

**Remarks as Prepared for
JORDAN BARAB
Acting Assistant Secretary of Labor
for Occupational Safety and Health**

**UNITED STEELWORKERS
Health, Safety and Environment Conference
Houston, Texas
8 a.m. Tuesday, August 18, 2009**

Thank you, Leo [USW President Leo Gerard] for that rousing introduction.

I want to thank you all, not just for inviting me, but for dedicating your lives to making your workplaces safer.

I want to thank all of you in the room today, both union members and management, for your efforts every day to make your workplaces safer.

It has been just over four months since Secretary Solis asked me to become Acting Assistant Secretary until a permanent Assistant Secretary is confirmed by the Senate. She also asked me to start moving forward on her agenda - refocusing OSHA on its original mission - to assure safe and healthful working conditions for American workers by setting and enforcing strong, protective health and safety standards.

And as I will relate to you today, after just a few months we are well on the way to doing that. But first, I want to tell you how much it means to be in this room with all of you today - labor and management, together.

Modern unions put a high priority on offering their members the organizing tools, the training and the knowledge they need to prevent injuries and improve performance. The Steelworkers carry the proud legacy of Tony Mazzocchi who empowered and inspired workers and health and safety activists more than anyone in the history of this movement. It's also an ongoing priority of USW - particularly this union's Health, Safety and Environment Department under the leadership of Mike Wright.

I also want to thank the occupational safety and health professionals here today. You are the guardians at the gate of tragedy and disaster, yet you rarely get the recognition you deserve for performing your job perfectly. You get very little credit when your worksite has a normal day - when nothing blows up or burns down, when no one on your watch gets hurt or killed.

Let's also acknowledge the employers who have shown admirable foresight and responsible management by hiring and supporting their safety and health officers. Enlightened employers who put a priority on workplace safety understand that protecting workers also supports the integrity of their businesses.

There's never enough thanks for the people who are doing the right thing as owners, managers, union leaders or rank and file workers. So, today, right now, here in this room, I want you to know that Labor Secretary Hilda Solis and I appreciate what you do, and we're grateful for your invaluable daily contributions to workplace safety and health.

But, as we all know, the job isn't easy.

Steel workers, refinery operators, construction workers, truck drivers, sanitation crews, health care workers, teachers - these are the people who keep our Nation running. None of these people does what Hollywood would portray as glamorous, nor are most of them paid well, but every one is essential to the life we enjoy in America.

So why does it seem too much to ask that *all* employers provide these essential workers with safe workplaces? After almost thirty years in this field, I find it astonishing, aggravating and insulting that we are still fighting these battles for basic workers' rights in far too many workplaces across our Nation.

Progress has not come easy for workers in this country. Every incremental improvement in working conditions has been earned with blood and broken bones, in battles won and lost in thousands of workplaces and union halls across the country. Too many of those advances came too late, only after we counted the lives destroyed by workplace hazards that could and should have been prevented.

As angry as I get about the sometimes maddeningly slow struggle for something as basic as protecting workers, I'm filled with hope when I see the dedicated labor and management health and safety activists in this room.

I have been moved and inspired by the stories I've heard and the lessons I've learned from the Steelworkers health and safety program.

The cooperative program between the Steelworkers and Allegheny Ludlum should be a lesson for all workplaces. It's a program where, in the words of Allegheny-Ludlum's health and safety director Mark Shirey, *"The United Steelworkers has been an equal partner in everything we do from a safety perspective."*

That example of working together - not just on paper, but in the form of joint health and safety committees, joint incident investigations, full-time union and management health and safety representatives, and training for the reps and the members - this is a shining model that has not only repeated itself throughout the Steelworkers, but also should serve as a model for all workplaces. I thank you for your leadership.

I know it's not always easy to get to this point. From my own experience of 16 years running AFSCME's health and safety program, and the stories I've heard from the Steelworkers, that kind of cooperation often follows a workplace tragedy and/or a significant OSHA fine. But if important lessons are learned, if progress is made, if further fatalities and catastrophes are prevented, then the original tragedies will not have been in vain.

We at OSHA want to work together with you to address workplace safety and health problems. We need to move from *reaction* to *prevention*. This approach is very much on the mind of the new leadership in the Department of Labor and in OSHA, and there is much we can learn from you.

Returning to the Original OSHA

Secretary Solis and I also ask you for your help. For nearly 40 years, OSHA has been the Federal government's leading advocate for workplace safety and health. In this time we have made clear progress - think back to what workplaces were like in this country before OSHA.

Still, more than 5,000 people continue to die on the job in America every year. We have to do more to reverse this deadly trend.

Under this new administration, OSHA is heading back to the original intent of the OSH Act. We're back in the enforcement business and the standards-writing business.

The "new OSHA" will react quickly to troubling trends. Take, for example, the ongoing "Texas Sweep." Texas has the unfortunate distinction of seeing more workplace fatalities than any other state. For that reason, we recently launched a construction safety sweep in Texas, bringing in inspectors from across the country. Almost 300 construction inspections were conducted between July 12 and August 7. Inspectors identified numerous instances of employees exposed

to fall hazards while working from elevated work surfaces or from scaffolds. Employees were removed from the hazard of cave-in while working in unprotected trench/excavations. We expect the Texas program to be the first of many examples where a much more flexible and responsive OSHA will be able to respond to troubling trends that pop up around the country.

We're moving forward with the Regulatory Agenda - particularly cranes & derricks, confined spaces and silica. We're also progressing on harmonizing our standards with the Globally Harmonized System of Classification and Labeling of Chemicals. Secretary Solis has also announced new rulemaking on combustible dust, which I know will be of special interest to those of you who work in the rubber industry.

National Emphasis Programs

Let me focus a bit on a subject that I know is of great concern: safety in refineries and chemical plants. Since the Process Safety Management standard was issued by OSHA in 1992, no other industry sector has had as many fatal or catastrophic incidents related to the release of highly hazardous chemicals as the petroleum refining industry.

As a result of these incidents, particularly the devastating and unnecessary tragedy at BP's Texas City refinery in 2005, OSHA has rolled out its Refinery National Emphasis Program (NEP) to address catastrophic releases of highly hazardous chemicals at refineries. By the conclusion of this NEP, OSHA will have conducted inspections in all U.S. refineries in Federal OSHA jurisdiction.

In the history of OSHA, this NEP is the largest in terms of inspection resources committed. Our Refinery NEP inspections are finding a large number of hazards and deficiencies. To date, we have opened NEP inspections at 65 refineries. For these 65 inspections, we've issued almost 800 violations with associated current penalties for those violations at more than \$4 million.

These NEP inspections have also resulted in 16 Significant Enforcement cases issued to refinery employers. "Significant Enforcement" cases include those inspections where an employer is issued a penalty greater than \$100,000. We believe this NEP has been successful in finding hazards and protecting workers at employers' refineries.

One other thing worth mentioning about the Refinery NEP: We have received many reports from refinery employers, workers, our enforcement staff and consultants, indicating that employers are abating hazards at their sites *in anticipation* of these inspections. This is a good thing. We believe these reports show that the deterrent effect of our NEP is working.

The only troubling aspect is that we have not heard reports of the kind of cooperation around health and safety issues that is needed between many of the refinery owners and their unions. Process Safety Management is not easy, but it is crucial to the safe operation of refineries as well as the safety of not just the refinery's workers but the surrounding communities as well.

I want to take this opportunity to call on refinery managers and the union to sit down and address the need for joint PSM training and safety and health programs that will promote the long-term safety and viability of this industry.

About three weeks ago (July 28), the Agency implemented another chemical safety NEP - the PSM-Covered Chemical Facilities National Emphasis Program. We know that other chemical sites have dangerous chemicals which can be released and result in catastrophic events. To address these catastrophic hazards, OSHA is using a pilot program which will give us reach into other chemical facilities which have PSM-covered processes which contain highly hazardous chemicals. This Chemical NEP is being implemented in Regions I, VII and X for programmed inspections. If an unprogrammed inspection related to a PSM-covered process is initiated in any OSHA Region where Federal jurisdiction applies, this Chemical NEP will be initiated.

We are also preparing an NEP to confront recordkeeping problems. Congressional hearings,

studies and media reports have all described serious accounts of underreporting injuries and illnesses, as well as policies that discourage workers from reporting when they're sick or hurt.

I can't put too much emphasis on the importance of accurate injury and illness records. OSHA uses those numbers to target inspections, and to determine priorities, to determine what industries and workplaces may not be adequately providing for the health and safety of their workers. To that extent, accurate recordkeeping, not bureaucratic paperwork, is vital information that is needed to save lives. To address this problem, OSHA received \$1 million for Fiscal Year 2009, which we're putting to work. Ensuring the accuracy of injury and illness numbers allows OSHA to better target our enforcement and evaluate our effectiveness.

One more thing on recordkeeping: We will also be taking a close look at incentive programs that have the effect of discouraging workers from reporting injuries and illnesses. These include programs that discipline workers who are injured, or safety competitions that penalize individual workers or groups of workers when someone reports an injury or illness.

Let me underscore this point: OSHA will not tolerate programs that discourage workers from reporting injuries and illnesses.

New Frontiers

OSHA is also raising its penalties - not simply to punish, but to provide a real disincentive to those employers who accept worker injuries as "an unavoidable part of the cost of doing business."

We also hope that OSHA penalties will be seen as an incentive to adopt an effective safety and health management program that includes worker participation.

Secretary Solis has also announced that OSHA will be shifting the bulk of our energy and resources from cooperative programs to enforcing existing standards. In response to this change of priorities, in response to two different GAO reports, and in response to a budget that will not be expanding significantly any time in the near future, OSHA is taking a hard look at how its cooperative programs will be run in the future. These include our Voluntary Protection Programs and the Alliance Program.

OSHA will also look for hazardous situations where standards don't exist but are needed.

And if we're going to move ahead on more and better standards, OSHA needs to find ways to streamline the cumbersome, lengthy rulemaking process.

However, while our standards and enforcement are necessary and essential, they are only the ground floor of a whole structure of strategies that keep people safe and healthy on the job. It's like a credit card where making only the minimum payment each month prevents you from getting hit with the worst fines and fees, but it won't keep you out of trouble.

We need to move beyond measuring our progress simply by counting the number of standards issued, or the number of inspections conducted, or the amount of fines issued. We need to make the life of every working man and woman count, and we need to look at broader factors that contribute to occupational safety and health.

We also need to move beyond looking at individual chemicals and isolated hazards, and look at the usefulness of safety and health management programs.

In the future, we need to start examining the things that are hard to count but nevertheless make a fundamental and enormous impact on work in this country - such as the way work is organized and the impact of work hours, fatigue, and health and safety programs.

OSHA and NIOSH can't manage this transformation process alone. We need allies in the environmental movement, and allies among students, scientists and sociologists.

And, instead of ceding leadership to those ideologically driven business associations whose response to any enforcement or regulatory initiative is a reactive, unthinking "NO," we need allies in the progressive business community who will take a leadership role alongside America's labor unions and say "Yes we can" and "Yes we will" - because we know that America draws its economic strength from a healthy and safe workforce.

Pandemic Influenza

We have a timely example of how protecting workers is not a divisive "labor vs. management" issue but, rather, a shared challenge that affects everyone.

In late April, a new strain of influenza surfaced in the United States, Mexico and around the globe. Fortunately, the virus was weaker than we feared. However, scientists believe that this H1N1 virus is likely to return this fall and could cause more severe illness.

A worldwide outbreak of a severe strain of influenza could disrupt our economy and our society for weeks and quite possibly many months. In a worst-case situation, employers in affected regions of our country could face as much as 40 percent absenteeism in their workforce. So, to minimize the impact of a pandemic, employers and workers must come together and develop, test, and implement a comprehensive plan to prepare workplaces and protect themselves.

Two years ago, OSHA published two major guidance documents to help employers prepare their workplaces for an influenza pandemic. Recently, OSHA recently issued a number of new fact sheets, QuickCards, and guidance documents on pandemic influenza preparedness. We've established a Web page with links to these and other resources. Very soon we'll post on this Web page a new self-training eTool.

So, when you return to your worksites after this conference, I urge you to do everything you can to ensure, as soon as possible, that management and workers are working together to prepare for a possible pandemic.

Conclusion

Finally, I want to encourage everyone here to remain active in workplace safety and health. Continue to take part in regulatory hearings, send us your thoughts during the comment periods, voice your concerns, and share your experience and expertise.

First and foremost, we need strong standards that protect workers, but we also need standards that work. This is where you make a difference. When OSHA is doing something right, support us by speaking up. When we're missing the mark, I know you'll be there to say so, too.

Labor and management need not be on opposite sides of worker safety and health - and you, here in this room, are the living proof of that. This is legacy that we can work on every day, and every day take pride in our accomplishments.

You have a great conference ahead of you. I appreciate your warm welcome, and I know you'll keep striving for better workplaces and a better OSHA.

So will I.

Thank you.