Federal Advisory Committee (FAC) Membership Balance Plan

U. S. DEPARTMENT OF LABOR, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

(1) FEDERAL ADVISORY COMMITTEE NAME

Advisory Committee on Construction Safety and Health (ACCSH)

(2) AUTHORITY

ACCSH is established and operates in accordance with the Contract Work Hours and Safety Standards Act (Construction Safety Act (CSA))(40 U.S.C. 3701 et seq.); the Occupational Safety and Health Act of 1970 (OSH Act)(29 U.S.C. 651 et seq.); the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and its implementing regulations (41 CFR 102-3); 29 CFR 1911 and 1912; and Secretary of Labor's Order 1-2012 (77 FR 3912, 1/25/2012).

(3) MISSION/FUNCTION

ACCSH advises the Secretary of Labor (Secretary) and the Assistant Secretary of Labor for Occupational Safety and Health (Assistant Secretary) in the formulation of construction safety and health standards, and related policy under the CSA and OSH Act. ACCSH also advises the Secretary and the Assistant Secretary on policy matters related to safety and health provisions arising under the CSA.

(4) POINTS OF VIEW

ACCSH membership composition and representation is established by statute (CSA) and OSHA regulations (29 CFR 1912.3). ACCSH consists of 15 members representing the following:

- *5 members qualified by experience and affiliation to present the viewpoint of employers in the construction industry;*
- *5 members qualified to present the viewpoint of employees in the construction industry;*
- *2 representatives of state safety and health agencies;*
- *2 members qualified by knowledge and experience to make a useful contribution to the work of ACCSH; and*
- *1 member who is a designee of the Secretary of Health and Human Services.*

The CSA specified that ACCSH consist of nine members (three members representing contractors, three members representing employees primarily in the building trades and construction industry, and three public members selected on the basis of their professional and technical competence and experience in construction safety and health). However, after passage of the Occupational Safety and Health Act of 1970 (OSH Act), OSHA found it "necessary and proper in the public interest and to prevent possible injustice" to increase ACCSH to 15 members so its membership and representation would conform to section 7(b) of the OSH Act. OSHA determined that increased membership and representation would serve the public interest and avoid possible injustice by permitting the use of one construction advisory

committee rather than possibly several advisory committees in situations in which both the CSA and OSH Act may apply to construction activity, and by affording greater opportunity for representation on ACCSH from representatives within the construction industry (29 CFR 1912.3(c)).

(5) OTHER BALANCE FACTORS

Except as otherwise required by law, ACCSH membership will be consistent with applicable FACA regulations as follows:

- *ACCSH membership will be fairly balanced, as also specified in the CSA and 29 CFR 1912.3;*
- *Members will come from a cross-section of those directly affected, interested, and qualified as appropriate to the nature and functions of ACCSH;*
- *ACCSH membership, therefore, will depend upon several factors, including:*
  - *ACCSH's mission;*
  - *The geographic, ethnic, social, economic, or scientific impact of ACCSH's recommendations;*
  - *The types of specific perspectives required;*
  - *The need to obtain divergent points of view on the issues before ACCSH, such as those of consumers, technical experts, the public, academia, business, and other sectors; and*
  - *The relevance of State, local, or tribal governments to the development of ACCSH's recommendations.*

To the extent permitted by FACA and other laws, ACCSH membership also should be consistent with achieving the greatest impact, scope and credibility among diverse stakeholders. The diversity in such membership includes, but is not limited to, race, gender, disability, sexual orientation, and gender identity.

(6) CANDIDATE IDENTIFICATION PROCESS

OSHA will employ a multi-faceted approach to inform the general public as well as the Department's workforce regarding vacancies on ACCSH and the period and requirements for submitting nominations. The following steps are among those that OSHA will take to solicit a broad and diverse range of qualified candidates:

- *OSHA will solicit candidates for ACCSH through a* **Federal Register** *notice announcing the number of vacancies, the requirements for submitting nominations to OSHA, as well as the period for submitting nominations. The notice will specify that nominations must include the nominee's resume or curriculum vitae; membership in relevant organizations and associations; summary of the background, experience, and qualifications to serve on ACCSH; articles and other documents the nominee authored indicating expertise in workplace safety and health; and a statement that the nominee has no conflicts of interest that would preclude membership on ACCSH.*
- *To promote widespread notification of these vacancies, OSHA will also work with other agencies in the Department of Labor, other government agencies, and with diverse stakeholders throughout the country, including professional organizations, academia, and individuals, such as*

past members of ACCSH.

- *OSHA's outreach will include notification to those who have historically had limited awareness of and participation in ACCSH and its activities but whose interests may be implicated or affected by the work and/or recommendations of ACCSH.*

The Designated Federal Official (DFO) evaluates the nominees for expertise, experience, and balance. The DFO provides a short list of the most highly qualified candidates to the Assistant Secretary for discussion and deliberation. The Office of the Solicitor, Office of Congressional and Interagency Affairs, and Committee Management Office will evaluate the candidates for balance and conflict of interest through the Department's internal vetting process to assure compliance with all legal and ethical requirements. After vetting is complete, OSHA will report on these efforts to ACCSH and the Assistant Secretary, and the Assistant Secretary presents the recommended candidates to the Secretary for appointment. The Secretary extends formal letters of invitation to the candidates to serve on ACCSH. If a vacancy occurs during the term of an ACCSH member, the DFO reviews the initial candidate list and other information to identify the best qualified candidate to replace the lost point of view, and initiates the review process described above. The Secretary appoints the top candidate to fill the remainder of the unexpired term. Members serve at the pleasure of the Secretary for staggered two-year terms. The Secretary may reappoint any member to a successive term or may remove and replace a member at any time.

(7) SUBCOMMITTEE BALANCE

Generally, ACCSH appoints employer and employee members as ACCSH work group co-chairs. All ACCSH members will be assigned to an ACCSH work group, with members representing different viewpoints on every work group. These practices ensure that work groups are balanced and proportionate to that of ACCSH itself.

(8) OTHER

Not applicable.

(9) DATE PREPARED

June 2014.