

# **The New OSHA: What Does It Mean This Time?**

**Presentation to the Rocky  
Mountain EHS Peer Group**

**October 15, 2009**

Sally K. Miller, CIH

URS Corporation



# “The New OSHA”: 1995 Version

- OSHA will change from “command and control” model to “one that provides employers a real choice between a partnership and a traditional enforcement relationship.”
- Partnership incentives: low priority for inspections and up to 100% penalty reductions



# 2009 GAO Report: OSHA's VPP Lacking Oversight

- No OSHA follow-up at 30 Voluntary Protection Program sites with fatalities
- No internal controls to ensure all Regions comply with VPP policies
- Inadequate effort to evaluate VPP's effectiveness



The New OSHA: 2009

**STRONG  
ENFORCEMENT**

# New OSHA Leadership

“There is a new sheriff in town. Make no mistake about it, the Department of Labor is back in the enforcement business.”

“Under my watch, enforcement of labor laws will be intensified to provide an effective deterrent to employers who put their workers’ lives at risk.”

-Labor Secretary Hilda Solis



# New OSHA Leadership



“We are taking a fresh look at VPP participant exemptions from NEP inspections...and we are planning...ways to include VPP members in OSHA’s focus on accurate recordkeeping.”

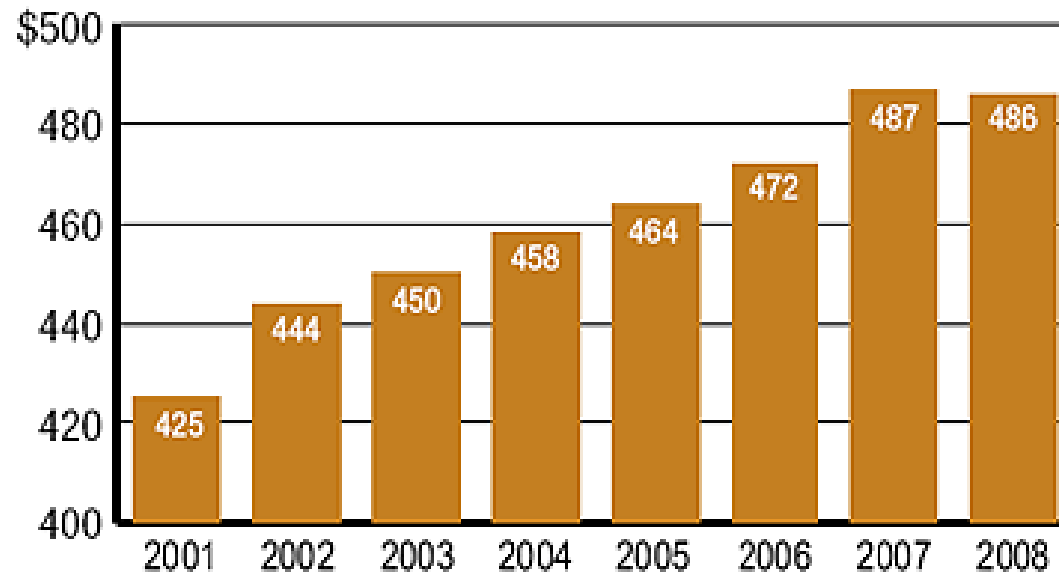
- Acting/Deputy Asst. Secretary for OSHA Jordan Barab, speaking at the VPP Participant’s Association Annual Meeting in August

# New OSHA Leadership

- “OSHA badly needs a change in direction and philosophy...”
  - David Michaels, Nominee for Asst. Labor Secretary for OSHA



# More \$\$ for OSHA



2009 = \$513M

**2010 = \$555M**



# More OSHA Inspectors

- OSHA Hiring 130 to 200 New Inspectors
- More OSHA inspections
  - Programmed
    - Site-specific targeted inspections
    - Emphasis Program inspections
  - Unprogrammed
    - Imminent danger
    - Accidents
    - Complaints
    - Referrals from other governmental agencies





# Site-Specific Targeted Inspections

- OSHA's main inspection plan for non-construction employers with more than 40 employees
- Target: employers with high injury & illness rates
  - This includes **Oil & Gas Extraction**

# OSHA's Top Priorities



- Severe Violators Enforcement Program
- Increased criminal prosecutions
- Increased penalties
- Specific enforcement through NEPs
  - PSM at refineries, chemical plants
  - Combustible dust
  - Auditing compliance with recordkeeping requirements
- Review of cooperative programs (VPP)

# OSHA's Agenda

- Pre-rule stage: Silica, Beryllium, Diacetyl
- Proposed rule: Confined Spaces in Construction, Cranes & Derricks in Construction; Hazard Communication
- Other objectives:
  - Decreasing reliance on “alliances”
  - Protecting Stimulus Project workers
  - Construction Safety Focus (“SWAT Teams”)
  - The “60,000-lb elephant”: Ergonomics

# Congressional Issues



## ■ Bills in the House:

- Revise recording & reporting requirements
- Grant OSHA authority to address imminent dangers

## ■ Protecting America's Workers Act (PAWA):

- Main OSHA reform bill
- Extends coverage
- Increases whistleblower protection
- Significant penalty changes



# Local Emphasis Programs

- OSHA Region VIII (CO, SD, ND, MT, UT, WY):
  - LEPs for Amputations, Falls in Construction, Silica, Work Zone Safety, and
  - Oil & Gas Well Industry (Region-wide)
- State Plan states (WY, UT):
  - No current LEPs directed at Oil & Gas
  - Both have specific O&G regulations

# Recent Citations at Refineries

- March: Colorado, \$131K
- May: Texas, \$217K
- July: Delaware, \$108K  
Pennsylvania, \$202K  
Texas, \$89K  
Louisiana, \$110K
- August: Oklahoma, \$240K
- September: Ohio, \$147K
- October: Texas, \$237K



# Recent Citations Upstream



- Crude Pet & Nat Gas: 22 from 10 inspections
  - Electrical hazards, PPE
- Nat Gas Liquids: 13 from 5 inspections
  - PSM
- O&G Field Services: 503 from 136 inspections
  - 63 General duty citations!
  - Floor opening guarding, HazCom, electrical, PPE
  - 1<sup>st</sup> aid, slings, respiratory protection





# OSHA Region VIII Perspective

- Inspectors: 3 short of 2004 level
  - Probably won't see more in this Region
- Programmed inspections where rigs are active
  - Safety: struck-by, falls from height, fires, PPE
  - Health: Hydrogen sulfide, others?
- PSM inspections at refineries
- Unprogrammed inspections: imminent danger, accidents, complaints



# Region VIII Director's Perspective

- Focus on subcontractors
  - Multi-employer worksite issues
- Comprehensive Health & Safety Program
  - Does it reflect what is really going on?
  - Do employees understand it?

# AIHA's "Washington Insider"



- 2009: much activity, same result so far
- Shifting focus from number to quality of alliances
- Redirecting resources to ENFORCEMENT
- Asst. Sec. Nominee Michaels?
  - Industry push-back
- Ergonomics?

# An Attorney's Perspective



- Establish Catastrophe Response Management Plan
  - Review H&S programs for OSHA compliance, especially recordkeeping
  - Demonstrate “top-down” and “bottom-up” commitment to worker H&S
  - Have a plan to manage OSHA inspections
  - Focus on your “key risks”
- James A. Lastowka, McDermott, Will & Emery, LLP, “Get ready for a more aggressive OSHA,” *Reliable Plant Magazine*, 9/2009



# The New OSHA: 2009

## Questions?

**Contact Information: Sally K. Miller**  
**URS Corporation**  
**303-740-2721**  
**[sally\\_miller@urscorp.com](mailto:sally_miller@urscorp.com)**