

WHO'S WHO IN THE OBAMA OSHA ERA?

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Trying to figure out in early December who might be the assistant secretary of labor for OSHA, and where the agency is headed, is asking too much too soon. Today there are too many unknowns:

Who will be named Secretary of Labor? What are the Labor Secretary appointee's views on OSHA? How will President-elect Obama pay back labor for its support?

What does labor want from the White House? Many sources tell us unions will push hard for the Employee Free Choice Act, which would change the rules in organizing campaigns to favor unions. Employee Free Choice is a higher, more immediate labor priority than any OSHA-related issue.

How much attention will a Congress preoccupied by the economic meltdown give to any OSHA-related issue?

This much we do know: job safety and health advocates and thought leaders have been on the outside looking in for the past eight years. Now they have a much more receptive audience for their ideas — a Democratic president, a House and Senate controlled by Democrats, the Office of Management and Budget (OMB) controlled by Democrats, and a Democratic leadership team at the Department of Labor.

So let's review, in alphabetical order, some of the players who will influence OSHA policy choices and standards, and the agency's standing with U.S. workers, businesses, and the global safety and health community during the next four years.

Hamid Arabzadeh, MS, CIH, CSP, REA, CHMM, principal of HRA Environmental Consultants, Inc., Irvine, CA. Said to be interested in the OSHA chief job. "He's politically well connected, has the support of Sen. Tom Harkin (in September, Harkin sponsored a resolution in the Senate recognizing the importance of workplace wellness as a strategy to help maximize employees' health and well being), and has attended Democratic campaign fundraisers in Los Angeles," says one source. From 1992 to 1997, Hamid was the corporate manager of industrial hygiene for the UNOCAL Corporation and later the director of the EH&S Branch at Los Angeles Unified School District. Arabzadeh holds two graduate degrees in Occupational Health Sciences and Industrial Hygiene.

Jordan Barab put to bed his popular-with-the-in-crowd blog "Confined Space" and now occupies a staff position on the U.S. House of Representatives Committee on Education

and Labor. The move affords him influence beyond what he could achieve in the blogosphere.

Spent 16 years running AFSCME's health and safety program, advocating the rights of public employees to work in a safe workplace. In 1998, Barab was appointed a Special Assistant to the Assistant Secretary for OSHA, serving as national Labor Liaison, ergonomics coordinator and other duties. After the Bush administration moved into the White House, Barab consulted for the AFL-CIO Health and Safety Department for a year and a half, and stayed up nights writing his sometimes scathing, sometimes compassionate "Confined Space" entries.

David Bonior a Michigan congressman from 1977 to 2003 and Capitol Hill heavyweight due to a decade as House Democratic whip, the second-ranking position in the House. Bonior is known for his aggressive advocacy for labor unions. Recently took himself out of the running for Labor Secretary. His views will be heard as a member of Obama's economic transition team.

Bill Borwegen MPH, director of occupational health and safety for the Service Employees International Union, has been on the cutting edge of emerging safety and health issues such as patient handling and healthcare risks, sustainability, and health promotion.

In 2007, he addressed the American Public Health Association annual meeting to discuss *how labor union occupational health and safety programs focus on systemic versus individual change in the workplace; reducing or eliminating hazards by improving working conditions; and advocating expanded worker training. This approach seems to be inherently in conflict with health promotion; attempting to change the behavior of workers versus the behavior of the employer*, said Borwegen.

Lael Brainard, former Clinton "technocrat," according to Politico.com, which goes on to say she is expected by many in labor to be chosen by Obama as Labor Secretary. Currently is vice president and director of Global Economy and Development at the Brookings Institute. Former White House Deputy National Economic Adviser and Associate Professor at MIT.

Authored for Brookings an article in which *she declares that to remain globally competitive, the U.S. need to invest for the long-term in infrastructure — roads, bridges, airports, ports, railroads, waterways and air traffic systems — on a grand scale reminiscent of FDR's Works Progress Administration and Eisenhower's support for the interstate highway system..*

Cassandra Butts, possible Labor Secretary nominee, is an advisor to the Obama campaign on domestic policy and has been a long-time friend of and advisor to Obama since they were classmates at Harvard Law School. She is the Senior Vice President for Domestic Policy at the Center for American Progress (CAP).

CAP is a left-leaning think tank headed by John D. Podesta, former chief of staff to President Clinton and a professor at the Georgetown University Center of Law. CAP describes itself as progressives in favor of universal health care, clean energy, wage inequality, immigration and other issues. Butts served as a senior advisor to Rep. Richard A. Gephardt (D-MO) and served as the policy director on his 2004 presidential campaign, which included formulating a universal health care plan

Adam Finkel is a professor of environmental and occupational health at the University of Medicine and Dentistry of New Jersey and a former regional administrator and director of health standards at OSHA. *Proposes finding a new way to target establishments for inspection, establishing more enforceable partnerships, and writing rules to require companies to use the best available technology to decrease health risks.*

Mark Freedman, director of labor law policy for the Chamber of Commerce. The Chamber is wasting no time gearing up to fight another possible go at an ergonomics standard. *“Ergonomics is a non-starter in the employer community. We will again expend great resources against it if it comes up,”* he said at this year’s National Safety Congress.

Thomas Geoghegan, a Chicago labor lawyer and author, mentioned early on as possible Labor Secretary. Geoghegan is a graduate of Harvard University and Harvard Law School. He has represented the United Mine Workers, Teamsters for a Democratic Union, and currently works at the law firm Despres, Schwartz & Geoghegan. *In 1991, he authored a book, Which Side Are You On?: Trying to Be For Labor When It's Flat On Its Back.*

Dick Gephardt, former high-ranking and highly visible leader in the Democratic Party, Gephardt served as a U.S. Representative from Missouri from 1977 until 2005, serving as House Majority Leader from 1989 to 1995, and as Minority Leader from 1995 to 2003. Prominent on lists of possible Labor Secretary candidates. His Wikipedia bio ends with this: “Following the election to the presidency of Barack Obama on November 4, 2008, Gephardt's name has been mentioned as a possible Obama appointment as Secretary of Labor.”

Jennifer M. Granholm, governor of Michigan. Re-elected in 2006. In the first year of her No Worker Left Behind (NWLB) job training program, more than 31,000 displaced workers received tuition-free training for new careers in high-demand areas such as health care and the skilled trades, according to her official bio. Born in Vancouver, British Columbia, Granholm is an honors graduate of both the University of California at Berkeley and Harvard Law School. Mentioned by sources as a potential Labor Secretary appointee.

Ron Hayes, called a “hellraiser” by Mother Jones magazine, is grassroots job safety activist and trainer based in Alabama. His son suffocated to death in a grain silo in 1993. Has the ear of Kennedy’s OSHA staff specialist and has gone fishing with Republican Senator Mike Enzi of Wyoming, one of very few senators on either side of the aisle interested in OSHA issues.

John Henshaw was confirmed by Congress in August, 2001 to be assistant secretary of labor for OSHA, and was immediately dragged away in handcuffs. Just kidding. An exception to the decades-old trend of political tacticians (attorneys, bureaucrats) running OSHA, Henshaw had impeccable technical credentials and a boss in Labor Secretary Elaine Chao who followed administration commands for no new regs, and thought of OSHA only terms of “it’s bad, it costs business money,” according to one source.

Henshaw, now a consultant, is still fit and energetic at age 59, and has innovative ideas: *make OSHA more science-based in its rulemaking, perhaps even a OSHA-NIOSH merger to give the combined agencies something of the one-stop-shop power of EPA, and proposes folding ergonomics into a safety and health program rule.* Well-respected, Henshaw will be heard from in the next four years, weighing in diplomatically on issues include updating the permissible exposure limits.

Dr. John Howard, former head of NIOSH and the California OSHA state program. Numerous sources say he’s interested in the OSHA post.

In a speech given November 11, *Dr. Howard said research, education and assistance at OSHA is uncoordinated; OSHA’s insularity leads to a “go it alone” attitude; the accuracy of non-fatal injuries and illness recordkeeping needs to be investigated, and existing OSHA standards are not matched to the existing causes of worker injuries and illnesses. Might get his old job at NIOSH back if the OSHA position is not available.*

Sources say he’s respected, has experience managing bureaucracies, but suffers for being possibly too bi-partisan for Washington. Yes, the man is simply too open-minded. He has no apparent political support from a senator or congressman, according to one source, who adds: “He’d be perfect for the OSHA job, but labor might veto his appointment; unions want a person 100-percent theirs.”

Sen. Edward Kennedy, chairman of the Senate Committee on Health, Education, Labor and Pensions, has written legislation, co-sponsored by Obama, to make modest changes to OSHA law. At some point in the next four years, legislation increasing criminal sanctions and penalties against OSHA Act violators will be reintroduced with vigor.

David Michaels, possible OSHA chief nominee, is a professor at George Washington University and was assistant secretary of energy for environment, safety, and health under Clinton. One source tells us Michael is in line for a promotion at GWU, which may remove him from any short list.

In a post he wrote for the blog “The Pump Handle,” Michael said: *“(former OSHA boss) Mr. Foulke’s arguments are reminiscent of the climate change deniers who oppose government action on global warming, claiming the science is ‘not settled enough’ for OSHA to do what needs to be done. The agency’s claims about the number of new regulations published are also quite misleading.”*

George Miller, 64, is chairman of the House Education and Labor Committee, which covers OSHA and has put many an OSHA chief’s feet to the fire in hearings. He has represented the 7th District of California in the East Bay of San Francisco since 1975. Miller is a confidante of Speaker of the House Nancy Pelosi, “the unquestioned leader in the House whose enormous power seems to grow by the day,” according to The Hill web site. In April, the House approved the Worker Protection Against Combustible Dust Explosion and Fires Act (H.R. 5522). The bill, introduced by Miller and Rep. John Barrow (D-GA), would require OSHA to issue emergency rules to regulate combustible dust, like sugar dust, that can build up to hazardous levels and explode.

At a hearing this past June, Miller said, *“Today we will hear about the growing number of academic studies that conclude that the Department of Labor is actually counting and reporting as few as one-third of all workplace illnesses, injuries and deaths. Although there is widespread agreement that workplace injuries and illnesses are woefully underreported, OSHA refuses to recognize that the problem exists.”*

Celeste Monforton, MPH, is a researcher at George Washington University’s School of Public Health and former policy analyst at OSHA (1991-1995) and at MSHA (1996-2001) as special assistant to the assistant secretary of labor. She served as senior investigator with J.Davitt McAteer for the Governor of West Virginia’s special inquiry into the January 2006 Sago Mine disaster. A thought leader in workplace safety and health, Monforton has written extensively for the blog, “The Pump Handle.”

Commenting on Ed Foulke farewell letter to the OSHA staff, she wrote, *“Somehow I doubt that workers who developed bronchiolitis obliterans from exposure to the buttery-flavoring agent diacetyl, burned to death in the Imperial Sugar combustible dust explosion, fell to their deaths in crane collapses, or were killed by other workplace hazards would agree that Foulke should be proud. Many hazards remain inadequately regulated because of Mr. Foulke’s and Labor Secretary Chao’s pro-business-at-any-cost-to-workers attitude.”*

Sen. Patty Murray, 58, a three-term Democrat from Washington, “uses her oversight role as Chairman of the Health, Education, Labor and Pension Subcommittee on Employment and Workplace Safety to protect workers at the workplace and to continue to fight for workers’ rights to organize and collectively bargain,” according to her official bio.

Barack Obama, visiting a crowd of American Airlines maintenance workers at the Kansas City International Airport during the campaign, stated *“A facility like this, the possibility for injury is enormous.”* He continued saying that in many places *“it’s pretty standard to lose an eye, lose a limb, lose a life. ... we’re going to have a government that makes sure workers aren’t put at unnecessary risk.”*

In the Senate, Obama cosponsored the Protecting America’s Workers Act, which would expand OSHA and increase penalties on businesses for workplace injury. During the campaign Obama said he would reinstate OSHA’s ergonomics rule while supporting a policy protecting small businesses that might be adversely affected by a new regulation.

The president-elect will start many a domino falling affecting OSHA issues when he names his Secretary of Labor. To date, many of his appointments have disappointed liberals. Obama has taken a pragmatic, moderate-centrist approach to his selections. So will the Labor Department be run by a feisty OSHA-friendly boss following in the footsteps of Robert Reich and Elizabeth Dole, or a less adventuresome pragmatist?

Randy Rabinowitz, a private attorney specializing in occupational safety and health law, has spent the past 30 years on OSHA law issues, including a stint as Labor Counsel to the Committee on Education and Labor between 1991 and 1995. The fiery Rabinowitz represented a variety of unions, including UAW, USW, UFCW, Unite, and others in litigation over OSHA and MSHA standards.

In testimony on Capitol Hill this spring, Rabinowitz declared, *“...almost four decades after the Occupational Safety & Health Act went into effect, OSHA enforcement efforts grow weaker, not stronger.”* She added: *“Large companies should have an obligation, once a serious hazard has been identified at one facility, to conduct internal investigations to determine whether the same hazard exists at other facilities. Current law imposes no such duty.”*

Joel Shufro, Executive Director of the New York Committee for Occupational Safety and Health (NYCOSH). Founded in the late 1970s, NYCOSH provides unions and workers with technical assistance and acts as a watchdog monitoring OSHA and other agencies with safety and health responsibilities.

In 2002, the American Public Health Association Occupational Health Section honored NYCOSH for being the first group to contact OSHA regarding the lack of protections for rescue workers at the World Trade Center, and for calling media attention to the concerns of immigrant workers at Ground Zero. The media-savvy Shufro’s influence extends beyond New York City via radio and print interviews, and his credibility with grassroots occupational safety and health groups across the country. You’ll be hearing more from him in the next four years.

Peg Seminario, health and safety director for the AFL-CIO. Has spent more than 30 years working on safety and health issues, and has been involved in dozens of OSHA rulemakings on safety and health standards and regulations.

Tells us she's flattered by the buzz in Washington talking her up as the next OSHA chief. *"But I'm very happy where I am,"* she said, adding, *"the job hasn't been offered to anyone yet, and we've got a ways to go to get to that point. Will the support from the administration and the Secretary of Labor be there? It's absolutely key."*

At the moment, Seminario is not zeroing in on another stab at an ergo standard. Instead she says *silica, beryllium, confined space safety in construction, cranes and derricks should be the first standards priorities. Ergonomics can be handled a number of ways, she says: enforcement under the general duty clause, recordkeeping scrutiny, perhaps integrating ergonomics into a broad safety and health program rule.*

Michael Silverstein, MD, MPH, clinical professor of environmental and occupational health sciences at the University of Washington School of Public Health, and former Director of Policy for OSHA (1993 – 1995). Recently had a paper published in the American Journal of Public Health, "Getting Home Safe and Sound: Occupational Safety and Health Administration at 38."

The paper suggests reframing the language of worker protection to link it with broad resonant themes of health and human rights, ensuring every employer has a comprehensive safety and health management program, and requiring every workplace to be inspected regularly using a third-party army of licensed professionals. Mentioned early and often as a potential OSHA chief nominee, one source tells us Silverstein is not interested in returning to DC.

Keith Smith was named this past May as Director, Employment and Labor Policy at the National Association of Manufacturers (NAM). He's NAM's in-house expert on ergonomics, OSHA reform, and labor relations. NAM is the nation's largest industrial trade association, with more than 100,000 companies — a formidable army that will quickly be mobilized when OSHA revs up a higher level of standards-setting and enforcement activity, as most agency-watchers expect.

In an article posted on the Inside HR web site, Smith wrote, *"Organized labor has made it clear that passage of the mis-named Employee Free Choice Act (EFCA) or union 'card check' legislation is their highest priority. Faced with declining union membership, labor leaders have aggressively sought passage of the EFCA. Under the EFCA, workers would effectively lose their right to a private ballot when deciding whether to join a union."*

Emily Spieler, leader of the Obama Transition Team for OSHA. Board member, Public Health Advocacy Institute; Dean, Northeastern Law School. Could become acting OSHA chief on January 20 until an appointee is named, probably in the April to June time frame.

Andrew Stern, 58, president of the two-million member Service Employees International Union (SEIU), the fastest-growing union in the America, once was prominent among

potential Labor Secretary nominees. Stern has since taken himself out of the race. But his charismatic voice will be heard.

At a June campaign forum with Obama, Stern told the president-elect: *"What we really need is to change the old Washington ways where we can't get anything done. The old idea that business and labor can't work together for the common good is outdated."* Stern will be highly visible in the next four years.

The man gets around: 2006, he appeared on The Colbert Report to promote his new book *A Country That Works*. He writes for the liberal blog, "The Huffington Post," was called "the new face of labor" in a 2006 Fortune magazine article, and has been interviewed on "60 Minutes" and by Bill Moyers.

David M. Uhlmann, law professor at the University of Michigan, has been mentioned as a possible OSHA chief or Solicitor of Labor. Served for seven years as Chief of the United States Department of Justice Environmental Crimes Section, where he was the top environmental crimes prosecutor in the United States.

Wrote an op-ed piece for The New York Times this past May stating: *"Congress should make it a felony to commit a criminal violation of the worker-safety laws, and the penalties for lawbreakers should be stiffened. The maximum sentence ought to be measured in years, not months... Congress also should change the worker-safety laws so that ignorance of the law is no longer a defense. Employers have a duty to know their responsibilities under the Occupational Safety and Health Act."* One source tells us Uhlmann is a favorite of Sen. Kennedy's staff for a labor position in the Obama administration.

Antonio Villaragoisa, mayor of Los Angeles, elected in 2005. Villaraigosa, 55, is known for his skill at building broad bi-partisan coalitions and is considered one of the leading progressive voices in the country. Mentioned by sources as a possible Labor Secretary nominee. "An up-and-comer in the Democratic party, no doubt" said one source. According to his official bio, at the age of 15 Villaraigosa began his lifelong involvement with the labor movement as a volunteer with the farm workers movement, later he served as a field representative/organizer with the United Teachers Los Angeles (UTLA).

Frank White, former deputy at OSHA in charge of standards setting and enforcement, and current senior vice president for ORC Worldwide's Washington-based occupational safety and health consultancy.

"We are frankly weary of confrontation that perennially pervades the debates over workplace safety and health policy, that leads to political stalemate and that has alienated much of the safety and health community," said White in an ORC White Paper issued in November that gives specific details for a new approach to national occupational safety and health policy. ORC's White Paper states: *"...the 2008 election presents all of us in the safety and health community with a once in a generation opportunity to break the longstanding gridlock on progress in many key areas of safety and health policy."*

ORC's credibility and expertise in occupational safety and health affairs could give White and his team a pivotal role in facilitating less confrontation and helping to break the OSHA gridlock.