 0.25 percent, or about \$1,000,000, of the workers' compensation premium 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.

VOLUNTARY PROTECTION PROGRAMS (VPP). Companies whose managers and employees are working together to build exemplary, comprehensive safety and health programs with proven performance levels are receiving local and national recognition through the VPP.

- **Iowa** initiated a program in 1992.
- **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. Twelve sites have received the award since 1994.
- The **South Carolina** Office of Voluntary Programs implemented the "Palmetto Star" in 1994.
- **Virginia** launched VPP and Safety and Health Achievement Recognition Program (SHARP) initiatives patterned after OSHA's model in 1995.
- **Arizona** adopted the VPP STAR program in 1995.
- Since 1996, **Minnesota** has offered a program which combines elements of VPP and SHARP. The first two participants received certificates in 1997, with another 20 working toward MNSHARP status. Large employers must agree to mentor two small employers to become eligible for MNSHARP status.
- **Washington** recognized its first Star site in December, 1996, and its first Merit site in January, 1997.
- **Puerto Rico's** VPP include the GuanÍn (equivalent to Star) and CemÍ (equivalent to Merit), and a TaÍno program, specially designed to benefit small employers. Employers' response has been highly positive, and two applications have been received.
- **Kentucky** certified its first VPP participant in August, 1997.
- **Tennessee's** consultation team implemented the Volunteer Star, VPP, and SHARP.
- **Michigan** initiated Star and Merit VPPs. Effective January, 1998, these programs will be available to the public sector.



- Wyoming initiated its “Cowboy Star and Merit” program with one employer, the City of Casper, in the Merit program. Employers can also participate in SHARP, as well as the Wyoming unique Employer Voluntary Technical Assistance Program (EVTAP) which began in 1982.
- Oregon launched a VPP program developed through the guidance of a joint labor/management committee, in 1997. Oregon has awarded one “Star,” the highest recognition available. Several more companies are working on VPP applications.

TRAINING AND EDUCATION INITIATIVES. In federal FY 97, states provided 10,978 training programs for over 214,100 employers and 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.

Michigan is piloting ergonomics training programs throughout the state. These programs are conducted in cooperation with private sector professionals, drawing on concepts from the American National Standards Institute (ANSI) recommendations, and building on initiatives by OSHA and NIOSH. In September, 1997, a training package on “Elements of Ergonomics Programs” adapted from the NIOSH Primer of the same name was completed. It covers recognition of work-related musculoskeletal disorders; how to initiate ergonomic programs; building in-house expertise; gathering and examining evidence of problems; developing controls; and health care management.

Michigan established a Safety Education and Training Program in 1967 to help companies analyze safety efforts, identify areas where a program may need strengthening, and locate work practices that may be causing employee injuries. The Safety Development Program provides individualized training on a wide range of workplace safety issues including MIOSHA safety standards, accident investigation, hazard recognition, machine guarding and ergonomics. Pamphlets, posters, films and videos are also available.

Oregon provides over 100 workshops covering 35 topics to over 2,000 employers and employees each quarter. The topics include core areas such as safety committee operations, hazard identification, accident investigation, and more technical programs on traffic control and scaffolding. Five of the core workshops are offered “on-line” through OR-OSHA’s Internet site (<http://www.cbs.state.or.us/external/osha/educate/ocourse/pages/courses.htm>). Students can take the class electronically, respond to questions, and receive personal attention from a trainer.

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

Because the demand for training in employer workplaces is so high, **Puerto Rico** is delivering training and conference sessions open to general audiences in different towns on the island. Information on each session is published in the newspaper, reaching and benefiting a higher number of employers, employees, students, and the general public.

North Carolina has addressed the challenge of teaching employees to work safely, especially in the most dangerous professions, through a number of training initiatives. When logging related fatalities drastically increased, the state initiated a training program with logging industry groups that took the message of safety into the field where tree felling activity was actually taking place. This effort dramatically reduced the number of tree felling-related fatalities from 13 to three in a single year. North Carolina has also established a local training network through the state's community college system which uses local safety professionals to teach a variety of safety topics.

Virginia, in an effort to combat the rising number of injuries and fatalities among loggers, developed a program in cooperation with the Virginia Department of Forestry, Virginia Tech School of Forestry, and the Virginia Forestry Association encouraging voluntary compliance. Safety and health training is provided at the logging work site. Loggers who request onsite 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 the Department of Forestry regional representatives are also conducted for loggers and their families.

Virginia's Consultation Services Program has developed and produced two training videos with a grant from OSHA. One video, *Getting Started with Safety*, outlines steps necessary to begin a safety program and the benefits of having one. The second video, *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.

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

Maryland provides training on three readily preventable causes of fatalities — trenching, electrical, and fall hazards. This Fatality Prevention Program, which was first offered to other state and local inspection agencies, is an effective way to train public sector inspectors in the identification and avoidance of hazards, increasing the effectiveness of construction inspections. The Fatality Prevention Seminars continue to be extremely popular and to draw from private sector employers as well as from the public sector.

Wyoming developed four training programs for specific segments of the current and future workforce. The first is the Three-Day Collateral Duty Health and Safety Program aimed at personnel who have safety duties in addition to their primary ones. The next is the Management Safety Seminar directed toward the corporate officers and owners of businesses. The Construction Safety Program was developed for foremen, superintendents, and safety personnel. Lastly, the Vocational Education Training Seminar is for students from the junior high school level through the community college vocational education level, to instill more safety and health awareness in the next generation in the workforce. Training and education has always been a major emphasis in **Tennessee's** program efforts. TOSHA field personnel who have expertise in the scheduled subject matter, and who are skillful, effective and knowledgeable communicators, present training in regional locations.

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

Recognizing that construction is an especially high-hazard industry, **Minnesota** established a bimonthly training seminar specifically for the construction industry. These Construction Breakfasts are well attended by construction employers, employees, and union representatives; average attendance is 125 people. Topics of discussion at these sessions include an analysis of recent construction accidents, new standards, workers' compensation, and other safety and health-related topics pertinent to the construction industry.



SAFETY AND HEALTH CONFERENCES. A number of states hold a Governor's Safety and Health Conference. **Washington's** annual Governor's Conference, ongoing since 1949, is approaching 50 years. In 1997, for the first time, OSHA's Region X conference was combined with the Governor's conference. Over 3,000 people attended, with 147 exhibits. The conference is held in Western Washington (Seattle) in odd numbered years, and in Eastern Washington (Spokane) in even numbered years. **Oregon's** Biennial Governor's Conference draws over 3,000 participants to the Convention Center in Portland. Additional education with a conference format is offered in all the geographical regions of the state, as well as a second major conference every other year in Eugene.

For 26 years **Iowa** has held an annual Governor's Conference. The Conference is organized by a committee that includes representatives from labor, industry, and the public sector, and draws attendance from many segments of the population. Nationally known speakers are featured. The Conference is so successful that the Committee has established scholarships totaling \$9,500 for seven college students who are majoring in safety and health areas.

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 the Kentucky Safety and Health Network. It averages 50 sessions, 115 exhibitors, and 1800 participants. Complementing the Governor's Conference which is held in Louisville each Spring, are mid-year symposiums offered at a variety of locations throughout the Commonwealth during the late Fall.

Maryland OSHI along with its safety council and a number of safety organizations sponsors an annual safety and health conference. The conference draws an average of 500 people each year. **Puerto Rico** has an annual three-day safety and health conference with workshops designed to help understand compliance requirements and update professionals in this field and related disciplines. **Virginia** successfully hosted its first annual safety and health conference in Richmond in 1996. The conference brought employers, employees, and associations together to discuss current safety and health initiatives in Virginia.

The **Tennessee** Safety Congress, sponsored by TOSHA and the Tennessee Chapters of the American Society of Safety Engineers, is an assembly of safety and health professionals meeting to share information and ideas to develop programs and educational techniques that promote good workplace safety and health practices. The Congress has grown and become nationally recognized for its high quality and diverse activities.

For more than 40 years, **Michigan** has sponsored an annual industrial ventilation conference focusing on effective and economical industrial ventilation systems. This week long conference is staffed by some of the most notable ventilation experts in the United States and Canada. It combines general sessions and small classroom experiences to share general ventilation information and the latest control technologies.

INNOVATIONS — THE HEART OF STATE PLANS

Many states have created unique safety and health initiatives which build partnerships, reward responsible employers, and use innovative methods of leveraging program resources to reach even greater numbers of employers, employees and worksites. These innovations demonstrate the commitment of the states and territories to continually develop effective and responsive programs which improve workplace safety and health.

EMPLOYER AWARDS. **Michigan** recognizes employers who have taken measurable steps to address ergonomic related hazards. These include the Ergonomic Innovation Awards and the Ergonomic Success Awards for improvements which reduce worker strain, have substantially reduced traumatic strain/sprain injuries and cumulative trauma disorders. The awards also encourage the development of ergonomic ideas which can be shared with others. **Kentucky** has refined its Governor's Safety and Health Awards Program by introducing a graduated system which allows employers of all sizes and their workers to be recognized for their accomplishments in preventing occupational injuries and illnesses.



Oregon SHARP (Safety and Health Achievement Recognition Program) provides recognition for companies working toward excellence in self-managing occupational safety and health. So far over ten companies have received this award, and over 100 more companies are working toward their SHARP designation. It is hoped that SHARP recipients will also work toward VPP participation.

FINANCIAL INCENTIVES. In **Hawaii**, a five percent workers' compensation premium discount is offered for workplace safety and health programs certified as effective by state-certified professionals, leveraging the state's consultation resources. Only poor safety performers can be placed into the assigned risk pool, and employers can "bet" on their future safety performance by negotiating for higher deductibles for workers' compensation. **Puerto Rico** implemented the Quick Fix program in 1996, providing a 15% additional reduction in penalties for safety and health violations that are abated during the inspection.

Since 1993, **Wyoming** gives employers a 75 percent penalty reduction if they successfully reduce their workers' compensation claims by 25 percent over a 12 month period. Since its inception, about 60 percent of employers have met their 25 percent reduction goal, with another 20 percent making some reduction. Wyoming also offers employers a 50 percent penalty reduction if they fix hazards the same day. Many employers have taken advantage of this, working well into the night to fix problems. A recent innovative option is to waive all penalties if the employer agrees to a consultation visit and a follow-up enforcement inspection 12 months later. Any repeat violations found during the follow-up will cost at least two to five times more than the original penalty. Wyoming funds a loss control consultant through workers' compensation to help employers reduce job related accidents and to lower premiums. Upon request, a briefing is prepared and given for a specific employer or group of employers. Highlights include analysis of the workplace injuries, how much money can be saved by reducing the frequency and severity of injuries, and behavioral modification concepts. The loss control consultant works alone or in tandem with consultation personnel.

CLEAR RULE WRITING. Cumbersome language can be a barrier for employers who must comply with government rules. When rules are written in plain English, they are easier to understand and follow. **Washington** is rewriting some of its rules using clear writing principles. This new practice is partly the result of 1994 legislation updating Washington State's administrative procedures act, which says "...any rule proposed or adopted by an agency should be clearly and simply stated, so that it can be understood by those required to comply." Clear rule writing includes:

- eliminating repetitive language;
- reducing cross-referencing and bureaucratic wording; simplifying the overall outline structure;
- referring to the employer as "you;"
- using questions for titles; and,
- reducing large sections into smaller single topics.



A two day class is available to agency staff who work with rules. WISHA rewrote the agriculture standard using clear rule writing, and is now rewriting the safety standards for logging and grain handling facilities. WISHA is also working on a cooperative project with OSHA to rewrite the power transmission guarding rules.

PARTNERSHIPS. The MIOSHA program, a number of labor organizations, and the **Michigan** Department of Transportation worked together to develop contract specifications that will enhance worker health and safety on a very large international bridge refurbishing project. The project, which entails closing the bridge for 18 months, will include safety and health requirements that go beyond current rules. If proven successful at minimizing accidents, injuries and exposures, the specifications may serve as a model for future projects in Michigan. **Minnesota** initiated a pilot partnership program with an electrical utility and its union. An agreement was signed to exempt this utility from general scheduled inspections for one year after it passed a thorough evaluation by the MNOSHA Electrical Utilities Team. This partnership has been extended to January, 1999.

In the fall of 1993, **Virginia** established the Blue Ridge Safety Network, a positive example of cooperation between government and business. The Safety Network links large businesses with small ones to share expertise and resources, assist in safety training through loaning personnel, provide materials and conduct training sessions. Increased emphasis on workplace safety is expected to reduce workplace accidents, reduce the cost of doing business in the Blue Ridge region, and create a healthier business climate. The Safety Network serves as a resource for new businesses and a clearing house for safety training materials. **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, as well as through statewide symposiums.

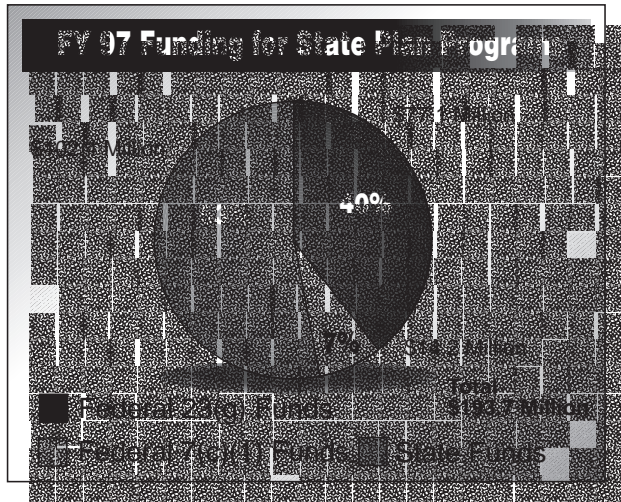
After the investigation of a 1994 crane collapse accident which killed two workers and injured a third in **Washington** State, more than \$21,000 in resulting penalties was used to improve worker safety and health through the creation of a Crane Safety Association, and safety workshops and seminars. This was the first time that penalty dollars assessed by the Department of Labor and Industries were returned to an industry to make it safer for workers. **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.

ELECTRONIC ACCESS TO INFORMATION. Many state plan states are following federal OSHA's lead in providing electronic access to occupational safety and health information via the Internet. These World Wide Web sites provide a wealth of program and reference information day and night, from any location with computerized access. Users retrieve standards, policy manuals, information on appeal rights, public

hearing notices, material safety data sheets (MSDS) and a wide array of other safety and health information from terminals in their workplaces, homes, schools and libraries. Most of the state plan states now have a Web site for their occupational safety and health program, ranging from a few paragraphs to many “pages.” Web site URLs are included in the directory at the end of this report, or visit OSHA’s State Program site at <http://www.osha.gov/oshprogs/stateprogs.html>

PERFORMANCE AGREEMENTS: A New Relationship with OSHA.

In 1995, OSHA approached state plans, proposing a new working relationship with alternatives to the state monitoring and evaluation process. The performance agreement



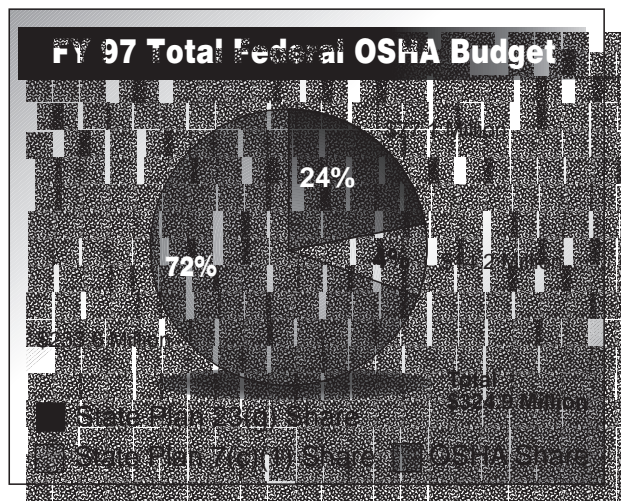
approach provides increased flexibility to state plan programs, enhances the partnership with OSHA, and focuses on safety and health outcomes instead of activities. In 1996, **Wyoming** and **Michigan** signed agreements covering limited areas of their programs. OSHA’s Region X and **Oregon** mutually developed the first comprehensive agreement, covering all elements of Oregon’s program. At the close of the first year under the new agreement, Oregon signed a second agreement and reported a decided improvement in their relationship with OSHA and a more active involvement in finding and implementing real improvements to worker protection. In 1997, **North Carolina** and **Washington** signed performance

agreements. Washington’s agreement includes streamlined targeting and enhanced coordination between the compliance, consultation and risk management programs. It also features strategic planning for continued program improvements, working with business and labor to identify statewide safety and health priorities, and development of outcome measures to evaluate WISHA’s effectiveness. In 1998, all state plans will begin preparing annual performance plans as part of the section 23(g) grant applications to

OSHA. Each state program will also develop a five year strategic plan in coordination with OSHA’s planning efforts.

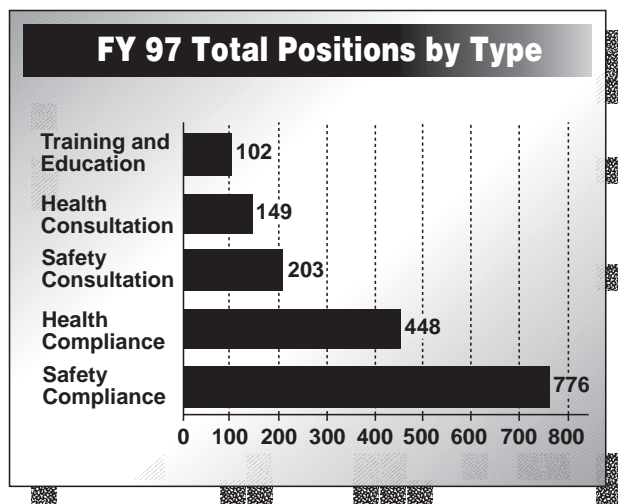
COMMITMENT TO WORKER SAFETY AND HEALTH

In federal fiscal year 1997, state programs received \$77.1 million in 23(g) and \$14.2 million in 7(c) (1) funding from the Occupational Safety and Health Administration’s total budget of \$324.9 million. The states are required to pay at least 50 percent of the total cost of a 23(g) program, and at least ten percent of the total cost of a 7(c) (1) program. In addition,



many states fund other programs focused on safety and health in the workplace. Even in states facing serious budget constraints, the respective legislatures have continued to provide matching funds for occupational safety and health programs in recognition of their value in reducing workplace injuries and illness, conserving both human and fiscal resources. In fiscal year 1997, state and territorial funds of \$102.4 million were allocated to state plan programs. This commitment to worker safety and health is worthy of recognition.

| | |
|---|--------------------|
| Total Population of Covered States & Territories | 133,454,564 |
| Total Private Sector Employers Covered | 2,770,381 |
| Total Private Sector Employees Covered | 40,867,257 |
| Total Public Sector Employers Covered | 83,817 |
| Total Public Sector Employees Covered | 8,389,630 |





Every day millions of workers provide the physical and mental energy and dedication to keep America running. Among them are the safety and health professionals who work with employers and employees to ensure that America has safe workplaces. When a logger loses an arm or a leg, or a construction worker dies in a trenching accident, safety and health workers do not see the victims as just a name on a report, or a statistic on an injury and illness log. They see precious human beings — one whose limb cannot be replaced, or whose life cannot be restored. They know the tragedy of families whose loved one is irrevocably changed, or who never came home from work at all. Then they are driven to identify the cause of the accident and eliminate it as quickly as possible so that no one else is hurt.

The state plan programs and OSHA supplement enforcement efforts with voluntary compliance incentives, and by educating and training employers and workers, increase their ability to identify and abate hazards in their own workplaces. Employers and employees can join in the partnership and commitment to safe workplaces. Nationwide, much remains to be done to eliminate all the hazards that cause or are likely to cause death or serious physical harm. But the accomplishments are clear. State plan programs make a significant contribution to the goal of safe and healthy workplaces for all American workers.



*Her husband survived Vietnam to die in a workplace accident.
© 1976 Courtesy of Earl Dotter*



STATE PLAN STATES

Alaska

Department of Labor
Labor Standards & Safety Division
Occupational Safety & Health Section
PO Box 107022
Anchorage, AK 99510-7022
(907) 269-4940
<http://www.state.ak.us/local/akpages/LABOR/lss/lss.htm>

Arizona

Industrial Commission
Occupational Safety & Health
PO Box 19070
Phoenix, AZ 85005-9070
(602) 542-5795

California

Department of Industrial Relations
Division of Occupational Safety & Health
45 Fremont Street, Room 1200
San Francisco, CA 94105 (415) 972-8500
<http://www.dir.ca.gov/DIR/OS&H/DOSH/dosh1.html>

Connecticut

Department of Labor
Division of Occupational Safety & Health
38 Wolcott Hill Road
Wethersfield, CT 06109
(860) 566-4550
<http://www.ctdol.state.ct.us/osha/osha.htm>

Hawaii

Department of Labor & Industrial Relations
Occupational Safety & Health Division
830 Punchbowl Street
Honolulu, HI 96813
(808) 586-9116
<http://www.aloha.net/~edps0/annual.html#no8>

Indiana

Department of Labor
402 West Washington Street, Room W195
Indianapolis, IN 46204
(317) 232-2693
<http://www.ai.org/labor/>

Iowa

Iowa Workforce Development
Labor Services Division
1000 East Grand
Des Moines, IA 50319
(515) 281-3606
<http://www.state.ia.us/government/wd/labor.htm>

Kentucky

Labor Cabinet
Occupational Safety & Health Program
1047 U.S. 127 South
Frankfort, KY 40601
(502) 564-3070
<http://www.state.ky.us/agencies/labor/kyosh.htm>

Maryland

Department of Licensing & Regulation
Division of Labor & Industry
Occupational Safety & Health
501 St. Paul Place
Baltimore, MD 21202 (410) 333-4195
<http://www.dllr.state.md.us/labor/mosh.html>

Michigan

Department of Consumer & Industry Services
Bureau of Safety & Regulation
7150 Harris Drive
Lansing, MI 48909
(517) 322-1814
<http://www.commerce.state.mi.us/bsr/>

**Minnesota**

Department of Labor & Industry
Occupational Safety & Health Division
443 Lafayette Road
St. Paul, MN 55155
(612) 296-2116
<http://www.doli.state.mn.us/mnosha.html>

Nevada

Department of Business & Industry
Division of Industrial Relations
Occupational Safety & Health
Enforcement Section
1370 South Curry Street
Carson City, NV 89710 (702) 687-5240
<http://www.state.nv.us/b&i/ir/>

New Jersey (State Plan application in process)

Department of Labor
Division of Workplace Standards
CN 953
Trenton, NJ
(609) 292-3923
<http://www.state.nj.us/labor/>

New Mexico

Environment Department
Environmental Protection Division
Occupational Health & Safety Bureau
PO Box 26110
Sante Fe, NM 87502
(505) 827-4230
<http://www.nmenv.state.nm.us/>

New York

Department of Labor
Division of Safety & Health
Building 12, State Campus, Room 457
Albany, NY 12240
(518) 457-1263
http://www.labor.state.ny.us/safety/saf_hlth.htm

North Carolina

Department of Labor
Division of Occupational Safety & Health
319 Chapanoke Road
Raleigh, NC 27603-3432
(919) 662-4575
<http://www.dol.state.nc.us/DOL/osh.htm>

Oregon

Department of Consumer & Business Services
Occupational Safety & Health Division
Labor & Industries Building
350 Winter Street NE, Room 430
Salem, OR 97310
(503) 378-3272
<http://www.cbs.state.or.us/external/osh/>

Puerto Rico

Department of Labor & Human Resources
Occupational Safety & Health
505 Munoz Rivera Avenue
Hato Rey, PR 00918
(809) 754-2171

South Carolina

Department of Labor, Licensing & Regulation
Division of Labor
Office of Occupational Safety & Health
3600 Forest Drive Box 11329
Columbia, SC 29211
(803) 734-9600
<http://www.llr.sc.edu/>

Tennessee

Department of Labor
Division of Occupational Safety & Health
710 James Robertson Parkway, 3rd Floor
Nashville, TN 37243-0659
(615) 741-2793
<http://www.state.tn.us/labor/>



Utah

Labor Commission of Utah
Occupational Safety & Health Division
160 East 300 South Third Floor
PO Box 146650
Salt Lake City, UT 84114-6650
(801) 530-6901
<http://www.ind-com.state.ut.us/uosha.htm>

Vermont

Department of Labor & Industry
Occupational Safety & Health Administration
National Life Bldg, 120 State St, Drawer 20
Montpelier, VT 05602-3401
(802) 828-2765
<http://www.state.vt.us/labind/vosha.htm>

Virginia

Department of Labor & Industry
Powers-Taylor Building
13 South Thirteenth Street
Richmond, VA 23219
(804) 786-5873
<http://www.dli.state.va.us/programs/index.htm>

Virgin Islands

Department of Labor
Occupational Safety & Health Division
2131 Hospital Street Box 890
Christiansted, St. Croix, VI 00820-4666
(809) 772-1315

Washington

Department of Labor & Industries
WISHA Services Division
7273 Linderson Way SW PO Box 44600
Olympia, WA 98504-4600
(360) 902-4200
<http://www.wa.gov/lni/wisha/>

Wyoming

Department of Employment
Workers' Safety & Compensation Division
Herschler Building, 2nd Floor, East
122 West 25th Street
Cheyenne, WY 82002 (307) 777-7786
<http://wydoe.state.wy.us/>

Federal OSHA

<http://www.osha.gov/>
OSHA's link to State Plan web sites
<http://www.osha.gov/oskdir/states.htm>



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1000 East Grand
Des Moines, IA 50319
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National Life Building Drawer 20
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