

Public Meeting of the
National Advisory Committee on Occupational Safety and
Health (NACOSH)

Meeting Summary

Friday, March 04, 2016

1:59 p.m. to 4:51 p.m.

U.S. Department of Labor
Room N-5437, Conference Rooms A & B
200 Constitution Avenue, NW
Washington, D.C. 20210

MEETING SUMMARY**Welcome and Introductions:****Chairwoman Soiza****ATTENDEES:**MEMBERS PRESENT

Public Representatives:

ANNE SOIZA, Chairwoman**LISA BROSSEAU, ScD****MARK CARLESON**

Management Representatives:

JOSEPH VAN HOUTEN, PhD**RICK INGRAM**

Health Representatives:

ROBIN BAKER, MPH**WILLIAM BUNN III, MD, JD, MPH**

Labor Representatives:

LAMONT BYRD**MARGARET SEMINARIO, MS**

Safety Representatives:

JAMES JOHNSON

OTHER ATTENDEES:

AMANDA EDENS, Designated Federal Official

SARAH SHORTALL, NACOSH Counsel

ANDREW LEVINSON, OSHA, Directorate of Standards
and Guidance

LAWRENCE HALPRIN, Keller and Heckman Law Firm

JIM THORTON, Council of Professional Affairs
for American Society of Safety Engineers

MANUEL GONZALEZ, General public

DR. WES SCOTT, National Safety Council

E X H I B I T S

- March 04, 2016, NACOSH Special Meeting Agenda,
(Included in OSHA Docket, OSHA-2016-0001-0040)
- Draft Safety and Health Program Guidelines, (Included
in OSHA Docket, OSHA-2015-0018-0003)
- Matrix by Joseph Van Houten, (Included in (OSHA
Docket, OSHA-2016-0001-0045)
- Matrix by James Johnson, (Included in OSHA Docket,
OSHA-2016-0001-0045, Exhibit #0042)
- Matrix by Margaret Seminario, (Included in OSHA
Docket, OSHA-2016-0001-0045, Exhibit #0044)
- Comments by James Thornton, (Included in
OSHA Docket, OSHA-2016-0001, Exhibit #0036)

S U M M A R Y

Ms. Amanda Edens opened the March 04, 2016, NACOSH teleconference meeting. This meeting was held to discuss committee comments and recommendations on OSHA's draft Safety and Health Management Guidelines and to hear public comments.

After a roll call, Ms. Edens reminded meeting attendees of the day's goal: to agree on comments or recommendations for OSHA on the draft guidelines. Ms. Edens reminded committee members they also would need to hear public comments before forwarding on any recommendations or comments.

Ms. Anne Soiza then welcomed all attendees and urged good use of time. Ms. Shortall then noted in which docket the agenda for the day's meeting was posted. Ms. Soiza solicited input on the most efficient way to handle comment discussion.

Mr. Van Houten began the discussion with his comments on the draft OSHA guidelines. He complimented OSHA on its work, stating the document would be very helpful. He then pointed out two themes that stood out to him. The first was, he believed the document

adequately addressed the safety side of things but was "weak on the health side." He noted a need to "enhance the health component" of the document.

The second area he drew attention to was that the hierarchy of controls should be fully discussed. Mr. Van Houten also questioned how the document would be used by employers who didn't "have a background in occupational safety and health." He wondered where they could go for help and if OSHA and state agency resources were adequate to handle all possible requests for assistance, and if it might not be appropriate for to mention other sources of help.

Mr. William Bunn, Mr. Johnson, and Ms. Seminario agreed with Mr. Van Houten's comments, with Mr. Johnson adding that resources needed improvement and offering a suggestion of step-by-step approaches. Ms. Seminario viewed the document as a "framework," saying the framework needed to be right before looking at implementation tools.

Mr. Johnson then asked if the committee could recommend a list of resources to be included in the document. Ms. Edens enlisted Mr. Andrew Levinson's help

in answering any questions the committee had asked about making recommendations.

Mr. Levinson noted that since this was a special session, the most important thing was to get comments on the actual document. He recommended the committee focus on that, as there was going to be a public meeting, with revisions and updates to the draft based on the public comments.

Ms. Robin Baker clarified that the implementation questions were asked to guide the committee in making its recommendations. Mr. Mark Carleson stated smaller, implementation-based documents were in the plans, but the document under discussion in this meeting was the document upon which those future documents would be built. Mr. Johnson said this document should be "very dynamic in nature."

Ms. Lisa Brosseau then asked Mr. Levinson if OSHA's small-entity guideline documents were being updated for integration into this document. Mr. Levinson suggested NACOSH make that comment to OSHA if it would like to see those documents included, and Ms. Brosseau formally suggested that be added to NACOSH's

recommendations.

Ms. Seminario then pointed out some suggestions her e-mail contained, including expanding things like language and types of hazards, ideas on worker participation, and that OSHA should look at NACOSH's final recommendations on the temporary worker document. She also recommended inclusion of additional resources in Appendix A and a table from an OSHA injury and illness prevention programs white paper on state safety and health program requirements.

Template discussion was next, with Mr. Van Houten's template first. His opening point was, one of the footnotes gave him the impression a company must be part of the consultation program in order to receive recognition from OSHA. Ms. Seminario felt guidelines were not the place to set up new recognition programs, and she mentioned recognition programs already in place, such as SHARP and VPP. Ms. Edens stated that developing and working a new recognition program might be difficult right now. Ms. Baker felt recognition programs fell outside the scope of the guidelines.

His second point, on the guideline on page 3,

was he thought motor vehicle safety should be mentioned. Mr. Johnson, Ms. Soiza, Mr. Lamont Byrd, and Mr. Rick Ingram agreed. Mr. Van Houten noted the OSHA website mentioned motor vehicle safety, so he saw no reason not to refer to it in the guidelines.

Mr. Van Houten had noticed a "find and fix" theme, and he said prevention through design should be incorporated and asked for inclusion of a reference to the NIOSH website. Ms. Baker agreed that would be a useful concept to introduce.

Mr. Van Houten also wanted to include something about providing medical services to qualifying employees to wear PPE and conducting medical surveillance for workplace health hazard exposure. He suggested giving positive recognition for things like reporting near misses/close calls, attending training sessions, and conducting inspections.

Included in Mr. Van Houten's suggestions were additions he wanted to see in the document. In Section 9, he suggested adding wearing required PPE and full participation in all monitoring and medical surveillance. In the section "Other Useful

Information," he wanted to add a phrase on giving workers access to safety and health information and insert another bullet. He asked if OSHA offered any help for determining severity and likelihood.

Ms. Seminario questioned the members for this document and agreed Mr. Van Houten had a good point about guidance for employers. Mr. Ingram felt participation by workers in PPE hazard assessment was missing but otherwise agreed with Mr. Van Houten.

Moving to his next group of comments, Mr. Van Houten proposed the addition of information around collecting existing workplace hazard data, specifically mentioning IH monitoring and Workers' Comp reports. He also wanted to add language that assured safe vehicle operation was included in workplace inspections. Management of change was another issue he felt needed to be addressed, and he had a paragraph to add into the language. He also wanted to add language to ensure results of an incident investigation were communicated to both employees and leaders.

Mr. Johnson agreed turnover in leadership could have great impact on the culture and systems, but he

felt more was needed as far as what leaders should know about their role in the safety process. He wasn't sure "management of change" was the best term to use. Mr. Ingram agreed that management of change was important. Ms. Seminario agreed with the concept; however, she wasn't sure people knew what the term meant and suggested using something simpler. After some discussion, Mr. Van Houten offered to eliminate the language and just keep the comment.

The committee then verified that all but the first item on Mr. Van Houten's list had been accepted, and Mr. Van Houten listed his next points, which were the suggestion to add an approach to look at job hazards, including a pre-task risk assessment and guidance on common hazards, a tool around likelihood and severity, dropping the use of the word "permanent" when talking about controls, changing language to introduce a hierarchy of controls concept, and introducing a failsafe approach to the design of controls. The only comment came from Ms. Seminario, who wanted the language to include engineering controls, too.

Next, Mr. Van Houten suggested the addition of an example on page 18. During this portion of his comments, the call was dropped and reinitiated. As the call picked back up, he was speaking on the appropriate permit to work for a site. His last point was a request to add the words "or becomes ill" to the health component.

Ms. Baker wanted to make sure examples given were from all types of industry, and Mr. Johnson felt there could be a better definition of "leading indicator." The committee then voted to pass Mr. Van Houten's comments, with the noted exceptions.

Mr. Johnson picked up with his template. He wanted to strengthen the statement on page 3 by replacing the word "review" with something stronger. He also wanted to add a statement that "management demonstrates routinely and consistently." He felt it important to include the right to stop work after retaliation, and he also wanted to add the term "corrective action management." Lastly, he wanted more strengthening by noted control measures.

Next, Mr. Johnson reiterated that top

management needed to know more key safety concepts, and he recommended adding a new first bullet. He also wanted to provide a tool to estimate the level of resources necessary, and he thought the document could be stronger in stressing leaders' responsibility to develop ways to listen and to communicate with workers. He also gave a suggestion that examples of policies be provided within the resources.

Mr. Johnson wanted to strengthen the statement on page 6 by adding the statement "for all workers." He then mentioned that effective health and safety systems needed to be evaluated annually, at a minimum, for appropriateness. He also suggested that since resources had to be estimated before starting a budgeting process, the bullets needed to be reversed. He wanted to add a bullet on reporting to workers what actions were taken on their suggestions.

Mr. Johnson then proposed that language could be strengthened and made consistent with Action Item 3 by adding, "Identify the underlying hazards" and then "and program deficiencies." He wanted to strengthen hazard reports by including types of incidents and

causation. Finally, he said there should be more discussion and language strengthening around risk.

Ms. Seminario wondered what Mr. Johnson meant when he talked about "maintain a disciplined process," on page 11, line 18. She did not like that word. Ms. Soiza offered substitutions of "rigorous" or "defined." Mr. Johnson was open to a change in that term.

Mr. Johnson's last comments included a recommendation to note the need to reassess hazards or risks and a note that health exposures of transient workers needed to be addressed. As no one had any ideas on how to address the issue, the committee left it to OSHA to incorporate the idea.

Ms. Seminario was next, and she began by saying it should be made clear this document was for all economic sectors and for different kinds of hazards. She wanted to add a provision on exposure assessment and monitoring in medical surveillance, and she wanted to highlight the Hierarchy of Controls and add language on that. Additionally, she thought the document needed to clarify that further action must be taken when deficient controls were found. As for multiemployer

coordination and communications, she wanted to expand the core elements and add two new bullets.

On page 8, Footnote 6, she felt that appropriate language was, "Worker participation is vital to the success of the program." She also commented that she wasn't clear on the context when OSHA referred to workers' representatives, such as labor unions, saying the document should just say, "worker representatives should also participate in the program," consistent with rights provided in the OSHA Act.

Ms. Seminario wanted to add a bullet on page 8 on anti-retaliation for raising safety and health concerns or exercising safety and health rights. She mentioned OSHA fact sheets and the wide number of safety and health statutes available on OSHA's website, and she wanted to ensure people were able to find that information. Also on page 8, she wanted to add language stating that the policies or practices of incentive programs might be a violation of OSHA Act 11(c).

Moving to page 10, Action Item 4, Ms. Seminario wanted to give workers information for understanding

safety and health hazards and control measures. She again addressed anti-retaliation measures in Action Item 5, mentioning adding affirmative language for worker participation and exercising of rights. She addressed exposure assessment, monitoring, and medical surveillance, on page 11, as well as listing additional information that should be looked at.

On page 12, Action Item 2, Ms. Seminario requested that workers be added into hazard identification activities, and she wanted to add other types of hazards, including ergonomic hazards and workplace violence. She also mentioned adding language throughout the document addressing exposure assessment and medical surveillance.

Her next suggestion was an editorial one on page 13, Action Item 3, that a stronger sentence would be, "The purpose of the investigation must always be to identify root causes." She then moved to page 14 and asked that the list be broadened. She felt more language was needed about the role of workers in hazard prevention and control on page 16. She wished to expand the types of non-routine operations covered, on page

17, and she felt that control measures should be continuously evaluated and improved.

Mr. Van Houten agreed with the need to stress the actual intent of incident investigations: a positive outcome, not culpability. He wanted to leave that section in.

Following this, Ms. Seminario wanted to add how to report hazards, near misses, et cetera, to education and training. She also requested that the committee's work on the temporary worker materials be referenced and that a new appendix be added: a table on existing state requirements for safety and health program requirements.

At this point, Ms. Shortall noted in which docket committee members' matrices appeared, and then Ms. Soiza read Ms. Jessica Martinez's comments, which mentioned an OSHA fact sheet on elimination of hazards to protect workers. Ms. Martinez had suggested that all successful safety programs required that top management's efforts be focused on eliminating hazards and that the document "should reflect the change and focus from that of continuous improvement."

Mr. Johnson disagreed with that statement, saying elimination was impossible and he was not comfortable shifting focus away from continuous improvement. Mr. Van Houten agreed it was impossible to eliminate hazards, so the word "elimination" should not be used. The committee agreed to add something about elimination and control of hazards without deemphasizing continuous improvement.

Ms. Martinez's final comment was that the draft was weak because it did not provide more emphasis on the importance of identifying health hazards. Ms. Martinez also wanted to add in radiation.

Dr. Wes Scott was the first public commenter. He thought these guidelines were much better than the 1989 version. He did want to see the addition of more examples of non-emergency and non-routine operations and infrequent maintenance activity. Dr. Scott also thought safety and planning before each new phase should be emphasized, with more identification of site-specific hazards, safety precautions, and responsible parties. He said the health portion was too light on health, and he asked that help offered with this

document be considered.

Mr. Lawrence Halprin with Keller and Heckman Law Firm spoke next. He attended on behalf of Strategic Comp. His concern was that OSHA discouraged employer safety incentive programs. He narrated his experience of how well these programs functioned, giving statistics on how claims were down from actuary estimations. He addressed concerns of underreporting by referring to a report that indicated these programs led to "more robust reporting," and a lower reporting delay time. He noted OSHA audits that consistently found reporting to be in the 90- to 95% range. He requested removal of all language discouraging the types of incentive programs he had mentioned.

Next was Mr. Jim Thornton, Vice President of the Council of Professional Affairs for the American Society of Safety Engineers, which had submitted comments on February 22, 2016. These comments had been entered into the record of OSHA-2016-0001, as Exhibit #0036, on the NACOSH docket.

Mr. Thornton also felt this was a greatly improved document from the 1989 version, and he had

suggestions for improving it even more, including emphasizing a program versus a systems approach. He said consistency between U.S. and global standards was important, as was making lagging and leading indicators of equal importance. He asked for more prevention through design and eliminations of hazards before the use of PPE. He thought an executive summary on how to best utilize the guidelines might be helpful, and he also asked for more examples on how to involve employees in the process.

Mr. Thornton said hazard identification and assessment were in the wrong order. He mentioned referencing more national consensus standards and providing better definitions, and then requested that links to FEMA and CDC websites be included. He said the document didn't focus enough on risk assessment and control, and he also asked for more guidance on auditing effectiveness of controls. He felt the document could be restructured to make it more easily read and understood.

The last public commenter was Mr. Manuel Gomez, who asked that the document address occupational health

hazards and diseases more explicitly and also that it reference ANSI Z10.

Mr. Van Houten then asked Mr. Halprin about studies that looked at the impact of employer incentive programs on the non-occupational injury rate. Mr. Halprin said control measures were in place to make sure cases were reported. Mr. Bunn then wanted to make sure medical surveillance was added to the examples given in the hazard assessment section.

Finally, Ms. Shortall offered language NACOSH could give to OSHA regarding the document. This language was unanimously approved, and the meeting was adjourned.