



AMERICAN SOCIETY OF
SAFETY PROFESSIONALS

A Blueprint for Occupational Safety and Health Reform

Spring 2021

Introduction

As our nation reels from the COVID-19 pandemic, it has become more important than ever to provide a safe workplace for all Americans. This pandemic has put a spotlight on the long-standing challenges to occupational safety and health in this country. New approaches and policies will be required to adapt to this new environment. The American Society of Safety Professionals (ASSP) believes that this moment presents a unique opportunity to create a new and improved American workplace, safer and healthier than ever before. Accordingly, the Occupational Safety and Health Administration (OSHA), should take advantage of this time to reduce injuries, illnesses, and fatalities by embracing innovation and collaboration.

ASSP is the oldest society of safety professionals in the world. Founded in 1911, we represent more than 38,000 professionals advancing workplace safety and health in every industry, in every state, and around the globe. ASSP members have set the OSH community's standards for excellence, ethics and practice for more than 100 years.

Our members have worked within and beyond the regulatory framework of OSHA since its creation in 1970. Since then, OSHA's approach has yielded significant reductions in occupational injuries, illnesses and fatalities, but these rate reductions have flattened and even begun to increase in recent years. [More than 5,000 occupational fatalities occurred in 2019](#), a two percent increase from the previous year. On average, more than 100 people die at work each week—or about 15 deaths every day. About 20% (1,061) of worker fatalities in private industry in 2019 were in construction – accounting for one in five worker deaths for the year.

The current regulatory approach toward safety and health in the workplace needs significant reform to meet today's needs. ASSP has developed a blueprint of data-driven and experienced-tested recommendations, vetted by safety professionals across many industries and occupational perspectives.

To begin we recommend a much-needed shift in approach that focuses primarily on compliance to also one that involves managing risk, bringing American OSH practices in line with global trends. We then offer four recommendations to leverage OSHA's limited resources for maximum impact, followed by two areas in which OSHA coverage must be expanded. We also suggest two ways to strengthen collaboration between OSHA and NIOSH (National Institute for Occupational Safety and Health) and suggest three ways OSHA could clarify its focus.

Manage Risk

Adopt a risk-based approach and require safety and health programs

Moving from a compliance model to an integrated risk-based approach is the single most impactful policy shift OSHA could make. A risk-based approach takes a systemic view of an organization, proactively identifying, assessing, mitigating, and communicating risk levels (with both strengths and opportunities). This approach requires safety leadership and constant vigilance in targeting and eliminating workplace hazards. Risk-based approaches have been refined and widely adopted all over the world (many originating in Europe, South Korea, Australia, New Zealand, etc.) and widespread, long-term use and member experience indicate they are more impactful than simple compliance with local and federal laws in reducing injuries, illnesses, and fatalities.



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One impactful way to move employers toward a risk-based approach would be to require all employers to implement a safety and health program (SHP). SHPs are management systems that focus on core elements of management leadership, worker participation, hazard identification and assessment, hazard prevention and control, education and training, and program evaluation and improvement. This comprehensive approach to hazard assessment and control directs organizations to “find and fix” hazards, thus minimizing the need for overly prescriptive regulations that tie up OSHA’s resources. SHPs create methods that work on identifying and remedying a large range of safety challenges that improve overall safety performance and improve worker protections.

In a 2012 white paper, OSHA described SHPs as “an effective, flexible, common sense tool . . . that can dramatically reduce the number and severity of workplace injuries and illnesses.” Research demonstrates that such programs help lower incident rates, strengthen employee engagement and improve workplace processes. OSHA’s has estimated the implementation of SHPs will reduce injuries by 15% to 35% for employers who do not currently have such programs. SHPs help an organization manage the full risk picture by employing systems-level thinking, thereby avoiding the after-the-fact perspective that occurs when focusing only on injury and illness rates. Our members report that in addition to directly protecting workers, SHPs can reduce losses and make U.S. businesses more competitive.

ASSP acknowledges that incorporating a risk-based approach presents regulatory and statutory complexity. However, we recommend that OSHA proactively work to adopt risk management principles and require SHPs. OSH professionals and best-performing organizations have long used these approaches to improve outcomes. ASSP strongly advocates for OSHA to move toward a risk-based approach, expanding on its [Guidelines for Safety and Health Programs](#) and requiring all employers to implement an SHP.

Tackle injury and illness recordkeeping

OSHA’s recordkeeping rule has long been the subject of debate in the OSH profession. The rule’s emphasis on data collected after injuries and fatalities occur incentivizes employers to focus energies only on these so-called lagging indicators. In practice, this focus can consume limited safety resources, and divert management’s attention from assessing and eliminating risks that endanger workers.

ASSP advocates a comprehensive risk-based approach that measures leading as well as lagging indicators. Leading indicators provide critical information about an organization’s true commitment to safety and health, at times acting as a better gauge of a system’s vulnerabilities or effectiveness than lagging indicators.

Publishing limited lagging information misleads the public about an employer’s true commitment to worker safety and health. Even worse, the misguided emphasis on lagging indicators encourages the public to view the absence of adverse injury and illness data as indicative of a highly functioning safe and healthy workplace when in fact the employer could be improperly classifying injuries and illnesses (intentionally or unintentionally) or simply lucky.

OSHA’s focus on lagging injury and illness data has at times created a stumbling block to systemic safety program improvements by actively discouraging employers from embracing a holistic risk-based approach. ASSP members desire a balanced set of performance metrics that are intuitive, efficient and provide data to aid safety professionals in assessing and mitigating workplace risks.

ASSP recommends that OSHA develop guidance on leading indicators and overhaul the current recordkeeping system to use both leading and lagging indicators as indicators of the effectiveness of a business’ safety and health management system.





Leverage Existing Resources

As budgets continue to contract and in the face of major regulatory reform, OSHA must explore creative ways to leverage existing resources for maximum impact. This means 1) focusing resources on finding solutions to the primary causes of workplace fatalities, and 2) taking advantage of existing initiatives and expertise in the OSH sector. Expanding options for employers to improve their safety programs and harnessing the knowledge of the safety community to improve rulemaking are innovative ways to stretch resources while also engaging the expertise of the professionals charged with protecting and improving worker well-being every day.

Focus efforts on finding solutions to the primary causes of workplace fatalities

Most workplace deaths are associated with a handful of well-known incident categories: transportation-related incidents, falls/slips/trips/, contact with objects/equipment, and workplace violence. We commend OSHA for recent efforts such as the National Safety Stand Down to Prevent Falls in Construction to draw more attention to these causes and encourage an expanded focus on these familiar tragedies.

ASSP recommends a new national emphasis program (NEP) or set of NEPs be launched to address the leading causes of fatalities in these categories. The most egregious of these is transportation-related incidents, which in 2019 alone accounted for nearly 40% of workplace fatalities. The frequency of transportation incidents obscures how preventable they are. Even with limited jurisdiction for motor vehicle and highway safety, we believe OSHA can collaborate with federal agencies such as NHTSA as well as its Alliance partners to help make progress and save more lives.

Expand third-party auditing

Based on recent staffing levels and funding, the average employer can expect an OSHA inspection once every 140 years. For the small- and medium-sized businesses where most American workers are employed, this represents a lost opportunity for workplace safety and health assessments.

These audits and consultation assistance could be performed by qualified safety professionals operating under rules and procedures established by OSHA yet would be able to provide injury and illness prevention recommendations beyond the narrow and at times outdated scope of OSHA regulations. Auditors could perform inspections and provide employers with findings, recommended solutions and implementation timetables. Whereas OSHA inspections focus primarily on violations of established standards, a third-party auditing system could provide guidance to help employers explore abatement options. Such a system could leverage OSHA's limited consultation assistance resources into a much larger presence while also providing employers with more education and options for compliance and continuous improvement.

ASSP applauds OSHA's On-site Consultation Program as a foundation for third-party auditing. The program allows businesses to request a free, confidential on-site consultation from an OSH professional that does not result in penalties or citations. This program has found success in providing employers with a means to receive on-site safety recommendations outside of enforcement that focus on the safety of their workers. We encourage OSHA to investigate ways to expand this program.

Expand options for employers in settlement agreements

When settling citations and litigation with employers, OSHA will occasionally award credit against the citation fee to employers who commit to working with qualified third-party safety and health professionals. Unlike a stand-





alone monetary penalty, this option increases the likelihood of positive and long-lasting change to an organization's safety culture.

ASSP recommends OSHA formalize a policy to provide this option to employers in settlement agreements, informal conferences and notices of contest. In addition, OSHA could adopt a more robust and deliberate policy of directing the cited company's penalty fees back into safety and health improvements.

Embrace expanded use of consensus standards and negotiated rulemaking

The OSH Act specifies the process by which OSHA promulgates safety and health standards. Unfortunately, the process is arcane and unwieldy, which results in standards that consistently lag behind technological and material changes in the workplace. An expanded use of consensus standards and negotiated rulemaking could help the agency maintain up-to-date standards without exhausting resources.

National voluntary consensus standards represent the most current information available, incorporate the latest industry best practices and reflect the expertise of management, labor and safety professionals from all levels in public and private sectors. This balanced insight produces standards crafted to benefit and protect employees while accounting for management concerns. Consensus standards offer fewer procedural burdens, represent a significant cost savings to OSHA and are naturally equitable toward balancing competing interests. Several organizations outside OSHA produce quality safety and health standards, including the American National Standards Institute (ANSI), ASSP as an ANSI accredited standards-developing organization, the National Fire Protection Association (NFPA), the International Organization for Standardization (ISO) and Underwriters Laboratory (UL).

Negotiated rulemaking is an option provided by the OSH Act. In essence, negotiated rulemaking takes place when OSHA establishes a group of stakeholders most familiar with a given topic and tasks the group with developing an enforceable standard. This method produces high-quality standards that are more readily enforced and understood by employers. From an OSHA resources perspective, negotiated rulemaking is a faster process than traditional rulemaking, and the extensive stakeholder involvement can help reduce the legal challenges often filed in response to new rules. Negotiated rulemaking has been selectively used, and its expansion is a promising route to maintaining current standards and regulating emerging hazards. As an example, NACOSH recently had success using a form of negotiated rulemaking with the emergency response community to develop recommendations to OSHA for a standard.

ASSP urges OSHA to increase broader use of voluntary consensus standards and negotiated rulemaking as an efficient alternative to traditional OSH rulemaking.

Address Coverage Gaps

Due to the unprecedented occupational safety challenges facing employers today, OSHA coverage must be expanded in several key areas. In particular, two critical and long overdue initiatives are providing OSHA coverage for public workers and better management of chemical, biological and physical hazards.

Provide coverage for all public workers

Most states under federal OSHA jurisdiction do not offer OSH coverage to public sector workers. Currently, 8.5 million public sector employees have no OSHA coverage. These employees keep our various state and local municipalities functioning on a daily basis, yet they do not receive the same workplace safety and health protections that the private sector or federal employees receive.





These employees are as deserving of the benefits of OSHA protections as their private industry or federal counterparts. ASSP recommends that the OSH Act be amended to expand coverage to these state and local government workers.

Adjust outdated permissible exposure limits

Since OSHA permissible exposure limits (PELs) were established in the early 1970s, thousands of new chemicals and materials have been introduced into the workplace. While there are approximately 85,000 chemicals in commercial use, enforceable PELs exist for approximately 500 substances and agents, and most of those were developed based on scientific data from the 1950s and 1960s.

As the use of chemicals has expanded, so has the OSH community's understanding of chemical characteristics and their associated health effects and physical hazards. With the current rulemaking process, it is impossible for OSHA to develop individual standards for each substance and agent. The control of chemical, biological and physical hazards in the workplace is especially acute for small- and medium-sized employers.

Using the technique of occupational exposure banding (or hazard banding), stakeholders can assess exposures and risks across broad chemical and physical hazard categories and establish predetermined hazard control strategies (or bands) based on the assessed risk. This systematic technique also provides a way to characterize chemical hazards so that employers can make risk management decisions and implement cost-effective control measures, thus minimizing the impact of possible catastrophic risks common in chemical industries.

In 2019, NIOSH published an [occupational exposure banding process for chemical risk management](#). ASSP urges OSHA to partner with NIOSH to commence a full review and collection of the available data to demonstrate the feasibility using this innovative technique in the future regulation of chemical and physical workplace hazards.

Occupational hazard banding has been adopted by progressive European countries and global pharmaceutical companies and has been demonstrated to control workplace exposures, particularly in large companies. However, the control of chemical and physical hazards in the workplace is especially acute for small- and medium-sized employers and it is clear that additional compliance assistance and expertise in chemical control strategies and the implementation of best practices is necessary to protect workers in those enterprises. Although this application seems to fit best in large to medium-sized companies, we believe that this could be simplified to provide direct assistance to smaller employers as well.

Increase Collaboration

Created jointly by the OSH Act, OSHA and NIOSH are meant to work in tandem to protect worker safety and health. We suggest two ways to reimagine OSHA-NIOSH collaboration, deepening ties between the agencies and breaking ground on emerging trends.

Increase collaboration with NIOSH for improved OSHA guidance

According to the OSH Act, the Secretary of Labor and the Secretary of Health and Human Services should regularly consult on research, to “[enable] the Secretary [of Labor] to meet his responsibility for the formulation of safety and health standards under this Act.” NIOSH was established to identify and execute this research, as well as explore ways to bring it to practice.

Both these critical processes – rulemaking and research – are intensive, collaborative and meticulous, and by necessity assume a great investment of time and financing to complete. With respect for each agency's discrete





roles, timeframes and attention to detail, we submit that strengthened collaboration between OSHA's rulemaking guidance and NIOSH's research could be stronger, more efficient and better aligned.

This collaboration could take the form of increased communications between the secretaries and agency heads. OSHA could provide more input to NIOSH through proposals to their extramural programs, as well as using more informal internal channels. OSHA could request that the National Advisory Council for Occupational Safety and Health and the NIOSH Board of Scientific Counselors examine this issue and provide recommendations for better cooperation between the two agencies.

NIOSH consistently produces careful, well-reasoned science, but a disconnect often exists between the theory of research and the operational reality of the workplace. In recent years, NIOSH has attempted to address this gap with its Research to Practice initiative. We believe increased collaboration with OSHA could bridge this gap further. OSHA's rulemaking should be informed by evidence-based, research-driven data. NIOSH can produce that data if its research agenda and funding more intentionally focus on the critical problems employers face in protecting workers.

Promote Total Worker Health efforts

The Total Worker Health® (TWH) approach advocates for a holistic understanding of the factors that contribute to worker well-being. Although employees enter the workforce in highly variable states of personal health and well-being, the application of TWH helps ensure they are as healthy as possible as they participate in the workplace, making them less prone to injuries and illnesses from workplace risks. Of particular importance is the linking of the mental health state of workers and industrial incidents. Great effort has been expended in dealing with chemical, physical, and biological hazards in the workplace, but very little has been done to acknowledge and manage the mental readiness of workers to remain cognizant of the hazards they are faced with when performing the tasks associated with their jobs. Indeed, many analyses have erroneously concluded that the incident was caused by an improper physical failure, when the true root cause was employee inattention caused by a weakened mental state. We must do more in this area, and collaboration between OSHA, NIOSH, and professional organizations such as ASSP is needed to find sustained solutions to this critical problem.

While health has always been a part of the conversation about safety, TWH heightens the clarity surrounding the deep connection between health and safety. Likewise, it has become increasingly apparent that there is little to no distinction between a person's safety and health at work versus a person's safety and health outside of work. The separation between the workplace continues to be blurred, as evidenced by our experience with COVID-19, and we must not only acknowledge this fundamental shift but also to manage it to the benefit of all workers and their families.

TWH begins with this transparent assessment and provides a more realistic framework for employers and employees to build a safety and health process that considers overall worker well-being as a key outcome of an integrated approach to OSH. ASSP recommends that OSHA collaborate with other federal agencies to seek innovative ways to incorporate TWH principles into its efforts to advance workplace safety for all employers, regardless of size.

Increase opportunities for positive recognition

In previous administrations, OSHA relied heavily on a name-and-shame model of enforcement. On average, nearly 40 press releases were published each month, announcing fines and enforcement actions against companies. Often, these notices were based on allegations of violations and were published before companies were afforded a hearing.





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ASSP believes a better way to encourage strong OSH programs would be to showcase exemplary companies as an element of OSHA Cooperative Programs. We believe OSHA should initiate a national recognition program, providing positive publicity for employers who exceed compliance by instituting creative and progressive safety and health management systems. This program would provide incentive for employers that participate in the Voluntary Protection Programs (VPP), Safety and Health Achievement Recognition Program (SHARP) and Service, Transmission, Exploration and Production Safety (STEPS) to continue strengthening their programs. Such a program would also provide an opportunity to recognize the many companies with extraordinary safety programs that do not fit into the VPP/SHARP/STEPS mold. This program would encourage innovation and position OSHA as a strong advocate for cutting-edge safety and health management systems.

Focus on safety and health

This recommendation ought to be the simplest of all. OSHA's mission is to ensure employers provide workers workplaces free of recognized hazards. The powers given to OSHA are in the service of providing workers with a safe and healthful workplace. OSHA's limited resources should be laser focused on occupational safety and health. Ensuring OSHA has a clear focus is both pro-worker and pro-business.

Conclusion

If enacted, we believe these suggestions will clear the path for a return to American preeminence in occupational safety and health and increase America's competitiveness. ASSP has been on the frontlines of worker safety and health for more than 100 years. We will continue our advocacy through this administration and into the future.

We invite you to view this document as the beginning of a conversation and as an introduction to our 38,000+ members and they work they do each day to protect workers across the U.S. These suggestions are data-driven and experience-tested by safety and health professionals whose only collective allegiance is to the professional practice of occupational safety and health and the reduction of injuries and illnesses in the workplace. We want an OSHA that works well for all involved, one that is transformative rather than transactional, nimble rather than rigid, cooperative rather than partisan.

We welcome your engagement and dialogue and encourage you to view ASSP as a significant resource for these and any other safety and health issues. The change in administration represents an opportunity – for growth, for clarification and for better, more practical, safety and health outcomes for all American workers.

