



Reply to the attention of:

FEB 28 2014

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
December 5, 2013 Meeting Minutes

Attached, for your certification, are the proposed minutes of the December 5, 2013 *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, in this case by March 5, of the meeting [§ 41 CFR 102-3.165(c)].

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

Approved: *[Signature]*

Date: 2/28/14

Disapproved: _____

Date: _____

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

December 5, 2013

Due to an unanticipated absence that required his presence at the White House, Dr. David Michaels, PhD, MPH, the Assistant Secretary of Labor for Occupational Safety & Health, as the Federal Advisory Council on Occupational Safety & Health (FACOSH) Chair, appointed Mr. Jordan Barab, Deputy Assistant Secretary of Labor-Occupational Safety & Health Administration (OSHA), and Ms. Debbie Berkowitz, OSHA Senior Policy Advisor, to co-chair the December 5, 2013, FACOSH meeting. Ms. Berkowitz called the FACOSH meeting to order at the U.S. Department of Labor (DOL), Frances Perkins Building (FPB), 200 Constitution Avenue, NW., Washington, DC.

FACOSH MEMBERS

Ms. Catherine Emerson*, Management Member
Chief Human Capital Officer, Designated Agency Safety & Health Official (DASHO)
U.S. Department of Homeland Security

Dr. Joe Hoagland*, Management Member
Senior Vice President, Policy & Oversight, DASHO
Tennessee Valley Authority

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

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

Dr. Gregory Parham*, DVM, Management Member
Assistant Secretary for Administration
U.S. Department of Agriculture

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

Ms. Lola Ward, Management Member
Director, Office of Administration, DASHO

* Member attended telephonically.

National Transportation Safety Board
Dr. Richard S. Williams*, MD, Management Member
Chief Health & Safety Officer, DASHO
National Aeronautics & Space Administration

Ms. Irma Westmoreland, RN, Labor Member
National Vice President
National Nurses United

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. Hilery Simpson, Assistant Commissioner
Bureau of Labor Statistics (BLS) for Safety and Health Statistics
BLS, U.S. Department of Labor

Mr. Gary Steinberg
Acting Director
Office of Workers' Compensation Programs (OWCP), U.S. Department of Labor

OTHER PARTICIPANTS

Mr. Jordan Barab
Deputy Assistant Secretary
OSHA, U.S. Department of Labor

Ms. Deborah Berkowitz
OSHA Senior Policy Advisor
OSHA, U.S. Department of Labor

Mr. Francis Yebesi
Designated Federal Official, Office of Federal Agency Programs (OFAP)
OSHA, U.S. Department of Labor

Ms. Sarah Shortall
FACOSH Counsel
Office of the Solicitor of Labor, U.S. Department of Labor

Ms. April Davis
Manager, Classification & Assessment Policy Office
Office of Personnel Management

Ms. Carolyn Lerner
Special Counsel
U.S. Office of Special Counsel (OSC)

ADMINISTRATIVE ISSUES

Emergency Preparedness. Dr. Robert Nester provided a safety/emergency evacuation briefing to the Council.

Announcements. Ms. Berkowitz informed the Council of the recent passing of Mr. William “Chico” McGill, a long-serving and valued FACOSH labor member. Several members eulogized Mr. McGill; and the Council held a moment of silence in remembrance of Mr. McGill’s life and his multiple contributions to the occupational safety and health community.

Informational Items. The Council was provided updates on four items, including - the reopening of the FACOSH member nomination solicitation period, - FACOSH’s recommendations regarding occupational exposure limits which were submitted to the White House, and – the August 2013 changes to the recordkeeping rule, specifically emphasizing that agency annual reports are due to OSHA by May 1. Ms. Shortall briefed the Council on FACA rules that apply to advisory councils.

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, labor members Mr. William Dougan (*National Federation of Federal Employees*), and Ms. Colleen Kelley (*National Treasury Employees Union*) designated Ms. Deborah Kleinberg (labor member) to vote in their place at the December 5, 2013, FACOSH meeting.

Meeting Minutes. Mr. Barab announced that the certified minutes for the June 2013 FACOSH meeting were available for public viewing in the OSHA Docket at <http://www.regulations.gov>, the federal eRulemaking portal (Docket No. OSHA-2013-0013).

OLD BUSINESS

FACOSH SUBCOMMITTEE REPORTS

Emerging Issues Subcommittee

Mr. Barab reported that, currently, the Emerging Issues Subcommittee has one workgroup – the *Field Federal Safety and Health Councils Workgroup*, and that it is working on strategies to revitalize the councils.

Report: Field Federal Safety and Health Councils (FFSHC) Workgroup.

Ms. Rodriguez and Dr. Williams, workgroup co-chairs, reported on the activities of the workgroup, including its completion of an analysis of council annual reports, and that it has finalized a functional/operational survey of councils, which will be made available beginning of 2014.

Training Subcommittee

Report: OPM Regarding GS-0018 Job Series. Ms. Davis, from the OPM, explained the results of the recent survey that the agency conducted regarding FACOSH’s recommendation

concerning the GS-0018 series. She also identified OPM's recommendations regarding the same. In brief, she stated that the results of the focus groups did not support the FACOSH recommendations to restrict current qualifications focused on education, or restrict qualification requirements and eligibility options to either formal education or professional certification, or to move the job series from the administrative to the professional, occupational category. She stated that it is OPM's recommendations - to establish strategic partnerships for recruitment and hiring; - to develop training and development strategies, such as "crowd sourcing" – pooling government-wide resources to develop training, - to close skill gaps; and - to establish a community of practice. Ms. Rodrigues suggested, that since some of the subcommittee members were not present, that further discussions on the topic be added to the agenda for the next FACOSH meeting.

Motions Regarding the FACOSH Subcommittee Reports.

There were no motions, regarding either of the subcommittee reports, considered by FACOSH at the time.

PROTECTING OUR WORKERS, ENSURING REEMPLOYMENT

Report: Current Status

Mr. Steinberg updated the Council on POWER, stating that the Government's performance (86.91 percent) for the timely filing of workers' compensation notice of injury or illness forms (POWER Goal 4) fell short of the FY 2013 target (87.75 percent). He stated that some of the shortfall could have been attributable to technical problems with the recent Department of Defense transition to the Mark Center, which delayed forms filing. He stated that regarding POWER Goal 5 – the timely filing of wage loss claims – the Government's performance (79.85 percent) exceeded the target (75.68 percent). For Goal 6 (to reduce lost production day rate), the Government's performance (34.2 incidents per 100 employees) exceeded the target (34.7 incidents per 100 employees). For Goal 7 (to increase employees' RTW outcomes), the Government's performance (92 percent) lagged behind the target (93.38 percent).

NEW BUSINESS

WHISTLEBLOWER PROTECTION PROGRAMS

Mr. Barab stated that 29 CFR 1960 required that agencies not retaliate against employees for raising OSH concerns, and that agencies self-monitor and report on incidents of retaliation. He further indicated that §1960 did not give OSHA a formal role in investigating allegations of reprisal, but that the regulation required that each agency have a process to investigate. Ms. Lerner, from the U.S. Office of Special Counsel (OSC), provided a briefing to the Council regarding the OSC – its mission and best practices. Regarding best practices, she emphasized that federal agencies: - become certified through OSC's voluntary certification program under 2301(c); - provide whistleblower information under Title 5 to new and current employees, and train supervisors on the issues; - provide a link to the OSC (www.osc.gov) on agency's website; - work with the OSC by distributing pamphlets and posters in the workplace; - implement appropriate non-disclosure policies, including dialogue openly with employees about the value of their "protected" and appreciated observations and disclosures. She also identified the requirement of the Whistleblower Protection Enhancement Act for inspector generals to educate employees about whistleblower rights and protections, and have an ombudsman available as a

resource. Ms. Lerner responded to multiple member questions, and concluded by offering the services of OSC to FACOSH members and all federal agencies.

Motions Regarding New Business.

There were no motions considered by FACOSH at the time.

PUBLIC COMMENT

There were no public comments addressed to the FACOSH at the December 5, 2013 meeting.

NEXT MEETING and ADJOURNMENT

Mr. Barab suggested that FACOSH meet in the May 2014 timeframe, at the FPB, stating that OFAP would survey the membership for their availability. Ms. Rodriguez moved to adjourn the meeting. The motion was seconded and passed unanimously. Mr. Barab 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-2013-0013), 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 December 5, 2013, FACOSH meeting:

- Exhibit 1 Agenda for the December 5, 2013, FACOSH meeting

- Exhibit 2 Proxy of Colleen Kelly, *National Treasury Employees Union*, proxy designating Deborah Kleinberg, *Seafarers International Union*, to vote in her place at the December 5, 2013, FACOSH meeting

- Exhibit 3 Proxy of William Dougan, *National Federation of Federal Employees*, designating Deborah Kleinberg, *Seafarers International Union*, to vote in his place at the December 5, 2013, FACOSH meeting

- Exhibit 4 “Safety and Occupational Health Management Focus Group Results” presented by April Davis, OPM

- Exhibit 5 “Prohibited Personnel Practices” poster from the U.S. Office of Special Counsel

- Exhibit 6 “Know Your Rights When Reporting Wrongs” pamphlet from the U.S. Office of Special Counsel

