

The Occupational Safety and Health Act at 50: Introduction to the Special Section

 See also the *AJPH* OSHA @50 section, pp. 621–647.

The year 1970 was an especially turbulent one in the United States. The Vietnam War still raged (it would last another five years), sparking continued protests on college campuses and in the streets. The pioneering civil rights legislation of the 1960s led to, among other things, calls for greater women’s rights, disability rights, gay rights, and workers’ rights. The first Earth Day (April 22, 1970) and the establishment of the Environmental Protection Agency (December 2, 1970) are examples of and responses to public demands for safe and healthful air, water, consumer products, and workplaces.

Even in such a dynamic historical setting, the Occupational Safety and Health Act of 1970 (OSH Act), signed into law on December 29, 1970, was groundbreaking. Its purpose, as proclaimed in section 2(b), is “to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources.” The task was urgent and daunting, as Congress received testimony that each year an estimated 14 500 workers died in workplace accidents and there were 390 000 new cases of occupational disease.¹

The OSH Act is a public health law, an employment law,

and an environmental law. It has unprecedented scope by setting minimum safety and health standards for substantially all private sector workplaces. The OSH Act prescribes notice and comment rulemaking for new standards, requires preinspection compliance by employers, authorizes the secretary of labor to assess civil monetary penalties and impose abatement orders for noncompliance, and establishes administrative adjudications of contested enforcement proceedings by an independent agency of commissioners and administrative law judges.²

Early on, those charged with implementing the OSH Act realized the practical difficulties of attaining the lofty goals of the statute. To begin with, there were too few occupational safety and health professionals, including safety engineers and industrial hygienists. Next, many of the interim safety and health standards adopted under section 6(a) (standards originally promulgated under other federal laws with limited applicability and privately developed national consensus standards) were outdated, confusing, or inadequate. Finally, many businesses strongly opposed the federal government’s enforcement role, especially unannounced inspections

and government-mandated changes to their work processes.

During the past five decades, structural deficiencies of the statute, such as the contentious, resource draining, and glacial process for promulgating new standards, limited the effectiveness of the law. Nevertheless, the OSH Act has had a significant symbolic and normative effect. The OSH Act declares a national policy of safe and healthful workplaces, sets minimum standards, and facilitates beneficial interventions by safety and health professionals, state Occupational Safety and Health Administration (OSHA) plans, safety-conscious employers, unions, and other interested parties.

This special section of *AJPH* commemorates the 50th anniversary of the OSH Act by reviewing the past, assessing the present, and proposing the future direction of occupational safety and health regulation. It features an incomparable group of experts presenting their views on a range of important issues.

It begins with historians David K. Rosner and Gerald

Markowitz (p. 622) exploring the history of occupational safety and health from the Civil War to the present. They note that struggles over working conditions featured prominently in labor–management conflict throughout the 20th century.

The OSH Act established the National Institute for Occupational Safety and Health (NIOSH), part of the Centers for Disease Control and Prevention, to research workplace hazards. John Howard (p. 629), director of NIOSH, discusses the activities of his agency in each of the past five decades. Significantly, in addition to traditional hazards, NIOSH also has studied and issued guidance documents on newer and emerging issues, including ergonomic hazards, secondhand smoke, and workplace violence.

David Michaels, former head of OSHA, and Jordan Barab contributed an analytic essay (p. 631) to assess the regulation of workplace safety and health, including the effects of new hazards and differing roles of employer and employee. Among their proposals are extending OSH Act coverage to all workers, including public sector employees and workers on small farms, streamlining the standards-promulgation process, and enhancing protections for whistleblowers.

The OSH Act increased the demand for occupational medical

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services, for example OSHA-mandated medical examinations of workers exposed to toxic substances. Beth A. Baker et al. (p. 636) discuss the changing roles of occupational physicians as the economy has moved from a manufacturing to a service base. Today, occupational physicians are less likely to work in corporate medical departments and more likely to work in clinical settings to prevent and treat occupational injury and illness.

The OSH Act also established the National Commission on State Workmen's Compensation Laws. Leslie I. Boden (p. 638) reviews the record of the commission and notes that states adopted many of the recommendations from its 1972 report, thereby improving state workers' compensation systems. He urges the establishment of another national workers' compensation body to address the "race to the bottom" characterizing many inadequate state programs.

A common theme of several articles in the special section is the effect of new hazards and new work arrangements. David Weil (p. 640) uses the term "fissured workplace" to encompass outsourcing, contracting and subcontracting, franchising, and platform business models. These relationships often limit employer duties and contribute to unsafe working conditions. He recommends extending the obligations of a "controlling employer" beyond general contractors on a construction site to all comparable employers.

Margaret Seminario (p. 642), giving the labor perspective, applauds the tremendous reduction in workplace fatalities, especially in hazardous industries. Yet, she contends that the OSH Act's emphasis on OSHA and employers often excludes workers from safety and health

activities. She asserts that the OSH Act "should require all employers to establish a safety and health program, which fully involves workers and their representatives, to identify and fix hazards, whether the hazard is covered by a specific OSHA standard or not."

Richard E. Fairfax (p. 644) provides the employer perspective. He notes that the OSH Act led to increased membership in safety and health professional organizations and the development of many safety and health products. Interestingly, he also advocates requiring all employers to establish a basic safety and health program "that would include management leadership, employee involvement, training, hazard recognition and assessment, and hazard prevention and control/mitigation."

Interdependent global economies create occupational safety and health concerns along supply chains and among trading partners. Deborah Greenfield (p. 646) of the International Labour Organization observes that even as the focus in developed countries has shifted to new hazards and work practices, some developing countries still suffer horrific workplace events, such as the factory collapse in Bangladesh in 2013 that killed more than 1100 workers and injured more than 2500.

Overall, the articles in this special section underscore the need to update the provisions of the OSH Act and its standards to reflect new scientific evidence, technological developments, and economic realities in contemporary workplaces. Although the essential legal foundation of the OSH Act was established 50 years ago, the task of ensuring workers a safe and healthful workplace in light of current conditions remains ongoing. **AJPH**

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CONFLICTS OF INTEREST

The author has no conflicts of interest to declare.

REFERENCES

1. Report of the Senate Committee on Labor and Public Welfare (submitted to accompany S. 2193, the Williams Bill), S. Rep. 91-1282, 91st Cong., 2d Sess. 1-5 (October 5, 1970).
2. Rothstein MA. *Occupational Safety and Health Law*. Eagan, MN: Thomson Reuters; 2020: 8-11.