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Subject NFFE Forest Service Council request for appointment

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Our brief on a number of firefighter issues is posted at http://www.nffe-fsc.org/Documents/Leg/LW_2009/Fire_Brief_090511.pdf. Among these, I'm particularly interested in discussing how we can help advance legislation that would authorize the agency to designate statements made during safety investigations as confidential and not subject to disclosure and use for any purpose other than to improve safety, if such designation would materially assist the safety investigation. An independent collateral investigation, under which Constitutional protections are operative, would also be performed to develop a public record of the incident. We believe this proposal meets the competing interests of protecting employees who step up to improve safety while maintaining the public's right to know. A similar approach is already used to enhance the safety of aircraft operations (10 USC § 2254) and provision of health care services (PL 109-41).

This issue is so important to us that we have recommended to our employees that they refrain from participating in safety investigations following serious incidents until the needed reforms are in place. This may hamper efforts to improve safety in the short run, which we deeply regret. However, we believe employees' trust levels are so low that effective safety investigations of major incidents is already impossible, because of the previous use of safety witness statements in criminal investigations and prosecutions of co-workers. Even after reforms are implemented, it will take years to rebuild the trust that has been lost. We have been working intensely with the agency to put the administrative pieces in place to meet the competing interests. Our letter to the Chief, which discusses the issue and administrative reforms in some detail, is posted at http://www.nffe-fsc.org/Documents/IFPM/FSC_081205_OpenLtrToChief.pdf.

I'm prioritizing this issue because the time is now ripe for legislative reform. A few days ago, the needed administrative reforms were put in place. Under new policy, the agency will now perform separate and independent investigations for legal and claims purposes and for safety. I've attached the Chief's letter on this new Accident Investigation Protocol and the protocol itself. If time allows, we can visit on the other issues in our Fire Brief as well.

I look forward to seeing you again and discussing this important issue. Take care.

Mark Davis, Chair
NFFE Forest Service Council Legislative Committee



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