



National Transportation Safety Board

Washington, DC 20594

Office of the Chairman

June 20, 2019

The Honorable Loren Sweatt
Acting Assistant Secretary of Labor for Occupational Safety and Health
Occupational Safety and Health Administration
200 Constitution Ave, NW
Washington, DC 20210

Re: Pedestrian bridge collapse investigation
Miami, Florida
March 15, 2018
NTSB # HWY18MH009

Dear Secretary Sweatt:

This letter is to memorialize our telephone conversation on Tuesday, June 11, 2019, in which I informed you that the National Transportation Safety Board (NTSB) has revoked the party status of the Occupational Safety and Health Administration (OSHA) from the investigation of the March 15, 2018, pedestrian bridge collapse in Miami, Florida.

Pursuant to Title 49 *Code of Federal Regulations* (C.F.R.) § 831.11, OSHA was designated as a party to this investigation based on its statutory obligations to investigate worker safety issues related to the accident, and because OSHA could provide suitable qualified technical personnel who could actively assist in the NTSB investigation. Parties to an NTSB investigation are restricted from releasing any investigative information without express prior approval by the NTSB. Parties are also required to share all investigative information with the NTSB. I would note that although OSHA's party coordinator, as a representative of the federal government, was not required to sign the "Statement of Party Representatives to NTSB Investigation," OSHA was nevertheless bound by the duties and obligations set forth in § 831.11(a) as a designated party to the investigation.

On the afternoon of Friday, June 7, 2019, the NTSB was informed that OSHA planned to release a report on the above-referenced bridge collapse. That afternoon, counsel for OSHA asked the NTSB General Counsel's Office whether the OSHA report could be publicly released pursuant to 49 C.F.R. § 831.13 and additional specific guidance issued by the NTSB to the parties to this investigation. On the afternoon of Monday, June 10, 2019, NTSB General Counsel's Office requested and received a copy of the report from OSHA, and advised OSHA it would review the report and provide an answer as soon as possible. On Tuesday morning, June 11, 2019, the NTSB requested, through our respective counsel, that OSHA not release its report. Shortly thereafter, NTSB learned OSHA published the report on its website.

The NTSB is greatly concerned by this breach of NTSB party participation rules. Prior to the NTSB's adoption of the final report regarding this accident, according to the party rules, only appropriate NTSB personnel are authorized to publicly disclose investigative findings; even then, the release will be limited to verified factual information identified during the course of the investigation. Parties were reminded of this issue in an email letter from Mr. Allen to the parties on May 6, 2019. Contrary to this obligation, the OSHA report contains large portions of non-public draft NTSB investigative reports that were only shared with OSHA as a party to the NTSB investigation. In a review of the 75 figures published in the report, NTSB investigators identified 72 items that were either from NTSB draft reports or collected while OSHA was given access to wreckage as part of the NTSB investigation. For example, Figures 2-4, 6, 10, 11 were all taken from an NTSB non-public draft factual report. Figures 18-21 were taken from NTSB's preliminary report. Additionally, the report contains photographs taken by OSHA personnel who were present during NTSB-led examinations of materials related to the accident. These photographs were never shared with the NTSB as required by OSHA's status as a party to the NTSB investigation. These photographs are identified as figures 52-75.

Therefore, because OSHA failed to abide by the responsibilities set forth in § 831.11(a), and because the NTSB had previously counseled OSHA at a May 1, 2018, meeting about adherence to the party rules, OSHA's party status has been revoked from the investigation of the March 15, 2018, pedestrian bridge collapse in Miami, Florida.

This letter will be placed in the public docket along with any future correspondence relating to this investigation.

Sincerely,

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Robert L. Sumwalt, III
Chairman