

**Cal/OSHA Advisory Committee Meeting**  
**October 3, 2013 – 10:30 am**  
**Oakland, California**

**Welcome and Opening Remarks by DIR Director Christine Baker**

- These advisory committee meetings are opportunities to start sharing ideas to make Cal/OSHA the best OSHA program in the country.
- Our goal is consistent enforcement, strong outreach and education, while evaluating our needs and fixing our major resource gaps.
- Partnerships are very important to us, and already we are participating in many activities with stakeholders to leverage our outreach to workers throughout the entire state.
- Today will be a listening day, and we are open to all of your suggestions and advice on implementing a better Cal/OSHA program to effectively and efficiently help the workers of California.

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

- We will present an overview of Cal/OSHA and allow time for dialogue for our plans. There will also be an update from Barbara Materna from the California Department of Public Health (CDPH) on the scientific findings on lead health effects modeling and CDPH's recommendations for a permissible exposure limit (PEL) for revised lead standards in General Industry and Construction.
- We would like to spend a good amount of time to discuss the roles, functions and goals of this Advisory Committee, and ask members of the committee how we can best serve the workers of California.

**Request to read a statement regarding former chief Ellen Widess' resignation by Peter Olney of the International Longshore and Warehouse Union (ILWU)**

- Our union was disheartened to hear of Chief Widess' dismissal. We and others in the labor movement supported her work, and we believe that Chief Widess was an active educator and enforcer of the law, especially benefiting low-wage workers. Our experience is that it is strong enforcement that leads to voluntary compliance by employers. We hope that that is something that will not be sacrificed. We also object to the characterizations of her dismissal that appeared in the *Cal/OSHA Reporter*. Thank you for allowing us to express our concerns.

## **Response by Director Baker**

- We were appreciative of Ellen’s work with Cal/OSHA, and the report in the *Cal/OSHA Reporter* was inaccurate. We cannot speak about any other aspects of Ellen’s resignation as this is a personnel matter. Worker protection remains the number one priority of the Division.

## **Plans for Cal/OSHA by Acting Chief Juliann Sum**

- During the last fiscal year, Director Christine Baker has worked hard to remove the sunset clause and spending cap of the OSH Fund. As a result, we are in the process of hiring new staff in the Division, as well as in the process of adopting emergency regulations to increase fees for several Cal/OSHA units. Work is also being done to request a further increase of the Division’s spending authority for the next fiscal year. This process will increase DOSH’s spending authority from the OSH Fund on an indefinite basis and allow us to receive new funds through fees.
- Enforcement
  - Enforcement is a key and central part of Cal/OSHA. The strategic plan and goal is the prevention of injuries and illness, and enforcement is a part of that.
  - In order to be effective, we need thorough inspections directed at serious hazards and non-compliant employers. Rules and procedures need to be clear and consistent so we can sustain citations on appeal. While we move forward to refine our targeting process, we will continue to conduct complaint and accident inspections. We will also include enhanced planned inspections, such as those conducted by the Labor Enforcement Task Force (LETF).
  - We are in the process of improving our targeting for High Hazard Unit inspections. We have recently signed a MOU with EDD to provide DOSH with industry-based data. That, combined with claims data from WCIS and data on serious, willful, and repeat violations from IMIS will improve our inspection targeting.
  - Ever since the Chevron Richmond refinery fire last August, we have been working with other state and local agencies that are now part of the statewide Interagency Refinery Task Force. The goal is to improve sharing of information and data between agencies, and to conduct more proactive inspections of oil refineries at times of high risks, such as during unit “turnarounds” in the refineries.
  - Our internal training program has an extensive schedule of classes based on federal guidelines.

- Rules must be clear and consistent about what is considered a violation in order to deter employers and to ensure due process. The Division's Policies and Procedure manual is being revised to be current with state law. This will include a new P&P related to AB 2774 and how Serious citations are processed and issued.
- Regulations
  - Regulations are a critical part of the program. The packet of handouts for this meeting has information from the Standards Board and from our Research & Standards Unit on pending regulatory initiatives. With the help from the DIR Office of Director Legal Unit, we are working on code updates and administrative regulations for the public safety units (elevators, pressure vessels, rides).
  - Barbara Materna will report later on the lead standard recommendations.
  - A Safe Patient Handling regulation advisory meeting was held last month, and the proposal will be sent to the Standards Board.
  - Changes to the Process Safety Management regulations are not in the hand-outs package, but the Division will be working in close collaboration with sister agencies in the Interagency Refinery Task Force to ensure that changes to our regulations and to any environmental regulations enforced by state and local agencies are in sync.
- Partnerships
  - There are at least eight partnerships and collaborations that we are involved in currently, and we would like to do many more collaborations. We encourage any suggestions on how we may best be able to do so.
  - Among the current partnerships are: Labor Enforcement Task Force (LETF); Interagency Refinery Task Force; roofing industry pilot project; ongoing Consultation Service programs; collaboration with loss control departments of workers comp insurance carriers; DIR-DOSH-LOHP collaboration to assist small businesses with their Injury and Illness Prevention Programs; ongoing collaborations with labor unions and worker advocates, especially in southern California; and the recently renewed alliances with Mexican and Central American consulates around the state.
- Information, education and outreach
  - Our public websites, DIR and DOSH, have been updated and improved to be much more user friendly and provide additional information. We are working closely with DIR's Communication staff, to issue "hazard alerts" when

appropriate, and the Communications Office is coordinating educational outreach events for the public in both English and Spanish.

- The Consultation Service has its own extensive schedule of outreach events, and also distributes materials throughout the state.
- A key part of deterrence is publicizing our citations, and we are working with DIR Communications to get our press releases out quickly.

### **Questions and Answers on Baker and Sum reports**

**Question: How many positions will be available and where? There are concerns regarding PELs process due to lack of resources.**

Answer: We are filling all vacancies that are available to be filled, and we will be putting in a Budget Change Proposal (BCP) requesting more resources. The legislature mandated new positions in the Process Safety Management (PSM) Unit, and we are writing emergency regulations for fees under existing state law that will pay for these positions.

**Question: Follow-up question on whether the number of positions to be filled will include investigators?**

Answer: Yes, there will be field inspectors among the positions being filled, and we prefer to fill field inspector positions rather than administrative positions. The Division has some positions being held open by federal sequestration, which we hope will not be the case with additional resources or with an end to federal sequestration. Our goal is to implement a permanent fix for funding DOSH, which has been underfunded historically, through an increase in spending authority.

**Question: Please keep bilingual and multi-lingual candidates in mind when hiring for the new positions.**

Answer: We agree that it is important to have bilingual inspectors. We also understand the importance of information being available in multiple languages, and we are currently working on web page entirely in Spanish.

**Question: Is there a timeline for reactivating the PEL advisory committee?**

Answer: A timeline isn't available yet, but we do have meetings scheduled next week to come up with a prioritization list of regulations. We're very pleased that DIR is giving us resources from the Legal Unit to assist with regulations for the public safety units, and hopefully we will be able to get to the point of being able to establish new health effects and feasibility advisory

committees.

**Question: The process for AB 2774 hasn't gone quite as envisioned. We're hoping that the employer community can be involved in how the process can be improved. For example, it is difficult for an employer to know what standard is allegedly being violated.**

Answer: This is a high priority. We're having internal discussions about the best way to proceed with this issue. The procedures required by AB 2774 have been around since 2011, and there has been a lot of discussion and attention paid to procedural aspects of it. There were three aspects to AB 2774 – first, to establish a new definition for “serious” citations; two, to provide employers with an affirmative defense; and, three, to foster communication between inspected employers and the Division. These were the original ideas behind it. The discussion has tended to focus just on the procedures that were put in place, namely the 1BY form, to foster that communication. We need to talk about both the procedures and the goal behind the procedures with all interested parties so we can implement all the goals of the legislation more effectively.

**Question: Worksafe and labor representatives would be interested in being a part of that discussion.**

Answer: The Division will convene a discussion of AB 2774's implementation and all related issues with interested parties in the near future.

**Question: Please address the Labor Code requirement for follow-up inspections of Serious, Repeat and Willful citations, which is not currently happening.**

Answer: This is a resource issue and we are hoping to address this with the hiring we are doing now and over the next year.

**Question: If members of the Advisory Committee can get notification of the positions for which DOSH is hiring, then we can forward to qualified people in the industry.**

Answer: Thank you for the suggestion. The more qualified people we can find, the better.

**Question: Does the Division have a plan for recruitment and outreach? For example, advertising positions in the *Cal/OSHA Reporter* would be useful because it gets wide circulation in the community.**

Answer: There is a list of ranked applicants, which is generated by Cal Human Resources. Taking and passing the exam are required in order to get on the hiring list, but it is a continuous

application process so interested candidates can apply anytime to take the exam. We are interested in publicizing that Cal/OSHA will be hiring this year and next.

**Question: Cal/OSHA might contact the two elevator companies in San Diego as they are a great resource for people who are in the industry with experience.**

Answer: We are in contact with the elevator union, and with other unions.

**Question: Cal/OSHA needs to rewrite the requirements so that workers from the industry who want to use their experience to get into safety positions with the state can do so. Experienced workers are not being hired because their work experience is not being accounted for.**

Answer: Thank you for the suggestion. Those will be taken into account when we work with Cal HR in the exam process.

**Question: Is there a way that fees paid to DOSH for inspection services and the like can be directed to the Occupational Safety and Health (OSH) Fund rather than the state General Fund?**

Answer: Some of the units that charge fees – such as the Elevator Unit – have their own separate fund where the fees are deposited. For other units – such as the Crane Unit – the fees go into the General Fund and it is unlikely that money will be diverted from the General Fund to the OSH Fund. We are working on emergency regulations for a fee on refineries to fund the expanded Process Safety Management (PSM) unit, and once these fees are established, it will free up resources for other DOSH units.

**Question: Employers receiving Orders Prohibiting Use (OPUs) need more information on the procedures and their rights under the regulations, including to a hearing within 24 hours.**

Answer: Thank you and we will look at the procedures and the forms given to employers with the OPU to ensure that their rights and options are clearly stated.

**Question: One of the initiatives under Ellen Widess – which we hope will continue – is a focus on temporary agency workers, such as those in the warehouse industry in the Inland Empire. Several major inspections have occurred and citations have been issued to multiple employers, and a legislative hearing was held in Sacramento. I hope the citations to dual employers will continue, and that more research is done that would indicate effective ways of reaching and protecting temporary or “contingent” workers.**

Answer: Cal/OSHA continues respond to any complaints that are received, including those that involve multiple or dual employers. Depending on the facts of each case, citations will be issued accordingly. At present DOSH is not conducting any research along the lines suggested, but would welcome any information developed by researchers on these issues.

**Question: Fed/OSHA just released a study of over 200 inspections that were done involving temporary workers, and a conference on the hazards faced by temporary workers will be held this December in Baltimore.**

Answer: Thank you. Please pass us any additional information that you may also have on this issue. Consultation is also working with temporary agencies that show up on the High Hazard list. There is a PowerPoint that has been developed that also reiterates dual employers' responsibilities. These are a couple of things that Consultation will try to incorporate in its ongoing outreach activities.

**Question: It would be helpful if the advisory committee is informed of legislative hearings on DOSH budgets so that committee members can support increased DOSH staffing.**

Answer: Thank you for your support and we will let you know.

**Question: How can we help Consultation grow?**

Answer: We are planning a meeting to identify ways that Enforcement and Consultation efforts can enhance each other's impact. We are really a multi-faceted agency, so Consultation will be getting more attention, but this effort won't detract from Enforcement.

**Question: Can committee members get a copy of the updated list of advisory committee members?**

Answer: Thank you for the suggestion. We will provide that

**CDPH Proposal for Changes to the Lead Standard**  
**Report by Occupational Health Branch (OHB) Chief Barbara Materna**

- As a side note, copies of a *coccidioidomycosis* fact sheet are available on the hands-out table as *cocci* is endemic in California.

- Recommendations from CDPH OHB for new Permissible Exposure Limits (PELs) as part of a revised lead standard were pending a report by the Office of Environmental Health and Hazard Assessment (OEHHA). OEHHA recently completed its report on health effects modeling and provided their report to CDPH, which was then used to make the CDPH's PEL recommendations. This is highly technical and difficult to understand, so CDPH prepared two different summaries to help stakeholders: one for health professionals, and one for the general public. These reports have been provided to Cal/OSHA for review just this week, and the reports and the PEL recommendations will be posted on the OHB's website this afternoon. The report will be posted on the CDPH website at this address: <http://www.cdph.ca.gov/programs/OLPPP> There will be a link on the page to lead standard recommendations.
- There will be a scientific symposium on Wednesday, November 13<sup>th</sup> that will allow OEHHA to explain what was done in its report, and provide a venue for CDPH to explain its recommendations. CDPH is funding this day-long event, which will be held in downtown Berkeley with a simultaneous webcast for those who are unable to travel. We are working with Cal/OSHA and the Center for Occupational and Environmental Health (COEH) at UC Berkeley, and an announcement of the symposium will be sent through email to the stakeholder list. Please provide us with your contact information if you are not on this list. Registration for the event will open once it is announced.

### **Questions & Answers related to the CDPH Report**

#### **Question: How do people sign up for the symposium?**

Answer: You will need to register, and information will be in the email. There is a \$50 fee, and the symposium will be held from 10:00 a.m. to 4:00 p.m. John Howard, the director of NIOSH, will be moderating the symposium. You will need to register for the webcast as well.

#### **Question: How many people can be accommodated in the venue?**

Answer: At this location, there will be 180 seats available. There is no limit for the webcast. One person in a group can register, and multiple people can watch the webcast in a meeting room.

### **Open Discussion on Roles and Functions of the Cal/OSHA and the Advisory Committee**

#### **Comments by Advisory Committee members and the public:**

- The format of the advisory committee should contain less time devoted to staff giving reports orally, and staff reports should be provided in advance so that the advisory committee has time to review the reports before the actual meeting;
- The agenda for the advisory committee should be focused on specific, major topics;
- Advisory committee meetings be held quarterly as opposed to only three times a year, and an advanced schedule should be set so that the advisory committee can save the dates;
- Several Committee members spoke in favor of staff reports to the meeting, in addition to the advance written reports;
- One committee member suggested that whatever the frequency of meetings, the Advisory Committee should clarify its purpose, scope and authority so that the committee would know what their goals are, and what information they should bring to the meetings; several committee members volunteered [Bob Downey, Joel Cohen, Jeremy Smith] to write a draft memo on the Advisory Committee’s purpose, scope and authority;
- Several committee members requested more information from DOSH on results of inspections, the cited violations and the geographical area of inspections; the Division’s budget and staffing levels; and work plans, specific goals and timetables;
- One committee members suggested that DOSH should post on its website reports like the annual Fed OSHA “FAME” audits and corrective action plans; the annual reports to the legislature; and that DOSH consider involving Advisory Committee members in the development and implementation of FAME corrective action plans.

**Response from DIR and DOSH:**

- DOSH will schedule Advisory Committee meetings on a quarterly basis and will publicize the schedule as early as possible;
- DOSH will provide, as has been done in the last two years, written reports from the various units in advance so that committee members can review them before the meeting;
- DOSH will provide additional information along the lines of the topics above to the best of its ability and available resources.

**Recommended list of special topics that the advisory committee could cover as major topics for discussion:**

- Status of efforts to update chemical Permissible Exposure Limits (Title 8, Section 5155);
- Procedures for issuing Serious citations under AB 2774;
- How DOSH can reduce and respond to employer retaliation against workers reporting health and safety concerns;

- Training of compliance officers and consultants, and how this committee can help with topic areas (provide technical experts, curriculum suggestions, sites for field days);
- Cal/OSHA's work plan – including what are Cal/OSHA's priorities and timelines, how to best to use limited resources, how committee members can support DOSH's efforts;
- Partnership efforts, such as the roofing industry initiative in San Francisco and Contra Costa counties;
- Work plan for the Labor Enforcement Task Force (LETF), and concerns by some unions regarding its functioning.

**Meeting adjourned at 12:19 p.m.**