

CAL-OSHA ADVISORY  
COMMITTEE  
MINUTES of MEETING  
*March 4, 2010*



Department of Industrial Relations  
John Duncan, *Director*

Division of Occupational Safety & Health  
Len Welsh, *Chief*

Chris Lee, *Deputy Chief* of Cal/OSHA Enforcement  
Edward F. Callanan, *Assistant to the Chief*  
(510) 286-7000

Cal/OSHA ADVISORY COMMITTEE  
MINUTES OF MEETING – March 4, 2010  
Department of Water and Power  
111 North Hope Street-Conference Center Level A  
LOS ANGELES, CALIFORNIA

### **OPENING REMARKS**

Len Welsh, Chief of the Division of Occupational Safety and Health, called the meeting to order at 10:00 a.m.

Mr. Welsh noted that this committee meets every two months (excluding August) and the purpose of the meetings is to give a brief summary of some of our higher profile activities and give the members of the committee, attendees, stakeholders, and an opportunity to ask questions of some of the key players in DOSH as well as representatives from the CAL/OSHA Appeals Board and the CAL/OSHA Standards Board. The next meeting of this committee will be held in Fresno on May 6, 2010, at 10:00a.m., at the Hugh Burns State Building, 2550 Mariposa Mall, Assembly Room – First Floor.

### **ADMINISTRATIVE REPORT**

- 1) Mr. Welsh reported that the Division budget is now no longer dependent on the State General Fund and receives it's funding from:
  - 1) Assessment on Workers Compensation Premium or equivalent from Self-Insured companies.
  - 2) Assessments on employers High Hazard status, which is essentially companies with an experience modification ratio of 125% or higher.
  - 3) Federal OSHA funding which must be matched by the State and
  - 4) The non CAL/OSHA components of the Division such as, the Elevator Unit, Tramway and Ride Inspection and Pressure Vessel Units which are supported by the fees they charge for the services they render.

The Division is subject to some but not all of the restrictions placed on State agencies that derive all or most of their funds from the General Fund. One of the current requirements of the Department of Finance is that all agencies whether funded by the General Fund or specially funded, must reduce their budget by 5%, most of which will require personnel cuts. DOSH has approximately 700 positions and with the present number of vacant positions, it is possible to achieve that goal without layoffs. However, if the fiscal situation worsens it may prove to be difficult to achieve reductions without major cuts in all aspects of our operations.

One bright budgeting item is that Federal OSHA has offered \$4.4 million dollars of new money to California and fortunately we are in a position to match that amount from funds not

previously dedicated to such a match. Such new monies are available and we expect to augment Cal/OSHA Appeals Board and Standards Board staffs with such funds. (We don't know how the 5% reduction order will affect our acceptance of new money)

In addition, we are in a position of potentially receiving additional Federal funds now available from other State Plan states who unable to spend their allocation or are not able to provide the matching funds. We anticipate that Cal/OSHA will be in a position to match such an offering if and when it is tendered.

Mr. Welsh introduced Bob Downey who presented a program devoted to the history of industrial safety in the United States and the influence of the State of California as the leader in this field, and how the history gives rise to the modern training programs of the State and Federal governments. Mr. Downey offered several slides accompanying his presentation (A copy of each is enclosed with these minutes)

Mr. Welsh and several members of the committee commended Mr. Downey on an outstanding presentation amid enthusiastic applause from the audience.

### **CAL/OSHA ENFORCEMENT REPORT**

Chris Lee, Deputy Chief for Cal/OSHA Enforcement gave the following report.

- 1) The Division conducted a complaint inspection of the University of California at Los Angeles in late 2009 concerning lack of safe laboratory procedures and secondary containment for stored chemicals. The Division conducted inspections and on February 24, 2010 issued sixteen citations for violations, including one repeat and assessed \$67,000 in penalties. The citations included, in addition to the one repeat, five serious and ten general violations.
- 2) The Division is looking at the possibility of developing policy aimed at employers with a significant negative Cal/OSHA history. Federal OSHA has been exploring a draft policy which is entitled "The Severe Violator Enforcement Program" and is aimed at those few-employers who just refuse to conform to safety and health standards or who fail to understand the importance of adhering to federal requirements. California is studying the Federal approach with a view toward dealing with such employers in a stricter manner.
- 3) The Federal audit of State Plan States is focusing on enforcement effectiveness, looking at how the State handles major accidents, fatalities and complaints, as well as targeting, hazard recognition, violation classification, citations, penalty issuance, employee involvement and training of compliance officers.

As part of their evaluation they randomly selected five Cal/OSHA district offices to visit, selected 250 inspection case files for review, and 15 discrimination files. Federal OSHA conducted interviews with staff at district offices in Oakland, High Hazard (North), Torrance, San Diego and Van Nuys.

The audit is currently winding down and it is expected that they will have a closing conference with us in a week or so and will offer their observations to us. It is anticipated that Federal OSHA will issue a draft report in mid-April and it is thought that Federal OSHA will issue all State programs evaluations and special enhanced reviews by the end of April, it is believed that all such evaluations will be posted to the Federal OSHA website on completion.

In response to a question, Mr. Welsh asked Alan Traenkner, Special Assistant to the Chief, to give a background on the personnel benchmark that Federal OSHA had recommended for Cal/OSHA. Mr. Traenkner stated that in the 1980's the AFL-CIO unions, sued Federal OSHA to determine the number of inspectors required in State Plan states that would be "at least as effective" as Federal OSHA in enforcing safety and health standards. A committee was assembled to consider the need for compliance inspections in various industries and the necessity of frequency in such inspections. With California's diverse industries, it was determined that a proper number of compliance inspectors should be 805. However, it appears that Federal OSHA has since determined that approximately 200 would be more appropriate. It was noted that during the Cal/OSHA disengagement period (1987-1989) when Federal OSHA took over responsibility of inspections in California, they assigned only 150 compliance officers to the State. Further, since Federal OSHA has only 1200 inspectors for the twenty seven States that do not have State Plans, it would seem disproportionate to expect one State, California, to employ 805 inspectors. Thus, Federal OSHA has appeared to have backed-off of the original figure, or at least is not pushing it, and it was not an issue in the recent audit since the audit was more directed to actual enforcement operations.

Mr. Traenkner also noted that one of the high priorities of Federal OSHA relates to training of compliance officers all over the country, and they have developed a list of courses which they considered mandatory training. Such courses included effective accident investigations with emphasis on interviewing witnesses. Federal OSHA established an institute for such training in Chicago and developed a list of mandatory training courses for inspectors. States have been required to develop equivalent training. The training institute provided assistance to all states by sharing their curriculum for mandatory training on disks. California responded that we would take the material supplied by Federal OSHA and adapt it with information particularly germane to our State. A draft Policy and Procedure Directive has been written but not yet finalized recognizing the specific training needs for our staff. The first training class pursuant to this effort was held last week in Sacramento where thirty three of our newest compliance officers went through the initial inspectors training course, which included witness interviewing and legal sufficiency to prevail at administrative hearings and in court. Cal/OSHA intends to pursue additional efforts to improve training aimed at more efficient inspections and accident investigations over the next few years, within budgetary considerations. A committee member suggested that people outside the Division be involved in recommending aspects of the training, such as those with expertise in dealing with a diverse work population.

Mr. Welsh introduced Jon Wroten, Staff Services Manager III, to discuss the status of the Heat Illness program. Mr. Wroten reported the following:

- 1) Cal/OSHA conducted 2586 heat related inspections in 2008 and 3410 inspections in 2009. These figures show a significant increase from the years of 2006 (234) and 2007 (1,018).

- 2) The number of violations found were:  
2006 -136; 2007 – 614; 2008 -1121; 2009 -1172
- 3) Heat outreach activities conducted by Cal/OSHA, where the Division inspectors provide information and training in the field for both employers and employees, numbered 96 in 2006, 284 in 2007, 1845 in 2008 and 2562 in 2009.
  - A) Such educational endeavors provided the workers with information as to their rights and defined the responsibilities of the employer
- 4) The Division is currently preparing our staff with appropriate internal training for effective enforcement practices as well as usual useful outreach programs, starting in April or earlier if climate conditions require.
- 5) The State Legislature provided the Division with \$1.53 million as an augmentation to our budget for the purpose of providing a targeted heat illness prevention campaign. As a result, the Division has contracted with the University of California, Berkeley, LOSH, to develop a program to implement this targeted campaign. Some of the key aspects involved in the campaign include all new updated training material for both employers and employees, and will be made available in five languages in addition to English. Seminars and CDs will be developed that can be passed out to the targeted communities that will provide significant information to both employer and employees communities.
  - A) An array of materials to be handed out at health fairs and other outreach sites will be promotional in nature, such as hats, wrist bands, bandanas, etc., which may have our worker hotline number, or other brief pertinent information. A portion of this allocation will be used to survey and revamp the heat hotline and make it more accessible both to employees and employers. The legislation mandates that none of the money was to be used to purchase television airtime and no more than half of the allocation was to be used for purchase of radio airtime. Staff has already spent considerable time in reviewing and updating informational materials for distribution in five languages. It was also noted that UCLA-LOSH has been providing valuable input into the program.

In response to a question, Mr. Wroten stated that the most cited heat violations in 2009 were:

1. Failure to train employees on the heat standard – 249.
2. Not having a written program in place – 746.
3. Not having supervisors trained – 37.
4. Not having access to shade available – 75.
5. Not providing water – 65.

Mr. Welsh stated that there appears to be a trend toward compliance with a corresponding drop in violations and assessed penalties.

It was noted that the Cal/OSHA Standards Board will soon vote on the heat regulation, hopefully at their April meeting. Classifications of specifics relating to temperature and shade issue, etc., are currently available in our Q and A brochure.

## **CONSULTATION SERVICE REPORT**

Vicky Heza, Program Manager, Consultation Service, was unable to attend this meeting but submitted the following report:

### **Federal Fiscal Year (FFY) 2010 Performance Goal Achievement Progress**

**Goal 1.1 Construction Safety and Health Inspection Project (CSHIP)** – conduct 900 on-site visits or interventions. One third will be directed at sub-contractors (300).

Achievement – 224 onsite and 72 interventions  
61 on-sites with sub-contractors

**Goal 1.2 – High Hazard Employer Programs** – conduct a total of 1025 interventions of employers with Ex-Mods in excess of 125% and/or high DART/premium rates.

Achievement – 318 on-site visits, training, follow ups completed.

**Goal 1.4 – Agricultural Safety and Health Inspection Project (ASHIP)** – conduct 200 on-sites consultations and/or interventions in Agriculture.

Achievement – 49 onsites/interventions completed.

**Goal 2.2 – Educational Outreach to Vulnerable employee Populations** – conduct 500 onsites and/or interventions that will include outreach to Hispanic and other ESL (English as second language) workers.

Achievement – 140 onsites and 29 interventions have included outreach to Hispanic workers.

**Goal 2.3 – Partnership Programs** – enroll 300 new establishments into Golden Gate (entry level), 20 new establishments into SHARP, 10 new establishments into Cal/VPP.

Achievement – 72 new Golden Gate partnerships  
6 new SHARP partnerships  
3 new Cal/VPP partnerships

**Goal 2.4 Heat Illness Prevention** – conduct 60 heat illness seminars.

Achievement – 8 seminars have been held.

## RESEARCH & STANDARDS SAFETY REPORT

Joel Foss, Acting Principal Safety Engineer, Research and Safety Unit, was called again to deal with an urgent emergency situation and was unable to be present at this meeting. Mr. Foss will provide an updated report at the next Advisory Committee meeting.

## RESEARCH & STANDARDS HEALTH REPORT

Steve Smith, Research & Standards Health Unit, provided the following report:

1. A new proposed revision to section 3395 heat illness prevention went to public hearing in October [http://www.dir.ca.gov/oshsb/Heat\\_Illness.html](http://www.dir.ca.gov/oshsb/Heat_Illness.html) and a follow up advisory meeting on the proposal was also held on November 16<sup>th</sup> in Oakland. Staff are currently reviewing the comments received at those two meetings and will develop a final proposal for the board to consider later this year. Steve Smith and Amalia Neidhardt are the contact persons for heat related information at 916-574-2993.
2. December 8<sup>th</sup> the section 5155 Feasibility Advisory Committee (FAC) held its 2nd meeting to discuss ethyl benzene, NMP, hydrogen chloride, and naphthalene. The next HEAC meeting will be March 24<sup>th</sup> in Oakland to discuss arsine, benzyl chloride, wood dust, trichloroethylene, and other priority 1 substances. Regarding the remaining substances that went through the PEL AC process in 2001 to 2005, a section 5155 proposal was heard by the Standards Board on March 19<sup>th</sup>, adopted last month and is currently at OAL pending approval to be added to section 5155 later this year. The contact person for the PEL update process is Bob Barish at 510-286-7001.
3. The sensitizing substances advisory meeting process held its 6<sup>th</sup> meeting on October 20th to consider adding a sensitizer notation to some substances listed in section 5155 along with a new proposed section 5179 for training and medical requirements. A revised proposal and minutes of that meeting should be available later this year. Steve Smith and Bob Barish at 510-286-7001 are the contact persons.
4. On November 19<sup>th</sup> in Coast Mesa, a public hearing is scheduled for a new Section 5197, Diacetyl. The proposal was developed with the assistance of the 2007 advisory meetings on Diacetyl and the findings of an ongoing targeted inspection program focused on the flavorings industry. Mike Horowitz at 510-286-7009 is the contact person for this proposal and related activities the Division is conducting in the flavorings industry.
5. Two new standards for aerosol transmissible diseases sections 5199 and 5199.1 went into effect last year. The comprehensive standards were developed to protect employees who are occupationally exposed to TB and other airborne diseases including H1N1. The Division also convened several follow up advisory meetings on compliance issues for the new standards with the last meeting held yesterday in Modesto regarding section 5199.1. To address the current H1N1 flu outbreak, the Division posted a guidance document that was updated this month with a recall of one

model of respirator from the state stockpile. The contact persons for these new standards and guides are Deborah Gold and Bob Nakamura at (510) 286-7006.

## **LEGAL UNIT REPORT**

In the absence of Amy Martin, Acting Chief Counsel for the Division, William Cregar, Staff Counsel in the Division's Los Angeles Legal Unit Office, reported on the following five legislative bills which are currently pending hearings in the State Assembly.

1. AB 33 – would require the Division to provide an economic analysis on the impact to small business on proposed legislation.
2. AB 1652 – would require certain employees at ski resorts to wear helmets.
3. AB 1692 – would require the Division to place collection monies into the General Fund of the State of California.
4. AB 1702 – would require defibrillator to be available at golf courses and amusement parks.
5. AB 1949 – would require the Division to report to the legislature on new regulations in five years. Failure to do so would result in a sanction of eliminating the regulation.

## **STANDARDS BOARD REPORT**

Marley Hart, Executive Officer of the Cal/OSHA Standards Board reviewed information on the Board's Monthly Activity Calendar for March. A copy of which is enclosed with these minutes.

## **APPEALS BOARD REPORT**

Candice Traeger, Chair, Cal/OSHA Appeals Board, discussed statistical updates on Board activities, a copy of this material is enclosed with these minutes.

## **ADJOURNMENT AND NEXT MEETING:**

The meeting adjourned at 12:25pm. The next meeting of the Committee will be as follows:

DATE: May 6, 2010, Thursday  
TIME: 10:00 a.m.  
PLACE: Fresno – Hugh Burns State Building  
2550 Mariposa Mall – Assembly Room, 1<sup>st</sup> Floor

## ATTENDANCE ROSTER

March 4, 2010

## CAL/OSHA ADVISORY COMMITTEE MEETING

First Name	MI	Last Name	Title	Organization	Address	City	State	Zip
Hassan		Adan	District Manager	DOSH - District Office	320 W 4th Street, Suite 850	Los Angeles	CA	90013
Jerry		Bach		Safety Center Incorporated	3909 Bradshaw Road	Sacramento	CA	95827
* Tom	S	Butler	Director	American Society of Safety Engineers	1054 W 31st Street	San Pedro	CA	90731
Mark		Carleson	Safety Manager	County of Riverside	1115 Spruce Street, Room 17	Riverside	CA	92507
* Robert	E	Downey		Construction Employers Association	7311 Santa Juanita Avenue	Orangevale	CA	95662
* Malcolm	S	Driggs	Apprenticeship Cordinator	Operating Engineers Local 12, Trust Fund SC	1647 W Lagonia	Redlands	CA	92374
Gayleen		Grigoreas		Safety Center Incorporated	111 S Spring Street	Claremont	CA	95111
Marley		Hart		Cal/OSHA Standards Board	2520 Venture Oaks Way Suite 350	Sacramento	CA	95833
Marc		Hendon		Department of Water and Power	1350 South Wall Street	Los Angeles	CA	90015
Jaime		Hernandez		Department of Water and Power	1350 South Wall Street	Los Angeles	CA	90015
Steven		Johnson	OHST	Associated Roofing Contractors of the Bay Area	1425 Treat Boulevard Suite C	Walnut Creek	CA	94597
Chris		Lee	Deputy Chief	DOSH - Cal/OSHA Enforcement Unit	1515 Clay Street, Suite 1901	Oakland	CA	94612
Andrea		Minea	District Manager	DOSH - District Office	6150 Van Nuys Boulevard Suite 405	Van Nuys	CA	91401
Dan		Shipley	Regional Manager	DOSH - Region IV	6150 Van Nuys Blvd Suite 405	Van Nuys	CA	91401
Steven	C	Smith	Manager	DOSH - Research & Standards	2211 Park Towne Circle Suite 1	Sacramento	CA	95825
Kevin		Thompson	Editor	Cal/OSHA Reporter	P O Box 911	Petaluma	CA	94953-0911
Candice		Traeger	Chairwoman	Cal/OSHA Appeals Board	2520 Venture Oaks Way, Suite 300	Sacramento	CA	95833-4229
Alan		Traenkner	Special Assistant to the Chief	DOSH	1515 Clay Street Suite 1901	Oakland	CA	94612
* Elizabeth	A	Treanor		Phylmar Regulatory Roundtable	PO Box 660912	Sacramento	CA	95866
* Leo		Vortouni	Sc D	California Industrial Hygiene Association	4308 Patrice Road	Newport Beach	CA	92663
Len		Welsh	Chief	DOSH	1515 Clay Street Suite 1901	Oakland	CA	94612
Bruce		Wick		CALPASC	1150 Brookside Avenue Suite Q	Redlands	CA	92373
Jon		Wroten	Staff Services Manager III	DOSH - Region II	2424 Arden Way, Suite 125	Sacramento	CA	95825

\* DENOTES COMMITTEE MEMBER

\*\* DENOTES ALTERNATE MEMBER