

Safety In the Workplace: An Introduction

Most discussions of safety compliance begin with a story intended to scare you into action. Threats of litigation, business loss, legal expense and personal liability are painted into a landscape of unseen liability landmines poised to destroy your lifework and deplete your bank account. Such storytelling is intended to be scary, opaque and catastrophic. That is the wrong, backward view.

Experienced entrepreneurs see the world differently - very differently. Compliance with OSHA's standards creates value for companies: increased efficiency, decreased down-time, and lower insurance premiums. These value-adds are quantifiably well-documented to increase profitability and isolate exposure for investor, director and officers alike. Fear motivates managers; value creation catalyzes owners.

In 1970, the federal government signed into law the Occupational Safety and Health Act (OSH Act), which created the Occupational Safety and Health Administration (OSHA), in response to growing national concern about high rates of employee fatality, injury and illness. Following WWII, the US industrial complex was expanding and unbridled, including the rise of new industries, such as, chemical manufacture and application. The OSH Act was the culmination of decades of state-level legislation and national demand to provide a federal framework, and set of standards, to ensure safe working conditions for the populous. On a larger scale, it provided employers with a systematic framework to meet these expectations. In doing so, safety was transformed from an interpreted concept to a workplace process that could be scaled, quantified and optimized, thus increasing the efficiency of the US's manufacturing capability as a whole.

The OSH Act defines the rights of workers and the responsibilities of employers. Employees and workers are entitled to safe workplace, including information about any potential hazards, training in safe techniques required to perform their job, and protection from retaliation if they raise concerns or report unsafe working conditions. Employers have the duty to be proactive, seeking out and mitigating potential safety threats, providing training and safety equipment, and maintaining records related to processes, implementation and training.

In recent years, the responsibilities of the business owners have been interpreted to transcend employees. The safe environment clause requires protection for workers as well as any contractors and visitors. It is no longer the case that an independent contractor (1099 or otherwise) is exempt from the standards. Should they be injured on your property, then the onus is on you to show that appropriate safety measures were in place.

So then, how does an employer ensure a safe environment and working conditions? This is where implementation frequently falters, even by employers with the best intentions. Understanding what, exactly, needs to be done is often cited as the barrier to compliance - we do not know what we don't know. For instance, employers are required to maintain documented training and safety protocols. With so many moving parts and without being an expert in safety protocols this can be opaque. Therefore, to cut through these vagaries American Compliance Systems lays out a 5-Step Solution[©] of what all employers need to do:

Step 1: Assess and Identify Hazards and Exposures

Employers are expected to be proactive in their assessment and identification of potential hazards. All potential safety hazards should be identified and cataloged. As an employer, it is imperative to know the most common hazards and exposures your workplace creates. In the distillery arena, slips, trips, and falls are a leading cause of injury. The injury rate for such accidents is about 60% higher than in General Industry companies. Knowing this, Bob the OSHA inspector will first look for unsafe conditions that could lead to a slip, trip or fall. If you do not first assess and identify hazards and exposures, you risk overlooking important areas in the workplace that could lead to accidents. By knowing the potential hazards and exposures, you can prevent that back injury claim by Joe Smith that resulted in the \$500,000 lawsuit and loss of productivity. Some accidents are not preventable but at least employers can feel safe knowing that they identified the hazards and let their employees know the risks.

Step 2: Develop Plans, Policies and Procedures

For each potential hazard, a site-specific written plan needs to be developed and put in place. Additionally, 26 states have additional requirements for safety plans that must be met. After you have identified the hazards and exposures in your workplace, your safety expert can recommend what written plans, policies, and procedures you will need. These plans are tailored to your individual business. Having documentation is of the utmost importance. Plans can be used by the employees to become familiarized with the safety conditions unique to their workplace. The employer can feel confident knowing their safety efforts are well-documented. Now, the employer can show Bob the OSHA inspector the paperwork necessary when a complaint is filed. Also, in the event of Joe Smith's back injury, the employer is able to demonstrate that proper lifting techniques were outlined and made available. American Compliance Systems takes this one-step further by making your plans instantly available online. Instead of having to scramble to find traditional paperwork in your administrative office, you can now show the inspector, lawyer, or employee the documentation in an instant.

Step 3: Training

Where applicable, employees must receive training to ensure they know the potential risk(s) of any individual activity, how to properly perform risk-inducing activities, and how to respond in the event of a potential issue. For certain activities, training must occur at regular intervals. Having training is only as good as having the proof of training. All employees are required to be trained in exposures that they will face in the workplace.

Jim Conner is a former employee and is disgruntled. Jim's lawyer sends an interrogatory that asks for training records or proof of training. Not having training records means you lack proof, which could hurt your defense in the event of litigation. Training in safety procedures also increases company valuation.

Step 4: Implement, Monitor and Maintain

Proof of implementation, monitoring and training must be maintained for each potential hazard. Risk Mitigation is accomplished by consistently doing things/taking actions that avoid exposures that can cause a problem/injury. Most companies lack the ability to do this. This leads to a major benefit of our Risk Mitigation solution-it has the mechanism to monitor that is being done. Alleviating the administrative burden, we can now monitor safety simply and in a cost-effective manner without decreasing productivity. For example, complete the task and fill out the form then scan into the folder as proof it was done-Simple and effective!

Step 5: Record Keeping

Records need to be kept for all processes, training, implementation and monitoring. These records must be kept for upwards of 30 years following the end of employment for individual employees. This is the "Big Achilles heel" for litigation or claims. Do to length of time for effects from exposures to show up- records of what employees are exposed to must be kept for 30 years after employment ceases. This is the longest record keeping requirement there is! Luckily, by outsourcing your safety program, you can acquire a built-in online recordkeeping system that satisfies even the most stringent requirements. Remember Joe Smith's back injury claim 15 years ago? The system does and can readily provide the necessary training record of Joe and the plan in place at the time of injury.

For midsize and smaller companies, the above process can be extremely intimidating – but don't worry, there are ways to simplify the process. Developing a comprehensive safety program is generally approached in one of two ways: in-house or outsourced. It is possible to meet all of the requirements internally by assessing the risks and writing the mitigation and training plans oneself. OSHA's website provides resources to help identify the risks by category (for example, distilleries often have manufacturing, storage and office facilities, with tasting rooms adding another dimension) and the standards that need to be met. More commonly, small- to mid-size companies will contract with consultants or subscription-based companies to manage workload. Outsourcing alleviates the administrative burden since assessment, plans, training programs and implementation/monitoring processes are selected from pre-existing libraries. Therefore, implementation can be immediate and ensured to be at standard, generally well below in-house cost.

While we all want the best for our employees, we cannot forget the responsibility we have to our business and shareholders. Safety transcends our moral imperatives and is a legal obligation. . To protect what we have created we would not think of avoiding tax filings, selling brands without a COLA, or ignoring our excise tax reports. Compliance with the OSH Act is on par with these, if not more important, since it touches so many moving parts of our business.

The area most intimidating to business owners is the scope and extent of OSHA's reach. Since safety issues are of concern to the general public, then no barrier exists to reporting of general problems. As such, anyone can file an anonymous complaint or inquiry request. This, unfortunately, has led to nefarious activity consistent with our litigious society. For example, former disgruntled employees or aggressive competitors can request a case investigation; the burden of proving compliance then rests on the business. In addition to fines and penalties, willful negligence can expose the owners, officers and directors to personal liability and criminal charges. Moreover, OSHA's lines of communication to other federal agencies often result in concomitant investigations by other agencies, including the IRS..

As a result of this potential for unknown exposure, investors and potential buyers often leverage this information asymmetrically to significantly discount the valuation of a company. Being able to show safety policies, proof of training and historical records both protects the company in terms of threatened litigation and disperses a key negotiating point during a business sale.

In addition to creating and maintaining value, compliance protocols have been shown to *increase profitability* both by increasing revenue and decreasing costs. Implementation of standard processes increases efficiency and is the foundation of scalability. By removing the ambiguity and decision making from core functions, staff productivity increases as work is focused on execution, rather than interpretation. Moreover, the elimination of exposure risks decreases downtime and employee absence that, when coupled with discounted insurance rates available to companies with auditable safety records, creates a material reduction in expenses.

In conclusion, while OSH Act compliance is federally mandated, implementation transcends risk mitigation and when systematically applied, it increases productivity, decreases operating costs and raises corporate valuation. With simple, off-the-shell solutions available for immediate implementation by companies like the reputed American Compliance Systems, there really is not any reason not to ensure your staff and visitors are safe and protected.