

Cal/OSHA Advisory Committee Meeting

February 6, 2014 – 10:30 am

Oakland, California

Welcome and Opening Remarks by DIR Director Christine Baker

- We would like recognize Patrick Bell, who recently passed away. He was a dedicated, exemplary public employee for the state of California, and we wish his family well during this difficult time.
- DIR continues to align our budget and modernize to be more efficient with technology. We are identifying measures that will allow us to be more accountable.
- DIR has received additional resources from the Governor that will allow us to fill all vacancies, including new positions for the new PSM Unit.
- There are large numbers of retirees across DIR, particularly in DOSH.
- We are rebuilding Cal/OSHA and are impressed with caliber of our team. More training is needed across the entire Department to acquire consistency throughout.
- The Governor has asked DIR to lead way in using data to identify criminal activity in the underground economy, and our teams are stellar.
 - **In the last audit of Cal/OSHA there were 222 CSHOs, and there are now 189, which is not sufficient for California. Are those CSHO positions going to be reinstated?**
 - With the sequestration, those positions are in a holding tank until we get funds, but they are not eliminated.
 - **Do you know what that total number is?**
 - Numbers of positions are in the Governor's budget. We are filling all authorized positions that we have. Sequestered positions will come back when we get funds.
 - **Who do we call for workers' comp issues? When an employee gets injured, how would they get paid if they lose health insurance for their family because of their injury?**
 - Contact Christine Baker to continue the discussion.

- **How many compliance officers are there? How does that compare to past years? Are you up or down from where you were?**
 - There are approximately 199 compliance officers.
- **Will you also be increasing the number of industrial hygienists?**
 - We would love to. We're meeting with the industrial hygienist organizations to see how we can recruit and bring back IHs to DOSH. We do have restrictions in pay incentives to address, and we also need to look at all categories that we want to bring into the Division.
- **Looking to change the recruitment description?**
 - Yes. It's a complicated process, and we are trying to make headway with our HR teams to create these descriptions.
- **How many positions were built from within?**
 - We post the positions through the state process, and anyone that is qualified can apply. If there is anyone who is interested from within, we try to do that. The PSM team is working very hard to modernize the regulations.
- **Question regarding turnaround regulations.**
 - Turnaround information is extremely important. Legislation last year that would've benefitted us, that legislation may come back.
- **Are the 15 positions for the PSM Unit part of 199 compliance officers?**
 - No.

Introductions & Overview of the Agenda by Cal/OSHA Acting Chief, Juliann Sum

OASIS Project Report by Neil Robinson & Denis Marston (OSHAB)

- **Denis Marston:** The Appeals Board has been using an antiquated system to track appeals and the calendar, and this system will no longer be supported by the Department. Through this process, we learned just how much duplication there was by Board staff. With leadership of Kari Johnson, new Executive Officer with the Board for a little over a year. Administrative Law Judge Neil Robinson to lead on this project with Denis Marston. Will give a brief description.
- **Neil Robinson:** We are introducing an effort called OASIS or OSHA Appeals Sharing Information System.

- The current system is over 20 years old, and is very difficult, sometimes impossible to use for new business requirements. The Oracle forms that the system is built on are no longer supported by Oracle.
- Business processes have not been studied in a long time, and a complete business analysis of the Appeal Board process was needed. Six months ago, we began to document internal processes that have been in practice for 20 years. Adjudication and due process will look the same as it does today and will be protected.
- Around Thanksgiving, an RFO was issued to get a consultant to look at documented processes and to design a new computer system. The winning bidder was Renee Taylor Consulting Services, which has done work for other state agencies. They have been on the job since the 1st week of January, and the first 30 days focused on learning about Cal/OSHA. They have done an excellent job learning the intricacies of our business.
 - After analysis is done, 3 IT options will be recommended.
 - A very technical solutions design will be written, and while they won't implement, they will write the infrastructure. This will be used to hire whoever will actually build this system, and we hope this will be done by June.
 - By December, we hope that this system will be developed or at the very least, we will have acquired a vendor by then.
- One of the biggest headaches is the calendaring system. Currently, only one person can schedule hearings, and it is a convoluted and complex system, which makes it difficult to provide necessary training. A more modern scheduling system is a must for the future.
- The current Oracle system is redundant, and there will be improvements to streamline the system.
- The Legal Unit and Appeals Board were never included in the old system. They will be included in the new, more automated system.
- We are also hoping for a public user interface, like a public calendar. This would help employers file appeals online.
- While these items are part of a wish list and not concrete yet, we are awaiting the business analysis first before moving forward.
- Gathering statistics on how many appeals are filed, how long it takes for motions to be answered, etc., is difficult to put together without having a system that directly accesses that information from a database. Currently, this is done manually. We are hoping to mine data and pull information from databases so that we can eliminate people hours dedicated to searching for information.
- This is the process thus far, and there will be more updates as we go along.

- **Denis Marston:** I belong to IT Project Management for OASIS, and I plan to be on project when we decide on a solution. It is still unknown if the system will be built in-house or if we will hire vendor. There are a lot of IT solutions to consider, and we'll decide on the best one. We have a great OSHA team for this project, and we are off to a great start. If there are any questions, please contact us.

Highlights of Staff Activities

Enforcement Report by Acting Deputy Chief, Cora Gherga

- There are handouts available for Enforcement, and they detail the actual highlights and regular inspections. Additionally, we've gathered statistical information on construction activities notifications, which was a request from contractors.
- The Division issues permits for higher hazard constructions activities, and there are many types, so on the handouts, we have listed annual permits that we issue.
- We put together numbers of the entire year calendar for 2013, broken down by annual permit, type of activity, and location. The permits are issued by HQ, and contractors receive those from the District Offices. Construction employers have to send an activity notification in the district of activity before work begins.
- There were almost 2000 excavations activity notifications in Bakersfield during July – December. In terms of project permits handouts for various projects, by type and location, from July – December, we did not have prior data, so in a way, this gives us good data on construction by geographical area. Our goal is to track this data at the District Office level, so that you will be able to see how construction projects are started in various areas.
- We will try to keep track on monthly basis, but cannot make promises on that.
- The confined spaces special initiative is two years old. We have decided that it is worth conducting inspections for a third year after looking at the data. Airborne exposures were the cause of more confined spaces incidents than mechanical hazards. There will be more updates on the results of inspections, along with number of accidents and other information.
- In terms of staffing, we are promoting new managers in place.
 - **Why are there no numbers in Regions 2, 3, and 4 for metal decking, and why were numbers in Region 1 so tiny? Is there seems to be a gap in the permit numbers.**
 - These are activity notifications, and the number accuracy is within 5%. Some projects have started already, but we just started the count. Other activities may be part of other project notifications already.

- **When you get notifications, are those in a database?**
 - No, we do not have a database. The notifications are sent to us, and we physically keep them.

Consultation Service Program Report by Manager Vicky Heza

- There is a brief handout for onsite Consultation activity.
- We have also been working on a survey with DIR communications to inquire about the usefulness of publications. This has been sent out to 18 organizations thus far, and they were asked to disseminate to their employers. This isn't yet completed so more surveys may be sent out. We received about 66 responses so far, but we've sent this out to about 100. However, not all of the responses are complete. Several chambers have mentioned the survey on their Twitter accounts. We haven't compiled data yet, and we're hoping for more data to come in still. We can also send this out to more industry contacts here if there is interest.
- We have two promotions within our group, both of whom are worthy candidates. Carmen Cisneros from West Covina has been promoted in San Diego, and Tan Matosian has been promoted in West Sacramento. We're very happy to have those positions filled.
- Last year, we conducted about 1,600 heat activities, including onsite activities and interventions. Interventions are mostly held in outdoor places of employment and not with employees. To follow through with that, we sent out 7 outreach activities starting March 12 through April 27th. As we move into March and April, we will set up more activities with partners.
- The tree trimming and temp agency activities that we had proposed to perform or complete during this fiscal year are primarily focused on outreach. Our first tree trimming training session will be held in San Diego and San Bernardino on February 19th and 20th.
- Another partnership is the DIR Small Employer IIPP initiative. Consultation senior staff are available for training with LOHP. We are also now partnering up with SCIF for 7 training sessions coming up throughout the state, with 2 in Santa Ana. Senior staff have been asked to be available to participate so that the network can grow. Once more consultation staff get trained, we can make more staff available as these sessions are scheduled. This is an ongoing project.
- We have an agreement to work with EDD and Imperial Valley Employer Counsel to provide a 3-4 hour workshop to counsel membership this spring. We have outreached to Imperial Valley because we don't have really have a manager in San Diego.
- In support of DIR multiagency roofing initiative with the Association of Building Contractors, we met with the Board to promote onsite activities and outreach activities

hoping that will present outreach and onsite activities with industries particularly with fall protection.

Health and Engineering Services Report by Deputy Chief Deborah Gold

- The available written report includes updates on rulemaking activities. Safe patient handling will most likely to be published in March.
- GHS rulemaking was a big concern for a year and a half, but we're reaching the end of the project. The 15-day notice will be published soon. GHS rulemaking included improvement with input from many facets, and we have worked very hard to maintain the one-study rule. We don't want to leave California employees exposed until Federal OSHA can add more improvements. We are aiming for Standards Board action in March or April.
- We've started mine safety orders, and there is plenty of tunnel activity with the high speed rail project and water tunnels. It is a good time to upgrade safety orders.
- There has been a lot of interest in lead. There was a very well attended symposium held by the CDPH. Dr. Howard came from Washington D.C. to moderate. We are hoping to schedule a public advisory committee in the spring.
- We will have a hotel housekeeping advisory meeting in February.
- Feasibility determination has been a subject of concern when we restarted the PEL process. We want to have good basis for actions, but also practical basis. This is another project we will continue working on.
- Nancy Medeiros has been promoted to manager, and her senior position will need to be backfilled. We have many job classifications in our Division because of our specialties, and every time we try to make a move in specialized offices, we have to either put someone out of class or put in place a temporary hire until a scheduled exam. Is a bureaucratic process, isn't an easy solution.
- We have granted another temporary experimental variance for tractors to an employer who has been issued an OPU because of the use of a platform. There will be an advisory committee regarding this.
 - **Can you give some information about what happened on February 3rd for the Heat Advisory?**
 - Amy Martin: Many people came and different issues were covered. Comments were well taken and are currently being reviewed. We asked for written comments to be submitted within 3 weeks.

Occupational Safety and Health Appeals Board Report by Chair Art Carter

- There is a proposal to no longer maintain in-house video conferencing. We received no request in 2013 for video conferencing, but if we do get any future requests, the Standards Board has generously offered their facility, and DOSH has offered resources throughout the state as well.

Occupational Safety and Health Standards Board Report by Executive Officer Marley Hart

- Two handouts on current rulemaking projects, including 2014 proposals, have been provided. The GHS proposal has been broken into two for safety and health. We will adopt them in March instead of April.
- There are many advisory committee meeting tentatively scheduled for 2014.
- In past meetings, we've discussed elevator standards, and there has been a huge increase in variances. Out of 491 variances in 2013, 479 were for elevators. We are working hard on these.
- The full update for year 2013 review will be made public at our February 28th meeting with agenda and posting this Friday.

Follow-up discussion from previous advisory committee meeting

Budget, staffing, and recruiting

- We have provided two handouts that list explicitly which funds support us. There is also a handout from the CA Department of Finance website which displays the Governor's budget for current and previous years. Those numbers are fixed.
 - **Are those actual salary ranges for the positions shown? Do those include benefits?**
 - Those are salary ranges and do not include benefits. The more that we can improve our own costs, the better we can utilize resources to fill positions.

Cal/OSHA work priorities

- The provided handout shows what we are legally required to do and are responsible for. There are many things that come in that are out of our control. The 3rd section describes proactive activities for a Cal/OSHA that we want. Please note that this handout does not cover everything.

Mission and structure of Cal/OSHA Advisory Committee

- In the last meeting, we received requests for a more explicit description about what the advisory committee meetings should be about. This language was sent out on Monday, and the floor is open to feedback.
 - **While the document states that meeting members will provide info to Cal/OSHA, we would still like for Cal/OSHA to provide information to us. This is not explicitly stated in the mission, but we would like for that to be added. Also, please have DLSE staff attend these meetings periodically to report on OSHA retaliation.**
 - We would like to have that as well, but DLSE is also going through a major revamp and are very busy. Because of that, we can provide that report. Please send us a request on what information you would like for us to provide from DLSE.
 - **We would like to have actual measures of how things are going, like a five-year plan, an annual report, as well as reports between Federal OSHA and Cal/OSHA and BOI reports.**
 - Thanks for the feedback. Some of that is available on the website.
 - **The mission statement should include that this should be an interchange of information to improve the program and provide meaningful information. One of those pieces of information is the BOI report.**
 - We will propose that information be sent as PDFs and as links to what is available on the website.
 - **For the latter part of the first paragraph, there's a suggestion of adding that other people should be part of advisory committee as well. There's something being added that isn't normally being done in these rooms.**
 - We're ok with deleting that point of concern, and sticking to the occupational and safety health part only. Please note that public safety and exposures is mandated for us to address.
 - **We recently had a guy who had an accident, and it was reported as a sore back when he was actually paralyzed. Can someone follow-up with that?**
 - Was the district office called?
 - **Yes, it's now being investigated, we think.**

- When something is reported, one of the first things that we ask is if the employee was in the hospital for more than 24 hrs. Maybe we can talk about this offline about how accidents are being called in, and you can give us input on additional questions that we need to ask. There are 500,000 injuries that are being reported, so we need to figure out practical solutions with the resources we have. Employers are required by law to notify us about reportable injuries. This can be discussed more offline.
- The draft mission statement will be sent out again for review and comments, and then by a certain date, we can convert to an updated mission statement.
 - **I thought that this would establish a schedule on frequency of meetings.**
 - We've established last time that we would meet quarterly, and this year has already been scheduled for quarterly, and any specific concerns would be scheduled outside of that. We can propose language that will say "periodic" instead.

Advisory input

Why aren't many people applying to work for Cal/OSHA?

- We would like to get input on this. For management and higher level positions, we promote up from existing staff, which then means we need to backfill and recruit for entry levels. There are also open positions, but we have not received very many applications. For example, there are attorney positions available, but very few applications have been received. If you know of any qualified candidates, please be sure to let us know.
- We have received about 70 applications so far. We have advertised, and we have also gone to colleges and schools to promote Cal/OSHA inspector positions. Friends in labor communities have also assisted in advertising for us.
- We will be holding exams at end of March. Considering everyone's efforts, we please ask that everyone inform potential candidates that we are hiring. CalHR has information on minimum requirements and benefits, and hopefully we'll have an idea by next meeting about how many show up for testing.
- State employment is also a really complicated process because we still need to wait for the SROA lists to clear up before we can hire.
 - **There are 70 applications for how many positions?**
 - There are 27 positions, but because of the backfills, there are actually more than 27 vacancies that we have to hire for. It's a continuous thing.

And not everyone passes the exams to qualify to be hired.

- **What about the Health and Engineering Services Unit?**
 - There are around 4-5 vacancies, depending on how you calculate it, but they're mostly all promotional. As mentioned, there are difficulties with SROA candidates because they get priority. All these positions exist in Rides, in Elevators, and wherever there are regional seniors. 27 positions is just the tip of the iceberg. Considering the positions plus the backfill positions, 77 applications isn't a robust number because there isn't a guarantee that all will even pass the exams.

- **How about going to engineering schools to help widen the pool for junior safety engineers or junior industrial hygienists? They don't have the experience, but will have the degrees so hire them as juniors so that they can get the experience to move up.**
 - We agree.

- **It will be difficult to hire without looking at readjusting salaries. The current numbers are not competitive with private salaries, and it will be hard finding people if you don't match those numbers. The length of time for processing paperwork for a hire also takes a very long time that when you finally offer a job, a person may already have been offered a job elsewhere. Streamlining process the process and readjusting salaries will help.**

- **What works really well in Nursing is having relationships with schools where students can come in and see what you are doing. Internships will help.**
 - We do have a program with UCSF and others. We also use alumni to help reach out to other places, like UC Davis, Cal, and Southern California schools. Pay scale is, for the most part, out of our control.

- **In looking to expand the pool of applications, it might be better to look at work experience but not educational background. There are many who are qualified for the work, but don't have the degrees.**
 - Maybe we can promote a work faire, as well as a training and development program.

- **From the construction trade point of view, you have to start working with HR so that you'll be allowed to hire people that don't have college degrees and incorporates training that allows for growth.**
 - We can't hire those that do not meet the qualifications set by HR. What we can do is hire for a certain position, and then allow that person to go

through a T&D program into another position. When hiring through the State's process, we have to follow a certain route.

How can we get better responses on Forms 160 and 161 from employers concerning abatement?

- We discussed last time what we could do to get information from employers to know if things were properly abated or not. If abatement is an issue, a hearing will be expedited. Has anyone here thought about it in the interim?
- When we cite for training, we'd like to also see a statement that ALL employees on the payroll were trained as opposed to just seeing that "employees were trained." Writing "See attached" to the form would help a lot. Provide as much information as possible for abatement including on the attachments, which can include photographs, records of training or equivalent, invoices for equipment, lists of employees trained, training outline, and activities of training, etc. Those are examples of information that would help with abatement.
 - **That is not part of the instructions on the form. Right now, the instructions are a little too vague. From an employers' point of view, we do want to make sure abatement is done, and show completely that it has been done. However, we would need more guidance like a different format on the form or a better explanation of what needs to be done. Posting examples of acceptable information on the website would help tremendously.**
 - In closing conferences, CSHOs should go over that information with you as well, but also posting this information to the website should be feasible.
 - **Acceptable abatement information to be provided is very seldom discussed in detail like that during the closing conference.**
 - We instruct our CSHOs on closing conferences, but we do have to stop short in telling employers exactly how to reach abatement, when abatement depends on each individual situation.
 - **Long ago, a CSHO would advise us how to abate issues. I would like to have that kind of information even before closing conference, like during an inspection.**
 - **There is a P&P that CSHOs should follow when they get abatement documents back, and it lists items that need to be checked. Perhaps there should be a link to information.**
 - The vast majority of employers don't even know that Cal/OSHA has a website, let alone a P&P, so we like the suggestion of the link.

- **Consolidate the two forms into one, and specify what types of documentation are needed.**
 - We agree that this is a good idea.
- **Who makes determination that abatement has been done?**
 - The CSHO and District Manager determine that. The form itself has a box that can be checked off on whether the case has been abated or not. There should be two layers of review.

Labor-management subcommittees & staff training opportunities

- We would like to see if there is any interest in forming subcommittees for issues that we would like input on, and define areas of concentration. Some of the employer groups have offered training to our staff, which we are open to. Surveys about our publications were mentioned earlier in our meeting, and after we get those results, we would like your input on publication plans.
 - **Is there a list of specific issues?**
 - We want to see if there is interest in subcommittees first.
 - **We would like to have discussions on targeting of health inspections, which are triggered by complaints. It would be of great interest to know what the special emphasis programs are.**
 - With each suggestion, we also have to consider resources that we would be able to commit to.
 - **We are interested in moving from fatality to other elements for criminal prosecutions and civil prosecutions.**
 - Please note that if we tried to do this, DAs would need to be involved, and we haven't had success in getting that to happen.
 - **Those of us in construction would be interested in collaboration efforts and would like to help get that started.**
 - **In original document that was sent, subcommittees were included. In the area of education for Cal/OSHA staff, the construction industry is willing to help educate because only a few people know constructions as well as people in construction. Industrial hygienists and safety staff may need help in understanding construction.**

- Perhaps we need a resource area that pools education resources not just for our own staff but for the public. Please send us links that you would think would be helpful. Maybe if there was a subcommittee that could gather this type of information together, it would help tremendously.
- The Cal/OSHA Reporter also used to publish training supplements. We have tried to reach out to industry before to help us. Our training unit is eager to know if employers can provide field trips to our staff, which is one thing that we want. We would need help on organizing this.
- Should there be a subcommittee focused on internal and external training?
- **Request specific items that Cal/OSHA staff would like to have, and the industry can add comment to that list. That will be helpful to both the Division and the regulated community.**
- **It would be helpful if we could have more notice of advisory committee dates for specific subjects, like Heat, for example.**
 - We apologize for that. We'll try to move that forward.
- **It would be helpful to list advisory committee meetings all on one page.**
 - We have asked for that information to be listed on the What's New section in addition to the schedule. We are trying to make the information more visible.

Meeting adjourns at 1:00 p.m.