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OSHA at 40: Looking Back, Looking Ahead

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On April 28, 1971, the Occupational Safety and Health Administration (OSHA) came into being. While some states had laws and agencies in place to regulate certain workplace health and safety hazards, the establishment of OSHA following passage of the Occupational Safety and Health Act meant the federal government was able to intervene for the first time to regulate workplace health and safety conditions and protect workers. From its inception, the agency has been the focus of considerable political controversy. Virtually the only point on which both supporters and detractors are likely to agree is that the agency has had a profound impact on the American workplace.

As OSHA celebrates its 40-year anniversary, what has been the legacy of the agency in protecting American workers from injury and illness on the job? And how necessary is OSHA and its state affiliates in a 21st century economy? Today corporate and business leaders argue that safety and health regulations are unnecessary and damaging to business. Indeed, as Congress debates the budget for the 2011-12 fiscal year, Republicans have proposed cuts of nearly 20 percent to the agency. The proposals include cuts to federal and state enforcement activities, development of safety and health standards, and collection of safety and health statistics.

This policy brief reviews the accomplishments of OSHA over its 40-year history, highlighting the agency's important role in reducing workplace fatalities and protecting workers in a variety of industries from harm. In the current anti-government political climate, we make the case for robust government regulations backed by scientific evidence and effective enforcement.

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Before OSHA: Limited Regulations and Unprotected Workers

“I can’t see what all this talk is about. How is it wrong for the State to intervene with regard to the working conditions of people who work in the factories and mills? I don’t see what they mean. What did we set up the government for?”

-- New York Senator Al Smith during debates regarding new health and safety legislation in the state, 1913¹

Before the passage of the Occupational Safety and Health Act in 1970, the federal government played a limited role in addressing workplace health and safety issues. Most responsibilities fell to the states—and most states were resistant to writing health and safety laws. In most cases, it wasn’t until after industrial disasters that states were willing to act.

On March 25, 1911, a fire broke out at the Triangle Shirtwaist Company factory in New York City. The company was one of the largest garment manufacturers in the city, employing more than 500 young women—mostly immigrants from Southern and Eastern Europe—to make women’s blouses. As the fire ripped through the eighth and ninth floors of the building, escape was nearly impossible since the doors had been locked to keep workers from taking breaks or stealing fabric. Other doors only opened inward or were blocked by sewing machines and other equipment. In the end, 146 employees, mostly young Jewish and Italian immigrant women, died in the fire—either trapped inside the building or jumping to escape the smoke and flames.

The absence of any workplace health and safety regulations in 1911 contributed to this disaster. Even after the devastating fire, a number of business leaders and politicians argued businesses could regulate themselves and that regulations imposed to protect the safety of workers were untenable and would drive business away from New York City. Fire department mandates to install sprinklers were met with hostility, with building owners arguing that sprinklers were cumbersome and costly. Industry groups warned that regulations would destroy industry in New York State. The president of the Real Estate Board, Terence McGuire, argued that manufacturers would leave New York City and State if new regulations were made into law.²

Despite the anti-regulation rhetoric, Progressive era reformers, labor leaders, and a few forward-thinking politicians pushed for laws to prevent similar tragedies from recurring. New York State Governor John Alden Dix established a Factory Investigating Commission to examine working conditions in factories throughout the state and make recommendations to lawmakers. Based on these recommendations, Assemblyman Alfred Smith and Senate Majority Leader Robert Wagner introduced a series of bills to address labor standards and workplace health and safety conditions. The collection of laws that were passed by the state legislature increased fire safety and workplace sanitation, limited working hours for women to 54 hours per week, and restricted child labor. Many of the reforms had been advocated by labor unions in the years before the fire. The legislation became a model for other

states to follow and served as a precursor to New Deal reforms introduced at the federal level a quarter century later.

And while New York's new regulations improved working conditions and protected the safety, health, and wellbeing of workers, they did not have the predicted effect of driving business out of the state. Newspaper reports from the time were unable to find any evidence of manufacturers leaving New York State as a result of the new regulations. Instead, many of the measures were subsequently adopted throughout the country. Today such measures are rarely given a second thought—no one would build a building without fire escapes and no company would argue that this building regulation places an undue burden on their business.

The “Instrument of a Revolutionary Law”

Sixty years after the Triangle disaster, an uneven patchwork of state and local law had done little to address the massive toll of workplace injuries, illnesses and deaths throughout the country. By the late 1960s, an estimated 14,000 workers were killed in the line of work each year—nearly 40 deaths per day—while countless others suffered disease or disability. But a number of high-profile disasters coupled with a growing environmental movement brought workplace injuries and illnesses into the national spotlight and put pressure on the federal government to take action.

Organized labor in particular played a lead role in pressing for government intervention. Tony Mazzochi of the Oil, Chemical and Atomic Workers Union spearheaded a series of worker forums around the country to document the toll that chemicals and industrial processes were taking on workers. And a report by the Public Health Service in 1965 entitled “Protecting the Health of Eighty Million Americans” outlined a number of workplace dangers and called for the creation of a federal-level occupational health effort.³

In 1968, President Lyndon Johnson responded to these pressures by introducing legislation for a new occupational health agency, an idea that had first been proposed during the New Deal era by Frances Perkins, first woman Secretary of Labor and a witness to the Triangle fire. Organized labor backed the measure, but debates over which federal agency should house the program led to its early demise. The following year, President Richard Nixon offered a new proposal that quickly gained traction. The Occupational Safety and Health Act met with bipartisan support from both houses of Congress, and on December 20, 1970, Nixon signed the bill into law. AFL-CIO President George Meany called the measure “a long step...towards a safe and healthy workplace.”⁴

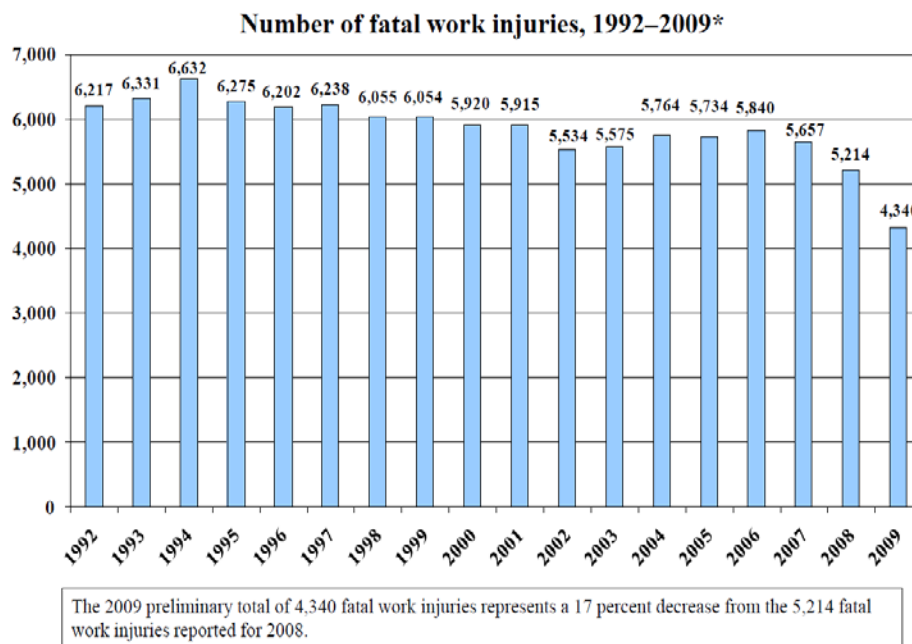
The stated goal of the new law was to “assure so far as possible every working man and woman in the Nation safe and healthful working conditions.” The Act established the Occupational Safety and Health Administration within the Department of Labor to carry out the mandates of the law. In addition, the National Institute for Occupational Safety was created to conduct scientific research on workplace hazards, and an independent commission was set up to for parties to appeal the agency's decisions regarding citations and fines. Morton Corn, OSHA Chief under President Gerald Ford, later described the new federal agency as “the instrument of a revolutionary law... a new right in the Bill of Rights — the right to a safe and healthful workplace.”⁵

What Has OSHA Accomplished?

The functions of OSHA under federal law are straightforward. The “general duty clause” requires every employer “to furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.” The agency sets health and safety standards with which businesses must comply. These standards serve to protect workers from a wide range of hazards—either specific materials (toxic chemicals, radiation, excessive noise, etc.) or within specific high-hazard industries (construction, etc.). OSHA enforces these standards by inspecting workplaces and issuing citations for businesses that do not comply. Finally, the agency provides consultation services to employers to help them comply with OSHA regulations.

The creation of OSHA also led to the establishment of a number of state occupational health programs to carry out the mandates of the federal law. State programs are also granted authority to institute health and safety standards that are more protective than federal laws. In California, Cal/OSHA has often served as a leader on worker health and safety regulations. The California agency has taken the lead on instituting standards on hazard communication, repetitive motion injuries, blood-borne pathogens, outdoor heat exposure, and injury and illness prevention programs. These standards have in turn been adopted by other states or by the federal government.

Over the past 40 years, federal OSHA and its state affiliates have saved thousands of lives and resulted in clear improvements in the workplace. The number of on the job deaths per year has fallen by almost two-thirds—even as U.S. employment has nearly doubled. An estimated 430,000 lives have been saved by the activities of the agency.



Source: U.S. Bureau of Labor Statistics

In addition to preventing workplace fatalities, OSHA has also been responsible for preventing countless injuries and illnesses by eliminating a wide range of hazards from the workplace. In 1972, 11 out of every 100 workers were seriously injured or became ill on the job; in 2008, less than 4 out of every 100 workers suffered a serious injury or illness.⁶ The number of workers exposed to some of the most hazardous agents such as asbestos or lead is sharply down, while worker protections in high-industries such as mining and construction have become widespread. And while a number of job hazards remain unregulated and uncontrolled, it is clear that OSHA has made considerable strides in promoting a culture of safety throughout American workplaces.

Is OSHA an Enemy of Business?

OSHA and its state affiliates have long been accused of interfering with healthy business activities by requiring costly and unnecessary interventions in the workplace. Critics contend that OSHA regulations “kill jobs” by driving employers out of business or pressuring them to transfer American jobs overseas. Indeed, we are again hearing the same rhetoric about the job-killing nature of regulations. Lobbyists in Washington pressure elected officials to remove workplace health and safety protections.

Many politicians and business leaders argue that government regulations are burdensome and cost jobs. The weak job market following the recession is used as a reason for lessening regulations. Proposals to cut OSHA’s budget are an attempt to remove government from the effort to protect workers and let businesses self-regulate, at a time when organized labor is also under attack.

“The truth is that OSHA standards don’t kill jobs. They stop jobs from killing workers.”

-- David Michaels, Assistant Secretary of Labor for OSHA

In fact, many OSHA standards are not costly to implement and some technological innovations are driven by regulatory requirements. For example, unlike Canada and the European Union, OSHA does not have a strong noise protection standard. As a result, American companies have few incentives to modernize their equipment and adopt more efficient and quieter machinery. A study by the National Academy of Engineering has found that, as a result, European manufacturers are far ahead of American manufacturers in designing quieter and more modern equipment.⁷ American companies are not only producing outdated and potentially hazardous equipment, but they have also lost out on the opportunity to sell their machinery to the European market. The opportunity for job creation through the design, manufacturing and sale of this equipment is lost. Similarly, stronger chemical policies in the European Union may exclude the import of U.S. products.

Is OSHA Still Needed?

Some business leaders today argue that while OSHA may have been necessary years ago, safety at work is no longer an issue. They contend that American workers simply do not face the same kinds of

industrial hazards that existed a century ago, and that businesses can protect workers on their own by self-regulating.

But the need for worker protections is still strong. In April 2010, 29 miners in West Virginia were killed when the Upper Big Branch mine, run by Massey Energy, exploded. Just two weeks later, 11 workers on a BP off-shore oil drilling rig were killed in the Gulf of Mexico when the blowout preventer failed and the rig exploded. The BP disaster had unfathomable environmental and economic impacts as hundreds of millions of gallons of oil leaked into the Gulf, killing wildlife and shutting down the area's fishing and beach tourism industries. These examples show the importance of safety regulations in today's modern workplaces.

While these high-profile disasters receive media attention, thousands of workers are silently injured or killed on the job each year. Low-wage and immigrant workers remain especially vulnerable to a variety of workplace hazards. According to the Bureau of Labor Statistics, while the overall number of workplace fatalities has been on the decline, the number of deaths among foreign-born Hispanic workers has been increasing. These workers enjoy fewer workplace protections and stand to benefit most from the activities of an effective government regulatory agency.

OSHA and its state affiliates also help to protect businesses from the loss of productivity that worker injuries and illnesses represent. According to the Liberty Mutual Workplace Safety Index, workplace injuries and illnesses cost American businesses \$53.42 billion in workers' compensation claims in 2010—roughly \$1 billion per week.⁸

A strong OSHA creates a level playing field and holds all businesses accountable for establishing a safe work environment. While some employers cut corners and violate state and federal health and safety laws, OSHA helps ensure that these bad actors do not put employers who follow the law and take safety seriously at a competitive disadvantage.

Finally, it is important to recognize that recent attacks on OSHA are attacks on workers. The history of occupational safety and health regulations is one of using government as a tool to shift the balance of power between employers and employees. Organized labor played an important role in organizing for the creation of the federal agency and has served as a watchdog over the years to ensure it functions as intended. Among its many functions, perhaps the most important role of OSHA is to protect workers on the job. A properly functioning OSHA helps to ensure the pursuit of profit does not jeopardize the wellbeing of workers on the job.

Politicians and business interests may frame their concerns around the economic impacts of regulations on businesses' bottom line. However, any weakening of OSHA contributes to the erosion of workplace protections that labor fought so hard to secure. As the next round of budget battles unfold at the state and national levels, we would be wise to remember the lessons of industrial disasters such as the Triangle Shirtwaist Fire and the widespread workplace and environmental concerns that brought OSHA into being.

¹ Martin, G. W. (1983). *Madam Secretary, Frances Perkins*. New York: Houghton Mifflin.

² Dreier, P., & Cohen, D. (2011, March 15). Lessons learned from the Triangle Waist factory fire. *Jewish Journal*. http://www.jewishjournal.com/opinion/page2/lessons_learned_from_the_triangle_waist_factory_fire_20110315/.

³ U.S. Department of Health, Education and Welfare (1966). *Protecting the health of eighty million Americans: A national goal for occupational health*. Washington, DC: U.S. Department of Health, Education, and Welfare, Public Health Service, Bureau of Disease Prevention and Environmental Control, National Center for Urban and Industrial Health.

⁴ Judson MacLaury, "The Job Safety Law of 1970: Its Passage Was Perilous," <http://www.dol.gov/oasam/programs/history/osha.htm>

⁵ Quoted in David Michaels, "OSHA at 40", Center for American Progress, Washington, DC, April 21, 2011, http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=SPEECHES&p_id=2500

⁶ U.S. Department of Labor, Office of Public Affairs (2011, February 15). Statement from assistant secretary of labor for OSHA supporting promotion of job creation: Agency doing everything possible to support good, safe jobs. *News Statement*. http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=NEWS_RELEASES&p_id=19260.

⁷ U.S. Department of Labor, Office of Public Affairs (2011, February 15). Statement from assistant secretary of labor for OSHA supporting promotion of job creation: Agency doing everything possible to support good, safe jobs. *News Statement*. http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=NEWS_RELEASES&p_id=19260.

⁸ 2010 Liberty Mutual Workplace Safety Index, <http://www.libertymutualgroup.com/>.