

**Meeting Minutes**  
**The National Advisory Committee on Occupational Safety and Health (NACOSH)**  
**June 8, 2010**

NACOSH was convened at 8:07 a.m. on June 8, 2010, at the U.S. Department of Labor, Francis Perkins Building, Washington, DC. The meeting was adjourned at 4:19 p.m.

In accordance with the provisions of the Federal Advisory Committee Act, Public Law 92-463, the meeting was open to the public. Approximately 65 people were in attendance.

Committee members present

Dr. Michael Silverstein	Chairman and Public Representative
Dr. Linda Rae Murray	Public Representative
Dr. Roy Buchan	Public Representative
Ms. Denise Pouget	Public Representative
Mr. Jim Swartz	Management Representative
Dr. Joseph Van Houten	Management Representative
Dr. Timothy J. Key	Health Representative
Ms. Susan Randolph	Health Representative
Mr. Emory Knowles III	Safety Representative
Mr. Peter Dooley	Safety Representative
Mr. William Borwegen	Labor Representative
Ms. Margaret Seminario	Labor Representative

Department of Labor (DOL) and National Institute for Occupational Safety and Health (NIOSH) Staff

Dr. David Michaels, Assistant Secretary, Occupational Safety and Health Administration (OSHA)

Dr. John Howard, Director, NIOSH

Ms. Deborah Crawford, NACOSH Designated Federal Official

Ms. Veneta Chatmon, OSHA, Logistics Coordinator

Ms. Sarah J. Shortall, SOL, Committee Counsel

Dr. Paul J. Middendorf, NIOSH

Dr. Keith L. Goddard, Director, OSHA Directorate of Evaluation & Analysis

Ms. Nalini Close, Department of Labor Committee Management Officer

Welcome and Introduction of Committee

- Dr. Michael Silverstein called the meeting to order. Introduction of committee members and staff were made.
- Nalini Close gave a presentation on the Federal Advisory Committee Act (FACA). She is responsible for ensuring that Department of Labor (DOL) advisory committees operate in accordance with FACA, which was passed by Congress in 1972 to promote public participation and transparency in government. She discussed the

responsibilities of committee members and the designated federal officer, public participation and the charter.

- Counsel Sarah Shortall added that although NACOSH operates by FACA, OSHA has also established its own regulations for advisory committees. Regulations pertaining directly to NACOSH are in 29 CFR 1912(a). She said that those regulations provide additional transparency and additional procedures beyond what is the minimum requirement under FACA. She also explained that subcommittees report back to the full committee of NACOSH, not back to the agency. All official recommendations to the agency would only come from the parent body.
- Dr. Silverstein introduced Dr. David Michaels, Assistant Secretary for Occupational Safety and Health, and Dr. John Howard, Director, National Institute for Occupational Safety and Health (NIOSH).

#### Remarks by Assistant Secretary David Michaels

- Dr. Michaels thanked the members for volunteering to serve on the committee. He also thanked Department of Labor and NIOSH staff for their work with the committee.
- He talked about taking OSHA in new direction and continuing a lot of the good work that OSHA has been doing. OSHA is guided by Secretary Hilda Solis' vision of good jobs—safe jobs—for everyone.
- He said that enforcement gets the highest profile and OSHA is trying to enhance its enforcement activities and looking at ways to have a bigger impact. Also, OSHA's budget will enable the agency to hire 100 new inspectors.
- The penalty structure has changed to allow OSHA to have increased penalties that will go into effect soon. He noted that the Occupational Safety and Health Act limits a serious violation to \$7,000; however, the way OSHA will calculate the actual citation for each violation will be increased shortly.
- He mentioned that in many cases, OSHA enforcement is done by state plans and there will be a new focus to ensure that they are at least as effective as the federal program.
- OSHA is devising ways that inspections can have a stronger deterrent effect. He said that was an area that the committee could offer advice.

- OSHA is focused on reaching out to vulnerable and hard-to-reach populations, non-English speaking populations. They are often vulnerable to injury and illness because they are often in the worst jobs and the most dangerous ones. Statistics show that Hispanic workers' fatality rates are far higher than non-Hispanic workers. Injury rates are higher. He reported that at the Action Summit on Latino Worker Health and Safety OSHA heard stories of workers who were unaware of their rights or were unable to exercise their rights to a safe workplace. The agency is looking at ways to reach out to workers who are at increased risk for injury and illness. Several avenues include community organizations, religious organizations and public service announcements. OSHA will produce educational training materials for workers in the language and literacy levels that workers speak and have. He looks forward to any thoughts that the committee may have to reach these populations.
- OSHA would like to increase its focus on small business and compliance in the President's 2011 budget. There is a \$1 million request for OSHA's state consultation program.
- He spoke about the regulatory agenda. OSHA's cranes and derricks standard should be out during the summer. The cornerstone of the agenda is the injury and illness prevention program.
- Dr. Michaels said that OSHA is committed to an open, transparent government and he wants our stakeholders to be able to see what is being done and why. OSHA's website contains a lot of information. He talked about the success of the one-day meeting, "OSHA Listens" where senior staff listened to stakeholders who came forward with their concerns.
- OSHA is working to strengthen its ties to the scientific community, including its sister agency, the National Institute for Environmental Health Sciences (NIEHS), because OSHA's decisions have to be based on science.

#### Dr. Michaels' Responses to Questions

- Dr. Michaels responded to a question regarding OSHA's enforcement efforts in the agricultural industry. OSHA has not focused on agriculture in a way that is commensurate with its importance in terms of injury and illness. He said that it is a

great concern and he is aware of the hazards and burden of injury and illness among farm workers.

- He was also questioned about workplace violence and said that OSHA is meeting with stakeholders on this important issue. He hopes to address this issue within the context of the injury and illness prevention program.
- Dr. Michaels responded that he supports the continuing education and certification of OSHA professionals. It is important that OSHA field staff is recognized to be highly qualified and credentialed. He encourages staff to get certified industrial hygiene (CIH) degrees, certified safety degrees and safety professional degrees.

### Gulf Oil Spill

- Dr. Michaels reported on recent activity in the Gulf of Mexico. He said that oil spill workers are on the front lines of the nation's response to the disaster. There are over 13,000 clean-up workers employed by BP or its contractors, in addition to several thousand volunteers. There are more than 1,800 federal employees directly involved in the cleanup efforts over four states. The workers face hazards from heat, falls, long hours, drowning, fatigue, loud noise, sharp objects, insect bites, snake bites and other wild species native to the region. Workers may also face exposure to crude oil, weathered oil, oil constituents and byproducts, dispersants, industrial cleaning products and other chemicals used in the effort.
- OSHA and NIOSH are providing proactive, vigorous leadership to ensure that the workers are protected from all hazards. OSHA is working as part of the coordinated federal response which includes the Coast Guard, NIOSH, NIEHS and other federal agencies to address the health in the environment. They are also working with BP to ensure that the workers are protected from these hazards in their cleanup work.
- OSHA personnel have been deployed to all 17 staging areas in Louisiana, Mississippi, Alabama and Florida since the weekend of April 26. Every day between 20 and 25 OSHA compliance officers travel to all staging areas to ensure workers are protected. A health response team from Salt Lake City arrived to provide technical support and to conduct environmental monitoring.
- One objective is to ensure that workers are provided necessary personal protective equipment free-of-charge.

### Dr. John Howard

- He explained that NIOSH is working in four areas: rostering, data, health hazard evaluations and toxicity. NIOSH has begun to roster all of the response workers which is a two-stage process. Response workers are located and asked to complete a voluntary demographic form and a job analysis form so they know who they are and their contact information. The information is then entered into a database in Cincinnati. He said that BP had requested an HHE for seven workers who would become ill on these vessels of opportunity that have the task of sheen busting.
- He talked about the tremendous heat stress with the heat index exceeding 100 and fatigue issues. Information is available on NIOSH's website.
- NIOSH is conducting area monitoring and personal monitoring. They are considering issues related to biomonitoring. He said he is most concerned about respiratory protection. He is also concerned about the chronic effect of exposure to VOCs and crude oil. There is not much medical literature on what happens to a population—cleanup workers or communities—exposed to crude oil spills. This is an evolving situation that is being reassessed every day to see what kind of information we have.

### Responses from the committee

- Mr. Borwegen asked the following question from a worker's perspective: do I have to work the mandatory hours? Would I benefit from the application of California's heat stress standard? Should there be an OSHA emergency temporary standard on heat stress for this situation? Where are the toilet facilities? Are there often rest breaks? Is it based on the temperature or level of fatigue? What is the feasibility of providing workers with cool vests, like those worn by the astronauts?
- Dr. Michaels responded that Cindy Coe (Region 4), who was the area director in Anchorage during the Exxon-Valdez oil cleanup, is in charge of all the Gulf cleanup activities. OSHA has been in the compliance assistance mode and BP has responded positively to any situation that has been brought to their attention.
- Ms. Seminario said there were lessons learned from the World Trade Center and the Exxon Valdez experiences. She said it would be helpful for OSHA and NIOSH to bring in advisors who were involved in those activities. She said that if we only look at permissible exposure limits like we did at WTC then people will not be protected.

She also talked about whether sampling individual hazards and individual chemicals will really tell what the potential health impacts are. She recommends an active and robust health surveillance system to capture reports from workers and the community. She noted that if we had listened to health complaints in New York perhaps there would not be 16,000 people who are now sick. It would be helpful if all the information from the various federal agencies could be more connected.

- Dr. Michaels explained that OSHA's jurisdiction stops at the three-mile territorial limit or coastal waters and could not issue a citation beyond that; however, it does not stop OSHA from going on the boats, doing measurements and making statements about what exposures are because the concern is protecting workers. He also mentioned that the Labor Department insists that local workers are hired because of the economic strain in the region. Also, there is a large number of workers who speak Spanish, Vietnamese and other Southeast Asian languages. Training materials have been produced in Spanish and Vietnamese.
- Dr. Murray expressed that a coordinated face is needed to say what the major health and safety issues are immediately and long-term concerns. Even though we have not determined an operational period for reasonable working hours, if people look too tired, shorten it. She also said that President Obama, Lisa Jackson (EPA Secretary) and other federal officials have said that the responsibility of government is to make sure that the health of the public is protected and BP will be held responsible. She suggested that we begin to look at a study that looks at appropriate workmanships. After this disaster, should be able to advance our field and have a better idea of how to change some of our regulations and to prevent some of the things that happen.
- Dr. Van Houten asked if the community and volunteers of the clean-up effort will be a part of NIOSH's roster. Dr. Howard responded yes.

Dr. John Howard remarks

- The outbreak of H1N1 last year was a very difficult process last year. He requested assistance from the committee on this issue. The basic issue has been between droplet and aerosol transmission as the relative contribution of each of those routes of transmission. There has been little research in this area; however, NIOSH has established a live virus laboratory in Morgantown, WV to look at additional clinical

transmission studies. Dr. Howard is seeking the committee's advice on the issue of respiratory protection for H1N1.

- All types of social media are becoming more important. How we adapt them to the occupational safety and health message are extremely important. Issue that the committee can address how to attract safety and health professionals.
- NIOSH's "Prevention Through Design" initiative is important and he's love to have someone make a full presentation on the issue. It involves protecting workers better at the design and concept stage instead of trying to retrofit later. He welcomes the committee's advice to hone that initiative. Committee members were supportive of the initiative.
- Ms. Seminario asked about PELs and where they fall on NIOSH's priority list. Dr. Howard said that it's a very high priority. The resources are not limitless. NIOSH is working on a recommended exposure limit for diacetyl in conjunction with OSHA who are working on a recommended exposure limit for carbon nanotubules. He encouraged the committee to recommend how to resurrect the vision to produce recommended exposure limits, criteria documents, PELs and standards.
- Dr. Silverstein interjected that it is an important areas that we are 40 years behind on and we need to think through the approaches that can be taken to address the need. There are substantial legal and administrative barriers to moving ahead quickly and over time the committee might be very helpful in providing advice about how to overcome the barriers. He added that social media is another area that the committee will look at in the upcoming months.
- Dr. Silverstein also said that the committee should provide some advice to agencies about how to move forward in preventing the most common and costly sources of workplace injury and illness.
- Dr. Van Houten is interested in road safety. He said that every year there are 1.4 million deaths each year across the globe related to road injuries. Dr. Howard agreed to have NIOSH do a presentation on transportation-related issues and road safety.
- Mr. Knowles asked Dr. Howard about any NIOSH efforts on the aging workforce and Dr. Howard also agreed to present at a future meeting information on the aging workforce.

Dr. Howard had to leave to attend a meeting.

- Dr. Michaels said the oil spill will become a long-term activity for OSHA, NIOSH and the country. He asked that the committee consider: (1) setting up ongoing workgroup(s) to look at issues as they evolve long term; and (2) providing some specific recommendations on the oil spill by the end of the day.
- There were discussions around the table about how to best achieve Dr. Michaels request. Ms. Shortall said that there is a requirement to allow the public to submit comments on any topic. Mr. Knowles and Ms. Seminario both agreed that subcommittees have been effective in the past. She also said that there were other mechanisms such as NIOSH calling a scientific meeting that the committee could participate in. Dr. Murray encouraged NIOSH, OSHA, EPA and others to use as many forums as possible to bring together people and to talk about the Gulf. She reminded the group of the American Public Health Association meeting in the fall. The committee should be looking at forums that already exist, activities and meetings that are already set. Mr. Borwegen suggested focus groups, discussions with workers and talking to experts on the subject.
- Mr. Knowles said that there is already a model—the National Nanotechnology Initiative. He also suggested the American Society of Safety Engineers, the American Industrial Hygiene Association, System Safety Society and others as sources of information. He said we should move forward to look at all these issues quickly to protect the workers, the public and the environment. Mr. Borwegen also suggested that the agencies look at the best groups in the country—NIOSH respiratory protection group in Pittsburgh, Lawrence Livermore Laboratories, Los Alamos to name a few.
- Dr. Michaels said we need help ensuring that our expectations of BP are correct in terms of worker protection, including work hours, heat, respiratory protection, etc. In addition, the advisory committee should challenge the agencies to do something differently, and to use this as an opportunity to break out of our normal patterns to really advance worker health.
- Dr. Silverstein established a work group to address issues over an unspecified period of time evolving needs that emerge in the face of the Gulf oil spill. The committee



will address respiratory protection and other personal protection; communication with workers and the public; and attention to the best available control technologies.

- Dr. Michaels talked about reaching out to vulnerable and hard-to-reach workers. He said that the agency has been successful in reaching out to certain sectors of the economy; certain types of workers, certain industries and employers, but OSHA rarely gets to the workplaces employing some of the more vulnerable workers. OSHA is looking at ways to reach them and many don't know their rights under OSHA.
- Dr. Michaels talked about promoting injury and illness prevention programs. Safety incentive programs have become a challenge for OSHA. He said that in many instances injured workers are discouraged from reporting their injuries. He said even modest awards are sufficient for peer pressure to work on individual workers to discourage others from reporting an injury. He questioned how OSHA could draw the line between programs that encourage safety versus ones that discourage injury reporting.
- He said he has spoken in public meetings and web chats and OSHA encourages behavioral-based programs. The agency is also interested in moving into electronic recordkeeping for all employers. OSHA would like to create a tool that will be used by employers to monitor what is happening in their workplaces and would help OSHA target its resources better.
- Dr. Buchan raised the issue of addressing the agricultural sector by hiring or designating an industrial hygienist and a safety consultant in each state consultation program to perform on-site consultation surveys in occupational health and safety educational programs. Dr. Silverstein encouraged the exchange of various recommendations; however, if the committee does not have adequate time to discuss or act on all ideas then they will be kept on a list for future consideration.
- Ms. Seminario said that it would be useful to establish some more background before deciding whether or not to establish a workgroup. She suggested some presentations that are doing work on injury and illness reporting and recommended a GAO study. Dr. Keith Goddard said a summary of the national emphasis program on

recordkeeping should be available in September and his office would be able to give a brief update if needed.

- Dr. Silverstein asked the committee members for ideas on subjects for the next meeting. Responses included: injury reporting and the National Emphasis Program on recordkeeping; GAO report on recordkeeping; discussion on whistleblower regulations; Prevention through Design; OSHA enforcement efforts; background information on what is being done for agricultural safety and health; regulatory agenda; national discussion about a paradigm shift (i.e., different alternatives to the current system that was written into the OSH Act in 1970).

#### Proposed Preamble to Recommendations

- The Gulf Oil Spill of 2010 represents one of the largest threats to environmental quality in the health of workers and surrounding communities. An appropriate response to this public health emergency will require the use of broad public health interventions and tools in order to protect the environment and the health of workers and communities.
- We urge a coordinated and unified implementation of worker and community emergency temporary standards in order to protect the health of the population. We urge your coordinated communication and immediate plan to inform workers in the general public about risks to human health and the environment that reflects the urgent and rapidly evolving situation in the Gulf.
- We urge the active and continuing involvement in coordination of all relevant federal agencies: for example, OSHA, NIOSH, NIEHS, EPA, FDA, Coast Guard, state and local public health departments, civic and community groups, industry and labor experts, to address this emergency. Appropriate responses to this threat to health and environment require adequate funding, which must be borne by those companies responsible for this disaster.”

The preamble was approved by a unanimous vote of the 11 committee members present during the vote. Mr. Swartz had to leave early.

#### Recommendations

1. Gulf oil spill recovery activities have been characterized by long work hours under conditions requiring extreme physical exertion and exposure to hot and

humid environments. NACOSH believes that long hours of work, whether measured by individual work shift or weekly, especially under conditions of physical exertion and heat exposure, are associated with work-related injuries and other adverse health effects. While NACOSH does not recommend specific limits on work hours or schedules at this time, the committee believes that under the conditions described above, work schedules and hours in excess of traditional 8 hours a day and 40 hours a week are likely to be excessive, especially if the schedules are required for extended periods. NACOSH advises that OSHA and NIOSH provide immediate information and advise to employers and employees regarding work hours and work schedules considered excessive. NACOSH further advises the agencies to expedite the establishment of more formal guidelines and rules governing work hours and work schedules, including—but not limited to—the possible promulgation of an emergency temporary standard for Gulf oil spill recovery workers. This should also include consideration of existing rest and rehabilitation guidelines and practices for such work and working environments.”

Recommendation #1 was unanimously approved by the 11 committee members present during the vote.

2. “The Gulf Coast response is requiring and will continue to require significant OSHA and NIOSH resources to ensure the protection of workers involved in the response. President Obama has stated clearly and emphatically that BP will be required to pay for the response and cleanup. To this end, NACOSH recommends that as soon as possible, OSHA and NIOSH prepare a comprehensive assessment of the resources, both monetary and staff time that will be required to fully and effectively protect workers involved in the response. This assessment should include the cost of agency resources, required outside experts, and immediate and long-term evaluation of the health impacts of this spill. In addition, the agency should identify other activities that are being foregone as a result of the diversion of resources. The agency should seek reimbursement and advanced funding for these activities from BP and any other response parties as soon as possible. If there is difficulty in securing immediate payment, the committee recommends the

agency seek supplemental funding to cover the costs of response activities so the agencies will have sufficient resources to undertake previously planned activities and programs.

Recommendation #2 was unanimously approved by the 11 committee members present during the vote.

3. NACOSH recommends that OSHA and NIOSH identify, evaluate and characterize the major operations and jobs that are being conducted in the Gulf Coast oil response. For each of these operations and jobs, this evaluation should include: a description of the operation or job; the number of workers involved in this work; the potential hazards and exposures presented by this work, including the results of any exposure monitoring, potential health effects or injuries associated with such exposures; and any reports of such occurrences, recommended control measures including recommendations for personal protective equipment, recommended training including the length of training and topics that should be covered.

In addition, NACOSH recommends that OSHA and NIOSH, in conjunction with NIEHS, design, implement and evaluate pilot projects to identify hazards and field test the best available control technology and methods for the protection of oil cleanup workers in the Gulf.

Advanced worker education and training should also be developed and implemented to utilize the control technology. These projects may be done in conjunction with NIOSH's HHEs, if the utilization of control technology is the primary focus of the project. These characterizations and recommendations should be readily accessible to employers, workers and occupational safety and health professionals and should be updated as new information becomes available.

Recommendation #3 was unanimously approved by the 11 committee members present during the vote.

- Dr. Silverstein explained to Dr. Michaels that in addition to developing the three recommendations, the committee agreed to establish a workgroup. They also agreed not to establish additional work groups at the meeting because there was not sufficient time or information.

- Mr. Borwegen offered an additional recommendation as follows: “NACOSH recommends that OSHA and NIOSH work with NIEHS to develop a written list of questions that workers should have answered by their employer pursuant to work duties, potential hazards and control to protect their safety and health. This list shall be prepared in a language understood by the effected workers.” After further discussion and agreement that it would need more time for development, Mr. Borwegen agreed to withdraw his recommendation.

The following members volunteered to participate in the workgroup: Ms. Pouget (chairperson), Mr. Knowles, Dr. Buchan, Ms. Seminario, Mr. Dooley and Dr. Key.

- Dr. Michaels introduced Ms. Debbie Berkowitz as his chief of staff. He said he looks forward to working with an active NACOSH committee. Dr. Silverstein said that the next meeting is tentatively scheduled for September 14 and 15.
- There were recommendations that meetings are planned well in advance; teleconferencing/videoconferencing should be considered; alternative meeting locations should be discussed.
- Dr. Michaels thanked the committee members and staff and Chairman Silverstein adjourned the meeting at 4:19 p.m.