

An Outsider's View of the Key Challenges Facing EH&S

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A Little History



In 1977, I was thin, had a full head of hair, 20-10 vision and could touch my toes. I read two newspapers every day and had above average spelling skills. Gasoline was \$.75 a gallon. I had never used the term "ppm" in a conversation.

A Little History

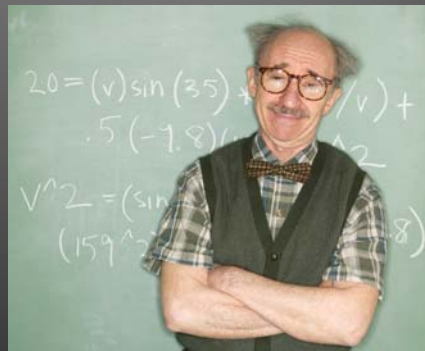


In late 1977, I conducted my first interview with an industrial hygienist. The term “ppm” was used more than once.

A Little History

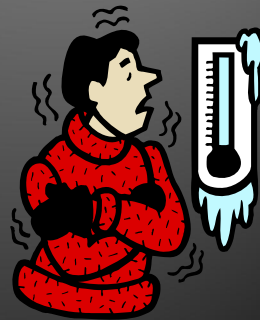
In the ensuing years, I have interviewed and spoken with hundreds of industrial hygienists.

Obviously, with no ill effect.



And a Word About the Title

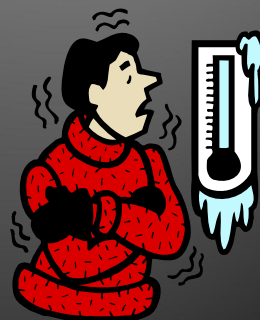
What is an “outsider?”



And a Word About the Title

What is an “outsider?”

Foreigner: someone
who is excluded from
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And a Word About the Title

What is an “outsider?”

Foreigner: someone who is excluded from or is not considered a member of a group

A contestant (human or animal) not considered to have a good chance to win



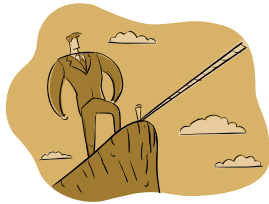
And a Somewhat Comforting Thought



“You can be a rank insider as well as a rank outsider.”

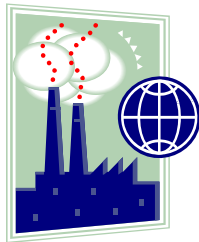
– Robert Frost

Key Challenges Facing EHS



- ▶ Preventing Injury, Disease & Death
- ▶ Making the Case for EHS Employment
- ▶ Setting and Enforcing EHS Rules

The Global Picture



An estimated annual toll of injury, disease and death due to occupational factors:

- ▶ 100,000,000 occupational injuries
- ▶ 100,000 deaths due to injury
- ▶ 11,000,000 occupational diseases
- ▶ 700,000 deaths due to disease

“We regard these as very conservative estimates which, although unavoidably crude, can nevertheless provide a basis for health priority planning at global level.”

Injury, Disease & Death in the U.S.



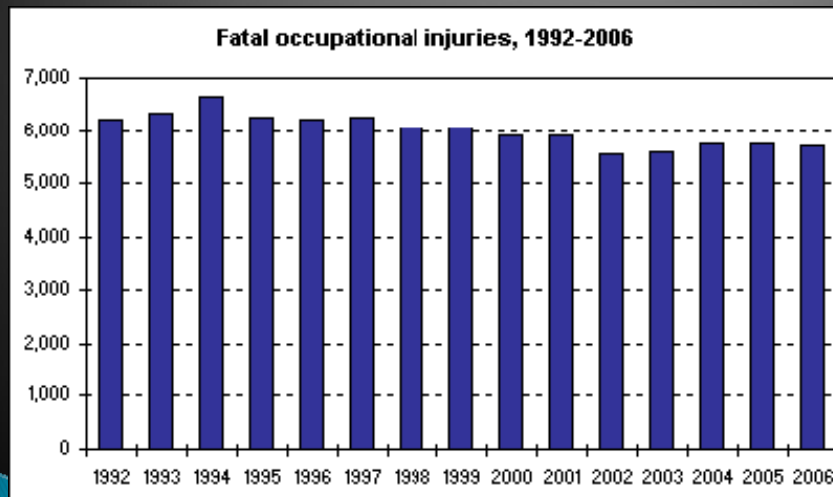
- ▶ 5,703 work-related fatalities
- ▶ 4,100,000 non-fatal occupational injuries and illnesses
- ▶ 3,900,000 occupational injuries
- ▶ 2,100,000 injuries and illnesses with days away from work
- ▶ 228,000 occupational illnesses

An Average Day

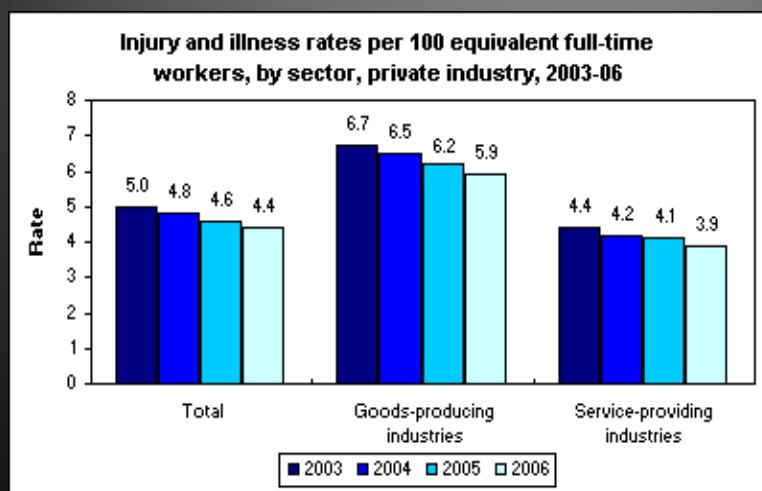


- ▶ 15 work-related fatalities a day
- ▶ 11,232 injuries and illnesses a day
- ▶ 468 injuries and illnesses an hour
- ▶ Nearly 8 injuries and illnesses a minute

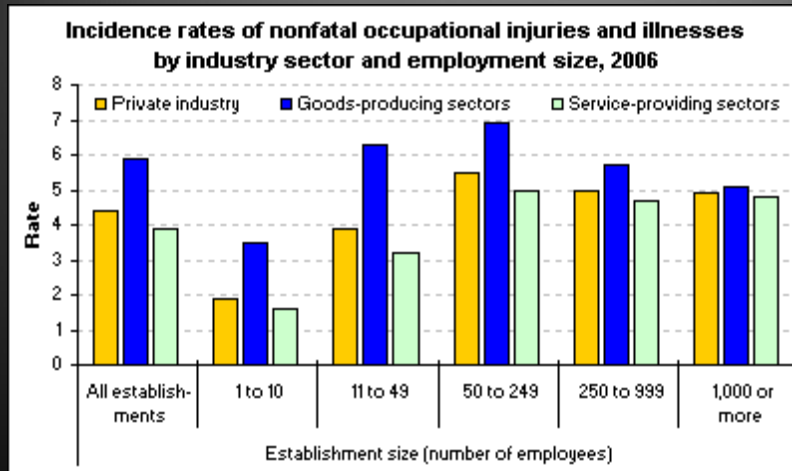
Fatalities in the Workplace



Injury and Illness



Where the Injuries Occur



A Downward Trends in Workers' Comp Claims

- ▶ Continued emphasis on workplace safety in all employment classes
- ▶ Increased use of robotics
- ▶ Increased use of modular design and construction techniques
- ▶ Increased use of power-assisted processes
- ▶ Advances in ergonomic design
- ▶ Proliferation of cordless tools
- ▶ More and better job training
- ▶ Improved fraud deterrents

How Accurate is This Picture?

- BLS misses between 33 percent and 69 percent of all occupational injuries
- 13,336.871 nonfatal injuries in 1992, not the 6,342,000 that was reported
- 49,000 to 74,000 fatal occupational illnesses each year

The cost of occupational injury and illness:
\$155.5 billion per year

A Public Health Problem?

"Do you consider occupational injuries, illnesses and fatalities a serious public health problem in the United States?"

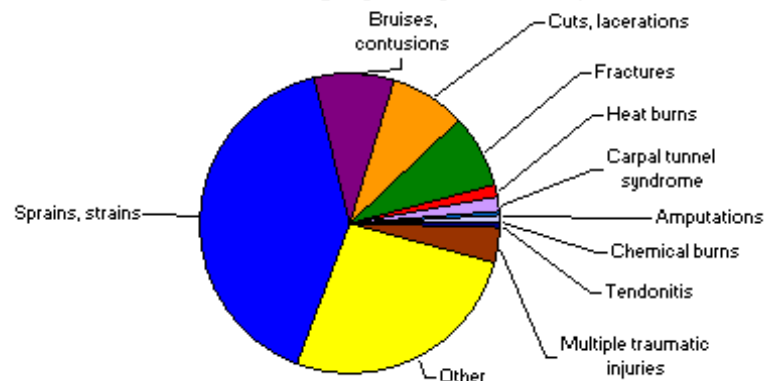
- Yes – 79%
- No – 21%

Dennis Hussey, Ph.D., director, environmental health and safety for Goodrich Corp., He called the number of injuries and accidents "still unacceptably high" and worried that there was some complacency in government about occupational safety.

"If you look at government budgets, it's like we have our hands around this, we can focus on something else. Based on the numbers, I'm not sure that's an accurate perception."

Overuse and Abuse

Nature of injury or illness of nonfatal occupational injuries and illnesses involving days away from work, 2005



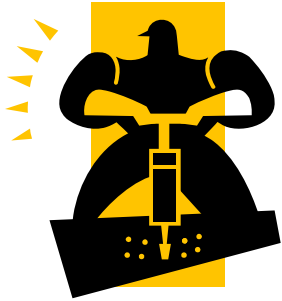
Challenges



25% of work-related fatalities involve motor vehicles

- How many companies have driver safety programs? How many companies have effective driver safety programs?

Challenges



20% of work-related fatalities are in the construction industry

- How do we combat economic forces encouraging low-cost, ill-trained immigrant labor?
- Can OSHA protect these workers?
- How does OSHA effectively target and inspect construction workplaces?

Challenges



Roughly half of lost-time injuries are related to stress and strain on the job

- Can we be effective in this area without an ergonomics standard?

Summing Up

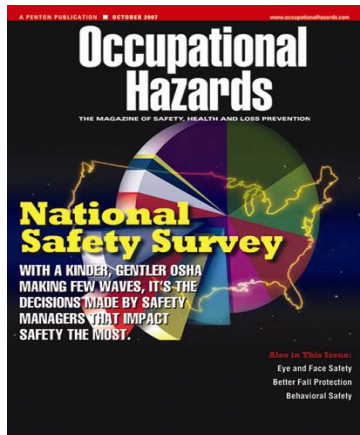
- ▶ We have unacceptably high numbers of work-related injury, illness and death in the U.S.
- ▶ Our views of the situation are strongly influenced by a flawed statistical picture
- ▶ This picture impacts the employment of safety and health professionals and the resources devoted to safety

Making the Case for EHS Employment



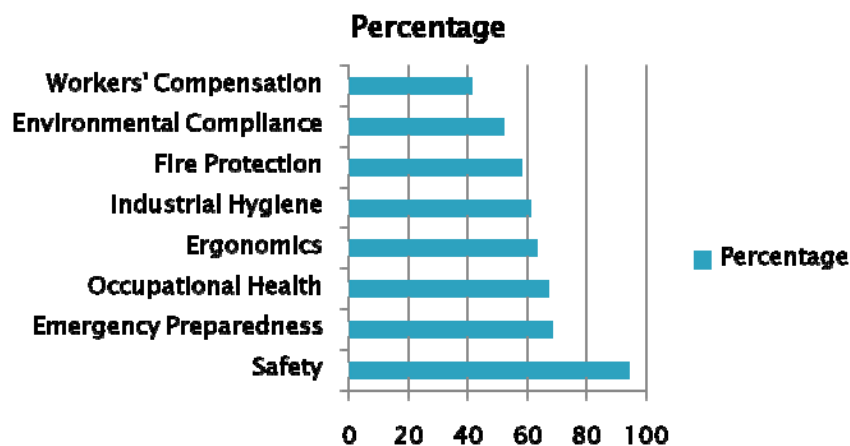
- ▶ Who are we?
- ▶ Where do we work?
- ▶ What do we do there?
- ▶ Is our work supported and valued?

National Safety Survey

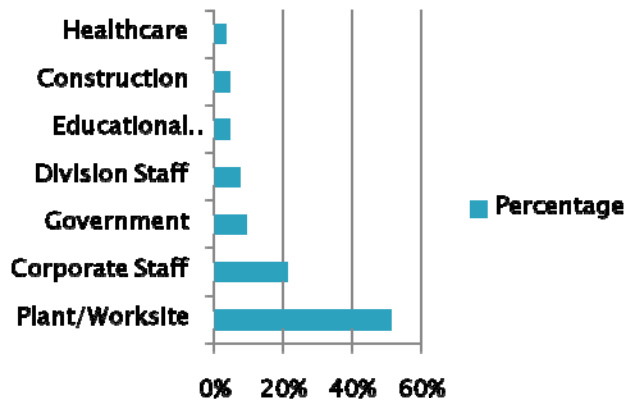


Since 2002, Occupational Hazards has conducted an annual survey of readers. In that survey, we gather demographic data, ask about their workplaces and its programs, and ask about their duties and opinions on EHS issues.

NSS: Generalists



NSS: Where They Work



NSS: The Positive Side of Safety

70% find safety and health work “highly satisfying”

- Blend of technical and people work
- Variety of duties
- Intrinsic reward of working to prevent injury and illness

NSS: Are They Prepared?



Do you consider yourself adequately educated and trained for your EHS responsibilities?

Yes	74%
No	26%

NSS: What is Most Important?



- ▶ Be visible, proactive and caring
- ▶ Change workplace culture to emphasize importance of safety
- ▶ Communicate with the staff at all levels
- ▶ Constantly promote a "safety pays" philosophy
- ▶ Promote safety awareness

Challenges



Resources

- Is there time to do a good job?
- Is there adequate budget for training, personnel, etc?
- Is there support and participation by top management, line management, workers?

NSS: What Happens if You Go?

- ▶ It would continue but with a reduced emphasis. Then it would start to decline until there were several accidents ... Then management would make safety a high priority.
- ▶ It is an integral part of the company's success that would not be eliminated.
- ▶ Probably not much as the organization sees safety and health to be the main responsibility of the line management.
- ▶ I would like to think that our culture is pretty good now and safety and health would continue to improve. I suspect, though, that improvements might stagnate without the pressure for change that I put on the organization.

NSS: What Happens if You Go?

- ▶ It is being eliminated slowly. I can see safety is getting worse.
- ▶ There would be a total breakdown or elimination of all prevention and safety programs.
- ▶ I am the last person remaining out of an office of eight from just 10 years ago. We had 15,000 employees then and 7,500 now in sites around the world. I would like to think things would continue running for a while, but in the end, the emphasis placed on core mission performance at any cost would result in the acceptance of injuries and their costs as the price of doing business.
- ▶ Safety activities would be outsourced and the overall quality of safety efforts would decline because vendors cannot possibly know and understand an organization as well as in-house personnel.
- ▶ It would probably not exist. The position is presently about 25 percent underpaid and someone would not likely take the job for the salary based on hours, responsibility and the stress level that goes with it.

NSS: What Happens if You Go?

The Sum of All Fears:

NSS: What Happens if You Go?

The Sum of All Fears:

“Safety people would not know how to handle industrial hygiene concerns.”

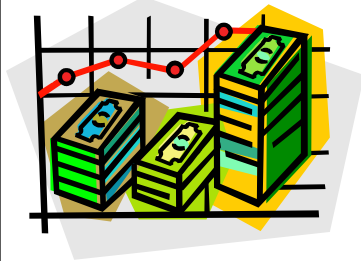
Challenges



Globalization

- ▶ Crossing communication and cultural borders
- ▶ Race to the bottom?

Challenges



Economics of Safety

Citing regulations is not enough

Can we make the case for safety investments?

Do we play the role of insider or outsider?

Summing Up

- ▶ EHS generalists are needed, but they are stretched thin and too often relegated to a “recordkeeping” role.
- ▶ Safety and health professionals may not be adequately prepared for their responsibilities, particularly as they relate to “making the business case” for safety.

Setting and Enforcing EHS Rules

At his Senate confirmation hearing to become Assistant Secretary of Labor for OSHA, Edward Foulke was asked by Committee Chairman Michael Enzi **what the biggest challenge facing OSHA was.**

Foulke said it was “getting information and tools to small employers without the resources and personnel” to create and maintain a workplace safety plan. These employers, in particular, need outreach, education and effective guidance on how to comply with the standards that apply to them, he said.

The Labor/Activist View

“Right. Almost 6,000 American workers killed in the workplace each year, rising fatalities among immigrant workers, 30-year-old chemical standards, workers killed every week in easily preventable trench collapses and falls, 15 workers killed in a BP Amoco refinery blast earlier this year, fines and penalties that make it hardly sensible to fix workplace safety problems, and OSHA's biggest challenge is ‘getting tools to small employers?’”

– Jordan Barab, Confined Spaces

The Business/Corporate View

“The real problem is that we are attacking our capitalists, entrepreneurs and corporations with burdensome regulations and we keep piling them on day after day, week after week, year after year. OSHA rules are 57 stories high if you stack the pages on top of each other. You can buy a copy, it comes on FIVE CD ROMS?”

– Lance Winslow, Blogger

The Messy World of Politics

“(T)here are still far too many health and safety professionals that don’t understand that to a very great extent, who lives and who dies in the workplace is determined by politics – both power relationships in the workplace, and traditional politics that determines who controls our government. What that means is that organizing unions and electing politicians who will fight against unlimited corporate control over our regulatory agencies, our workplaces and the environment are of vital importance to protecting the health and safety of American workers.”

Is OSHA Broken?

Yes, and it has been for some time.

- ▶ Carcinogens
- ▶ PELs
- ▶ Ergonomics
- ▶ Construction Safety
- ▶ Inspections and Penalties

Is OSHA Broken?

- ▶ “Limitations in the original Act, subsequent Congressional and Executive Branch actions, resource constraints at OSHA and a litany of private court challenges have resulted in an inability of OSHA to update old regulations and to develop new standards in a timely manner to protect the U.S. workforce.”
 - Tom Cecich, chair, ASSE Government Affairs Committee, testifying before Senate Subc. On Employment and Workplace Safety, April 2007

Is OSHA Broken?

Frank White, senior vice president of ORC Worldwide, was one of the speakers at the 5th Annual US – EU Joint Conference on Occupational Safety and Health in Portugal last November. It was there that White said the difference between OSHA and EU's methods in workplace injury and illness prevention became apparent.

"A lot of people in the room agreed that the EU had a much more integrated and collaborative approach to safety and health and is ahead of OSHA," says White. "The United States tends to get stuck because no one agrees on anything. And we have these old standards that we are enforcing."

OSHA Standards

Personal Protective Equipment

- ▶ 1994 – OSHA issues policy stating that for all PPE standards, the employer must both provide, and pay for, the required PPE, except in limited situations.
- ▶ 1997 – OSH Review Commission rules that OSHA's existing PPE standard could not be interpreted to require employers to pay for workers' protective equipment.
- ▶ 1997 – OSHA announces that it will propose a new rule
- ▶ 1999 – OSHA proposes new PPE rule
- ▶ 1999 – OSHA promises to issue final PPE rule in July 2000
- ▶ 2001 – PPE rule is deemed a "long-term action"
- ▶ Jan. 2007 – AFL-CIO files lawsuit to compel OSHA to issue PPE standard
- ▶ Nov. 2007 – OSHA issues final PPE standard

PPE: And after 9 years...

Foulke told the press that most employers were already paying for **95 percent** of the cost of personal protective equipment and paying the rest will cost approximately **\$85 million**.

In addition, he asserted that the new rule would have substantial safety benefits that will result in more than **21,000** fewer occupational injuries per year, which will also save more than **\$200 million per year** in costs including medical and insurance bills, not to mention “reduce the pain and suffering of many employees.”

Scott Schneider: A Labor View

- ▶ **Standard-setting**
OSHA has retreated from focusing on regulations and setting new standards and hasn't accomplished much in the past seven years since the Bush administration came into power. Emphasis on partnerships and alliances can be helpful, but it remains to be seen if it produces any results.

Scott Schneider: A Labor View

- ▶ Standard-setting

- ▶ **Crystalline Silica**

Schneider said he had hoped that the agency would have issued a standard addressing occupational exposure to crystalline silica in the construction industry. “Although it’s still on the agenda, it has been on the back burner for quite a while,” he said.

Scott Schneider: A Labor View

- ▶ Standard-setting

- ▶ Crystalline Silica

- ▶ **Hearing loss prevention for construction workers:**

The agency came out with a standard that addressed hearing loss prevention for general industry workers about 25 years ago, but nothing has been done to cover construction workers. Each year, thousands of construction workers suffer increased hearing loss from noise exposure on the job.

“We’ve really pushed them to try to reduce hearing loss among construction worker as a priority, but with little success,” Schneider said.

Scott Schneider: A Labor View

- ▶ Standard-setting
- ▶ Crystalline Silica
- ▶ Hearing loss prevention for construction workers:
- ▶ **Addressing Musculoskeletal Disorders Among Construction Workers**

Congress repealed OSHA's ergonomic rule in 2001 and after that, Schneider said, the agency has done very little to address the issue, other than offer a few voluntary guidelines. "NIOSH put out a booklet on solutions for ergonomic problems in construction, but I haven't seen OSHA hardly do anything on this, even though it's a huge percentage of injuries in construction."

According to data offered by NIOSH, construction employers reported 35,900 work-related musculoskeletal disorders that resulted in one or more days away from work for injured employees.
- ▶ "It seems to me that if you are the agency in charge of preventing workplace injuries, and you feel the need to steer clear from addressing 1/3 of workplace injuries, it's a big problem," he said.

The Challenge of Fixing OSHA

The legislation, which would be the first major revision since the original measure was passed in 1970, includes the following:

- ▶ It requires all companies to set up safety and health programs, including plans for employee training and education. Employers with 11 or more full-time workers must establish joint safety and health committees.
- ▶ It extends OSHA coverage to public employees now excluded and to employees working in nuclear plants under DOE jurisdiction.
- ▶ It increases the criminal penalties under OSHA for "willful violations" that cause death and authorizes them for willful violations that cause injury.
- ▶ It updates the exposure limits on toxic substances and directs OSHA to revise the limits every three years.
- ▶ It creates an office of construction safety within OSHA and requires contractors in general to draw up health and safety plans for particular projects.

OSHA Reform – 2007

- ▶ The “Protecting America’s Workers Act” amends the Occupational Safety and Health Act to:
- ▶ **Covers more workers** – Over 8.5 million American workers are not covered by OSHA’s protections. These include federal, state, and local public employees, and some private sector employees. The bill provides OSHA protections to these workers, which include flight attendants, state correctional officers and workers in government agencies.
- ▶ **Increases penalties for those who break the law** – Under current law, an employer may be charged – at most – with a misdemeanor when a willful violation of OSHA leads to a worker’s death. The bill makes felony charges available for an employer’s repeated and willful violations of OSHA that result in a worker’s death or serious injury. The bill also updates OSHA civil penalties, which been unchanged since 1990, and sets a minimum penalty of \$50,000 for a worker’s death caused by a willful violation.
- ▶ **Protects workers who blow the whistle on unsafe conditions in the workplace** – OSHA whistleblower provisions have not been updated since their adoption in 1970. The bill updates those whistleblower protections by incorporating successful administrative procedures adopted in other laws, like the Surface Transportation Act.
- ▶ **Enhances the public’s right to know about safety violations** – The bill improves public accountability and transparency by mandating the Department of Labor (DOL) to investigate all cases of death or serious incidents of injury; giving workers and their families the right to meet with DOL investigators; and requiring employers to inform workers of their OSHA rights.
- ▶ **Clarifies an employer’s duty to provide safety equipment** – The bill clarifies that employers are required to provide the necessary safety equipment to their workers, such as personal protective equipment.

OSHA Reform, Business Style

OSHA Reform

The employer community has long sought changes in how the Occupational Safety and Health Administration (OSHA) operates and the role it plays in workplace safety.

In the 108th Congress, four bills passed the House that would have:

- ▶ Given the Occupational Safety and Health Review Commission (OSHRC) the power to grant extensions for filing challenges (H.R. 2728);
- ▶ Increased OSHRC from three members to five (H.R. 2729);
- ▶ Restored the deference given to OSHRC by courts rather than the current ruling, which makes OSHRC subordinate to OSHA (H.R. 2730); and
- ▶ Reformed the Equal Access to Justice Act to eliminate the government’s substantial justification defense against paying legal fees when an employer prevails in challenging an OSHA citation (H.R. 2731).

OSHA Reform, Business Style

The Chamber also supports legislation allowing employers to conduct self-audits, which would increase the use of safety experts and give employers a better understanding of how to improve safety in their workplaces. However, such legislation must provide protection for the audit reports, so that employers are not exposed to litigation or citations as a result.

The Chamber is also interested in:

- ▶ Improving peer review of the economic and safety basis for standards,
- ▶ Increased rigorous scientific analysis in support of standards,
- ▶ Mandated review of existing standards,
- ▶ Cost-benefit analysis,
- ▶ Flexibility in meeting regulatory requirements by allowing alternative means of protection that are equally or more protective of workers,
- ▶ Clarification of employer responsibilities on multi-employer worksites, and
- ▶ Penalty relief for small businesses that make good faith efforts to comply, including correction of the violation relatively quickly.

Hillary's Campaign Website on OSHA



???

Obama's Campaign Site on OSHA



?????

Edwards' Campaign Site on OSHA



Simply doing your job should not cause you harm.

- ▶ Protect every American worker with federal safety and health standards, including new ergonomics standards and stronger OSHA enforcement.
- ▶ Strengthen protections for whistleblowers who report injuries or unsafe conditions.
- ▶ Work with states to reform workers' compensation.

Romney Campaign Site on OSHA



Provide Regulatory Relief. Eliminate cumbersome and unnecessary regulations and bureaucracies that hinder economic growth and job creation.

McCain's Website on OSHA



"Your search – **"mccain+osha"** – did not match any documents.

Suggestions: Make sure all words are spelled correctly.

- ▶ Try different keywords.
- ▶ Try more general keywords."

Guiliani's Campaign Site on OSHA



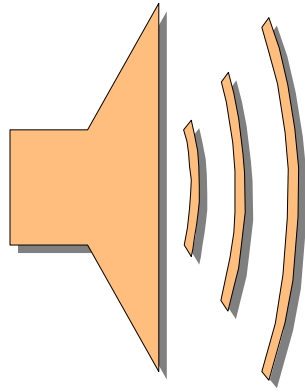
5. I will impose accountability on Washington.

10. I will ensure that every community in America is prepared for terrorist attacks and natural disasters.

Summing Up

- ▶ OSHA is broken and unable to fulfill some of its statutory responsibilities in a reasonable fashion.
- ▶ A vast ideological gulf exists between business and labor that results in a legislative stalemate and an inability to compromise and "fix" OSHA.
- ▶ Safety and health professionals are divided over how to appropriately address OSHA reform.
- ▶ Don't expect the presidential candidates to shake up the OSHA stalemate.

One More Challenge



Are You Being Heard?

- ✓ Write an article
- ✓ Write a letter to the editor
- ✓ Send a blog post
- ✓ Serve on a committee
- ✓ Call or write your Congressional representative

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