



American Industrial Hygiene Association

Perspective on the Role of the Occupational Safety and Health Administration

In

Advancing Occupational Safety and Health for the Nation

**Position Statement and White Paper
Adopted June 17, 2012**



**American Industrial Hygiene Association®
Perspective on the Role of OSHA in
Advancing Occupational Safety and Health for the Nation**

Position Statement

(In no particular order of prioritization)

1. There is a continuing need for OSHA.

OSHA remains the federal agency best positioned to address workplace safety and health; however it is necessary to scrutinize OSHA's processes and programs and recommend ways to improve OSHA's effectiveness.

2. OSHA should have primary authority for all safety and health issues in workplaces that the agency regulates.

Overlap and duplication among different government agencies makes compliance difficult, creating confusion and increased cost for employers.

3. The OSHA standard-setting process needs to be reformed.

Reform of the standard-setting process is needed to allow for timely promulgation of standards. Without reform there is a clear gap in protection afforded much of the U.S. working population.

4. OSHA penalties are inadequate and should be modified.

OSHA penalties, including criminal penalties, are inadequate. OSHA criminal penalties should be at least as stringent as penalties for violations of environmental laws.

5. OSHA coverage should be provided to all workers.

All workers in the U.S. should be provided OSHA coverage regardless of whether they work for a private or public employer. The OSH Act should be amended to provide this extension of coverage.

6. OSHA should emphasize performance-based approaches whenever possible.

Performance-based standards should be considered over the traditionally developed detailed specification standards. The maximum flexibility offered by performance-based standards will allow organizations to more effectively achieve goals.

7. OSHA should develop and promote occupational safety and health programs for small and medium-sized employers.

OSHA should develop additional tools geared towards small and medium-sized employers to assist in implementing effective safety and health programs.

8. OSHA should have a mechanism that encourages employers to obtain third-party assistance.

With the limited resources available to OSHA, the agency should promote programs that encourage employers to use third-party assistance to promote and review worksites. Employers should be provided with incentives when using third parties.

9. OSHA should continue to provide a mechanism for employees to raise issues.

OSHA should continue providing mechanisms that allow employees to raise issues without fear of reprisal. AIHA supports a higher profile for the Whistleblower Protection Program.

10. OSHA should improve the reliability and efficiency of the occupational injury and illness data collection, interpretation, and dissemination process.

In addition to a closer working relationship with NIOSH to evaluate the reporting process, AIHA supports a proposal to implement electronic reporting of injury and illness data.

11. OSHA should require and facilitate education, training, and guidance of employers and employee groups.

OSHA should offer assistance to employers and employee groups by promulgating a generic training standard that integrates current overlapping and duplicate training specifications.

12. There should continue to be a general duty clause to enforce employer responsibility to provide safe and healthful working conditions.

AIHA supports OSHA's ability to use the General Duty Clause to protect workers as well as the agency's ability to use consensus standards.

13. OSHA should strengthen its support and promotion of partnerships and alliances that achieve excellence in occupational safety and health.

OSHA should continue programs such as the Voluntary Protection Program and consider alternative programs that ensure employer and employee commitment and accountability.

14. OSHA should enhance opportunities for employee participation.

Safety and health committees and other leadership approaches work well and should be encouraged.

15. OSHA should update the Permissible Exposure Limits (PELs)

Exposure limits are a primary tool in disease prevention and need to be updated to reflect the latest science and criteria. AIHA supports recommendations for a presidential executive order to update the PELs for federal workplaces and recommends any and all means to expand this update to all workplaces.

16. OSHA and NIOSH must be effective partners in the development of occupational and environmental health standards and guidance.

AIHA supports a recent report that urges OSHA and NIOSH to strengthen their working strategic partnership. NIOSH must be recognized as an equal partner in protecting workers.

17. OSHA and NIOSH should receive adequate resources to operate effectively.

Adequate resources must be provided to both OSHA and NIOSH to effectively carry out their responsibilities. Policymakers must be educated on the continuing need to provide sufficient resources to protect workers.

Adopted by AIHA Board of Directors
June 17, 2012



American Industrial Hygiene Association[®] Perspective on the Role of OSHA in Advancing Occupational Safety and Health For the Nation

White Paper

Preamble

“In the United States, 12 people die on the job every day.”¹

More than 40 years have passed since the enactment of the Occupational Safety and Health Act (OSH Act) that created the Occupational Safety and Health Administration (OSHA). Yet 12 people are killed every day on the job and do not return home to their families. This number is down from 38 people killed at work per day before OSHA.

The American Industrial Hygiene Association (AIHA) believes that OSHA has been a significant contributor to the advancement of occupational safety and health for the nation’s work force. To continue this contribution and ensure the agency’s long-term effectiveness, adjustments in OSHA’s focus, activities, and administration are necessary. This AIHA perspective is intended to provide insight to OSHA, policymakers, employers, and employees about areas on which AIHA believes OSHA should focus over the next five years.

Introduction

A healthy and safe workplace has always been central to a person’s ability to enjoy good health, security, and productivity. The creation of OSHA in 1970 has helped “assure so far as possible every working man and woman in the Nation safe and healthful working conditions.” The landmark decision that created OSHA proved to be among the first of several major events that galvanized the nation around the protection of workers, their communities, and the environment. Other agencies—the National Institute for Occupational Safety and Health (NIOSH), the Environmental Protection Agency (EPA), and the Mine Safety and

¹ OSHA press release Number: 12-784-NAT (151), April 25, 2012

Health Administration (MSHA)—were also created to support this crucial drive to conserve our nation’s resources and protect its workers, one of our finest assets. OSHA’s mission to preserve our human and physical resources remains as important today as it was in 1970. However, work conditions and challenges facing the nation’s work force have not remained static. Over the years that OSHA has been in existence, the nation has experienced major developments in technology, information systems, manufacturing processes, and biomedical science. The growth of federal and state agencies has resulted in some instances of competing occupational and environmental safety and health (OESH) roles and requirements. In addition, there is a growing recognition of the importance of management systems and business sustainability models. Global business transactions demand conformance with varying OESH requirements spanning several continents and many cultures. And overlying all these changes is expanding litigation.

This white paper addresses OSHA’s current approach and opportunities for improved effectiveness in each of the following key areas as enumerated in the agency’s strategic plan and the 2011–2016 Strategic Plan of the Department of Labor (DOL):

- developing guidance and standards for occupational safety and health;
- inspecting places of employment and working with employers and employees to secure safe and healthy workplaces, particularly in high-risk industries;
- protecting young workers and farm workers;
- offering consultation services to small businesses;
- providing compliance assistance, outreach, education, and other cooperative programs for employers and employees;
- providing matching grants to assist states in administering consultation projects and approved occupational safety and health enforcement programs; and
- fostering relationships with other agencies and organizations in order to address critical safety and health issues.

The OSH Act of 1970 states that it is the responsibility of each employer to furnish to each of its employees a workplace free from recognized hazards that are likely to cause death or serious injury. Employers are responsible for complying with occupational safety and health standards, but it is also the responsibility of employees to comply with OSH standards and all rules, regulations, and orders applicable to their own actions and conduct.

OSHA’s central and vital role is protecting the nation’s workers and their families. Several other federal and state agencies, through their regulatory authority and initiatives, have emerged and contributed to the safety and health of the nation’s work force. NIOSH is the most notable contributor and partner to OSHA. NIOSH is a part of the Centers for Disease Control and Prevention (CDC), which is responsible for conducting research and making recommendations for the prevention of work-related illnesses and injuries. However, OSHA remains the

lead federal agency for occupational safety and health and, accordingly, is the primary focus of this white paper.

AIHA believes in the mission of OSHA as originally envisioned, but also recognizes the need for change based on programs and processes that have been successful over the last 40-plus years.

AIHA's evaluation of OSHA and recommendations (in no particular order of prioritization) follow.

1. THERE IS A CONTINUING NEED FOR OSHA.

With the passage of the OSH Act, OSHA was created as the lead federal agency to protect workers from safety and health hazards arising from the workplace environment. Work-related fatalities have declined by more than 60 percent over the past 40-plus years, and occupational injury and illness rates have dropped over 40 percent. No single factor or agency can be credited for this decline; government, industry, and labor efforts together have often played a part in reducing these rates. In addition, changes in the labor market and work force; improvements in safety and health knowledge, technology and practices; and economic conditions may have all contributed to the decline in work-related deaths and injuries. However, even with this decline, the nation's work force continues to experience nearly 5,000 work-related deaths and more than 4 million injuries and illnesses each year. This loss of life, human suffering, and erosion of productivity in the work force indicate a continuing and urgent need for improved effectiveness in worker protection on a national scale.

AIHA believes that OSHA remains the federal agency best positioned to address this workplace reality and focus efforts to ensure that work-related fatalities, injuries, and illnesses continue to decline. At the same time, AIHA believes it is necessary to scrutinize OSHA's processes and programs and recommend ways to improve OSHA's effectiveness.

2. OSHA SHOULD HAVE PRIMARY AUTHORITY FOR ALL SAFETY AND HEALTH ISSUES IN WORKPLACES THAT THE AGENCY REGULATES.

Since the creation of OSHA, employers and workers have recognized that OSHA, along with its state partners, has primary regulatory and enforcement authority for workplace safety and health issues in the U.S. As employers develop comprehensive safety and health programs and processes, they often look to OSHA for guidance and information to ensure that their programs and processes meet federal standards. While OSHA is recognized as the lead authority for development, implementation, and coordination of workplace safety and health standards, many workplaces may fall under multiple regulatory

jurisdictions. For example, some industrial workplaces have operations that fall under MSHA (e.g., mining operations), the Coast Guard (commercial fishing vessels), the Nuclear Regulatory Commission (commercial nuclear power plants), the Department of Transportation (commercial motor vehicle operations), EPA (Superfund sites), and others.

The OSH Act does not prohibit the development of standards by other agencies, nor is it possible with OSHA's limited resources to cover all operations in all workplaces. Ideally, OSHA regulations should serve as the baseline, or at least a common denominator, for all workplace safety and health provisions, and other government organizations should look to OSHA as the primary source and authority on these matters. Some overlap is inevitable; however, AIHA encourages the development of mechanisms to improve communication and coordination for standard setting among agencies to avoid regulatory conflict, minimize unnecessary duplication, and strengthen OESH efforts. AIHA further encourages DOL to achieve cost savings and improve effectiveness by identifying and eliminating duplicative activities.

3. THE OSHA STANDARD-SETTING PROCESS NEEDS TO BE REFORMED.

AIHA supports reform of the standard-setting process to allow for timely promulgation of new, needed standards. The ability to promulgate new standards using the current standard-setting process is compromised. As a result, only two new standards have been issued from 2001-2011: hexavalent chromium and fire protection in shipyard employment.

The motivations of U.S.-based organizations in the promotion of safety and health performance have diverged, and the U.S. has lost its status as a global leader in worker safety and health protection. Many highly regarded organizations have looked internally and benchmarked with their peers to drive improvements in performance and monitoring. OSHA has not been a catalyst for improved performance in some of these organizations for more than two decades. However, some businesses, including small and medium-sized ones with limited resources, have programs that meet only minimal requirements. The result is a clear gap in protection afforded much of the U.S. working population.

Emphasis should be placed on simplifying the wording of the standards to make it easier for employers and employees to understand and comply with the requirements.

4. OSHA PENALTIES ARE INADEQUATE AND SHOULD BE MODIFIED.

OSHA penalties, including criminal penalties, are woefully inadequate. The maximum penalties for violations of OSHA standards are \$70,000 per violation for willful or repeat violations, \$7,000 per day for failure to abate hazards, and \$7,000 per violation for other violations. In contrast, the corresponding fines for environmental laws are \$25,000 per day. In addition, the maximum criminal penalty for willful violation of an OSHA standard resulting in a worker's death is six months in jail, whereas the maximum criminal penalty for violation of serious environmental laws is 15 years.

Furthermore, employers can avoid correcting hazards by appealing OSHA citations because the OSH Act does not require them to abate hazards under appeal. On the other hand, EPA can order immediate abatement with penalties of \$25,000 per day when a violation continues unabated under certain circumstances. In the same vein, MSHA can require that hazards be abated immediately even if the employer plans to appeal the citation.

These inequities send a clear message to employers regarding priorities. Thus, AIHA supports amending OSHA criminal penalties so that they are at least as stringent as penalties for violations of environmental laws.

5. OSHA COVERAGE SHOULD BE PROVIDED TO ALL WORKERS.

AIHA believes that all workers in the United States should be provided OSHA coverage regardless of whether they work for a private or public employer. As it currently stands, approximately 8.1 million public employees are not covered by the OSH Act. Several of the OSHA "state plans" provide OSHA coverage for public employees, but public employees in the other states, including those without a state plan, have limited OSHA coverage.

The only federal employees with full OSHA protection are postal workers due to passage of the Postal Employees Enhancement Act, which was signed into law in 1998. Public employees without full OSHA protection include workers in some of the most hazardous occupations such as health care, transportation, and criminal justice.

AIHA supports amending the OSH Act to provide extension of coverage to all workers and their workplaces, both public and private. AIHA also supports expanding the scope of OSHA to include the protection of young workers and farm workers.

6. OSHA SHOULD EMPHASIZE PERFORMANCE-BASED APPROACHES WHENEVER POSSIBLE.

OSHA has traditionally developed detailed specification standards, which often describe both desired outcomes and the steps necessary to achieve these results. This approach generally fits the traditional regulatory model for enforcement, which served early in OSHA's existence to educate employers and employees who were learning how to implement processes effectively. Many organizations' risk management efforts have matured since OSHA's conception, and AIHA encourages the development of generic performance-based standards that focus only on desired outcomes. This may not be applicable to new issues, which require upfront learning and education, or to issues considered to be high risk. But when appropriate, a performance-based approach should be seriously considered.

While OSHA has developed very few new standards in the last decade, the growth of new technologies, the increased usage of chemicals in commerce, and the shift in population demographics (for example, the advancing age and increasingly multinational character of the work force) have changed workplace hazards dramatically. Furthermore, OSHA has generally been challenged when it has attempted to dictate management's role—a key component of any implementation process—in effecting certain outcomes. OSHA has long recognized this dilemma as reflected in an excerpt from a speech by former Assistant Secretary of Labor for OSHA Charles Jeffress given at the Risk Management Forum in Chicago on Oct. 12, 1999:

“Performance standards, on the other hand, provide the flexibility to accommodate change, to incorporate unique situations and to fit the culture of individual workplaces. For that reason, more and more standards OSHA adopts in the future will rely on a systems approach. It's impossible to tailor standards to fit every conceivable hazard. Instead, we must empower employers and employees to address problems within a practical framework.”

AIHA believes that the maximum flexibility offered by performance-based standards will allow organizations to achieve desired societal and OSHA goals more effectively. Any companion non-mandatory specifications and guidance can be crafted to supplement performance-based standards when necessary.

7. OSHA SHOULD DEVELOP AND PROMOTE OCCUPATIONAL SAFETY AND HEALTH PROGRAMS FOR SMALL AND MEDIUM-SIZED EMPLOYERS.

OSHA has cooperative programs to encourage businesses, labor groups, and other organizations to proactively implement occupational safety and health programs. However, OSHA should develop additional tools geared towards small and medium-sized employers to assist them in adopting similar programs.

Smaller businesses typically cannot afford full-time industrial hygienists and/or other OESH professionals, but would benefit from programs and processes appropriate to their size. Providing tools for smaller employers to implement the key elements of an effective safety and health program—management leadership, worker participation, hazard identification and control, education and training, and program evaluation and improvement—would allow those employers to better protect their employees by reducing workplace hazards that lead to occupational illnesses and injuries.

8. OSHA SHOULD HAVE A MECHANISM THAT ENCOURAGES EMPLOYERS TO OBTAIN THIRD-PARTY ASSISTANCE.

OSHA has limited resources and will likely face continuing resource restrictions in the future. There are millions of workplaces in the U.S. and so few OSHA personnel to monitor them all. As a result, most workplaces will likely never see a compliance officer or an inspection. Therefore, other strategies such as third-party assistance should be considered.

OSHA should encourage employers to regularly perform internal self-inspections or hire third-party reviewers to analyze company safety and health programs and processes. Voluntary, internal assessments would help protect human assets and achieve OSHA's mission of improving safety and health.

To promote workplace inspections or reviews legal and/or regulatory protection for the employer may be needed. A mechanism should be put in place for assuring quality control for third-party reviewers, such as certification in industrial hygiene or safety.

Safety and health assessments should be conducted by a competent safety and health professional recognized by national accrediting bodies (for example, a certified industrial hygienist, certified safety professional, registered occupational hygienist, or the equivalent). To support this effort, OSHA could approve third-party consultants as competent based on nationally recognized certifications and conformity assessment programs.

Companies that demonstrate effective safety and health programs and processes should get credit for their efforts by judicious use of "good faith" or "good actor" status that allows for more mediation of monetary fines where appropriate. In addition, if there would be no enforcement action associated with identification of hazards or noncompliant situations at workplaces identified as "good actors," employers would likely be more open to making the suggested improvements, especially if offered a safe harbor from routine OSHA inspections as an incentive for participation.

Those employers or OESH professionals who prepare fraudulent safety and health plans should receive substantial monetary penalties to the extent provided by law. In this way, a level playing field could be established and OSHA could shift its paradigm to one of actively engaging with the nation's businesses to strengthen OESH efforts and reduce injury and illness.

AIHA is encouraged that OSHA, in 2012, announced its intention to increase its use of private sector safety and health professionals to help with employer preventive efforts. AIHA encourages OSHA and others to work together to develop a program that will be acceptable to all parties involved, including government, labor, and business. AIHA recommends that OSHA make use of organizations like AIHA in developing the program and process requirements.

9. OSHA SHOULD CONTINUE TO PROVIDE A MECHANISM FOR EMPLOYEES TO RAISE ISSUES.

Thanks to OSHA, our nation's workers can expect their employers to maintain safe and healthful work environments. OSHA has also provided an avenue for workers to express safety and health concerns without fear of losing employment. Over time, this mechanism has been strengthened and has taken into consideration the needs of employees whose first language is other than English, those challenged by illiteracy, or those who lack computer access.

OSHA should continue providing the mechanism that allows employees to raise issues without fear of reprisal and ensures regular reviews for improving the protection of workers. As diversity increases in the U.S., multi-language capabilities are a necessity. OSHA should review and make necessary improvements to this mechanism to ensure that all workers understand their right to raise concerns about potentially unsafe or unhealthful working conditions. Enhanced dialogue surrounding workplace issues is an opportunity for employers and employees alike to improve work environments.

AIHA supports the recent move to place the Whistleblower Protection Program under the direction of the Office of the Assistant Secretary of Labor for OSHA. This move provides a higher profile for the program.

10. OSHA SHOULD IMPROVE THE RELIABILITY AND EFFICIENCY OF THE OCCUPATIONAL INJURY AND ILLNESS DATA COLLECTION, INTERPRETATION, AND DISSEMINATION PROCESS.

Over the years, published reports have raised doubt about the reliability of the injury and illness data that OSHA collects and disseminates through its delegated authority to the Bureau of Labor Statistics (BLS). The collection and dissemination of reliable data on the incidence of occupational injuries and

illnesses is essential to establishing national goals for safety and health and for measuring progress toward achieving those goals. Reliable data are also critical for ensuring that investments in injury and illness prevention are effectively targeted to areas of greatest need and that improvements resulting from such investments can be measured through the collection of injury and illness data.

OSHA and NIOSH should work together to identify the inherent weaknesses and strengths associated with current methods of data collection and verification and offer a prioritized list of recommendations for improvement. One area of focus should be assessing the prevalence of and reasons for underreporting in general—the underreporting of occupational illnesses in particular.

To improve efficiency, NIOSH should evaluate the reporting process as it relates to OSHA recordkeeping. Strengths and gaps should be identified, and redundant steps and forms should be eliminated. In addition, NIOSH should identify software and data management technologies to make the reporting process more efficient by reducing or eliminating the need for manual handling and reporting of data. Similarly, AIHA supports a proposal by OSHA to implement electronic reporting of injury and illness data.

11. OSHA SHOULD REQUIRE AND FACILITATE EDUCATION, TRAINING, AND GUIDANCE OF EMPLOYERS AND EMPLOYEE GROUPS.

To continue to improve the well-being of American workers, one of OSHA's primary strategies should be to help employers meet their requirement to provide a safe and healthful workplace. For example, OSHA could offer assistance to employers by providing industry-specific instructions on inherent risks and required mitigation methods. OSHA could also encourage sharing of targeted training packages and control methods among employers that address their specific workplaces. It would also be helpful for OSHA to follow the example set by states such as Washington and organize training requirements and present standards in an uncomplicated and comprehensible manner that will make sense to employers and employees alike.

One means of efficiently achieving this goal would be for OSHA to promulgate a generic training standard that smoothly integrates the current overlapping and duplicate training specifications. AIHA believes that the OSHA Training Institute and NIOSH should work cooperatively with educational institutions, employers, employees, and public interest groups to design effective educational programs for the workplace and develop incentives that encourage employers to participate. These programs should emphasize the principles of occupational safety and health.

In addition, OSHA should foster the development of web-based resources that could be used in conjunction with on-site trainers for real-time training and

technology transfer by employers. These training resources should also be made available to employee groups, such as unions, for use in training their members. AIHA also believes that NIOSH should play a role in evaluating the effectiveness of training provided by the government, employers, and other groups.

12. THERE SHOULD CONTINUE TO BE A GENERAL DUTY CLAUSE TO ENFORCE EMPLOYER RESPONSIBILITY TO PROVIDE SAFE AND HEALTHFUL WORKING CONDITIONS.

Technological developments and work practices continually introduce new hazards into the workplace. New scientific findings frequently expand our knowledge of existing occupational hazards. The present regulatory scheme does not always permit OSHA to respond to new information about potential hazards and risks with the necessary guidance in a timely manner needed to protect worker safety and health. Industries and organizations have often demonstrated the ability to act much more quickly than OSHA and use the latest scientific findings about new occupational hazards to develop, adopt, and update consensus standards. While consensus standards bridge a critical need, their application may vary from one worksite to another.

The existing OSHA General Duty Clause requires each employer to "furnish each of his employees' employment and a place of employment which are free from recognized hazards that are causing or likely to cause death or serious physical harm." AIHA supports OSHA's ability to use the General Duty Clause to protect workers as well as the agency's ability to use consensus standards to enforce its intent when these standards are science-based and designed to protect workers from serious hazards. Given the potential variability inherent in the application of consensus standards, it is important that OSHA ensure consistency and transparency in interpretation and enforcement of consensus standards under the General Duty Clause across all regions and state plans.

13. OSHA SHOULD STRENGTHEN ITS SUPPORT AND PROMOTION OF LABOR, MANAGEMENT, AND GOVERNMENT PARTNERSHIPS AND ALLIANCES THAT VOLUNTARILY ACHIEVE EXCELLENCE IN OCCUPATIONAL SAFETY AND HEALTH.

OSHA has developed voluntary partnerships among labor, management, and government entities to strengthen occupational safety and health through programs such as the Voluntary Protection Program (VPP), the Safety and Health Achievement Recognition Program (SHARP), and the Strategic Partnership Program. For the most part, these efforts have been very successful.

AIHA encourages OSHA to continue these efforts, but recognizes that there are challenges with variations in these programs found at the state level. To

maximize resources and learning, OSHA should encourage consistency and the sharing of program successes among federal and state OSHA programs.

Active communication, reinforcement, and incentivizing of voluntary partnership benefits are critical to the success of these programs. OSHA should reevaluate its outreach efforts to ensure broad promotion and understanding of the benefits yielded by proactively managing worker safety and health initiatives among labor, management, and government.

OSHA should also consider alternative programs that ensure employer and employee commitment and accountability to worker safety and health through vehicles such as third-party assessment and accreditation of employers' safety and health programs. To protect the work force, it is essential to adopt and promote programs that certify assessors of workplace safety and health programs; expand OSHA's outreach capabilities; strengthen the consistency and quality of safety and health management systems to deliver desired outcomes; and enable a labor-management partnership.

14. OSHA SHOULD ENHANCE OPPORTUNITIES FOR EMPLOYEE PARTICIPATION.

Workers are key stakeholders in occupational safety and health regulations. They have an intimate knowledge of workplaces, and are valuable resources for improving performance on the job. These factors suggest that safety and health performance benefits from the active participation of the work force and, therefore, worker participation should be integrated into all phases of OSHA's activities and the safety and health programs of employers.

AIHA believes that safety and health committees and other leadership approaches operate well in many workplace environments and should be encouraged by OSHA. OSHA's mission should be to facilitate partnering among all workplace stakeholders.

15. OSHA SHOULD UPDATE THE PERMISSIBLE EXPOSURE LIMITS (PELs).

It is the position of AIHA that exposure limits such as OSHA's PELs are a primary tool in disease prevention and are an essential part of a comprehensive occupational safety and health program. OSHA should seek whatever resources, legislative changes, or administrative changes are needed to allow all existing PELs to be updated to current science and to set such new PELs as are necessary to protect worker health. In the meantime, OSHA should select chemicals for PEL establishment based on scientific principles and specific criteria developed with all stakeholders. PELs should be consistent across

occupational populations and should be accepted by other federal agencies when the goal is protecting occupational health.

OSHA should develop a peer-reviewed guideline for the process of establishing PELs. AIHA believes that PELs must be based on the best scientific information available and must include a well-documented critical evaluation of the supporting information. AIHA also believes that appropriate uncertainty factors must be applied to compensate for the inherent uncertainties in the existing data and extrapolation to human populations.

For compliance purposes, OSHA has defined PELs as values not to be exceeded. However, when designing exposure monitoring programs, employers must assign statistical interpretations to PELs. Therefore, OSHA should continue to provide guidance regarding suitable statistical interpretations so that the employers can design effective performance-based exposure monitoring programs that are consistent with OSHA's expectations. Employers have the responsibility to assess the risks to the safety and health of their workers and adequately control worker exposures to hazardous substances or agents for which there are no PELs. Employees must be fully consulted in the development of these risk assessments and informed of the results.

AIHA supports the recommendation from the Federal Advisory Committee on Occupational Safety and Health (FACOSH) for a presidential executive order that would update the PELs for federal employees and federal contractors working on a federal site. If such an executive order is issued, AIHA would support its expansion to provide recognition of these updated PELs for all public and private employees. In the absence of such executive order, AIHA supports congressional action to update the PELs.

16. OSHA AND NIOSH MUST BE EFFECTIVE PARTNERS IN THE DEVELOPMENT OF OCCUPATIONAL AND ENVIRONMENTAL HEALTH STANDARDS AND GUIDANCE.

AIHA believes that good science is an important foundation of any effective safety and health process, including the development of OSHA regulations. To support the development of OSHA regulations, NIOSH was charged with conducting the research necessary for the development of occupational safety and health standards and making science-based recommendations to OSHA as part of the standard-setting process. To ensure that regulations are based on sound science, the strategic thrusts and deliverables of these two agencies must be aligned in order to leverage the funding and resources granted both agencies.

AIHA supports the 2012 Government Accountability Office (GAO) report that urges OSHA and NIOSH to strengthen their working strategic partnership. Only

by working together can OSHA and NIOSH fulfill the intent envisioned by Congress in the language of the original OSH Act.

Specific recommendations include the following:

- NIOSH and OSHA must form a strategic alliance so that the OSHA regulatory agenda and the NIOSH research agenda are in alignment.

By focusing limited resources on the same issues, OSHA and NIOSH would better serve their mandates to protect the American worker. For example, update of the PELs is currently on the OSHA regulatory agenda. The NIOSH role should be reflected in its goals, and the two agencies should work together to ensure that the best science is brought forward in setting new exposure limits or exploring the suite of tools available to gauge an appropriate hazard band until a PEL can be defined.

- When significant changes in existing regulations are proposed by OSHA, NIOSH needs to be a partner in the process to ensure that the changes are based on sound scientific and engineering principles. For example, the OSHA-proposed redefinition of “feasible” in the Noise Standard must be based on science and engineering principles. This information needs to be provided by NIOSH.
- There needs to be a strategic alignment of resources between OSHA and NIOSH when the agencies work to address new workplace hazards. For example, one of OSHA’s top priorities is the development of an Illness and Injury Prevention Program (I2P2); yet there is no mention of any research on the National Occupational Research Agenda (NORA) website of investigations about the effective implementation of these management systems in the reduction of injuries and illnesses in the workplace.
- NIOSH needs funding to support Education and Research Centers (ERCs) and other academic programs to train safety and health professionals. OSHA needs to continue to fund employer-focused safety and health training. Ultimately, worker protection is the responsibility of employers. These employers must have trained safety and health professionals available to direct these programs. In addition, OSHA needs to continue to provide safety and health training focused on regulatory compliance and worker protection.
- To fulfill its role as the nation’s only resource for occupational safety and health research, it is vitally important that NIOSH remain a viable and effective organization supported by the broader federal regulatory scheme. However, the Centers for Disease Control (CDC), which addresses challenges to America’s overall health and well-being, may not be in the best position to champion NIOSH’s largely separate and distinct mission of supporting protections for Americans at work. AIHA recommends a

government study to determine the pros and cons as to whether NIOSH should remain within the organizational structure of the CDC and, if not, where NIOSH should be moved.

In summary, OSHA was charged by Congress to promulgate standards based on the best scientific evidence. NIOSH was established to develop the scientific basis for the standard-setting process. OSHA and NIOSH need to ensure a working strategic partnership so that the agencies' efforts are focused and more robust, especially in these times of limited resources.

17. OSHA AND NIOSH SHOULD RECEIVE ADEQUATE RESOURCES TO OPERATE EFFECTIVELY.

In order for OSHA and NIOSH to effectively carry out their responsibilities, adequate resources must be provided. AIHA supports increasing OSHA's resources and capabilities to adequately identify and enforce the nation's safety and health standards.

AIHA acknowledges that employers are responsible for providing safe and healthful workplaces for their employees and that OSHA's role is to ensure these conditions exist for America's working men and women by setting and enforcing standards and providing training, education, and assistance. AIHA believes that uniform, understandable national standards are necessary to establish minimum safety and health requirements with which employers should comply to prevent on-the-job injury and illness. However, major challenges exist in the current approach to enforcement, standard setting, and protection of worker safety and health.

With its state partners, OSHA currently has about 2,200 inspectors to monitor more than 8 million workplaces and 130 million workers. This means that there is only about one compliance officer for every 59,000 workers. These compliance officers are based in 10 regional and 90 local area offices. Only about one percent of U.S. workplaces were inspected in 2011.

In addition to enforcement activities, OSHA also provides outreach activities. In fiscal year 2011, more than 200,000 individuals contacted OSHA by phone or e-mail. OSHA's On-site Consultation Program conducted nearly 30,000 visits to small business work sites. OSHA also approved 101 new VPP sites and reapproved 291 sites. These outreach activities are an important element of employer accountability for a safe and healthful workplace.

The budget for OSHA is approximately seven percent of the budget for EPA; both were created in 1970. The budget for NIOSH is about half of the budget for OSHA. Both OSHA and NIOSH are constantly threatened with budget cuts, and as Congress begins addressing the U.S. deficit, budgets will likely get tighter.

During budget debates, it is important that the budgets for the nation's occupational safety and health agencies are sufficient to carry out their missions of protecting U.S. workers.

About the American Industrial Hygiene Association

AIHA boasts a membership of 10,000 with both national and international representation and a range of professional skill sets spanning academia, government, industry, labor, research, consulting, and nonprofits.

AIHA's mission is creating knowledge to protect worker health. Its science and practice encompasses occupational and environmental health with a focus on improving the health and well-being of workers, the community, and the environment. Its strength as a front-line scientific membership organization resides in its ability to develop the knowledge and tools necessary for employers, workers and OESH professionals to effectively anticipate, recognize, evaluate, and control occupational and environmental health hazards.

For additional information, visit the AIHA website at www.aiha.org.

Approved by the AIHA Board of Directors
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