



607 Best Practices After the Repeal of the Ergonomics Standard

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Faculty Biographies

Melissa M. Allain

Melissa M. Allain is currently the vice president of environmental and real property law at AutoNation, Inc. in Fort Lauderdale, FL. Her responsibilities include day-to-day advice to corporate clients and to the district and field operations, on federal, state, and local environmental, health, and safety laws and regulations; and on transactional matters such as acquisitions, dispositions, relocations, and expansions. In addition, she provides legal oversight of AutoNation's real estate portfolio and the company's business ethics and corporate compliance program.

Prior to joining AutoNation, Ms. Allain was senior assistant counsel at Union Oil Company of California (dba Unocal), where she provided legal support for the Carbon and Minerals Division. Previously, Ms. Allain engaged in private practice, and was a principal at Parker, Milliken, Clark, O'Hara & Samuelian in Los Angeles. She advised major corporations concerning environmental regulatory compliance, and represented them in enforcement proceeding and litigation. Ms. Allain was also engaged in general business litigation and transactional matters. Upon graduation from law school, she served as a law clerk to the Honorable David S. Nelson in the U.S. District Court in Boston.

Ms. Allain is the coauthor of "An Overview of Regulatory Compliance and Legal Liability Issues," a chapter in the 2002 edition of *Safety, Health, and Asset Protection-Management Essentials*. She was a course director and instructor at University of California Berkeley Center for occupational and environmental health. She is a member of the State Bar of California, for which she served on the Resolutions Committee, the Task Force on Environmental Discrimination, and the Conference of Delegates.

Ms. Allain received a BS from Loyola Marymount University and a JD from Harvard Law School.

David C. Cannon Jr.

David C. Cannon Jr. is vice president, environment, health & safety for PPG Industries in Pittsburgh. He has responsibility for environment, health, and safety for all of PPG's businesses worldwide.

Prior to his election as vice president EHS, Mr. Cannon was associate general counsel in PPG's law department. Prior to joining PPG, Mr. Cannon was an attorney for the U.S. Department of the Interior and, before that, a trial attorney in the Land and Natural Resources Division of the United States Department of Justice [now Environment and Natural Resources].

He served as a member of ACCA's Board of Directors and is a past president of ACCA's Western Pennsylvania Chapter. He was the first chairman of the Western Pennsylvania Chapter Environmental Law Committee and also served as the chair of ACCA's Environmental Law Committee. He received ACCA's Robert I. Townsend Jr. Award as member of the year. He is a member of the Board of Directors of the Environmental Law Institute, the Fox Chapel Borough Environmental Advisory Council, the Board of Directors of the Fox Chapel Land Conservation Trust, and the Board of Trustees of the Allegheny County Bar Foundation.

Mr. Cannon received a BS from the University of Notre Dame and a JD from the University of Pittsburgh School of Law.

Steven H. Melamed

Director, Health, Environment & Safety Services
Avaya Inc.

Christopher T. Spear

Christopher T. Spear is the assistant secretary for policy in the U.S. Department of Labor. Mr. Spear was nominated by the President and then confirmed by the U.S. Senate last year. Mr. Spear is responsible for providing advice and counsel to the Secretary of Labor on the vast array of labor issues that affect the American worker. He works with all agencies in the Department to fulfill its commitment to workers—that all workers will have the opportunity to find and hold jobs under reasonable working conditions with good wages, health benefits, reliable pensions, and the opportunity to improve their skills in the 21st Century Workplace.

Prior to coming to the U.S. Department of Labor, Mr. Spear was the legislative director for Senator Tim Hutchinson. During his tenure as director, Mr. Spear crafted a comprehensive legislative agenda including labor, health, education, agriculture, and defense initiatives, and instigated the creation of the Senate Biotechnology Caucus. The Caucus hosted forums on biotechnology and its relation to the nation's agriculture community, health care system, and international trade.

Prior to serving Senator Hutchinson, Mr. Spear was the staff director of the Senate Subcommittee on Employment, Safety and Training, chaired by Senator Michael Enzi. As staff director, Mr. Spear directed multiple subcommittee hearings on labor issues, including OSHA modernization, mine safety and health, job training, and federal regulation of small businesses. Mr. Spear also served two years as a legislative assistant for Senator Enzi on the Senate Committee on Health, Education, Labor, and Pensions. Mr. Spear began his career in the U.S. Senate working for Senator Alan Simpson. He served Senator Simpson for more than three years, both as a legislative assistant and as a field representative in Wyoming.

Mr. Spear received both an undergraduate degree and a master's degree in public administration from the University of Wyoming.

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BEST PRACTICES

***After the Repeal
of the
Ergonomics Standard***

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OSHA's New Approach to Ergonomics



- ❖ Guidelines for Specific Industries
 - Nursing Homes
 - Poultry Processing
 - Retail Grocery Stores
- ❖ Research
- ❖ Outreach and Assistance
- ❖ Enforcement

Ergonomics eTools



- Baggage Handling
- Beverage Delivery
- Computer Workstations
- Grocery Warehousing
- Hospitals
- Nursing Homes
- Poultry Processing
- Sewing (English and Spanish)
- Available online at
www.osha.gov/ergonomics/ergotools.html

Enforcement



- ❖ The former ergonomics standard was enforceable
- ❖ Guidelines generally are advisory and voluntary, but may be enforceable under OSHA's General Duty Clause
 - Every employer has a general duty to provide a workplace free from recognized hazards that are likely to cause death or serious injury
 - OSHA may not be able to impose penalties for egregious violations of General Duty Clause

References and Resources



- For OSHA's Ergonomics website, go to www.osha.gov/ergonomics
- For OSHA's Ergonomics eTools, go to www.osha.gov/ergonomics/ergotools.html
- For OSHA's General Duty Clause, see 29. U.S.C. sec. 654(a)(1)
- For successful challenge to OSHA's imposition of penalties for egregious violations of General Duty Clause, see, e.g., *Reich v. Arcadian Corp.*, 110 F.3d 1992 (5th Cir. 1997)
- For final version of repealed Ergonomic Program Standard, see 65 Fed. Reg. 68,261 (Nov. 14, 2000)
- For OSHA's withdrawal of Ergonomic Program Standard, see 66 Fed. Reg. 20403 (Feb. 23, 2001)

California and Washington State Ergonomics Programs

CATEGORY	CALIFORNIA	WASHINGTON STATE
Federal OSHA Has Delegated State OSHA Program	Yes	Yes
OSHA Agency Website	www.dir.ca.gov/occupational_safety.html	www.lni.wa.gov/wisha
Statutory Authority for Ergonomics Regulations	California Labor Code § 6357 requires the California Occupational Safety and Health Standards Board to adopt ergonomics standards in the workplace.	Revised Code of Washington __ 49.17.010, 49.17.040, & 49.17.050, enables the Department of Labor and Industries to adopt regulations for a safe workplace.
Whether Statutory Authority Specifically Refers to Ergonomics?	Yes	No
Ergonomics Administrative Regulations	California Code of Regulations, Title 8, § 5110	Washington Administrative Code §§296-62-05101- 05176
Effective Date	Adopted on November 14, 1996, and became effective July 3, 1997.	Adopted on May 26, 2000, and became effective July 1, 2002.
Terminology for Ergonomics Injury	Repetitive motion injury (RMI)	Work-related musculoskeletal disorder (WMSD)
Threshold for Applicability of Ergonomics Requirements	Employer has two (2) or more RMIs in a 12-month period	Employer has one (1) or more "caution zone" jobs. A "caution zone" job is one in which an employee's typical work activities include any of the Department of Labor and Industries' specific risk factors.
Small Employer Exemption	No	No, except for phase-in period
Phase-In of Ergonomics Requirements	No	Yes, employers are grouped into four (4) categories based upon number of employees and high-risk industries based upon SIC codes. Regulations become effective first for largest employers and those in high-risk industries.
Requires Work-Related Causation	Yes	No, applies to workplaces where no injuries have occurred.
Requires Diagnosis by Licensed Physician	Yes	No, applies to workplaces where no injuries have occurred.

Allows Employer's Existing Programs to Satisfy Ergonomics Requirements	No	Yes, they must be "as effective" as state regulations.
What Employer Must Do to Comply	Adopt program designed to minimize RMIs, including providing employee training regarding exposures associated with RMIs and importance of injury and symptom reporting. Employers are required, in a timely manner, to correct or minimize exposures that have caused RMIs.	Implement ergonomics awareness education for employees and perform hazard analysis of workplace to identify "caution zone" jobs that have WMSD hazards. Employers must reduce WMSD hazards that are found below specific criteria established by Department of Labor and Industries or to the extent technologically and economically feasible.
Whether State OSHA Agency Offers Ergonomics Consulting Services	Yes, on-site consulting is available.	Yes, general training sessions are offered by the Department of Labor and Industries.
Legal Challenges to Ergonomics Regulations	Yes, but unsuccessful in <u>Pulaski v. Occupational Safety & Health Stds. Bd.</u> , 75 Cal.App.4th 1315 (1999), except that the California Court of Appeal, Third District, in <u>Pulaski</u> concluded that the California Occupational Safety and Health Standards Board erred in exempting small businesses from state ergonomics regulations.	No, but several legislative bills have been introduced to repeal the regulations.
Recent Events	Proposed legislation, A.B. 2845, would require California Occupational Safety and Health Standards Board to revise its ergonomics regulations by July 1, 2003.	On March 5, 2002, Governor Gary Locke directed the Department of Labor and Industries to implement the state's ergonomics regulations but ordered that citations and penalties for any violations would be delayed for two (2) years.

Ergonomics: An OSHA Chronologyⁱ

June 10, 2002	OSHA announces that industry-specific guidelines will be developed for grocery stores and poultry processing, respectively.
April 18, 2002	OSHA announces the first set of industry-specific ergonomics guidelines to be developed for nursing homes.
April 9, 2002	OSHA names regional ergonomics coordinators for each of its ten regional offices.
April 5, 2002	OSHA announces Comprehensive Plan on Ergonomics to address musculoskeletal disorders in the workplace.
July 2001	OSHA holds public forums on ergonomics in California, Illinois, and Virginia.
April 26, 2001	Secretary of Labor Elaine L. Chao testifies before Congress on reducing musculoskeletal disorders in the workplace.
March 20, 2001	President signs S.J. Resolution 6, repealing the ergonomics standard.
March 8, 2001	House votes 223-206 to repeal ergonomics standard, under the auspices of the Congressional Review Act.
March 7, 2001	Senate votes 56-44 to repeal ergonomics standard, under the auspices of the Congressional Review Act.
January 16, 2001	Final Ergonomics Program Standard becomes effective.
Nov. 14, 2000	OSHA issues Ergonomics Program Standard.
May 22, 2000	OSHA seeks comments on the economic impact of ergonomics proposal on the state and local governments, USPS and railroads.
February - April, 2000	Informal public hearings on the proposed standard are held in Washington, D.C. and Chicago, IL.
November 23, 1999	OSHA publishes proposed ergonomics standard for comment in the Federal Register.
April 30, 1999	Small Business Review panel's report is submitted to OSHA Assistant Secretary.
February 19, 1999	OSHA begins small business review of its draft ergonomics standard, makes draft regulatory text available to stakeholders.
March 16, 1998	OSHA releases video, "Ergonomic Programs That Work."
February - September, 1998	OSHA holds stakeholder meetings on ergonomics rulemaking in Washington, D.C.
October, 1997	Congress allows OSHA to work on ergonomics in FY1998, but prohibits issuance of any proposed or final standard or guidelines. House Conference Report says this will be last time OSHA's work on an ergonomics standard is restricted.
April 28, 1997	OSHA launches ergonomics page on the Internet.
October, 1995	Congress prohibits use of OSHA FY996 funds to issue proposed or final ergonomics standard or guidelines.
July, 1995	Congress prohibits use of OSHA Fiscal Year 1995 funds to issue proposed or final ergonomics standard or guidelines.
August 3, 1992	Advance Notice of Proposed Rulemaking on ergonomics is published, requesting comments by February 1, 1993.
January 15, 1992	OSHA begins an inspection program on ergonomics in

	meatpacking.
July 29, 1991	OSHA publishes a 24-page booklet, "Ergonomics: The Study of Work," as part of a nationwide educational and outreach program to raise awareness and reduce cumulative trauma disorders.
1990s	OSHA signs 11 additional corporate-wide settlement agreements to bring ergonomic programs to nearly half a million workers.
November 20, 1990	OSHA/UAW/GM sign agreement bringing ergonomics programs to 138 GM plants employing more than 300,000 workers.
Fall 1990	Then-Secretary of Labor, Elizabeth Dole, emphasizes need to eliminate hazards of ergonomic-related disorders. OSHA creates Office of Ergonomics Support.
August 30, 1990	The agency publishes ergonomics guidelines for the red meat industry, "Ergonomics Program Management Guidelines for Meatpacking Plants."
July 23, 1990	OSHA/UAW/Ford corporate-wide settlement agreement commits Ford to reduce ergonomic hazards in 96% of its plants through model ergonomics program.
July 2, 1990	Directive CPL 2.88 "Information Dissemination System for Ergonomic Inspections and Consultative Visits Resulting in Significant Benefits" issued.
November 2, 1989	OSHA/UAW/Chrysler sign corporate-wide settlement agreement for comprehensive ergonomics program to control cumulative trauma disorders at five auto assembly plants.
July 7, 1989	OSHA cites Ford's Lansdale, Pa. assembly plant for ergonomic hazards.
May 1, 1987	OSHA cites Chrysler plants in Belvedere, Ill.; St. Louis, Mo. (two); Newark, Del.; and Toledo, Ohio for recognized ergonomic hazards.
February 9, 1987	OSHA issues directive CPL 2.78 establishing regional ergonomics coordinators to provide technical assistance to OSHA area offices, consultation programs and state programs and mandating training for compliance staff.
October 2, 1986	OSHA requests information by Jan. 30, 1987, on reducing back injuries in general industry resulting from manual lifting.
May 16, 1986	OSHA begins a pilot program to reduce back injuries through review of injury records during inspections, and recommendations for training or job redesign using NIOSH's Work Practices Guide for Manual Lifting.
August 16, 1983	The OSHA Training Institute offers its first course on ergonomics.
Early 1980s	OSHA begins discussing ergonomic issues with labor and trade associations and professional organizations.
1979	First ergonomist joins OSHA.

ⁱ Adapted from U.S. OSHA's Ergonomics Chronology, available at <http://www.osha.gov/ergonomics/ergonomicschronology02.html>.

MATRIX OF STATE ERGONOMICS STANDARDS, GUIDELINES & PROPOSED LEGISLATION

<u>Name of State</u>	<u>Name of State OSHA Department or Agency</u>	<u>State OSHA Department or Agency Website Address</u>	<u>Delegated State OSHA Program (Including in Part) (Y or N)</u>	<u>Sets Forth Current Specific Ergonomics Provisions (Y, N, or Proposed) (If Yes or Proposed, Indicate Standard or Guideline)</u>	<u>Summary & Citation to Proposed Ergonomics Provisions (As Applicable)</u>	<u>Summary & Citation to Existing Ergonomics & Related Statutory Provisions</u>	<u>Summary & Citation to Existing Ergonomics & Related Administrative Regulations</u>
1. Alabama	State of Alabama Department of Labor; Department of Industrial Relations, Board of Appeals	www.alalabor.state.al.us	N	N	N/A	Code of Alabama § 25-1-1 (2001) provides that every employer shall provide employment that is reasonably safe; § 25-2-13 provides that the Department of Industrial Relations, Board of Appeals, shall promulgate rules for occupational safety.	N/A
2. Alaska	Alaska Department of Labor and Workforce Development	www.labor.state.ak.us/lss/lss.htm	Y	N	N/A	Alaska Statutes _ 18.60.030(6) ("The Department of Labor and Workforce Development shall establish and enforce occupational safety and health standards that prescribe requirements for safe and healthful working conditions for all employment.") A.S. _ 18.60.075(4) (employer shall furnish to each employee an environment that is free from recognized hazards).	N/A
3. Arizona	Industrial Commission of Arizona, Division of Occupational Safety and Health	www.ica.state.az.us/ADO/SH/oshatop.htm	Y	N	N/A	Arizona Revised Statutes § 23-403 (2001) provides that each employer shall furnish employment that is free from recognized hazards. A.R.S. § 23-410 (2001) provides that the Division of Occupational Safety and Health shall promulgate safety rules for occupational health.	N/A
4. Arkansas	Arkansas Department of Labor, Occupational	www.ark.org/labor/divisions/aosh_p1.html	N	N	N/A	Arkansas Code _11-2-110 (2001) provides that the	N/A

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	Safety and Health Division					Department of Labor may make rules for employee safety; _11-2-117 provides that employers must furnish safe employment.	
5. California	Department of Industrial Relations, Division of Occupational Safety & Health; California Occupational Safety and Health Standards Board	http://scripts.osha-slc.gov/cgi-bin/redirect2state?url=http://www.dir.ca.gov/occupational_safety.html	Y	Y (Standard)	Proposed legislation, A.B. 2845, would require the California Occupational Safety and Health Standards Board to revise its ergonomics standards by July 1, 2003. (On June 3, 2002, the bill was sent to the Senate Committee on Labor and Industrial Relations.)	California Labor Code § 6357 (2001) requires the California Occupational Safety and Health Standards Board to adopt standards for ergonomics in the workplace. California Labor Code § 6354 directs the Department of Industrial Relations to provide consulting services to employers, upon request, including concerning reducing ergonomic injuries. <u>See also</u> California Labor Code §§ 6400 – 6404 (requiring employers to furnish safe employment).	8 C.C.R. 5110 (2002) (requires employers, with places of employment where two or more Repetitive Motion Injuries (RMIs) have occurred within a 12-month time span, to establish and implement programs to minimize RMIs. Requires a 50% work-related causation and diagnosis by a licensed physician. Allows existing programs to suffice unless clearly inadequate.) ¹
6. Colorado	Colorado Department of Labor and Employment	www.coworkforce.com	N	N	N/A	Colorado Revised Statutes § 8-1-111 (2001) empowers the Director of the Department of Labor and Employment, Division of Labor, to do all things convenient and necessary to ensure that all employment is safe. Colorado has repealed § 8-1-109, which formerly required employers to provide a safe place to work, and Article 11, which dealt with occupational health and safety.	N/A
7. Connecticut	Connecticut Department of Labor (public sector employees only)	www.ctdol.state.ct.us	Y	N	N/A	Connecticut General Statutes § 31-370 (2001) provides that public sector employers shall provide employment that is safe; § 31-371 provides that the Labor Commissioner shall adopt	N/A

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See Pulaski v. Occupational Safety & Health Stds. Bd., 75 Cal.App.4th 1315 (1999) (upholding, in principal part, the California Occupational Safety and Health Standards Board's promulgation of ergonomics regulations).

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						regulations governing the conditions of employment.	
8. Delaware	Delaware Department of Labor, Division of Industrial Affairs	www.delawareworks.com/divisions/industaffairs/diaindex.html	N	N	N/A	Delaware Code Annotated, Title 19 § 106 (2001) provides that the Department of Labor may make rules for the prevention of accidents in employment.	N/A
9. Florida	Florida Department of Labor and Employment Security	www2.myflorida.com/les	N	N	N/A	N/A	N/A
10. Georgia	Georgia Department of Labor	www.dol.state.ga.us	N	N	N/A	Official Code of Georgia Annotated § 34-2-10 (2001) provides that employers shall provide safe employment; § 34-2-6 provides that the Commissioner of the Department of Labor shall make rules respecting safe employment.	Georgia Admin. Code __ 300-5-1-.01 & .02 (employers shall investigate all work-related injuries to employees and shall report all injuries resulting in lost time from work).
11. Hawaii	Hawaii Department of Labor and Industrial Relations	www.state.hi.us/dlir/hiosh	Y	N	N/A	Hawaii Revised Statutes __ 396-6 (2001) provides that employers shall furnish safe employment; __ 396-4 provides that Department of Labor and Industrial Relations shall adopt occupational safety and health standards.	N/A
12. Idaho	Idaho Industrial Commission, Division of Building Safety	www2.state.id.us/dbs/dbs_index.html	N	N	N/A	N/A	N/A
13. Illinois	Department of Labor; Department of Commerce and Community Affairs	www.commerce.state.il.us/bus/index.html	N	N	N/A	Illinois Compiled Statutes Chapter 820 § 225/3 provides that employers have a duty to provide employment free from recognized hazards and that the Director of the Department of Labor shall promulgate rules to effectuate such purposes.	N/A
14. Indiana	Indiana Department of Labor	www.state.in.us/labor/iosha/iosha.html	Y	N	N/A	Indiana Code § 22-8-1.1-3.1 provides that employers shall establish conditions of work that	N/A

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						are reasonably safe; § 22-8-1.1-7 authorizes the Indiana Department of Labor's occupational safety standards commission to promulgate occupational health standards.	
15. Iowa	Iowa Division of Labor	www.state.ia.us/iwd/labor/index.html	Y	N	N/A	Iowa Code § 88.4 (2002) provides that employers shall furnish safe employment; § 88.5 provides that the Labor Commissioner shall adopt health and safety standards.	N/A
16. Kansas	Kansas Department of Industrial Safety and Health Section	www.hr.state.ks.us/wc/html/wcish.htm	N	N	N/A	N/A	N/A
17. Kentucky	Kentucky Labor Cabinet, Kentucky Department of Workplace Standards; Kentucky Occupational Safety and Health Standards Board	www.kylabor.net/kyosh/index.htm	Y	N	N/A	Kentucky Revised Statutes § 338.031 (2001) requires employers to furnish employment that is free from recognized hazards; § 338.061 provides that occupational safety standards may be adopted by the Kentucky Occupational Safety and Health Standards Board.	N/A
18. Louisiana	Louisiana Department of Labor	www.ldol.state.la.us	N	N	N/A	Louisiana Revised Statutes § 23.13 (2001) provides that every employer shall furnish reasonably safe employment; § 23.13 (2001) provides that the Secretary of Labor may prescribe rules for safety in employment.	N/A
19. Maine	Maine Department of Labor; Occupational Safety Rules and Regulations Board	www.state.me.us/labor	N	N	N/A	Maine Revised Statutes, Title 26, Chapter 6, Subchapter 1, § 561 provides that it is the public policy of the State of Maine that workers employed in any occupation shall be protected from hazards to their health; § 565 provides that the Occupational Safety Rules and Regulations Board shall adopt	N/A

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						rules for safe working conditions.	
20. Maryland	Maryland Division of Labor and Industry	www.dllr.state.md.us/labor/mosh.html	Y	N	N/A	Maryland Labor & Employment Code Ann. § 5-104 (2001) provides that employers shall provide safe employment; § 2-106 provides that the Commissioner of Labor and Industry shall adopt regulations necessary to carry out § 5.	N/A
21. Massachusetts	Department of Labor and Workforce Development, Division of Occupational Safety	www.state.ma.us/dos	N	N	N/A	N/A	N/A
22. Michigan	Michigan Department of Labor; Michigan Department of Consumer and Industry Services, Bureau of Safety and Regulation	www.cis.state.mi.us/bsr	Y	N	N/A	Michigan Compiled Laws § 408.1011 provides that employers shall provide employment free from recognized hazards; § 408.1016 provides that the Department of Labor's General Industry Standards Setting Commission may promulgate standards for occupational health.	N/A
23. Minnesota	Minnesota Department of Labor and Industry	www.doli.state.mn.us/mnosha.html	Y	N	S.B. 3431 was passed and signed by the governor on 5/21/2002. It provides that an ergonomics standard shall be adopted by the Commissioner of Labor and Industry by June 30, 2004.	Minnesota Statutes _ 182.655 (2001) is also cited by S.B. 3431. It sets forth the procedures by which the Commissioner of Labor and Industry shall adopt standards relating to occupational safety; _ 182.653 (2001) provides that employers are required to provide employment that is free from recognized hazards. ²	N/A
24. Mississippi	Undetermined	N/A	N	N	N/A	N/A	N/A
25. Missouri	Missouri Department of Labor and Industrial	www.dolir.state.mo.us/ls/index.htm	N	N	N/A	N/A	N/A

² The Minnesota Department of Labor and Industry established an Ergonomics Task Force to recommend approaches that the Department can take, in implementing ergonomics regulations, to reduce work-related musculoskeletal disorders. The Ergonomics Task Force is presently holding hearings and taking public testimony.

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	Relations, Division of Labor Standards						
26. Montana	Montana Department of Labor and Industry	http://dli.state.mt.us	N	N	N/A	N/A	N/A
27. Nebraska	Nebraska Department of Labor	www.dol.state.ne.us/nwd/center.cfm?PRICAT=4&SUBCAT=4F	N	N	N/A	N/A	N/A
28. Nevada	Nevada Division of Industrial Relations, Occupational Safety and Health Enforcement Section	http://dirweb.state.nv.us	Y	N	N/A	Nevada Revised Statutes _ 618.375 provides that employers shall furnish employment free from recognized hazards; _ 618.295 provides that the Division of Industrial Relations shall adopt regulations for safe employment.	N/A
29. New Hampshire	New Hampshire Department of Labor	www.labor.state.nh.us	N	N	N/A	New Hampshire Revised Statutes _ 281-A:64 (2002) requires employers to provide employees with safe employment; _ 281-A:60 authorizes the Commissioner of the Department of Labor to adopt guidelines regarding employee safety.	N.H. Admin Rules Lab 1403.22 (2002) (makes employers responsible for evaluating incidences of ergonomically-related injuries and developing training procedures for employees whom might be subject to ergonomic exposures.)
30. New Jersey	New Jersey Department of Labor (public sector employees only)	www.state.nj.us/labor/wps/psosh/peosh.htm	Y	N	Proposed legislation, A.B. 545 and S.B. 1495, would establish an Ergonomics in Education Study Commission, which would study ergonomic issues relating to education, including ergonomic injuries, design of buildings, and study practices. Both bills are pending in committee.	New Jersey Statutes _ 34:6A-3 (2002) provides that all employers shall furnish safe employment; _ 34:6A-9 authorizes the Commissioner of the Department of Labor to promulgate rules for worker safety.	N/A
31. New Mexico	New Mexico Environment Department, Occupational Health and Safety Bureau; Environmental Improvement Board	www.nmenv.state.nm.us/OHSB_website/ohsb_home.htm	Y	N	N/A	New Mexico Statutes _ 50-9-5 (2002) requires employers to provide employment free from recognized hazards; _ 50-9-7 authorizes the Environmental Improvement Board to promulgate safety regulations.	N/A

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32. New York	New York Department of Labor (public sector employees only)	www.labor.state.ny.us/working_ny/worker_rights/safety_health.html	Y	N	Proposed legislation, S.B. 1220, would require all video display terminal operators (public and private) to receive, among other things, training that includes being provided information regarding the ergonomically correct methods of using such terminals. This bill was not reported out of committee.	New York Consolidated Labor Laws _ 200 (2002) requires all places of employment to be conducted as to provide for the safety of employees.	N/A
33. North Carolina	North Carolina Department of Labor	http://www.dol.state.nc.us/osha/osh.htm or www.nclabor.com/osha/osh.htm	Y	Y (Guideline)	N/A	North Carolina General Statutes _ 95-129 requires employers to provide employment free from recognized hazards; _ 95-131 provides the Commissioner of Labor authority to adopt rules for workplace safety.	Session Laws 1999-395, s. 19.1, provides for the establishment of a voluntary ergonomics program. On November 14, 2000, the Department of Labor adopted by reference the federal ergonomics regulations published in the Federal Register that day. On March 6, 2001, the Commissioner of Labor declared invalid the Department of Labor's adoption of the former federal ergonomics regulations.
34. North Dakota	North Dakota Department of Health (administers consultation program); Workers Compensation Bureau	http://ndsafety.net	N	N	N/A	N.D.C.C. _ 65-02-08 requires the Worker's Compensation Bureau to adopt rules necessary to carry out its worker's compensation statutory responsibilities.	Under N.D.A.C. _ 92-5-01-06 (2001), if a business participates in a risk management program, the employer is eligible for a 5% discount on its workers compensation premium. N.D.A.C. _ 92-5-01-16 (2001) also provides that, to conform with the risk management program, a written ergonomics training program must be established and a workplace analysis will be done.
35. Ohio	Ohio Department of Commerce, Division of Labor and Worker Safety, Bureau of Occupational	http://198.234.41.214/w3/webpo2.nsf?Opendata-base	N	N	N/A	Ohio Revised Code Annotated § 4101.11 (requiring employers to furnish employment and a place of employment that is safe).	N/A

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	Safety and Health						
36. Oklahoma	Oklahoma Department of Labor	www.okdol.state.ok.us	N	N	N/A	Oklahoma Statutes, Title 40, Chapter 10, _ 403 requires employers to furnish employment free from recognized hazards; _ 407 provides the Commissioner of the Oklahoma Department of Labor authority to adopt rules for the safety of employees.	N/A
37. Oregon	Oregon Occupational Safety and Health Safety Division; Department of Consumer and Business Services	www.orosha.org	Y	N	N/A	Oregon Revised Statutes Chapter 654, § 654.010 & § 654.015 requires employers to furnish safe employment; _ 654.035 provides that the Director of the Department of Consumer and Business Services may promulgate rules regarding safe employment.	N/A
38. Pennsylvania	Pennsylvania Department of Labor and Industry	www.dli.state.pa.us/landi/site/default.asp	N	N	A resolution, S.R. 50, was introduced in April 2001 that would resolve that the U.S. Congress revisit the issues of musculoskeletal disorders ergonomics and support meaningful legislation to address the issue. The resolution went to committee on 4/12/01, but has not reemerged.	Pennsylvania Statutes, Title 43, _ 25-2 (2001) provides that all establishments must be operated to provide reasonable protection for the safety of employees; _ 25-12 provides that the Department of Labor shall make rules concerning worker safety.	N/A
39. Rhode Island	Rhode Island Department of Labor and Training, Workforce Regulation and Safety Division; Code Commission for Occupational Safety & Health	www.dlt.state.ri.us	N	N	<u>S.B. 2379 became law on 6/14/2002.</u> Section 7 of S.B. 2379 provides for the establishment of a Special Commission on Ergonomics. Its purpose is to "consider the need for the creation of an ergonomics standard." The Special Commission on Ergonomics is to report its findings by February 1, 2004.	Rhode Island Statutes _ 28-20-8 provides that employers shall furnish employment free from recognized hazards; _ 28-20-24 provides that the Code Commission for Occupational Safety & Health shall promulgate codes for the elimination of health or safety hazards.	N/A
40. South	South Carolina	www.llr.state.sc.us/osha	Y	N	N/A	South Carolina Code _ 41-15-80	N/A

MATRIX OF STATE ERGONOMICS STANDARDS, GUIDELINES & PROPOSED LEGISLATION

Carolina	Department of Labor, Licensing & Regulation	asp				(2001) provides that employers shall furnish safe employment; _41-15-210 provides that the Department of Labor may make rules relating to worker safety.	
41. South Dakota	South Dakota Department of Labor	www.state.sd.us/dol	N	N	N/A	N/A	N/A
42. Tennessee	Tennessee Department of Labor and Workforce Development	www.state.tn.us/labor-wfd	Y	N	N/A	Tennessee Code Annotated _ 50-3-105 (2001) provides that employers shall furnish employment free from recognized hazards; _ 50-3-201 provides that the Commissioner of Labor and Workforce Development shall adopt occupational safety standards.	N/A
43. Texas	Undetermined	N/A	N	N	N/A	N/A	N/A
44. Utah	Utah Labor Commission, Division of Occupational Safety and Health	http://www.uosh.utah.gov/	Y	N	N/A	Utah Code _ 34A-6-201 provides that each employer shall furnish safe employment; _ 34A-6-202 provides that the Division of Occupational Safety and Health may adopt standards for safety.	N/A
45. Vermont	Vermont Department of Labor and Industry, Division of Occupational Safety and Health	www.state.vt.us/labind/vosha.htm	Y	N	N/A	Vermont Statutes, Title 21 _ 223, provides that each employer shall furnish employment free from recognized hazards; _ 224 provides that the Commissioner of the Department of Labor and Industry shall make rules to implement such duties.	N/A
46. Virginia	Virginia Department of Labor and Industry	www.doli.state.va.us	Y	N	N/A	Code of Virginia _ 40.1-51.1 provides that each employer shall furnish safe employment; _ 40.1-6 provides that the Commissioner of Labor and Industry shall make necessary rules for the enforcement of such requirements.	N/A
47. Washington	Washington Department of Labor and Industries	www.lni.wa.gov/wisha	Y	Y (Standard)	Various bills were introduced in 2002 (H.B.s 2730, 2938, 2957,	Statutory authority for Washington's ergonomics rules	W.A.C. ___ 296-62-05101 through 296-62-05176 setting


MATRIX OF STATE ERGONOMICS STANDARDS, GUIDELINES & PROPOSED LEGISLATION

					2966, 2994, 3021, and 3027) to repeal Washington's ergonomics standards. To date, none have passed. <u>On March 5, 2002, Governor Gary Locke, however, suspended issuance of citations and penalties for violations for two (2) years from the applicable effective dates.</u>	is set forth at Revised Code of Washington __ 49.17.010, 49.17.040, & 49.17.050 (providing that, under the state's police power, Director of the Department of Labor and Industries may adopt regulations to achieve a safe workplace); _ 49.17.060 provides that each employer shall furnish safe employment. <u>On March 5, 2002, Governor Gary Locke suspended issuance of citations and penalties for violations for two (2) years from the applicable effective dates.</u>	forth ergonomics regulations were adopted on May 26, 2000, and become effective July 1, 2002. They provide that employers having one or more "caution zone jobs" must ensure that employees in those positions and supervisors of such positions must receive specified ergonomics training. There is a phased-in implementation of the program depending upon the company's industry and number of employees. The standard includes illustrations as references and detailed criteria for determining "caution zone jobs." <u>On March 5, 2002, Governor Gary Locke suspended issuance of citations and penalties for violations for two (2) years from the applicable effective dates.</u>
48. West Virginia	West Virginia Division of Labor	www.state.wv.us/labor	N	N	N/A	West Virginia Code § 21-3-1 (2001) provides that each employer shall provide a safe work environment and that the Commissioner of Labor shall prescribe means for the prevention of accidents.	N/A
49. Wisconsin	Wisconsin Division of Public Health, Bureau of Occupational Health (administers consultation program); Wisconsin Department of Commerce (supervises general job safety)	www.dhfs.state.wi.us/dphboh/osh-cons/index.htm	N	N	N/A	Wisconsin Statutes _ 101.02 (2001) empowers the Department of Labor to adopt rules relating to the exercise of its powers; _ 101.11 provides that every employer shall provide safe employment.	N/A
50. Wyoming	Wyoming Department of Employment, Workers'	http://wydoe.state.wy.us/doe.asp?ID=7	Y	N	N/A	Wyoming Statutes _ 27-11-105(a)(ii) (2002) authorizes the	N/A

MATRIX OF STATE ERGONOMICS STANDARDS, GUIDELINES & PROPOSED LEGISLATION

	Safety and Compensation Division; Occupational Safety and Health Commission					Occupational Safety and Health Commission to formulate programs for the abatement of unsafe working conditions; _ 27-11-105(a)(ii) provides that the Occupational Safety and Health Commission may require each employer to furnish safe employment.	
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ACCA 2002

David Cannon
Vice President, EH&S
PPG Industries, Inc.

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PPG Ergonomics - Outline

- **Background**
 - PPG
 - PPG Ergonomics Efforts
- **PPG EHS/Ergonomics Process**
- **Rules**
- **Some Newer PPG Ergo Stuff**

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PPG Industries

- **Established 1883 as Pittsburgh Plate Glass in Pittsburgh, PA**
- **Glass, Coatings, Fiber Glass & Chemicals**

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PPG Industries

\$8.2 Billion (2001)

>120 major manufacturing facilities

23 countries

>33,000 Employees

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Ergonomic Theory

“Various and manifold is the harvest of diseases reaped by certain workers from the crafts and trades that they pursue. All the profit that they get is fatal injury to their health, mostly from two causes. The first and most potent is the harmful character of the materials they handle. The second, I ascribe to *certain violent and irregular motions and unnatural postures of the body*, by reason of which, the natural structure of the vital machine is so impaired that serious diseases gradually develop therefrom.”

Ramazzini (1714)

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PPG's Ergonomics History

- 1987 - Greensburg, PA Glass Plant
- 1992 - PPG Ergonomics Commitment Statement
- 1992-2000 - “Continuous Improvement”
- 2001 - Revised PPG Ergonomics Process
- 2001- Full time Ergonomist on Global EHS Staff

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What's at Stake?

- **Safety Values**
- **Employee Health**
- **Employee Retention**
- **Employee Attraction**
- **Labor Relations**
- **Productivity**
- **Workers Comp Costs**

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Ergonomics Commitment Statement

PPG Industries, Inc. will provide associates with a safe and healthful workplace. All facilities shall incorporate an Ergonomics process into their overall EHS Implementation Process. This process shall be designed to identify ergonomic risk factors, propose solutions to eliminate or reduce them, and manage all related aspects using the continuous improvement process.

1992

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PPG EHS/Ergonomics Process

- **Requires ergonomics teams as part of EHS Implementation Process**
- **Includes the elements of:**
 - Management Commitment*
 - Employee Involvement*
 - Worksite Analysis*
 - Hazard Prevention and Control*
 - Medical Management*
 - Training and Education*
 - Program Evaluation*
 - Recordkeeping*

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Some Simple Rules

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Rule #1

Recognize the risk

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“I’ll know it when I see it.”

- **Over 1300 trained including ergo team members, engineers, EHS staff, customers**
- **3 day classes in Pittsburgh**
- **1 day and 2 day workshops conducted at plant or regional locations**

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Rule #2



A man's got to know his limitations.

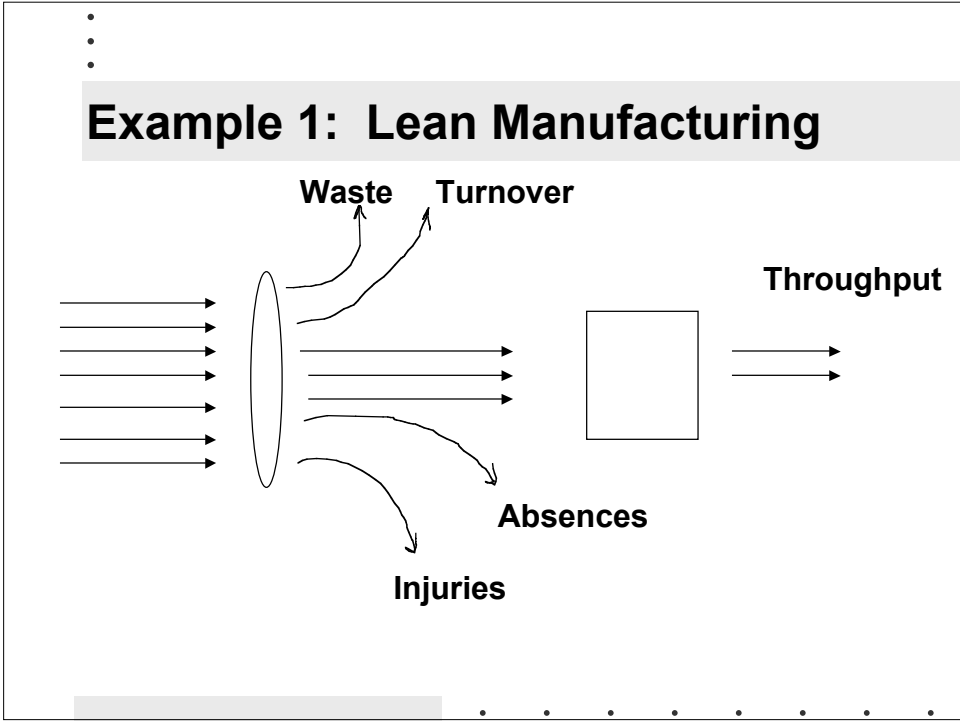
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Rule #3

Use Business Constructs

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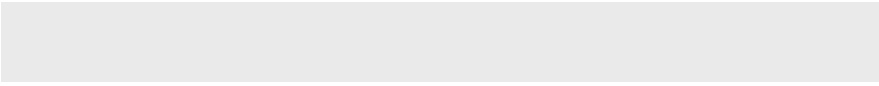
- ⋮
- ### Some Newer PPG Ergo Stuff
- Global Training
 - Fiberglass Automation Project
 - OEM Glass “Top Ten Ergo”
 - Sigma Ergonomics Pilot
 - Web site “Ergoshare”
 - Office Ergonomics Assessments
- ⋮

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Example 2: Fiber Glass Sigma Logic Project

- Total burden of disability (cost) due to musculoskeletal disorders (MSD's) includes occupational and non-occupational risk factors
- Job Content is a significant contributor to MSDs
- Develop model for total cost incurred by the organization
- Evaluate job content based on energy expenditure for each job using direct reading personal monitor.
- **Hypothesis: more energy = more fatigue = more cost**
- Conduct Pilot study to compare traditional job content versus automated factory setting.
- NIOSH studies - economics and comparative study of job content

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Safety drives ergo.

**Quality and productivity
pay for it.**



Avaya

Ergonomics Program

October 2002

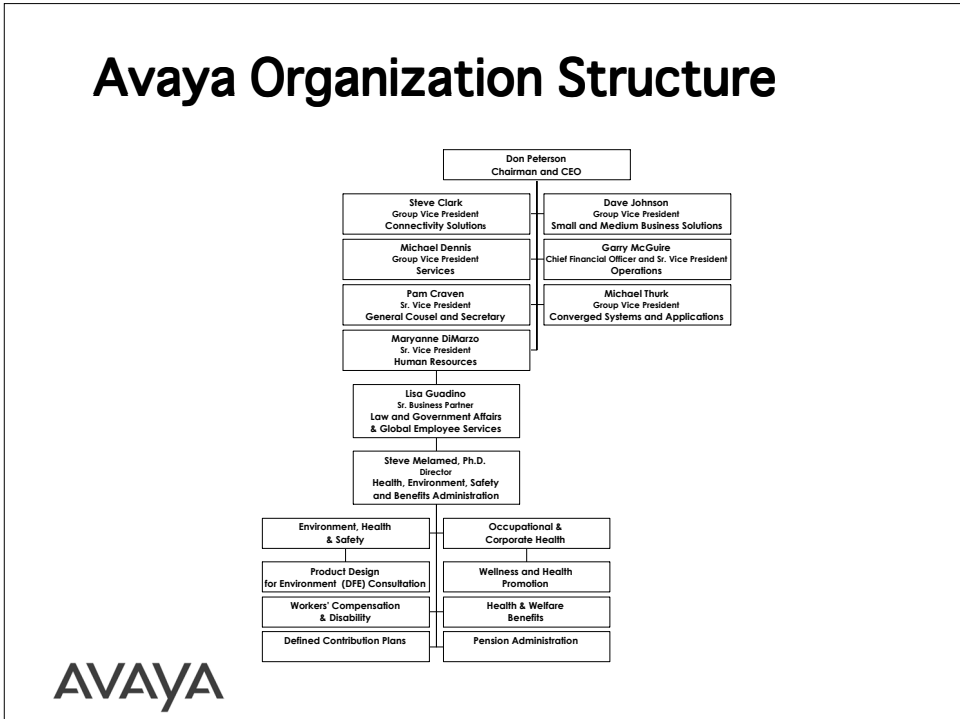
AVAYA

Avaya - Who Are We?

- **Worldwide leader in unified messaging, messaging systems, call centers and structured cabling systems**
- **Over 90% of the FORTUNE 500, many government organizations, and a significant number of the Global 2000 rely on Avaya secure network infrastructures and reliable voice and data applications**
- **We offer Customer Relationship Management Solutions, Unified Communications Solutions, Hosted Solutions, Multiservice Infrastructure and Converged Voice and Data Networks— supported by Avaya Services and Avaya Labs**

AVAYA

Avaya Organization Structure



Environmental, Health and Safety Policy

Avaya is committed to protecting the environment and the health and safety of our associates, our customers, and the communities in which we operate. Meeting this obligation is a primary management objective and the individual and collective responsibility of all Avaya associates worldwide. In support of this commitment we shall:

- Integrate environmental, health, and safety considerations into our products and services throughout their life cycle.
- Maximize environmental, health, and safety performance by maintaining management systems that establish goals and objectives to drive continual improvement.
- Protect and conserve our natural resources by minimizing wastes, managing energy use responsibly, and employing pollution prevention principles;
- Acquaint all Avaya associates with this policy and make it available to the public;
- Comply with applicable global environmental, health and safety laws and regulations, as well as Avaya standards;
- Take personal accountability for protecting the environment and maintaining a safe and healthy workplace

Don Peterson
President and Chief Executive Officer

Michael Dennis
VPI Worldwide Operations and Services

Effective November 1, 2000



Ergonomics

- **What is ergonomics?**

*Fitting the job to the person
to minimize injury and maximize productivity*

- **Why do we care?**

*High cost to associates & business
Regulatory focus*

- **What can we do?**

*Focus on proactive risk minimization
to maximize programmatic and cost effectiveness*

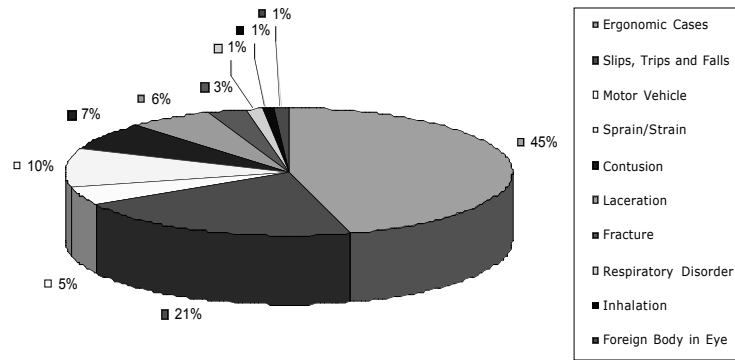
AVAYA

High Cost to Business

- **\$240 Billion spent nationally**
- **BLS stats – 35% of LWD Cases**
- **Highest Workers Comp \$**
- **Loss of productivity – treatment, recovery, replacement**
- **Musculoskeletal Disorders interfere with work and home life**
- **Many conditions can never be completely resolved – lifelong pain and suffering**
- **Average Carpal Tunnel Surgery time-off-work exceeds Amputations by 25%**

AVAYA

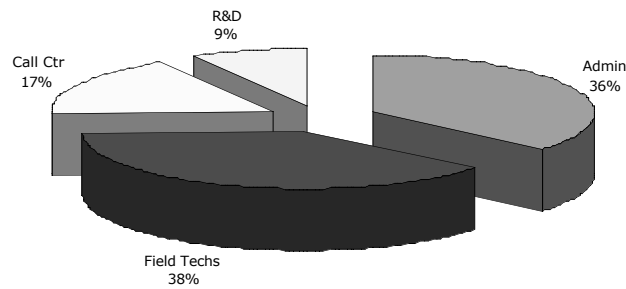
Avaya OSHA Reportable Cases by Cause of Injury/Illness



2001 Continuing Operations



Ergonomic Injuries by Job Type



2001 Continuing Operations Ergonomic-Related OSHA Cases



Regulatory Focus

US Secretary Of Labor Elaine L. Chao States:

- **OSHA's New Focus Will Rely on General Duty Clause Citations and Successful Prosecutions**
- **OSHA Will Build on Prosecutorial Successes with Beverly Enterprises and Pepperidge Farm**

AVAYA

Regulatory Focus

Assistant Secretary of Labor John Henshaw:

- **Cites Success of Using the General Duty Clause for Ergonomic Issues With Respect to the Meat Packing Industry**
- **Emphasizes that "OSHA Will Not Tolerate Employers that Ignore Recognized Ergonomics Hazards"**

AVAYA

Regulatory Focus

- **In April 2002, OSHA announced its four-pronged comprehensive approach:**
 - Guidelines
 - Enforcement
 - Outreach and Assistance
 - Research
- **Regional Ergonomics Coordinators were designated to develop and drive the program in each of OSHA's ten regions**

AVAYA

Regulatory Focus

- **Industry Specific Guidelines are being published beginning this year**
- **First Three are the Nursing Home Industry, Retail Grocery, & Poultry Processing**
- **Others expected include:**
 - Computer Workstations
 - Warehousing
 - Sewing
 - Hospitals
 - Baggage Handling
- **OSHA "encourages" industries to develop guidelines to meet specific needs**

AVAYA

Regulatory Focus

OSHA will have:

- **Coordinated inspections with a legal strategy designed to maximize successful prosecutions**
- **“Special ergonomics inspection teams that will, from the earliest stages, work closely with DOL attorneys and experts to successfully bring prosecutions under the General Duty clause, Section 5(a)(1)”**

AVAYA

Regulatory Focus

Historically, OSHA has issued over 500 General Duty Clause citations related to ergonomic issues.

While the number slacked off considerably during the pending rulemaking, OSHA has recommitted not only to issuing General Duty Clause citations, but to pursuing successful prosecutions as well.

AVAYA

Avaya's Approach

Develop a World-Class Ergonomics Program that:

- **protects our associates,**
- **improves productivity, and**
- **complies with legislation in each of the regions that we operate.**

AVAYA

Avaya's Emphasis

- **Enhanced Evaluations Target Two Areas:**
 - **Classical Worksite Evaluation Ensures Workstation Fits the Person**
 - **Risk Assessment Ensures the Person is Not Contributing to MSD's with Bad Habits**

AVAYA

Key Program Elements

- **Management Commitment & Support**
- **Training**
- **Proactive & Reactive Risk Reduction**
 - **Worksite Analysis & Hazard Identification**
 - **Engineering Controls**
 - **Work Practice & Admin Controls**
- **Rapid Corrective Action Implementation**
- **Early & Effective Medical Management**
- **Data Collection & Program Evaluation**

AVAYA

Ergonomic Program Tools

- **Telephone Consultation**
- **On-Line Training**
- **Third Party Worksite Evaluation if Required**
- **Entry into Medical Surveillance If Needed**
- **Follow-up Consultations**

AVAYA

Challenges

- **Serving a Dispersed Global Population**
 - necessitates technology-based solutions
- **Designing Facilities for Adjustability**
 - requires higher initial investment
- **Moving from Reactive to Proactive Solutions**
 - shifts emphasis from cure to prevention

AVAYA

Ergonomics at Avaya A Company–Employee Partnership

- **Company's Role: Provide a Low Risk Environment**
- **Employee's Role: Work in a Low Risk Fashion**

AVAYA