

DEPARTMENT OF INDUSTRIAL RELATIONS

Christine Baker, Director

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August 7, 2014

Ken Atha, OSHA Region IX Manager

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RE: 2012-2013 FAME Report

Dear Mr. Atha,

Thank you for giving us the opportunity to respond to the FAME report for California covering the period October 2012 through September 2013. We appreciate OSHA's input on important issues affecting the health and safety of workers in our state. However, we are surprised that OSHA is also focusing on easily resolvable technical, administrative matters that neither impact the health and safety of workers nor alter the levels of federal funding granted to California.

California exceeds federal OSHA and other state OSHA plans in many important areas. Our ultimate focus is prevention, and we seek to achieve that through strong, clear, and consistent enforcement. We require employers to establish and maintain a comprehensive injury and illness prevention program. We also have the strongest process safety management program in the nation, overseeing safety in petroleum refineries and other facilities that process large quantities of toxic and flammable materials. We have adopted and enforce many standards for which the federal version is less protective or non-existent, in diverse areas such as safe patient handling, aerosol transmissible disease, bloodborne pathogens, heat illness prevention, diacetyl, silica, decompression hazards, and permissible exposure limits for numerous airborne substances. We create and facilitate labor-management partnerships and advisory committees that enhance health and safety programs in our state.

Important Issues Concerning Staffing Levels and Enforcement Inspections

The report discusses important issues concerning our staffing levels and enforcement inspections. We agree with OSHA's concerns in these areas. Under new Cal/OSHA leadership commencing in September 2013, we are actively working to restore and strengthen Cal/OSHA in key areas.

- **Staffing levels.** We obtained approval of a new budget for 2014-15 that includes funds to fill 27 previously unfunded positions in Cal/OSHA and authorization to fund 15 new positions in Cal/OSHA's Process Safety Management Unit. This adds approximately \$5.7 million new dollars to Cal/OSHA's budget.
- **Enforcement inspections.** We have initiated processes to increase the timeliness, volume, and quality of our inspections. Ongoing efforts include strategic planning and evaluation at all levels of management, modernizing our use of information technology, streamlining and standardizing reporting and recordkeeping procedures, consistent training, and overall support for our district managers and compliance officers. We will also work with OSHA to document our high hazard targeting methods and create a plan for evaluating effectiveness.

Emphasis on Purely Technical Matters

The report improperly elevates several technical, administrative matters to the executive summary level:

- **Coding of enforcement inspections in NAICS codes exempt from federal funding.** We are required under the California Occupational Safety and Health Act of 1973 to inspect certain workplaces that OSHA does not inspect because of federal appropriations law (i.e., inspections of small farms and programmed, safety inspections of small employers in low hazard industries). The report states that we utilized federal funds for these inspections. That may be misleading. We have consistently adjusted the coding of charges for these inspections annually, so that federal funds were never ultimately used for the inspections. Only recently have we learned that OSHA requires different timing. We are willing to discuss necessary changes. This is a technical, bookkeeping task.
- **Categorization of crane permitting inspections and tunneling pre-job conferences.** We are required by state law (Labor Code §§ 7370-7374, 7955) to conduct crane permitting inspections and tunneling pre-job conferences to protect worker safety. The report criticizes us for utilizing federal funds, but the first time OSHA informed us they will not fund these activities was this year, 2014. We are in the process of reallocating those charges, with no net change in grant monies. OSHA funding this fiscal year is approximately \$26 million. California matches with \$26 million and overmatches with an additional \$17 million. Because the charges for these permitting and pre-job activities are only about \$1.6 million (estimated), we will simply remove those charges and charge a greater proportion of our enforcement inspection time to the federal grant.
- **Allocation of time spent by Senior Safety Engineers.** The report states that we improperly categorized certain time spent by Senior Safety Engineers as programmatic instead of administrative. This was never raised in previous FAMES. We are adjusting accordingly. This will not affect federal funding levels.

We want to focus our federal and state resources on the most critical health and safety issues confronting California workers and employers. In addition, we are working with OSHA staff to adjust technical, bookkeeping processes as necessary. We hope that OSHA staff will continue to share our big picture perspective on our joint mission and continue to work with us constructively to make the best use of federal and state resources for the good of worker health and safety in California. We seek OSHA's guidance, support, and collaboration to help us strengthen Cal/OSHA's core, programmatic operations in enforcement, consultation, education, outreach, and research and standards.

Sincerely,

Christine Baker
Director

Cc: David Lanier
Secretary, Labor and Workforce Development Agency

Juliann Sum
Acting Chief, Division of Occupation Safety and Health (Cal/OSHA)