

**Cal/OSHA Advisory Committee Meeting**  
**June 7, 2012**  
**Oakland, California**

**Opening Remarks by Christine Baker, Director of the Department of Industrial Relations**

- Over the last year, the focus has been on restructuring and strengthening DIR and its divisions.
- Now we are moving from an inward to an outward focus with current priorities on:
  - Collection of penalties – we want to collect all of the funds, and we are striving to collect funds effectively and quickly.
  - Huge focus on the Labor Enforcement Task Force (LETf) and the underground economy – we are providing cross-training between all the participating agencies on investigation techniques, enforcement policy, surveillance and protocols.
- Like all state departments, DIR must implement a 5% cost reduction across the board. DIR is committed to providing effective service and minimize public impact. We plan to achieve the cost savings through means other than reduction of personnel, primarily through consolidating and sharing offices.
- As a result of the meetings across the state, DIR has identified the key problems with the Worker's Comp system, including too much litigation to get medical care, and benefits levels that are too low in some areas. DIR will be working with others to craft an overall reform of the system.
- Director Baker awarded a Certificate of Merit to retiring Chris Lee for his three years of work at Cal/OSHA as the Deputy Chief for Enforcement.

**Opening Remarks and DOSH Report by Ellen Widess, Chief of Cal/OSHA**

- Chief Widess introduced and welcomed the new members of the Advisory Committee.
- Chief Widess thanked retiring Deputy Chief Chris Lee for his work, and announced that Region I Manager Cora Gherga will be the Acting Deputy Chief for Enforcement.
- The overall goal for the Division is to achieve more consistency in field enforcement activities through, top quality oversight, staff training and mentoring.
- As part of the cost reduction effort, DOSH has consolidated the Sacramento offices to one location, and closed the Monrovia office and reallocate staff where most needed in the Los Angeles area. At the same time, the Division has re-opened a Bakersfield office – a development which is greatly welcomed in Kern County.
- The Division has hired new staff in several areas: a medical health officer and occupational nurse in southern California, as well as additional field staff.
- As in previous years, the Division's major effort now is the heat illness prevention program. To date there have been two suspected heat-related fatalities (a construction and a farm worker). The District Offices involved are investigating fully if these deaths are actually heat-related, as well as looking at any other violation of Cal/OSHA standards.
- In the 2012 heat season to date, we have found better compliance related to heat illness prevention in agriculture versus construction. However, overall there are more non-heat-

related violations found in coordinated heat inspections in agriculture because of other safety violations.

- To date, the Division has issued one OPU in agriculture during coordinated inspections, and DOSH will continue issuing OPUs as appropriate.
- The Division is continuing with the Special Emphasis Program in confined spaces, and year-to-date statistics on inspection results were sent out with the information packet.
- The Safe Patient Handling law went into effect on the first of the year and we have held several successful stakeholder meetings. We are working on a draft of the regulations which will be discussed this fall at another public meeting.
- The Division is working closely with the Division of Labor Standards Enforcement (DLSE) to establish a protocol and procedures for referrals of potential labor law violations and complaints of employer retaliation and discrimination from DOSH to designated managers in DLSE. The new protocol was implemented on May 15<sup>th</sup> and all referrals will be processed by and logged by the DOSH Program Office.
- The work of the High Hazard Unit – South in Santa Ana was the subject of a new study by professors at Harvard Business School and Haas Business School at UC Berkeley that was published in the journal *Science* in May. The study documented that HHU inspections reduced worker injuries and their associated costs with no detectable job loss or harm to performance and profits.

#### **Cal/OSHA Enforcement Report by Cora Gherga, Acting Deputy Chief for Enforcement**

- Gherga explained the reorganization of the offices in southern California, including the closure of Monrovia District Office, and the re-opening of Bakersfield District Office. The district office boundaries of the southern California offices have been redrawn and some staff have been reassigned between the offices. Work is in progress to establish which zip codes will be in which district office, but the DOSH website should have the revised boundary information by zip code soon.
- In terms of personnel changes, the Division has two new Regional Managers in Regions III and IV (Peter Riley and Debra Lee, respectively) who started out as field inspectors first, and then became district managers.
- The Fed OSHA FY 2011 EFAME audit was conducted this spring. DOSH completed most of the 2010 EFAME recommendations, particularly in the area of training where we have completed all mandated trainings. The Federal Fiscal Year (FFY) 2011 EFAME contains only 17 items to address for this year, considerably fewer than in the FFY 2010 audit. The FFY 2011 EFAME audit will be available to the public from Fed OSHA in August, with the Division's responses developed shortly later.
- List of Enforcement offices and contact info on the webpage was just updated.

#### **Consultation Service Report by Vicky Heza, Program Manager**

- Consultation senior managers met recently regarding performance plans and the focus of new initiatives. Fall hazards and hazards related to farm equipment are under consideration.
- There have been some personnel changes since the last meeting, including the promotion of Jim Lopes to Regional Manager, Mario Feletto to Area Manager in Sacramento, Nick Gleiter to Area Manager in Oakland, and Gene Glendenning to Area Manager in Fresno.

- There is a new restaurant safety guide posted on the DOSH Publications webpage. Consultation is in the process of updating multiple publications, so please contact Vicky Heza if anyone has concerns about or finds misleading information in any of the posted publications.
- The Consultation Service is having a significant outreach and education impact by partnering with other organizations, such as the Joint Powers (water utilities), SCIF, and Walter Clark insurance agency. There have been 37 seminars so far this year on heat illness prevention, reaching more than 2,000 people, and 13 seminars on confined space hazards, reaching more than 450 people. The outreach calendar is part of the reports sent out before this meeting, and it is updated as events are scheduled.
- We have been looking to maximize our ability to reach out to employers and employees via new and expanded partnerships, such as those with the ACG, Mercer ORC, ASSE and the state Building Trades Council.
- The Consultation Service will be working with DIR and others in a project to assist small businesses to develop and implement effective Injury and Illness Prevention Programs.
- The Consultation Service is also working on a policy for VPP sites regarding the use of “safety incentives” that have the effect of discouraging reporting of injuries and illnesses. Fed OSHA has recently issued a policy related to this issue which the Division is analyzing as well.
- During the discussion, Joel Sherman of Grimmway Farms asked to be kept up to date on the Consultation Service’s ongoing evaluation of mechanized harvesting hazards.

#### **Research & Standards Report by Deborah Gold, Deputy Chief for Health**

- The Division has established a dedicated Tower Crane unit, and has just hired four experienced crane inspectors. The extra staff is needed as we have received word that at least 18 new tower cranes are planned around the state in coming months.
- The Division is working with NIOSH, academic researchers, and Fed/OSHA on ag transport issues related to the Grimmway temporary variance request.
- The Division will also be reviving an old Form 9 on illumination requirements for night time agricultural work that will be sent again to the Standards Board.
- With regard to the incorporation of the Globally Harmonized System (GHS) into the Title 8 hazard communication regulation, there will be two tracks. One is to use the Horcher process for incorporating the March 2012 Fed OSHA package; and the other is to use the regular Advisory Committee process for other GHS-related changes to the Hazcom standard and other standards which reference, or are referenced by, the Hazcom standard.
- The Aerosol Transmissible Disease (ATD) standard is being used in several arenas at present. There have been three cases of bovine tuberculosis and the Division is working closely with the California Department of Food and Agriculture and various dairy associations. Training materials for dairy farmers and their employees are in the process of being developed.
- Also related to the ATD standard, there was a recent death from exposure to bacterial meningitis at a UCSF facility where researchers working for a separate employer are working on a federal Veterans Administration project. The San Francisco District Office has opened an inspection in the fatality case.

### **Appeals Board Report by Board Chair Art Carter**

- The Board yesterday approved a regulatory package, and there will now be a 45-day comment period. After reviewing all comments, the Board will respond to those requiring a response, and modify the regulation as necessary. The Board will then hold a final vote and submit it to the Director of DIR, to the Labor Secretary, to the Office of Administrative Law, and ultimately to the Secretary of State. For questions regarding this topic, please call Carey Johnson 916-274-5769.
- The proposed regulations include several high-profile issues:
  - Party status will be allowed for survivors of a deceased worker;
  - Amendments to appeals will be allowed in a manner in which no party is disadvantaged, and if there are questions of prejudice, the hearing will be continued;
  - The board has the option to revive the successful “expedited Appeal Process” used in 2009, but will conduct a careful evaluation of the necessity and impact to reviving the expedited procedures;
  - Continuances that are legitimate, and where both parties have been notified, will get generally favorable consideration;
  - Witness testimony via a video conference is coming closer to being a reality as the pilot testing with the West Covina Office has gone well, and the Board is close to having a good video conference procedure;
- There is one Appeals Board vacancy – the employer representative – but there are two finalists who will be interviewed this Friday and a recommendation sent to the Governor. There were 50 applicants for the position.

### **Standards Board Report by Board Executive Officer Marley Hart**

- There are three new members of the Board: Laura Stock of the UC Berkeley Labor Occupational Health Program as the occupational safety representative; David Harrison of the Operating Engineers Local 3 as a labor representative; and Barbara Smisko of Kaiser Permanente as a management representative.
- The next Standards Board meeting is June 21<sup>st</sup> in Sacramento.
- At the May meeting, the Board rejected the proposal for an Advisory Committee to be established for Petition 520 related to hotel housekeeper hazards and possible regulations. There is a revised petition for the June meeting to establish an Advisory Committee with more guidance on what the goal of the committee will be.
- The Board is working hard to adopt – within the six month deadline of Fed OSHA – the new federal Global Harmonized System (GHS) for chemical management. The Board’s goal is to submit the California regulation to the Office of Administrative Law for publication by June 19<sup>th</sup>.
- With the retirement of Tom Mitchell, the Board has a new Association Safety Engineer – David Kernazitskas – who is both an industrial hygienist and Certified Safety Professional and joined the Board staff about three weeks ago.

### **Part II – Discussion**

**Question #1: “Given the uncertainties of available resources and state work schedules, how can DOSH most effectively achieve our goals in the new fiscal year?”**

- Recommendations from the Advisory Committee included:
  - Better collaboration with the unions regarding various trainings (confined space, hazard communication, etc) to help facilitate some of DOSH's goals (such as better communication and a more assertive effort). Send OSHA field inspectors to the unions' training facilities, which is already occurring as some DSH staff are taking hazcom refreshers through the union trust fund courses).
  - Cal/OSHA should promote training to workers on basic OSHA rights, such as using already existing classes like English as a second language classes or union apprenticeship programs.
  - Workers have a well-grounded fear of retaliation by their employers, so it would be important for DLSE (which investigates retaliation complaints) to be present at these Cal/OSHA Advisory Committee meetings. Both DOSH and DLSE staff need to be trained on whistleblower policy.
  - Curbing employer retaliation against workers who express concerns about unsafe conditions is critical to getting good worker complaints and participation during inspections.
  - Change labor code, or reword it, to identify what are the criteria for selecting which complaints to investigate; there should not be an automatic inspection with every worker complaint.
  - Mining & Tunneling is a duplicative unit, that is, it does inspections already being done by Fed/OSHA, with some companies getting inspected six times: half by Fed/OSHA and half by Cal/OSHA.
  - Continue partnerships with organizations like CEA so that Cal/OSHA inspectors can come out and see how major construction projects are done, including the specific procedure, processes and hazard analysis. Reestablish the opportunity to help field staff know what is going on in areas like steel erection and underground work.
  - Increase fee for public safety units (elevators, pressure vessels, amusement rides). Revise the current situation where crane inspection fees go back to the general fund, and not to Cal/OSHA's funds.
  - Targeted inspections along a prioritized area (agriculture) are much more effective rather than complaint-generated inspections.
  - As important as heat and confined space hazards are, there are other workplace hazards that need attention. The Division should prioritize risks, and combine compliance and consultation efforts. Outreach to workers and labor should be done on the same level as outreach to employers.
  - The OSH Fund on workers comp insurance premiums will end in July 2013. Suggest that the labor and employer communities contact the Legislature to keep the OSH Fund workers comp insurance surcharges so that Cal/OSHA does not dependent on of the general fund allocations.
  - The Division should look at "adding on" health and safety issues with existing license, permits and certification processes – that is require H&S training and tests as part of these existing processes to obtain these critical documents.

**Question #2: “How can DOSH enhance effective partnerships and outreach initiatives?”**

- Recommendations from the Advisory Committee included:
  - Expand partnerships with the AGC or similar organizations. The recent series of training sessions statewide on silica hazards and practical hands-on solutions is a good example of what could be done.
  - There are potentially significant resources in the occupational health and safety community with the current wave of retirements. Perhaps we could form special teams of retired OHS professionals to share information, knowledge and their best practices with small businesses.
  - Consider requiring the OSHA 10-hour class for construction workers, like is done in Nevada where workers are required to have taken the 10-hour course and supervisors are required to have taken the 30-hour course.
  - Tap into existing resources, such as the United Steel Workers union’s “train the trainer” model, and other courses that receive Fed-OSHA grants to provide free training to employers, workers and even DOSH staff.
  - Establish closer relationships with worker advocate organizations that can pass information from DOSH to workers, and specific complaints from workers to DOSH.
  - Have retired annuitants do the “Special Emphasis Program” inspections like confined space and heat illness campaigns to free up CSHOs for other types of inspections. Have non-CHSOs do the evaluation of written programs rather than assigning these to field inspectors, who could then do more complex inspections.