



VIA ELECTRONIC SUBMISSION

October 28, 2011

The Honorable David Michaels, PhD, MPH
Assistant Secretary
Occupational Safety and Health Administration
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Re: Occupational Injury and Illness Recording and Reporting Requirements-NAICS Update and Reporting Revisions; RIN 1218-AC50

Dear Assistant Secretary Michaels:

Associated Builders and Contractors, Inc. (ABC) submits the following comments to the Occupational Safety and Health Administration (OSHA) in response to the above-referenced notice of proposed rulemaking (NPRM), published in the *Federal Register* on June 21, 2011, at 76 Fed. Reg., 36414.

About Associated Builders and Contractors, Inc.

ABC is a national construction industry trade association representing more than 23,000 contractors, subcontractors, materials suppliers and construction-related firms within a network of 75 chapters throughout the United States. ABC member contractors employ nearly 2 million workers, whose training and experience span all of the 20-plus skilled trades that comprise the construction industry. Moreover, the vast majority of our contractor members are classified as small businesses. ABC's membership is bound by a shared commitment to the *merit shop philosophy*. This philosophy is based on the principles of nondiscrimination due to labor affiliation and the awarding of construction contracts through open, competitive bidding based on safety, quality and value. This process assures that taxpayers and consumers will receive the most for their construction dollar.

With respect to safety, ABC members strive for "zero accident" jobsites, believing that such workplaces are essential to the success of their businesses. Furthermore, our members understand their moral obligation to provide employees with safe and healthy environments in which to work. Many ABC companies have implemented safety programs that are among the best programs in the industry, often far exceeding OSHA requirements. In addition, ABC maintains relationships with OSHA's national, regional and area offices, which have fostered a greater industry-wide understanding of workplace safety, and have contributed to a consistent decrease in the number of injuries and fatalities in the construction industry since 1994.

Background

On June 21, 2011, OSHA issued a proposal to, among other provisions, "require employers to report to OSHA, within eight hours...all work-related in-patient hospitalizations."¹ This would change the current

¹ 76 Fed. Reg. 36414.

requirements for reporting in-patient hospitalizations of three or more employees to one or more in the same timeframe.

ABC's Comments in Response to DOL's Proposed Rule

ABC generally supports OSHA's stated aims of this proposed rulemaking—namely, the identification of hazards and the prevention of injuries and fatalities in high-risk workplaces. However, we do have some concerns with the above-referenced reporting requirement revision.

OSHA's proposed provision to lower the threshold for reporting of in-patient hospitalizations of three or more employees to one or more may fail to yield quality information. In fact, the data collected could even lead to inaccurate or misleading statistics because the question of whether a single incident does, in fact, result from a workplace hazard will become a more prevalent issue. Determining work-relatedness in a situation involving three or more employees can be done with near certainty. However, when only one individual is impacted, the accuracy of such classifications can decrease significantly because it becomes more likely that non-workplace hazards could be responsible.

It should also be noted that OSHA has not sufficiently shown that its current policy for reporting of in-patient hospitalizations of three or more employees has been ineffective. Considering employers will no doubt incur additional costs due to increased time and resources devoted to the proposed reporting changes, we urge OSHA to more carefully examine potential unintended consequences of this revised policy in its final rule—not just in the interest of improving the proposed rule in question, but to ensure that future rulemakings based upon the data gathered by these new requirements are practical and of the highest quality.

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In conclusion, ABC strongly urges OSHA to address the issues outlined above in any subsequent final rule.

Thank you for the opportunity to submit comments on this matter.

Respectfully submitted,



Paul Lamarre, CSP
Safety Director
Hall Contracting of Kentucky, Inc.
Louisville, Kentucky
Chairman, Environment, Health & Safety Committee
Associated Builders and Contractors, Inc.
Arlington, Virginia