

Federal Advisory Council on Occupational Safety and Health (FACOSH)

March 1, 2007 Meeting Minutes

Room N-3437A/B/C, Francis Perkins Building,
200 Constitution Avenue, N.W., Washington, D.C.

Representatives Attending

Edwin G. Foulke, Jr., Chair
Assistant Secretary for Occupational Safety and Health
Department of Labor

W. Corey Thompson, Jr., Vice Chair – Labor representative
Safety and Health Specialist
American Postal Workers' Union, AFL-CIO

Donald G. Bathurst – Federal agency representative
Chief of Administrative Services
Department of Homeland Security

Curtis M. Bowling – Federal agency representative
Director of Environmental Readiness and Safety
Department of Defense

Louis P. Cannon – Labor representative
President
Fraternal Order of Police

Jose S. Gonzales – Labor representative
Sergeant at Arms
California State Fraternal Order of Police/Empire Lodge II

Deborah Kleinberg, Esq. - Alternate labor representative
Counsel
Seafarers International Union AGLIWD

Vickers B. Meadows – Federal agency representative
Chief Administrative Officer
Patent and Trademark Office
Department of Commerce

Ron McGraw - Alternate labor representative
International Association of Firefighters

Dennis J. O'Connor – Labor representative
Member
National Union of Labor Investigators

Milagro Rodriguez – Labor representative
Occupational Health and Safety Specialist
American Federation of Government Employees, AFL-CIO

Gary Steinberg - Alternate federal agency representative
Principal Deputy Assistant Secretary for
Human Resources Administration
Department of Veterans Affairs

Richard A. Whitford -- Federal agency representative
Assistant Administrator for Human Capital
Transportation Security Administration
Department of Homeland Security

Also Attending

Diane Brayden – FACOSH Designated Federal Official
Director
OSHA - Office of Federal Agency Programs
Department of Labor

Thomas Galassi
Deputy Director
OSHA - Directorate of Enforcement Programs
Department of Labor

Shelby Hallmark
Director
Office of Workers' Compensation Programs
Employment Standards Administration
Department of Labor

David Marciniak
General Services Administration

Laura Mills
OSHA - Office of Federal Agency Programs
Department of Labor

Katharine Newman
Bureau of Labor Statistics
Department of Labor

Sarah Shortall - FACOSH Counsel
Office of the Solicitor
Department of Labor

Michelle Walker
OSHA - Office of Federal Agency Programs
Department of Labor

Call to Order and Introductions

Chair Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, called the meeting of the Federal Advisory Council on Occupational Safety and Health (FACOSH or Council) to order at 10:10 a.m., March 1, 2007. He thanked Council members for their service and the audience for attending. Mr. Foulke introduced Gabe Sierra, his Chief of Staff and Matt Miller, a new special assistant, and asked FACOSH members and alternates, and other attendees to introduce themselves.

Approval of Minutes

Mr. Foulke moved that the Council approve the September 28, 2006, FACOSH meeting minutes (Exhibit 4*). The motion was seconded and passed unanimously.

Updates on Ongoing Activities

Safety, Health, and Return-to-Employment (SHARE) Initiative SHARE FY 2006 Progress

Mr. Foulke and Shelby Hallmark, Director, Department of Labor (DOL) Office of Workers' Compensation Programs (OWCP), conducted a joint presentation on the Presidential Safety, Health, and Return-to-Employment (SHARE) Initiative to improve safety and health among federal employees. Mr. Foulke reported that the SHARE Initiative established four goals and that OSHA oversees Goals 1 and 2 while OWCP oversees Goals 3 and 4. The goals are:

- 1) To reduce total injury and illness case rates (TCRs) by at least 3% per year;
- 2) To reduce lost time case rates (LTCRs) by at least 3% per year;
- 3) To improve the timely filing of injury and illness notices by at least 5% per year;
and
- 4) To reduce lost production day rates (LPDRs) by at least 1% per year.

Mr. Foulke pointed out that the SHARE goals are aligned with the President's Management Agenda goal on human capital and DOL's strategic goal to foster quality workplaces.

For Goal 1, Mr. Foulke reported that in FY 2006, for the first time since the start of the SHARE Initiative, the federal government as a whole met its goal of reducing TCRs. He reported on individual agency goal achievements (Exhibit 5) and commended the efforts and improvements of NASA, the Department of the Treasury (Treasury), and the

Department of Homeland Security (DHS) toward meeting Goal 1. Mr. Foulke reported similar government-wide success on Goal 2. He commended NASA, DOL, Treasury and DHS for the progress they made in reducing LTCRs.

Mr. Hallmark provided information on Goals 3 and 4. He noted that during the SHARE Initiative the federal government as a whole had demonstrated more than a 50% improvement on Goal 3. He also discussed individual agency achievements toward meeting this goal and pointed out the improvements of DHS (Exhibit 5).

With respect to Goal 4, Mr. Hallmark explained that it integrates the safety and case management areas reflecting both reductions in injuries and quicker return of employees to work when injury occurs. Mr. Hallmark noted a steady improvement over the course of the SHARE Initiative and reported that the federal government had met its goal for reducing LPDRs in FY 2006. Mr. Hallmark discussed the progress of individual agencies, noting DHS's significant improvements (Exhibit 5).

SHARE Recognition Ceremony and Workshops

Mr. Hallmark reported on the February 15, 2007, ceremony that DOL held to commemorate the first three years of the SHARE Initiative and celebrate its three-year extension. He said several departments and agencies received awards for their accomplishments in meeting or exceeding the SHARE goals. He said the Department of the Navy and Social Security Administration were recognized for exceeding all four SHARE goals. Treasury received an award for the greatest reduction in TCRs and LTCRs, while DOL was honored for the timeliest submission of injury and illness claims. The Department of Defense (DOD) Agencies, which are comprised of the Department's non-military activities, received an award for the greatest reduction in LPDRs.

Mr. Hallmark said the events included a panel of agency representatives who shared their experiences in achieving their accomplishments and workshops on workplace safety and health and workers' compensation issues.

Ms. Milagro Rodriguez, American Federation of Government Employees, asked that events such as the SHARE workshops be better publicized so that labor organizations have opportunities to participate and attend. Mr. Foulke affirmed that such would occur.

SHARE Initiative Extension

Mr. Hallmark reported that the President has issued a memorandum authorizing a three-year extension of the SHARE Initiative (Exhibit 6). He stated that the extension should allow continued improvement in the federal government's progress towards improving its performance.

Mr. Hallmark noted that the extension includes several clarifications and changes:

- The baseline data year for the first three goals remains FY 2003;
- The minimum acceptable level for Goal 3 (timeliness) is 50% and will increase by 5% per year regardless of baseline;

- The highest expected accomplishment for Goal 3 is now 95% and, once achieved, the organization is expected to maintain that performance;
- The baseline data year for Goal 4 (LPDRs) is now FY 2006 due to improvements in OWCP's data processing and analysis capabilities; and
- The level of performance for Goal 4, beyond which no reduction is required, is capped at a rate of 15 lost production days.

Mr. Hallmark explained that in DOL's role in leading the SHARE Initiative the Department will continue to:

- Measure and track performance;
- Provide an annual performance report to the President;
- Work cooperatively with the agencies to achieve the program's goals; and
- Report results at the bureau level and provide that information on the DOL website.

SHARE FY 2007, Quarter 1 Results

Mr. Foulke and Mr. Hallmark reported on the first quarter performance trends for FY 2007. With respect to Goal 1, Mr. Foulke said the federal government as a whole is on track to achieve its FY 2007 target. He also reported that most of the major agencies are demonstrating a similar trend and called attention to DHS's progress. Mr. Foulke stated that the federal government is also on track to meet Goal 2, as are several federal Executive Branch departments.

Mr. Hallmark said that, although the government's first quarter FY 2007 performance on Goal 3 was slightly below the FY 2006 level, it is still well above the target for FY 2007. He also provided a break out of individual agencies' progress (Exhibit 5). Mr. Hallmark said he was very positive about the government's progress towards meeting Goal 4 and that the first quarter LPDR was nearly three points below the fiscal year's target. He provided a break down of individual agency progress.

Mr. Curtis Bowling, DOD, asked whether all federal agencies had set stretch goals. Diane Brayden, Director of OSHA Office of Federal Agency Programs (OFAP), said that DOL had asked agencies to inform them if they wanted to set stretch goals. Mr. Bowling asked whether the FY 2007 LPDR target was the SHARE target or a stretch target. Mr. Foulke said that he believed it was the SHARE target, and Mr. Hallmark concurred, noting that he was not aware of any stretch goals for FY 2007. Mr. Bowling asked whether specific agencies were setting stretch goals and Ms. Brayden stated that DOL was working with one agency to set stretch goals.

Federal Agency Injury and Illness Recordkeeping

Current federal agency recordkeeping systems - Ms. Brayden provided an update on federal agency recordkeeping. Ms. Brayden explained there are analytical limits to the SHARE data because they provide only general information on a large scale. She noted that in order for OFAP to fulfill its mission of providing occupational safety and health

program guidance to federal agencies, more defined and specific data is needed. Mr. Foulke also stressed the importance of data collection and analysis with respect to providing the necessary assistance to federal agencies.

Ms. Brayden stated that the OSHA 300 records and other applicable provisions of the Recordkeeping rule (29 CFR Part 1904), which federal agencies are required to follow, could provide data at the establishment level and significantly enhance the level of assistance offered to federal agencies. Ms. Brayden explained that the current challenge was to determine the best way to gather and analyze the data and noted that several systems and methods were in use throughout the government. She requested that committee members consider sharing with OFAP their experience and insight regarding their own departments' systems.

BLS Injury and Illness Data - Katharine Newman, DOL, Bureau of Labor Statistics (BLS), presented information on the system BLS uses to collect and analyze injury and illness data for private industry. Ms. Newman explained the types of data BLS collects from OSHA 300 and 301 forms along with the uses and benefits of such data collection and analysis. She provided the most recent BLS injury and illness data as well as information on:

- Collection methods;
- BLS's area of concentration for providing and publishing detailed case data;
- Data compilations and trends by industry and occupation;
- Data analyses and trends by gender, age, and race;
- Different characteristics of injuries and illnesses;
- Electronic means of data collection; and
- Availability of the system to OSHA.

Ms. Newman explained the procedures for using the BLS system, including the ease of use for respondents. She noted the success of the data collection system and mentioned how to find examples of analyses on BLS's website.

New Injury and Illness Data Collection System Development -- Ms. Brayden briefed the Council on the timeframe for completing the development and selection of a new injury and illness data collection system for federal agencies. She noted that before a new SHARE Initiative could be implemented, it would be necessary to develop a program for data collection and collect a year's worth of baseline data. She mentioned the disparity between the recording period requirements of the OSHA Recordkeeping rule (calendar year) and the SHARE Initiative (fiscal year) and suggested the possibility of designing the new program on a calendar year basis. She said that if the replacement for the SHARE program collects data on a calendar year basis, the program would be slated to begin on January 1, 2010. She stated that such a timeline required swift program development in order to ensure sufficient baseline data. She expressed interest in receiving suggestions and feedback from the Council with respect to data collection systems and programmatic designs.

Mr. Foulke proposed that a FACOSH Subcommittee on Recordkeeping be created. The motion was seconded. Ms. Rodriguez asked for clarification on the Subcommittee's specific tasks. She requested that guidelines be established on Subcommittee setup, composition, lines of reporting, and membership. Ms. Brayden stated that guidelines would be provided at a later time. Ms. Brayden said the Subcommittee would need to elicit feedback from federal departments and agencies about their system needs and implementation capabilities, and the state of current technology. She noted that the success of any future program depended on the quality of the needs analysis. Mr. Bowling asked whether the BLS data collection system could provide the necessary baseline. Mr. Foulke clarified that the system was currently designed for the private sector and that the Subcommittee might find that the government has different needs. Gary Steinberg, Department of Veterans Affairs, stressed the importance of a baseline.

Mr. Foulke mentioned several issues the Subcommittee might investigate, such as whether the new data system should cover volunteers and their injuries and illnesses. Mr. Foulke added that it would be beneficial for the Subcommittee to collect information on current best practices.

The motion to establish a Recordkeeping Subcommittee passed unanimously. Mr. Foulke asked that nominations for Subcommittee members and chair be sent to Ms. Brayden by the end of the month.

Federal Agency Safety and Health Training

Ms. Brayden provided an update on federal agency occupational safety and health training. She reported on federal training week (FEDWEEK) held in November 2006. She noted that FEDWEEK's format had been redesigned to offer half-day courses, allowing the students to complete up to six courses during the training period. She stated that at least 60 individuals had participated and that the offerings had received favorable reviews. Ms. Brayden noted that FEDWEEK 2007 scheduled for November 6-8, 2007, would use a similar format, increase the availability of the more popular classes, and include new classes that are currently in the development process. Ms. Brayden asked for input on topic areas of interest for the training week.

Ms. Brayden also reported on efforts to move forward on providing distance-learning opportunities for federal personnel. She stated that the OSHA Training Institute (OTI) was involved in the endeavor. Mr. Foulke noted that he had directed Frank Payne, OTI Director, to update the Institute's training programs. Ms. Brayden asked for suggestions and assistance from members with regard to distance learning. Mr. Gary Steinberg said that establishing web sites or libraries for sharing federal agency training information would be useful to the federal community. He also mentioned that virtual or distance learning could increase the availability of training. He suggested that other departments could explore the possibility of offering training conferences. Mr. Foulke also stated that virtual learning and video conferencing were beneficial tools. He noted that it would be helpful to collect information on agencies' capabilities in these areas to allow greater training availability.

Mr. Foulke asked whether OSHA had ever investigated other federal agency occupational safety and health training practices with the purpose of determining “best practices.” Ms. Brayden replied that such an investigation could be done. Mr. Foulke commented that compiling a list of federal agency training capabilities and programs would help OSHA to disseminate knowledge in both the private and public sectors. Mr. McGraw, International Association of Fire Fighters, expressed an interest in learning about the specific programs that agencies were using to facilitate the decrease in their injury statistics and subsequently sharing that information throughout the government. Ms. Brayden noted that such a panel discussion had occurred during the SHARE Ceremony and Mr. Foulke stated that a summary of that discussion would be helpful.

Facility Safety and Health Design

David Marciniak, General Services Administration (GSA), provided an update on federal facility safety and health design. Mr. Marciniak said he wanted to continue discussing the possible formation of a workgroup on integrating safety and health considerations into federal facility design requirements. He stated that, as the second-largest manager of federal buildings (owned or leased), GSA was concerned about facility safety for federal employees, contractors, and visitors. Mr. Marciniak stated that a workgroup could help to augment current building codes and specifications by creating a guide for integrating occupant safety and health considerations into building designs. He said that GSA proposed a workgroup to collate and centralize information from federal agencies, develop guidelines, and then integrate those guidelines into building standards and codes.

Mr. Marciniak provided specific examples of GSA’s efforts in this area (Exhibit 8). He also gave a breakdown of the organization of the guidelines, from design standards to codes and regulations to agency-specific requirements to recommendations. Mr. Marciniak also cited various health and safety hazards, such as the Legionella bacterium and walking surface slip resistance, and discussed how hazard reduction could be figured into a building’s design. He also discussed integrating maintenance and inspection considerations.

Donald Bathurst, DHS, provided information on the Department of Defense’s “whole building design process” and said that such information could be useful to GSA. Mr. Foulke asked whether such information had ever been collated and centralized and Mr. Marciniak responded that a “whole building design guide” would be a good repository.

Mr. Foulke stated his willingness to have the Council pursue providing some assistance to GSA and adjourned the meeting for lunch.

Lunch Break

The Council recessed for lunch.

New Business

Field Federal Safety and Health Councils

Michelle Walker and Laura Mills, both from OFAP, presented information on the Field Federal Safety and Health Councils (FFSHCs), federal interagency groups established pursuant to 29 CFR Part 1960.

Ms. Walker provided some background on the purpose and functions of FFSHCs, including that FFSHCs:

- Provide training to federal agencies, employee organizations, federal executive boards, and federal executive associations;
- Provide outreach and education on a variety of occupational safety and health (OSH) issues;
- Serve as clearinghouses for OSH information; and
- Establish cooperative relationships with their local communities (Exhibit 9).

She noted that FFSHCs consist of both management and non-management members, allow associate memberships for non-federal interested parties, and do not limit the number of personnel who can participate on a FFSHC. She also provided a brief outline of a council's organization, officers, and terms of office (Exhibit 9).

Ms. Mills explained the requirements and procedures for forming a FFSHC. She presented a map showing the location of the 48 active FFSHCs across the country (Exhibit 9) and noted that FACOSH members could find more information on OSHA's website at www.osha.gov. Mr. Foulke asked about the small number of FFSHCs in two relatively large geographic areas. Ms. Walker clarified that the federal agencies in those regions are widely dispersed over a large geographic area and the difficulty of regular meeting attendance was a consideration.

Ms. Mills described OSHA's provisions for recognizing the annual achievements of FFSHCs. She noted that there were three award levels within each of three different council size categories. Ms. Mills said that her office had recently finalized the draft FFSHC Manual that established policies and procedures for council activities and guidance on council organization.

Mr. Ron McGraw asked about the requirement for agency heads to appoint FFSHC representatives and said he thought non-management members should be chosen by their respective unions or union members. Ms. Walker replied that FFSHC appointment by agency heads was a regulatory requirement (29 CFR 1960.88) as part of a collaborative process between agency representatives and those interested in council participation. She also noted that OFAP had been working to encourage agencies to appoint a balanced number of management and non-management representatives.

Ms. Rodriguez asked whether the difficulty of labor representatives to obtain FFSHC membership had changed. Ms. Walker responded that participation of labor

organizations was increasing. Ms. Walker also noted that her office had begun asking federal agencies to provide information on both their managerial and non-managerial employees' participation.

FACOSH Member Nominations

Mr. Foulke noted that two management and three labor representatives' terms would expire in June 2007. He thanked the outgoing members and asked them to think about submitting a request to be considered for continued FACOSH membership.

Mr. Foulke stated that a request for nominations would be published in the *Federal Register* on March 2, 2007, and that all qualified individuals would receive consideration. He also reminded the members that the Secretary reserved the right to nominate qualified candidates. Mr. Foulke mentioned that the submission period for nominations was 30 days.

Ms. Deborah Kleinberg, Seafarers International Union, asked about obtaining a nomination package and Ms. Brayden said the *Federal Register* notice would provide instructions on what the nomination package must contain.

Member Certificates and Photographs

Mr. Foulke presented to Council members the FACOSH group photograph taken at the September 28, 2006, meeting, which he said will be hung in the OSHA conference room. He also informed the members that the Secretary of Labor's Certificates of FACOSH Appointment were not available for distribution at the meeting.

Next meeting and adjournment

Mr. Foulke suggested that the next FACOSH meeting be scheduled for September 2007 and without objection the members agreed on September 27, 2007, for the next FACOSH meeting. Mr. Foulke thanked members for their participation and adjourned the meeting at 2:01 p.m.

- * Exhibits referenced in these minutes are available for copying and inspection at the OSHA Docket Office, Docket No. OSHA-2007-0010, Room N-2625, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington DC 20210; telephone (202) 693-2350. Exhibits can also be accessed at <http://www.regulations.gov>, the federal eRulemaking Portal.