(b) A health service program may be established by contract or otherwise, but only—
(1) after consultation with the Secretary of Health, Education, and Welfare and consideration of its recommendations; and
(2) in localities where there are a sufficient number of employees to warrant providing the service.

(c) A health service program is limited to—
(1) treatment of on-the-job illness and dental conditions requiring emergency attention;
(2) preemployment and other examinations;
(3) referral of employees to private physicians and dentists; and
(4) preventive programs relating to health.

(d) The Secretary of Health, Education, and Welfare, on request, shall review a health service program conducted under this section and shall submit comment and recommendations to the head of the agency concerned.

(e) When this section authorizes the use of the professional services of physicians, that authorization includes the use of the professional services of surgeons and osteopathic practitioners within the scope of their practice as defined by State law.

(f) The health programs conducted by the Tennessee Valley Authority are not affected by this section.


1967 Act

HISTORICAL AND REVISION NOTES

1968 Act

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In subsection (a), the words “agency of the Government of the United States” are coextensive with and substituted for “departments and agencies including Government-owned and controlled corporations” to avoid confusion with the definitions in sections 101–105.

In subsection (d) the word “appropriate” in the phrase “appropriate comment and recommendations” is omitted as unnecessary. The words “to the head of the agency concerned” are added for clarity.

In subsection (e), the substance of the definition of “physician” in former section 790 is substituted for the reference to that section.

In subsection (f), the words “Canal Zone Government” and “Panama Canal Company” are substituted for “Canal Zone Authority” and “Panama Canal Company,” respectively, on authority of the Act of Sept. 26, 1950, ch. 1049, § 2(a), 64 Stat. 1038.

The last proviso of the first sentence of the Act of Aug. 8, 1946, is omitted as executed.

ANNEX

1967 Act

This section amends 5 U.S.C. 7901 to reflect 1966 Reorganization Plan No. 3, effective June 25, 1966, 80 Stat. 1610, section 1 of which transferred all functions of the Public Health Service to the Secretary of Health, Education, and Welfare.
Subsection (a) is added on authority of former sections 790(b) and 794 (1st sentence), which are carried into section 810.

The words "Secretary of Labor" and "Secretary" are substituted for "Administrator" on authority of section 1 of 1950 Reorg. Plan No. 19, eff. May 24, 1950, 64 Stat. 1271.

Subsection (b) is restated for clarity. The words "under section 941(b)(1) of title 33" are substituted for "the provisions of section 941 of title 33 shall, insofar as not applicable, apply" and the reference to "a safety program" is based in part on the words "in furtherance of the safety program carried out by the Secretary pursuant to this section" in former section 784(c).

In subsection (d), the word "foster" is omitted as included in "develop and support". The words "and reduce compensable injuries" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Editorial Notes

Amendments


Executive Documents

Executive Order No. 10990


Executive Order No. 11612


Executive Order No. 11807


Ex. Ord. No. 12196, Occupational Safety and Health Programs for Federal Employees


By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 7902(c) of Title 5 of the United States Code and in accord with Section 19 of the Occupational Safety and Health Act of 1970, as amended (29 U.S.C. 668), it is ordered:

1–1. Scope of this Order

1–101. This order applies to all agencies of the Executive Branch except military personnel and uniquely military equipment, systems, and operations.

1–102. For the purposes of this order, the term "agency" means an Executive department, as defined in 5 U.S.C. 101, or any employing unit or authority of the Federal government, other than those of the judicial and legislative branches. Since section 19 [29 U.S.C. 668] of the Occupational Safety and Health Act ("the Act") [29 U.S.C. 651 et seq.] covers all Federal employees, however, the Secretary of Labor ("the Secretary") shall cooperate and consult with the heads of agencies in the legislative and judicial branches of the government to help them adopt safety and health programs.

1–2. Heads of Agencies

1–201. The head of each agency shall:

(a) Furnish to employees places and conditions of employment that are free from recognized hazards that are causing or are likely to cause death or serious physical harm.

(b) Operate an occupational safety and health program in accordance with the requirements of this order and basic program elements promulgated by the Secretary.

(c) Designate an agency official with sufficient authority to represent the interest and support of the agency head to be responsible for the management and administration of the agency occupational safety and health program.

(d) Comply with all standards issued under section 6 of the Act [29 U.S.C. 655], except where the Secretary approves compliance with alternative standards. When an agency head determines it necessary to apply a different standard, that agency head shall, after consultation with appropriate occupational safety and health committees where established, notify the Secretary and provide justification that equivalent or greater protection will be assured by the alternate standard.

(e) Assure prompt abatement of unsafe or unhealthy working conditions. Whenever an agency cannot promptly abate such conditions, it shall develop an abatement plan setting forth a timetable for abatement and a summary of interim steps to protect employees. Employees exposed to the conditions shall be informed of the provisions of the plan. When a hazard cannot be abated without assistance of the General Services Administration or other Federal lessor agency, an agency shall act with the lessor agency to secure abatement.

(f) Establish procedures to assure that no employee is subject to restraint, interference, coercion, discrimination or reprisal for filing a report of an unsafe or unhealthy working condition, or other participation in agency occupational safety and health program activities.

(g) Assure that periodic inspections of all agency workplaces are performed by personnel with equipment and competence to recognize hazards.

(h) Assure response to employee reports of hazardous conditions and require inspections within twenty-four hours for imminent dangers, three working days for potential serious conditions, and twenty working days for other conditions. Assure the right to anonymity of those making the reports.

(i) Assure that employee representatives accompany inspections of agency workplaces.

(j) Operate an occupational safety and health management information system, which shall include the maintenance of such records as the Secretary may require.

(k) Provide safety and health training for supervisory employees, employees responsible for conducting occupational safety and health inspections, all members of...
occupational safety and health committees where established, and other employees.

(i) Submit to the Secretary an annual report on the agency occupational safety and health program that includes information the Secretary prescribes.

1–3. OCCUPATIONAL SAFETY AND HEALTH COMMITTEES

1–301. Agency heads may establish occupational safety and health committees. If committees are established, they shall be established at both the national level and, for agencies with field or regional offices, other appropriate levels. The committees shall be composed of representatives of management and an equal number of nonmanagement employees or their representatives. Where there are exclusive bargaining representatives for employees at the national or other level in an agency, such representatives shall select the appropriate nonmanagement members of the committee.

The committees shall, except where prohibited by law,

(a) Have access to agency information relevant to their duties, including information on the nature and hazards of substances in agency workplaces.

(b) Monitor performance, including agency inspections, of the agency safety and health programs at the level they are established.

(c) Consult and advise the agency on the operation of the program.

1–303. A Committee may request the Secretary of Labor to conduct an evaluation or inspection pursuant to this Order if half of a Committee is not substantially satisfied with an agency’s response to a report of hazardous working conditions.

1–4. DEPARTMENT OF LABOR

1–401. The Secretary of Labor shall:

(a) Provide leadership and guidance to the heads of agencies to assist them with their occupational safety and health responsibilities.

(b) Maintain liaison with the Office of Management and Budget in matters relating to this order and coordinate the activities of the Department with those of other agencies that have responsibilities or functions related to Federal employee safety and health, including the Office of Personnel Management, the Department of Health and Human Services, and the General Services Administration.

(c) Issue, subject to the approval of the Director of the Office of Management and Budget, and in consultation with the Federal Advisory Council on Occupational Safety and Health, a set of basic program elements that agencies shall use to establish occupational safety and health committees and operate effective occupational safety and health programs, and shall provide flexibility to each agency head to implement a program consistent with its division, size and organization. Upon request of an agency head, and after consultation with the Federal Advisory Council on Occupational Safety and Health, the Secretary may approve alternate program elements.

(d) Prescribe recordkeeping and reporting requirements.

(e) Assist agencies by providing training materials, and by conducting training programs upon request and with reimbursement.

(f) Facilitate the exchange of ideas and information throughout the government about occupational safety and health.

(g) Provide technical services to agencies upon request, where the Secretary deems necessary, and with reimbursement. These services may include studies of accidents, causes of injury and illness, identification of unsafe and unhealthful working conditions, and means to abate hazards.

(h) Evaluate the occupational safety and health programs of agencies and promptly submit reports to the agency heads. The evaluations shall be conducted through such scheduled headquarters or field reviews, studies or inspections as the Secretary deems necessary, at least annually for the larger or more hazardous agencies or operations, and as the Secretary deems appropriate for the smaller or less hazardous agencies.

(i) Conduct unannounced inspections of agency workplaces when the Secretary determines necessary if an agency does not have occupational safety and health committees; or in response to reports of unsafe or unhealthful working conditions, upon request of occupational safety and health committees under Section 1–3; or, in the case of a report of an imminent danger, when such a committee has not responded to an employee who has alleged to it that the agency has not adequately responded to a report as required in 1–201(h). When the Secretary or his designee performs an inspection and discovers unsafe or unhealthy conditions, a violation of any provisions of this order, or any safety or health standards adopted by an agency pursuant to this order, or any program element approved by the Secretary, he shall promptly issue a report to the head of the agency and to the appropriate occupational safety and health committee, if any. The report shall describe the nature of the findings and may make recommendations for correcting the violation.

(j) Submit to the President each year a summary report of the status of the occupational safety and health of Federal employees, and, together with agency responses, evaluations of individual agency progress and problems in correcting unsafe and unhealthful working conditions, and recommendations for improving their performance.

(k) Submit to the President unresolved disagreements between the Secretary and agency heads, with recommendations.

(l) Enter into agreements or other arrangements as necessary or appropriate with the National Institute for Occupational Safety and Health and delegate to it the inspection and investigation authority provided under this section.

1–5. THE FEDERAL ADVISORY COUNCIL ON OCCUPATIONAL SAFETY AND HEALTH

1–501. The Federal Advisory Council on Occupational Safety and Health, established pursuant to Executive Order No. 11612, is continued. It shall advise the Secretary in carrying out responsibilities under this order. The Council shall consist of sixteen members appointed by the Secretary, of whom eight shall be representatives of Federal agencies and eight shall be representatives of labor organizations representing Federal employees. The members shall serve three-year terms with the terms of five or six members expiring each year, provided this Council is renewed every two years in accordance with the Federal Advisory Committee Act (see 5 U.S.C. 1001 et seq.). The members currently serving on the Council shall be deemed to be its initial members under this order and their terms shall expire in accordance with the terms of their appointment.

1–502. The Secretary, or a designee, shall serve as the Chairman of the Council, and shall prescribe rules for the conduct of its business.

1–503. The Secretary shall make available necessary office space and furnish the Council necessary equipment, supplies, and staff services, and shall perform such functions with respect to the Council as may be required by the Federal Advisory Committee Act, as amended (former 5 U.S.C. App.) (see 5 U.S.C. 1001 et seq.).

1–6. GENERAL SERVICES ADMINISTRATION

1–601. Within six months of the effective date of this order the Secretary of Labor and the Administrator of the General Services Administration shall initiate a study of conflicts that may exist in their standards and other requirements affecting Federal employee safety and health, and shall establish a procedure for resolving conflicting standards for space leased by the General Services Administration.
In order to assist the agencies in carrying out their duties under Section 19 of the Act [29 U.S.C. 668] and this order the Administrator shall:

(1) upon request, require personnel of the General Services Administration to accompany the Secretary or an agency head on any inspection or investigation conducted pursuant to this order of a facility subject to the authority of the General Services Administration, where abatement cannot be promptly effected, submit to the agency head a timetable for action to correct the conditions; and give priority in the allocation of resources available to the Administrator for prompt abatement of the conditions.

(2) Procure and provide safe supplies, devices, and equipment, and establish and maintain a product safety program for those supplies, devices, equipment and services furnished to agencies, including the issuance of Material Safety Data Sheets when hazardous substances are furnished them.

1–7. GENERAL PROVISIONS

1–701. Employees shall be authorized official time to participate in the activities provided for by this order.

1–702. Nothing in this order shall be construed to impair or alter any other authorities of the head of the United States departments or agencies or, in the case of the Federal Government, any other authority of the General Services Administration.

EXECUTIVE ORDER NO. 12566

Ex. Ord. No. 12566, Sept. 29, 1989, 54 F.R. 40329, provided:

Memorandum for the Heads of Executive Departments and Agencies

Each year Federal civilian employees are injured or fall ill on the job in significant numbers. Although the Federal Government has made progress in reducing workplace injuries and illnesses in recent years, its workers (excluding those employed by the U.S. Postal Service) still filed more than 79,000 new claims and received over $1.6 billion in workers’ compensation payments in fiscal year 2009. Many of these work-related injuries and illnesses are preventable, and executive departments and agencies can and should do even more to improve workplace safety and health, reduce the financial burden of injury on taxpayers, and relieve unnecessary suffering by workers and their families.

Therefore, I am establishing a 4-year Protecting Our Workers and Ensuring Reemployment (POWER) Initiative, covering fiscal years 2011 through 2014. The POWER Initiative will extend prior workplace safety and health efforts of the Federal Government by setting more aggressive performance targets, encouraging the collection and analysis of data on the causes and consequences of frequent or severe injury and illness, and prioritizing safety and health management programs that have proven effective in the past.

Under the POWER Initiative, each executive department and agency will be expected to improve its performance in seven areas:

(i) reducing total injury and illness case rates;
(ii) reducing lost time injury and illness case rates;
(iii) analyzing lost time injury and illness data;
(iv) increasing the timely filing of workers’ compensation claims;
(v) increasing the timely filing of wage-loss claims;
(vi) reducing lost production day rates; and
(vii) speeding employees’ return to work in cases of serious injury or illness.

Executive departments and agencies (except the U.S. Postal Service) shall coordinate with the Department of Labor’s Occupational Safety and Health Administration and Office of Workers’ Compensation Programs to establish performance targets in each category. The Secretary of Labor shall lead the POWER Initiative by measuring both Government-wide and agency-level performance and reporting to me annually.

Each executive department and agency shall bear its own costs for participating in the POWER Initiative, and nothing in this memorandum shall be construed to impair or otherwise affect the authority granted by law to an executive department or agency, or the head thereof.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural,
enforceable at law or in equity by any party against
the United States, its departments, agencies, or en-
tities, its officers, employees, or agents, or any other
person.

The Secretary of Labor is authorized and directed to
publish this memorandum in the Federal Register.

Barack Obama.

§ 7903. Protective clothing and equipment

Appropriations available for the procurement of
supplies and material or equipment are available
for the purchase and maintenance of special
Clothing and equipment for the protection of
personnel in the performance of their assigned
Tasks. For the purpose of this section, “appropri-
ations” includes funds made available by statute under section 9104 of title 31.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 531; Pub. L.
97–258, §3(a)(16), Sept. 13, 1982, 96 Stat. 1063.)

HISTORICAL AND REVISION NOTES

Derivation

U.S. Code

Revised Statutes and
Statutes at Large

§ 7904. Employee assistance programs relating to
drug abuse and alcohol abuse

(a) The head of each Executive agency shall, in
a manner consistent with guidelines prescribed
under subsection (b) of this section and applica-
tible provisions of law, establish appropriate
prevention, treatment, and rehabilitation programs
and services for drug abuse and alcohol abuse for
employees in or under such agency.

(b) The Office of Personnel Management shall,
after such consultations as the Office considers
appropriate, prescribe guidelines for programs
and services under this section.

(c) The Secretary of Health and Human Serv-
ces, on request of the head of an Executive
agency, shall review any program or service pro-
vided under this section and shall submit com-
ments and recommendations to the head of the
agency concerned.

(Added Pub. L. 99–570, title VI, §6004(a), Oct. 27,
1986, 100 Stat. 3207–159.)

§ 7905. Programs to encourage commuting by
means other than single-occupancy motor
vehicles

(a) For the purpose of this section—
(1) the term “employee” means an employee
as defined by section 2105, a member of a uni-
formed service, and a student who provides
voluntary services under section 3111;
(2) the term “agency” means—
(A) an Executive agency;
(B) an entity of the legislative branch; and
(C) the judicial branch;

(3) the term “entity of the legislative branch” means the House of Representatives,
the Senate, the Office of the Architect of the
Capitol (including the Botanic Garden), the
Capitol Police, the Congressional Budget Of-
fice, the Copyright Royalty Tribunal, the Gov-
ernment Publishing Office, the Library of Con-
gress, and the Office of Technology Assess-
ment; and

(4) the term “transit pass” means a transit
pass as defined by section 132(f)(5) of the In-

(b)(1) The head of each agency may establish a
program to encourage employees of such agency
to use means other than single-occupancy motor
vehicles to commute to or from work.

(2) A program established under this section
may involve such options as—
(A) transit passes (including cash reimburse-
ments therefor, but only if a voucher or simi-
lar item which may be exchanged only for a
transit pass is not readily available for direct
distribution by the agency);
(B) furnishing space, facilities, or services to
bicyclists; and
(C) any non-monetary incentive which the
agency head may otherwise offer under any
other provision of law or other authority.

(c) The functions of an agency head under this
section shall—
(1) with respect to the judicial branch, be
carried out by the Director of the Administra-
tive Office of the United States Courts;
(2) with respect to the House of Represen-
tatives, be carried out by the Committee on
House Administration of the House of Rep-
resentatives; and

(3) with respect to the Senate, be carried out
by the Committee on Rules and Administra-
tion of the Senate.

(d) The President shall designate 1 or more
agencies which shall—
(1) prescribe guidelines for programs under
this section;
(2) on request, furnish information or tech-
nical advice on the design or operation of any
program under this section; and
(3) submit to the President and the Congress,
before January 1, 1985, and at least every 2
years thereafter, a written report on the oper-
ation of this section, including, with respect
to the period covered by the report—
(A) the number of agencies offering pro-
gram under this section;
(B) a brief description of each of the various
programs;
(C) the extent of employee participation
in, and the costs to the Government associ-
ated with, each of the various programs;
(D) an assessment of any environmental or
other benefits realized as a result of pro-
grams established under this section; and

(E) any other matter which may be appro-
piate.

§1314(a), Nov. 25, 2002, 116 Stat. 2296; Pub. L.