

The Safety & Health Advisor

Fall 2009



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OSHA is BACK!

Labor Secretary Hilda Solis and acting OSHA boss Jordan Barab spoke on June 29th at the opening day of the American Society of Safety Engineers' (ASSE) annual professional development conference, held in San Antonio. OSHA will most likely implement its most pronounced policy swing in decades.

Here are highlights of the 'new agenda', as laid out by Solis and Barab:

- **More than 150 new inspectors will be hired in fiscal year 2010.** OSHA's budget will increase ten percent — with enforcement getting \$25.5 million versus less than a \$1 million increase for compliance assistance.
- **Number of annual inspections will increase from 38,000 nationwide to perhaps 44,000,** according to some sources. OSHA has not announced any inspection quota or target. Solis puts it simply: "More enforcement, less voluntary protection focus."
- **Penalties will be higher for violations,** many of which in 2009 have already been in the six figures.
- **New standards will be promulgated** for diacetyl flavoring (popcorn lung), combustible dust exposure protection, cranes and derricks, confined space in construction, and rewriting the hazard communication standard in is consistent with new international MSDS laws, commonly called the Global Harmonization System (GHS).
- **Broad, sweeping new standard proposals will be issued,** probably in 2011 or 2012, on **ergonomics** and basic requirements for maintaining a **worksite safety and health program.**

- **OSHA will be more aggressive with standards and policing/enforcement** than at any time in the last 20 years, since the late 1980s - early 1990s regime of Labor Secretary Elizabeth Dole, OSHA chief Jerry Scannell, and OSHA deputy Alan McMillan.
- **The boom years are over for VPP growth.** Unions do not like VPP because they argue OSHA's audits of candidate companies to gain entry to VPP program are too weak and inconsistent. Barab says there will be no more annual quotas to drive VPP expansion.
- **Incentive programs,** no favorites of the new OSHA leaders, will be scrutinized during inspections. Again, this reflects union thinking.
- **Recordkeeping accuracy** (see next abstract) and safety in the chemical industry will receive particular scrutiny as the objects of forthcoming OSHA National Emphasis Program.

On the **What's New** section of the OSHA website, (www.osha.gov/whatsnew.html) there were eleven (11) posted News Releases about companies receiving OSHA citations in Region 1 New England during the third quarter of 2009. A summary of some data is as follows:

- Eight of these occurred at manufacturing plants, two at construction sites, and one at a service operation.
- Five (5) of the eleven inspections resulted in OSHA proposing over \$100,000 in fines.
- Six (6) of these occurred at Massachusetts facilities and one at a New Hampshire establishment.
- Five (5) of the seven occurred at manufacturing facilities and two (2) at construction sites.

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- Employers at the manufacturing facilities were cited for a variety of hazards including machine, electrical, fire, and chemical.

OSHA Recordkeeping NEP

On October 1, 2009, OSHA announced it is initiating a national emphasis program (NEP) on recordkeeping to assess the accuracy of injury and illness data recorded by employers. The inspections include a records review, employee interviews, and a limited safety and health inspection of the workplace. The NEP will focus on selected industries with high injury and illness rates.

According to acting Assistant Secretary of Labor for OSHA Jordan Barab, "Accurate and honest recordkeeping is vitally important to workers' health and safety." "This information is not only used by OSHA to determine which workplaces to inspect, but it is an important tool employers and workers can use to identify health and safety problems in their workplaces."

The formal OSHA News Release can be viewed at www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=NEWS_RELEASES&p_id=16488 The 41-page program directive can be viewed at www.osha.gov/OshDoc/Directive_pdf/CPL_02_09-08.pdf. Recordkeeping NEP details and a PowerPoint™ presentation can be viewed at www.orc-dc.com/?q=node/2872.

Dangers of Distracted Driving

The use of cell phones and other electronic portable devices for communication, checking voice mail, text messaging, e-mail, GPS navigation, and web access has increased dramatically as the technology has improved. For example, texting alone has grown from nearly 10 billion messages a month in December 2005 to more than 110 billion in December 2008, according to the cellular phone industry's trade group (CTIA). Along with ever increasing use of these devices for everyday communication, driver

distraction from the use of these devices has become a growing problem.

Fast Facts: (from the USDOT Website)

- ✓ Distracted driving is dangerous. Distraction from cell phone use while driving (hand held or hands free) delays a driver's reactions as much as having a blood alcohol concentration at the legal limit of .08 percent. (University of Utah)
- ✓ Driving while using a cell phone reduces the amount of brain activity associated with driving by 37 percent. (Carnegie Mellon)
- ✓ 80 percent of crashes are related to driver inattention. There are certain activities that may be more dangerous than talking on a cell phone. However, cell phone use occurs more frequently and for longer durations than other, riskier behaviors. Thus, the #1 source of driver inattention is cell phones. (Virginia Tech 100-car study for NHTSA)
- ✓ Drivers that use handheld devices are four times as likely to get into crashes serious enough to injure themselves. (Insurance Institute for Highway Safety)
- ✓ Nearly 6,000 people died in 2008 in crashes involving a distracted or inattentive driver, and more than half a million were injured. (NHTSA)
- ✓ Research shows that the worst offenders are the youngest and least experienced drivers: men and women under 20 years of age. (NHTSA)
- ✓ When truck drivers are texting, their risk of a collision was 23 times greater. Dialing a cell phone and using or reaching for an electronic device raised the risk of collision about six times in cars and trucks. (The Virginia Tech Transportation Institute)

To address this growing problem US Transportation Secretary Ray LaHood held a two day historic summit in Washington, DC on September 30 and October 1, 2009 to tackle the dangers of distracted driving. According to the DOT Washington press release, the Transportation Secretary challenged over 250 safety experts, industry representatives, elected officials and members of the public to help put an end to distracted driving. "Every single time someone takes their eyes or their focus off the road - even for just a few seconds - they put their lives and the lives of others in danger," said Secretary LaHood.

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"Distracted driving is unsafe, irresponsible and in a split second, its consequences can be devastating. We now know that the worst offenders are the youngest, least experienced drivers," said Secretary LaHood. "Unfortunately though, the problem doesn't end there. Distracted driving occurs across all age groups and all modes of transportation, from cars to buses and trucks to trains. We must work together to find solutions that will prevent crashes caused by driver distraction."

To further study how cell phone distraction affects commercial truck and motor coach drivers, Secretary LaHood also announced a new study the Federal Motor Carrier Safety Administration (FMCSA) is undertaking this month through June 2010. The study will help FMCSA better understand the prevalence of cell phone distraction in conjunction with crashes and near-crashes. To watch key presentations during the Distracted Driving Summit live via archived video files, visit www.dot.gov

Momentum for enacting laws to ban the use of cell phones and texting while driving is increasing. According to the Insurance Institute for Highway Safety, there are currently eighteen (18) states and the District of Columbia that now ban text messaging for all drivers while nine (9) states prohibit text messaging by novice drivers. On October 6, 2009, President Obama signed an executive order giving federal agencies 90 days (from Oct. 1, 2009) to adopt policies prohibiting text messaging while driving by federal employees driving government vehicles or private vehicles on government business or when using electronic equipment supplied by the government while driving. The agencies are to include "appropriate disciplinary actions" in their policies and are directed to notify the Secretary of Transportation of the measures they put in place. They are to "encourage contractors, subcontractors, recipients and sub-recipients to adopt and enforce policies that ban text messaging while driving company-owned or -rented vehicles or [Government-owned, -leased, or -rented vehicles] or while driving [private vehicles] when on official Government business or when performing any work for or on behalf of the Government.

Other Actions Needed:

A cell phone/hand held device safety policy is strongly recommended for any business where driving is conducted by sales personnel, delivery or service drivers, and anyone else who needs to drive during work. However, developing policies are actually followed can be a challenge because use of devices cannot always be monitored. A process on developing policies that are adhered to by employees could include:

- ❖ Conduct employee safety training meetings on the dangers of distracted driving and the reasons why a safety policy is necessary.
- ❖ Clearly explain both the safety and liability concerns in the event of an accident while a driver was using a hand held device.
- ❖ Encourage participation in developing policies which are practical and have the employees "buy-in" in the policy making process. Provide "action specific" requirements such as having drivers pull over into a parking lot or other safe area and stopping before making or receiving calls or text messages.
- ❖ Establish a policy regarding the use of voice mail answering to avoid the temptation to pickup every incoming call received - even while driving.

The National Safety Council has developed a resource kit for business to assist with employee education as well as help companies create and implement individualized distracted driving policies. For more information visit: http://www.nsc.org/news/DD_resource_kit.aspx

OSHA 2009 Site Specific Targeting

On September 4, OSHA announced its targeted inspection plan for 2009, which will focus on about 4,000 worksites based on injury and illness statistics from 2008 survey reporting. Unlike prior years the program will be divided into three (3) primary emphasis areas being manufacturing, non-manufacturing and nursing homes.

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Instead of using one set of incidence rates for everyone, OSHA established specific rates for the three identified emphasis areas. The case rates used will be DART (Days Away from Work, Restricted or Transferred) and DAFWII (Days Away from Work Injury and Illness). The lists will be further sub-divided into primary and secondary inspections based on the incidence rates.

The primary list includes 3,100 manufacturing establishments with a DART rate of 8.0 or more, or a DAFWII rate of 6.0 or more. The 500 non-manufacturing establishments have a DART rate of 15.0 or more or a DAFWII rate of 13.0 or more. The remaining 300 establishments are nursing homes and personal care facilities with DART or DAFWII rates of 17.0 or more or 14.0 or more, respectively.

The secondary list shows establishments in manufacturing with a DART rate between 6.0 and 8.0, or a DAFWII rate between 4.0 and 13.0; non-manufacturing with a DART rate between 6.0 and 15.0, or a DAFWII rate between 4.0 and 13.0; and nursing homes and personal care facilities with DART or DAFWII rates between 15.0 and 17.0 or between 11.0 and 14.0, respectively.

Also, companies that did not answer the 2008 OSHA survey will be added to the inspection list in an effort to deter employers from not responding in hopes of avoiding an inspection.

The 51-page program directive can be viewed at http://www.osha.gov/OshDoc/Directive_pdf/CPL_02_09-05.pdf

Whether or not your company is on the planned inspection list you should review your safety program (including recordkeeping, procedures and training) to ensure regulatory compliance. Your Atlantic Charter Safety and Health Consultant can provide guidance in this area or can help you calculate your DART or DAFWII rates if you are having difficulty. You may also contact your local OSHA Consultation office as well.

In Massachusetts the OSHA Consultation office may be reached at:

Division of Occupational Safety - Dept. of Workforce Development (617) 969-7177
www.mass.gov/dos

In New Hampshire the OSHA Consultation office may be reached at:

Occupational Health and Safety Consultation Service - New Hampshire Department of Environmental Services (603) 271-8590
www.labor.state.nh.us/safety_training.asp

2009 H1N1 Flu Information Resources

2009 H1N1 flu (sometimes called "swine flu") is a new influenza virus that is spreading worldwide among people. Because this virus is very different from current seasonal influenza viruses, many people will not have protective immunity against it and the seasonal flu vaccine will not protect against it either.

Influenza is unpredictable, but this flu season could be worse than recent ones because of the 2009 H1N1 virus. CDC is preparing for an early flu season and expects both 2009 H1N1 flu and seasonal flu to cause illness, hospital stays and deaths this season.

Who is at greatest risk of infection with this new virus?

So far, younger people have been more likely to be infected with 2009 H1N1 flu than older people. Most cases of 2009 H1N1 have occurred in people younger than 25 years of age. At this time, there are relatively few cases of 2009 H1N1 in people 65 or older, which is unusual when compared with seasonal flu.

What can I do to protect myself from getting sick from 2009 H1N1 flu?

CDC recommends a three-step approach to fighting the flu: vaccination, everyday preventive actions including frequent hand washing and staying home when sick, and the correct use of antiviral drugs if your doctor recommends them.

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What about the use of respirators?

According to the CDC, the use of N95 respirators or facemasks is generally not recommended for workers in non-healthcare occupational settings for general work activities. They are also not recommended for the general community and home settings at this time. However, they are recommended for healthcare workers caring for persons with known, probable or suspected 2009 H1N1 or influenza-like illness (ILI). Because infection control precautions, including respiratory protection, are imperfect, workers who are at increased risk of severe illness from influenza, and who are caring for a patient with known, probable, or suspected 2009 H1N1 or ILI, may consider temporary reassignment to avoid exposure.

Respirators, also referred to as an N95 or higher filtering face piece respirator are certified by the CDC/National Institute for Occupational Safety and Health (NIOSH). A respirator is designed to protect the person wearing the respirator against breathing in very small particle aerosols that may contain viruses. A respirator that fits snugly on the face can filter out virus-containing small particle aerosols that can be generated by an infected person, but compared with a facemask it is harder to breathe through a respirator for long periods of time. Respirators are not recommended for children or people who have facial hair.

Employers should continue to evaluate workplace hazards related to the 2009 H1N1 situation in accordance with CDC and OSHA guidance.

Mandatory use of respiratory protection may be required when work activities in occupational settings confer risk that is task/function based, and risk analyses conducted by the employer could identify hazardous work activities.

When respiratory protection is required in an occupational setting, respirators must be used in the context of a comprehensive respiratory protection program as required under OSHA's Respiratory Protection standard (29 CFR 1910.134). This includes fit testing, medical evaluation and training of the worker.

The CDC has developed a series of checklists to aid in workplace related planning. For more information visit www.cdc.gov/h1n1flu or www.flu.gov/professional/checklists.html or call 800-CDC-INFO

For additional information on facemasks and respirators, see the CDC/NIOSH website www.cdc.gov/niosh/nppt/topics/respirators , the Food and Drug Administration website www.fda.gov/MedicalDevices/ProductsandMedicalProcedures/MedicalToolsandSupplies/PersonalProtectiveEquipment/default.htm , and the Occupational Safety and Health Administration website www.osha.gov/Publications/respirators-vs-surgicalmasks-factsheet.html

If you need assistance in evaluating your ergonomics or safety and health program, please contact Neal Freedman, John Cotnam, Margie Lobaton, or Mark Hickox from Atlantic Charter's Safety and Health Department at (617) 488-6500.