

## I'm from the Government, and I'm Here to Help!

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In the past few columns, I have discussed the proposed OSHA ergonomic standards that were published on November 23, 1999 in the *Federal Register*. Nearly a decade in development, the anticipated standards have evoked a vociferous response from supporters and opponents alike. As recently as last Thursday (June 8), the United States House of Representatives voted 220 to 203 to stop the government from issuing any final ergonomics rules. Actually, the vote was to pass a \$342.1 billion FY 2001 spending bill for labor, health and education programs, prohibiting the use of money to implement the OSHA standards.

While this vote represents a significant blow to OSHA's plans for the adoption of the ergonomic standards, President Clinton is virtually certain to veto any legislation that would prevent the rules from taking effect. So, other than spending millions of taxpayer dollars and countless hours on the development of the proposed ergonomic standards, what exactly does OSHA do?

In 1970, the federal government enacted the Occupational Safety and Health Act (OSH Act), which for the first time provided a national policy for safety and health. In the process of developing the act, Congress was presented with the following facts: 1) job-related accidents resulted in the deaths of more than 14,000 workers each year; 2) nearly 2.5 million workers became disabled annually as a result of workplace injuries; and 3) the number of new cases of occupational diseases each year was estimated to be 300,000. The OSH Act was passed in an effort "... to assure so far as possible every working man and woman in the nation safe and healthful working conditions ..."

Over the years, the act has had a profound impact on the working conditions of American workers. With the establishment of the act, the Occupational Safety and Health Administration (OSHA) was created as an agency within the Department of Labor. According to OSHA, their mission is to save lives, prevent injuries and protect the health of America's workers. The act extends to all employees and their employers in all 50 states, the District of Columbia, Puerto Rico, and all territories under U.S. government jurisdiction. This includes more than 100 million employees and approximately six and a half million employers. For reasons only the federal government can explain, federal OSHA does not apply to state and local governments in their role as employers.

In addition to the federal OSHA, the OSH Act allows states to provide their own programs under OSHA guidance. A key component of this provision is that the states must adopt standards and enforce requirements that are at least as effective as the federal requirements. Once a state plan is approved by federal OSHA, the federal government provides funds for up to half of the state plan's operating costs.

One of OSHA's principal tasks is to oversee the health and safety practices of the workplace. To accomplish this, OSHA and its state organizations have approximately 2,100 inspectors. They also have complaint discrimination investigators, engineers, physicians, educators, standards writers and other technical and support personnel spread over more than 200 offices throughout the country. This

staff establishes protective standards, enforces those standards, and provides assistance to employers and employees through technical assistance and consultation programs.

As part of their mission, OSHA has a responsibility to develop and enforce occupational health and safety standards. These standards may require employers to adopt and/or use practices or processes considered reasonable and necessary to protect workers while on the job. Examples of some key OSHA standards are: Means of Egress (exiting from a facility) (1910.35); Emergency Plans and Fire Prevention (1910.38); Occupational Noise Exposure (1910.95); and Hazardous Materials (1910.101).

Obviously, it would be impossible to develop such standards for every job or industry. To cover such instances in which no specific standard applies, a component of the OSH act known as the general duty clause comes into play. This clause states that employers shall comply with OSHA's standards and provide a work environment "free from recognized hazards that are causing or are likely to cause death or serious physical harm." An example of the broad powers that OSHA possesses may be seen in the red meat packing industry. Since there is not yet any specific standard that covers ergonomic issues, OSHA used its powers under the general duty clause to develop *Ergonomic Guidelines for the Meat Industry*. These guidelines were issued to all companies in the red meat packing industry, and while they were only guidelines, they have been enforced as if they were standards.

One segment of the OSH Act is the requirement for record keeping and reporting of occupational injuries and illnesses. Prior to the OSH Act, there was no centralized or systematic method for monitoring these problems. With the implementation of the act came the need to keep track of the type, number and location of injuries and illnesses. To accomplish this, the OSHA 200 Log and Summary form was developed. OSHA requires that all employers with 11 or more employees use this form. It also states that employers must maintain records of occupational injuries and illnesses as they occur, or no later than six workdays after receiving the information. A copy of the OSHA 200 form may be downloaded from the OSHA website (<http://www.osha.gov>).

Another component of the OSH Act that has developed over the years is a set of employer and employee rights and responsibilities. We will discuss the specifics of these rights and responsibilities in my next column.

### *Reference*

Tompkins NC. *A Manager's Guide to OSHA: What Every Manager Should Know*. Menlo Park, CA: Crisp Publications, Inc., 1993.

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