Occupational Safety and Health: United States of America

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Introduction

The problem of assuring safe and healthful workplaces for men and women reached national attention in the United States because of the continuing increase in injuries and illness among workers. It was pointed out during Congressional hearings in 1969 that 14,500 persons were killed annually as a result of industrial accidents, and that 2.2 million persons were disabled on the job each year, resulting in the loss of 250 million man days of work. The picture for occupational health was just as bleak. Limited information and records indicated 390,000 new occurrences of occupational disease each year.

The same occupational diseases which first commanded attention at the beginning of the Industrial Revolution were still undermining the health of workers; and technological advances and new processes in American industry had brought numerous new hazards to the workplace. Carcinogenic chemicals, lasers, ultrasonic energy, metallics, epoxy resins, pesticides, among others, all presented incipient threats to the health of workers, and the distinction between occupational and non-occupational illnesses was growing increasingly difficult to define.

Resolution of these problems by the individual States had not proven sufficient to the need. The inadequacy of anything less than a comprehensive nationwide approach was exemplified by experience with the chemical beta naphthylamine—a compound so toxic that any exposure to it is likely to cause the development of bladder cancer over a period of years. The Commonwealth of Pennsylvania recognized this extreme effect of beta naphthylamine and banned its use, manufacture, storage, or handling in that State; but production of this potent chemical was begun in another State where legislation was inadequate. This, then, exemplifies how the spread of industry and the mobility of the workforce combined to make the health and safety of the worker truly a national concern.

The legislation enacted in the United States to attempt to provide a base for a uniform national approach to health and safety at the work site included several congressional acts, but the Occupational Safety and Health Act of 1970 is the most pervasive of the legislative acts and serves as a prototype for administration of the national programme.

Major Provisions of the Occupational Safety and Health Act

The Act requires every employer subject to the Act to comply with occupational safety and health standards promulgated by the Secretary of the Department of Labour (DOL) in accordance with procedures provided in the Act. Salient aspects of these procedures are as follows:

Consensus Standards, Established Federal Standards, Proprietary Standards

Although the consensus and other standards issued under the Act provided a foundation for a national safety and health programme, a number of the standards were out-of-date. Standards must be constantly improved and replaced as new knowledge and tech-
Emergency Standards
Because of the obvious need for quick response to new health and safety findings, still another section mandates the Secretary of DOL to promulgate temporary emergency standards if he finds that such a standard is needed to protect employees who are being exposed to grave dangers from potentially toxic materials or harmful physical agents, or from new hazards for which no applicable standard has been promulgated. Upon publication of such an emergency temporary standard, the Secretary of DOL must begin a regular standard setting procedure for such hazards, which proceeding must be completed within six months. Those emergency standards promulgated this far (as from June, 1977) are as follows:

- Asbestos Standard: An emergency standard was made effective December 7, 1971, setting limits for exposure to employees to asbestos dust. The permanent standard was adopted 7 June, 1972.
- Organo Phosphate Pesticides: An emergency standard was issued 1 May, 1973, and subsequently was stayed by court action.
- Carcinogens: An emergency standard was issued 3 May, 1973, and subsequently revised. The permanent standard was adopted 29 January 1974 and partially stayed for two substances used in laboratory operations.
- Vinyl Chloride: An emergency standard for vinyl chloride was made effective 5 April, 1974. The permanent standard was adopted 4 October, 1974.
- Benzene: An emergency standard for benzene was issued on 3 May, 1977, to become effective 21 May 1977. The effective date of the standard, however, was stayed by court action. The standard was aimed at reducing the risk of leukemia.

Variances
The Act provides that any affected employer may apply to the Secretary of DOL for a variance from a standard otherwise applicable to him. Any employees under this employer must be notified to the application and given an opportunity to participate in a hearing. To receive a variance, the employer must demonstrate by significant evidence that he will provide to his employees employment which is as safe and healthful as would prevail if he complied with the standard.

Judicial Review of Standards
There is provision under the Act that any person who may be adversely affected by a standard may, within 60 days of its issuance, seek judicial review in an appropriate United States court of appeals.

Duty of Employer
The Act stipulates that employers have primary control of the work environment and should ensure that it is safe and healthful. This is recognized as a general duty and provides that employers must furnish employment “which is free from recognized hazards so as to provide safe and healthful working conditions”. There is no penalty for violation of the general duty clause. However, if the employer refuses to correct the unsafe condition after it has been called to his attention, and made the subject of an abatement order, a penalty can be imposed. Before that is done, the employer would be entitled to a full administrative hearing, followed by judicial review, if he disagrees that the situation in question is unsafe.

Obligations of Employees
No occupational safety and health programme can be effective without the fullest cooperation of affected employees. The Act expressly places upon each employee the obligation to comply with standards and other applicable requirements.

Studies of employee motivation are among the research efforts which may be undertaken under the Act. The employee-duty does not diminish in any way the employer’s compliance responsibilities or his responsibility to assure compliance by his own employees. The final responsibility for compliance with the requirements of the Act, therefore, remains with the employer.

Inspections and Investigations
In order to carry out an effective national occupational safety and health programme, it is necessary for government personnel to have the right of entry in order to ascertain the safety and health conditions and status of compliance of any covered employed establishment. The Act therefore authorizes certain government personnel, upon presenting appropriate credentials, to enter at reasonable times the premises of any place of employment covered by this Act, to inspect and investigate within reasonable limits all pertinent conditions, and also to privately question owners, operators,