

Reply to the Attention of:



MEMORANDUM FOR: DAVID MICHAELS, PhD, MPH
Assistant Secretary

FROM: *Thomas Galassi*
THOMAS GALASSI, Director
Directorate of Enforcement Programs

SUBJECT: Federal Advisory Council on Occupational Safety and Health
October 18, 2012 Meeting Minutes

Attached, for your certification, are the draft minutes of the October 18, 2012 Federal Advisory Council on Occupational Safety and Health (FACOSH) meeting, held in the U.S. Department of Labor - Frances Perkins Building, in Washington, DC. FACOSH is governed by the Federal Advisory Committee Act, which requires the advisory committee minutes be certified by the committee chair within 90 calendar days of the meeting [§ 41 CFR 102-3.165(c)].

If you have any questions or need additional information, please contact Mr. Francis Yebesi, FACOSH Designated Federal Official at (202) 693-2233.

Approved: *[Signature]*

Date: 1-3-13

Disapproved: _____

Date: _____

MINUTES OF THE MEETING OF THE FEDERAL ADVISORY COUNCIL ON OCCUPATIONAL SAFETY & HEALTH

October 18, 2012

Dr. David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety & Health (OSHA), and chair of the Federal Advisory Council on Occupational Safety & Health (FACOSH), called the FACOSH meeting to order on October 18, 2012, at the U.S. Department of Labor (DOL), Frances Perkins Building (FPB), 200 Constitution Avenue, NW., Washington, DC.

FACOSH MEMBERS

Mr. Curtis Bowling, Management Member
Director, Environmental Readiness & Safety, *U.S. Department of Defense* (DoD)

Mr. Dennis Bushta, Management Member
Deputy Director, Office of Administration, *U.S. Environmental Protection Administration* (EPA)

Mr. William Dougan, Labor Member
National President, *National Federation of Federal Employees* (NFFE)

Ms. Catherine Emerson, Management Member
Chief Human Capital Officer, DASHO, *U.S. Department of Homeland Security* (DHS)

Mr. Gregory Junemann, Labor Member
International President, *International Federation of Professional & Technical Engineers* (IFPTE)

Ms. Deborah Kleinberg, Labor Member
Counsel, *Seafarers International Union*, AGLIWD

Mr. William Kojola, Labor Member
Industrial Hygienist, *AFL-CIO*

Ms. Milagro Rodríguez, Labor Member
Occupational Health & Safety Specialist, *American Federation of Government Employees* (AFGE)

Dr. Richard S. Williams, MD
Chief Health & Safety Officer, DASHO, *National Aeronautics & Space Administration* (NASA)

SPECIAL AGENCY LIAISONS (SALs)

Mr. Frank Hearl
Chief-of-Staff, *National Institute for Occupational Safety & Health* (NIOSH), U.S. Department of Health & Human Services

Mr. Gary Steinberg
Acting Director, *Office of Workers' Compensation Programs* (OWCP), DOL

OTHER PARTICIPANTS

Mr. Francis Yebesi

Designated Federal Official, Office of Federal Agency Programs (OFAP), OSHA, DOL

Ms. Sarah Shortall

FACOSH Counsel, *Office of the Solicitor of Labor*, DOL

ADMINISTRATIVE ISSUES

Announcements. Dr. Michaels announced the resignation of two management members from the Council: Mr. Edward Hamilton, *U.S. Department of Justice*; and Mr. John Sepúlveda, *U.S. Department of Veterans Affairs*. He also announced that, 1) the *Secretary of Labor's Report to the President on Federal Department and Agency Occupational Safety & Health Program Activity, Fiscal Year 2011* was being finalized; 2) the Secretary of Labor is reviewing the 2013 FACOSH nominations package; 3) OSHA submitted the Proposed Recordkeeping Rule Change to the Office of Management & Budget (OMB) for review, and is working through the comments received from other federal agencies; and 4) the Secretary has forwarded the Council's recommendations regarding the GS-0018 job series to Office of Personnel Management (OPM) for action. Mr. Yebesi provided a safety/emergency evacuation briefing to the Council.

Training Subcommittee and OPM's Status Report. Dr. Michaels explained that OPM was unable to address the Council meeting, but provided a written update describing their actions to date. He indicated that OPM, a) has assigned classification and qualification policy experts to review the aforementioned documents; and b) is reviewing position descriptions to determine the need to collect additional occupational information and updates to the classification standard. According to OPM's submitted update, the Agency intends to discuss the GS-0018 series with Agency classification Chiefs in November 2012. Dr. Michaels stated that OSHA will continue to work with OPM on this issue.

Proxies. Pursuant to 29 CFR 1912.29, which permits management and labor members who cannot attend the FACOSH meeting to request that another member to vote in their place, Mr. Chico McGill and Ms. Colleen Kelley (labor members) gave their proxies to Mr. Junemann (labor member), and Mr. William Fleming (management member) designated Mr. Bowling (management member) as his proxy.

Meeting Minutes. Dr. Michaels announced that the certified minutes for the May 3, 2012 FACOSH meeting are available for public viewing in the OSHA Docket at <http://www.regulations.gov>, the federal eRulemaking portal (Docket No. OSHA-2012-006-0015).

OLD BUSINESS

FACOSH Subcommittee Reports

Training Subcommittee

Dr. Michaels identified the three Training Subcommittee workgroups as: the *Federal Buildings Personnel Training Act of 2010*, the *Uniform Safety & Health Training Guidelines for Federal Employees*, and the *Model Career Management Plan* workgroups.

Report: Federal Buildings Personnel Training Act (FBPTA) Workgroup – GSA's Action Plan

Mr. David Marciniak, *General Services Administration* (GSA), identified himself as the alternate for Mr. Robert Shaw, the appointed GSA-SAL. Mr. Marciniak presented the work accomplished by the FBPTA Workgroup, to include: legislative background, the process which guided their deliberations, and outcomes and recommendations. He stated that the FBPTA (Act) must be updated annually. Key items of Mr. Marciniak's presentation included that, in accordance with the Act's requirements, GSA:

- In consultation with different stakeholders and groups, has identified core competencies necessary for federal personnel performing building operations and maintenance, energy management, and safety. He stated that the DoD *Defense Safety Oversight Council's Electrical Safety Subgroup's* recommendations, concerning asbestos, fall protection, confined space, and electrical matters, were incorporated into the latest update to the Act. He added that, although the FACOSH recommendations were not added to this update, they will be considered in the 2013 reiteration.
- In partnership with the *Department of Energy*, has identified relevant courses and certifications that focus on providing affected employees with the core competencies; and
- Has published the core competencies and other relevant information online on the Facility Management Institute's (FMI) website at www.FMI.gov. The website indicates that FMI is a cloud Institute bringing together government, industry and academia with the goal of integrating, aligning and innovating all aspects of the Facilities Operations & Management profession through continuous collaboration on core competencies, curriculum, continuing education and knowledge networking.

Mr. Marciniak provided an overview of future assessment mapping activities of the core competencies, and commented on next actions, to include: 1) crosswalk FACOSH recommendations against what's already covered in the current publication; 2) solicit help from -the safety community to assist with the competency mapping initiative, and -OPM to research ways to fund the workgroup's efforts.

Report: Federal Buildings Personnel Training Act (FBPTA) Workgroup

Mr. Kojola, speaking from a summary provided by the workgroup's co-chairs, Mr. Matt Gillen, *NIOSH*, and Mr. Bruce Zaczyński, *National Archives & Records Administration*, who were unable to attend the meeting, presented the work accomplished by the workgroup. He stated that GSA issued a set of 12 core competencies, which include safety and health subcomponents, including: basic requirements, infrastructure, contract management, and occupant interface. He stated that the GSA webtool, referred to in Mr. Marciniak's report, is intended to allow the user to develop a baseline, report training completions, and show compliance with the Act, and that GSA intends to update the core competencies in June 2013. He indicated that the 10- and 30-

hour training materials, as well as the certified safety supervisor materials from the *Board of Certified Safety Professionals*, might be suitable for the FBPTA Workgroup to consider, and that they would be useful to tailor existing materials and expand online training options.

Mr. Kojola reported that the *Defense Intelligence Agency* (DIA), even though it has a small training budget, has provided a representative to assist the workgroup to develop and package safety training materials for meeting the Act's requirements. He explained that although the addition of the DIA representative is a positive development, the workgroup felt that DIA has an insufficient number of training experts to take on the project. Therefore, the workgroup will seek additional help to identify safety and health training needs, and resources.

Motion Regarding the Federal Buildings Personnel Training Act Workgroup Report.

Mr. Junemann moved that FACOSH approve the *Federal Buildings Personnel Training Act Workgroup Report*. The motion was seconded and passed unanimously.

Report: Uniform Safety & Health Training Guidelines for Federal Employees Workgroup

Dr. Michaels acknowledged that Dr. Brenda Miller, *U.S. Department of the Army*, workgroup co-chair, was unable to attend the meeting; and that Mr. David Smith, *Department of Energy*, workgroup co-chair, would present its current status. Mr. Smith stated that the workgroup was tasked to develop a standardized set of safety and health training elements for federal employees. He stated the workgroup addressed the employee categories as identified in 29 CFR §1960: management officials/supervisory employees, safety and health specialists, safety and health inspectors, collateral duty employees, safety and health committee members, and employee and employee representatives.

Mr. Smith stated the accomplishments of the workgroup as finalizing: 1) the *Guidelines for Federal Employees Occupational Safety and Health Training*, and 2) a general standard of operations (SOP) document that can be adapted by federal agencies. He explained that the SOP is intended to be used by federal agencies as a template in determining training guidelines for various safety and health positions. He stated that the workgroup's third accomplishment is a series of recommendations focusing on the scope of training, training duration, documentation and assurance of training, methods of delivery, enhancement of training for federal employees, oversight of training, and training resources.

Motion Regarding the Uniform Safety & Health Training Guidelines for Federal Employees Workgroup Report.

Mr. Kojola thanked the co-chairs and the members of the workgroup for their excellent work. He moved that FACOSH approve the *Uniform Safety & Health Training Guidelines for Federal Employees Workgroup Report*. The motion was seconded and passed unanimously.

Report: Uniform Safety & Health Training Guidelines for Federal Employees Workgroup Recommendations

Mr. Kojola discussed the workgroup's recommendations intended to accompany the guideline document and SOP. He stated that the workgroup is recommending that the recommendations be forwarded to OSHA for consideration in the development of uniformed safety and health training across the Federal Government.

Motion Regarding the Uniform Safety & Health Training Guidelines for Federal Employees Workgroup Recommendations.

Mr. Kojola moved that FACOSH recommend that the training guidelines and standard operating procedures in the *Uniform Safety & Health Training Guidelines for Federal Employees Workgroup Report* be forwarded to OSHA for their consideration. The motion was seconded and passed unanimously.

Report: Model Career Management Plan (MCMP) Workgroup

Mr. John Seibert, *Department of Defense*, restated that the purpose of the workgroup is to provide hiring process guidance to management. He explained that the workgroup's focus is from the employee's point of view. However, he stated that it is difficult to offer guidance to employees in the GS 0018, *Safety and Occupational Health Manager* job series advising them on what they need to do to further their careers. He stated that Ms. Nancy McWilliams, *Department of Commerce*, lead the workgroup in the design of a tri-fold brochure, intended to inform and reassure affected employees about what's needed for career advancement and other qualification requirements. He stated that the tri-fold is ready for subcommittee review. Ms. McWilliams further explained that the brochure is a foundational document for safety professionals who may not meet, if implemented, the workgroup's recommended changes to the GS-0018 job series qualifications, and to advise them on what's needed to meet these qualifications by guiding their selection of the "correct" certifications.

Motion Regarding the Model Career Management Plan Workgroup Report.

Mr. Junemann moved that FACOSH approve the *Model Career Management Plan Workgroup Report*. The motion was seconded and passed unanimously.

NEW BUSINESS

Revitalizing Field Federal Safety and Health Councils.

Mr. Wes Carpenter, *EPA*, discussed leveraging and optimizing the Field Federal Safety and Health Councils (FFSHCs) across the country by looking at opportunities to improve collaborations between the Federal Executive Boards (FEBs), the Federal Executive Associations (FEAs), and the FFSHCs in terms of strengthening and improving overall federal safety and health programs. He recommended establishing a FACOSH subcommittee: 1) to evaluate the councils, specifically their value, importance, and activity levels across the country, and 2) to research opportunities to leverage and optimize the FFSHCs with the FEBs and the FEAs. He further explained that today's environment of reduced budgets and resources provides OSHA, on behalf of the Federal Government, a significant opportunity to improve extant safety and health programs, and to ensure that agency executives are cognizant of the safety and health strategic and programmatic issues and activities available to them. He recommended that FFSHCs work with the Designated Agency Safety & Health Officials across the Federal Government, and with labor and management, to ensure that strategic and programmatic changes to an agency's safety and health programs are being implemented. Mr. Carpenter addressed several concerns raised by FACOSH members.

Motion Regarding Revitalizing Field Federal Safety and Health Councils and Recommendation.

Mr. Bushta moved that FACOSH form a subcommittee to pursue revitalization of FFSHCs. The motion was seconded and passed unanimously.

eComp and Protecting Our Workers, Ensuring Reemployment

Mr. Steinberg reported on *eCOMP*'s integration for use in the *Protecting Our Workers and Ensuring Reemployment* (POWER) Initiative. He explained that the POWER initiative has been underway for several years, and its focus is on both safety and prevention, as well as helping federal employees return-to-work. He announced that the Initiative was moving forward with all seven of its goals; six of which were measurable.

Key elements of his presentation included his statement that, regarding prevention and safety, the *Total Case Rate*, and *Lost Time Case Rate* have both decreased, and the timely filing of claims, lost production days, and the return-to-work rate - all have shown improvement across the Government. He further stated that OWCP has talked with the partner agencies and OMB concerning raising the standards of measure associated with workers' compensation for 2013 and beyond. He explained that OWCP is moving forward with the electronic filing of claims, including injury report claims, wage loss claims from employees, employing agencies, and medical providers, through the *eCOMP* digital portal. He stated that the portal, which is 508 compliant, does not change the CA-1 or CA-2 forms, and allows the forms to be filled out by hand, scanned and submitted digitally to OWCP. He indicated that *eCOMP* went through extensive testing with the *Federal Bureau of Investigation*, the pilot agency, to assure compliance with 508 requirements, and the protection of personally identifiable information, with 100 percent compliance. He added that its benefits include simplified processing; cost-reduction; increase the timeliness of documenting issues, review and adjudication of claims, and ultimately, timely return-to-work of employees. He stated that the new regulation, promulgated last year, requires all government agencies to file claims through *eCOMP* or other mechanism by January 1, 2013. He indicated that many federal agencies are already doing so, and that use of *eCOMP* is available free-of-charge to partner agencies, and that more information is available on the *eCOMP* website at: <https://www.ecomp.dol.gov/#>, or by contacting Mr. Tony Rios, Deputy Director of the *Federal Employees Compensation Act* program.

Federal Agency Targeting Inspection Program (FEDTARG)

Mr. Yebesi explained how OSHA targets its inspections of federal agency workplaces. He explained that in accordance with Executive Order 12196, OSHA has the authority to inspect federal agency work sites. He explained the difference between the private and public sector site specific targeting programs, indicating that OSHA does not have access to federal agency site-specific data, such as OSHA 300 logs, establishment employment data, or worksite levels. Therefore, OSHA is not able to conduct "true site-specific targeted inspections" of federal agencies. Instead, OSHA develops a list using data obtained from OWCP which identifies agency worksites that have had compensable injuries resulting in lost time. However, Mr. Yebesi stated that the data may not be reflective of the actual site where injuries have occurred. Also, OWCP compensable cases may not always be recordable per 29 CFR 1904. He explained what establishments are excluded from consideration from inspection, as well as the data collected from FY 2009 to FY 2011. He stated the POWER Initiative goals concerning injury

reduction and lost time, and made note of which agencies did not meet the standards for those goals. He stated that OSHA understands that using OWCP's data doesn't identify all the establishments not meeting the POWER goals; and that before the new recordkeeping rule is implemented, OSHA needs to find a more targeted method to identify those agencies.

Mr. Yebesi, responding to Council member's questions, indicated that all FEDTARG inspections are programmed inspections, not unprogrammed (complaint-driven) inspections. Dr. Michaels and Mr. Steinberg added that the data provided to Council members is Government-wide worker's compensation data focused on safety and health. Council members suggested alternate methods to increase the effectiveness of the FEDTARG program, including:

- Using site-specific employee data versus the number of cases to better identify agencies for inspection; performing more detailed inspections for agencies that are repeat violators; and tying worker injuries with the effectiveness of facility-level safety committees, such as the aforementioned FFSHCs, and/or the absence of such committees (per Mr. Dougan, *NFFE*). Dr. Michaels stated that the establishment with the greatest numbers should be inspected first, even if the rate isn't the highest. He explained that actual site-specific employee data is collected at the time of inspection, and that the data obtained from OWCP doesn't provide a determined number pre-inspection. He stated that there isn't an agency within DOL that collects site-specific data prior to an inspection.
- Taking into account the type of establishment to be inspected, and connecting inspections with State-level Occupational Safety and Health authorities (per Mr. Bushta, *EPA*). Dr. Michaels explained that State-level programs have little-to-no jurisdiction over federal worksites, jurisdiction is different in every State, and the contractual agreements between the contracting federal agency and the private sector employer further complicates the matter.

PUBLIC COMMENT

The Council heard a comment made by Dr. Treasa Turnbeaugh, Chief Executive Officer, *Board of Certified Safety Professionals*.

NEXT MEETING and ADJOURNMENT

Dr. Michaels suggested that FACOSH meet in April 2013, at the FPB, stating that OFAP will survey the membership for their availability. Mr. Junemann moved to adjourn the meeting. The motion was seconded and passed unanimously. Dr. Michaels adjourned the meeting.

MEETING EXHIBITS

The exhibits listed below from this meeting can be read and downloaded at <http://www.regulations.gov>, the federal eRulemaking portal. In addition, the exhibits are available for copying and inspection at the OSHA Docket Office (Docket No. OSHA-2012-0006), Room N-3437, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC, 20210; telephone (202) 693-2350.

Exhibits

Exhibits entered into the public record of the October 18, 2012, FACOSH meeting:

Exhibit 1 Briefing materials for the October 18, 2012, FACOSH meeting

- Exhibit 2 Proxies submitted for the October 18, 2012, FACOSH meeting
- Exhibit 3 Revised agenda for the October 18, 2012, FACOSH meeting
- Exhibit 4 OPM status update addressing FACOSH's recommendations on *Federal Building Personnel Training Act*
- Exhibit 5 FBPTA – Safety and Health Competencies report, presented by Mr. David Marciniak, *General Services Administration*
- Exhibit 6 Draft bullet points for FBPTA Workgroup report, prepared by Mr. Matt Gillen, workgroup co-chair
- Exhibit 7 Approved *Uniform Safety & Health Training Guidelines Workgroup Report*
- Exhibit 8 ASSE *Employer's Guide to Hiring a Safety Professional*
- Exhibit 9 PowerPoint presentation on eCOMP and *Protecting Our Workers, Ensuring Reemployment* initiatives, presented by Mr. Gary Steinberg
- Exhibit 10 *Federal Agency Targeting Inspection Program* report
- Exhibit 11 Comments on Dr. Treasa Turnbeaugh, *Board of Certified Safety Professionals*