

Exclusive interview ...

Cal/OSHA Chief: State OSHA's Budget, Staffing Increases Should Ameliorate Feds' Concerns

Posted: July 13, 2015

California's OSHA program will continue beefing up staffing levels and increasing overall inspection numbers, leveraging a 10 percent enforcement funding spike in the state's newly passed budget, in what Cal/OSHA chief Juliann Sum suggests could ameliorate concerns at the federal level about the state agency's pace of investigations.

Sum tells *Inside OSHA Online* that newly allocated resources are helping Cal/OSHA improve the program after a crippling state budget crisis that reduced its capacity to carry out inspections. California's state Senate in June unanimously confirmed Sum as Cal/OSHA's administrator after she had served almost two years as acting chief. Her remarks come as federal OSHA sharply criticizes some aspects of how the bellwether state plan operated over several years up to 2014, with OSHA reaching a variety of negative conclusions after investigating a Complaint About State Program Administration (CASPA) filed last year by a public employees interest group in Washington. The federal agency's findings require a formal response in 30 days from Cal/OSHA, which Sum says will be forthcoming.

Sum says work is ongoing to ramp up inspections and make other adjustments that bear on federal OSHA's complaints. "We have many mandates. We're always looking for ways to strengthen our program," she says. "We've been making a lot of changes really on a daily basis. A lot of those changes are directly related to the concerns ... from federal OSHA." Among the remedies taking shape now, Sum notes, is that Cal/OSHA will create 36 new enforcement positions among more than 70 additional full-time equivalents in the next fiscal year.

OSHA's conclusions about the state program -- set out in [a formal June 26 response to the complainants, Public Employees for Environmental Responsibility \(PEER\)](#) -- include that the probe "substantiated most of the allegations raised through this CASPA" and that OSHA has identified Cal/OSHA staffing levels as an "issue of major concern" in federal audit reports for both fiscal 2012 and 2013.

"OSHA believes that inadequate staffing levels can at least partially account for some of the deficiencies identified in this report," the letter says, noting that the state was placed under a hiring freeze in fiscal 2011 that was not lifted until July 2013. "OSHA understands that recovering from staffing adjustments can take time, and has also offered policy solutions for the identified deficiencies to help meet the needs of workers in California. This report underscores the need for Cal/OSHA to move as quickly as possible to improve staffing levels."

Federal OSHA alludes to the "at least as effective" requirement for state plans that especially in recent years has come under deep scrutiny as to its meaning ([see related story](#)), though it does not talk about specific actions against the California plan if identified or alleged problems continue. "If deficiencies are discovered in a state program as a result of an evaluation such as an onsite review or the investigation of a CASPA, OSHA identifies such deficiencies to the State Plan and the State Plan is required to remedy those deficiencies."

The federal agency asks for a response within 30 days and says any new or revised procedures should be submitted to OSHA as a state plan change.

Several key recommendations are contained in the CASPA report based on what the probe found. "In order to increase the number of inspections focused on dangerous workplaces, OSHA recommends that Cal/OSHA

review existing policies and procedures to identify and implement mechanisms to increase the percentage of programmed inspections targeting high hazard worksites.”

That is based on a finding that Cal/OSHA performs a much lower percentage of programmed inspections (21.6 percent) than OSHA (56.6 percent). How the federal and state programs identify high-hazard workplaces and use programmed inspection resources has long been in debate ([see related story](#)).

OSHA also recommends that Cal/OSHA either comply with its own policies and procedures for determining when follow-up inspections should be conducted or, with guidance from OSHA, consider revising the state labor code to establish a follow-up inspection policy that is “both meaningful and achievable.” That was because OSHA found that the California program failed to adhere to its documented follow-up policy.

A third recommendation is that Cal/OSHA take action to finish investigations more quickly by developing and enforcing policies and procedures that will allow for improved citation lapse times, and work with district and regional managers to reach the desired outcome. OSHA wants the program to “take immediate steps” to address the issue as it has been identified several times before. OSHA found that the time it takes Cal/OSHA to issue citations is 69 percent longer than OSHA for safety inspections and 33 percent longer for health inspections.

Federal OSHA also recommends the state develop or enforce policies and procedures that will result in Cal/OSHA responding more quickly to complaints, especially those alleging serious hazards, also saying that issue has been identified several times and urging immediate action.

In fiscal 2013, the probe found, Cal/OSHA averaged almost four working days to start investigations for serious hazard allegations and that the longest time between receiving a complaint and starting an inspection was 106 days. The average time to begin investigations for complaints alleging non-serious hazards was 15.25 days, with the longest period being 300 days, according to the letter.

Not all of PEER's complaints were found as meriting a recommendation. Federal OSHA did not make one with respect to an allegation that Cal/OSHA has failed to conduct an adequate number of health inspections. OSHA says while the overall number of enforcement inspections has decreased from fiscal 2012 to fiscal 2014, the percent of health inspections (22.3 percent) conducted by the state program actually exceeded the federal proportion (18.5 percent).

Cal/OSHA's recently enacted budget increase will go toward tackling many of the problems detailed in the federal report, according to Sum. The state program chief notes that the 36 new enforcement positions will be targeted to both regular and high-hazard enforcement -- with the latter a key issue that the CASPA report identifies. The state plan has also been filling many of its vacancies since the budget crisis dissipated and the hiring ban was lifted, she points out. Additional funds will also pay for the hiring of new legal staff, elevator inspections (which are not considered part of enforcement) and the occupational health unit, she notes.

“We feel very strongly about our mission and we want to do the best job possible,” she says. “We have been making measurable improvements in these areas. I don't disagree that we should always be improving.” Sum says the state program “would like to collaborate” with federal OSHA on concerns outlined in the report.

PEER considered the June 26 letter as confirming many of the problems detailed in the organization's February 2014 [formal complaint about Cal/OSHA](#), saying in a statement that the report found “**gaping holes**” in the state program. **Jeff Ruch, PEER executive director, maintained that California workers “are more at risk than those in other states and have less protection on the job now than at any other time in a generation.”**

“This is a failing grade that Cal/OSHA cannot ignore if it wants to keeps its doors open,” he said. --

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