



Date submitted to transition: 12/20/08

Stakeholder organization: Change to Win

DOL Agency: OSHA

Purpose of meeting: discuss health and safety issues involving OSHA

Date of meeting: 12/4/08

Policy paper submitted: yes (saved as)

Participants in meeting:

Transition: Emily Spieler

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Summary of document: One page document. Key points:

- OSHA needs a new information structure to identify systematic patterns of violations and to increase enforcement of recordkeeping requirements;
- Enforcement by both OSHA and SOL needs to be increased and should include: greater labor union participation; elimination of unclassified violations; targeting of enforcement to smaller employers in high risk industries; increase of staff for criminal investigations; assurance that multi-employer groups at inspected job sites are held accountable in both general industry and construction.
- Protect workers from retaliation and increase education and training.
- Remove barriers to new standards: issue standards in the pipeline, respond to immediate hazards, fashion a new approach to standard adoption.
- Other key partner agencies also need attention: MSHA, NIOSH, Chemical Safety & Hazard Investigation Board, OSHRC, EPA.

**Additional notes from meeting (includes post-meeting communication notes):**

- Settlements: There is a lot of concern regarding the current settlement policies and practices regarding OSHA citations. In particular, the unions would like veto power over settlements or, at a minimum, involvement in the settlement discussions. Right now, settlements are presented to the unions on a take-it-or-leave-it basis. They would like a higher level of review when unions object to a settlement, above the regional solicitor.
- Retaliation protection for workers is inadequate. In addition to strengthening 11(c) through legislation, CTW proposes that 11(c) findings should be linked to penalty decisions, and retaliation by employers against those who request inspections should convert the citation to a willful citation.
- With regard to recordkeeping, “safety bingo” should be a violation of the recordkeeping rule.
- The MOU between the NLRB and OSHA involving 11(c) and 8(a)(3) complaints needs to be rewritten so that the NLRB does not discuss cases that involve health and safety related retaliation.
- With regard to enforcement:
 - there is a lack of communication and coordination among the regional offices. OSHA needs to look at national companies as national companies.
 - Corporate-wide enforcement needs to be implemented. OSHA should be looking for more patterns. Together, development of a new information infrastructure and corporate-wide enforcement would enable a new approach. If a serious or willful violation is found, there should be a requirement that the hazard be addressed on a company-wide basis: OSHA should leverage the company’s own internal safety structure.
 - Multi-employer problem: OSHA needs a creative and intelligent strategy. This is no longer an issue limited to construction industry.
 - More focus is also needed on the construction industry.
 - OSHA should engage in information gathering: All companies with more than 500 employees should be required to report OSHA log and compliance history. This information should be available to compliance officers.
- Solicitor: The limitation of resources leads to “wanting cases to go away.”
- Budget: There needs to be a reallocation away from voluntary programs. There should be five year training grants; reallocation toward standards & enforcement.
- VPP: Require union participation where there is a union.
- SEIU representative brought up the following issue in a post-meeting email: As a result of passage of the federal Needlestick Safety and Prevention Act of 2000, employers are required to track needlestick and sharps exposures by maintaining a Sharps Injury Log. This log provides very useful information on the brand and model of sharps devices that are causing the most exposures/injuries so that other potentially safer products can be evaluated/piloted. Under the Access to Employee Exposure and Medical Records Standard (1910.1020) this should give us access to the Sharps log (minus employee names).



Needlesticks are clearly exposures and sharps logs are records of those exposures. However OSHA and the solicitors have determined that they are not willing to challenge employers for our right to access to these Sharps logs. The union has asked OSHA to hold off on issuing a letter of interpretation so as not to codify this faulty determination on this website, and so far they have apparently complied. The new Administration can make an affirmative statement that sharps logs fit under the definition of an exposure record under 1910.1020.