February 22, 2013

# The Road Ahead

Dear OSHA Colleagues,

This past December marked my third anniversary of becoming Assistant Secretary of OSHA. I am proud to lead this great organization because we make a huge difference in American workplaces. Quite simply, we save lives.

We are dedicated to protecting the safety and health of this nation's workers, and we've made significant accomplishments over the past several years. We have focused the agency on the most dangerous workplaces and most vulnerable workers, and we have strengthened our whistleblower protection activities. We've launched the new Severe Violator Enforcement Program to target the worst of the worst violators and issued a record number of significant and egregious enforcement cases—including the largest fine in OSHA history. We've also issued three major standards covering cranes and derricks, shipyards and hazard communication.

We've played an influential role in protecting cleanup and recovery workers in national disasters and conducted unprecedented outreach and education to vulnerable workers—including Latinos, members of the Asian American Pacific Islander community and others with limited English proficiency. We've also conducted a vigorous compliance assistance program to employers and workers —including two national outreach campaigns—and translated publications into Spanish, Chinese, Vietnamese, Polish, Korean, Tagalog and other languages.

We've approved 500 new Voluntary Protection Programs (VPP) sites and reapproved almost 900 more, all while enhancing the integrity of the program. We've also launched several new National, Regional and Local Emphasis Programs, including inspection programs to protect workers in chemical plants, establishments using primary metals and nursing homes.

These are impressive accomplishments and all of us have played an important role—whether you conduct inspections, analyze policy or data, do administrative work, whether you work in a lab or in human resources—each of us has an equal stake in accomplishing OSHA's mission. We know from our collective experience, from our observations in the field, and from our long-term analyses

and evaluations, that OSHA's actions result in employers eliminating hazards and preventing work-related injuries, illnesses and deaths.

The OSHA law, now more than four decades old, is very clear. Employers have a responsibility to provide safe workplaces to their employees, and it is OSHA's job to encourage employers to do this. The law gives us a range of tools and strategies, and we must apply them in ways that will be most effective.

Our experience over more than forty years has demonstrated to us that employers vary tremendously in their commitment to worker safety. Some employers recognize the fundamental truth in the cliché "safety pays"—they know that by managing for safety they not only protect the lives and limbs of their workers, but they become more profitable companies as a result. Many other employers want to do the right thing, but many don't have the knowledge or resources or motivation, and therefore need our assistance in abating their hazards. Finally, there are those few employers who simply do not care at all about the health and safety of their employees.

We've learned over the years that to be successful we must apply the particular tools and strategies appropriate for each employer. For those employers who go well beyond any of OSHA's legal requirements and have well-functioning injury and illness prevention programs, we offer participation in the Voluntary Protection Programs (VPP) and Safety and Health Achievement Recognition Program (SHARP), our initiatives that recognize the best of the best.

For those employers who need technical assistance we provide free on-site consultation to small employers (almost 30,000 last year) and compliance assistance, educational materials and training.

For some employers, it is only the threat of an inspection that motivates them to call for a free consultation. In the last several years, we have made strong, fair and effective enforcement one of OSHA's prime objectives. We have magnified our impact by improving inspection targeting and holding the worst of the worst employers accountable for their actions through our Severe Violator Enforcement Program (SVEP). We will continue to conduct rigorous, targeted inspections so

that no employer will think it is acceptable to expose workers to serious health or safety hazards.

We have continued the practice used by many law enforcement agencies, and all previous OSHA leadership, of issuing press releases in significant and novel cases that clearly explain why employers have been cited. This instructs other employers in the same industry what they must do to protect their workers (and avoid citations) and reminds all employers of their responsibility to provide safe workplaces for their employees.

We have achieved a great deal, but there is much more work to be done. As the structure of the American economy evolves, it has become even clearer to us that workers have a vital role to play in ensuring that their workplaces are safe. The growth of the contingent workforce, the number of vulnerable workers in our most dangerous occupations, the increasing transience of workers in occupations where we once saw much more stability—all present challenges previous administrations did not have to face. We must continually renew our efforts to ensure that workers are empowered to get the information they need about the hazards they face, and that they have the ability to use the rights they are entitled to under the law without fear of retaliation.

## OSHA does not kill jobs—it helps prevent jobs from killing workers.

As I have been saying since I joined the agency, we at OSHA don't kill jobs—we stop jobs from killing workers.

The empirical evidence continues to demonstrate that OSHA inspections prevent injuries, and we do this without hurting employment or employer profitability.

Three rigorous studies recently confirmed the effectiveness of our enforcement activities. These studies, all published in prestigious, peer-reviewed journals (including one published in the world-renowned journal *Science*), affirm the value of the work we do. I've summarized the findings of these studies in a Commentary in the American Journal of Industrial Medicine.

We have also had great support from President Obama and Secretary Solis. From the Secretary's first day on the job, she was an unparalleled advocate for worker safety and health, striving to ensure that all workers have a voice in the workplace. With her support, OSHA made great strides in reaching the nation's most vulnerable workers. Our historic National Action Summit for Latino Worker Health and Safety in 2010, and subsequent mini-summits held by regions across the country, helped us develop closer ties with faith-based and community organizations.

Thanks to the Secretary's efforts, these relationships have continued to pay off not only in our day-to-day work at OSHA, but also in the face of natural disasters. In the devastating aftermath of Hurricane Sandy, she led our outreach efforts with day laborers and the organizations representing them, to help ensure their

safety throughout the recovery and rebuilding process. It has been a great honor to serve under her leadership, and we wish her well as she embarks on the next chapter in her life. I thank her for the solid foundation she put in place, and I promise to carry on this important work.

## Changing Workplace Culture

One of my main objectives is to educate our country's employers about moving beyond reactive compliance to embrace a culture of safety. Many workplaces already have **injury and illness prevention programs**, where employers implement a process to find and fix workplace hazards before workers are hurt.

Thirty-four states and many nations around the world already require or encourage employers to implement such programs. The key elements common to all of these programs are management leadership, worker participation, hazard identification and assessment, hazard prevention and control, education and training, and program evaluation and improvement.

Employers in VPP and SHARP recognize that higher profits are the welcome by-products of safety management. These employers have experienced dramatic decreases in workplace injuries, accompanied by a transformed workplace culture that leads to higher productivity and quality, reduced turnover, reduced costs and greater employee satisfaction.

Our injury and illness prevention program initiative remains my number one priority—for these programs are critical to driving down injury, illness and fatality rates. In our inspections, consultations and compliance assistance efforts, we should be encouraging every employer to adopt an injury and illness prevention program.

We must also continue to address the problem of those systems that undermine a workplace culture of safety. For example, some incentive programs based on injury and illness reports or rates can discourage injured workers from reporting injuries. We've seen employers, for example, offer prizes or enter workers into a raffle if they meet a goal of not incurring reportable injuries over a certain period of time. Programs like these ultimately discourage workers from reporting injuries because they do not want to be perceived as having ruined it for everyone else.

We've also seen programs that actually punish workers for reporting injuries, by disciplining workers, no matter what the circumstances surrounding the injury or invoking otherwise ignored safety rules. These programs can put workers at risk, and may also constitute unlawful retaliation or result in violations of OSHA's recordkeeping regulations.

Investigating injuries, and learning from them, is one of the most important ways to prevent future injuries from occurring. Nothing can be learned from an injury that isn't reported. We will continue to encourage employers to use their recordkeeping systems as a way to identify and fix workplace hazards, and we hope to make such efforts even more effective by modernizing recordkeeping practices.

One of the items on our regulatory agenda is a proposal on a new way to think about tracking injuries and illnesses, moving recordkeeping into the digital age.

## Boots on the Ground

One of the best indicators of our effectiveness as an agency is our ability to respond to emergencies. We never know when a disaster will strike, but we know we must be ready for the next one. I am proud to say that in spite of our limited resources and considerable duties, when disasters happen, we always rise to the occasion.

In the aftermath of Hurricane Sandy, OSHA responded with tremendous energy to assist and protect the workers engaged in recovery efforts in the storm-battered regions of the Northeast. We saw thousands of volunteers and day laborers mobilize to help with response and recovery efforts, but many of these workers did not have the training or basic personal protective equipment to work safely in these hazardous conditions. Our education and training efforts reached over 60,000 workers and nearly 8,000 workers were removed from safety and health hazards because of these efforts.

*Photo taken Dec. 9, 2012 at a Hurricane Sandy debris removal site in Stafford, N.J.*

In the three months after the storm, more than 350 OSHA staff from the Regions, Area Offices, and National Office supported the Sandy response and recovery efforts. Some of our staff in the immediately affected areas carried on with this work while facing enormous personal hardship, including terrible damage to their own homes. Your spirit of service, your tirelessness and your fortitude are inspirations to all of us, and we are very grateful for your commitment to worker safety and health. I also want to recognize our staff who came from across the country to help. At a time of the year when many of us gather with family and friends to celebrate the holidays, OSHA staff from as far away as Alaska and California left home to aid in our efforts.

Our response to this natural disaster also underscores how much we have learned and grown in recent years. As tornados tore through the middle of

the country, as historic floods plagued North Dakota, as oil spilled into the Yellowstone River, OSHA staff responded with boots on the ground to bring life-saving guidance to responders and cleanup crews. We have drawn lessons from these hardships, devising original and effective strategies to provide swift assistance and direct resources to those most in need of our help.

## Protecting Vulnerable Workers

Our nation's workers speak numerous languages, and many of those with limited English proficiency work in the most high-hazard jobs. We believe the most vulnerable workers are at greatest risk for injury, illness and death. Following the groundbreaking OSHA National Action Summit for Latino Worker Health and Safety, every OSHA region implemented an outreach strategy to create partnerships and alliances with neighborhood, faith-based and other nonprofit organizations in their region. These groups provide vulnerable workers and small employers with critical information about workplace hazards.

OSHA has made it a priority to ensure these workers receive training and information in a language and vocabulary they can understand.

Our challenge and our goal has been to put educational resources about workplace hazards and rights into the hands of the most vulnerable workers, and to ensure that even those with limited English proficiency will be able to understand and use them. OSHA is responding with new tools, information and vigorous outreach—including conferences and local summits—so that workers understand the workplace hazards they face and how to use their rights to protect themselves. We also now have bilingual safety and health inspectors and staff all over the country assisting in this effort.

*Visit the new and improved OSHA En español page.*

To respond to the needs of Spanish-speaking workers, we recently redesigned and relaunched OSHA's home page in Spanish—our *En español* page—to include the most up-to-date safety and health information and to inform workers and employers of their rights and responsibilities under the law. We're translating our key safety and health webpages and

publications into Spanish, Vietnamese and other languages to assure workers and employers can use these dynamic and timely safety and health resources.

This past summer marked the second year of our "Water. Rest. Shade." campaign, targeted to prevent heat-related illness and death among workers in agriculture, construction and other outdoor industries. For the Heat campaign, we developed and disseminated educational materials that are accessible to all workers. We partnered with trade associations in construction and agriculture, unions, community- and faith-based groups, consulates, universities, and worker organizations to reach employers and employees with lifesaving information about the dangers of working outdoors in the heat. During the hottest summer months, we posted more than 100 heat illness prevention billboards across Arkansas, Florida, Texas, and Illinois—the four states with the highest number of occupational heat-related fatalities in 2010. We distributed more than 360,000 publications in English and Spanish, and had more than 56,000 downloads of our new Heat smartphone app.

In 2012, we also launched our Campaign to Prevent Fatal Falls in Construction. Falls continue to be the leading cause of death in construction. Each year more than 750 construction workers die on the job in the U.S., and falls account for roughly one-third of all construction fatalities. To get the word out that "Safety Pays, Falls Cost," we have joined with labor and management groups and the National Institute for Occupational Safety and Health to raise awareness about the hazards of falls from ladders, scaffolds and roofs. So far we've distributed more than 200,000 publications, and so that we have the widest reach possible, we've translated our fall prevention fact sheets into Spanish, Russian, Polish, Portuguese and Tagalog.

One of the most effective ways we have for reaching vulnerable and hard-to-reach workers with training and educational resources is through our Susan Harwood Training Grant Program. In September, we enlisted the help of 72 new and returning nonprofit organizations, awarding $10.7 million in Harwood grants to community and faith-based groups, employer associations, labor unions, joint labor-management organizations, and colleges and universities. Our Harwood grantees also played a vital role in our outreach efforts following Hurricane Sandy's devastation.

## Strengthening our Whistleblower Program

For us to have a real and meaningful impact, we must continue to find new ways to protect the voice of workers in the workplace. OSHA cannot be in every workplace all the time, so we must rely on workers to speak up when they identify hazards. It is not enough for workers to be aware of the hazards they face and ways to protect themselves—they must also know their rights and feel secure enough to exercise those rights without fear of retaliation.

Beyond workplace safety and health, OSHA has been given an important challenge: as the primary enforcer of America's whistleblower protection statutes,

OSHA helps protect the health, safety and welfare of all Americans. If workers in banks and publicly-held companies do not feel they can raise their voice when they see securities fraud, if workers in food manufacturing plants are afraid to blow the whistle on food adulteration, if workers are hesitant to identify law-breaking poisoning of the air or water, we are all at greater risk.

In these last few years, we have recommitted ourselves to ensuring that all workers have a protected voice. We are having some significant successes: in FY 2012, we helped to award nearly $27 million to whistleblowers across the country.

But sanctioning employers who retaliate against workers is simply not enough. Our goal is to prevent reprisal before it happens. We must continue to send the message to employers across the country that punishing workers for exercising their rights will simply not be tolerated.

In the last few years, retaliation complaints from rail workers increased faster than complaints under any other whistleblower statute we enforce. Since 2007, when OSHA was authorized to pursue cases under the Federal Railroad Safety Act (FRSA), we've received more than 1,000 complaints from workers in this industry. This past summer we signed an agreement with the Federal Railroad Administration to collaborate to protect railroad workers from reprisal when they report safety violations to the government or report worker-related personal injuries or illnesses under the Federal Railroad Safety Act. And over the last year we've issued more than a dozen findings for complaints brought by railroad employees who have alleged they were retaliated against because they reported being injured.

Our efforts are now showing results. In January, BNSF Railway signed an accord voluntarily agreeing to revise several personnel policies that OSHA found had violated the whistleblower provisions of the FRSA and retaliated against workers for reporting on-the-job injuries. The accord has not only made significant progress to protect the health, safety and rights of BNSF employees, but also sets the tone for other railroad employers throughout the country.

We play an important—and growing—role across a large array of industries and employers. In July we took on our 22nd whistleblower provision under the Moving Ahead for Progress in the 21st Century Act, which protects workers in motor vehicle manufacturing, parts supplies, and dealerships.

As the number of whistleblower statutes under our jurisdiction continues to expand, we have taken important measures to strengthen our whistleblower protection program.

We recently elevated the agency's whistleblower program to the stand-alone Directorate of Whistleblower Protection Programs. We've also established the Whistleblower Protection Advisory Committee, bringing in the nation's experts to make recommendations on ways to improve the efficiency, effectiveness and transparency of OSHA's whistleblower protection efforts.

## Protecting Temporary and Contract Workers

Effective training and adherence to safety standards are critical to protecting workers against injury, illness and death, but they are only effective if they are followed every day at every work site for every worker—and this includes temporary and contract workers.

OSHA feels strongly that temporary and contract workers—many of whom work in low-wage jobs and face serious hazards—must have equal protections, and employers must provide these workers with a safe workplace. In recent enforcement cases, several of which have been egregious cases, OSHA has issued citations regarding lack of protection to such workers. Last year, a temporary maintenance worker was killed while cleaning a machine at a food manufacturing plant. He was pulled into the machine and crushed to death between the rotating augers. In our investigation, we discovered that he and several of his colleagues had never been trained in lockout-tagout procedures.

This degree of employer indifference is simply unacceptable. While some employers may disregard their responsibilities because they believe they are not responsible for temporary workers and those from staffing agencies, OSHA requires that employers protect the health and safety of **all** workers under their supervision and control.

We need to make it clear to employers that even if workers are temporary, they are entitled to the same safety and health rights and should be treated no differently from other workers. OSHA is working with Wage and Hour—our sister agency—on protecting these workers. We are reaching out to temporary workers through day labor and construction groups, and as we move forward, we will amplify our outreach and enforcement efforts to ensure that temporary and contract workers are getting the training and information they need to be safe at work.

## Hospitals and Healthcare

In hospitals and healthcare facilities, workers are hurt at rates even higher than in construction and manufacturing, and in some cases, at more than double the average for all private industry. Nursing aides, orderlies and attendants have an incidence rate of musculoskeletal injuries more than six times the average for all industries.

We must address this alarmingly high rate of worker injuries and illnesses by helping hospitals and nursing homes recognize the close link between patient safety and worker safety, since we know that managing for worker safety will protect patients, too. The solutions to prevent the widespread injuries from patient handling are at hand, and we applaud those employers that have implemented safe patient handling programs.

One way healthcare employers can protect their workers is by using the OSHA 300 Log to find and fix hazards. In its October article, "OSHA 300: A Log to Live By," the Joint Commission, the organization that accredits hospitals and many

other healthcare facilities, praised the log as a valuable analytical tool. We need to get the word out that looking more closely at the 300 Log can reveal important information, including the cause of many injuries and illnesses.

Workplace violence, which disproportionately threatens workers in the healthcare industry, remains a difficult and dangerous problem. Last year, we established procedures for investigating these incidents in healthcare, and as we move forward we will continue to hold employers accountable for developing and implementing policies to prevent assaults on healthcare employees.

In 2012, we also launched a new National Emphasis Program (NEP) for Nursing and Residential Care Facilities, to protect workers from the serious safety and health hazards that are common in these healthcare facilities. Through this program, we are working to reduce worker injuries from repeated manually transferring, repositioning or lifting patients, and we are beginning to see some successes. In this way, the NEP is helping OSHA send a clear message that employers are responsible for finding and fixing these hazards in their workplaces.

As we move forward, we are working closely with the Centers for Medicare and Medicaid Services (CMS) Partnership for Patients, a cooperative program created and funded under the President's signature initiative, the Affordable Care Act. Through this partnership, we are developing guidance products on healthcare work environments to be disseminated through the CMS Hospital Engagement Network.

## Oil and Gas Drilling

As the nation moves toward energy independence and develops our important natural resources, we are collaborating with the oil and gas industry to protect the safety and health of workers in that sector. Last June and July, together with the Mid-Continent Exploration and Production Safety (MCEPS) Network, we sponsored a voluntary safety stand-down to promote safe work at oil and gas

*Over 500 oil and gas industry representatives attend the safety stand-down kick-off at the Cox Oklahoma Convention Center on June 21, 2012.*

exploration and production sites throughout Oklahoma. Following the success of that event, additional safety stand-downs are occurring in Texas and in the Bakken Oil Field in North Dakota and Montana, jointly organized by OSHA and the National Service, Transmission, Exploration and Production Safety (STEPS) Network.

Last summer, NIOSH notified us that they had identified exposures to airborne silica as a health hazard to workers conducting some hydraulic fracturing operations. Within one week, we held a teleconference with more than 100 leaders in the industry. Working together with NIOSH and through the STEPS Network, we developed and released a joint hazard alert in June 2012.

We are also making great progress in working with other government agencies to explore the use of performance-based regulatory models in the oil and gas industry. In September we co-sponsored an expert forum and stakeholder meeting, bringing together four other agencies—the Environmental Protection Agency, the Bureau of Safety and Environmental Enforcement, the Pipeline and Hazardous Materials Safety Administration and the Coast Guard—to share expertise and resources. We received excellent feedback in the meeting, and the attendees were supportive of our continuing efforts to develop a strategy for using performance-based regulation in the oil and gas industry.

## Flight Attendants

We are also pleased to announce another recent collaborative effort in a very different industry. We're now working with the Federal Aviation Administration, the airline industry and the flight attendants' union on a new policy to extend OSHA coverage to flight attendants for exposure to noise, bloodborne pathogens and hazardous chemicals.

## Reducing Exposures to Hazardous Chemicals

In my time at OSHA we have issued three major standards—making work safer for those who work in shipyards, on cranes, and most recently, for those who work with chemicals. This past year we succeeded in aligning our Hazard Communication Standard with the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). This update to HazComm will improve the quality and consistency of hazard information in the workplace, making it safer for workers to do their jobs.

But many of our standards, especially those for chemical exposures, remain dangerously out-of-date. We have no Permissible Exposure Limit (PEL) for most of the thousands of chemicals used in American workplaces, and the vast majority of existing PELs date from the 1960s or earlier. As the Government Accountability Office (GAO) reported in their 2012 study, the complexity of the current rulemaking process makes it prohibitively difficult to issue new standards in a reasonable amount of time. We must develop new ways to approach the problem of workplace exposure to hazardous substances, both from the

enforcement and standard-setting perspectives, and we look to occupational safety and health professionals as well as our stakeholders for their thoughts on how to best accomplish this.

## Building a 21st Century Worker Protection Agency

Just as we must change the American workplace, we must change ourselves. I know that our staff is our greatest strength, and it is your commitment, experience, collaboration and creativity that make the difference between getting real results and just doing a job. One of my goals for this agency is to create more opportunities for us to learn from each other, making OSHA flatter and less hierarchical. To help accomplish this, I strongly encourage increased communication across regions and directorates at all levels.

Diversity is among our most important resources at OSHA. The more diverse we become, and the more we reflect the populations we serve, the more innovative and fresh our approaches will be. Accordingly, we are embarking on a multi-year plan to ensure that diversity inclusion is evident in all aspects of OSHA's business operations including recruitment, placement, promotion, development, and strategic and succession planning.

We will also continue to make increased use of our data to target high-hazard workplaces and evaluate the effectiveness of our various strategies and tools. The more accurate, complete and consistent our data, the more useful it becomes for learning about hazards and protecting workers.

Moving forward, I ask for your continued support in putting all of these pieces together. As I have said before, you are each a critical component of the OSHA team. I know we are a small agency with a large job—and each of you have worked so hard to make all this possible. Even as you are stretched to your limits, you never fail to face new challenges with the zest and passion that make this agency great. Each part of what we do—from enforcement to compliance assistance to recognition programs to standard setting—is important individually. But the whole is greater than the sum of its parts, and only together can we truly fulfill the life-saving mission of this agency.

Thank you for your commitment to OSHA and for your efforts to protect the safety and health of our nation's workers.

David Michaels, PhD, MPH

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