

# The Florida Handbook of Solid and Hazardous Waste Regulation: Occupational Safety and Health Act (OSHA)<sup>1</sup>

Michael T. Olexa and Christopher Hill<sup>2</sup>

## What is the Occupational Safety and Health Act (OSHA)?

Congress passed the Occupational Safety and Health Act (OSHA) to prevent work-related injuries, illnesses, and deaths by assuring that the workplace environment is safe and healthy. To fulfill this purpose, OSHA authorized the Secretary of Labor, who is the head of the Occupational Safety and Health Administration (also referred to as OSHA), to set up and enforce safety standards for employees working in dangerous circumstances, such as handling hazardous wastes.

## How is OSHA enforced?

All persons and facilities must deal directly with the federally administered OSHA to ensure compliance with OSHA regulations.

## Who enforces OSHA?

Because Florida has only adopted the federal regulations, OSHA is responsible for ensuring compliance in the state. OSHA regulations apply primarily to private-sector employers and not to those who are self-employed or to family farm workers. OSHA may conduct site inspections and require the employer to make self-evaluations. While no official decision has been made, Florida's 2021 Senate Bill 6-B and House Bill 5-B propose rescinding from OSHA regulation in favor of a state agency. For now, you should contact OSHA to gather more information about the safety requirements for employees using pesticides, gasoline, or any other hazardous or potentially hazardous substance (<https://www.osha.gov/complianceassistance/cas-directory>).

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2. Michael T. Olexa, professor, Department of Food and Resource Economics; director, Center for Agricultural and Natural Resource Law, UF/IFAS Extension; and member, The Florida Bar. Christopher Hill, law student, Levin College of Law; UF/IFAS Extension, Gainesville, FL 32611.

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## When are inspections allowed under OSHA?

OSHA needs only reasonable suspicion of a violation of its safety standards before it may enter the facility to conduct an inspection without prior notice. All inspections must be conducted at a reasonable time. In addition to inspecting the facilities, an OSHA inspector may privately question any employer, employee, owner, operator, or agent concerning the health and safety practices of the business.

In cases of surprise inspections, if you have advance knowledge of an inspection and you give advance notice of a surprise inspection, then you become liable for up to \$1,000 and up to six months in prison.

## What are employer self-evaluations?

OSHA may require the employer to make periodic self-evaluations to ensure compliance with safety requirements. Employers are encouraged to contact OSHA to gather more information about these evaluations. Those subject to these safety requirements may include:

- construction workers
- pesticide applicators
- heavy equipment users
- toxic chemical users

Employers who maintain injury and illness rates below the national averages for their respective industries may qualify for OSHA's Voluntary Protection Program (VPP). VPP participants are exempt from OSHA programmed inspections, although they still must submit self-evaluations and are re-evaluated by OSHA every three to five years to remain in the program. To participate, employers must submit an application and undergo a rigorous onsite evaluation.

## What are the requirements for hazardous materials?

OSHA's health and safety standards are very comprehensive. The standards for handling hazardous wastes include the following requirements:

- a site-specific analysis and a plan for protection
- a minimum level of training for employees exposed to hazardous waste and toxic substances

- regular medical examinations of employees who handle hazardous substances
- appropriate personal protective equipment
- maximum exposure limits
- training on safe use of engineering controls and onsite equipment
- an informational safety and health program for employees who regularly handle hazardous wastes, including training on recognizing the symptoms of overexposure
- an emergency response plan for accidents involving hazardous wastes
- decontamination procedures and a spill containment program

With respect to pesticides, OSHA requires compliance with Environmental Protection Agency (EPA) regulations established under the Federal Insecticide, Fungicide, and Rodenticide Act, or FIFRA ([FE764](#), FIFRA). The label instructions on pesticides ensure that employers and employees are kept safe. Violating the pesticide labeling requirements can trigger penalties under OSHA as well as FIFRA.

## What other activities are regulated under OSHA?

OSHA also regulates many other activities commonly associated with agriculture, including:

- the construction of, or repairs on, farm buildings
- the use of heavy machinery
- the handling of toxic chemicals
- the handling of large animals
- agricultural occupations deemed hazardous for minors, including the operation of certain types of heavy machinery such as corn and cotton pickers, and working with large animals such as stud horses maintained for breeding purposes and sows with suckling pigs

A discussion of these provisions is beyond the scope of this handbook. You should contact OSHA for more information ([FE786](#), Contact Agencies). Penalties for violations may be severe.

## What are the penalties under OSHA?

Non-compliance with OSHA standards may subject you to severe civil and criminal penalties. You may also be subject to private lawsuits if an employee is negligently harmed.

Penalties under OSHA vary:

1. Any employer who violates any part of OSHA or any regulations considered “other-than-serious” may be fined up to \$15,625 for each violation.
2. Any employer who commits a “serious violation” under OSHA shall be fined up to \$15,625 for each violation. A serious violation occurs when there is a substantial probability that death or serious physical harm could result from a condition that exists in the workplace (an employer will not be held liable if the employer did not know and could not have known of the violation even with the exercise of reasonable diligence).
3. Any employer who violates any of the posting requirements under OSHA shall be fined up to \$15,625 for each violation.
4. Any employer who willfully or repeatedly violates OSHA regulations may be assessed a fine not less than \$11,162 but not more than \$156,259 for each willful violation.
5. Any employer whose willful violation of OSHA regulations results in the death of an employee may be fined up to \$10,000 and imprisoned for up to six months. If the employee’s death resulted from a previous violation that the employer failed to correct, the employer may be subject to a \$20,000 fine and up to one year in prison.
6. Any employer who fails to correct a violation within the time given under OSHA may be fined up to \$15,625 for each day the violation continues.
7. Any employer who lies or makes a false statement, representation, or certification in any application, record, report, plan, or other document filed may be punished by a fine of not more than \$10,000, or by imprisonment for not more than six months, or both.

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