

United States

Theme 1—Promotion of safety and health in the workplace and worker protection Highlights from the U.S. Department of Labor

National Occupational Health and Safety Policy

In the United States, numerous legislative and administrative provisions on occupational health and safety (OHS) exist, which are administered by different federal agencies. The U.S. Department of Labor (DOL) is the primary agency with responsibility for administering the laws related to OHS. The U.S. national OHS policy is embodied within the federal OSH Act, which, along with its corresponding regulations, covers three main sectors: general industry, maritime, and construction. The U.S. government views OHS laws and regulations as the expression of its policy.

Created in 1971 as a result of the OSH Act, DOL's Occupational Safety and Health Administration (OSHA) promotes the safety and health of America's working men and women by setting and enforcing standards; providing training, outreach and education; establishing partnerships; and encouraging continual process improvement in workplace safety and health. Additionally, the United States has formulated a national OSH policy with respect to mining by enacting the Mine Act. Mine safety is enforced by a separate DOL agency; the Mine Safety and Health Administration (MSHA).

OSHA regularly conducts "lookback" reviews of its existing standards to determine whether the standards should be maintained without change, rescinded, or modified. OSHA, MSHA, and DOL's Employment Standards Administration (ESA) Wage and Hour Division (WHD) follow workplace developments that may create hazardous conditions for workers. These agencies often engage with the National Institute of Occupational Safety and Health (NIOSH), which was established through the OSH Act as the U.S. government lead for workplace safety research.

Finally, OSHA targets strategic sectors, or, in other words, those most important to the economy but also the most hazardous. For example, OSHA's Local Emphasis Programs (LEPs) are enforcement strategies designed and implemented at the Regional Office and/or Area Office levels. Nationwide, there are over 150 individual programs (sometimes implemented by multiple offices) that address a wide range of industries and hazards such as:

- Logging
- Grain Handling
- Overhead Power Lines
- Bridge and Tunnel Construction
- Residential Construction
- Meat Packing
- Powered Industrial Trucks
- Auto Body Shops
- Commercial Diving
- Electroplating

DOL's Bureau of Labor Statistics' (BLS) Injuries, Illnesses, and Fatalities (IIF) program provides annual data on illnesses and injuries on the job and data on worker fatalities. Such information is useful in identifying industries with high rates or large numbers of injuries, illnesses and fatalities both nationwide and separately for those States participating in this program.

For further information on the IIF program, please refer to: <http://www.bls.gov/iif/>

To view the full text of the 1970 OSH Act, please visit:
http://www.osha.gov/pls/oshaweb/owasrch.search_form?p_doc_type=OSHACT&p_toc_level=0&p_keyvalue=

For more information on "lookback" reviews, please visit:
<http://www.osha.gov/dea/lookback.html>

Inter-Agency Coordination

OSHA coordinates its activities with other federal and state agencies with OHS responsibilities through various memoranda of understanding (MOUs) or interagency agreements (IAGs). OSHA currently has approximately 60 MOUs/IAGs in place. OSHA has entered into MOUs with other DOL agencies, such as MSHA and the Employment Standards Administration (ESA), and other federal agencies, including the Department of Agriculture, the Environmental Protection Agency, the Coast Guard, the Department of Energy, and the Department of Transportation. Moreover, some states have OSHA-approved state plans and there is coordination between Federal OSHA and these states.

An example of the aforementioned coordination involves WHD, which is responsible for administering federal child labor laws. The WHD works closely with NIOSH, the state departments of labor, and child labor councils, to ensure compliance with and coordination of child labor law. The WHD has an MOU with OSHA that OSHA investigators will report any child labor violations they observe to the WHD when investigating an establishment for OSH violations.

Furthermore, OSHA supports and uses research from its sister agency, the National Institute for Occupational Safety and Health (NIOSH). It also sits on the Executive Committee for the National Institute for Environmental Health Studies' National Toxicology Program and the Interagency Testing Committee and nominates chemicals to be studied where data gaps exist. OSHA also collaborates with other federal agencies such as the Environmental Protection Agency, the Consumer Product Safety Commission, and the Department of Energy to share information on cross cutting environmental and occupational health and safety issues

For more information and texts of MOUs, please visit:
http://www.osha.gov/pls/oshaweb/owasrch.search_form?p_doc_type=MOU&p_toc_level=1&p_keyvalue=Agency&p_status=CURRENT

Stakeholder Coordination

Representative organizations of employers and workers have the opportunity to participate in the process of developing laws and regulations relating to occupational safety and health. Both the OSH Act and Mine Act were enacted by the U.S. Congress with the participation of

organizations representing employees and employers, and miners and mine operators, respectively, in developing the legislation. The OSH Act establishes a National Advisory Committee on Occupational Safety and Health (NACOSH), the purpose of which is to “advise, consult with, and make recommendations to the Secretary [of Labor] and the Secretary of Health and Human Services on matters relating to the administration of the Act. NACOSH consists of 12 members, appointed by the Secretary of Labor, who represent management, labor, occupational safety and health professions, and the public.

Moreover, through its Cooperative Programs, which include the Voluntary Protection Programs (VPP), the OSHA Strategic Partnership Program (OSPP), the On-Site Consultation Program, the Alliance Program, OSHA Challenge, and the Safety and Health Achievement Recognition Program (SHARP), OSHA works with the public to promote safety and health in the workplace by offering compliance assistance services and programs to businesses and organizations.

As part of these programs, OSHA works with groups committed to safety and health, including businesses, trade or professional organizations, unions, and educational institutions, to leverage resources and expertise to: implement effective Safety and Health Management Systems (SHIMS); and share information with employers and employees to help prevent injuries, illnesses, and fatalities in the workplace. For example, OSHA works collaboratively with Alliance Program participants to promote workplace safety and health and compliance with the OSH Act by developing and disseminating compliance assistance resources to businesses, organizations, employers, and employees. These resources include best practices, checklists, fact sheets, success stories, tips sheets, and toolbox talks.

For more information on NACOSH, please visit:
<http://www.osha.gov/dop/nacosh/nacosh.html>

For additional information on compliance assistance and Cooperative Programs, please visit:
http://www.osha.gov/dcsp/compliance_assistance/index_programs.html

The Hemispheric Agenda for the Americas 2006-2015

The *Hemispheric Agenda for the Americas 2006-2015* was a report of the ILO Director-General to the ILO’s 2006 Americas Regional Meeting. It was not endorsed by the meeting, rather the meeting’s conclusions took note and “received with interest the proposal of an Agenda for the Hemisphere” and OSHA is engaged in many of the policies outlined therein. ILO member states therefore made no commitments pursuant to the report.

Theme 3—HIV/AIDS in the Workplace Highlights from the United States

HIV/AIDS Workplace Strategies

In the United States, the Centers for Disease Control and Prevention (CDC) plays an active role in HIV/AIDS in the workplace strategies. The CDC *Business Responds to AIDS* and *Labor Responds to AIDS* programs (BRTA/LRTA) help large and small businesses and labor unions meet the challenges of HIV/AIDS in the workplace and the community. To fulfill its mission of promoting the development of comprehensive workplace HIV/AIDS programs, BRTA/LRTA works in partnership with groups such as: businesses and labor unions; trade associations; public health departments; AIDS service organizations; and government agencies

The Business/Labor Responds to AIDS programs have five core components:

1. HIV/AIDS policy development
2. Manager/labor leader training
3. Employee/worker education
4. Employee/worker family education
5. HIV-related community service, volunteerism, and philanthropy

Each of these components can be implemented individually, but the program works best when all five components are implemented as a group. The BRTA/LRTA components are relevant to large and small businesses, labor unions, and other organizations, both domestically and internationally. These components can be used for a specific HIV/AIDS prevention program or can be incorporated into a larger, overall health and wellness program:

- *HIV/AIDS Policy Development.* A written policy that covers HIV that complies with U.S. Federal, state, and local laws or relevant laws in other countries and describes the parameters of legal and other workplace issues such as reasonable accommodation, non-discrimination, confidentiality, hiring and other employment practices, universal precautions, co-worker anxiety, insurance and other healthcare issues, and implementation of workplace education efforts. This can be a specific HIV policy or part of a pre-existing catastrophic illness policy.
- *Training for managers, supervisors, and labor leaders* to address HIV issues in the workplace. This includes imparting knowledge of the organization's policy and strengthening the ability of leaders and managers to exercise the skills necessary to address the full scope of HIV issues in the workplace.
- *HIV/AIDS education for employees/workers* to address HIV transmission, prevention practices, workplace issues, and the company's HIV policies in these and related areas; with the increased turnover and high mobility of today's workplace, it is necessary to continue with educational efforts consistent with sound training principles. Training sessions must be an ongoing process of information dissemination.
- *HIV/AIDS education for employees'/workers' families* through the employee/worker or directly from the employer to the family.

- *HIV-related community service, volunteerism, and philanthropy*, to encourage employees, managers, and labor leaders to engage in individual support of HIV/AIDS initiatives in their communities and to encourage corporate and labor union philanthropic support of HIV/AIDS initiatives.

These components, although initially developed for the American workplace, are now also being used internationally. Furthermore, BRTA/LRTA offers business and labor leaders toolkits to guide the development of tailored HIV/AIDS workplace programs. The toolkits are free of charge and are available by download on the Internet in English and Spanish.

For more information on the BRTA/LRTA programs and toolkits, please visit: <http://www.hivatwork.org/index.htm>

Preventative Interventions to Protect Workers with an Elevated Risk

The U.S. Department of Labor's (DOL) Occupational Safety and Health Administration (OSHA) published the Occupational Exposure to Bloodborne Pathogens standard in 1991 because of a significant health risk associated with exposure to viruses and other microorganisms that cause bloodborne diseases. Of primary concern are the human immunodeficiency virus (HIV) and the hepatitis B and hepatitis C viruses. In 2001, in response to the Needlestick Safety and Prevention Act, OSHA revised the Bloodborne Pathogens Standard. The revised standard clarifies the need for employers to select safer needle devices and to involve employees in identifying and choosing these devices. The updated standard also requires employers to maintain a log of injuries from contaminated sharps.

Studies show that nurses sustain the most needlestick injuries and that as many as one-third of all sharps injuries occur during disposal. The CDC estimates that 62 to 88 percent of sharps injuries can be prevented simply by using safer medical devices. OSHA provides a number of references on control programs, safer needle devices, decontamination, possible solutions for bloodborne pathogens and needlestick hazards, and post-exposure management, on their website.

For additional information on OSHA's standards and resources related to bloodborne pathogens, please visit: <http://www.osha.gov/SLTC/bloodbornepathogens/index.html>

Anti-Discrimination Laws

HIV/AIDS may be recognized as a disability under the Americans with Disabilities Act (ADA), and, therefore, an applicant or employee with HIV/AIDS would be protected from unlawful discrimination. The ADA prohibits adverse employment actions taken on the basis of an individual's disability where the individual is qualified for the job. Thus, to refuse to hire or to fire someone because s/he has HIV infection, when the individual is capable of performing the job at issue, would be discrimination under the ADA.

If an employer, however, could show that an individual would pose a "direct threat" to his/her health or safety or that of others because of HIV infection, and that a reasonable accommodation would not eliminate or lower the "significant risk of substantial harm," then the individual is not qualified and the employer's reason for excluding the individual from employment would not violate the ADA.

The ADA prohibits employers from asking “disability-related” questions (*i.e.*, questions likely to reveal whether or not an applicant has a disability) and conducting medical examinations prior to making a job offer. HIV screening would be considered a medical examination and thus prohibited at the pre-offer stage. The ADA permits employers to ask disability-related questions and require medical examinations (including HIV screening) of employees only if the employer can show that the question or examination is job-related and consistent with business necessity.

U.S. Department of Labor Support for International HIV/AIDS in the Workplace Initiatives

In February 2000, DOL’s Bureau of International Labor Affairs (ILAB) launched a new program to respond to the HIV/AIDS crisis and examine the affect the pandemic has on productivity and the workforce in developing countries. ILAB has received over \$41 million to establish HIV/AIDS Workplace education programs in more than 30 countries. To date the projects have reached over 2.9 million workers in over 600 enterprises and provided educational workshops and training to over 16,000 workers, managers and agency officials.

The program improves workers’ understanding about the spread of HIV/AIDS, so that workers reduce risk behaviors and HIV transmission. The programs also educate workers on how to treat people living with HIV/AIDS with dignity and to reduce stigma and discrimination. Building on ILAB’s experience bringing workers, employers and Ministries of Labor together to address workplace issues, ILAB brought these same stakeholders together to address HIV/AIDS. Over the years, ILAB has worked with numerous implementing partners such as the International Labor Organization (ILO), Academy for Educational Development (AED), Family Health International (FHI), The Future’s Group, Project HOPE, World Vision and Research Triangle International (RTI).

ILAB’s primary implementer is the ILO’s HIV/AIDS Office (ILO/AIDS) which has established the well recognized *HIV/AIDS Code of Practice*, training manuals to implement the *Code* in the workplace, training manuals for employers and unions, and a toolkit for Behavior Change Communication (BCC) development, which are available on line (www.ilo.org/aids).

The President’s Emergency Plan for AIDS Relief (PEPFAR) is the largest commitment ever by any nation for an international health initiative dedicated to a single disease—a five-year, \$15 billion, multifaceted approach to combating the disease around the world. Since the Administration’s launch of the PEPFAR program in 2003, ILAB has worked to support the PEPFAR goals to coordinate strategy and support the most effective U.S. government programs.