

SUMMARY MINUTES

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH (NACOSH)

Thursday, December 12, 2019

U.S. DEPARTMENT OF LABOR  
200 CONSTITUTION AVE. N.W.  
WASHINGTON, D.C. 20210

**NACOSH Members Present:**

Anne Soiza, Chair  
Kelli Smith  
Cynthia Lewis  
Steve Sallman  
Amy Harper  
Andrew Perkins  
Bill Walkowiak  
Michael Belcher  
Dr. Pat Bertsche  
Dr. Mark Friend  
Dr. John Lambeth

**OSHA Staff Present:**

Loren Sweatt, Principal Deputy Assistant Secretary for Occupational Safety and Health

Amanda Edens, Designated Federal Official and Director, OSHA Directorate of Technical Support and Emergency Management

Andy Levinson, Deputy Director, OSHA Directorate of Standards and Guidance

Michelle Walker, Alternate Designated Federal Official, Director OSHA Technical Data Center

Carla Marcellus, Program Analyst, OSHA Directorate of Technical Support and Emergency Management

Jennifer Levin, Committee Counsel, Office of the Solicitor

**NIOSH Staff Present:**

Dr. John Howard, Director, NIOSH

Dr. Thomas Cunningham, Division of Science Integration, NIOSH

Dr. John Piacentino, Associate Director for Science, NIOSH

#### OPENING REMARKS

**Ms. Edens** called the meeting to order and noted the full agenda for the day and discussed the safety procedures.

#### WELCOME AND INTRODUCTIONS

**Ms. Soiza** welcomed everyone to the meeting and asked everyone to introduce themselves and to give a brief bio.

#### SOL INSTRUCTIONS AND AGENDA

**Ms. Levin** then gave a few points on the background and procedure, noting that the meeting was open to the public and that OSHA advisory committees follow a transparent process in accordance with OSHA regulations and the Federal Advisory Committee Act, FACA, and the FACA regulations.

She also noted that the proceedings would be transcribed and the transcript and meeting materials would be formally entered into the meeting record and added to the public docket, Docket ID OSHA-2018-0007, accessible at [www.regulations.gov](http://www.regulations.gov).

**Ms. Edens** then reviewed the agenda for the day and then **Ms. Soiza** discussed the charge to the committee, citing one example of just having a discussion and making decisions during the meeting, another having a workgroup which can sometimes be the entire committee.

**Ms. Soiza** said she was interested in ensuring that the committee actually does things and provides good advice to HHS and DOL in order for them to make sure that work fatalities, injury and illnesses are prevented. She wanted to ensure that the day did not end without a plan of action.

#### OSHA UPDATE

**Ms. Sweatt** highlighted some of the amazing and fantastic work that was done at the agency during Fiscal Year 2019. She noted that OSHA conducted 33,401 inspections, more than the three previous years, and a little more than half of those inspections were in the construction industry.

She noted that the agency had full year funding, they were not affected by the government shutdown, and that the hurricanes were not as devastating across the country as in the previous two years.

In 2019, OSHA's Onsite Consultation Program identified 137,885 workplace hazards and protected 3.2 million workers from potential harm. A record 1,392,611 workers were provided with training on safety and health requirements and the safety training was provided through various education programs, including OSHA Training Institute Education Centers, Outreach Training Program, and the Susan Harwood Grant Training Program.

She noted that falls continue to be the leading cause of worker fatalities in the construction industry and accounts for five of the top 10 most cited standards by OSHA inspectors and despite the enforcement in this area, falls continue to be a large problem. There will be a falls stand-down May 4th through 8th.

The National Emphasis Program on Trenching was upgraded and the agency is focusing on trenching hazards.

**Ms. Sweatt** discussed the Safe+Sound Campaign, noting that 2,500 organizations participated in Safe+Sound Week and there were about 17.5 million messages on social media.

She mentioned the beryllium hearing in December related to construction and maritime industries and the

agency will be looking at the post-hearing comments and finalizing the general industry standard based on the comments received.

The Respirator Fit Testing Rule was recently finalized and this adds two methods to the four existing in Appendix A for OSHA's Respiratory Protection Standard.

The Silica Table 1 for Construction is being reviewed among other things on the regulatory agenda. The Leading Indicators meeting was held earlier in the month and the agency received positive feedback on looking at the leading indicators.

**Ms. Sweatt** then discussed Quick Takes as a vehicle for people to use to learn what's going on in the agency. She also mentioned Do You know and Tip of the Week as resources that are available.

After **Ms. Sweatt's** presentation, there was a brief Q&A period that included discussion of hiring and retaining inspectors, workplace violence, a safe environment for workers to speak out about issues on job sites, what state plans are doing.

**Dr. Friend** stated that he had observed that a lot of small businesses do not trust OSHA and they don't believe in the firewall. So the relationship needs to be worked on.

#### NIOSH UPDATE

**Dr. Howard** gave the NIOSH Update, explaining that NIOSH is a research agency within the Federal Government, located in the Centers for Disease Control and Prevention, in the U.S. Department of Health and Human Services. He explained that the mission of the agency is to generate new knowledge in the field of occupational safety and health and to transfer it into the committee's hands.

He noted that the agency has 11 divisions in eight states and the District of Columbia and the agency has programs centered in each of these geographies, along with virtual centers in nanotechnology and maritime safety and health and occupational robotics and sensor technology, productive aging and work, motor vehicle safety, and workers compensation studies.

The agency partners with labor, industry practitioners, academics, anybody who wants to partner with them in workplace safety and health, and he noted that they are organized in a partnership with what's called the National Occupational Research Agenda or NORA started in 1996, a large public-private partnership. NORA is spread across 10 industry sectors and seven cross-sectors.

**Dr. Howard** noted from a budgetary standpoint, along with other federal research agencies, the agency has been trying to decide how to allocate research dollars and have developed a method called B&I Method, based on the burden of disease and injury.

There is an evaluation culture at NIOSH in which all of the science is subjected to the B&I Method and there is a lot of interest on the part of EPA and other federal research agencies in this activity.

**Dr. Howard** pointed out that it's the 100th Anniversary of the hard hat, invented by a Mr. Bullard, and that Mr. Bullard's descendants are partners with the agency in respiratory protection.

There is a national personal protective technology laboratory in Pittsburgh, Pennsylvania, that certifies respirators, and OSHA requires that employers use NIOSH-certified respirators. NIOSH studies the performance of

respirators, hard hats, safety helmets, etcetera, even studies the effects on football players.

The Department of Defense is very interested in traumatic brain injury in soldiers and NIOSH is working on that issue in terms of improving the consensus standards around the performance of hard hats.

**Dr. Howard** discussed e-cigarette or vaping product use associated with lung injury, now called EVALI. He noted that 2,291 patients have been hospitalized with EVALI. 48 of those people have died. 80 percent of those hospitalized reported using a THC-type compound. About 13 percent reported using exclusively a nicotine-containing e-cigarette.

The big issue is what's causing this and no one knows the answer yet but FDA, CDC, and NIH are looking at this and the consensus around the issue of Vitamin E acetate which is used as an additive in these products.

**Dr. Howard** then went on to discuss the opioid epidemic, which, if you read the newspapers, has killed 70,000 Americans. He noted the agency is using a total worker health approach to this problem, which is basically an integration of traditional safety and health protection with other types of things called disease prevention, health promotion, wellness, a whole bunch of other names.

There is a naloxone publication on the agency's website which encourages employers to think about having naloxone availability and use program within their worksite. There is also workplace solutions on medication-assisted treatment involving a number of drugs that can be used to treat opioid use disorder and prevent its impairing someone's work ability.

**Dr. Howard** then discussed first responders. There have been a number of health hazard evaluations performed on first responders, police officers, etc., where they have experienced adverse health effects. The agency has a number of infographics and information for first responders. There has been tremendous cooperation by the first responder community.

He also mentioned that the agency does support workers who have chronic diseases, such as diabetes, HIV, cardio-vascular disease, kidney disease, opioid use disorder and who want to continue in the workplace. This issue is being explored with a number of partners, including the National Safety Council.

Also in connection with the opioid issue is the collaboration with the Department of Labor. The agency has received support from many DOL agencies including the Women's Bureau, OSHA, the Employment Training Administration, the Office of Worker's Compensation Program, the Office of Disabilities Employment Policy, and the Chief Evaluation Office.

**Dr. Howard** drew the committee's attention to the publication Occupational Exposure Banding for Chemical Management with support from the American Industrial Hygiene Association and the American Safety Professionals.

This is an e-tool that helps employers figure out what they need to do with chemicals that are without occupational exposure limits and which will probably never have an occupational exposure limit.

He mentioned the Firefighter Cancer Registry and the need to have firefighters sign up.



NIOSH has published a book, the American Psychological Association is the publisher, on total worker health.

After **Dr. Howard's** presentation, a Q&A followed that included a discussion of respirators and beards, restructuring of jobs, increased workload, mandatory overtime, and fatigue factors.

**Dr. Howard** addressed the impetus to look at the future of work issue which is also part of the impetus to integrate the protection issues with the promotion issues in terms of total worker health.

A discussion regarding worker compensation programs then ensued, particularly around the opioid issue, coffee and coffee roasting, flavoring industries, flavored infusion oils in cooking.

**Ms. Soiza** brought up the issue of wild land fire smoke on the West Coast and asked what NIOSH and CDC are doing in that regard.

**Dr. Howard** noted they have started a multiyear study of wild land firefighters out of the Denver offer and they are hoping to generate some information that might be relevant to an employer in the downwind area from fires.

**Dr. Bertsche** asked about the route of exposure in the opioid crisis, to which **Dr. Howard** responded that the agency has been looking at it retrospectively. He noted dermal was an obvious candidate, i.e., cuts and bruises, inhalation, near the mouth.

**Ms. Soiza** then introduced Andy Levinson, Deputy Director for the Directorate of Standards and Guidance, to give the Safe+Sound - Safety Culture presentation.

SAFE+SOUND - SAFETY CULTURE

**Mr. Levinson** began his presentation discussing what's been working and not working at OSHA over the last few years and in looking at the rate of injuries and illnesses in America over the last couple of decades, a tremendous amount of progress has not been made.

When OSHA was first created, injury rates came down pretty quickly. Progress was made throughout the '80s and then we moved into the late '90s and 2000s, 2010s, not a lot of progress, and so the question is why is that happening and what can we do differently to continue to improve progress and worker safety and health?

He noted that there are approximately 150 million workers and 10 million businesses in America and the agency is doing ballpark between federal and state 75,000 inspections and that it's hard to drive 10 million businesses to better performance solely through an enforcement model.

For anyone involved in the standard-setting process, it takes a tremendous amount of time and resources to do a standard. Standards are important for setting a floor of what is minimally acceptable for providing some basic civil rights to workers.

He noted the question is how do we break out into other communities, to other industries, to other workgroups, to other faith groups, to other places that are active in the U.S. labor force and find a way to make OSH part of the conversation.

**Mr. Levinson** then discussed the Safety Curve. It's a theoretical distribution. The bottom of the curve is an axis, the commitment to safety, a safe workplace, General Duty Clause 5(a)(1) and the OSHA Standards.

On the left side of the curve is criminal prosecutions, which EPA and the states do. Further up the curve to the Inspections and Civil Penalties region is inspections. Those inspections are driven by either fatalities, catastrophes, three or more people injured in the same incident, worker complaints, and targeted inspections where there's sampling of high hazard industries and sending people out to places where there's a high likelihood of hazards that employers should have corrected.

**Mr. Levinson** then discussed SVEP, Severe Violator Enforcement Program and the Recognition Program, SHARP for small businesses and VPP for larger businesses, all centered around safety and health programs or safety and health management programs.

He then discussed the Leadership Model which broadly breaks down into transactional and formational. Transactional is the carrot and the stick with the stick being the enforcement piece and the carrot being SHARP and VPP and the Recognition Programs. He noted that carrots and sticks only work to the extent that you like the carrot or you fear the stick and there are a lot of workplaces where OSHA penalties are not necessarily a significant factor in whether they're in compliance or not. The cost of business is much greater than an OSHA penalty.

Transactional work maintains the curve but it doesn't shift the curve and that's where you get into transformational leadership: to inspire people, to motivate people, appeal to their ideals.

**Mr. Levinson** then discussed safety and health programs and the core part of that is to keep people from getting hurt. The OSHA 1989 Guidelines were updated a few

years ago and the agency took a radically different approach on safety and health programs. The new guidelines are like a normal guidance document and are available to the public and they're all voluntary. They are action-oriented.

Element Number 7 has been added and it is a multi-employer temp worker concept because the nature of work is changing. So how do you do safety management in your workplace and then how do you do safety management so that everybody else who is in your workplace can function safely? So there is a whole communication piece tied into it.

In regards to safety management, there are three key concepts. The first one is management leadership. Worker participation is another core piece. Finding and fixing hazards is the third piece.

A stakeholder meeting was held with about 140 people to discuss lagging indicators, the construction of safety and health programs and preventing injuries.

**Mr. Levinson** discussed the Safe+Sound Campaign. The vision of this campaign is that every workplace should have a safety and health program and that safety and health is a core value for a business.

There are three elements to safety and health programs: management leadership, worker participation, and a systematic approach to find and fix hazards. OSHA is trying to simplify the messaging.

The Safe+Sound Campaign is co-organized by the National Safety Council, ASSP, AIHA CPWB, VPPA. 220 organizations have signed on to support the campaign. Some of the 220 are state plans, some are OSHA ed centers, some are consultation projects, and some are people who have

never engaged with OSHA before. OSHA has 35 formal alliances

A challenge coin is being produced as part of the campaign and there is a management leadership challenge. A document has been produced on better safety conversations, and a guidance document has been produced on safety motivations.

During Safe+Sound Week in 2019, over 3,300 businesses participated with participants from all 50 states, D.C., four territories, 25 countries, and military installations overseas or military contractors.

Safety and health programs have been moved into the OSHA 7500 Class, which is the intro to safety management class that's taught at all the OSHA ed centers.

Another project is the Safety Pays tool, which focuses on a particular hazard and looks at it by industry or hazard type and pulls in the work comp data and gives an estimate of what the injury will cost.

**Ms. Levin** then entered the Exhibits into the record.

**Ms. Soiza** then asked the public commenters to give their remarks.

**Mr. Cotchen** introduced himself and stated he worked for Industrial Info Resources and detailed the business. He offered to share what the company knows with the agency.

**Ms. Soiza** thanked him for the offer.

**Mr. Ames** was then recognized. He is the Head of Government Relations for American Industrial Hygiene Association. He discussed the various outreach programs and how they interact with each other.

**Ms. Soiza** then recessed the meeting for lunch. Upon returning from the luncheon recess, she introduced **Dr. Thomas Cunningham** to give the Safety Culture presentation.

**Dr. Cunningham** is Chief of Social Science and Translation Research Branch in the Division of Science Integration at NIOSH. The agency coordinates a number of programs, including the Small Business Assistance Program and the National Center for Productive Aging and Work. The agency also has programs focused on health equity and young workers.

**Dr. Cunningham** noted that there are roughly 10 million or so small businesses in the country. Small employers tend to need more external assistance to deliver occupational safety and health activities, programs, systems, along with health promotion activities discussing total worker health.

So when it comes to reaching small businesses, some suggest a better approach is to work with local business councils in a more limited geographical area. NIOSH believes it should be studying a large swath of intermediary organizations and trying to understand what is the value of offering something new or more in terms of workplace safety and health assistance that they in turn can offer to their clients or members.

So in terms of working with intermediaries, when thinking about a two-stage model, the agency would work with intermediaries who have the potential to reach small employers with total worker health programming or activities. This would mean working with local health departments, local safety consultants, Chambers of Commerce, wellness spenders, and insurance companies, and

the intermediaries could help decide which small employers should be targeted.

**Dr. Cunningham** noted that evaluation and feedback are critical. He also discussed the ANSI-Z10 standard being applied in small- and medium-sized businesses. ASSP has just put out a guidance document for how to apply the standard.

He then discussed the safety climate and safety culture. Safety culture, as defined by the U.K., is the product of individual and group values, attitudes, perceptions, competencies, and patterns of behavior that determine the commitment to and the style and proficiency of an organization's health and safety management.

Safety climate refers to shared perceptions of employees about the safety of their work environment. When thinking about what drives the perceptions of safety in the work environment, you think of them across the horizontal and vertical axes. On the horizontal, you have enactment, which would be what you see people doing in the work environment. On the vertical is espousal and that's how the organization talks about workplace safety.

**Dr. Cunningham** concluded his presentation with a discussion about what has been going on at CPWR, which is the NIOSH-funded Center for Construction Research, which has been great work around safety climate.

One of the things they have been working on is SCAT, Safety Climate Assessment Tool, which is all for construction, and the other is Foundations for Safety Leadership Training Programs, FSLTP.

**Ms. Levin** then introduced Exhibit 8 into the record.

**Ms. Soiza** then started the Discussion period with NACOSH members.

**Dr. Lambeth** asked if agriculture was being included in any of the programs for general industry construction. **Dr. Cunningham** replied that the work does not specifically address agriculture and that most of the work in that area at NIOSH is happening at ag centers around the country.

**Dr. Lambeth** then asked about the value of having consultants provide training so that employees aren't missing time from work in order to meet their training requirements. **Dr. Cunningham** explained that the agency hasn't gotten that far yet but it does make sense to apply this concept.

A discussion was held concerning intermediaries, such as the Better Business Bureau, various COSH groups.

The discussion then returned to the subject of training and online training and webinars.

**Ms. Robbins** asked about the requirement for a safety and health program and an accident prevention program requirement? **Mr. Levinson** referred her to the Safety and Health Programs Topics Page for a list of all state plans and state plan requirements, some of which are done through OSHA and some done through the work comp program.

**Ms. Soiza** then moved the discussion to what the committee wants to do and suggested launching two workgroups. She asked if there were two bullet points in the charge document that were priorities.

**Mr. Levinson** said he sees three buckets. The first bucket is what is the most persuasive way to get more businesses to care about safety as a core value? The



second bucket is who else should OSHA be talking to, such as organizations who can act as intermediaries and spread the word about safety as a core value, and how to effectively engage those intermediaries. The third bucket would be safety culture.

**Ms. Harper** noted that she heard four distinct needs from the presentations: effective education dissemination methods, scalability, information that's impactful, and how to get people to want to hear it.

**Ms. Soiza** stated that she saw a real focus on effective dissemination and who the group should be talking to. **Mr. Levinson** suggested it might be good to break up into different subgroups, so that one group is looking at faith communities, etcetera. **Mr. Sallman** volunteered to take on one of the groups.

A vote was then taken regarding the workgroup and the names of the members are **Pat Bertsche, Bill Walkowiak, Andrew Perkins, Mark Friend, Amy Harper, John Lambeth, Steve Sallman, and Kelli Smith.**

**Ms. Soiza** then asked if any public members had any comments and called on **Ms. Guglielmo** to speak. **Ms. Carolyn McCabe Guglielmo** is a safety public health and workforce management advocate analyst and incident investigator. She noted with the retirement of baby-boomers, a lot of OSHA and workplace safety institutional knowledge diminished. She noted the private sector has lost industrial hygienists, hazmat people, safety directors, and that ASSP has quoted that roughly 4,000 jobs a year go unfilled in the safety profession. She indicated there's a need to get people into loss control and safety management programs.

**Ms. Guglielmo** then stated that the concept of safety culture is very outdated. She noted that we're dealing with

safety and health, traumatic injuries, health illnesses, and suicides. She feels the nation needs to shift into a paradigm of a culture of prevention.

She then discussed the Small Business Administration has special programs for women and disadvantaged business owners and that it might be worth inviting them to the next meeting and that there is an ethnic Chamber of Commerce.

**Ms. Walker** noted that half of the current NACOSH members were appointed to one-year terms are scheduled to expire in July of next year. OSHA will soon publish a Federal Register notice seeking nominations to fill those upcoming vacancies. OSHA encourages anyone interested and eligible to apply for membership on the committee.

**Ms. Soiza** then entertained a motion to adjourn, which was seconded, and the meeting was adjourned at 3:38 p.m.

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