

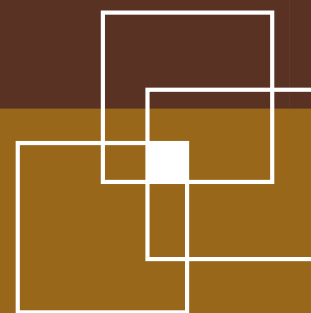
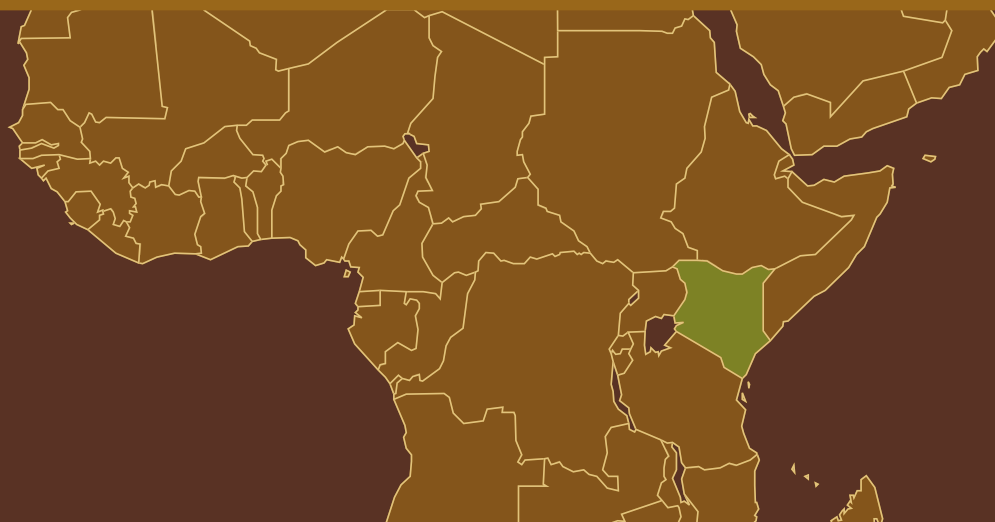


International
Labour
Office
Geneva



National Profile on Occupational Safety and Health

Kenya



Programme on Safety and Health at Work and the Environment
(SafeWork)

**National Profile
on Occupational Safety
and Health**

Kenya

International Labour Office, Geneva
Republic of Kenya – Ministry of Labour



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First published 2013

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National Profile on Occupational Safety and Health – Kenya
First published 2013

ISBN 978-92-2-127338-7 (print)
ISBN 978-92-2-127339-4 (web)

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Preface

In 2004, Kenya compiled its first occupational safety and health (OSH) profile. The profile played a vital role in providing insights for the systematic strengthening of the national occupational safety and health system that is still on-going. This current profile provides a systematic review of the national OSH system and the tremendous improvements made in the last decade.

In addition to providing basic data on the key parameters that affect the sound management of OSH at both national and workplace levels, it will enable the country to identify gaps in, and needs for further development of existing; legal, institutional, administrative and technical infrastructure related to the sound management of OSH. The profile also took into account the national Decent Work Country programme, the medium-term national development plan that is part of the Vision 2030, the Global strategy on OSH adopted at the 91st Session of the International Labour Conference in 2003 and the relevant ILO instruments. It is thus, an engine for the policy and strategy formulation and goes further to guide the alignment of resources on the critical areas of focus, while at the same time acting as a benchmark for the continuous improvement of the national OSH system. The contents of the profile were actively discussed and collectively adopted by representatives of government, employers' and workers' organizations and other stakeholders at national tripartite and stakeholders' meeting held in Nairobi in June 2012.

I wish to express my sincere appreciation to the Directorate of Occupational Safety and Health Services of the Ministry of Labour, the Federation of Kenya Employers, the Central Organization of Trade Unions (Kenya) and other participating stakeholders for their support in preparation of the profile. I extend special thanks to the consultant, Mr. Charles Mburu, for his assistance in compiling the profile.

I also wish to express my appreciation for the leadership and support provided by ILO Safe-Work, the ILO Country Office in Dar es Salaam, and the Decent Work Team, Pretoria in the course of developing the profile. I extend special thanks to the SIDA-funded project "Linking safety and health at work to sustainable economic development: From theory and platitudes to conviction and action" for the financial and logistical support in the compilation and publication of this profile. I hope that the profile will be useful for all relevant government units, employers' and workers' organizations, non-governmental organizations, academic institutions, and all those who are concerned with workers' safety and health in Kenya and that it will contribute to the creation of safe and healthy workplaces for all workers in the country and spur social and economic growth. This, I believe, will enjoin our collective aspiration for decent work for all – Decent work must be Safe work.

Beatrice N. Kituyi (Mrs.), C.B.S.
Permanent Secretary
Ministry of Labour

Abbreviations

AAK	Agrochemicals Association of Kenya
BOHS	Basic Occupational Health Services
BSPS	Business Sector Programme Support
CIS	International Occupational Safety and Health Information Centre
CoP	code of practice
COSHO	chief occupational safety and health officer
COTU-K	Central Organization of Trade Unions (Kenya)
DANIDA	Danish International Development Agency
DDT	dichlorodiphenyltrichloroethane
DHP	designated health practitioner
DIT	Directorate of Industrial Training
DOD	Department of Defence
DOSHS	Directorate of Occupational Safety and Health Services
FINNIDA	Finnish International Development Agency
FKE	Federation of Kenya Employers
GDP	gross domestic product
GHS	Globally Harmonized System of Classification and Labelling of Chemicals
GSU	General Service Unit
HERP	Highway Emergency Response Plan
ICT	information and communications technology
IHRM	Institute of Human Resource Management
ILO	International Labour Organization
JKUAT	Jomo Kenyatta University of Agriculture and Technology
KEBS	Kenya Bureau of Standards
KEPHIS	Kenya Plant Health Inspectorate Service
KIA	Kenya Institute of Administration
KMP&DB	Kenya Medical Practitioners and Dentists Board
KMTC	Kenya Medical Training College
KNBS	Kenya National Bureau of Statistics

KNH	Kenyatta National Hospital
KOSHA	Kenya Occupational Safety and Health Association
KRCS	Kenya Red Cross Society
KU	Kenyatta University
KWS	Kenya Wildlife Services
L.N.	legal notice
MSE	micro and small-scale enterprises
MSED	Micro and Small Enterprise Development
NACADA	National Agency for the Campaign against Drugs
NACOSH	National Advisory Council On Occupational Safety And Health
NDOC	National Disaster Operation Centre
NEB	National Employment Bureau
NEMA	National Environment Management Authority
NGO	non-governmental organization
NHRPD	National Human Resource Planning and Development
OEL	occupational exposure limits
OSH	occupational safety and health
OSHA, 2007	Occupational Safety and Health Act, 2007
OSHDBM	occupational safety and health database management system
OSHO	occupational safety and health officer
OSMAG	Oil Spill Mutual Aid Group
PCB	polychlorinated biphenyl
PCK	Productivity Centre of Kenya
PCPB	Pest Control Products Board
PIEA	Petroleum Institute of East Africa
POP	persistent organic pollutant
POSHO	Principal Occupational Safety and Health Officer
PPE	personal protective equipment
SAICM	Strategic Approach to International Chemicals Management
WIBA, 2007	Work Injury Benefits Act, 2007

Abstract

The preparation of this national profile and study on the recording and notification of occupational accidents and diseases (Chapter 21) is a major step towards creating a realistic and efficient national programme of occupational safety and health (OSH) in Kenya, and adjusting it to proven international practices.

The main objective was to develop an inventory of all the tools and resources available in Kenya for implementing and managing OSH, to assist in setting national priorities for action, including the recording and notification of occupational accidents and diseases. The various laws and regulations were studied as part of secondary data, and primary data were obtained directly from the responsible officers through visiting and interviewing.

The Constitution of the Republic of Kenya is supreme, and lays the foundation for all other laws. Although it is not specific on OSH, it provides, in the Bill of Rights, the right for every citizen to fair labour practices, reasonable working conditions, and a clean and healthy environment. Through tripartite consultations the Government has also approved a national OSH policy that will greatly improve the OSH profile when it is implemented.

The history of OSH in Kenya dates back to 1950, with the introduction of the Factories Act. In 1990 this Act was amended to the Factories and Other Places of Work Act, to enlarge its scope. The Occupational Safety and Health Act (OSHA) and the Work Injury Benefits Act (WIBA) were enacted in 2007, and are now the principal laws that govern OSH in the country. There are other laws that touch on OSH, but they are managed by other government ministries and corporations.

In Kenya, OSH is managed by the Directorate of Occupational Safety and Health Services (DOSHS). DOSHS is the designated national authority for collection and maintenance of a database, and for the analysis and investigation of occupational accidents and diseases, and dangerous occurrences. The Directorate's policy and legal mandate are provided by the National Occupational Safety and Health Policy of 2012, OSHA 2007, and WIBA 2007.

The body responsible for reviewing national OSH legislation, policies and actions is the National Council for Occupational Safety and Health (NACOSH), whose composition includes the Federation of Kenya Employers (FKE) and the Central Organization of Trade Unions (Kenya) (COTU-K).

The FKE is the national umbrella organization representing employers' interests in Kenya, and advocates an environment favourable to enterprise competitiveness, sustainability and job creation. COTU-K is the most representative workers' organization. It has 35 affiliated members, based on the industrial sectors of the Kenyan economy. These include commerce, banking, metalwork, baking and confectionery, port work, pilots, building and construction, chemical, engineering, game and hunting, local government, fishing, petrol and oil, plantations and agriculture, railway work, scientific research, shipping and clearing, domestic and hotels, enter-

tainment, betting, journalism, printing and publishing, sugar plantations, seamen, tailoring and textiles, transport, post and telecommunications.

NACOSH involves stakeholders in any review, and the process culminates in a national validation forum for approval. At enterprise level, a bipartite approach is facilitated by the Safety and Health Committees Rules made under OSHA, 2007. Established safety and health committees include equal representation from management and workers.

Kenya has a population of 36.8 million people; of these, 2 million are employed in the formal sector and 8.8 million are employed or self-employed in the informal sector across the country. The DOSHS, with 71 professional OSH officers, is not capable of inspecting the estimated 140,000 workplaces effectively, and this leaves most workers exposed to OSH hazards without intervention. DOSHS representation in 29 counties leaves the remaining 18 counties with no officers. Illiteracy levels are high in the rural areas, which are insufficiently covered by DOSHS officers, and thus illiterate workers in these areas are exposed to OSH hazards.

In Kenya, 75 institutions offer OSH training for safety and health committee members, and also for awareness creation. This, together with the master's degree and postgraduate diploma courses offered by one local university, is likely to increase awareness levels, and thus impact positively on the national OSH profile. The country has 49 active registered safety advisers, 30 fire safety auditors, 38 designated health practitioners, and many other professionals such as plant examiners involved in the OSH field.

There is only one poison control centre in the country, the National Poison Information and Management Centre at Kenyatta National Hospital (KNH), which has been operating for the last five years. It provides an information and resource centre for all the hospitals in the country, and for anyone who requires information about poisons and their antidotes.

The Ministry of State for Special Programmes has the mandate for coordinating disaster risk reduction programmes and emergency response. Nationally, this Ministry coordinates the response to any emergencies that may occur. It developed a draft national policy for disaster management in 2009, and a national disaster response plan that is hazard specific.

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Participating organizations

- **Ministry of Labour**
- **Ministry of Agriculture**
- **Ministry of Public Health and Sanitation**
- **Ministry of Medical Services**
- **Ministry of State for Special Programmes**
- **Directorate of Occupational Safety and Health Services**
- **National Environment Management Authority**
- **Kenya Bureau of Standards**
- **Kenya National Bureau of Statistics**
- **Federation of Kenya Employers**
- **Central Organization of Trade Unions**
- **Petroleum Institute of East Africa**
- **Pest Control Products Board**
- **National Agency for the Campaign against Drug Abuse**
- **International Labour Organization**

Introduction

Kenya is situated in the eastern part of the African continent. The country lies between latitudes 5° N and 5° S, and between longitudes 35° and 40° E. Kenya is almost bisected by the equator. It is bordered by Ethiopia to the north, Somalia to the north-east, Tanzania to the south, Uganda and Lake Victoria to the west, and Southern Sudan to the north-west. It is bordered on the east by the Indian Ocean, with a 536 km coastline.

The country is divided into 47 counties. It has a total area of approximately 582,646 km², of which 571,466 km² are land. Approximately 80 per cent of the land area of the country is arid or semi-arid, and only 20 per cent is arable. The country has diverse physical features, including the Great Rift Valley, which runs from north to south; Mount Kenya, the second highest mountain in Africa; and Lake Victoria, the largest freshwater lake on the continent, and the world's second largest freshwater lake.

The performance of the Kenyan economy has been mixed since the country became independent in 1963. In the first decade after independence the economy grew at an average of seven per cent a year, thanks to expansion in the manufacturing sector and an increase in agricultural production. After this the economy steadily declined, and reached its lowest GDP growth level of about 0.2 per cent in 2000. This consistently poor growth performance failed to keep pace with population growth. The weak performance was caused by external shocks and internal structural problems, including droughts, low commodity prices, the world recession, bad weather, and poor infrastructure. The poor growth of the economy contributed to deterioration in the overall welfare of the Kenyan population. Similarly, the economy has been unable to create jobs at a rate to match the rising labour force.

In 2008 the Government of Kenya launched Vision 2030, with the aim of transforming Kenya into a newly industrialized, middle-income country by 2030. After remarkable growth, which averaged 6 per cent in the period 2004–2007 and peaked at 7.1 per cent in 2007, real GDP growth slowed to 1.7 per cent in 2008. The slowdown resulted from both domestic and external shocks, including post-election violence, high food and fuel prices, drought, and the global financial crisis. These shocks had a negative impact on key sectors of the economy, including tourism, manufacturing, transport, and agriculture.

According to the 2009 Kenya Population and Housing Census, the total population was 38.6 million people. The Kenya Economic Survey of 2010 indicates that the total number of employed persons in Kenya in all sectors in the year 2010 was 10,960,000. The number of workplaces in both the formal and informal economies (KNBS, 2007) was 140,000, most of which were micro or small sized enterprises with a low awareness of OSH, and thus were exposing a huge number of workers to workplace risks.

The history of OSH in Kenya dates back to 1950, when it was found necessary to have a legal instrument to manage the safety, health and welfare of people employed in factories. The then colonial government adopted the British Factories Act of 1937. In 1990 the Factories Act was

amended to the Factories and Other Places of Work Act, in order to enlarge its scope of coverage. In 2007 this Act was repealed, and was replaced by the Occupational Safety and Health Act. In the same year, the Work Injury Benefits Act was enacted. Both these laws are administered by the Directorate of Occupational Safety and Health Services (DOSHS).

Other legislation that touches on OSH includes the Public Health Act CAP 242, the Environmental Management and Coordination Act (1999), the Radiation Protection Act CAP 243, and the Pest Control Products Act Cap 346. These laws are enforced by different ministries and departments of the Government.

1. National regulatory framework

1.1 Reference to OSH requirements in the Constitution

Kenya promulgated a new Constitution in August 2010. This includes a chapter on the Bill of Rights, which provides for the rights and fundamental freedom of all citizens. Although the Constitution does not address OSH specifically, it provides for the rights of every person to fair labour practices, reasonable working conditions, and a clean and healthy environment.

1.2 Laws, Acts and regulations

The OSH services in Kenya are governed by two pieces of legislation: the Occupational Safety and Health Act, 2007 (OSHA 2007) and the Work Injury Benefits Act, 2007 (WIBA, 2007). The purpose of OSHA 2007, is to secure the safety, health and welfare of people at work, and to protect those not at work from risks to their safety and health arising from, or in connection with, the activities of people at work. The purpose of WIBA 2007, is to provide compensation to employees for work-related injuries and diseases contracted in the course of their employment, and for connected purposes. There are also several regulations and subsidiary laws that deal with OSH issues. The regulations formulated by DOSHS through tripartite collaborations are listed below.

1.2.1 The Factories (Woodworking Machinery) Rules, L.N. No. 431/1959

These Rules apply to workplaces in which any circular saw, pendulum saw, plain bandsaw, band mill, and band re-saw, planing machine, vertical spindle moulding machine, routing machine or chain-mortising machine operating on wood are in use.

The occupier is required to maintain the floors surrounding woodworking machines, and fence all dangerous parts of saws, mills and planing machines used for thicknessing, moulding, matching or tenoning, and all other machines. The occupier is also required to encourage the use of push sticks with circular saws.

Employees are expected to use the guards of the woodworking machines, keep them correctly adjusted, and use the spikes or push-sticks and holder.

1.2.2 The Factories (Docks) Rules, L.N. No. 306/1962

These Rules apply to the processes of loading, unloading, moving and handling goods in, on or at any dock, wharf or quay in any port or harbour in Kenya, and to the processes of loading and unloading any ship in any such port or harbour.

The Rules ensure the provision of facilities on shore, including lighting, first-aid boxes, stretchers, ambulances, drinking water, sanitary conveniences and washing facilities, and means

of access to the ship. They also provide for general safety provisions on board ship, including access from the ship, access to holds and lifting machinery, marking of hatch coverings, hand grips, precautions where dangerous fumes and dust are liable to be present and protective clothing.

1.2.3 The Factories (Cellulose Solution) Rules, L.N. No. 87/1964

These Rules apply to workplaces in which cellulose solutions are used or stored.

“Cellulose solution” means any solution in inflammable liquid of cellulose nitrate, cellulose acetate or other cellulose compound, or of celluloid, or any other substance containing cellulose nitrate, cellulose acetate or other cellulose compound, with or without the admixture of other substances.

The Rules require the occupier to give notice to the Director of Occupational Safety and Health Services of his or her intention to use or store cellulose solutions; to construct cellulose cabinets, cellulose spaces and ventilating ducts; to take precautions against the ignition of cellulose solutions, flammable liquids and solid residues; and to provide fire exits, metal containers for disposal of waste material, and fixed storage facilities.

The Rules prohibit smoking, open flames or naked lights in the workplace, and require persons using cellulose solutions to make use of ventilating and other appliances.

1.2.4 The Factories (First Aid) Rules, L.N. No. 160/1977

These Rules apply to workplaces, and require the occupier to put in place appropriate measures to ensure that those injured at work receive necessary medical attention. The Rules specify the contents of the first-aid box in accordance with the number of workers, and the training of first-aiders.

1.2.5 The Factories (Eye Protection) Rules, L.N. No. 44/1978

These Rules apply to workplaces, and require the occupier to protect their employees against exposure that is injurious to the eyes.

1.2.6 The Factories (Electric Power Special) Rules, L.N. No. 340/1979

These Rules apply to the generation, transformation, conversion, switching, control, regulation, distribution and use of electrical energy in workplaces. They require the occupier to put appropriate measures in place to eliminate electrical hazards within their premises by the insulation of conductors, and by the provision of circuit breakers and personal protection.

1.2.7 The Factories (Building Operations and Works of Engineering Construction) Rules, L.N. No. 40/1984

These Rules cover the construction, structural alteration, repair and maintenance of buildings, including repainting, redecoration and external clearance of the structure; the demolition of a building; and preparing and laying the foundation of an intended building or work

of engineering construction for the purpose of any industrial or commercial use. The Rules require the contractors and occupiers to observe good safety standards while performing building operations in the above activities.

1.2.8 The Factories and Other Places of Work (Safety and Health Committees) Rules, L.N. No. 31/2004

These Rules apply to workplaces with 20 or more regular employees. They require the occupier to set up safety and health committees with equal representation of management and workers. The functions of the committee include conducting safety and health inspections, investigating accidents, and making recommendations to the occupier on improvements for the promotion of a safe and healthy working environment.

1.2.9 The Factories and Other Places of Work (Medical Examination) Rules, L.N. No. 24/2005

These Rules apply to workplaces where employees are engaged in occupations that expose them to hazards that might harm their health. They specify occupations requiring medical examinations, and the types of examination of employees at the employer's cost.

1.2.10 The Factories and Other Places of Work (Noise Prevention and Control) Rules, L.N. No. 25/2005

These Rules apply to workplaces where activities result in noise levels that could impair or damage employees' hearing ability. They specify the permissible levels of noise, and require the occupier to carry out noise measurements, develop a noise prevention programme to reduce noise levels, and provide hearing protection.

1.2.11 The Factories and Other Places of Work (Fire Risk Reduction) Rules, L.N. No. 59/2007

These Rules apply to workplaces, and require the occupier to put appropriate measures in place to prevent the occurrence of fires within their premises. They address the safe handling, storage and transportation of flammable substances. They also require the occupier to provide means of evacuation, fire detection systems, firefighting equipment, and firefighting teams.

The Rules prescribe annual fire safety audits, the formulation of a fire safety policy, and training of workers on fire safety issues.

1.2.12 Factories and Other Places of Work (Hazardous Substances) Rules, L.N. No. 60/2007

These Rules apply to workplaces where workers are likely to be exposed to hazardous substances. They require the occupier to prevent employees from exposure to such substances by putting various control measures in place, or, where these are not reasonably practical, to ensure that personal protective equipment (PPE) is provided. They prescribe occupational exposure limits (OEL) for hazardous chemical substances, safe handling, use and disposal of hazardous substances.

1.2.13 The Government Financial Management (Occupational Safety and Health Fund) Regulations, 2011

These Regulations establish a levy called the OSH Levy, chargeable to all registered workplaces at a rate of KSh3,000 annually. The fund's function is to secure the development, coordination and implementation of an effective OSH system for the prevention of occupational accidents and diseases, ill health and damage to property at workplaces.

1.3 Laws and regulations covering aspects related to OSH but issued under other Ministries

The laws and regulations covering some aspects of occupational safety and health and issued under other ministries include:

- The Biosafety Act, No. 2, 2009
- The Environmental Management and Coordination Act, No. 8, 1999
- The Public Health Act, Cap. 242
- The Employment Act, No. 11, 2007
- The Energy Act, No. 12, 2006
- The Food, Drugs and Chemical Substances Act, Cap. 254
- The Mining Act, Cap. 306
- The Pest Control and Product Act, Cap. 346
- The Petroleum (Exploration and Production) Act, Cap. 308
- The Radiation and Protection Act, Cap. 243
- The Standards Act, Cap. 496

1.4 Conventions ratified by Kenya

- Kenya has ratified and adopted 49 ILO Conventions; 43 are active and ten of them are OSH related namely:
- Convention No. 17: Workmen's Compensation (Accidents) Convention, 1925, ratified on 13 January 1960
- Convention No. 19: Equality of Treatment (Accident Compensation) Convention, 1925, ratified on 13 January 1964
- Convention No.12: Workmen's Compensation (Agriculture) Convention, 1921, ratified on 13 January 1964
- Convention No. 32: Protection against Accidents (Dockers) Convention (Revised), 1932, ratified on 13 January 1964
- Convention No. 16: Medical Examination of Young Persons (Sea) Convention, 1921, ratified on 9 February 1971
- Convention No. 27: Marking of Weight (Packages Transported by Vessels) Convention, 1929, ratified on 9 February 1971

- Convention No. 81: Labour Inspection Convention, 1947, ratified on 13 January 1964
- Convention No. 129: Labour Inspection (Agriculture) Convention, 1969, ratified on 9 April 1979
- Convention No. 134: Prevention of Accidents (Sea Ferries) Convention, 1970, ratified on 6 June 1990
- Convention No. 182: Worst Forms of Child Labour Convention, 1999, ratified on 7 May 2001.
- Conventions 155 and 187 have been identified and prioritized for ratification, but are awaiting an Act of Parliament in line with the new Constitution.

1.5 OSH technical standards, guidelines and management systems

1.5.1 Implementation of OSH management systems at enterprise level

The law is not specific on the establishment of OSH management systems at the enterprise level, but all the elements of ILO-OSH 2001 have been adequately covered in OSHA 2007. However, individual organizations have established management systems based on diverse standards.

1.5.2 Technical standards used or applied under existing regulations

All standards in the country, including technical standards, are developed by the Kenya Bureau of Standards (KEBS). At KEBS there are various technical committees comprising experts who are involved in developing standards in their specialized areas. All the standards developed by KEBS are voluntary, and become mandatory only when they are cited in legislation or legal notices. The developed standards that are related to OSH are divided into three categories: management systems (procedures, risk assessment and incident investigation); facilities (equipment and environment); and human factors.

1.5.3 Use of ILO codes of practice

The national competent authority (DOSHS) makes use of the ILO codes of practice when developing legislation and working documents for use by enterprises. It also implements two locally developed codes of practice: one on OSH auditing, which provides guidelines for safety and health advisers when carrying out workplace safety and health audits; and the other on PPE, which sets guidelines for employers, workers, suppliers, manufacturers and the general public on how to manage the provision of PPE, including its selection, use, storage and maintenance.

The Federation of Kenya Employers (FKE) has adopted the ILO code of practice on HIV/AIDS and the world of work by developing a code that is currently being used by its members.

2 *National competent authority*

The Directorate of Occupational Safety and Health Services (DOSHS), a department within the Ministry of Labour, is responsible for OSH services in the country. It has the mandate to ensure compliance with the provisions of OSHA, 2007, which promotes the safety and health of workers, and of WIBA, 2007, through the prompt compensation of employees for work-related injuries.

2.1 **Vision and mission**

DOSHS is guided by its vision, “A healthy worker in a safe work environment”, in undertaking its mandate and responsibilities. The Directorate’s mission is to develop and implement effective systems for preventing workplace diseases, ill health and accidents, in order to reduce damage to property and work injury compensation claims thereby improving productivity.

2.2 **Enabling legislation**

The Directorate enforces OSHA, 2007, WIBA, 2007, and 13 subsidiary pieces of legislation.

2.3 **Functions of DOSHS**

The functions of DOSHS include:

- inspecting workplaces to ensure compliance with OSHA 2007;
- investigating occupational accidents and diseases, with a view to preventing their recurrence;
- measuring workplace pollutants for the purposes of instituting control measures;
- carrying out medical examinations and surveillance of workers’ health;
- providing training on OSH;
- disseminating information on OSH to employers, employees and other interested persons;
- approving architectural plans of buildings intended for use as workplaces;
- ensuring that employees who are injured in the course of their employment are compensated in accordance with the provisions of WIBA 2007; and
- instituting and conducting legal proceedings against those responsible for non-compliance with the provisions of OSHA 2007.

2.4 **Staff and geographical distribution of DOSHS**

DOSHS offers OSH services in 29 of the 47 counties nationwide. Its headquarters are at Safety House, Commercial Street, Nairobi. It is headed by the Director, and has county officers located

at various offices around the country (see table 1). OSH officers are stationed both in the head-quarters and in the field offices. The professionals include medical doctors, nurses, engineers, occupational hygienists, OSH specialists, and other scientists. At the end of the 2010–2011 financial year DOSHS had a staff complement of 139, comprising 71 OSH professionals and 68 administrative support personnel. The breakdown is as shown in tables 1 and 2.

Table 1:
Geographic distribution of DOSHS staff: head office

Headquarters		No. of OSH officers	Medical officers/nursing officers	Support staff
Office of Director		1	0	3
Administration	Office of Deputy Director – Administration	1	0	1
	Training and information	1	0	2
	Work Injury Benefits Division	2	0	6
	Security	0	0	4
	Accounts	0	0	2
	Registry	0	0	3
	Procurement	0	0	3
	Telephone exchange	0	0	2
Technical services	Office of Deputy Director – Technical Services	1	0	1
	Field Services Division	2	0	1
	Occupational Health Division	0	5	3
	Occupational Hygiene Division	1	0	1
	Occupational Safety Division	3	0	1
	OSH Institute	2	1	0
Total		14	6	33

Table 2:
Geographic distribution of DOSHS staff: county offices

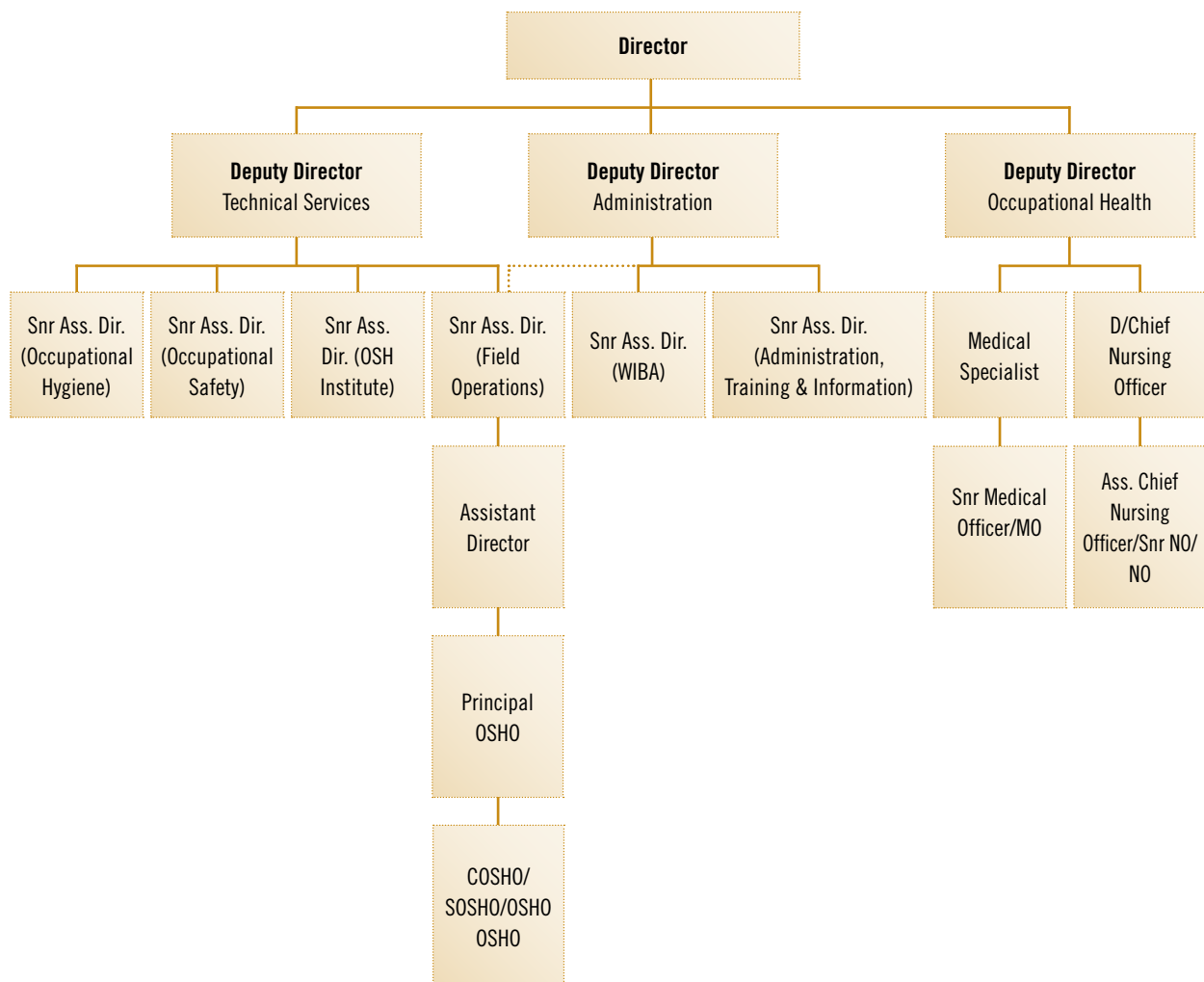
County	No. of OSH officers	Medical officers/nursing officers	Support staff
1 Bungoma County	2	0	1
2 Embu County	1	0	2
3 Garissa County	1	0	0
4 Homa Bay County	1	0	0
5 Kajiado County	1	0	0
6 Kakamega County	2	0	2
7 Kericho County	2	0	3
8 Kiambu County	2	0	2
9 Kilifi County	1	0	1

County	No. of OSH officers	Medical officers/nursing officers	Support staff
10 Kirinyaga County	1	0	0
11 Kisii County	1	0	2
12 Kisumu County	2	0	3
13 Kwale County	1	0	0
14 Laikipia County	1	0	0
15 Machakos County	1	1	0
16 Meru County	1	0	0
17 Mombasa County	2	2	4
18 Murang'a County	1	0	0
19 Nairobi County	5	3	5
20 Nakuru County	2	1	3
Naivasha Sub county	2	0	1
21 Nandi County	1	0	0
22 Narok County	1	0	0
23 Nyandarua County	1	0	0
24 Nyeri County	2	0	4
25 Siaya County	1	0	0
26 Taita Taveta County	1	0	0
27 Trans Nzoia County	1	0	0
28 Uasin Gishu County	2	0	2
29 Vihiga County	0	1	0
30 Lamu	0	0	0
31 Mandera	0	0	0
32 Wajir	0	0	0
33 Isiolo	0	0	0
34 Turkana	0	0	0
35 Marsabit	0	0	0
36 Tana River	0	0	0
37 Tharakanithi	0	0	0
38 Kitui	0	0	0
39 Makueni	0	0	0
40 West Pokot	0	0	0
41 Samburu	0	0	0
42 Elgeyo Marakwet	0	0	0
43 Baringo	0	0	0
44 Bomet	0	0	0
45 Migori	0	0	0
46 Nyamira	0	0	0
47 Busia	0	0	0
Total	43	8	35

2.5 Organizational structure

DOSHS has developed an organizational structure (shown below) that seeks to enhance delegation and management processes, and facilitate information flow.

Figure 1:
DOSHS organization chart



DOSHS was allocated KSh 327,066,661 (US\$3.9 million) during the financial year 2010–2011 for all its activities, including personal emoluments, against a budgeted sum of KSh 683.8 million (US\$ 8.14 million).

3 *Inspection and enforcement systems*

In Kenya, labour inspection is divided into two main sections: OSH inspections and labour inspections. Inspections of the work environment, which includes safety, health and welfare, are carried out by DOSHS for compliance with OSHA 2007. Inspections of working conditions (working hours, wages and children) are carried out by the Department of Labour. All economic sectors are covered in safety and health inspections; however, the systematic inspections carried out are planned by location, and therefore workplaces in different sectors are covered simultaneously. The sectors covered include the construction industry, manufacturing and service industry, agricultural industry, and micro and small-scale enterprises (MSE). The National Council on Occupational Safety and Health (NACOSH; see section 4.1) has formed sector-specific technical committees for the purpose of developing programmes to cater for the OSH issues arising in each sector.

3.1 **Enforcement powers**

According to OSHA 2007, an OSH officer has the power to enter, inspect and examine a workplace, by day or by night, when he or she has reasonable cause to believe that there are people employed and/or that hazardous materials are stored or used. He or she also has the power to take photographs and videos for the purposes of any examination or investigation, including occupational accident investigations. The officer has powers to take samples of any articles found at workplaces. He or she can take a police officer with him or her if he or she has reasonable cause to apprehend any serious obstruction in the execution of his duty.

The Act also allows the officer to require any person whom he finds in a workplace to give such information as it is in his power to give as to who is the occupier of the workplace; to examine, either alone or in the presence of any other person, any person whom he finds in a workplace; and to require such person to sign a declaration of the truth of the matters so examined. An OSH officer who is a medical practitioner has the powers to carry out medical examinations of workers.

The DOSHS is a department in the Ministry of Labour. Other departments in the Ministry include the Department of Micro and Small Enterprise Development (DMSED), the National Industrial Training Authority (NITA) previously known as the Directorate of Industrial Training (DIT), the Productivity Centre of Kenya (PCK), the Department of Labour, the National Employment Bureau (NEB), the Directorate of National Human Resource Planning and Development (NHRPD), and the Industrial Court of Kenya.

Table 3:
Human resource establishment

Staff cadre	Authorized posts	In post
OSH officers	179	57
Medical officers	18	10
Occupational nursing officers	43	4
Laboratory technologists	6	2
Support personnel	129	66
Total	375	139

Table 4:
DOSHS staff distribution

	No. of OSH officers	Medical officers/ nursing officers	Support staff
Headquarters	14	6	33
County offices	43	8	35
Total	57	14	68

The total number of workplaces that are liable for inspection by the Directorate is estimated at about 140,000. About 7,500 workplaces are registered under OSHA 2007, but only about 4,000 workplaces are inspected annually.

Table 5:
Number of inspections, accidents and of prosecutions for years 2006–2010

Year	Inspections	Accidents	Prosecutions
2006–2007	1 985	355	38
2007–2008	2 002	218	29
2008–2009	4 117	3 099	81
2009–2010	3 818	4 812	51
2010–2011	4 340	6 023	26

4 Consultation, coordination and collaboration mechanisms

4.1 At national level

At the national level there exists a mechanism for coordination and collaboration among social partners in implementing and managing OSH systems. The National Council on Occupational Safety and Health (NACOSH) has 22 members, derived from representatives of government ministries and agencies, the Federation of Kenya Employers (FKE), the Central Organization of Trade Unions (Kenya) (COTU-K), and appointed practitioners in the field of OSH. NACOSH is mandated by OSHA 2007, to manage issues pertaining to OSH in the country by advising the minister in charge of labour matters on such matters as:

- formulating and developing a national OSH policy framework;
- legislative proposals on OSH, including ways and means to give effect to ILO Conventions, and other international conventions and instruments relating to OSH, compensation and rehabilitation services;
- strategic ways to promote the best OSH practices;
- establishing, developing and maintaining a preventive safety and health culture;
- reviewing the provisions of OSHA 2007, rules and regulations, standards, and industry codes of practice;
- statistical analysis of work-related deaths and injuries; and
- any other matters affecting OSH as it considers desirable in the interests of improving the quality of working life in Kenya.

NACOSH members are required to hold a meeting once every three months, under the chairmanship of an appointee of the Minister in charge of Labour matters.

4.2 At enterprise level

At enterprise level, a bipartite approach is facilitated by OSHA 2007 and the Safety and Health Committees Rules made under the Act. Under both the Rules and the Act, the occupier or employer of every workplace that regularly employs 20 or more people is required to have a safety and health committee in the workplace. The committee, once established, should include equal representation from management and workers. The committee may, on an ad hoc basis, invite to its meetings or interview anyone with information relevant to OSH matters being discussed. The Director of DOSHS, or his representatives, may attend meetings of the committee. The committee is required to meet at least four times a year.

5 *National review*

NACOSH is the body responsible for reviewing national OSH legislation, policies and actions. Its composition includes the Federation of Kenya Employers (FKE) and the Central Organization of Trade Unions (Kenya) (COTU-K). In the event of a review, NACOSH involves stakeholders in the review, and the process culminates in a national validation forum for approval.

6 Training, information and advisory services and mechanisms

6.1 Approved OSH training and educational institutions

There are three categories of approved training institutions:

- OSH training institutions, which train workplace OSH committees and increase OSH awareness;
- fire safety training institutions, which provide basic fire safety training at workplaces for workers, including fire marshals; and
- first-aid training institutions, which provide the statutory basic first-aid course for workplace first-aiders.

Table 6 shows the numbers of such institutions as at March 2012.

Table 6:
Approved Training Institutions

Category	Number Registered Institutions	Active Institutions
OSH training institutions	52	35
Fire safety training institutions	29	20
First-aid training institutions	33	20
Total	114	75

6.2 National information centre

In 2005, DOSHS established the Occupational Safety and Health Information Centre (CIS) to collect, maintain, analyse and disseminate OSH information in Kenya. It is the only CIS centre in the country. The Centre collaborates with the International Occupational Safety and Health Information Centre, an organ of the ILO. It receives and disseminates information country-wide. It also acts as a reference point for all academic institutions teaching OSH courses.

Services rendered by the Centre include inquiry services and information-processing functions, providing documents and publications on OSH, developing and maintaining databases on information concerning OSH and related fields, and analysing OSH information. It also networks with other organizations concerned with OSH matters and related fields for alternative information sources, publishes a newsletter to promote OSH awareness among professionals, students and the public, and develops software applications and provides ICT training for end users.

During the period 2008–2012 the Centre undertook the following activities:

- preparing and printing brochures on various safety topics;
- compiling and publishing safety alert bulletins on general OSH issues, with articles from OSH practitioners around the country;
- developing an OSH database management system;
- compiling regular performance reports for the Department;
- updating information on approved and authorized OSH practitioners on the departmental website (www.dosh.go.ke);
- celebrating the World Day for Safety and Health at Work (28 April), and networking and collaborating with various workplaces in marking the Safety Week and Day; and
- disseminating information on OSH and the World Day for Safety and Health at Work in the mass media, through advertisements and newspaper/magazine supplements.

The OSH database will facilitate the collection, collation and dissemination of OSH information (see section 21.8). The system is not yet in use, as commissioning, data migration and training for effective use of the system are still in progress.

During Safety Week, workplaces organize activities related to the theme of the year, as suggested by ILO SafeWork.

6.3 OSH advisory services and mechanisms

There are different categories of services offered by private individuals but approved and authorized by the Director of DOSHS. These individuals include OSH advisers, fire safety auditors, designated health practitioners, plant examiners, and air quality monitors. Table 7 lists all approved persons as at March 2012.

Table 7:
DOSHS Approved persons March 2012

Category	Registered approved persons	Active approved persons
OSH advisers	75	49
Fire safety auditors	49	30
Designated health practitioners	77	38
Hoists and lifts examiners	19	14
Cranes, lifting machines, chains, ropes and lifting tackle examiners	28	18
Boilers, steam receivers and steam containers examiners	32	19
Air receivers and cylinders for compressed, liquefied and dissolved gases examiners	33	20
Refrigeration plants examiners	13	9
Air quality monitors	3	0
Total	329	197

7 Occupational health services

DOSHS is the national body that has regulatory responsibilities in environment and exposure monitoring, medical examination, surveillance of workers' health, and advisory services. Other agencies include the National Environment Management Authority (NEMA), the Ministry of Public Health and Sanitation, and the public health departments in the local authorities.

The Occupational Health Division in DOSHS undertakes occupational health surveillance in workplaces. It also monitors and supervises the activities of the designated health practitioners who carry out medical examination of workers.

A Basic Occupational Health Services (BOHS) programme is in its planning stages. It will involve local municipal health centres and clinics in generating data, and in recording any suspected occupational disease, accident or illness. A form has been developed for this purpose for health attendants to fill out as part of the patient's history.

The link between the national primary health-care system and general environmental concerns has been addressed in the national OSH policy that has just been approved by the Cabinet. Occupational health services are not adequately integrated into all levels of the country's health-care system, and this makes it difficult to recognize or manage occupation-related conditions, diseases and ill health. The policy proposes to integrate occupational health into the curricula of all medical training programmes, and to establish programmes to impart skills to all practising health providers for the recognition and management of occupational diseases and conditions.

8 OSH laboratories

The Directorate's occupational hygiene and occupational health divisions are responsible for analytical and assessment work related to the determination of workers' exposure to various occupational hazards. For the last four years the divisions have been refurbishing their laboratories with state-of-the-art equipment, as all the previous equipment had become obsolete. Equipment acquired recently includes integrated sound level meters, indoor air quality monitors, a haematology analyser, a biochemistry analyser and a laboratory incubator. OSH officers use occupational hygiene equipment for air sampling and noise measurements, and physicians and nurses use the equipment in the medical laboratory for biological sampling and audiometric tests.

At present there are few designated medical laboratories, although the Hazardous Substances Rules recognize government laboratories, such as that of the Government Chemist. Other laboratories where samples are taken are the Mines and Geology Department in the Ministry of Environment and Mineral Resources, and the University of Nairobi's laboratories.

Many of the private occupational hygiene laboratories do not meet the minimum requirements set out by the Directorate to enable them be approved to offer such services. The Directorate's technical capabilities are satisfactory at present, and with the planned procurement of a gas chromatograph and an atomic absorption spectrophotometer, DOSHS will be able to work at the optimum level.

9 *Social security, insurance schemes and compensation services*

Insurance companies provide workplace accident insurance schemes, but these are not mandated by law. The section in WIBA 2007, that required employers to obtain and maintain an insurance policy for their employees was nullified by the court, and is due for review. Accident statistics from individual insurance companies are not used for analysing or reporting statistics on occupational accidents and diseases.

10 Educational, training and awareness-raising structures

10.1 College courses related to OSH

Jomo Kenyatta University of Agriculture and Technology (JKUAT) offers both masters and postgraduate diploma courses in OSH. Other universities offering masters in public health with a unit on OSH include Kenyatta University and Moi University. The Kenya Medical Training College (KMTC) offers a post-basic diploma in OSH, and a few tertiary colleges offer diploma courses that have a unit in OSH, e.g. the Institute of Human Resource Management (IHRM). Figures for the numbers of graduates from these universities and colleges were not available.

10.2 Training by employers' and workers' organizations

FKE offers training on OSH, with trainers who are approved by the DOSHS. COTU trains its affiliated members, although the provision is based on the availability of funds.

10.3 Skills training

Specific skills training for plant inspectors, hoist and lift examiners and boilers, steam receiver and steam container examiners is provided in engineering training institutions. Air quality monitors acquire their skills from technical institutes. Safety and health committee training is conducted by 35 approved OSH training institutions. Members of safety and health committees receive certificates on completion of the prescribed training.

10.4 National safety association

The Kenya Occupational Safety and Health Association (KOSHA) is a registered body of OSH practitioners in Kenya. One of its primary functions is to provide training in all areas of OSH. However, this organization has not been active, and a process of reactivation is under way.

11 Specialized technical, medical and scientific institutions

11.1 Poison control centre

There is only one poison control centre in the country, the National Poison Information and Management Centre located at Kenyatta National Hospital (KNH), which has been in operation for the last five years. It functions as an information and resource centre for all hospitals in the country, and for anyone who requires information about poisons and their antidotes. The Ministry of Public Health and Sanitation is in the process of establishing seven other poison centres in the country at the referral hospitals, but it faces challenges, such as obtaining the resources required for capacity building. The poison centre at KNH is funded by the Agrochemicals Association of Kenya (AAK); its human resource capacity comprises two toxicologists and one nurse, who are paid by the government. It has toll-free emergency lines that the public can use (0800 730030 and 0800 720021).

11.2 Standardizing bodies

The standardizing body in Kenya is the Kenya Bureau of Standards (KEBS). It was established in July 1974 by the enhancement of the Standards Act, Cap.496 of the laws of Kenya. It produces technical standards in collaboration with other agencies and bodies, e.g. DOSHS in the certification of machines and processes. These standards are produced through a technical committee process, in which all stakeholders involved participate.

11.3 Institutions specializing in occupational hazards

The institutions and laboratories that specialize in occupational hazard and risk assessment related to chemical safety, epidemiology and product safety are DOSHS, the poison control centre, the national public health laboratories located at the Kenyatta National Hospital, the Government Chemist, and KEBS. DOSHS handles occupational hazards in chemical safety, the poison control centre handles toxicology, the national public health laboratories handle epidemiology, and the Government Chemist and KEBS handle product safety. There are no designated private bodies.

11.4 Emergency preparedness

The Ministry of State for Special Programmes has the mandate for coordinating disaster risk reduction programmes and emergency response. Nationally, this Ministry coordinates the response to any emergencies that may occur. It developed a draft national policy for disaster management in Kenya in 2009, and a national disaster response plan that is hazard specific. It has also identified responders for each hazard that may occur through the Disaster Response

Unit. These include the Kenya Red Cross Society (KRCS), Kenya Wildlife Services (KWS), local authorities, G4S Security Services Kenya Limited, the Nairobi Fire Brigade, the National Environment Management Authority (NEMA) and the General Service Unit (GSU). The responders are trained in emergency preparedness, and in how to prepare in anticipation of an emergency or disaster.

The disaster response strategies spell out the mitigation measures that should be put in place. There are training programmes in all districts in the country, where each district identifies all possible emergencies or disasters and comes up with mitigation measures; they are coordinated by district management committees. The Ministry has also undertaken a disaster vulnerability and mapping exercise across the country.

The Kenya National Disaster Operation Centre (NDOC) was established in 1998 to deal with the management and coordination of disaster response at a national level. It is on constant standby, with a reporting centre running 24 hours a day, 7 days a week, from which emergency operations, activities and events are recorded and communicated for action. Personnel are drawn from various government ministries and departments, including the Department of Defence (DOD), the police, the Ministry of Public Health and Sanitation, and the provincial administration.

OSHA 2007 specifies preventive measures to be taken for certain emergencies. Part VIII, sections 77–82 of OSHA 2007, and the Fire Risk Reduction Rules state that every employer has the duty to establish appropriate procedures to be followed in the event of a fire, explosion, accidental release of substances hazardous to health, or dangerous occurrence, and to have in place evacuation procedures for employees from their place of work. DOSHS officers ensure that employers comply with this provision of the law, through regular inspections and audits of all workplaces.

The National Environment Management Authority (NEMA) is a government parastatal established to exercise general supervision and coordination over all matters relating to the environment. NEMA has developed emergency preparedness strategies for specific incidents that are likely to affect the environment. These include fire, oil spills, natural disasters, wastes and quarrying. It is also a responder that can be called upon by the Ministry of State for Special Programmes in the Disaster Response Unit.

The Oil Spill Mutual Aid Group (OSMAG) draws its membership from all the oil companies in the country. In conjunction with the Petroleum Institute of East Africa (PIEA) it has produced emergency preparedness courses on how to deal with oil spills in Kenyan waters.

PIEA offers training on how to deal with oil spills of petroleum products during transit, called the Highway Emergency Response Plan (HERP). It has established 15 response centres along the northern corridor, where adequate emergency response equipment is provided for use in the event of an incident or accident. The centres also provide continuous training for the emergency response teams, and driver training on the content and application of the HERP, as well as working closely with local administration, health officials and other stakeholders to facilitate rapid response, ultimately reducing health, safety and environmental concerns over the transportation of petroleum by road.

11.5 NGOs involved in OSH

Currently there are no known active NGOs involved in OSH.

12 Overall national level of human resources active in OSH

12.1 Summary of human resource levels

Table 8 summarizes the overall national level of human resources active in OSH.

Table 8:
Human resource levels in 2012

Category	Number registered	Active members
OSH advisers	75	49
Fire safety auditors	49	30
Designated health practitioners	77	38
Hoist and lift examiners	19	14
Crane, lifting machine, chain, rope and lifting tackle examiners	28	18
Boiler, steam receiver and steam container examiners	32	19
Air receiver and cylinder for compressed, liquefied and dissolved gases examiners	33	20
Refrigeration plant examiners	13	9
Occupational hygienists and OSH specialists	42	35
Inspectors (OSHO)	71	71
Environmental specialists (lead and associate experts)	896	896
Field officers (environmental inspectors)	150	150

12.2 Minimum qualifications for approval of competent persons

12.2.1 Occupational safety and health adviser

For someone to qualify for approval as an OSH adviser, he or she must have a degree in science, engineering or medicine, and at least a postgraduate diploma in OSH, or a degree in OSH. He or she must also have a minimum of five years' proven practical experience in OSH, plus proven basic computer skills, and be able to demonstrate knowledge and ability in conducting OSH audits.

12.2.2 Fire safety auditor

A fire safety auditor must have a minimum of an O-Level Certificate of Education, a certificate in fire engineering or fire safety having attended a course with a duration of at least six months, and at least eight years' relevant experience in fire engineering or fire safety. Alternatively, he or she should have either a minimum of an O-level Certificate of Education, a diploma in fire

engineering and a minimum of five years' relevant experience in fire engineering or fire safety, or a degree in science or engineering, a postgraduate certificate or diploma in OSH from a course lasting not less than six months, and a minimum of five years' experience in the field of safety and health. He or she may also have a degree from a recognized university, and experience in fire auditing in the insurance industry for a minimum of five years. A person who falls into any of the above categories should also have proven basic computer skills, and be able to demonstrate knowledge and ability in conducting fire audits.

12.2.3 Designated health practitioner (DHP)

A medical practitioner who wishes to be approved as a DHP must have a degree in medicine and surgery, be registered with the Kenya Medical Practitioners and Dentists Board (KMP&DB), and have a valid private practitioner licence. A DHP must also have a minimum of five years' post-internship experience in medical practice, together with proven basic computer skills, and be able to demonstrate knowledge and ability in conducting occupational medical examinations.

12.2.4 Authorized plant examiner

Plant examiners are approved under Sections 63, 64 65, 67, 68, 69, 70 and 71 of OSHA 2007. A plant examiner must have a minimum of a diploma in mechanical or electrical engineering (or equivalent) from a recognized institution, with at least eight years' experience in maintaining and running plant or equipment covered by the relevant section of OSHA 2007, or a science degree from a recognized institution and at least five years' experience in maintaining and running such plant or equipment, or have been enforcing the sections of OSHA 2007, relating to plant or equipment for a similar period of time. He or she should demonstrate an understanding of the theory and legal provisions governing the safety of the equipment or plant of interest, and have a minimum of 12 months' proven attachment to and working with a person approved in the section of interest, together with proven basic computer skills.

12.2.5 Air quality monitor

An air quality monitor must have a degree in science, engineering or medicine, a postgraduate diploma in OSH from a recognized institution, and a minimum of five years' experience in OSH practice. He or she should demonstrate adequate knowledge and ability to undertake air quality monitoring, and have access to the necessary equipment, plus proven basic computer skills.

12.2.6 Occupational safety and health officer (inspector)

An OSH officer must have a Bachelor of Science degree from a recognized institution in any of the following disciplines: medicine, nursing, chemistry, physics, zoology, biochemistry, engineering or occupational safety and health. He or she must also be proficient in computer applications.

To practise medicine, one must have a bachelors' degree in medicine and surgery from a recognized institution, be proficient in computer applications, and be registered by KMP&DB.

12.2.7 OSH specialist

An OSH specialist must have a Master of Science degree from a recognized institution in any of the following disciplines: occupational medicine, occupational health nursing, industrial hygiene, safety engineering, disaster management, or occupational safety and health.

13 *Statistics for occupational accidents and diseases*



Details on statistics for occupational accidents and diseases are presented under Chapter 21 “National study on the recording and notification of occupational accidents and diseases in Kenya” (page 55).

14 Policies and programmes of employers' and workers' organizations

14.1 Employers' organization

The Federation of Kenya Employers (FKE) is the national umbrella organization representing employers' interests in Kenya, and advocates an environment favourable to enterprise competitiveness, sustainability and job creation.

There are over 2,500 members in the Federation, representing interests from such diverse sectors as: mining; timber harvesting and agriculture; manufacturing; banking and other financial services; retail, distribution and wholesale trade; civil engineering and building construction.

14.1.1 OSH policy statement and implementation

The Federation has not yet produced an OSH policy statement; the structure for policy implementation is therefore work in progress.

14.1.2 Training and information for members

The Federation has incorporated OSH training in its training calendar, and conducts OSH committee training, OSH self-audit checklist training, and OSH awareness programmes. FKE members benefit from its OSH training, which is conducted on both an open-house (where participants from different organizations attend) and in-house basis (enterprise level).

14.1.3 Collective bargaining

Various OSH-related issues are incorporated in the collective bargaining agreements. These include the provision of PPE, welfare facilities (such as wholesome drinking water, housing, and sanitary facilities), medical provision for work-related injuries, and first-aid facilities. Other issues include work injury insurance policies, and HIV/AIDS workplace policies that address issues of stigma and discrimination.

14.1.4 National tripartite dialogue

Employers are consulted and involved through the FKE which is represented in NACOSH, a tripartite body which advises on OSH matters as outlined in paragraph 4.1.

14.2 Workers' organization

The Central Organization of Trade Unions (COTU) has 35 affiliated members. In accordance with the Industrial Relations Charter, COTU's affiliates exist on the basis of the industrial sectors of the economy:

- commercial;
- banking;
- metalworks;
- bakeries and confectionery;
- portworkers;
- pilots;
- building and construction;
- chemical;
- engineering;
- game and hunting;
- local government;
- fishermen;
- petrol and oil;
- plantations and agriculture;
- railway workers;
- scientific research;
- shipping and clearing;
- domestic and hotels;
- entertainment;
- betting;
- journalism;
- printing and publishing;
- sugar plantations;
- seamen;
- tailoring and textiles;
- transport; and
- post and telecommunications.

14.2.1 OSH policy and implementation

COTU is currently working on a draft OSH policy, which will include the structure for policy implementation in the workers' organization.

14.2.2 Training and information for members

COTU has training programmes for its members. It trains shop stewards on safety and health issues, together with safety and health committees. It has developed a training manual, the *COTU (K) basic training manual for workers*, which was a project funded by LO/TCO-Sweden. The manual covers occupational safety and health and the environment. In the last five years COTU has received funding from DANIDA through the Business Sector Programme Support project, where it trained workers in the private sector on OSH issues.

14.2.3 Collective bargaining

COTU participates in the collective bargaining agreements of member enterprises. These agreements differ from one member organization to another. Many have clauses requiring employers to provide PPE to workers in the workplace, and relating to the working environment.

14.2.4 National tripartite dialogue

OSHA 2007 requires that a social dialogue be held among stakeholders, where the workers are represented by COTU. They are therefore consulted before any new legislation, rules or policies that may affect workers are formulated.

15 Regular and on-going activities related to OSH

15.1 Regular activities

Regular activities designed to improve the levels of prevention and protection includes inspections by OSH officers, annual OSH and fire audits, training of workers, and surveillance of workers exposed to hazards.

15.2 National initiatives: safety days, awareness-raising campaigns

On the World Day for Safety and Health at Work, and during the preceding week, DOSHS publishes, through its information centre, a newspaper supplement containing articles and information on OSH. Other periodicals, e.g. The Commerce & Industry Business magazine, produce themed issues during April where awareness-raising articles on OSH by different OSH players in the country are published. Workplaces are encouraged to play a role in celebrating the day by conducting an activity that might improve OSH in their organizations. Awards are also given to the best performers in various areas during an annual national celebration on 28 April.

16 *International cooperation*

The Kenyan Government, through the Ministry of Trade and Industry, received financial and technical assistance from the Danish Government of US\$25 million covering a period of five years. The funding was for Business Sector Programme Support (BSPS). The development objective of the programme was to help alleviate poverty by creating an enabling environment for the private business sector to facilitate economic growth, improve competitiveness, and ensure long-term employment generation as a means of sustainable poverty reduction.

DOSHS was selected as the implementing agency for a subcomponent on building the capacity of the Department. The programme's immediate objective was to build capacity so as to enhance the Department's mandate.

The total funding for the programme was KSh88,750,000.00 (US\$1.2 million), and it covered four main areas: strengthening DOSHS's capacity in inspections; developing new and updating existing OSH standards; developing systems for monitoring OSH statistics; and creating OSH awareness among stakeholders.

The main activities implemented during the programme were:

- funding of a study tour to Denmark, from 12 to 26 October 2008, which comprised a team of nine people drawn from DOSHS, FKE and COTU ;
- training of 60 OSH officers on OSHA, 2007, and WIBA, 2007, by facilitators who were involved in drafting the Acts;
- procurement of ICT equipment and design of a website;
- procurement of a nine seater van;
- training of two technicians in instrumentation in 2011;
- training of four doctors in occupational health in the UK, between 2008 and 2010;
- development of the national OSH policy and PPE code of practice;
- training of 20 OSH officers in workplace hygiene monitoring for two weeks in 2009;
- training of eight OSH officers in prosecution at the Kenya Institute of Administration (KIA) in 2007. The KIA subsequently merged with the Kenya Development Learning Centre to form the Kenya School of Government;
- procurement of specialized field monitoring equipment; and
- training of MSEs across the country on OSH issues.

17 Promotion and elimination programmes

17.1 Elimination of the worst forms of child labour

The Ministry of Labour currently has a project (SNAP/ILO) that seeks to eradicate child labour by creating child-labour-free zones. The project is under way in Kilifi, Busia and Kitui counties, as pilot zones for the project.

17.2 Elimination of silicosis and asbestosis diseases

DOSHS has some programmes that create awareness by training workers in mines and quarries on the proper handling of silicate materials. The Directorate also carries out medical surveillance of workers in the affected industries.

17.3 Elimination of violence and sexual harassment at work

Kenya enacted the Sexual Offences Act in 2006. The Act is general, though, and does not specifically address issues within the workplace.

17.4 Elimination of persistent organic pollutants (POPs)

There are programmes in the Ministry of Environment and Mineral Resources for the elimination of POPs. The Ministry is working with other government bodies, including the Pest Control Products Board (PCPB), the Kenya Plant and Health Inspectorate Service (KEPHIS) and DOSHS, to eliminate POPs by 2028, in line with the Stockholm Convention target. Currently, polychlorinated biphenyls (PCBs), dichlorodiphenyltrichloroethane (DDT) and POP pesticides have been banned in Kenya, and work is still in progress for all identified POPs.

17.5 Elimination of drug abuse

The National Agency for the Campaign against Drugs (NACADA) was formed to enhance advocacy against drug abuse in Kenya. It is empowered to coordinate a multi-sectoral effort aimed at preventing, controlling and mitigating the menace of drugs and substance abuse within Kenyan society. NACADA has produced guidelines for developing workplace alcohol and drug abuse policies. The target groups for the guidelines are business owners, employers and managers in both the public and private sectors. The issue is addressed during OSH training sessions organized or coordinated by DOSHS.

The Ministry of Labour has an alcohol and drug abuse policy, and all ministries are required to have a similar one.

17.6 Promotion of work-related welfare facilities

DOSHS ensures that all workplace welfare facilities are adequate through regular workplace inspections and safety and health audits carried out by OSH officers and approved OSH auditors.

17.7 Promotion of well-being programmes and stress prevention

DOSHS is charged with the responsibility for ensuring workers' health. On-going activities include training workers on occupational health issues in the workplace, including stress management, medical examination of workers in the workplace, and advising workers on suitable remedial measures.

17.8 Application of programmes to combat HIV/AIDS in the workplace

In 2005 the government developed a public sector workplace policy on HIV/AIDS. In order to adopt this policy, the Ministry of Labour developed a comprehensive ministerial workplace policy framework to guide workers to address HIV/AIDS issues. The private sector has formed an organization called the Kenya HIV/AIDS Private Sector Business Council. The Council helps businesses to respond to HIV/AIDS in the workplace, including finding ways of mitigating the effects of the disease, as well as offering peer counselling for its members.

DOSHS, through its Occupational Health Division, has programmes on HIV/AIDS. Other programmes are incorporated in the OSH training curriculum for workplace safety and health committees. In 2009, through tripartite consultation, the Government developed a national code of practice on HIV/AIDS in the workplace. The code applies to all employer groups; to job applicants and workers in the private and public sectors, and in civil society organizations; to all organizations, irrespective of their size or location; to both informal and formal work environments; and indeed to all environments where HIV/AIDS is a risk factor. The national HIV/AIDS policy is consistent with the ILO code of practice.

17.9 Promotion of programmes on gender equality and maternal protection

The Constitution of Kenya provides for equality and freedom from discrimination. In particular, it states that women and men have the right to equal treatment, including the right to equal opportunities in the political, economic, cultural and social spheres. Legislation to protect women workers during pregnancy and after childbirth does not exist, though. OSHA 2007 does not provide any additional protection for pregnant employees in respect of pollution, or hazardous working environments.

The Employment Act, 2007, by contrast, gives provision for maternity leave whereby a woman may be entitled to two months and three weeks of leave in a year when she has a baby.

17.10 Programmes for application of GHS for classification

A draft policy has been developed for the Strategic Approach to International Chemicals Management (SAICM), which sets goals to ensure the sound management of chemicals used in the country, from the point of manufacture to disposal. In the policy, Kenya plans to implement the Globally Harmonized System of Classification and Labelling of Chemicals (GHS).

17.11 Support mechanisms for a progressive improvement of OSH conditions

17.11.1 Agricultural sector

The Pest Control Products Board (PCPB) is a regulatory body established under the Pest Control Products Act, Cap. 346. Its broad mandate is to regulate the importation, manufacture, distribution, use and disposal of pest control products. The organization is mandated to ensure that quality, effective pest control products are made available to users, but at the same time to promote the safe and proper use of pesticides.

The use of pesticides is inevitable in an agriculture-driven economy such as that of Kenya, in order to achieve maximum productivity. Daily operations in the Board are geared towards ensuring that pesticide users are protected from unregulated exposure that might compromise their health. The activities are outlined below:

- **Registration of pesticides:** This involves rigorous evaluation of scientific data on pesticides before they are allowed for use in Kenya, including benchmarking against international standards. Extremely toxic chemicals are not registered, or are phased out to protect human health. Pesticide labelling is evaluated to conform to specified standards, including first-aid measures in case of poisoning, and a toll-free emergency number to report cases of poisoning.
- **Inspection of pesticides premises:** This involves visits to sites where pesticides are formulated and repacked, warehoused, sold, used and disposed. The aim is to ensure both premises suitability and worker safety, for licensing purposes. The inspection covers the presence, status and type of PPE, its storage and cleaning areas, and sprayers' changing and cleaning areas.
- **Public education and awareness creation:** The most effective way to ensure worker safety is to empower and equip workers with the necessary information. In coordination with relevant stakeholders, the Board organizes and conducts training of farmers and stockists around the country. The participants are educated on the proper, safe use of pesticides as a critical subject, to ensure the protection of human health against risks.
- **Kenya Plant Health Inspectorate Service (KEPHIS):** This agency has a mandate to protect Kenya's agriculture from pests and diseases that could impact upon the environment, economy and human health. As provided under the Plant Protection Act (Cap. 324), all travellers are required to declare any plants, plant products or other regulated articles carried as part of their baggage (both hand-carried products and checked-in baggage).

17.11.2 Other sectors: construction, chemicals, SMEs, mining and informal sectors

Promotion and elimination programmes ensure that the product labels for all approved and registered products include key information relating to the safety both of users and of the

environment. Field inspections ensure that handlers and users in the market chain comply with OSHA 2007.

In these sectors, DOSHS ensures that promotion and elimination programmes run through relevant training awareness, capacity building, OSH and fire audits, inspections and medical examinations.

18 *Other relevant information*

A national OSH policy was recently approved by the Cabinet, and is due for implementation. When implemented, the policy will have a positive impact on the way OSH is managed in Kenya.

The policy's main objective is to establish national OSH systems and programmes geared towards improvement of the work environment. It seeks to reduce the number of work-related accidents and diseases, and provide equitable compensation and rehabilitation for those injured at work or who contract an occupational disease.

19 *Other related issues*

The implementation of Vision 2030 may have an impact on the development of OSH as the country endeavours to become a middle-income country by the year 2030. This is due to the emphasis on expansion of the manufacturing sector, industrialization of the agricultural sector, high usage of pesticide and fertilizers, and infrastructure development.

The international market for horticultural products has specific requirements in OSH that may have an impact on sales if not adhered to consistently.

OSH issues are not currently integrated in the country. However, the newly approved national OSH policy has addressed this issue.

20 Elements for input in the situation analysis

Strengths	Weaknesses
<ul style="list-style-type: none"> ■ Provision of the Bill of Rights in the Constitution. ■ Comprehensive OSH laws and regulations. ■ The existence of a national OSH policy. ■ Establishment of the National Council for Occupational Safety and Health, with a clear mandate. ■ Existence of two local codes of practice, on auditing and PPEs. ■ Formation of safety and health committees in workplaces. ■ Registration of approved persons. ■ Availability of postgraduate OSH studies in one university. ■ Approved training institutions for awareness creation. ■ Existence of an OSH information centre (CIS) at the Directorate. ■ Modern equipment for monitoring of the work environment. ■ Presence of a medical clinic in DOSHS headquarters. 	<ul style="list-style-type: none"> ■ Disjointed laws on OSH create disharmony, overlap, and duplication of enforcement efforts. ■ Inadequate staffing at DOSHS. ■ Only one university offering OSH: hence only a limited number are trained. ■ Many approved persons are not active in their area of specialty. ■ Few approved laboratories are available, and all are based in Nairobi. ■ Low OSH awareness among employers, workers and other stakeholders. ■ Focus on the formal sector at the expense of the informal economy. ■ Inadequate integration of occupational health services into all levels of health care. ■ Inadequate research to address both emerging and traditional occupational risks arising from rapid technological development and globalization. ■ Weak systems for implementing a safety and health preventive culture. ■ Diagnosis of occupational diseases hampered by lack of knowledge on occupational medicine by most medical practitioners in Kenya. ■ Reporting and notification of occupational accidents cannot be adequately analysed, owing to low staff levels. ■ Statistics on occupational accidents are not managed by a database.
Opportunities	Threats
<ul style="list-style-type: none"> ■ Implementation of the national OSH policy. ■ Creation of counties in the new Constitution warrants the recruitment of additional staff to cover the whole country. ■ DOSHS should take advantage of the World Day for Safety and Health at Work to create more OSH awareness. ■ Establishment of the OSH fund. ■ Collaboration with other government departments and agencies. 	<ul style="list-style-type: none"> ■ Low number of inspections can bring about a culture of non-compliance. ■ Nullification of some sections of WIBA 2007, affects the processing of compensation to injured workers. ■ Uncontrolled growth of the informal economy compared with the low technical capabilities at DOSHS.

21 National study on the recording and notification of occupational accidents and diseases in Kenya

21.1 Scope of coverage and definitions

The national system for recording and notification of occupational accidents and diseases applies to all employees and the self-employed, irrespective of their economic activities, including workers in the public sector, other than the armed forces.

A worker is defined as a person who has been employed for wages or a salary under a contract of service, and includes an apprentice or indentured learner. There are no definitions that are provided outside the ILO code of practice on the recording and notification of occupational accidents and diseases.

The following are not regarded as employees:

- a person whose employment is of a casual nature, and who is employed otherwise than for the purpose of the employer's business;
- any person employed outside Kenya;
- a member of the family dwelling in the employer's house, not for purposes of employment.

An occupational accident is defined as an accident arising out of and in the course and scope of an employee's employment, and resulting in personal injury. The types of occupational accident and disease are consistent with the ILO code of practice. The types of accident covered in this system are not classified, but the types of occupational disease and dangerous occurrence are listed in the Acts (see Appendices 2 and 3 respectively).

21.2 Legal, institutional and administrative arrangements

21.2.1 At national level

The concepts and terminologies adopted at national level are consistent with the ILO code of practice on the recording and notification of occupational accidents and diseases. The programme of collection, compilation and analysis of OSH statistics covers work injuries and illnesses, including all disabling, serious or significant injuries and illnesses, whether involving loss of time from work or not, other than minor injuries requiring only first-aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

The ILO Conventions that have been ratified and adopted by Kenya were listed in section 1.4. Convention 155 and its 2002 Protocol have not been ratified, but OSHA 2007, has incorporated the reporting and notification of occupational accidents and diseases in Kenya.

21.2.2 Legal arrangements

The legislation requiring the establishment of a notification system comprises the Occupational Safety and Health Act, 2007, and the Work Injury Benefits Act, 2007.

OSHA 2007, and WIBA 2007, both require the employer to notify the Director of DOSHS of the occurrence of any occupational accident, disease or dangerous occurrence. The prescribed standard form for notification purposes is DOSH 1, which is completed in triplicate. The original serves as a notification and is sent, within seven days of occurrence of the accident, directly to DOSHS by the employer. The other two copies are forwarded to the OSH Officer immediately the doctor completes part II of the form.

OSHA 2007 also requires medical practitioners who diagnose occupational diseases to notify the Director of DOSHS using form DOSH 12. DOSH 1 is available from the department's website, and DOSH 12 is available at all DOSHS offices round the country.

The subsidiary legislation on safety and health committees, LN 31/2004, requires the occupier to appoint a member of the management staff as the competent person responsible for safety, health and welfare in the enterprise. This competent person is also the secretary of the organization's safety and health committee, and is responsible for notification of occupational accidents and diseases.

The legal requirements for recording and notification of occupational accidents and diseases are in accordance with ILO instruments, but there is a gap in the enforcement of the laws. DOSHS is currently operating at only 29 per cent technical capacity, owing to understaffing. This means that only limited action is taken on reported accidents, and only those that are very serious or within easy reach by the officers are acted upon. There are also no guidelines for enterprise owners on recording occupational accidents where the cause, agency, type etc. of the accident are usually indistinguishable.

The implementation of WIBA 2007 is hindered by the nullification by the court of some sections of the Act.

21.2.3 Institutional arrangements

The Directorate of Occupational Safety and Health Services (DOSHS) within the Ministry of Labour is the national competent authority designated by law for coordinating the system for recording, notification of, analysing and investigating occupational accidents and diseases, and dangerous occurrences. The Directorate's policy and legal mandate are provided by the National Occupational Safety and Health Policy of 2012, OSHA 2007, and WIBA 2007. There are 139 DOSHS staff spread across 29 of the 47 counties in the country to support the system (see table 3 in section 3.1). DOSHS has not delegated authority to any other body or institution for recording and notification of occupational accidents and diseases.

21.2.4 National improvement activities

National activities aimed at improving the recording, notification and investigation of occupational accidents, occupational diseases and dangerous occurrences and related statistics include:

- training of safety and health committees, as required by the Factories and Other Places of Work (Safety and Health Committee Rules) 2004, LN 31/2004.
- annual safety and health audits, as required by the Safety and Health Committee Rules, 2004;
- simplification of the reporting documentation (DOSH 1); and
- participation by DOSHS in the World Day for Safety and Health At Work and the preceding week.

As well as the above, the arrangements made for progressive provision of information to workers and their representatives on implementation of the recording and notification system include periodical safety alert bulletins, facilitated by DOSHS, in which OSH practitioners publish general OSH articles, some of which touch on the recording and notification of accidents and diseases.

There are no arrangements made for periodic review of the system; it is reviewed on an as-needed basis.

21.3 Procedure for notification

If an accident in a workplace causes the death of a person, the employer or self-employed person must:

- (a) inform DOSHS of the occurrence of the accident within 24 hours; and
- (b) send a written notice on form DOSH 1 to DOSHS within seven days of the occurrence of the accident.

The police must also be notified, in case there is a criminal element.

If an accident in a workplace causes non-fatal injuries to a person, the employer must send a written notice on form DOSH 1 to DOSHS within seven days of the occurrence of the accident.

The required details of the injured person are their name, gender, age, occupation and full address. Other information required includes the date and time of the accident, where it occurred, the work the injured person was performing at the time of the accident, the person's length of service with the employer, the type and cause of the injury, and the part of the body that was injured. For an occupational disease, the required information includes the name of the occupational disease, the date of its diagnosis, its cause, and the date when the employer was notified of the disease. For compensation purposes, details are also required of the nature of permanent incapacity, the percentage of both temporary and permanent incapacity, and the total monthly earnings.

An employer is also required to enter all workplace injuries in the general register (see section 21.4 below).

As well as employers and medical practitioners, WIBA 2007, allows employees to report occupational diseases to the Director of DOSHS at any stage.

If a person injured in an accident dies after the accident is notified, the employer must send notice of the death in writing to DOSHS as soon as he or she is informed of the death.

If an accident occurs to an employee and the occupier of the workplace is not the employer of the person injured or killed, the deceased's employer must report the accident to the Director and the area OSH officer.

Every medical practitioner attending a patient whom he or she believes to be suffering from any disease specified in the schedule of occupational diseases, contracted in any workplace, must send to DOSHS within seven days of attending the patient a notice stating the name and full postal address of the patient, the disease from which the patient is suffering, and the name and address of the workplace in which the patient was last employed.

21.4 Procedure for recording

OSHA 2007 requires the employer to keep records of all accidents in a prescribed booklet called the general register. This can be purchased from all DOSHS offices round the country. All occupational accidents, occupational diseases and dangerous occurrences are required to be recorded in this register. The information recorded includes that required for completing DOSH 1, the document used for notification of occupational accidents and diseases.

OSHA 2007 specifies the content of records kept in the general register. The details must be entered immediately after the occurrence, and the information must be retained for 3 years from the date of the last entry into the general register. The law does not specify that the information be kept confidential, as it is general information on accidents.

The register is a standard tool, and is not consistent with the code of practice for a recording and notification system. All accidents recorded in the general register are notified by means of form DOSH 1 for the purposes of compensation. An accident qualifies for compensation if the employee is incapacitated by temporary, or total disablement for three days or longer. The general register has no classification for physical, chemical or biological exposure.

- **Minor accidents:** Minor accidents that require only first aid, and do not cause any loss of work-hours, are recorded by the first-aiders who man the first-aid boxes. Notifiable accidents are recorded in the general register. It is not a legal requirement to record or notify near misses.
- **Dangerous occurrences:** Certain specified dangerous occurrences must be notified to the competent authority, these are listed in Appendix 3.
- **Commuting accidents:** It is not a legal requirement to record or notify commuting accidents, except for road accidents involving employees ferried to and from work by the employer.

OSHA 2007 does not prescribe the procedure for recording and notification where two or more enterprises engage in activities simultaneously at one workplace, but each employer is obligated and therefore responsible for recording and notification of occupational accidents and diseases in his or her workplace.

21.5 Inspection system

There exists an inspection system backed by national legislation (OSHA 2007 and WIBA 2007) that has a significant role in application of the national system for recording, notification and investigation of occupational accidents, occupational diseases and dangerous occurrences.

The inspection covers all sectors in Kenya.

The Directorate has 139 members of staff as opposed to an establishment of 375. This has had a negative effect on the level of inspection and enforcement systems. Table 3 (page 14) shows the Human Resource establishment as of March 2012.

The numbers of inspections, accidents and prosecutions for the years 2006–2010 are shown in table 5 (page 14).

The existing feedback mechanism in the system includes submission of monthly and quarterly reports from county officers to head office.

21.6 Compensation

WIBA 2007 requires employers to pay compensation to employees for occupational injuries and occupational diseases incurred while at work. When an accident occurs, both OSHA and WIBA 2007 require the employee to report it to his or her supervisor, whereas for an occupational disease the medical practitioner who diagnoses the disease is required to report it both to the employer and to the competent authority. The employer must then report the accident or disease on a prescribed form to the Director of DOSHS within the prescribed timeframe as described earlier in paragraph 21.2.2. WIBA 2007 requires the employer to subject the injured employee to a medical examination to determine the percentage incapacity, from which the OSH officer calculates the compensable amount.

In this system, the recording, notification and investigation of accidents and diseases, together with benefits processing and payments, are all elements of the procedure for work injury compensation.

Under OSHA 2007, the employee is required to cooperate fully with the employer in fulfilling the duties placed upon the employer.

Insurance companies provide workplace accident insurance schemes, but these are not mandated by law. The section in WIBA 2007, that required employers to obtain and maintain an insurance policy for employees was nullified by the court, and is due for review. Accident statistics for individual insurance companies are not used for analysing or reporting statistics for occupational accidents and diseases.

21.7 Extension of recording and notification systems to self-employed persons

Self-employed persons are equally required to notify the area OSH officer of any accident, dangerous occurrence, or occupational poisoning which has occurred at the workplace

If death due to a workplace accident, non-fatal injuries arising from a workplace accident, an occupational disease or a dangerous occurrence at the workplace involves a self-employed

person who is incapable of submitting notification, the occupier must submit the required notification to the area OSH officer.

OSHA 2007, does not specifically require a contracted, self-employed person to cooperate with the occupier in notification of accidents, but the occupier may be exempted from legal responsibility if able to prove that he or she has used all due diligence to enforce the execution of the requirement, and that the other person committed the offence in question without his consent.

21.8 Compilation and publication of statistics

OSHA 2007 requires the Director of DOSHS to develop and maintain an effective programme for collecting, compiling and analysing OSH statistics that cover all disabling, serious or significant injuries and illnesses, whether or not they involve loss of time from work, other than minor injuries that require only first-aid treatment, and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

At present there is no system in place for the comparative analysis and production of annual statistics. The DOSHS records only the total number of accidents occurring each year.

The accident statistics compiled by DOSHS are obtained from quarterly and annual field office reports. When a DOSHS regional office receives notification of an accident or disease, it is required to enter the information in the accident register (DOSH WIBA 10). However, staff shortages mean that data entry is not carried out uniformly throughout the country, thus the data collected cannot be used for compiling and analysing the statistics using the international classification systems.

The compiled statistics are usually summary information notes for the departmental report, and do not conform with the guidance provided by the ILO code of practice. Consequently they are never comprehensive, and cannot be used for computing frequency, incidence or severity rates.

An OSH database management (OSHDBM) system was developed in 2010 for collecting, classifying and analysing accident data, in accordance with the ILO code of practice on notification and recording of occupational accidents, but it has not been used, because of technical and financial constraints.

The OSHDBM system is designed to use 77 branches of economic activity, classified in accordance with the ILO code of practice on recording and notification of occupational accidents and diseases, but for its annual report the DOSHS classifies economic activities into 31 sectors, by merging similar activities.

The statistics for occupational accidents are not analysed according to the characteristics of workers, such as their sex, or employment status, but according to fatality, i.e. fatal or non-fatal.

The statistics for annual occupational accidents for the financial year 2010–2011 are given in Table 9.

Table 9:
Numbers of occupational accidents by economic sector 2010–2011

Economic sector	Fatal	Non-fatal	Total
Agriculture and related activities	14	1 350	1 364
Mining and quarrying	15	40	55
Manufacture of plastics	1	146	147
Manufacture of food products and beverages	8	664	672
Manufacture of tobacco products	–	–	0
Manufacture of textiles, tailoring, dry-cleaning and laundry	–	441	441
Manufacture, tanning and dressing of leather	–	1	1
Manufacture of wood products, furniture	3	93	96
Manufacture of paper and paper products	2	81	83
Publishing, printing, and reproduction of recorded media	2	38	40
Manufacture of chemicals and chemical products	–	22	22
Manufacture of rubber products	–	17	17
Manufacture of machinery and fabricated metal products	1	176	177
Manufacture of electrical equipment and electronics	3	14	17
Other manufacturing	1	763	764
Electricity, gas and hot water supply	2	41	43
Drilling, collection, purification and distribution of water	1	7	8
Construction	40	383	423
Wholesale, retail and commission trade	3	126	129
Retail of automotive fuel	–	3	3
Repair of motor vehicles	–	56	56
Hotels and restaurants	–	83	83
Transport, post and telecommunications	77	453	530
Warehousing	–	84	84
Banking, insurance and real estate activities	3	12	15
Research, development and education	3	34	37
Public administration and defence	10	25	35
Health and social work	1	29	30
Sewage and refuse disposal, sanitation	–	22	22
Recreational, cultural and sporting activities	–	176	176
Other service activities	59	394	453
Total	249	5 774	6 023

The accident statistics for the previous 4 years were not classified by economic activity; they are listed in table 10.

Table 10:
Total accidents in 2006–2010

Year	Total accidents
2006–2007	355
2007–2008	218
2008–2009	3 099
2009–2010	4 812

The restructuring of the department based on the OSHA 2007 and WIBA 2007 resulted in the centralised notification of occupational accidents and diseases under the new DOSH1, as opposed to the previous system where the information was sent to the OSH department and the Compensation Division which was under the Labour Department. The upsurge in accident numbers seen in 2008–2009 is as a result of the centralised notification to the OSH department introduced from the Financial Year 2008/2009 that runs from July to June

Of 6,223 workers examined in various workplaces with hazardous occupations in 2010–2011, a total of 222 workers were diagnosed with occupational diseases: see Table 11.

Table 11:
Statistics for occupational diseases diagnosed in 2010–2011

Type of hazard	No. of workers examined	No. of workers with occupational diseases
Adverse temperatures	241	2
Asbestos fibres	5	1
Cotton dust	446	11
Organic dust	808	16
Fossil fuels	90	29
Noise	3 229	118
Organophosphate and other pesticides	1 243	39
Repetitive manual work	13	1
Respiratory: solvents	29	1
Silica dust	52	3
Welding alloys	67	1
Total	6 223	222

21.9 Investigations

OSHA 2007 gives power to OSH officers to investigate accidents, but does not require DOSHS to establish arrangements or systems of investigation of the same. One of the responsibilities of the Director of DOSHS under WIBA 2007 is to investigate occupational accidents. OSHA

2007 also gives the Minister of Labour the power to direct a formal investigation into any occupational accident or disease by a tribunal.

21.9.1 Administrative arrangements

DOSHS has made administrative arrangements for OSH officers to investigate accidents. At the enterprise level, the safety and health committee has been delegated authority to investigate immediately any occupational accident or dangerous occurrence.

21.9.2 Publishing of investigation reports

No inquiry has been directed by the Minister since OSHA 2007 came into operation, and therefore no report has been published.

21.9.3 Investigations at enterprise level

The responsibility for investigations at the enterprise level is given to the safety and health committees through the LN 31/2004 as one of their responsibilities. The committee comprises representatives of both management and workers, and is chaired by the occupier.

21.10 Situational analysis for recording and notification

Strengths	Weaknesses
<ul style="list-style-type: none"> ■ Comprehensive OSH laws and regulations. ■ The existence of a national OSH policy ■ Availability of reporting tools, i.e. the general register, DOSH 1 and DOSH 12 ■ Existence of the WIB Administration Division. 	<ul style="list-style-type: none"> ■ Diagnosis of occupational diseases is hampered by the limited knowledge of occupational medicine of most medical practitioners in Kenya. ■ Low staff levels mean that reporting and notification of occupational accidents cannot be adequately analysed. ■ There is a lack of published data on occupational accidents and diseases based on industry type. ■ Statistics on occupational accidents are not managed by a database. ■ Low awareness among employers, worker and other stakeholders of the requirements for recording and notification. ■ Lack of centralized advice centres for providing information on health issues to employers and employees. ■ The long latency periods associated with occupational diseases make it difficult to judge whether cases of ill health are caused by, aggravated by or independent of work ■ No known linkages between occupational health services and the national primary health-care system. ■ No legal requirement for recording of near misses. ■ Lack of clear guidelines on reportable accidents.
Opportunities	Threats
<ul style="list-style-type: none"> ■ Implementation of the national OSH policy. ■ Establishment of staff at the county level. 	<ul style="list-style-type: none"> ■ Nullification of some sections of WIBA 2007 affect the processing of compensation for injured workers. ■ Low staff levels.

Appendix 1

General country data

Total population

According to the 2009 census (table A1), the total population of Kenya was 38,610,097.

Table A1:
Kenya demographic data as at 2010

	Male	Female	Total
Total population (2009)	19 192 458	19 417 639	38 610 097
Active population: employed persons in all sectors (private and public)	1 469 000	591 400	2 060 400
Employed persons in the informal economy	Not available	Not available	8 829 800
Self-employed and unpaid family workers	Not available	Not available	69 800
Young male workers (14–18 years old)	Not available	Not available	Not available
Young female workers	Not available	Not available	Not available
Total active population	1 469 000	591 400	10 960 000

Economic activity and workforce employed

The total number of employed persons in Kenya in all sectors, including the informal economy in the year 2010 stood at 10,960,000.

Table A2:
Selected sectors of economic activity in formal employment, 2010

Sector	Male	Female	Total
Agriculture and forestry	264 100	79 700	343 800
Mining and quarrying	5 100	1 500	6 600
Manufacturing	229 300	38 700	268 000
Electricity and water	16 900	2 700	19 600
Building and construction	92 600	8 600	101 200
Trade, restaurants and hotels	166 400	60 500	226 900
Transport and communication	119 700	31 600	151 300
Finance, insurance, real estate and business services	74 600	24 700	99 300
Public administration	112 300	66 100	178 400
Education services	219 700	168 100	387 800
Domestic services	64 100	41 800	105 900
Others	104 200	67 400	171 600
Total	1 469 000	591 400	2 060 400

Labour force considered to be active in the informal economy

Table A3:
Informal economy, 2010

Activity	Male	Female	Total ('000)
Manufacturing	N/A	N/A	1 801.1
Building and construction	N/A	N/A	228.9
Wholesale and retail trade, hotel and restaurants	N/A	N/A	5 266.8
Transport and communications	N/A	N/A	273.0
Community, social and personal services	N/A	N/A	858.1
Others	N/A	N/A	401.9
Total	N/A	N/A	8 829.8

Literacy levels

Table A4:
Literacy levels, 2009

	Male	Female	Total
Elementary school level – ability to read and write (age 7 and over)	13 209 238	12 888 199	26 097 437
Literacy (% of population)	34.2%	33.4%	67.6%
Labour force	Not available	Not available	15 800 000*
Labour force % of population			41%

*Kenya population census, 2009.

Economic data

Table A5:
Economic indicators in Kenya, 2009

Gross domestic product (GDP)	KSh 2 365 453 000 000
Annual per capita income	KSh 61 260
Overall level of resources devoted to OSH (2010/2011) allocations	KSh 327 066 661
	US\$ 3 893.650

Appendix 2:

List of occupational diseases as found in the Second Schedule OSHA 2007 and the Second Schedule of the WIBA 2007

Disease	Any occupation involving:
■ Poisoning by lead or a compound of lead	The use or handling of, or exposure to the fumes, dust or vapour of lead or a compound of lead or a substance containing lead
■ Poisoning by manganese or a compound of manganese	The use or handling of, or exposure to the fumes, dust or vapour of manganese or a substance containing manganese
■ Poisoning by phosphorus or phosphine, or poisoning due to the anti-cholinesterase action of an organic phosphorus compound	The use or handling of, or exposure to the fumes, dust or vapour of phosphorus or a compound of phosphorus or a substance containing phosphorus.
■ Poisoning by arsenic or a compound of arsenic	The use or handling of, or exposure to the fumes, dust or vapour of arsenic or a substance containing arsenic
■ Poisoning by mercury or a compound of mercury	The use or handling of, or exposure to the fumes, dust or vapour of mercury or a substance containing mercury
■ Poisoning by carbon bisulphide	The use or handling of, or exposure to the fumes or vapour of carbon bisulphide or a substance containing carbon bisulphide
■ Poisoning by benzene or a homologue of benzene	The use or handling of, or exposure to the fumes of, or vapour containing benzene or any of its homologues
■ Poisoning by a nitro or amino or chloro derivative of benzene, or of a homologue of benzene, or poisoning by nitrochlorobenzene	The use or handling of, or exposure to the fumes of, or vapour containing a nitro or amino or chloro derivative of benzene, or any of its homologues, or nitrochlorobenzene
■ Poisoning by dinitrophenol or a homologue, or by substituted dinitrophenol, or by the salts of such substances	The use or handling of, or exposure to the fumes of or vapour containing dinitrophenol, or any of its homologues, or any substituted dinitrophenol or the salts of such substances
■ Poisoning by tetrachloroethane	The use or handling of, or exposure to the fumes of, or vapour containing tetrachloroethane
■ Poisoning by tricresyl phosphate	The use or handling of, or exposure to the fumes of, or vapour containing tricresyl phosphate
■ Poisoning by triphenyl phosphate	The use or handling of, or exposure to the fumes of, or vapour containing tri-phenyl phosphate
■ Poisoning by diethylene dioxide (dioxan)	The use or handling of, or exposure to the fumes of, or vapour containing diethylene dioxide (dioxan)
■ Poisoning by methyl bromide	The use or handling of, or exposure to the fumes of, or vapour containing methyl bromide
■ Poisoning by chlorinated naphthalene	The use or handling of, or exposure to the fumes of, or dust or vapour containing chlorinated naphthalene
■ Poisoning by nickel	Exposure to nickel carbonyl gas
■ Poisoning by nitrous fumes	The use or handling of nitric acid or exposure to nitrous fumes
■ Poisoning by <i>Gonioma kamassi</i> (African boxwood)	The manipulation of <i>Gonioma kamassi</i> , or any process in or incidental to the manufacture of articles therefrom

Disease	Any occupation involving:
■ Anthrax	The handling of wool, hair, bristles, hides or skins or other animal products or residues, or contact with animals infected with anthrax
■ Glanders	Contact with equine animals or their carcasses
■ (a) Infection by <i>Leptospira interrogans</i>	Work in places that are, or are liable to be, infected by rats
■ (b) Infection by <i>Leptospira canicola</i>	Work at dog kennels, or the handling of dogs
■ Ankylostomiasis	Work done in or about a mine.
■ (a) Dystrophy of the cornea of the eye (including ulceration of the corneal surface) the eye	The use or handling of, or exposure to, arsenic, tar, pitch, bitumen, mineral oil (including paraffin), soot, or any compound, product or residue of any of these substances.
■ (b) Localized new growth of the skin, papillomatous or keratotic	
■ (c) Squamous-celled carcinoma of the skin, due in any case to arsenic, tar, pitch, bitumen mineral oil (including paraffin), soot, or any compound, product or residue of any of these substances.	
■ Inflammation, ulceration or malignant disease of skin or subcutaneous tissues or of the bones, or cataract, due to electromagnetic radiation (other than radiant heat) or to ionizing particles.	Exposure to electromagnetic radiation other than radiant heat, or to ionizing particles.
■ Heat cataract	Frequent or prolonged exposure to rays from molten or red-hot material.
■ Decompression sickness	Subjection to compressed or rarefied air.
■ Cramp of the hand or forearm due to repetitive movements	Prolonged periods of handwriting, typing or other movements of the fingers, hand or arm.
■ Subcutaneous cellulitis of the hand (beat hand).	Manual labour causing severe or prolonged friction or pressure on the hand.
■ Bursitis, or subcutaneous cellulitis arising at or about the knee due to external friction or pressure at or about the knee (beat knee)	Manual labour causing severe or prolonged external friction or pressure at or about the knee.
■ Bursitis or subcutaneous cellulitis arising at or about the elbow due to severe or prolonged external friction or pressure at or about the elbow (beat elbow)	Manual labour causing severe or prolonged external friction at or about the elbow.
■ Traumatic inflammation of the tendons in the hand or forearm, or the associated tendon sheaths	Manual labour, or frequent or repeated movements of the hand or wrist.
■ Miners' nystagmus	Work in or about a mine.
■ Poisoning by beryllium or a compound of beryllium.	The use or handling of, or exposure to the fumes, dust or vapour of beryllium or a compound of beryllium, or a substance containing beryllium.
(a) Carcinoma of the mucous membrane of the nose or associated air sinuses	Work in a factory where nickel is produced by decomposition of a gaseous nickel compound.
(b) Primary carcinoma of a lung	Work that necessitates working in or about a building or buildings where that process or any other industrial process ancillary or incidental thereto is carried on.
■ Tuberculosis	Any occupation involving close and frequent contact with a source or sources of tuberculosis Infection by reason of employment: (a) in the medical treatment or nursing of a person or persons suffering from tuberculosis, or in a service ancillary to such treatment or nursing; or

Disease	Any occupation involving:
	<p>(b) in attendance upon a person or persons suffering from tuberculosis where the need for such attendance arises by reason of physical or mental infirmity; or</p> <p>(c) as a research employee engaged in research in connection with tuberculosis; or</p> <p>(d) as a laboratory employee, pathologist or post-mortem employee where the occupation involves material that is a source of tuberculosis infection, or in an occupation ancillary to such employment.</p>
<p>■ Primary neoplasm of the epithelial lining of the urinary bladder (papilloma of the bladder), or of the epithelial lining of the pelvis or of the epithelial lining of the ureter.</p>	<p>(a) Work in a building in which any of the following substances is produced for commercial purposes:</p> <ul style="list-style-type: none"> (i) alpha-naphthylamine; (ii) diphenyl substituted by at least one nitro or primary amino group; (iii) any of the substances mentioned in subparagraph (ii) above if further ring-substituted by halogen, methyl or methoxy groups, but not by other groups; (iv) the salts of any of the substances mentioned in subparagraphs (i) to (iii) above. <p>(b) The use or handling of any of the substances mentioned in subparagraphs (i) to (iv) of paragraph (a), or work in a process in which any such substance is used or handled or is liberated.</p> <p>(c) The maintenance or cleaning of any plant or machinery used in any such process as is mentioned in paragraph (b), or the cleaning of clothing used in any such building as is mentioned in paragraph (a) if such clothing is cleaned within the works of which the building forms a part, or in a laundry maintained and used solely in connection with such work.</p>
<p>■ Poisoning by cadmium</p>	<p>Exposure to cadmium fumes.</p>
<p>■ Inflammation or ulceration of the mucous membrane of the upper respiratory passages or mouth, produced by dust, liquid or vapour.</p>	<p>Exposure to dust, liquid or vapour.</p>
<p>■ Non-infective dermatitis of external origin (including chrome ulceration of the skin, but excluding dermatitis due to ionizing particles of electromagnetic radiation other than radiant heat)</p>	<p>Exposure to dust, liquid or vapour or any other external agent capable of irritating the skin, including friction or heat but excluding ionizing particles or electromagnetic radiation other than radiant heat.</p>
<p>■ Silicosis, asbestosis or other fibrosis of the lungs caused by mineral dust.</p>	<p>Any occupation in which workers are exposed to the inhalation of silica dust, asbestos dust or other mineral dust, other than a "dusty occupation" as defined in the Pneumoconiosis Act (Chapter 327)</p>

Appendix 3:

List of dangerous occurrences as found in the First Schedule OSHA 2007



1. Bursting of a revolving vessel, wheel and grindstone or grinding wheel moved by mechanical power.
2. Collapse or a failure of a crane, derrick, winch, hoist or other appliance used in raising or lowering persons or goods, or any part thereof (except the breakage of chain or rope-slings), or the overturning of a crane.
3. Explosion or fire causing damage to the structure of the room or place in which workers are employed, or to any machine or plant contained therein, and resulting in the complete suspension of ordinary work in such room or place or stoppage of machinery or plant for not less than five hours, where such explosion or fire is due to the ignition of dust, gas or vapour.
4. Electrical short circuit or failure of electrical machinery plant or apparatus, attended by explosion or fire and causing structural damage thereto, and involving its stoppage or disuse for not less than five hours.
5. Explosion or fire affecting any room in which persons are employed and causing complete suspension of ordinary work therein for not less than 24 hours.
6. Explosion of a receiver or container used for the storage at a pressure greater than atmospheric pressure of any gas or gases (including air), or any liquid or solid resulting from the compression of gas.
7. Explosion of any steam boiler, failure of fire tubes or steam tubes or furnace collapse, or fusible plug.
8. Escape or leakage, accidental or otherwise, of dangerous or toxic gases, fumes, liquid or substances injurious to health.

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ISBN 978-9-2-2127339-4



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