

Agriculture and the Occupational Safety and Health Act

The William Steiger Occupational Safety and Health Act of 1970 established that employers employing one or more persons have a legal responsibility to ensure their employees have a safe and healthful work environment. The agricultural industry is one of the industry sectors covered by the Act, passed by Congress and signed into law in 1970 by then President Nixon. Thus, any Missouri farmer or rancher with one or more employees must develop and implement a safety and health program complying with the Occupational Safety and Health Administration (OSHA) rules, regulations and standards related to agriculture.

During the 1977 annual budget process, Congress amended the OSHA budget to stipulate that OSHA could not use annual funding to issue or enforce any regulations on farms and ranches with 10 or fewer employees, except for those with temporary labor camps. This amendment has been included in every OSHA budget since 1977. However, agricultural employers with 10 or fewer employees must still comply with all OSHA agriculture rules or regulations. The amendment only restricts OSHA from spending appropriated funds to prescribe, issue, administer or enforce the agricultural regulations for employers of 10 or fewer people.

The amendment also does not eliminate the possibility that an employee and his or her legal counsel could cite OSHA regulations in a lawsuit against an agricultural employer. For this reason, all agricultural employers should comply with the Act and provide their employees with a safe and healthful place to work.

OSHA on the farm

Employers have three general responsibilities regarding employee safety:

- To comply with the OSHA agricultural safety and health standards.

- To comply with recordkeeping and other reporting responsibilities, such as reporting accidents, posting OSHA citations, etc.
- To comply with the general duty clause, explained below.

Revisions in OSHA are probable as the Department of Labor determines additional standards need to be implemented. The answers to the following questions are based on OSHA standards as of December 2020.

What is the purpose of OSHA?

To assure, as much as possible, that every worker has a safe and healthful place to work.

Why did Congress pass, and the President sign, this law?

At the time the law was passed, the work accident situation for all industries was as follows:

- More than 14,000 workers each year were killed on, or as a result of, their jobs.
- More than 2,000,000 workers each year were disabled as a result of work accidents.
- Work accidents caused more than 250 million person-work-days lost annually.
- Wages lost as a result of lost time from work accidents amounted to more than \$1.5 billion.

Why was agriculture included?

When Congress passed the Act, agriculture ranked third behind construction and transportation in the number of fatalities per 100,000 workers each year. Although agriculture made up 4.4 percent of the U.S. workforce when the 1970 law was passed, that 4.4 percent accounted for 16 percent of fatalities and 9 percent of job-related injuries and illnesses at the time of the bill's passage.

Revised by

David E. Baker, Associate Professor Emeritus, Division of Food Systems and Bioengineering

Ryan Milhollin, State Specialist, Agricultural Business and Policy Extension

What is OSHA trying to do?

- Reduce the number of deaths occurring annually among workers.
- Lower the number, severity and cost of job-related injuries and health problems.
- Reduce profit loss and increase profit potential for employers by reducing work illnesses and injuries.
- Reduce the death rate and move agriculture out of the top three hazardous industries.

Who is covered by OSHA?

In general, OSHA covers any employer engaged in a business that affects commerce. This includes every farm employer who has one or more full- or part-time employee.

Generally, members of a farmer's immediate family are not regarded as employees and as such are not covered by the Act.

Who administrates OSHA?

The Secretary of Labor, via the Assistant Secretary for OSHA, has overall responsibility for administrating OSHA. The Department of Labor, through OSHA, is responsible for establishing safety rules and regulations, inspecting work places and gathering accident data.

The Department of Health and Human Services, specifically the Centers for Disease Control and Prevention through the National Institute for Occupational Safety and Health (NIOSH), is responsible for establishing criteria for developing standards, professional training and education. NIOSH also publishes annual lists of toxic substances.

The Occupational Safety and Health Review Commission is responsible for hearing cases where employers believe inspectors unfairly propose citations, penalties or time allowed for correction of unsafe conditions.

What duties do farm employers have under OSHA?

Farm employers have the general duty to supply employees a workplace free from all recognized hazards that cause or are likely to cause death or serious harm to employees. This duty is commonly referred to as the general duty clause.

Farm employers must also:

- Comply with all agriculture safety and health standards; for example, all equipment operated by an employee on a public road or highway must have a slow-moving vehicle emblem on it.
- Keep and maintain records on employee's work-related injuries and illnesses, if employing more than 10 people.
- Post copies of all citations.

- Keep employees informed of their rights and obligations under the law by posting the OSHA poster.

What are the employee's responsibilities?

Each employee has the duty to comply with safety and health standards and all regulations and orders issued to create a safe work place. If a standard calls for guards on a machine and the employer provided those guards, then the employee must keep them in place when using the machine. The employer must get the employee to comply with the rules and can discipline employees choosing not to comply. However, the employee is not subject to fines for not complying; the employer is subject to fines.

OSHA Standards

What are the standards established by OSHA?

Occupational safety and health standards are rules that help safeguard workers. To date, the U.S. Secretary of Labor has declared ten specific standards that apply to agriculture.

What are the OSHA standards for agriculture?

The OSHA standards for agriculture include:

- The slow-moving vehicle (SMV) emblem
- Anhydrous ammonia
- Pulpwood logging
- Temporary labor camp housing
- Rollover protective structures
- Agricultural machinery guarding
- Cotton dust
- Cadmium

Two general industry standards also apply to farming operations. They are the standards for hazard communication (1910.1200) and the retention of Department of Transportation (DOT) markings, placards and labels (1910.1201).

What is the SMV emblem standard?

The SMV emblem standard states that all employee-operated vehicles traveling at a speed of less than 25 mph must display the SMV emblem. Missouri law requires any vehicle moving less than 25 mph on the highways from sunset to one-half hour before sunrise to display the SMV emblem.

How should the SMV emblem be mounted?

It should be mounted on the rear of the vehicle, point up, two to six feet above ground level. The emblem should be visible at all times.

What is the anhydrous ammonia standard?

The anhydrous ammonia standard includes requirements for anhydrous ammonia container construction, valve and fitting locations and installation, and safety relief valves. The standard also regulates vehicles transporting the containers, the refrigeration system and the equipment used in application.

How are farmers affected by the anhydrous ammonia standard?

Farmers are affected by the specifications for tanks on farm vehicles and by the rules for application, filling applicator tanks, protective clothing, emergency procedures and informing workers of exposure to toxic or lethal chemicals. While OSHA requires compliance with this standard when employees are using the equipment, safety is just as important to farmers and farm family members. Therefore, all farmers and their employees should use anhydrous ammonia equipment meeting OSHA standards.

What is the pulpwood logging standard?

The pulpwood logging standard applies to the harvest of pulpwood. It covers environmental conditions, clothing and personal protective devices, first aid, hand tools, explosives, stationary and mobile equipment, machinery guards, mufflers and guylines. Instructions are also included on logging and construction and road and bridge maintenance.

What is the temporary labor camp standard?

The temporary labor camp standard covers environmental aspects of housing such as site selection, building construction, space, ventilation and heating. It also prescribes sanitation requirements for cooking and eating space, water supply, laundry, bathing facilities, toilets, refuse disposal and insect and rodent control.

What is the rollover protection standard?

The rollover protection standard requires that all tractors with more than 20 horsepower operated by an employee and manufactured after October 1976 must be equipped with rollover protective structures (ROPS). Every ROPS must meet specified performance requirements adopted from the American Society of Agricultural Engineers' standard on rollover protection. Each structure that has passed certain tests and meets the standard's requirements will have a plate attached to the structure stating that it is an approved ROPS.

Are there any exceptions to the ROPS standard?

Yes. Low-profile tractors used in orchards, barns, hop yards and greenhouses are exempt from the standard when use of the roll over protective structure would

substantially interfere with normal operations. Also exempt are tractors using special equipment when ROPS would interfere with attachment operation, like loaders and mounted corn pickers. The ROPS must be replaced as soon as the special equipment is not being used.

Is there any training required under the ROPS standard?

Yes. Employers must train every employee in safe tractor operation at the time of employment and annually thereafter. Employers must instruct employees to fasten seat belts on tractors with ROPS, to stay off very steep slopes and to watch where they are going. They must also train employees in proper operation in and around ditches, smooth tractor operation, proper hitching and proper parking. Extra riders are not allowed.

MU Extension developed publication, G1960, [Tractor Safety](https://extension.missouri.edu/publications/g1960) (<https://extension.missouri.edu/publications/g1960>) to assist employers in addressing this training requirement. This publication's content aligns with the OSHA required training content. Employers should maintain a record of when this training was conducted and which employees received the training, although this recordkeeping is not required by the ROPS Standard.

What is the agricultural machinery guarding standard?

All agricultural equipment, regardless of the date of manufacture or purchase, must have a completely guarded power take-off (PTO) drive line, including the use of the master shield on the tractor PTO.

Signs or labels must be placed in prominent locations on tractors and power-driven equipment to warn employees that PTO shields must be kept in place. The signs are available from most farm equipment dealers.

All farm field and farmstead equipment, regardless of age, must have safety signs on all guards and access doors that protect components that may continue to rotate after the power is turned off. Specifically, the standard requires a sign warning employees to look and listen for evidence of rotation and not to remove the guard or door until all evidence of motion has stopped. On equipment manufactured after Oct. 25, 1976, there must also be a readily visible or audible warning of rotation.

One provision of the standard applies only to farmstead equipment and deals with electrical disconnects. It requires employers to ensure that electrical power cannot be inadvertently turned on while an employee is maintaining or servicing equipment. This can be done by providing a lock on the main power switch that can only be controlled by the person performing the maintenance or service. Or, in the case of material handling equipment located in a bulk

storage area, a means of disconnecting the power on the equipment can be installed so that the equipment can be shut off at the site if anything goes wrong.

To prevent automatic restart, all circuit protection devices, including those on electric motors, must be a manually reset type, except under certain specific circumstances.

For a more about the requirements of the agricultural machinery guarding standard, contact the area OSHA office listed at the end of this MU Extension publication.

Does the machinery guarding standard require training?

At least annually, all employee operators must be instructed in safe operation and servicing of tractors, field implements and farmstead equipment that they operate. Five specific instructions to be given are:

- Keep all guards in place when the machinery is in operation.
- Permit no riders on farm field equipment other than persons required for instruction or assistance in machine operation.
- Before servicing or adjusting, stop the engine, disconnect the power source and wait for all machine movement to stop.
- Make sure everyone is clear of machinery before starting the engine, engaging power or operating the machine.
- Lock out electrical power before starting the engine, engaging power or operating the machine.

What does the cotton dust standard require?

Although the standard was to take effect on Sept. 4, 1978, OSHA is barred from enforcing the standard as of the date of this publication because of litigation brought by various groups concerned with the standard.

The standard would require:

- Establishment of a respirator program for workers exposed to cotton dust above permitted levels, within 30 days of the standard's effective date.
- Assurance that a worker unable to wear a respirator may transfer to a less dusty job if possible and retain the same pay and job rights.
- Establishment within 60 days of a dust monitoring program using a vertical elutriator, with subsequent dust measurements to follow at least every six months.
- Provision within the first year of the opportunity for workers to have a medical examination and future exams once a year from then on.
- Completion within one year of a written compliance program detailing how the employer plans to reach permissible exposure levels at the end of four years through engineering controls and work practices.

What does the Cadmium Standard require?

This standard establishes guidelines related to employees working with products containing cadmium, such as phosphate fertilizer. Employers must monitor employee cadmium exposure to assure it does not exceed permissible exposure limits. This includes ensuring employees use the appropriate respirator and protective work clothing and follow appropriate sanitation practices. Employers must also address recordkeeping requirements and develop and implement programs related to hazard communication, medical surveillance and training programs.

What does an agricultural employer need to do to comply with the Hazard Communication Standard and the retention of Department of Transportation (DOT) marking, placards and labels?

The Hazard Communication Standard (HCS) requires agricultural employers to develop and implement a plan to communicate to their employees the dangers and hazards associated with chemicals used in the workplace. The major components of the plan must include a plan to maintain an accurate inventory of hazardous chemicals, a safety data sheet for each chemical in the inventory, a plan to assure that all containers have proper labeling and placards and a plan to implement an employee training program. The employee training program is to address topics such as recognizing hazardous materials and their associated risks; how to understand the information on a safety data sheet, product label and hazard placard; and protective measures, including appropriate personal protective equipment.

The DOT marking, placarding and labeling requirements mandate employers to:

- Retain any DOT label, marking or placard on packages containing hazardous materials until the package is sufficiently cleaned of residue and purged of vapor to remove any potential hazards.
- Retain DOT required markings and placards on transport vehicles until the transport vehicle no longer contains hazards.
- In cases where an outside package—including transport vehicles—contains smaller packages of hazardous materials, retain DOT hazard warnings on the outside packaging until the inner packages are removed or are cleaned and purged of the hazardous materials.

What is the general duty clause?

The general duty clause states that every employer must furnish each employee a place of employment free

from all recognized hazards causing, or likely to cause, death or serious injury. The general duty clause will be used only in situations where no specific standard has been adopted. These hazards must be of common knowledge to the agriculture industry, detectable by the senses, or of wide recognition in agriculture and have known methods of detection.

OSHA recordkeeping

Who must keep records under OSHA?

Any farm employer with more than 10 employees at any time during the preceding year or any employer selected to participate in the annual survey is required to keep injury and illness records on forms supplied by the U.S. Department of Labor.

What are the injury and illness records?

Each employer who is subject to the recordkeeping requirements must maintain OSHA's Form 300, [Log of Work-Related Injuries and Illnesses](https://www.osha.gov/recordkeeping/forms) (<https://www.osha.gov/recordkeeping/forms>), or a suitable substitute form that is as detailed, as easily readable and as understandable as the OSHA form.

How long must records be kept?

All records must be kept five years. These records must be available for inspection by an authorized federal government representative at any time during this five-year period.

Who is responsible for recordkeeping on rented land?

The tenant must keep the records if he or she hires any employees. However, if the tenant is an employee of the landlord, then the landlord must keep the records.

If an employee is sent to help a neighbor in an exchange of labor, do both the neighbor and the employer have to keep records?

If you turn over control of employees to your neighbor, the neighbor must keep records. If you maintain control of your employees and direct them for your neighbor, you will continue to keep records.

Who reports and records injuries or illnesses of persons doing custom work?

When a custom operator agrees to do a specific job for a price, he or she is then a contractor and must do his or her own recordkeeping.

Are there any other reporting requirements?

Yes. If you employ more than 10 employees or maintain a temporary labor camp, you must report all reportable accidents to the OSHA area office within 48 hours. A reportable accident is an accident that either results in a death or hospitalization of five or more employees.

OSHA inspections and citations

Can my farm be inspected?

Under current appropriations language, OSHA is not allowed to spend any appropriated funds to enforce standards, rules, regulations or orders under the OSHA Act on farming operations which employ 10 or fewer employees and do not maintain a temporary labor camp.

The OSHA rules, regulations, standards and orders do apply to these farming operations; but, because of the small farms provision in the OSHA appropriations law, certain employers under certain conditions are considered exempt from OSHA enforcement activity. If a farmer had ten or fewer employees at all times during the previous 12 months, the farmer would be considered exempt from OSHA enforcement. He or she would not be considered exempt if he/she had more than 10 employees at any one time during that period. However, if such a farmer had a temporary labor camp under 1910.142, the employer would not be exempt from the enforcement of the OSHA Act.

What if a citation is issued?

The OSHA compliance officer writes a citation or inspection report either on the spot or soon after the inspection has been completed. The area director reviews citations for accuracy, and the compliance officer then serves the citation to the employer either by mail or personally. Along with the citation, the employer will receive a letter explaining:

- Where the citation must be posted (at or near the location of the violation).
- Specified time for the corrective action.
- Notification of any fine for the charged violations.
- Any notification the employer might have to give of corrections made and when that notification is due.
- The employer's rights in contesting any citation or proposed penalty.

OSHA may not enforce regulations on farms with 10 or fewer employees unless there is a temporary labor camp.

In addition, OSHA has two other restrictions that relate to inspections:

- OSHA may not assess civil penalties for the first non-serious violations of the act unless 10 or more violations are seen during an inspection.
- OSHA may not fine employers in cases where the employer has already requested on-site consultation and is making an effort in good faith to correct the violation.

Can I appeal a citation?

Yes. You may appeal a citation by notifying the OSHA area director within 15 days after receiving the citation.

What happens if I don't correct an unsafe condition that I have been cited for?

If you fail to correct the situation in the time provided, the Department of Labor may notify you by certified mail of failure to comply and of additional penalty. In addition, any willful violations by employers that result in the death of any employee are punishable by a fine of up to \$10,000 or imprisonment up to six months.

Can an employee file a safety complaint with the Department of Labor?

Yes. Any employee who believes that a violation of a job safety or health standard exists may request an inspection by sending a signed written notice to the U.S. Department of Labor. The employer must not harass or discriminate against a worker who files such a complaint.

How do I inform my employees about OSHA?

The OSHA poster "Job Safety and Health It's the Law!" must be posted where all employees can see it. Possible locations may be near time cards in the farm shop or machinery storage area or in the place where employees report to work.

Where can I get OSHA forms and posters?

Regional OSHA office

U.S. Department of Labor
Two Pershing Square Building
2300 Main Street
Suite 1010
Kansas City, MO 64108
Phone: 816-283-8745

Area OSHA offices

Two Pershing Square Building
2300 Main Street
Suite 168
Kansas City, MO 64108
Phone: 816-483-9531
Voicemail: 816-483-9542

Robert A. Young Federal Building
1222 Spruce Street, Room 9.104
St. Louis, MO 63103
Phone: 314-425-5461
Toll Free: (Missouri residents only) 1-800-392-7743
Voicemail: 314-425-4255

Whom do I write with a specific question about my farming operation?

Additional information is available from the area OSHA offices listed above or the Missouri Department of Labor.

The Missouri Department of Labor (MoDOL) Division of Labor Standards free On-Site Safety and Health Consultation Program is available to assist you in making your workplace safer. The service is designed for small employers (less than 250 employees) in high hazard industry sectors such as agriculture. Their consultant will conduct a "mock" OSHA inspection of your workplace for free and without assessing any fines or penalties. Your only obligation is to correct the hazards identified by the consultant. In addition the consultants are available answer specific questions related to OSHA compliance.

Program contact information

Division of Labor Standards
On-Site Safety and Health Program
3315 W. Truman Boulevard, Room 205
P.O. Box 449
Jefferson City, MO 65102-0449
Phone: 573-522-SAFE(7233)
Fax: 573-751-3721
E-mail: laborstandards@labor.mo.gov