As a pork producer, do I have to worry about OSHA?

You don’t really need to “worry” about OSHA. From the OSHA website, their mission is to assure the safety and health of America’s workers by setting and enforcing standards; providing training, outreach, and education; establishing partnerships; and encouraging continual improvement in workplace safety and health. These goals are all consistent with the production goals of today’s successful pork producer. Even if you are not subject to an OSHA inspection because of the size of your operation, there’s a good chance that your insurance company will require an operation which is safe for your employees.

Whether you fall under OSHA depends on the size of your operation. OSHA provides a partial exemption for employers with 10 of fewer employees (section 1904.1). When counting the number of hired employees, OSHA does not include immediate family members.

1904.1(a)(1)
If your company had ten (10) or fewer employees at all times during the last calendar year, you do not need to keep OSHA injury and illness records unless OSHA or the BLS informs you in writing that you must keep records under § 1904.41 or § 1904.42. However, as required by § 1904.39, all employers covered by the OSH Act must report to OSHA any workplace incident that results in a fatality or the hospitalization of three or more employees.

1904.1(a)(2)
If your company had more than ten (10) employees at any time during the last calendar year, you must keep OSHA injury and illness records unless your establishment is classified as a partially exempt industry under § 1904.2.

There are specific occupational safety and health standards that apply to most agricultural operations with employees in all states and U.S. territories. However, depending on the state you’re in, the federal Occupational Safety and Health Administration (OSHA) may or may not have the authority to actively enforce these standards.

A total of 24 states (and the Virgin Islands and Puerto Rico) have their own occupational safety and health (OSH) programs. Of the 22 top pork producing states, 10 have a state OSHA plan (see table below) These state programs usually resemble the federal OSHA program, but approved state programs may choose to enforce worker safety laws differently than the federal government.
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As a pork producer, a strong commitment to the health and safety of your workforce can pay dividends to your operation. In many cases, the health of workers and animals are closely connected. People who work in operations where safety and health is a priority will often be more productive and loyal to the operation. It is easier to hire and retain good workers if your operation is safe, and if the health of your workers is an obvious priority. Insurance companies who provide property loss coverage and workers compensation insurance also appreciate a producer’s commitment to safety. Insurance rates are tied to your loss record, and a proactive safety program often leads to reduced insurance rates. If you’re not sure, check with your insurance agent.

I’ve heard that agricultural producers on farms and ranches are not regulated by OSHA. Is that true?

There are many federal worker safety and health standards that directly apply to agriculture. For the 24 states that maintain their own state-run OSHA program, there may be additional state requirements that are more stringent. Federally, the U.S. Congress limits OSHA’s ability to enforce these standards on farms with fewer than 11 non-family employees unless those smaller farms have temporary labor camps. State programs have the authority to operate differently and may have more strict requirements. However, in agriculture, any extra enforcement efforts such as inspections and complaint investigations by states must be done with non-federal funds.

If OSHA inspects my operation, what should I do?

Generally, you will not receive advance notice of an OSHA inspection. If an OSHA official arrives at your facility, they will furnish you with identification and credentials. If not, you have the right to ask for these items.
If you are away at the time that an inspector arrives at your facility, you have the right to ask that they wait for a reasonable period of time (up to an hour) for you to return before they begin their inspection process. You also have the right to refuse an inspection. But, if you refuse, the inspector will likely to return with a warrant that authorizes their entry. Realize that inspectors are only doing their job, and that the process of getting a warrant might add unnecessary tension to the situation.

OSHA inspections begin with an opening conference with the employer. They will review their reason for being there. The inspector will describe the process they intend to follow. Many OSHA inspections will include a review of your paperwork and records. They will look for information about injuries and illnesses that have occurred within your operation. The inspector will want to see that you have posted necessary information for workers like posters, worker rights, and other key information.

The opening conference is also a time during which an inspector will want to learn about your commitment to worker health and safety. Some key questions might include: Do you have a written safety plan? How often and what types of workplace safety and health training do you provide to workers? Where do you keep information related to potentially hazardous substances used or produced in your operation (pharmaceuticals, chemicals, pesticides, toxic gases)? How are workers accessing this information? What are steps you have taken to get rid of dangerous hazards like moving mechanical parts and confined spaces? Do you provide necessary protective equipment for your workers and have a program and training in place to help them use it correctly?

OSHA inspectors generally look to see if you have made a good faith effort to protect your employees from the hazards that are common to your industry. They want to see evidence that you are aware of dangers faced by workers and that you have made conscious efforts to control hazards. This is most easily accomplished by having a good set of documentation and purposely creating a workplace that is as free of hazards as possible. The inspector may also speak to one or more workers. Your commitment to safety may be mirrored by your workers in those conversations.

After checking paperwork, records, and discussing the process with you, a walk-around inspection is next. The OSHA official will walk through the facility and ask questions. They may take pictures, make measurements, or simply observe and write down information. The depth of the inspection will likely vary depending on the inspector, their level of expertise, and their reasons for the inspection. Inspectors will usually look at very specific hazards. This includes things like rotating machine parts on feeders, ventilation fans, etc. But, they will also look at the general level of housekeeping in your operation as well as facility-related issues such as adequate exit doors to be used in an emergency and the adequacy and safe installation of electrical wiring.

**What are items that OSHA is likely to look at?**

If OSHA is there because of an employee complaint, they are likely to concentrate initially on the hazard upon which that complaint was based. For example, if an employee has called in a complaint related to frequent needlestick injuries that occur while animals are being vaccinated, the inspector will want to see the types of programs, processes, training, and technologies you are using to prevent needlesticks. They also will ask to see what types of information you communicate to your workers about the products they are injecting and their associated risks.

More often, inspectors will take a bigger picture look at your operation. The OSHA laws (federal AND state) say that “Each employer—shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.”

This statement is referred to as the “General Duty Clause.” The clause means that any recognized hazard should be a concern to the employer and is potentially reason for a fine or other form of a citation. If it is possible and economically feasible, these hazards need to be eliminated entirely through techniques such as shielding or other physical control measures. Simply training and recommending that workers “be careful” as they work in close proximity to correctable hazards is not an acceptable strategy. Many hazards are hard to completely control. This includes noise and airborne dusts. In this case, the employer must provide workers with the right types of personal protective equipment. They must also provide workers
with the necessary training and other requirements for the safe use of safety gear.

What happens if they find hazards when they inspect my operation?

At the end on an inspection, an inspector will review his/her findings with you. They will talk about which hazards and conditions are the most critical. They will likely talk about measures that you must take to correct the hazards. Depending on the level of the risk associated with each hazard identified, they may also talk about fines that are likely to be levied. The magnitude of financial penalties depends on the risk associated with the hazard (how severe would the outcome be if a worker encountered the hazard?). They will also consider your level of awareness and what types of efforts you have made to improve safety conditions in your operation. Fines are generally much larger if you have had a previous citation, or if it is clear that you have simply chosen to ignore a particular hazard by asking workers to simply “be careful” around it. OSHA (state OR federal) wants to see that you’ve taken documented steps to physically eliminate hazards rather than placing the burden on employees to avoid the hazard or to protect themselves with personal protective equipment.

What are the main OSHA standards that I need to be thinking about?

OSHA will enforce standards depending on how your operation is classified. Regulatory officials classify business operations using a “standard industrial classification” code (or SIC). The SIC codes for agricultural operations begin with either 01 (crop production) or 02 (livestock production). A pork operation that is clearly a production (farm) operation will be specified as SIC code 0213.

It is important to note that a livestock producer who also has a feed mill or other feed “manufacturing” facility might have that portion of the operation regulated by OSHA as a manufacturing facility (SIC code 20). This would make the feed mill directly subject to a much larger array of worker health and safety regulations including all of the 29 CFR 1910 regulations for “General Industry.”

Regardless of the type of operation (livestock production, feed mill, or other), you must pay very close attention to OSHA’s General Duty Clause. This clause requires all employers to “furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.” This means that OSHA can require you to find ways to eliminate ANY type of serious hazard as long as that hazard represents a risk to your workers.

Additionally, there have been instances in recent years where OSHA has enforced regulatory standards outside the realm of the General Duty Clause as well as those directly applicable standards described below. Hog farms have received significant fines for violations including: respiratory protection, permit-required confined space entry, machine guarding, and others.

For operations that are strictly agricultural production (the SIC code 0213 pork production operations), the main body of OSHA standards that always apply through direct reference are found in 29 CFR 1928. This standard includes requirements for: roll-over protective structures (ROPS) on tractors; employee operating instructions (for tractors and machines); guarding of farm field and farmstead equipment; field sanitation; and health guidance related to cadmium exposure.

In addition 29 CFR 1928 also says that OSHA can directly enforce certain general industry standards (29 CFR 1910) including those pertaining to:

- Temporary labor camps - 1910.142;
- Storage and handling of anhydrous ammonia - 1910.111(a) and (b);
- Logging Operations - 1910.266;
- Hazard communication - 1910.1200.
- Cadmium - 1910.1027.
I’ve heard that the respiratory protection standard does not “apply” to agricultural operations. Is that true?

OSHA’s respiratory protection standard is 29 CFR 1910.134. This standard was not really designed with agriculture in mind.

However, as is the case with any major agricultural hazard, the General Duty Clause states that all employers must “furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.” This clause does apply to agriculture. This means that respiratory hazards and respiratory protection are issues that every agricultural producer must take seriously. This includes actions to eliminate respiratory hazards through controlling the release of dusts, gases, vapors, and other airborne contaminants. It also includes the development of an appropriate respiratory protection program that complies with the important principles embedded within OSHA’s 1910.134 standard.

What are some of the situations that pork producers have encountered during OSHA inspections? Definitions provided by OSHA in Their Farm Machine Guarding Standard:

Information about OSHA visits and citations can be found on OSHA’s website.

On this site, data for hog production operations can be viewed by entering the number 0213 in the box marked “SIC.” This is the industrial code for pork production operations. For the time period October 2005 through September 2006 (12 months), the most frequently cited standards for hog operations were:

- Section 5A.1 of the OSH Act -- General Duty Paragraph
- 1928.57 Guarding of farm field equipment, farmstead equipment, and cotton gins.
- 1910.120 Hazard Communication.
- 1904.39 Reporting fatalities and multiple hospitalization incidents to OSHA.

Total fines levied by federal OSHA during that 12-month time period were $38,350.

Detailed inspection data for state and federal inspections going back more than 30 years can be found at OSHA’s website.

To use this site, enter a date range and SIC code 0213. When you “submit” your search (by pushing the submit button), you will be presented with a table of OSHA activities for the pork production SIC code (0213) for the date range selected. To learn more about the details of individual inspections, click on the numbered links in the “activity” column. From there, you can learn more about the details of the investigation including the farm’s location, financial penalties, and the standards cited during the inspection. To get the information on specific standards cited, click on the numbers in the “ID” column.

If you scan through OSHA inspection data for the past five years, you will see a range of OSHA-related activities including some very large fines that have been issued. It is impossible to list every one of the OSHA standards that have been cited or to fully describe all of the hazardous conditions cited under the agency’s “General Duty Clause.” You should view your operation in the same way in which any small business would, and make attempts to alleviate and control all recognized hazards. OSHA’s small business handbook contains a set of checklists and guidance information that many small businesses use to help assure full compliance.

OSHA is a federal agency – So why do I need to be concerned with my state’s labor regulatory agency?

It is true that the U.S. Occupational Safety and Health Administration or OSHA is a U.S. agency that operates through the U.S. Department of Labor. But, when it was created, Congress gave individual states the authority to set up their own state-run worker safety regulatory programs. The states could create their own regulations as long as they were at least as stringent and strict as the federal standards.
Right now (2007), 24 states and two U.S. territories operate their own occupational safety and health programs. Of the 22 top pork producing states, 10 have a state OSHA plan (see Table 1).

Some states regulate agriculture using only the applicable federal standards (29 CFR 1928; parts of 1910; and the General Duty Clause stating that all employers must “furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees”). Other states may have an extensive set of agricultural standards that differ significantly from those enforced by federal OSHA.

Of the top pork producing states, Utah, South Carolina, Minnesota, and Iowa have additional regulations specific to agriculture. Virginia has adopted additional standards that may affect pork producers although they are not specific to agriculture. If you live in a state with its own occupational safety and health plan, consult with local experts including the Extension Service, your state labor department, and your insurance company. For specifics on state OSHA plans, view the following documents.

IOWA (PIG 16-01-06)

MINNESOTA (PIG 16-01-07)

SOUTH CAROLINA (PIG 16-01-08)

UTAH (PIG 16-01-09)

VIRGINIA (PIG 16-01-10)