Pursuing the 'worst of the worst'

Federal OSHA to roll out new enforcement program

WASHINGTON, D.C. (PAI) — The federal Occupational Safety and Health Administration (OSHA) will roll out a new program to identify and pursue what might be called "the worst of the worst" companies in failing to care for their workers' safety and health.

Details about the Severe Violators Enforcement Program (SVEP) are lacking, but top agency officials discussed it briefly during an April 7 online dialogue with reporters, workers and businesses. The online chat covered the draft version of OSHA's six-year strategic goal and outcome blueprint.

"The new program is aimed at employers who have demonstrated recalcitrance or indifference to their obligations" under the law, Tom Galassi, the agency's acting administrator for enforcement, told one questioner. "Employers will be able to get off the list by demonstrating improved safety and health performance."

There will also be "changes in our penalty calculation method, to result in higher penalties," OSHA Deputy Assistant Secretary Richard Fairfax added. Both promised the changes would be announced in the near future, and certainly before the final version of the agency's six-year strategy is released in September.

OSHA's emphasis on the worst of the worst and on tougher enforcement in general is in marked contrast to OSHA's actions — or lack of them — under the Bush Administration. It's also in line with Labor Secretary Hilda Solis' repeated pledge to union audiences that "there's a new sheriff in town."

Under Bush, the agency concentrated on its "voluntary protection program," working hand-in-glove with industry on advising companies on workplace safety. Workers and unions were virtually shut out. Companies in the VPP effort generally escaped inspection and enforcement, unless a worker died on the job. But OSHA personnel are being shifted from there to enforcement, agency officials told several questioners, including those who argued for more VPP emphasis.

"We will be working closely with our stakeholders to identify new or alternative funding sources," for VPP efforts, said Steve Witt, the agency's director of cooperative programs. One such alternative might be charging companies fees for using OSHA services in the "voluntary" effort, he said.

"In the meantime, we will be shifting field inspection staff from VPP programs to enforcement activities because the need in that area is particularly great ... OSHA resources need to be focused on employers who don't understand the importance of protecting their workers, particularly small employers," Witt added.

While federal OSHA plans to inspect more than 40,000 workplaces this year — not counting states such as Oregon and Washington, which do their own inspections — its 110 new inspectors are still being trained, Fairfax conceded. "Consequently, inspection numbers from these additional compliance officers will impact inspection numbers in 2011 and 2012," he said.

Those numbers were disclosed online. OSHA's draft strategy for the next six years was short on specific goals. It had no numbers at all.

Union job safety specialists told Congress on March 16 that more enforcement is fine, but that it doesn't make up for the small fines and short prison terms for violators, now in the Occupational Safety and Health Act. Lawmakers are considering the Protect America's Workers Act (PAWA), to beef up OSHA's fines and to make accidents that kill or seriously injure workers felonies punishable by five years (first offense) or 10 years in jail.

"The penalties proposed by PAWA are very modest," said Change To Win Health and Safety Coordinator Eric Frumin. "However, updated penalties and criminal sanctions will begin to give inspectors and prosecutors essential tools they need to more effectively deter abusive employer conduct."

AFL-CIO Safety and Health Director Peg Seminario said the move to enhance enforcement is welcomed. "But they are not enough and cannot address the deficiencies in the act itself. Congressional action is needed."

OSHA's fines, now a maximum of $7,000 per serious violation and $70,000 per repeat and willful violation, haven't risen in 20 years. The agency often negotiates them downwards. By appealing fines and delaying judgments, firms continue to operate with the hazards OSHA inspectors identify. Only when a worker is killed on the job can company officials face charges: a misdemeanor with a maximum six-month term.

Besides more jail time, PAWA would raise the fines to $12,000 and $120,000, respectively.

Ombudsperson can assist with workers' comp questions

SALEM — Have you been hurt on the job, or do you know someone who has? If so, call Oregon Workers' Compensation Ombudsperson Jennifer Flood in Salem for guidance in the complex world of the state's workers' compensation insurance system.

The ombudsman's staff can provide straight answers at no charge in the areas of workers' comp claims, appeal rights, claims deposition agreements, claim closures, determination orders, reconsiderations, aggravation rights, conflict resolution and informal mediation.

Flood can be reached toll-free at 1-800-927-1271, from Portland at 503-378-3351, or by e-mail at *oiw.questions @state.or.us*.

Former Labor Press editor helped pass workers' comp law in Oregon


WILLIAM MARSHALL

Former Oregon Labor Press Editor William A. Marshall was considered "the godfather" of Oregon's workers' compensation law. A member of the Multnomah Typographical Union No. 58, Marshall helped push through a law to provide compensation to injured workers and widows and orphans of those fatally hurt.

In 1912, Gov. Oswald West appointed Marshall to the first State Industrial Accident Commission, where he served until 1927. In that job he became known nationally as an authority on what at that time was referred to as "workermen's compensation."

Later, he was appointed an administrator in Seattle of the federal job-injury compensation program for longshoremen and harbor workers.

William Marshall died in Seattle in 1963 at age 88.