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Cal/OSHA announces major reorganization and expansion at the same time field inspector vacancies remain above 40%

By Garrett Brown

On August 22nd, Cal/OSHA announced a major reorganization and creation of a new Agricultural Safety unit at the same time that field inspector vacancies are higher than 40%, according to the latest available data.

The reorganization of Cal/OSHA's geographic enforcement regions calls for two new District Offices in Santa Barbara and Riverside, and a new Regional Office in Fresno. The Ag safety unit would establish four enforcement offices (Bakersfield, El Centro, Lodi, and Salinas) as well as about 10 "satellite" outreach offices in the 13 counties with the largest ag production and workforces.

However, when these offices will be staffed and become functional remains unclear as Cal/OSHA had 101 field inspector vacancies (vacancy rate of 40%) on June 1st, and if the inspector positions held in reserve for this expansion are included, then there were 112 inspector vacancies for a rate of 42.5%.

It is difficult to know what the inspector vacancies are at the end of August 2024 because the Public Information Office of the Department of Industrial Relations (DIR - Cal/OSHA's parent agency) withholds detailed staffing data for 2-3 months before releasing it. But unless there was a huge surge of hiring in the last quarter (which has not been reported), the new District and Ag Safety unit enforcement offices will likely remain understaffed or even vacant for the foreseeable future.

Establishing the Ag Safety unit must be done with great care to avoid the creation of a "silo" for farmworker complaints and accident inspections if the existing District Offices simply refer all ag-related issues to the four ag enforcement offices. The current District Offices have developed considerable experience and expertise in ag-related safety inspections and accident investigations, which could be lost with new inspectors in the new ag safety enforcement offices.

Depending on how the Ag Safety unit is set up, the overall protections for farmworkers may even decline in the short term. The Ag Safety unit is being established in the wake of a series of damning news media articles (*Sacramento Bee*, *Los Angeles Times*, Capitol & Main, among others), and legislative oversight hearings in Sacramento, on the inability of understaffed Cal/OSHA offices to respond to farmworker complaints and injuries.

At the same Cal/OSHA Advisory Committee meeting on August 22nd, the agency announced that the Legal Unit's Bureau of Investigation (BOI) now has 8 investigators and a supervisor compared to a single investigator on June 1st. BOI reviews major Cal/OSHA enforcement cases (especially fatalities and significant injuries) for referral to county District Attorney's offices for possible prosecution. BOI was at less than half-staff for several years, and was the subject of another series of media reports (*Sacramento Bee*) about the adverse and painful impact of the understaffing on injured workers and the families of workers killed on the job.

Interestingly, the Legal Unit has succeeded in hiring more than two dozen attorneys and the eight BOI investigators and supervisor at the same time that Cal/OSHA enforcement offices are riddled with vacancies. No explanation has been given about why DIR and DOSH have been unable to fill field inspector positions with the same efficiency as attorney positions in the Legal Unit.

The debilitating gaps in workplace health and safety coverage are seem most clearly at the local level. Eleven enforcement District Offices have CSHO vacancy rates at or above 40% on June 1st – Santa Ana (73%), San Francisco (66%), San Bernardino (64%), Fremont (64%), American Canyon (55%), Bakersfield (50%), Long Beach (50%), PSM Non-Refinery (47%), Oakland (42%), Fresno (42%), and PSM Refinery (40%).

Four more District Offices have CSHO vacancy rates between 33% and 40% -- Foster City, Los Angeles, Sacramento, and San Diego. There are five District Offices without a District Manager in Concord PSM, Fresno, Los Angeles, Monrovia, and Van Nuys. Two District Offices have zero clerical staff – Los Angeles and Concord.

The California Employment Development Department (EDD) reported the California civilian labor force in June 2024 as 19,346,500 workers. The 159 FTE CSHO positions represents an inspector to worker ratio of 1 inspector to 121,676 workers on June 1st. Cal/OSHA's inspector to worker ratio of 1 inspector to 121,000 workers is much less protective than Washington State's ratio of 1 to 26,000, and Oregon's ratio of 1 to 24,000. [These non-California ratios were cited in the April 2024 "Death on the Job" report.]

In addition, there are only 14 field inspectors classified as "bilingual," with Region II in the Central Vally having no bilingual inspectors, according to Cal/OSHA's latest Organization Chart.

Cal/OSHA has only six industrial hygienists among field inspectors – with none in Region I (San Francisco Bay Area), Region IV (Los Angeles), and the Process Safety Management unit (PSM) which inspections oil refineries and chemical plants. Industrial hygienists are needed to conduct "health" inspections to evaluate harmful exposures to hazardous chemicals, noise and heat, ergonomics and repetitive motions.

Cal/OSHA has brand new standards to protect workers against airborne silica and lead – as well as outdoor and indoor heat exposures in a changing climate – but currently has only extremely limited capacity to conduct effective industrial hygiene inspections.

The PSM unit itself only has 10 inspector positions to cover the state's 15 operating oil refineries, and four of those positions are vacant.

While the initiative to expand Cal/OSHA's geographical coverage and to increase (if done properly) protections for California agricultural workers is welcome, it is unclear when and how these moves will actually increase worker protections in the state. With over 100 inspector vacancies and a vacancy rate of 40% even before the expansion was announced, enforcement offices have been crippled with an overwhelming, unmet workload.

How the Ag Safety unit will function – and avoids becoming a "silo" where the 20-plus District enforcement offices simply refer anything related to ag worker safety to the four Ag enforcement offices – also remains to be seen.

Also attached is an August 20th letter from two Democrats in the House of Representatives expressing concern about reports that some agricultural employers in California have received advance notice of impending Cal/OSHA inspections, which would be a violation of state and federal law.