

Occupational Safety and Health Administration, Mine Safety and Health Administration, National Institute for Occupational Safety and Health

This memo outlines key ways in which the Occupational Safety and Health Administration (OSHA) and Mine Safety and Health Administration (MSHA), under the Department of Labor, and the National Institute for Occupational Safety and Health (NIOSH), at the Centers for Disease Control and Prevention (CDC), can establish and restore the principles of scientific integrity, as well as repair and rebuild their scientific capacity, during the next presidential term. Specific priorities and steps the agencies can take to effectively act on these issues in 2021 are identified.

In order for the federal government's occupational health agencies to succeed in protecting workers' health and lives while helping the nation's industries establish safe and sustainable modes of production, they must be able to collect and use evidence effectively. For decades, however, insufficient resources and numerous roadblocks have prevented these agencies from fulfilling their potential—and resulted in thousands of workers suffering from preventable injuries and diseases, many of them fatal.

The COVID-19 pandemic demonstrates how years of underinvestment and practices favoring special interests have left OSHA poorly prepared to protect workers' health and industries' ability to function during an occupational health crisis. The agency had been working on an airborne infectious disease standard that could have protected health-care workers and other essential workers, but it was shelved in 2017. When the pandemic struck, OSHA could have issued an emergency temporary standard to protect workers from infectious diseases such as COVID-19, but it opted not to—leaving the nation with no federal requirement that employers implement safety measures to protect their workers.

Out of 3,990 COVID-19-related complaints that OSHA had received as of May 18, 2020, the agency had **opened only 310 coronavirus-related inspections**. Since COVID-19 was declared a national emergency, the number of daily inspections conducted or overseen by OSHA has fallen **from an average of 219 per day to just 73 per day**. Moreover, the agency currently has the lowest number of inspectors in its history, and **in fiscal year 2018 conducted the lowest number of health hazard-related inspections in 20 years**. Workers and their families—**especially Black, Hispanic, and immigrant families**—are bearing the brunt of the harmful impacts, losing the health that allows them to participate fully in their communities as well as years of life. Preventing occupational injuries and illnesses could **save billions of dollars** in costs that today are largely borne by workers' families and public programs, and could help our nation's economy to recover.

OSHA, MSHA, and NIOSH function effectively when they collect comprehensive, high-quality data and use it to drive prevention efforts, regulation, and enforcement. However, decades of inadequate budgets and a **growing set of hurdles** erected at the behest of special interests that oppose regulation reflexively have inhibited these agencies' ability to protect the lives and health of workers. By committing to collecting and effectively using comprehensive, high-quality evidence to drive their activities, these agencies can help ensure that workers go home safe and healthy at the end of the day, and that we are better prepared for the next pandemic.

Top Priorities

- **Use evidence to drive regulation of major hazards and improve preparedness.** OSHA and MSHA should promulgate rules that evidence indicates will have substantial impact on worker health and safety, including protections against infectious diseases such as COVID-19. Both agencies should make better use of NIOSH's expertise on mine safety, chemical hazards, infectious diseases, and occupational health surveillance.
- **Collect more comprehensive, high-quality data to guide OSHA prevention and enforcement activities, and make data accessible to the public.** With comprehensive, high-quality data, OSHA can identify sectors, tasks, and hazards where initiatives, guidance, rules, or enforcement actions can better safeguard workers' lives and health. Making data accessible to the public can allow researchers to identify patterns while letting workers and employers recognize trends in their industries. NIOSH can issue specific guidance for data collection and surveillance programs for workplace injuries and illnesses, including infectious diseases, and for workplace exposures and hazards.
- **Ensure appropriate disclosure and analysis of information that informs rulemaking.** Industry groups have a *long history* of funding studies designed from the outset to exonerate the potentially hazardous materials that they manufacture, use, incorporate into products, and/or release as waste. Addressing these problems requires both improved disclosure and stronger support for high-quality research that is not influenced by industries whose products or releases are under investigation.
- **Better use agency expertise to prepare for the next infectious disease crisis.** NIOSH should establish an occupational infection control research program focusing primarily on worker safety to complement the work of the traditional infection control profession, which focuses primarily on patient safety. NIOSH should develop recommendations to ensure better preparedness for future infectious disease pandemics and other crises, and future federal crisis task forces should include NIOSH and OSHA experts to ensure that workplace issues are visible and appropriately addressed.

Key Appointment Positions

Department of Labor

- Solicitor of Labor

OSHA

- Assistant Secretary of Labor for Occupational Safety and Health
- Chief of Staff
- Deputy Assistant Secretary

MSHA

- Assistant Secretary of Labor for Mine Safety and Health
- Chief of Staff
- Deputy Assistant Secretary

NIOSH

- Director

Day-One Actions

- **OSHA:** Issue an emergency temporary standard on COVID-19 and other infectious diseases. *(See Priority 1 below for more detail.)*
- **NIOSH:** Issue a statement that any face covering not certified as a respirator by NIOSH (or the Food and Drug Administration) does not constitute adequate respiratory protection for workers exposed to airborne infectious agents and other respiratory hazards. *(Priority 1)*

Actions for the First 30 Days

- **OSHA:** Begin work on a permanent infectious disease standard whose starting point is the California Division of Occupational Safety and Health's (Cal/OSHA) Aerosol Transmissible Disease Standard and that covers transmission via skin and mucous membranes as well. *(Priority 1)*
- **OSHA:** Issue an emergency temporary standard on heat hazards and begin work on a permanent standard. *(Priority 1)*

- **OSHA:** Begin rulemaking to restore to employer injury and illness logs the checkoff column for employers to indicate whether injuries were musculoskeletal disorders. *(Priority 2)*
- **OSHA:** Begin rulemaking to restore the 2016 rule requiring employers to electronically transmit to OSHA injury and illness data they already collect, and use these data to create a publicly available injury data set. *(Priority 2)*
- **OSHA and MSHA:** Meet with the solicitor of labor for advice on how much financial disclosure can be required of commenters without violating the Administrative Procedure Act, and identify steps Congress should take to require such disclosures. *(Priority 3)*
- **Department of Labor:** Assign a team to strengthen scientific integrity policies. *(Priority 3)*
- **NIOSH:** Identify for the CDC scientific integrity officer changes that would strengthen the agency's scientific integrity policy. *(Priority 3)*
- **OSHA:** Propose legislation amending Section 11(c) of the Occupational Safety and Health (OSH) Act of 1970 to provide stronger protections for whistleblowers. *(Priority 2)*
- **OSHA:** Establish a work environment justice task force to address data collection, rulemaking, and compliance needs to eliminate inequities in all industrial sectors. *(Priority 2)*
- **OSHA:** Develop a secretarial-level plan to ensure OSHA is taking appropriate steps to identify and address racial and ethnic disparities. *(Priority 2)*
- **NIOSH:** Assign staff to develop a comprehensive surveillance program to collect data on workplace exposures and hazards. *(Priority 2)*
- **NIOSH and OSHA:** Create a working group to evaluate health and safety trainings and methods for improving employer behavior. *(Priority 2)*
- **NIOSH and OSHA:** Create a working group to advance NIOSH's role in providing evidence to support OSHA standards. *(Priority 3)*

Actions for the First 100 Days

- **OSHA:** Begin regulatory work to address chemical hazards and musculoskeletal disorders. *(Priority 1)*
- **OSHA:** Create a working group with the Environmental Protection Agency (EPA) and NIOSH to establish a truly protective regime for workers against chemical hazards and schedule the first meeting. *(Priority 1)*
- **MSHA:** Develop a process for identifying relevant NIOSH research and engaging in rulemaking based on it. *(Priority 1)*
- **OSHA:** Develop and begin implementing a plan to fill all open positions for scientific staff responsible for regulatory development, inspector positions, and the managerial and administrative positions needed to support them. *(Priority 2)*
- **OSHA:** Assign staff to use MSHA as a model for improving public availability of data on inspections, citation status, and sampling. *(Priority 2)*
- **OSHA:** Develop and begin implementing a plan to complete the modernization of OSHA's website. *(Priority 2)*
- **OSHA:** Support legislation codifying OSHA's ability to issue citations for recordkeeping violations based on employer records for the past five-and-a-half years. *(Priority 2)*

- **NIOSH and OSHA:** Assign a project team to explore regulating chemicals by class. *(Priority 3)*
- **NIOSH:** Begin a process to develop recommendations for employers to apply the hierarchy of controls in advance of the next pandemic so that less personal protective equipment (PPE) is needed. *(Priority 4)*
- **NIOSH:** Create a process to assess the PPE needs of all workers and all hazards for the Strategic National Stockpile for future pandemics. *(Priority 4)*

Priority 1: Use Evidence to Drive Regulation of Major Hazards and Improve Preparedness

OSHA and MSHA should use evidence from a range of sources, particularly NIOSH research and input from workers and the organizations that represent them, to identify and regulate hazards that pose risks to workers' health and lives. However, procedural barriers and delays prevent OSHA and MSHA from doing so as quickly as they should. These are particularly severe in OSHA's case. According to the Government Accountability Office, the additional procedural requirements established since 1980 by Congress, court decisions, and various executive orders have resulted in **a more**

protracted rulemaking process that can result in insufficient protections for workers. Evidence of certain hazards is so overwhelming that it demands a regulatory response. Priority hazards for OSHA include the following:

- **Infectious diseases.** Given the urgency of the COVID-19 pandemic—which is unlikely to be resolved by January 2021—OSHA should immediately issue an emergency temporary standard (ETS) to protect against airborne infectious diseases such as COVID-19. Morbidity and mortality in *health care*, *transportation*, farming and *food processing* (including *meat* and *poultry* packinghouses), *retail*, and other workplaces make it abundantly clear that OSHA should have already issued such a standard. The content of an ETS is readily available in the *AFL-CIO’s petition to OSHA* and *Virginia’s recently issued emergency temporary standard*. OSHA should begin work immediately on a permanent infectious disease standard whose starting point should be Cal/OSHA’s Aerosol Transmissible Disease Standard, and it should cover transmission via skin (to protect workers against pathogens such as MRSA) and mucous membranes as well.
- **Chemical hazards.** Regulation of chemical hazards by OSHA has not functioned properly since the creation of the agency in the 1970s. According to the inventory of the Toxic Substances Control Act (TSCA), there are more than 40,000 chemicals actively in commerce in the United States. Since its foundation, OSHA has succeeded in updating or issuing new standards for only 29 of them and, *by its own admission, those regulations are inadequate*. In 2016, Congress passed the Frank R. Lautenberg Chemical Safety for the 21st Century Act. That act amended TSCA and specifically instructed EPA that workers are a highly exposed population to be protected by EPA through regulations issued under TSCA. Since 2017, *EPA has acted in numerous ways to avoid carrying out the law*. Among these ways is the *systematic sabotage of worker protection*. OSHA should work cooperatively with EPA and NIOSH to establish a truly protective regime for workers against chemical hazards. Work could begin with chemicals on the TSCA priority list.
- **Ergonomic hazards.** In 2001, despite *enormous evidence* that musculoskeletal disorders (MSDs) are caused by workplace exposure to high forces, awkward postures, and repetitive motions, Congress used the Congressional Review Act (CRA) to repeal the newly promulgated ergonomics standard. Since that time,

there have been more than a million work-related MSDs each year. OSHA should work with the solicitor of labor on a strategy to regulate MSDs without violating the CRA. One possibility for this would be industry-specific rulemakings.

- **Heat and other hazards related to the climate crisis.** As the pace of global climate disruption accelerates, many jobs have become more hazardous. OSHA should immediately issue an ETS to protect workers from heat and begin work on a permanent standard, similar to the Cal/OSHA standard. The climate crisis will also expose workers to more severe impacts of extreme weather events and necessitate that US production shift to new materials and technologies. OSHA and NIOSH should address the full range of worsening hazards and examine the health and safety risks of new materials and technologies as they are being developed, rather than waiting until they are widely used, to discover which ones are safe and which ones harm workers.

Although rulemaking is not as severely hampered at MSHA as at OSHA, the agency has nonetheless acted too slowly in ways that have cost miners’ lives. NIOSH produces important research on mine safety and health topics, but MSHA has been too slow to regulate based on it. For instance, NIOSH researchers had recommended *explosibility meters* that could have identified insufficiently protective rock dusting at Upper Big Branch before the devastating explosion there. More recently, MSHA has failed to act on *NIOSH research* indicating that the calculations MSHA uses to detect silica in coal mine dust samples are understating silica amounts. MSHA should develop a robust process to ensure it is aware of relevant NIOSH research and engages in timely rulemaking based on it.

Administrative Actions

OSHA

- Issue an ETS on COVID-19 and other infectious diseases.
- Issue an ETS on heat hazards.
- Begin work on a permanent, comprehensive infectious disease standard whose starting point is Cal/OSHA’s Aerosol Transmissible Disease Standard, covering transmission via skin and mucous membranes as well.

- Begin regulatory work to address musculoskeletal disorders.
- Begin working with EPA and NIOSH to establish a truly protective regime for workers against chemical hazards.

MSHA

- Develop a process for identifying relevant NIOSH research and engaging in rulemaking based on it.

NIOSH

- Issue a statement that any face covering not *certified as a respirator* by NIOSH (or the Food and Drug Administration) does not constitute adequate respiratory protection for workers exposed to airborne infectious agents and other respiratory hazards.

Budgetary Action

- OSHA, MSHA, and NIOSH should fill all open positions and propose budgets that include appropriate staffing and compensation levels, including additional scientific staff to develop new standards and guidance, and additional staff to increase enforcement and whistleblower protections. In OSHA's case, this will require funding that is multiples of its current budgetary level. Budget requests should also include funding for initiatives that will allow the agencies to attract and retain a diverse workforce and create welcoming cultures where members of historically marginalized groups can operate effectively in leadership roles. Initiatives can include independent reviews of hiring and evaluation processes, mandatory implicit bias training, empowered and well-resourced diversity and inclusion committees, and other actions *recently recommended by CDC employees for their agency*.

Priority 2: Collect More Comprehensive, High-Quality Data to Guide OSHA Prevention and Enforcement Activities, and Make Data Accessible to the Public

To direct its resources effectively and meet evidentiary thresholds for the promulgation of workplace health and safety standards, OSHA must have comprehensive information about the number, type, and location of workplace injuries and illnesses that occur nationwide, and high-quality

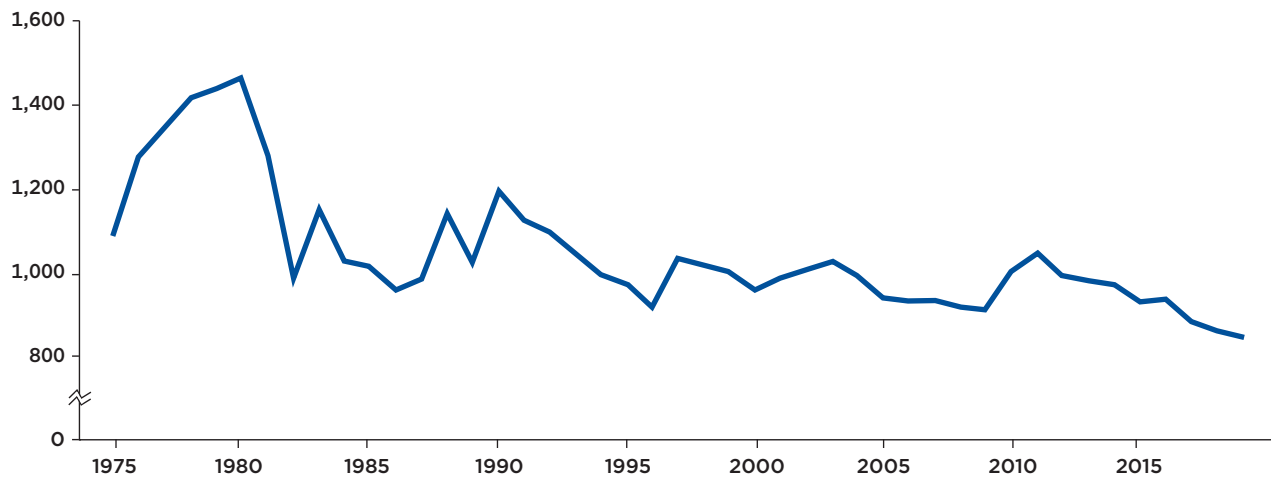
data on workplace exposures and hazards. Such information can help the agency identify areas where guidance, improved enforcement, special emphasis programs, and/or new rules can save lives and preserve health and safety. Past administrative actions—including reversals of rules on data collection—have limited OSHA's ability to collect relevant information and share it with the public. Restoring these rules should be a priority. In addition, OSHA should work with NIOSH to strengthen surveillance of injuries and illnesses, including infectious diseases, and of exposures and hazards, and should look to unions, worker centers, and other worker organizations as partners in gathering and sharing information.

OSHA must make changes both to collect more data and to share the data it has with the public. Posting easily searchable and downloadable data sets online—with sufficient aggregation to prevent identification of individuals—can allow others to augment OSHA's work. Researchers can identify new or previously unnoticed patterns of exposures and injuries; employers can recognize trends in their industries; and workers and advocates can use information, including stories of preventable worker deaths, to push for improvements in their workplaces and communities. Recent court decisions have ordered OSHA to release injury data reported by employers to *journalists* and *the public*, and OSHA has agreed to do so. MSHA does a much better job ensuring public access to data on inspections, citation status, and sampling, and OSHA should use that agency as a model for posting complete data in a timely and accessible fashion.

OSHA's ability to receive high-quality data from employers through electronic submission of injury and illness logs was hampered by the Trump administration's weakening of the rule requiring electronic submission of injury and illness data. OSHA's ability to collect information through workplace inspections is hampered by having *far too few inspectors* (see figure on next page). It would take the agency *165 years to inspect each workplace under its jurisdiction just once*.

OSHA must also be able to use information it has to enforce the law; however, when Congress used the CRA to nullify OSHA's "Volks rule," it deprived the agency of the authority to prevent employers from disposing of or falsifying OSHA log entries that are more than six months old, despite the fact that the standard requires employers to maintain accurate records for the previous five years. Strengthening the inspection workforce and supporting restoration of the Volks rule will allow OSHA to collect more comprehensive data and use the data it has access to.

Number of Federal OSHA Inspectors by Year



SOURCE: WORKER SAFETY IN CRISIS: THE COST OF A WEAKENED OSHA

There are **28 occupational health and safety plans** (including six that cover only state and local government workers) operated by US states and territories under the OSH Act. OSHA should use its oversight authority under the act to ensure that these states collect and share data appropriately.

Workers and the organizations that represent them—including unions, worker centers, and councils on occupational health and safety—can be valuable partners in information collection and sharing. OSHA should fully include workers and their representatives in inspections and strengthen whistleblower protections so workers can provide information about health and safety conditions without fear of retaliation.

Research has shown that data from OSHA logs reported to the Bureau of Labor Statistics' (BLS) annual Survey of Occupational Illnesses and Injuries (SOII) and to the OSHA Data Initiative (ODI) undercount occupational injuries and illnesses. An analysis of data collected from OSHA's National Emphasis Program on Recordkeeping (2009–2012) found that 47 percent of the establishments inspected had unrecorded or misrecorded cases. Nearly one-quarter (23 percent) of cases involving days away from work or injury-related work restrictions (called DART for Days Away or Restricted Time) were either not recorded or recorded as non-DART cases. When interviewed, workers identified employers' disciplinary and absentee programs as having the greatest negative effect on injury reporting.

Section 11(c) of the OSH Act prohibits discharging or discriminating against employees who exercise their rights

under the act, including the right to report injuries and illnesses. Unfortunately, **11(c) has failed to provide adequate protection**. Disciplining of employees for the protected activity of reporting injuries and illnesses under the OSH Act has contributed to the undercounting of illnesses and injuries and thus the inaccuracy of SOII and ODI. The president should send legislation to Congress amending 11(c) as follows:

1. Lengthen the statute of limitations to 180 days in keeping with the retaliation provisions in the anti-discrimination statutes enforced by the Equal Employment Opportunity Commission. Similar provisions under the Fair Labor Standards Act have an even longer statute of limitations. The OSH Act's 30-day statute of limitations makes it far more likely that workers who face discharge or other retaliation will miss the deadline for filing a complaint, meaning that they will have no recourse.
2. Create a right of preliminary reinstatement pending final adjudication similar to the one that exists in the Mine Safety and Health Act, which states that if the complaint was not frivolously brought, the individual should be reinstated pending further litigation. Under 11(c), workers who have been discharged cannot return to their workplace unless the employer settles the case and includes reinstatement, or the solicitor of labor pursues the case in federal court.
3. Amend 11(c) to make it procedurally consistent with more recently passed whistleblower provisions of the last two

decades, such as those in the Affordable Care Act and Dodd-Frank Act:

- a. Grant complainants the right to bring their complaints forward to a *de novo* adjudicatory hearing utilizing the existing Department of Labor administrative law judges and Administrative Review Board. The right to bring a case forward should be triggered after a formal finding or after the statutory time for investigation of a complaint has elapsed.
- b. Provide legal representation for complainants. The solicitor of labor should have the discretion to provide representation to complainants in meritorious cases. Amend 11(c) so that prevailing complainants can recover attorneys' fees in addition to damages. Most of the other anti-retaliation and whistleblower statutes provide for fees for complainants who prevail.
- c. Create a private right to bring a civil action that would allow complainants the option to remove cases from the agency and pursue them in federal court or to pursue administrative adjudication.
- d. To ensure that cases involving dual motives can be successfully litigated by complainants, change the evidentiary standard from "a motivating factor" to "a contributing factor"—the standard in all of the more recent whistleblower laws enforced by OSHA.

In addition to improving its access to and use of existing sources of information, OSHA should work with NIOSH to improve surveillance of infectious disease exposures and hazards, with an initial focus on industries where extensive transmission of COVID-19 has been reported. ***NIOSH surveillance initiatives*** already address specific exposures (such as to lead and pesticides) and industries (such as long-haul trucking and oil and gas extraction), so the agency is well positioned to provide guidance to OSHA. The two agencies should also collaborate to evaluate health and safety trainings and methods for improving employer behavior.

OSHA should collect and analyze data that can help it identify and address racial and ethnic disparities in occupational health and safety, including through stronger inspections and enforcement actions. With MSHA, NIOSH, and the National Institute for Environmental Health Science, it should establish a work environment justice task force to address data collection, rulemaking, and compliance needs to eliminate inequities in all industrial sectors.

Administrative Actions

OSHA

- Prioritize filling open inspector positions, as well as the managerial and administrative positions needed to support them, while recruiting a diverse group of candidates and eliminating bias from the hiring process.
- Restore to employer injury and illness logs the checkoff column for employers to indicate whether injuries were musculoskeletal disorders.
- Restore the 2016 rule requiring employers to electronically transmit injury and illness data—including data from the OSHA 300 log and OSHA 301 forms they already collect—to OSHA, and use these data to create a publicly available injury data set.
- Use MSHA as a model for improving public availability of data on inspections, citation status, and sampling.
- Complete the process of modernizing OSHA's website so it contains useful data—including up-to-date fatality information with workers' names, as well as reports of amputations and hospitalizations—that are easily searchable.
- Propose legislation codifying OSHA's ability to issue citations for recordkeeping violations based on employer records for the past five-and-a-half years (i.e., repeal the CRA resolution that repealed the Volks rule).
- Monitor state plans and ensure all state plans allow workers to file formal complaints online.
- Propose legislation amending Section 11(c) of the OSH Act to provide stronger protections for whistleblowers.
- Establish a work environment justice task force to address data collection, rulemaking, and compliance needs to eliminate inequities in all industrial sectors.
- Develop a secretarial-level plan to ensure OSHA is taking appropriate steps to identify and address racial and ethnic disparities.

NIOSH

- Issue guidance for data collection and workplace surveillance programs for injuries and illnesses, including infectious diseases, and for exposures and hazards. Work

with OSHA to evaluate health and safety trainings and methods for improving employer behavior.

Budgetary Action

- Budget requests should include funding for appropriate OSHA staffing—including, but not limited to, inspectors, supervisory inspectors, whistleblower investigators, and the staff involved with their work—and a high-quality, easily searchable website. This will require increasing OSHA's budget to multiples of its current level and will enable Congress to recognize the investment necessary to protect workers. The request should also include sufficient funding for NIOSH surveillance work covering injuries, illnesses (including infectious diseases), exposures, and hazards.

Priority 3: Ensure Appropriate Disclosure and Analysis of Information that Informs Rulemaking

Industry groups have a *long history* of funding studies designed from the outset to exonerate the potentially hazardous materials that they manufacture, use, incorporate into products, and/or release as waste. This history includes conducting *rigged re-analyses* of studies that have shown these materials to harm workers' health. Addressing these problems requires more effective scientific integrity safeguards, improved disclosure, and stronger support for high-quality research that is not influenced by industries whose products or releases are under investigation.

Strong scientific integrity policies are essential to ensure that agency employees and contractors can raise concerns about instances of inappropriate industry influence and prevent unwarranted interference with their reports and other work products. A *2017 Union of Concerned Scientists analysis* rated the Department of Labor's scientific integrity policy as poor.

Greater transparency about funding sources for research and public comments can help agency personnel assess comments as they prepare regulations and allow for tracking of which stakeholders are responding and whose voices are missing from discussions. OSHA requested that commenters on its crystalline silica and beryllium standards disclose their funding sources, and it should resume the practice.

In addition to identifying and addressing potential conflicts of interest, agencies should seek sources of high-quality evidence that are less likely to be influenced by industries that have a vested interest in the outcomes. This is particularly

important for regulating chemical hazards. One next step would be for NIOSH to initiate a project using "criteria" documents and other tools to explore regulating chemicals by class rather than individually. In its early years, NIOSH developed a large number of criteria documents that were intended to form the basis of OSHA standards. Few became standards, and those that did took many years (e.g., the NIOSH Recommended Exposure Limit for Respirable Crystalline Silica was published in a criteria document in 1974 and became an enforceable permissible exposure limit 42 years later). Even when criteria documents do not become standards, they provide valuable information to employers who want to protect their workers and establish that a hazard is "recognized," which means that employers have a duty under the OSH Act to protect workers from it.

In the 1970s, NIOSH produced more than 15 criteria documents per year. In the 1980s, this fell to fewer than three. In the 1990s, it produced fewer than two per year. Since 2000, NIOSH has produced fewer than one every two years. Because NIOSH is not hemmed in by statutory, administrative, and judicial requirements, it can use criteria documents to explore ways of regulating chemicals by class instead of treating each distinct chemical formula as a separate entity requiring a separate rulemaking. Industry should not have the opportunity to edit these recommendations or water them down.

Administrative Actions

- Ensure the Department of Labor has a scientific integrity policy that protects the rights of scientists to share data and analysis, prohibits retaliation against those raising scientific integrity concerns, provides clear procedures for addressing alleged violations, and requires ongoing scientific integrity training. (For more details, see the "Agency Scientific Independence" memo in *Restoring Science, Protecting the Public: 43 Steps for the Next Presidential Term*.) CDC's scientific integrity policy should establish the same safeguards for NIOSH.
- NIOSH should play a more prominent role in providing the scientific evidence that serves as the basis for OSHA standards. As an initial step, leaders of both agencies should initiate a project exploring regulation of chemicals by class rather than individually.
- OSHA and MSHA should encourage members of the public who comment on proposed rules to disclose the funding sources and sponsoring organizations of research

mentioned in their comments, and weigh the presence or absence of disclosure when considering comments.

Priority 4: Better Use Agency Expertise to Prepare for the Next Infectious Disease Crisis

NIOSH has had too limited a role in preparing for public health crises like COVID-19. In response to this pandemic, many employers focused on PPE, which is at the bottom of the *hierarchy of controls* and one of the least effective ways to protect workers. Faced with constrained PPE supplies, the American Hospital Association and other employer representatives *lobbied successfully* for CDC to relax requirements in order to avoid citations for not providing adequate PPE.¹

NIOSH should have a more visible role in helping the nation prepare for the next pandemic by identifying elements of the hierarchy of controls that should be used to prevent infectious diseases in every workplace (including, but not limited to, health-care workplaces) and by making recommendations so that the PPE in the Strategic National Stockpile will be in adequate quantity and will be adequately maintained so that equipment is not expired or unusable. Adequate quantities of PPE should mean enough for all hazards for all workers. In the COVID-19 pandemic, the problem has not merely been a lack of PPE to protect health-care workers from the novel coronavirus. It has also been a lack of PPE for other hazards in health care, due to the demand in response to the pandemic; a lack of PPE in other occupations, such as grocery store clerks; and a lack of PPE for other hazards, such as silica and lead in construction and pesticides in farm work. OSHA,

MSHA, and NIOSH should participate fully in task forces and public communications related to COVID-19 and to future pandemics. In addition, NIOSH should establish an occupational infection control research program.

The presidential administration should ensure that workplace issues are visible and adequately addressed by including NIOSH and OSHA experts in federal task forces addressing public health crises. When crises are ongoing, these workplace health and safety experts should participate in daily briefings as well as high-level meetings and be consulted when relevant guidance is prepared. Task forces that seek to generate lessons from past crises must include NIOSH and OSHA, even if they were underrepresented while the crisis occurred.

Administrative Actions

- Include NIOSH and OSHA in federal task forces addressing past and future pandemics.

NIOSH

- Develop recommendations for employers to apply the hierarchy of controls in advance of the next pandemic so that less PPE is needed.
- Assess the PPE needs of all workers and all hazards for the Strategic National Stockpile for future pandemics.

Endnote

1. NIOSH is housed within CDC but does not appear to have participated in the decision to relax these requirements.

ENDORSED BY

Acadia Institute of Oceanography / Food Chain Workers Alliance / Free Government Information (FGI) / Government Information Watch / Greenpeace USA / In the Public Interest / International Association of Machinists and Aerospace Workers / International Chemical Workers Union Council / Laborers' Health & Safety Fund of North America / Milwaukee Riverkeeper / MomsRising / National Center for Health Research / National Council for Occupational Safety & Health / National Employment Law Project / NJ Work Environment Council / Ocean Conservation Research / Open The Government / PHILAPOSH / Revolving Door Project / RICOSH / Society for Conservation Biology North America / Union of Concerned Scientists / United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) / United Mine Workers of America / Western New York Council on Occupational Safety & Health (WNYCOSH)