

Recommendations for Consideration by the  
Secretary of Labor on Pandemic-H1N1  
Influenza Protection for the Federal Workforce

Prepared by the  
Federal Advisory Council on Occupational Safety and Health  
(FACOSH)

## **EXECUTIVE SUMMARY**

During the summer of 2009, the Federal Advisory Council on Occupational Safety and Health (FACOSH) Emerging Issues Workgroup met to analyze the Federal agency experience during the spring 2009 H1N1-influenza outbreak. FACOSH advises the Secretary on issues related to the occupational safety and health of the Federal workforce. The Workgroup gathered information from Federal agencies and labor organizations representing Federal employees. It also sought insight from technical experts who provided perspective on the occupational safety and health-related gaps that exist in pandemic planning within the Federal government. FACOSH deliberated and voted to approve each of the recommendations contained within this report during the September 15, 2009 Special Meeting. Key recommendations for the Secretary include:

- Emphasizing Federal agencies' responsibility to identify and abate any known hazards (such as H1N1-influenza) which are or could potentially affect the occupational safety and health of their employees;
- Encouraging better stakeholder involvement in the pandemic planning process, with particular emphasis on inclusion of occupational safety and health personnel and labor representatives;
- Notifying agency heads that OSHA is the lead authority for Federal workforce safety and health protection and personal protective equipment (PPE) guidance during a pandemic;
- Facilitating the immediate release of the OSHA's *Influenza Pandemic eTool*;
- Communicating the need to conduct hazard assessments in order to determine risk exposure and the types of controls which can be implemented to protect employees during a pandemic;
- Directing OSHA to prepare occupational safety and health-related pandemic training for senior agency officials;
- Encouraging Federal agencies to provide pandemic-related information, including existing OSHA guidance, and tailored training to all levels and categories of employees within their organization; and
- Revising 29 CFR Part 1960 – *Basic Program Elements for Federal Employee Occupational Safety and Health Programs and Related Matters* to make the *Safety and Health Program Management Guidelines* (*Federal Register* #: 54:3904-3916, referred to as the “1989 Guidelines”) mandatory for Federal agencies, thereby creating a more robust Federal agency occupational safety and health program better able to deal with pandemics.

Although not the focus of the Workgroup, several overarching Federal government and non-occupational safety and health-related issues were identified during the analysis.

Recommendations include providing better all-around pandemic-related training within Federal agencies and facilitating the coordination of H1N1-influenza information to improve consistency and clarity. Recommendations for the Office of Personnel Management (OPM) and the Centers

for Disease Control and Prevention (CDC) regarding the distribution of their existing guidance are also provided.

## **INTRODUCTION**

During the spring 2009 H1N1-influenza outbreak, workplaces, including Federal agencies, had an opportunity to analyze the sufficiency and effectiveness of their pandemic plans. Although this outbreak was relatively mild, it tested existing plans and highlighted areas in need of improvement. The need to discuss occupational safety and health-related “lessons learned” and provide potential solutions to recognized gaps in existing Federal agency pandemic planning was presented to the Federal Advisory Council on Occupational Safety and Health (FACOSH) Emerging Issues Workgroup.

FACOSH is an advisory committee established to provide guidance and recommendations to the Secretary of Labor on matters relating to the occupational safety and health of the Federal workforce. It is chaired by the Assistant Secretary of Labor for Occupational Safety and Health and comprised of representatives from Federal agency management and labor organizations representing Federal employees. The Occupational Safety and Health Administration (OSHA), Directorate of Enforcement Programs - Office of Federal Agency Programs serves as the secretariat to FACOSH.

The Emerging Issues Workgroup was established to provide a forum in which FACOSH can address issues affecting or potentially impacting the occupational safety and health of the Federal workforce. The Workgroup is made-up of FACOSH members, or their alternates, and chaired by management member Donald Bathurst, U.S. Department of Homeland Security, and labor member, William “Chico” McGill, International Brotherhood of Electrical Workers, AFL-CIO. During the summer of 2009, the Workgroup conducted a review of the Federal agency spring 2009-H1N1 influenza outbreak experience with special focus on occupational safety and health.

In order to fully research this issue, the Workgroup gathered information and technical expertise from several departments including Agriculture, Commerce, Defense, Health and Human Services (including the Centers for Disease Control and Prevention (CDC) and the National Institute for Occupational Safety and Health (NIOSH)), Homeland Security, Justice, State, and Veterans Affairs, as well as, the Environmental Protection Agency, General Services Administration, Office of Personnel Management (OPM), and Postal Service. Technical experts from labor organizations representing Federal employees also provided their perspectives on the health and safety of the Federal workforce during a pandemic. These labor organizations include the AFL-CIO, American Federation of Government Employees (AFGE), American Nurses Association (ANA), American Postal Workers Union (APWU), International Brotherhood of Electrical Workers (IBEW), National Treasury Employees Union (NTEU), and Seafarers International Union (SIU).

Using this spring 2009-H1N1 influenza experience, the Workgroup identified gaps in Federal agency pandemic planning related to occupational safety and health and developed recommendations on how workforce protection in the event of future outbreaks could be improved. During this process, overarching Federal government-wide and non-occupational safety and health related issues were also identified by the Workgroup. Recommendations regarding these issues were also provided.

## **OCCUPATIONAL SAFETY AND HEALTH-RELATED RECOMMENDATIONS**

### **Pandemic Planning**

**Issue 1:** Lack of or incomplete planning for workforce protection during pandemics. This has resulted from insufficient monitoring and regulatory requirements. In particular, absent or inadequate hazard assessments, need assessments, and funding requirements.

**Background:** Similar to what was reported in GAO’s report *Influenza Planning: Increased Agency Accountability Could Help Protect Federal Employees Serving the Public in the Event of a Pandemic*, the Workgroup found that several agencies have not completed adequate pandemic planning. When plans exist, fundamental workforce protection issues, such as exposure risk by occupational group or task, have not been sufficiently addressed within agencies. Also, agencies have not revised existing plans to correct deficiencies that were identified during the spring 2009-H1N1 influenza outbreak. The failure to conduct hazard assessments and revise plans to address deficiencies is directly related to insufficient monitoring and lack of regulatory requirements to hold agency leadership accountable. In addition, funding paths for pandemic preparedness resources, including personal protective equipment (PPE), can be too specific resulting in complications and making the transfer of resources to and from occupational safety and health programs difficult.

**Recommendation 1A:** The Secretary should immediately correspond with agency heads emphasizing their responsibility to identify and abate any known hazards which are or could potentially be affecting the occupational safety and health of their employees, as stated in 29 CFR Part 1960 *Basic Program Elements for Federal Employee Occupational Safety and Health Programs and Related Matters* (hereafter referred to as “29 CFR Part 1960”). In addition, this correspondence should mention that not conducting a hazard assessment could be potentially citable under 29 CFR 1960.8(a) – *Agency Responsibilities. Safety and Health Program Management Guidelines (Federal Register #: 54:3904-3916; hereafter referred to as the “1989 Guidelines”)* should also be referenced as guidance.

**Recommendation 1B:** The Secretary should inform Federal agency heads that when submitting budgets 29 CFR Part 1960 requires funding be allocated to safety and health programs, including preparing for pandemics.

**Recommendation 1C:** The Secretary should direct OSHA to revise 29 CFR Part 1960 to state that the 1989 Guidelines are mandatory for Federal agencies, thereby making the failure to conduct a hazard assessment during a pandemic citable by OSHA.

**Issue 2:** All stakeholders and professionals were not involved in pandemic planning and response activities.

**Background:** For many Federal agencies, pandemic planning activities included a limited number of medical officers and emergency management personnel. Oftentimes subject matters experts, critical employee groups, and labor representatives were not included in agency pandemic planning and response activities. Of particular importance to FACOSH, occupational safety and health specialists were often not included in the planning discussions or made aware of the plan details. In addition, the Workgroup noted that no agency reported the use of joint labor-management health and safety committees during the planning process. This inadequate stakeholder involvement led to lack of technical expertise, employee compliance, and the creation of labor issues.

**Recommendation 2A:** The Secretary should immediately correspond with agency heads to encourage the improvement of stakeholder involvement in pandemic planning. There should be particular emphasis on including occupational safety and health technical experts and labor representatives in pandemic planning and response activities. This should include joint labor-management safety and health committees, where they exist.

**Recommendations 2B:** The Secretary should direct OSHA to immediately correspond with agency heads to provide guidance on the types of stakeholders and subject matter experts who should be involved in developing agency-specific occupational safety and health plans related to pandemics.

**Recommendation 2C:** The Secretary should direct OSHA to coordinate periodic meetings with Designated Agency Safety and Health Officials (DASHOs), medical personnel, technical experts, and labor representatives regarding safety and health issues affecting the Federal workforce, including pandemic plans.

### **Pandemic Plan Implementation**

**Issue 3:** The roles and responsibilities of OSHA and CDC, with respect to workforce protection and PPE guidance and requirements, were unclear.

**Background:** During the spring 2009-H1N1 influenza outbreak, although guidance was available for severe pandemic planning, agency-level guidance for workforce protection and PPE use specific to H1N1-influenza was delayed. Initial guidance was generated by the CDC and OPM without the consultation of OSHA. CDC guidance was frequently updated and periodically changed which led to some confusion and introduced major challenges for agencies in response actions. This directly impacted labor relations and the credibility of the individual agency's commitment to occupational safety and health. Eventually, through good interagency cooperation, clear consistent guidance was produced. A currently existing example: OSHA is the lead for respirator use, and CDC-NIOSH is the lead for equipment approval and certification.

**Recommendation 3:** The Secretary should immediately correspond with agency heads to remind them that OSHA has statutory and regulatory authority, and responsibility for Federal workforce safety and health protection and PPE guidance during a pandemic, and that any OSHA guidance will be developed with research provided by CDC-NIOSH.

**Issue 4:** Lack of understanding when the use of controls, including PPE, is appropriate for occupational safety and health protection during a pandemic.

**Background:** The Workgroup found that determining if and when the use of controls was necessary to be problematic for many agencies. Also, agencies did not always understand OSHA requirements preceding the use of PPE, as specified in 29 CFR 1910.134 – *Respiratory protection*. In some cases, agencies gave inconsistent guidance regarding the voluntary use of PPE. Additionally, guidance on how to protect employees with special needs, including those who have special risks, are unable to wear filtering face piece respirators, cannot take antivirals, or cannot or refuse to receive vaccination, was insufficient.

**Recommendation 4A:** The Secretary should facilitate the immediate release of OSHA's *Influenza Pandemic eTool* and encourage that it be used as guidance by Federal agencies in determining the appropriate controls needed to optimize employee protection.

**Recommendation 4B:** When the eTool is released, the Secretary should direct OSHA to widely publicize its availability and functionality to the Designated Agency Safety and Health Officials (DASHOs), safety and health managers, and labor representatives.

**Recommendation 4C:** The Secretary should immediately correspond with Federal agency heads to encourage agency pandemic planners, in cooperation with agency occupational safety and health professionals, to conduct risk assessments as described in Subpart I – *Personal Protective Equipment* 29 CFR 1910.132 (*General requirements*), as well as *Guidance on Preparing Workplaces for an Influenza Pandemic* (OSHA Publication #: OSHA 3327 2009) and OSHA's *Influenza Pandemic eTool* for all types of occupational groups present within their agency, before issuing PPE. Appropriate

controls should be implemented based on the employee's exposure risk. Only after a risk assessment has been conducted and all other controls have been proven to be inadequate should PPE, such as respirators, be considered. For respirators, agencies must comply with 29 CFR 1910.134 – *Respiratory protection*. In addition, risk mitigation strategies should be considered for employees with special needs.

**Recommendation 4D:** The Secretary should ensure that the guidance in OSHA's *Influenza Pandemic eTool* addresses the rights of Federal workers, especially front line workers, to the voluntary use of PPE as set forth in 29 CFR 1910.134 – *Respiratory protection*.

**Issue 5:** Incomplete or absent occupational safety and health training related to pandemics for all levels and types of employees within the Federal workforce.

**Background:** The Workgroup found that many agencies reported incomplete or inadequate training on workforce protection during a pandemic. When training was provided, it was not always tailored to specific agency sites or occupational tasks. In particular, many agencies struggled with when the issuance of PPE to members of their workforce was necessary or how to comply with 29 CFR 1910.134 – *Respiratory protection*. Many agencies did not follow OSHA guidance on hazard assessments or the hierarchy of controls which should be implemented during a pandemic.

**Recommendation 5A:** The Secretary should direct OSHA to prepare and make available training for Federal agency senior managers. This training should describe OSHA guidance on workforce protection during a pandemic, as well as, explain any OSHA regulations that must be adhered to.

**Recommendation 5B:** The Secretary should immediately correspond with Federal agencies encouraging them to provide comprehensive training on the nature of the hazard, routes of exposure, and exposure control methods. This training should be tailored by type of employee (e.g. senior managers, supervisors, front line workers, custodians, etc) and tasks performed.

**Recommendation 5C:** The Secretary should facilitate the immediate release of OSHA's *Influenza Pandemic eTool*. Federal agencies should be encouraged to use the guidance provided within the eTool in their pandemic preparedness planning, risk exposure mitigation strategies, and workforce training.

**Recommendation 5D:** The Secretary should direct OSHA to revise 29 CFR Part 1960 to state that OSHA's 1989 Guidelines are mandatory for Federal agencies, thereby making

the failure to provide adequate workforce protection training during a pandemic citable by OSHA.

**Issue 6:** Lack of or inadequate Federal agency communication plans for disseminating occupational safety and health-related guidance on pandemics.

**Background:** Although OSHA has developed guidance on addressing pandemics in the workplace, the Workgroup found that this information often did not make it to front line managers or employees who needed it most. In addition, the information was not always presented in formats which are easy to use or tailored to meet the needs of all types of occupational groups within their agencies. This becomes particularly important when conducting hazard assessments and understanding the hierarchy of controls used to determine the level of protection needed during a pandemic.

**Recommendation 6A:** The Secretary should facilitate the immediate release of OSHA's *Influenza Pandemic eTool*. The eTool should be released in such a way that any necessary updates can be made in a timely manner and users can be alerted of the changes.

**Recommendation 6B:** The Secretary should encourage all agency heads to distribute existing OSHA guidance, such as *Guidance on Preparing Workplaces for an Influenza Pandemic* (OSHA Publication #: OSHA 3327 2009) and the eTool in such a way as to reach all levels of management and types of occupational groups within their agency.

**Issue 7:** Lack of consistency in level of response at multi-employer worksites.

**Background:** At multi-employer worksites, agencies reported significant differences in actions taken during the spring 2009-H1N1 influenza outbreak. For example, at the same site employees of one agency were wearing N-95 respirators, while another agency's employees were not wearing PPE. This issue became particularly obvious at airports, federal buildings, ports, detention centers, and medical facilities.

**Recommendation 7A:** The Secretary should immediately correspond with Federal agency heads urging them to consider formation of site-specific inter-agency groups, including labor representatives and contractors, to implement coordinated and consistent H1N1-influenza response at locations where Federal employees work.

**Recommendation 7B:** The Secretary should direct OSHA to revise 29 CFR Part 1960 to clarify its policies on multi-employer worksites, especially with regard to the duties of employers who control or create hazards or who have responsibility for correcting hazards.



## **OVERARCHING FEDERAL GOVERNMENT AND NON-OSH RECOMMENDATIONS**

During the Workgroup's information gathering, several overarching Federal government and non-occupational safety and health (OSH) related pandemic issues were identified. The Workgroup encourages the Secretary to share this information with the White House or appropriate Federal agency.

### **White House Recommendations**

**Issue 8:** Lack of or inadequate training on agency-specific administrative, operational, and workforce protection procedures, as well as, distribution of existing guidance on pandemic preparedness provided by CDC, OPM, and OSHA.

**Recommendation 8:** The White House should mandate pandemic preparedness and informational training for the entire Federal workforce. For example, this could be stated in the *Executive Order on Executive Department and Agency Action to Support Community Preparedness and Response to the 2009-H1N1 Influenza Pandemic* (currently in draft). Each Federal agency head should ensure that training is provided to all employees within their agency. The Federal workforce should receive training on the nature of the hazard, routes of exposure, exposure control methods and the personnel/human resources procedures implemented by the agency during a pandemic.

**Issue 9:** Need for clear, consistent and coordinated information across agencies providing guidance.

**Recommendation 9:** The White House should coordinate information provided by DHS, OSHA, CDC, OPM and other related agencies on pandemic preparedness, mitigation strategies, and the illness itself so that consistent information is provided to Federal agencies and the Federal workforce. The website [www.flu.gov](http://www.flu.gov) should continue to be used as the central location for information.

**Issue 10:** Need for guidance on determining when to implement pandemic plans in Federal agencies.

**Recommendation 10:** The White House should work with Federal agencies to determine the events which trigger the implementation of pandemic plans. This should include consideration of local, state, and regional implementation of these plans.

## **CDC Recommendations**

**Issue 11:** Agencies were not aware of or did not implement guidance on disinfection, routine cleaning, and disposal of contaminated or potentially contaminated materials during the spring 2009-H1N1 influenza outbreak.

**Recommendation 11:** The CDC should inform Federal agencies of its guidance on disinfection, routine cleaning, and disposal of contaminated materials. Interim guidance should be based on the best available science, in consultation with Federal partners.

**Issue 12:** Agencies were not aware of or did not implement guidance on determining which employees should receive vaccination or other medical countermeasures, or how these should be dispensed.

**Recommendation 12:** The CDC should correspond with Federal agencies regarding its guidance on vaccination and other medical countermeasures. Interim guidance should be based on the best available science, in consultation with Federal partners.

## **OPM Recommendations**

**Issue 13:** Agencies were not aware of or did not implement existing OPM guidance on dealing with employees exhibiting flu-like symptoms.

**Recommendation 13:** OPM should correspond with Federal agencies and labor representatives to better publicize its guidance on dealing with employees exhibiting flu-like symptoms (see [http://www.opm.gov/pandemic/OPM-Pandemic\\_AllIssuances.pdf](http://www.opm.gov/pandemic/OPM-Pandemic_AllIssuances.pdf)).

**Issue 14:** Agencies were not aware of, did not implement, and/or did not educate its supervisors about existing OPM guidance on telework.

**Recommendation 14:** OPM should correspond with Federal agencies and labor representatives to better publicize its telework guidance (see [http://www.opm.gov/pandemic/OPM-Pandemic\\_AllIssuances.pdf](http://www.opm.gov/pandemic/OPM-Pandemic_AllIssuances.pdf)).

## **CONCLUSION**

The FACOSH Emerging Issues Workgroup identified several issues relating to the occupational safety and health-related pandemic preparedness of Federal agencies. Through this analysis, key issues involving the clarity and consistency of information, the inclusion of appropriate stakeholders and subject matter experts, the availability and distribution of training, and the need

for effective communication within all levels of agencies and the Federal government as a whole were highlighted. The recommendations provided within this report should be acted upon immediately in order to provide the best level of protection possible during a potential resurgence of H1N1-influenza in the fall. In addition, these recommendations should be considered in future pandemic and emergency management planning as they relate to issues that reach far beyond a single virus or illness.

## **APPENDIX A**

The following list contains the names of FACOSH members, technical experts, and OSHA staff who actively participated on the Emerging Issues Workgroup during their analysis of pandemic-H1N1 influenza preparedness planning for the Federal workforce.

### **FACOSH Members (or Alternates)**

Donald Bathurst (Workgroup Co-Chair)  
*U.S. Department of Homeland Security*

William “Chico” McGill (Workgroup Co-Chair)  
*International Brotherhood of Electrical Workers*

Wesley Carpenter (Alternate)  
*Environmental Protection Agency*

Jeff Friday (Alternate)  
*National Treasury Employees Union*

Nancy Hughes (Alternate)  
*American Nurses Association*

Deborah Kleinberg (Alternate)  
*Seafarers International Union*

Milly Rodriguez  
*American Federation of Government Employees*

### **Technical Experts**

Joseph Beres  
*U.S. Department of State*

Annemarie Breckenridge  
*U.S. Department of State*

Camille Carraway  
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John Decker  
*U.S. Department of Health and Human Services  
Centers for Disease Control and Prevention  
National Institute for Occupational Safety and Health*

Ruth Grubb  
*U.S. Department of Veterans Affairs*

Lillian Koenig  
*U.S. Department of Health and Human Services*

Bill Kojola  
*AFL-CIO*

Benisse Lester  
*U.S. Department of Homeland Security*

Franklin Lundblad  
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### **Technical Experts cont'd**

Steve Novy  
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Dennis Phelps  
*International Brotherhood of Electrical Workers*

Tony Pierpoint  
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Charles Smith  
*U.S. Department of Veterans Affairs*

Jonathan Thomas  
*U.S. Department of Defense*

W. Corey Thompson  
*American Postal Workers Union*

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Thomas “Richard” Walker  
*U.S. Department of Agriculture  
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### **OSHA Staff**

John Ferris  
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Francis Yebesi (FACOSH Designated Federal Official)  
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