



Turn Around America

AFL-CIO Recommendations for the Obama Administration

Worker Safety and Health

I. Overview

The safety and health of American workers is in danger. After decades of advancement in reducing job injuries, illnesses, that progress is halting. Major hazards have been neglected and resources devoted to job safety diminished. With globalization and other competitive pressures, the safety and health of workers has become secondary to production with workers paying the price with their lives, limbs and health. The Sago, Crandall Canyon and other mining disasters, chemical plant explosions and major construction accidents in New York and Las Vegas have highlighted the growing crisis in protecting workers' safety and health.

In 2007, 5,488 workers were killed on the job and an estimated 50,000 more lost their lives due to occupational diseases. For 2007, BLS reported more than 4.0 million job injuries and illnesses, but this does not include injuries among public sector or self-employed workers and injuries that go unreported. Recent estimates put the true toll at 9 to 12 million injuries and illnesses a year. The cost of these injuries and illnesses is enormous, estimated at between \$163 billion and \$290 billion a year.

For some groups of workers, particularly Latino and immigrant workers, the situation is much worse with fatality and injury rates among these workers much greater than for other workers. In 2006, job-related deaths among these workers reached an all-time high.

For eight years, the Bush Administration has abandoned its leadership responsibilities in protecting workers' safety and health and turned its back on the nation's workers. The regulatory process has been shut down and the Administration has refused to act on well-established and emerging safety and health hazards. The only actions that have been have been as a result of court orders or Congressional directives. Voluntary compliance has been favored over enforcement, and the Administration has promoted building partnerships and alliances with employers and shut workers and unions out of agency programs and deliberations. Repeated attempts have been made to cut the budgets of safety and health programs. Agency resources and capacity have been diminished and staff demoralized.

In July 2008, the Bush Administration launched a last minute attempt to hamstring the ability of the next Administration to develop and issue needed worker health rules. Without the involvement of career agency staff, DOL political appointees secretly developed a rule imposing new procedural requirements and criteria for conducting risk assessments for occupational health standards. These new requirements, if finalized, will



make it more difficult to issue future rules on occupational health hazards, and result in less protective standards for workers.

II. Goals and Approach for the New Administration

The goal of the new Administration should be to return the nation's safety and health programs to their intended mission and function - to protect the safety and health of workers through strong federal leadership, regulation and enforcement. First and foremost this will require the appointment of leaders committed to a strong federal role in worker safety and health who see their role as advocates for protecting workers. These leaders will need to set and articulate high goals and standards as envisioned in the nation's job safety laws. With the full involvement of workers, unions, employers, safety and health professionals and others they should develop agendas with clear priorities and implement bold initiatives to address them. To do so, they must reinvigorate agency programs and rebuild agency staff morale.

Even with enhancements in federal resources, which are needed and should be made, the ability of the Occupational Safety and Health Administration (OSHA) and other agencies to address hazards and monitor job safety at the nation's 8.5 million worksites will always be limited. Thus the agencies should focus on building the capacity of employers, workers and unions to address safety and health at the workplace through such measures as safety and health program requirements, mandatory training and enhanced worker rights. Similarly the agencies should leverage the impact of their interventions through highly publicized enforcement initiatives and actions and expanded access to information and data on employers' safety and health performance.

With the globalization of the economy and associated production pressures having an increasing impact on the safety and health of workers, the next Administration must seek to use its authority and influence to enhance safety and health protections, not just for US workers, but also for workers around the globe.

III. Key Agencies and Programs of Importance

The Occupational Safety and Health Administration and Mine Safety and Health Administration at the Department of Labor are the primary federal agencies responsible for overseeing worker safety and health. But there are a number of other agencies that also have major safety and health responsibilities, provide support to the OSHA and MSHA programs or have program activities that impact and intersect with worker safety and health.

At the Department of Labor, the Office of the Secretary, the Office of the Solicitor, and Office of Assistant Secretary for Policy have direct involvement with the OSHA and MSHA programs. The Bureau of Labor Statistics has responsibility for generating national statistics on work-related injuries, illnesses and fatalities. In the Employment and Standards Administration, the Wage and Hour Division and Office of Workers Compensation, particularly the Federal Employee Compensation Act program and



Energy Employees Occupational Illness Compensation program have major safety and health impacts.

The Occupational Safety and Health Review Commission (OSHRC) and the Federal Mine Safety and Health Review Commission (FMSHRC), both independent agencies, are responsible for adjudicating contested OSHA and MSHA enforcement actions.

At the Department of Health and Human Services, the National Institute for Occupational Safety and Health (NIOSH) is the lead federal safety and health research agency, and the National Institute for Environmental Health Sciences operates important safety and health training and research programs. The Centers for Disease Control (CDC) has major impacts, both because it is the agency where NIOSH is housed, and has lead responsibility for infectious diseases, which are a growing problem in occupational settings. With the emergence of pandemic flu as a potential major occupational health threat, the pandemic flu programs of HHS and the Office of Public Health Preparedness and Emergency Planning are also of major interest.

Similarly, the Department of Homeland Security (DHS) programs dealing with disaster response, including FEMA, play an important role in policies and programs effecting the safety and health of responders. Other DHS programs involving chemical security and transportation security have direct impacts on worker safety.

For certain groups of workers, other federal agencies have claimed responsibility for worker safety and health. These include the Department of Energy (DOE) which exercises safety and health jurisdiction at DOE and DOE contractor facilities, and the Department of Transportation where FAA has claimed and FRA has exercised jurisdiction over safety and health for airline workers and rail workers respectively.

The Environmental Protection Agency (EPA) programs particularly those concerning toxic chemicals and pesticides also provide protections and information important for worker safety and health.

The Chemical Safety Board, an independent agency, has responsibility for investigating major chemical accidents and making recommendations to OSHA and EPA on measures that should be taken to prevent such accidents in the future.

The Office of Management and Budget Office of Information and Regulatory Affairs (OIRA) has a major impact on all federal safety and health programs through its regulatory and paperwork review activities and data quality oversight.

IV. Recommended Key Priorities for the New Administration

Due to the failure of the Bush Administration to act on so many fronts, the needs and challenges are great with a huge amount of work to be done. This will require immediate action to put in place strong leaders at safety and health agencies so no time is lost, articulating the Administration's commitment to returning these agencies to their



intended purpose – the protection of workers, ensuring that there are adequate resources to support programs and initiatives, and if, necessary, quick intervention to reverse or freeze late term Bush Administration regulatory actions and appointments.

Specific recommended priorities for the safety and health agencies for the first year of the Administration are as follows:

DEPARTMENT OF LABOR

Day 1

- Appoint a strong, pro-worker Secretary of Labor who will make safety and health a priority.
- Freeze or reverse last minute DOL rule on risk assessments for occupational health hazards that if issued will make it much more difficult to protect workers.

Occupational Safety and Health Administration (OSHA)

Day 1

- Appoint a strong pro-worker Assistant Secretary for OSHA who is a respected national leader in safety and health who can provide leadership, direction and vision for the agency.
- Set the course for Administration making clear that the agency will meet its responsibilities to protect workers with programs built on a foundation of protective standards, strong enforcement and enhanced worker rights.
- Propose a budget that provides increased funding to strengthen core programs of standard setting and enforcement and to support new and expanded safety and health initiatives.

Day 100

- Launch policy, regulatory and enforcement initiatives to address the underreporting of injuries and illnesses, including a prohibition on programs and policies that discourage the reporting or injuries.
- Strengthen construction safety programs by appointing a new head of the Construction Directorate, expanding staffing and competence in construction safety and making the Advisory Committee on Construction Safety and Health more relevant. Commit to developing a training standard for construction that at a minimum requires the OSHA 10 hour course.
- Reinvirgorate other agency advisory committees – the National Advisory Committee on Occupational Safety and Health (NACOSH), the Maritime Advisory Committee on Occupational Safety and Health (MACOSH) and the Federal Advisory Committee on Occupational Safety and Health (FACOSH).
- Move forward to propose and/or finalize pending priority rules on cranes and derricks, diacetyl, silica, beryllium and global harmonization of hazard communication.



- Commit to developing new rules on pandemic flu for health care workers and responders and combustible dust and initiate rulemaking.
- Strengthen OSHA civil and criminal penalties through enactment of legislation. (e.g. Protecting America's Workers Act.)
- Place less emphasis on voluntary programs, and reform existing programs to make them more strategic and effective and enhance worker rights.
- Refocus on ergonomics. Reinstate the column for recording musculoskeletal disorders (MSDs) on the OSHA log. Step up enforcement under the general duty clause and recordkeeping standard. Determine possible regulatory approaches to ergonomics given the constraints imposed by the Congressional Review Act disapproval of the 2001 Ergonomics rule.
- Develop initiatives and programs to address safety and health problems among Latino and immigrant workers, including enhanced training, enforcement and anti-retaliation measures.
- In conjunction with FAA, provide OSHA coverage to flight attendants by rescinding FAA policy directive asserting safety and health jurisdiction and developing necessary OSHA regulations and enforcement programs for these workers.
- Recreate and fill the national and regional OSHA labor liaison positions.

Year 1

- Expand OSHA coverage to public employees and other workers not covered through the enactment of legislation.
- Increase emphasis on and expand worker safety and health training. Increase funding for worker training. Develop a training standard for general industry.
- Revive the safety and health program rulemaking, initiated during the Clinton Administration and abandoned by the Bush Administration.
- Update permissible exposure limits (PELs) for toxic chemicals through regulation or legislation.
- Develop rules on metal working fluids, hearing conservation in construction and other priority hazards.
- Adopt enforcement policies and practices that ensure the full involvement of unions in settlement discussions and agreements.
- Enhance oversight and enforcement at federal agencies.
- Develop initiatives to address workplace violence.

Mine Safety and Health Administration (MSHA)

Day 1

- Appoint a strong pro-worker Assistant Secretary for MSHA who is a respected national leader in mine safety and health who can provide leadership, direction and vision for the agency.
- Set the course for Administration making clear that the agency will meet its responsibilities to protect miners, issue strong standards and aggressively enforce the law.



- Ensure that the MINER Act is fully implemented including final requirements on communications, tracking devices, mine rescue teams and belt air and flammability. If necessary take action to revise/strengthen final rules issued by the Bush Administration on these hazards.
- Freeze the MSHA proposed rule on Mandatory Drug and Alcohol Testing and review the justification for and content of the rule to determine if it should be revised or withdrawn.

Day 100

- Launch an enforcement initiative on the diesel particulate rule.

Year 1

- Strengthen the coal dust standard to protect miners from black lung.
- Develop a new silica standard. Coordinate with OSHA's silica rulemaking.
- Enact the S-Miner Act to further strengthen mine safety protections.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health (NIOSH)

Day 1

- Appoint a pro-worker NIOSH Director who is a respected leader in safety and health. If the Bush Administration makes a new late term appointment to fill the position after failing to reappoint Dr. John Howard, the new Administration should look to terminating the appointment and appoint its own choice for the position, which has a 6 year term.
- Increase funding for NIOSH in the FY 2010 budget.
- Develop and implement a comprehensive program to address the health problems of World Trade Center responders, and seek the necessary funding. If not yet enacted, support legislation to establish the program on a permanent basis.

Year 1

- Working with BLS and OSHA, address the underreporting of workplace injuries by conducting additional research and developing non-employer based surveillance systems to identify work-related injuries and illnesses.
- Reform the Health Hazard Evaluation (HHE) Program to ensure the timely completion of investigations and transmittal of result to affected workers.
- Institute a fatality investigation research program to determine the root cause of fatal injuries.
- Reform the NIOSH-run parts of the energy workers compensation program to speed up determinations on special exposure cohort determinations and individual dose-reconstructions. Enact legislation to streamline these processes and reduce the burdens on designating special exposure cohorts so sick workers or family members can be fairly compensated for illnesses.



- Conduct a full review of the NIOSH-CDC relationship and determine if NIOSH should be moved to a different part of HHS in order to more effectively meet its responsibilities. At a minimum, ensure that NIOSH has the autonomy and authority to operate as intended by the OSHAct, and prohibit undue CDC interference in program matters.

Centers for Disease Control (CDC)

Day 1

- Appoint a new CDC director who is supportive of worker safety and health programs and who will restore CDC to its public health purposes with a focus on prevention.

HHS/NIOSH/OHPEP/CDC and DOL/OSHA

Day 100

- Revise pandemic flu plans and programs to ensure adequate protection of health care workers and responders in the event of a pandemic. This will involve NIOSH, Office of Public Health Preparedness and Emergency Planning, CDC and OSHA and should include enhanced funding, research, training and regulation.

DEPARTMENT OF ENERGY

Office of Health Safety and Security

Day 100

- Strengthen the DOE worker safety and health program for DOE facilities and contractors.
- Evaluate whether the Office of Environment, Safety and Health should be re-established.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Day 1

- Appoint a pro-worker, pro-safety FAA Administrator.

Day 100

- Rescind 1975 policy directive asserting safety and health jurisdiction over cabin crews and transfer occupational safety and health responsibilities to OSHA.

Year 1

- Adopt ASHRE Standard on Air Quality within Commercial Aircraft as a mandatory FAA regulation.
- Provide access to injury, illness and exposure and maintenance records to workers and unions.



- Ensure completion of flight attendant fatigue study to lead to improved rest and duty regulations.
- Implement a National Academy of Sciences (NAS) study assessing evacuation of aircraft used in air transportation under actual emergency conditions.

DEPARTMENT OF HOMELAND SECURITY

Day 1

- Appoint a Secretary of Homeland Security with counterterrorism field experience.

Year 1

- Adopt regulations requiring security training for aviation flight crews.
- Strengthen chemical security regulations to require the substitution of less hazardous chemicals, and support enact of permanent legislation.

Federal Emergency Management Agency (FEMA)

Year 1

- Change the National Response Framework to make worker safety and health a core function, not an annex, so that safety and health of responders is addressed as a primary, not secondary issue.
- Mandate safety and health training and develop a national registry for responders engaged in emergency response activities.

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Day 1

- Appoint a strong public health oriented administrator for Toxic Substances

Day 100

- Delay issuance of final airline water quality rule. EPA proposed rule is inadequate and final rule needs to be strengthened.

Year 1

- Strengthen toxic chemical control by adopting new legislation similar to the European Community REACH initiative that requires mandatory testing for chemicals and adopts a precautionary approach to addressing potential hazards.

INDEPENDENT AGENCIES

Occupational Safety and Health Review Commission (OSHRC)

Day 100

- Nominate a pro-worker commissioner to fill vacancy on OSHRC.

Federal Mine Safety and Health Review Commission (FMSHRC)

Day 100



- Nominate a pro-worker commissioner to fill vacancy on FMSHRC.

Chemical Safety Board

Day 100

- Nominate a pro-worker board member to fill the current vacancy on the Chemical Safety Board.

Government-Wide All Safety and Health Related Agencies

Day 100

- Enhance transparency of agency decision-making and program activities.
- Enhance outreach to and involvement of all stakeholders and constituencies in agency programs, initiatives and activities.
- Greatly expand electronic access to data and collected by government agencies.
- Utilize access to and dissemination of data to leverage and improve safety and health performance of employers.

Key Federal Agency Positions - Safety and Health

Department	Agency	Position	Nature of Position
DOL		Secretary of Labor	PAS
DOL	OSHA	Assistant Secretary for OSH	PAS
DOL	OSHA	Deputy Assistant Secretary	NA
DOL	OSHA	Deputy Assistant Secretary	CA
DOL	OSHA	Labor Liaison	SC
DOL	MSHA	Assistant Secretary for MSH	PAS
DOL	MSHA	Deputy Assistant Secretary	NA
DOL	SOL	Solicitor of Labor	PAS
DOL	ASP	Assistant Secretary for Policy	PAS
DOL	OCIA	Assistant Secretary for Congressional and Intergovernmental Affairs	PAS
DOL	OCIA	Various Staff positions	SC
DOL	ESA	Assistant Secretary for Employment Standards	PAS



White House OMB	OIRA	Administrator	PAS
HHS		Secretary of HHS	PAS
HHS	Office of Assistant Secretary for Public Health	Assistant Secretary for Health	PAS
HHS	CDC/NIOSH	Director, NIOSH	NA
HHS	CDC	Director, CDC	NA
HHS	NIH/NIEHS	Director, NIEHS	NA
EPA	Office of Prevention, Pesticides and Toxics	Assistant Administrator	PAS
EPA	Office of Air	Assistant Administrator	PAS
EPA	Office of Research and Development	Assistant Administrator	PAS
DOE	Security and Safety (formerly EHS)	(Director/Assistant Secretary)	
DOT	FAA	Administrator	PAS
DHS		Secretary of Homeland Security	PAS
DHS	TSA	Administrator	PAS
DHS	TSA	Deputy Administrator	XS
FMSHRC		Commissioner	PAS
OSHRC		Commissioner	PAS
Chemical Safety Board		Board Member	PAS