

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

Meeting Summary

Wednesday, December 02, 2015

9:09 a.m. to 3:34 p.m.

U.S. Department of Labor
Room C5320, Conf.Room 6
200 Constitution Avenue, NW
Washington, D.C. 20210

MEETING SUMMARY

**Welcome and Introductions:
Chairwoman Soiza.**

ATTENDEES:

MEMBERS PRESENT

Public Representatives:

ANNE SOIZA, Chairman

LISA BROSSEAU, ScD

MARK CARLESON

Management Representatives:

JOSEPH VAN HOUTEN, PhD

RICK INGRAM

Health Representatives:

WILLIAM BUNN III, MD, JD, MPH

Labor Representatives:

LAMONT BYRD

MARGARET SEMINARIO, MS

Safety Representatives:

JAMES JOHNSON

OTHER ATTENDEES:

AMANDA EDENS, Designated Federal Official

JEMERY BETHANCOURT, ACCSH

**REBECCA BILBRO, OSHA, Directorate of Technical Support
and Emergency Management**

JOHN HOWARD, MD, Director, NIOSH

LaTanya James-Rouse, American Staffing Agency

**ANDREW "ANDY" LEVINSON, OSHA, Directorate of Standards
and Guidance**

DAVID MICHAELS, PhD, OSHA Assistant Secretary

JOHN PIACENTINO, MD, MPH, NIOSH

SARAH SHORTALL, NACOSH Counsel

EXHIBITS

EXHIBIT 1 - NACOSH December 02, 2015 Meeting Agenda

EXHIBIT 2 - OSHA PowerPoint Presentation by OSHA Assistant Secretary David Michaels

EXHIBIT 3 - "Addressing the Hazards Temporary Employment," NIOSH Science Blog

EXHIBIT 4 - "Serious Injury Reports: We've Learned so Far," presented by Rebecca Bilbro)

EXHIBIT 5 - Temporary Workers Injury and Illness Prevention Program Guideline document

EXHIBIT 6 - American Staffing Association Submission presented by LaTanya James-Rouse)

EXHIBIT 7 - OSHA Safety and Health Program Management Guidelines, November 2015 draft

S U M M A R Y

Ms. Anne Soiza called to order the December 02, 2015, NACOSH meeting. Ms. Amanda Edens welcomed everyone, and introductions were made. Ms. Sarah Shortall reviewed procedural issues regarding FACA and OSHA's regulations for NACOSH and that everything would be in public record, and then she explained how the public comment periods worked.

The first speaker of the day was Dr. David Michaels, head of Federal OSHA. He introduced a new inspection weighting system and explained how it would lead to more impactful inspections, and then he spoke on the draft of the newly updated Safety and Health Program Management Guidelines.

The Whistleblower Protection Program was his next topic. He commented on a developing program to prevent retaliation against whistleblowers by employers.

Dr. Michaels then gave an update on the Severe Injury Reporting Rule. He stressed how OSHA is working to ensure all relevant incidents are reported and investigated when necessary. Ms. Soiza spoke on how

all states will eventually have to meet the requirement of the minimum standard practice.

Dr. Michaels then spoke on OSHA's progress, which included distributing materials to educate employers on injury causes and hazard abatement, and also offering a course for employers who want to learn about incident investigations. He next mentioned a new web page, where significant press releases are displayed.

Questions included when the program began, the kinds of information being collected and categorized, whether all reports are work-related, current statistics, clarification about what information is released, and the guidelines used for press releases.

Poultry plant inspections and the hazards found there were the next topics in Dr. Michaels' presentation, which addressed carpal tunnel syndrome, amputations, and musculoskeletal injuries. Dr. Michaels expressed his opinions that not all incidents make it to the OSHA logs and that the poultry industry needs more focus. He touched on the previously issued guidelines and materials sent to all poultry plants and

the new inspection/emphasis programs in the southeast and southwest, noting that the USDA can report any safety issues noticed.

During this portion of his presentation, Dr. Michaels and Mr. James Johnson discussed the importance of safety standards and expectations across the supply chain for different industries, and Ms. Seminario mentioned medical management of musculoskeletal disorders and hearing loss. She brought up how doctors were urged not to provide treatment in order to keep problems out of the log, and she felt that needed to be addressed.

The remainder of Dr. Michaels' presentation included mention of a published study that showed the public had great respect for OSHA, a final rule on silica, the Injury Reporting Modernization Rule, Walking and Working Surfaces in General Industry, and the Beryllium Rule. He also spoke of changes in process safety and management regulations and infectious disease.

Questions and comments in this portion of the presentation included increasing penalties, safety across the supply chain, corporate incentives that discourage injury reporting, and key regulatory activities. Mr. Van Houten questioned how the Inspection Weighting System pertained to health care, and Ms. Soiza voiced concern over public-sector workers not covered by worker safety and health requirements. Ms. Shortall then entered Exhibits 1 and 2 into the record.

The next speaker was Dr. John Howard from CDC NIOSH. Topics in his presentation included the agency's renovation of the website, the budget, Ebola, efforts to make NIOSH's research more easily understood, and a Safety Matters Initiative to educate young people on work safety and health. Dr. Howard also gave statistics on NIOSH's social media presence.

He then took questions and comments, which included a wish to see more NIOSH publications in the MMWR and concern that paper information would be phased out as things became digital.

After clarifying that paper information was not

being eliminated, Dr. Howard moved on and touched on some of NIOSH's publications. The publications mentioned were for the industries of oil and gas extraction, health care, construction, agriculture, and manufacturing. Also cited was "Recommended Practices: Protecting Temporary Workers," which several meeting attendees had mentioned as being an area of interest.

A new Center for Maritime Safety and Health Studies was Dr. Howard's next topic. He elaborated on the goal of the Center, which is to bring scientists across the country together virtually so they can work on safety for maritime workers.

Also communicated was information on "Smarter Surveillance," an effort to do surveillance that is less costly, more efficient, and more impactful than previous surveillance; and the Electronic Health Record Initiative, a channel to begin collecting information on injuries and illnesses.

Questions and comments for Dr. Howard included a request for the most current research for the committee, encouragement for work between sectors, and whether the project would look at illness information.

Dr. Howard affirmed the project would consider that information. In response to a question regarding the current state of Prevention through Design, Dr. Howard mentioned that more people are using the concept.

Ms. Lisa Brosseau wondered whether an electronic record for temporary workers could be created to follow them on issues such as hearing loss. Dr. Howard said there might be ways for workers to record and save that information themselves.

In response to a comment that simple, direct reading instruments for measuring environment are needed, Dr. Howard said NIOSH is trying to figure out how sensor technologies can be applied by workers, and then Ms. Shortall entered Exhibit 3 into the record.

The meeting then moved on to a report from the Emergency Response and Preparedness Subcommittee, and Mr. Lamont Byrd spoke on what the subcommittee had been tasked with, which included developing recommendations for a proposed rule to replace the Fire Brigade Standard.

Mr. Rick Ingram then talked about three subgroups that were formed, and he explained each

subgroup's task. One subgroup was charged with determining the transition point from an emergency incident to a long-term recovery operation. Another subgroup was formed to determine who should be considered skilled support workers. The third subgroup was formed to work on a community risk assessment for emergency service organizations.

Ms. Rebecca Bilbro then spoke on severe injury reporting. She began by explaining that since OSHA data takes 6 months to mature, it would be a long time until a full year's worth of "good, clean data" was available for OSHA to work with, but she gave some statistics on what had been observed so far. She then discussed what impact the serious injury reporting had on inspections and how OSHA was doing more unprogrammed activity. Additionally, Ms. Bilbro voiced concern over under-reporting since fewer reports had been received than were expected.

Questions for her included who is responsible for reporting, whether the reports are captured where the report comes from or where the worker is employed, if there might be double reporting, and what types of

data are being recorded.

Mr. Bunn was curious about how OSHA arrived at the original projection for expected number of reports, pointing out two things that could have gone wrong statistically. Ms. Bilbro informed him there was a discussion regarding miscalculation in either direction in the severe injury reporting rule, and that might be helpful in addressing his concerns.

Mr. Johnson was surprised to see the OSH General Duty Clause so high up on the list. Ms. Bilbro stated that General Duty Clause citations are more common with fatality inspections and there might be a connection there, and that they would know more as data matured. Workplace violence and heat were also mentioned as being cited under General Duty, and Ms. Bilbro reiterated more would be known as data matured.

Ms. Shortall questioned whether the list given was citations to general industry standards, unless specifically marked construction, or whether it was for all industries. Ms. Bilbro clarified it was for all industries. Mr. Ingram urged caution when correlating the 10 most-cited standards and the SRI

inspection data. Mr. Van Houten wondered if OSHA had the capability to break the data down by sector, and Ms. Bilbro said they would be able to disaggregate by industry. Ms. Edens did have the data for amputations and hospitalizations but could not break it down by industry.

Ms. Seminario asked for clarification on whether the inspections they were looking at were deaths or just severe injuries.

How motor vehicle accidents were inspected was mentioned, to which Ms. Edens replied that with the exception of motor vehicle accidents that happened in a shipyard, those weren't covered since they couldn't be sure they were work-related.

Mr. Mark Carleson questioned whether assaults ending in hospitalization must be reported, and he received an answer of "yes." A discussion of exactly what reported incidents that OSHA would act on ensued.

Ms. Bilbro then stated her thoughts as an analyst, that this data could "remap the landscape of occupational hazards in our country" and show which areas needed more focus. She then asked for meeting

attendees' help, once the data is available, in identifying industries that might be under-reporting. Ms. Seminario asked when that data might be available, to which Ms. Edens replied "next summer."

Mr. Van Houten brought the topic back around to motor vehicle accident reporting, wanting clarification on whether or not those accidents were supposed to be reported. Ms. Seminario said they would have to look at the regulation to see if there were any exceptions. She later read aloud information on motor vehicle accidents from the regulation for clarification, and it was decided that there might not be an inspection, but those incidents were recordable, and it was safer to report than not to report, even if it resulted in no inspection.

Mr. Ingram said many motor vehicle accidents were not reported to OSHA because they're regulated by the DOT, and transportation accidents are the number one cause of fatalities in the oil and gas industry. He also stressed he would like to share information he's working on through NIOSH/NORA with OSHA.

After Ms. Shortall entered Exhibit 4 into the

record, the meeting progressed to the report from Temporary Workers Work Group. Mr. Johnson distributed copies of the most current draft document from the work group meeting held the prior day.

The document was specific to dual-employer situations and addressed the responsibility shared by both staffing agencies and host employers. He pointed out that the diversity of the work group led to it having the "right collection of expertise and skill" to accomplish its goal, which was to "develop best-practice language for protecting temporary workers as a part of the employer's injury and illness prevention program."

In summarizing what happened at the latest meeting, Mr. Johnson spoke of one of the first decisions the work group had to make, which was deciding which type of content should be put together. They then did an industry overview for temporary staffing to determine what it is, what it looks like, and numbers or demographics and breakdown. Then, they put together an outline for host employers and staffing agencies.

At that meeting, several items were put together: a brief assessment, a sample procedure, and the health and safety portion of a sample American Staffing Association contract. The assessment was based on a series of questions aligned with the current best-practices document and other available information, and the sample procedure outlined the responsibilities of the staffing agencies and the host employers.

Mr. Johnson then detailed changes that were made to a previously-distributed document. The group wanted to make sure enough attention was paid to medical evaluation and surveillance, and also issues associated with industrial hygiene and monitoring. They felt more clarity was needed between state versus federal programs, and Mr. Johnson said they also wanted to tighten some language up and add clarity in other areas.

He then moved on to some remaining items the work group needed to do, including adding to the assessment questions on medical evaluation and surveillance and industrial hygiene and workplace monitoring. He then said the work group needed to do

further data analysis. He also mentioned that Dr. Michaels had expanded the scope of the work group to include contractors and sub-contractors, and not only temporary workers.

Going forward, the work group wanted to pay attention to the draft OSHA guidelines so they could provide input to NACOSH about feedback to OSHA. They expected to have that feedback by the first week of February. NACOSH would have a special meeting to discuss that feedback. Ms. Shortall pointed out that meeting would be a teleconference meeting and open to the public.

Mr. Jeremy Bethancourt of ACCSH was the next speaker. Ms. Shortall noted that he was presenting his personal views and was not representing ACCSH at that moment. Mr. Bethancourt stated he would be part of a team that was going to be reviewing the NACOSH Temporary Workers Work Group document handed out to see if it could be adapted for construction, and then submitting that to ACCSH for their review. He expressed interest in someone from the NACOSH Temporary Worker Work Group participating in ACCSH's Temporary Workers

Work Group meetings in order to retain communication between the two groups. Mr. Johnson stated he would find a volunteer.

The meeting moved on to the two motions that the work group had for NACOSH's consideration. Mr. Johnson moved that NACOSH approve the Temporary Workers Injury and Illness Prevention Program Guidelines, and that NACOSH recommend OSHA appropriately incorporate those guidelines in their updated Safety and Health Program Management Guidelines. He also moved that NACOSH recommend that OSHA expeditiously publish the NACOSH Temporary Workers' Injury and Illness Prevention Program Guidelines as a separate OSHA best practices guidance document, and that NACOSH recommend OSHA report back to NACOSH at the next general meeting on those recommendations.

As those motions didn't need a second, Ms. Soiza opened the floor for discussion. Ms. Brosseau said the Industrial Hygiene Sampling part she was working on would be later proposed as a friendly amendment. She suggested some edits to the document, and Mr. Johnson agreed to consider the edits. He

expressed his wish to avoid substantive edits to the document. In response to Mr. Johnson's statement, there was a friendly reminder that the NACOSH members who also serve on the workgroup should be careful not to "rubber stamp" their own work. Following was a discussion over rating criteria used in the document.

During that discussion, Ms. Seminario offered a friendly amendment to revise language used in the score categories from "poor," "good," and "best," to "beginning," "developing," and "mature." The friendly amendment turned into a motion, the motion was opened up for discussion, and then a vote by voice was held. The motion passed. Ms. Seminario questioned whether there was a time frame for changing the language, and Mr. Johnson suggested no later than a week from Friday. A second motion regarding data was voted on and passed.

Mr. Johnson then made a motion regarding improving the development and collection of data on temporary and contract workers, how it could be incorporated into OSHA recordkeeping, enforcement data, incident reporting, and other sources, and that OSHA and NIOSH report back to NACOSH at the next general

meeting on the recommendations.

The meeting was then opened up for non-NACOSH member work group participant comments. Ms. LaTanya James-Rouse with the American Staffing Agency spoke first. She distributed a document with specific recommendations for what data OSHA should collect. She suggested it be submitted in conjunction with the motion to OSHA as part of NACOSH's recommendation. Several members wished to read the document before submitting it as a recommendation.

Discussion over what temporary and contract workers were began. After the discussion, Mr. Johnson's motion was voted on and passed, and then Ms. Shortall entered Exhibits 5 and 6 into the record.

Last on the agenda was the Safety and Health Management Guidelines. Ms. Edens expected to have a special call for the guidelines in March, after the public comment period ended in February.

There was discussion on what was included in the guidelines. Mr. Andrew Levinson explained why specific language was used the way it was, and other concepts that might be included in the guidelines were

discussed. Also discussed was the legal issue of having safety and health committee employee representation in non-union workplaces.

Additional areas of concern were the inclusion of contractors in safety committees, the variable use of the term "incident," and how things were defined. Mr. Levinson acknowledged that there was still work to be done in several areas. It was mentioned that an explanation for the purpose of the guidelines might be a good idea in order for people to make full use of them. Then, Ms. Shortall entered Exhibit 7 into the record.

As the meeting wound down, Ms. Shortall reminded any NACOSH members interested in serving another term that a notice of nomination needed to be filed, and Ms. Soiza clarified that the terms expire in December of 2016. Ms Soiza then expressed her pleasure with the progress the work group had made and commented on how well the meeting went. Mr. Johnson explained what process NACOSH would follow in developing comments on the safety and health program guidelines so that NACOSH would be prepared for March's special meeting.

The process of submitting those comments was made clear, and then Ms. Soiza called for adjournment of the meeting.