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OSHA Docket Office
Docket No. OSHA-2013-0023
U.S. Department of Labor
Room N-2695
200 Constitution Avenue. NW
Washington, DC 20210

Re: Improve Tracking of Workplace
Injuries and Illnesses

Dear Sir/Madam:

ORCHSE Strategies, LLC (ORCHSE) welcomes this opportunity to comment on the
Occupational Safety and Health Administration's (OSHA) November 8, 2013 Federal
Register notice seeking comments on its Notice of Proposed Rule Making (NPRM) to
Improve Tracking of Workplace Injuries and Illnesses.

ORCHSE (formerly known as ORC Worldwide and more recently as Mercer HSE
Networks) is an international occupational safety, health, and environmental consulting
firm that has for more than 40 years specialized in providing a wide array of services to
American businesses. Currently, more than 130 large (mostly Fortune 500) companies in
diverse industries are members one or more of ORCHSE's Occupational Safety and
Health networks. The focus of these groups is to promote effective occupational safety
and health programs and practices in business, to facilitate constructive communications
between business and government agencies responsible for establishing national
occupational safety and health policy, and to advocate responsible business positions to
regulators. The activities of ORCHSE's Occupational Safety and Health networks are
based on the premise that providing safe and healthful working conditions is of mutual
importance to employers, employees and government agencies.

It should be noted that companies that are members of ORCHSE's Occupational Safety
and Health networks may have provided substantial information, opinion, and advice to
ORCHSE in the development of its comments. However, the following comments are
solely those of ORCHSE and may differ from the views and comments of individual
member companies.

I. General Comments

ORCHSE congratulates OSHA for recognizing and trying to fix a longstanding problem
that has impeded Agency performance for decades. Simply put, OSHA lacks the data it

needs to effectively deploy its scarce resources to the sites and processes where they are needed the most.

We also support the principles of openness and transparency that underpin this proposal. Many of our member companies already make their injury and illness data publicly available in safety, health, and sustainability portions of their Corporate Annual Reports, and many participate in Sustainability Indices that are transparent and administered by independent organizations.

However, even though we support the Agency's need for better data, regrettably we do not feel that the solution lies within this proposal. ***In fact, we fear that this attempt, although well-intentioned, may actually make a bad situation even worse***.

While offering our specific concerns we hope to answer several key questions, such as:

- Will the proposal achieve OSHA stated (or largely implied) objectives?
- Do the benefits of the proposal outweigh the added reporting burden for employers?
- What is the risk for significant unintended consequences?

In addition, *our comments provide recommendations for alternative approaches that we believe will get OSHA and the safety and health community better data to drive and assess safety and health programs.* And they would do it in a much more effective, efficient, and strategic manner than the massive data collection described in this proposal.

Furthermore we pose potential solutions to problems that have plagued the OSHA recordkeeping and reporting system for years, such as potential wide-scale under reporting in certain sectors and the double burden placed on employers by BLS and OSHA collecting the same data from some of the same sites.

II. Specific Concerns

A. This Proposal Does Not Adequately Identify Gaps in Existing Injury and Illness Systems or Link Them to OSHA's Data Needs. Nor Does It Explain in Specific Terms How the Proposed Data Collected Will Benefit OSHA and Others

OSHA should not impose an additional reporting burden on employers unless a real need for the data has been demonstrated.

OSHA has dealt with and used these data for more than four decades, and has collected and used site-specific injury and illness data for years. Yet there is nothing in the record to describe OSHA's experience or explain why additional data are needed other than general statements to the effect that obtaining more data will make things better.

OSHA should identify significant gaps in existing injury and illness data systems that are critical to achieving the Agency's mission, and then explain how the proposed collections will fill those gaps. Different approaches should be examined for determining what data will be "in scope" and how those data should best be collected, with the goal being to identify the most efficient and effective approaches possible.

Furthermore, OSHA should provide details on how they use the data they already have on hand. Does the Agency make maximum use of detailed injury and illness data already collected by BLS? Do they use the data they collect and compile from the inspections they conduct, or the audits conducted under their voluntary programs? Have they harnessed the data available from the many NIOSH programs? Are they leveraging data from worker's compensation systems and other sources? Do they combine data from multiple sources to develop a fuller picture?

In short, given the broad tapestry of safety and health data from existing sources, before collecting huge amounts of additional data, OSHA should be able to demonstrate that:

1. They are fully utilizing data already available from existing sources;
2. Significant gaps exist in the available data that limit the Agency's ability to fulfill its mission;
3. The proposed expanded reporting will fill those gaps; and
4. The proposed collection methodologies are the most efficient ways to collect and compile the needed information.

Finally, given the size and scope of the proposal, the Agency should be able to make the case that having these new data will result in significant improvements. For example, if the main benefit is to improve inspection targeting, the benefit may be proportionately limited since OSHA only targets a relatively small proportion of its inspections.

None of these issues are addressed with clarity in the existing record.

B.   OSHA Does Not Appear to Have the Capacity to Adequately Process or Use the Mass of Data that Would Be Submitted Under this Proposal

OSHA should not require employers to submit more data than the Agency can review, process and/or use in a timely manner.

Assuming that OSHA could meet the tests referenced above, a logical next question is whether OSHA has the capacity to actually process and use the information it will collect. According to the proposal, the quarterly data collection will triple the number of sites required to report detailed case data; from 38,000 to 129,000, and OSHA will receive detail on 1,325,000 cases. Sites required to submit annual summary data under the OSHA Data Initiative (ODI) would also increase from around 160,000 sites to 440,000 sites.

The Agency would be inundated with so much data that it is unlikely that it could be reviewed and edited in a timely fashion before the data are made public. Worse yet, it is clear that OSHA does not have sufficient resources to verify the data….even over the longer term.

We believe that it would be a serious mistake for OSHA to take this mass of data submitted by employers and post it on its web site and/or begin using it to target Agency resources without first scrutinizing the data to ensure that cases were accurately reported and recorded.

To be effective, the OSHA initiative must be viewed as being fair, and to be fair every site must be on a level playing field.

C. The Proposed Architecture of the Quarterly Data Collection Is Inefficient and Not Well-Aligned with OSHA's Real Data Needs and Uses

Once the needed data are identified, collection scope and method should reflect the most efficient means possible for meeting actual data needs and uses.

According to the text of the proposal, two of the key purposes for the new data collection are to improve targeting of OSHA resources and to support safety and health research. Different collection methodologies are appropriate for each.

Since the focus is often on identifying individual sites and processes for intervention, ***targeting usually requires a census collection*** for the different sub-populations that are the focus of the targeting effort. Usually these sub-populations are identified on the basis of risk, or on the basis of potential deviation from safety and health compliance.

In contrast, research data needs are usually met so as to limit unnecessary cost and burden; by selecting a **scientifically designed sample** to represent the particular population that is being studied.

OSHA's proposal to collect detailed case data on a quarterly basis for _all_ sites with 250 or more employees seems to reflect neither of these important practical considerations. The approach is not effective for targeting, since sites are determined to be "in-scope" merely on the basis of their size, not their perceived risk or possible lack of compliance.

Similarly, the proposal represents a very inefficient approach to obtain data for research since it involves a census collection that is static. A collection based on a representative sample of firms would be less costly and less burdensome and could be custom tailored to meet evolving research needs.

In either scenario it is hard to justify the added burden of a quarterly collection. If the primary purpose is for targeting, it is unlikely that OSHA will be able to screen, analyze, and act on the data in time to justify a quarterly collection cycle. Using the data without

appropriate verification to ensure consistent compliance could make matters worse and result in misdirection of Agency resources.

Furthermore, most of the case detail that would be submitted under this part of OSHA's proposal would be for the least-serious cases; those involving only light duty or medical treatment beyond first aid. These case categories are likely to be subject to the widest variability and have the least value for preventing the more serious injuries and illnesses, such as those that are fatal, life threatening or life altering. (According to a 2007 Rand study, less-serious cases have no value for predicting fatalities. [1])

D. The Questionable Quality of the Source Data Undermines Its Utility for OSHA's Intended Purposes

No matter how modern or sophisticated the collection methodology, the utility of every data system is dependent on the quality of the source data it collects. Despite the efforts of many employers to keep good records, a growing body of evidence points to wide variation in reporting practices among different industries, companies, business units, and sites.

The OSHA data system has been in place for decades and remains largely unchanged from when it was first implemented, soon after passage of the Occupational Safety and Health Act in 1970. The general criteria for determining the cases that must be recorded are provided in sections 8 (c)(2) and 24 (a) of the OSH Act. More- specific criteria have been provided over the years in different iterations of the recordkeeping regulations, 29 CFR Part 1904, and in recordkeeping guidelines and numerous interpretations provided first by BLS and then by OSHA.

With years of continuing guidance from the government, it is understandable why some believe that most employers are recording cases in a consistent manner. However, evidence from a variety of sources points in the other direction.

The truth is that, while many have beliefs about the quality (or lack thereof) of the OSHA data no one really knows. Despite well-known problems of under reporting that have surfaced over the years, the OSHA data have not been validated for decades.

The limited studies that have been conducted have all pointed to a potential under-reporting problem. In the late 1980s BLS conducted a study of the system in two states, Massachusetts and Missouri, and found that the rate for cases involving lost workdays, arguably one of the most reliable statistics in the system, was under-reported by 25%. [2] Since then several other studies have produced a similar result – all indicating some degree of undercount. A 2006 study estimated that the BLS survey missed up to 68% of injuries and illnesses in Michigan between 1999 and 2001. [3] Another study found that the rate of injuries in Illinois from 1995 – 2003 was actually constant; not the 37.4 percent decline reported by BLS. [4] The same authors found that 83 percent of the reported decline in injuries and illnesses from 1993 to 2002 was attributable to changes in OSHA

recordkeeping criteria. [5] That work was followed by a 2008 study that indicated that the BLS survey only captured 76 percent of all injuries in the six states studied. [6] Yet another study found that the actual number of workplace injuries and illnesses for 1998 was 40 percent higher than reported by the BLS survey. [7]

The cumulative effect of these and other findings seemed to pique public interest and concern. So in 2008 Congressional hearings were held on the topic that culminated in a report: *Hidden Tragedy: Underreporting of Workplace Injuries and Illnesses.* [8] The report stressed the importance of accurate records, catalogued the different study findings that consistently found under reporting, and called on OSHA and BLS to further assess the issue and develop needed solutions. And in June of that year, the issue of under-reporting was featured in a Bill Moyers PBS Special entitled: *20,000 Cuts.*

Also in 2008, John Ruser of BLS wrote a very thoughtful article on the subject that, among other findings, analyzed the various sources of the under reporting problem. [9] We have been told that BLS subsequently funded two additional studies on the topic. Although the Bureau did not publish their results, apparently those studies also found a significant degree of under reporting.

In 2009, OSHA began a Recordkeeping National Emphasis Program that reviewed recordkeeping practices and audited records at select sites to assess their accuracy. Citations were issued when problems were found. However, scientifically reliable conclusions about the quality of the data could not be drawn from that experience since OSHA's site selection was not designed to provide statistically reliable findings.

More recently OSHA responded to the problem by attacking one of the perceived sources of under-reporting by discouraging the inappropriate use of OSHA rates in company recognition and reward systems; the fear being that some employers use them to discourage reporting and keep cases off the OSHA log.

The issue of incentive programs also surfaced in a study conducted by one of our member companies after one of its sites received a citation for not recording cases that were technically recordable. The company found that the accuracy of the OSHA records was impacted by *both* employee reporting practices and employer recording practices, and that there were *at least 20 different sources of bias* that could impact whether or not a case ever got entered on the OSHA log.

Employee reporting of discretionary cases (those that can be hidden) is often made on the basis of consequences to the injured/ill employee, and is influenced by factors such as:

1. Likelihood of discipline
2. Supervisory behavior
3. The employee's relationship with the supervisor
4. Incident investigation practices
5. Gain sharing plans with recordable rate as one of the metrics

6. Company recognition programs
7. Benefit plan designs
8. Response of initial treatment provider
9. Employee relationship with company doctor
10. Accessibility of medical provider
11. Perceived costs -- worker's compensation vs. company non-occupational coverage
12. Job content or schedule
13. Post-accident drug testing

Variables affecting employer recordkeeping practices include:

1. Knowledge of the rules by employees, the record keeper, supervisors, and key operations staff
2. Understanding complicated (and sometimes seemingly stupid) nuances
3. Information flow within the company
4. Dealing with pressure on the metric
5. Ability to check the thoroughness and accuracy of information provided by the employee
6. Company physician vs. personal medical care
7. Location of medical department (onsite vs. offsite)

Our collective staff experience (based on decades of servicing over 130 large corporations in 20 different industry sectors) confirms the thrust of the findings referenced above.

Despite many companies' best efforts, the variation in reporting practices remains a nagging problem that can (and often does) distort the data. Constant training and vigilance is needed to maintain data accuracy and reliability.

We believe that OSHA data have value for general surveillance at the aggregate level. They provide insights into the overall magnitude of the problem, are useful for tracking general trends, and in some cases, for identifying select emerging issues. BLS sampling and survey reliability is generally well managed in terms of statistical reliability (survey confidence levels).

However, our experience has been that quality and verification problems with the OSHA data intensify the more the data are disaggregated. In many instances they are:

- ***Based on criteria that are not intuitive***, and even at this late date, not well understood by many involved in the recordkeeping and reporting process, including physicians, staff keeping the records, employees, supervisors, and the operations leaders to whom they report; and

- *Not very accurate*. The more pressure put on them through various factors, the less accurate they become. Data quality can vary by industry, company, business unit and site.

This realization led ORCHSE several years ago, to encourage our members to shift to using more leading indicators to drive and assess their safety and health programs. More recently we have recommended that, in addition to the OSHA requirements, they begin using a new ASTM Global Standard developed by ORCHSE as a global outcome metric that focuses on more-serious cases. [10]

ORCHSE has every reason to believe that publishing OSHA injury and illness data for individual companies will increase the likelihood that some employers will under-report. Given the fact that OSHA lacks the resources to maintain a sustained data verification effort, this could have serious adverse consequences. *Without more effective and sustained verification efforts it would be inappropriate to use the newly-collected data on a site-by-site basis to target inspections or to facilitate public comparisons.*

To be clear, we view "gaming the numbers" as a cancer that undermines an effective safety and health culture and negates the otherwise positive impact of a safety and health management system. It sends the wrong signals to workers, supervisors and others throughout the organization and detracts from safety and health prevention efforts by shifting the emphasis from managing hazards to managing the numbers. That is why our member companies work as hard as they do to insure accurate and consistent recording within their respective companies.

E. Publication of the Data Is Not Likely to Get OSHA The Results It Anticipates

Employees cannot be expected to police the data for many of the worst sites that report low OSHA injury and illness rates; nor should OSHA expect that employers feeling pressure from having their OSHA data made public will always take the high road in responding.

Apparently OSHA believes that publishing the data on its website will empower employees at the site to review and police the data. We believe that is doubtful, especially in the businesses and sites that are the most problematic where the culture may be to ignore or even be hostile to such issues. Consequently, we wonder if OSHA has any hard data to support that belief.

We also doubt that the net effect of "shaming" employers will be to improve worker safety and health. The hoped-for result of publishing data for high-rate employers is that they will become more aware of and sensitized to the issue, and as a result will take steps to improve their safety systems. And for many employers that may be the case. However, history has shown that, when under pressure, some employers manage their rates by manipulating the system. And as we have stated, it seems clear that OSHA does not have the resources to effectively audit the records on an ongoing basis.

Finally, we are concerned about the "churn" this is likely to cause and the time and effort that may be diverted from more productive safety efforts. Some companies will be "up in arms" over the perceived lack of fairness as they see companies and sites with less effective programs celebrated for having lower rates. Others, responding to pressure from business leaders to keep their rates low, will spend more and more time debating whether or not borderline cases need to be recorded on the OSHA log.

These are likely counter-productive impacts in a profession where resources are constantly stretched thin.

F. Another Possible Unintended Consequence

Requiring employers to submit volumes of detailed case data to be posted on OSHA's web site may result in some private information inadvertently being made public, and may increase the impact and consequence of a potential mistake.

Protecting legitimate employee privacy interests is critically important. Consequently, the current recordkeeping regulations require that employers take steps to protect the privacy of injured or ill workers, especially for "privacy concern" cases.

Our experience has been that with privacy concern issues member companies have been very thorough in screening the records to redact employee identifiers and other confidential information. However, under the current requirements, if a mistake is made the impact is mostly limited to the individual accessing the log or the site where the records are kept and posted.

OSHA's proposed data collection requires that case detail for over one million cases will be submitted in mas and then made public. Employers may inadvertently miss a step and fail to redact a confidential piece of information from one of the OSHA forms., Chances are that these mistakes will not be caught by OSHA prior to release, given the Agency's scarce resources. So the data could end up being released to the public at large.

That may open employers up to additional liability, which could further complicate the recordkeeping and reporting process.

G. The Additional Reporting Burden for the Proposed Data Collection Was Significantly Understated

It is incorrect for OSHA to assume that high-performing employers will submit data to them that is going to be made public without first taking steps to thoroughly scrutinize and update the data.

The OSHA proposal seems based on an incorrect assumption: that since large corporations already keep these data electronically, it would be easy for them to submit

their data on a quarterly basis to OSHA; all they would need to do is to periodically hit a button and send an existing batch file to the Agency.

For most large employers nothing could be further from the truth. ORCHSE can state with great confidence that the companies that strive to keep accurate injury and illness records invest substantial time and effort in training employees, supervisors, and record keepers on the requirements of the recordkeeping process. They also review the data at the end of the year to insure its accuracy before it is included in company reports or submitted to OSHA or to BLS. They check on outstanding cases; track day-counts for cases involving restricted work activity, job transfer, and days away from work; check on ongoing employee job limitations; prepare estimates of future days that will be lost or restricted (beyond the end of the year) etc. Verification is often an iterative process that involves back-and-forth between the corporate safety department and the site, with involvement of medical practitioners, the injured or ill employee, supervisors and others.

Shifting from a single data submission to four data submissions per year would add substantially to the already significant cost and burden for these employers (at least by a factor of four). It would also complicate the process; employers would have to create estimated day counts for cases that are not closed at the time of each reporting and then correct them when the cases are finally resolved.

H. Under the Proposal Many Companies Will Still Have to Deal with BLS and OSHA's Overlapping Mandatory Data Requests

Dual reporting adds to the government's cost in administering safety and health programs and detracts from US-based companies' ability to compete in the global marketplace.

The current requirements mandate that a significant number of employers have to submit essentially the same data separately to BLS and to OSHA. The additional reporting requirements in this proposal are likely to add to the double burden. In addition to added workload, dual reporting adds unnecessary cost and complexity to the recordkeeping and reporting process. We frequently are contacted by member companies that are struggling to ascertain which of their sites are in scope according to the BLS universe file (based on State Unemployment Insurance) and which are in scope according to OSHA's universe file (based on Dunn and Bradstreet).

We find it hard to believe that, in tight economic times that feature highly publicized and sometimes harsh austerity moves, such as cutting federal funding for national defense and cancer research, that a double reporting burden continues because two sister Agencies in the same department can't seem to figure out how to effectively share the data. It creates unnecessary cost for the government and requires unnecessary and duplicative effort by companies.

This proposal offers the opportunity for this issue to be examined and hopefully resolved.

I. The OSHA Request for Public Input Solicits Slight Modifications to a Proposed Process that Is Seriously Flawed

We are hesitant to offer slight course corrections for a ship that may be headed in the wrong direction.

OSHA asks questions about when the electronic reporting requirements should take effect, and which data they should redact from the public release. The Agency also asks if the data submission should be more frequent or less frequent than proposed, and whether the size cut-off for in-scope sites should be widened or narrowed.

Other than stating our belief that quarterly data collection is unwarranted and possibly counter productive, we are hesitant to support any iteration that is referenced because we believe the proposal needs to be rethought and reworked. The Agency should explore other, more strategic approaches for meeting its data needs.

III. Recommendations

Before launching a massive new data collection OSHA should:

A. Take significant steps to assess and improve the quality of the source data.

The Opportunity: A series of studies conducted over the years indicate that that the BLS/OSHA data suffer from inconsistent recording and varying degrees of inaccuracy. There are likely to be several contributing causes including, inadequate knowledge of the rules, a series of biases that impact recordkeeping decisions, and lack of any real threat of accountability (made more difficult with the Volks decision [11]),

Many would agree that, given the current reporting vagaries, the data do not sufficiently meet current needs for administering federal and state programs or for general prevention. Some would argue that the impact of the current requirements is in part perverse, due to the time and effort that is wasted arguing over determinations of recordability.

Varying degrees of accuracy do not render the data unusable. When used in the aggregate they still have value for some purposes, like tracking overall trends and identifying select emerging conditions.

However, until the quality issue is fully understood and addressed the data have questionable value for site-specific comparisons.

So more than four decades after the implementation of the OSH Act the country lacks accurate and verifiable occupational safety and health data of the most basic nature – for traumatic work-related injuries. Our knowledge of occupational illness is far worse.

Solution: The OSHA recordkeeping requirements and statistical system are out of date. A constructive dialogue is needed among stakeholders in business, labor and government to identify the true source(s) of the problem and chart a reasonable path forward. Involving a wide range of stakeholders in the process is needed to ensure buy-in, since it is becoming increasingly clear that OSHA is not resourced to force wide-scale compliance over the long term.

Our experience has been that employers will generally provide data if they: a. understand what is being asked of them; b. think the requirements are fair; and c. feel they are getting some value in return for their efforts. The OSHA data system seems to fail on all three counts.

ORCHSE continues to propose a three-step solution for improving the quality of the data:

1. Remove the few "lightening rod" interpretations that provide the Agency with little additional data, but undermine Agency credibility and consistently inflame the regulated community. For example, an employee throwing out her back at work as a result of sneezing due to a common cold unrelated to work.
2. Develop a useful set of decision-making software to assist users in making accurate recordkeeping decisions. The current OSHA software does little more than summarize the text in the regulations. What is needed is software that employers can use to correctly answer their "what if" questions.
3. Implement a cooperative compliance approach that would encourage employers to use the software. For example, if employers demonstrate that they are using OSHA's software as the basis for making record keeping determinations, the Agency could offer to forgo a full records review when auditing their OSHA records and instead audit to determine that they were in fact using the software and using it correctly.

OSHA should be aware of the new ASTM Global Standard developed by ORCHSE member companies, that highlights more-serious cases and is designed to promote consistency and comparability in reporting and recording injuries and illnesses on a worldwide basis. OSHA might want to consider the principles that underpin these new data, as well as identifying select leading indicators that could drive key elements of a safety and health management system. .

B. Develop an interim plan to maximize the use of existing data NOW (other than the DART rate) to target and address the most-serious hazards, while refining a long-term plan to fill key data gaps and needs.

Opportunity: OSHA's mandate is incredibly important; in some cases worker lives literally hang in the balance of OSHA action or inaction. Since the Agency has a much broader mandate than it is resourced to handle, ORCHSE realizes that better data are

needed *now* to focus scarce resources on companies, sites, and processes where they will do the most good.

OSHA currently directs inspections towards sites based on employee complaints, referrals, and past OSHA rates. Inspections are also focused through national and local emphasis programs. OSHA voluntary programs are there for the asking and do not differentiate among those requesting services based on need or the degree of the hazard(s) that they are trying to manage. And while the proposed data collection would get the Agency more data, we do not think it would do much to help the Agency focus efforts on where they are needed the most.

Solution: For a portion of its inspections OSHA should consider setting targeting priorities based on relative risk -- the degree of the hazard; the magnitude of exposure (number of workers exposed and duration of exposure); and the relative risk at the site (likelihood of an incident based on current hazards and the level of controls being applied to those hazards AND past experience).

How does one identify the sites to target? Look for industries/companies/processes that involve well-known hazards, and then assess how sites are addressing them. For example, the ORCHSE Fatality and Serious Injury Prevention Task Force uses the following well-recognized hazards to help trigger prevention efforts:

- Electrical energy
- Mechanical energy (machinery and equipment)
- Pressurized vessels of all types (cylinders, tanks, pipes, etc.)
- Falls from Elevations
- Falls on same level
- Explosion and fire potential (chemical energy)
- Crushing hazards (heavy objects—caught in, under or between
- Engulfment hazards
- Suspended loads
- Confined spaces, inert energy, or other suffocation hazards
- Highly toxic chemicals
- Extreme heat or cold
- Radiation
- Motor vehicles
- Workplace violence

OSHA could develop a profile of likely hazards in key industries, and cross reference that data to aggregated inspection findings for each industry and inspection profiles for companies and/or sites in those industries. The resulting risk assessment could be used to create a priority list of sites to receive a broad range of Agency resources. Progress could be measured by what was done at those sites (leading indicators) and the resulting impact on outcomes.

C. Support the funding of a comprehensive study of the nation's occupational injury and illness data systems to identify system gaps and current data needs, and eliminate system overlap and waste

The Opportunity: OSHA's current proposal highlights the need for a comprehensive study of the national systems for capturing data on occupational injuries and illnesses. The current systems lack coordination and represent a hodge-podge of requirements that have been cobbled together at different times to meet needs perceived by different Agencies. Not only does that leave gaps in the data and limit overall effectiveness, it creates a maze of requirements that employers must spend precious time and resources figuring out how to navigate.

The last study of these systems was conducted twenty-seven years ago. The world has changed since then, and so have the injury and illness challenges facing employers and regulators.

The 1987 National Academy of Sciences report, *"Counting Injuries and Illnesses in the Workplace"* evaluated existing systems, data needs and uses, quality assessment and assurance challenges, and special issues particular to capturing data for injuries and for illnesses. Study recommendations were used by BLS, OSHA and NIOSH to initiate change, including a major overhaul of the BLS system.

The Solution: A comprehensive study of the nations injury and illness data systems is long overdue. Clearly coordination of the different data collection efforts by OSHA, NIOSH, BLS, and various State agencies will improve the data that are available to prevent unnecessary loss and human suffering. Hopefully it will also eliminate duplication of effort and waste.

D. Work with BLS to eliminate the double reporting burden that exists when employers have to provide essentially the same data to both OSHA and BLS.

The Opportunity: One problem could be fixed without waiting for a National Academy of Sciences report. In tight economic times it is hard to believe that employers are still required to report the same data twice to two sister agencies in the same department because they can't seem to figure out how it can be shared.

In the past, it was argued that BLS could not divulge site-specific information to OSHA because employers would not provide the data to BLS (even though the requirement was mandatory) unless they knew the Bureau was keeping it confidential.

The confidentiality argument waned in recent years when OSHA started collecting the data itself, and the rationale shifted to keeping the BLS universe file, based on State Unemployment Insurance (UI) files, confidential. The belief seems to be that disclosure of a site's BLS injury and illness data would reveal that the site was in the UI file, which in effect would disclose a portion of the UI file.

The Solution: BLS and OSHA could still share the information and eliminate the double burden by having the data for key industries and sites flow through OSHA to BLS. If disclosing the UI file remains a problem then for this one survey BLS could adopt the OSHA universe file, based on Dunn and Bradstreet.

In the alternative OSHA and BLS could explore the possibility of having NIOSH serve as the agency primarily responsible for administering the national survey of occupational injuries and illnesses.

IV. <u>Conclusion</u>

Again, OSHA is to be congratulated for raising the issue of its growing need for better data to manage and deploy its scarce resources. It is an important issue for the Agency and for the safety and health community at large. We strongly support the Agency's need for better data. We also believe in the general principles of openness and data transparency that underpin this proposal.

But "the devil is in the details." The proposal includes significant new requirements that could change the safety and health landscape for years to come. Our belief is that, as currently constructed, the change would be not be for the better and could be to the detriment of the safety and well being of American workers.

The proposal needs to be rethought and foundational issues need to be addressed, such as the scope and method of collection as well as well-documented issues with the quality of the source data.

We applaud OSHA for starting the dialogue, and pledge our support for finding ways to improve this important initiative.

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Thank you for the opportunity to comment.

Sincerely,

Frank A. White
President