EDITORIAL

We were excited to have a booth at the NSC Texas Expo held in Galveston this year. We had been planning to attend for a long time and then at the last minute we encountered issue after issue. Two of our staff had pressing issues and had to bow out. An ISHM board member stepped up to help and then he badly broke his foot. So we appealed to CSHMs in the Texas area and what a wonderful response. In the end Scott Sloan and Richard Parliman took the long drive to Galveston (I am sure spring break did not influence their decision) and manned the booth. Thanks so much gentlemen!!! Your support of ISHM is very much appreciated.

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By Dave Johnson, ISHN Editor, Board member, ISHM

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SECTION ONE – ASSE Conference in Denver June 2-6, 2012
ISHM is holding a test question workshop in Denver in conjunction with the ASSE conference. We would like to meet June 3rd from 10 AM till 2 PM. Each person attending should bring between 15 and 20 questions written as per the guidance in the Manual for Writing Test Questions. The link can be found on the ISHM.ORG homepage. At the workshop the group will review all questions to make sure they are aligned with the exam blueprint and are valid with 4 plausible options for answers. (It is not easy to write the questions and distractors). We have talked about this before and had some positive response then I think some folks have had to back out for a variety of reasons. If you can participate it will be of great value to ISHM. Please let me know soon.

SECTION TWO - OSHA issues enforcement directive on safety incentive & disincentive programs,
By Dave Johnson, ISHN Editor, Board member, ISHM

Richard Fairfax, OSHA deputy assistant secretary issued a memorandum on March 12, 2012 to agency regional administrators and whistleblower protection program managers that might have slipped under the radar of many safety professionals.

The memo is a directive to field personnel on how to evaluate the legitimacy and fairness of safety incentive programs and employee discipline programs relating to safety.

Labor unions and safety activists have been concerned for years that too many industry safety incentive programs drive the reporting of injuries underground in order to maintain eligibility for incentive awards. Some of those critics have found homes in OSHA’s Washington policy-making front-office — Jordan Barab and Deb Berkowitz — and now OSHA has used an enforcement directive to confront those concerns.

Business groups have accused OSHA for years of circumventing the lengthy standard-setting process by issuing enforcement directives. OSHA has no standard governing the use or misuse of safety incentive programs, and this directive sets a precedent in terms of the agency taking a position regarding the use of incentives.

According to Fairfax in his memo, OSHA has received the following reports from the field:

- “Some employers have a policy of taking disciplinary action against employees who are injured on the job, regardless of the circumstances surrounding the injury. Reporting an injury is always a protected activity. OSHA views discipline imposed under such a policy against an employee who reports an injury as a direct violation of section 11(c) or the Federal Railroad Safety Act. In addition, such a policy is inconsistent with the employer's obligation to establish a way for employees to report injuries under 29 CFR 1904.35(b), and where it is encountered, a referral for a recordkeeping investigation should be made.”

- “In another situation, an employee who reports an injury or illness is disciplined, and the stated reason is that the employee has violated an employer rule about the time or manner for reporting injuries and illnesses. Rules cannot penalize workers who do not realize immediately that their injuries are serious enough to report, or even that they are injured at all. Where the employer's reporting requirements are unreasonable,
unduly burdensome, or enforced with unjustifiably harsh sanctions, they may result in inaccurate injury records, and a referral for a recordkeeping investigation should be made.”

● “In a third situation, an employee reports an injury, and the employer imposes discipline on the ground that the injury resulted from the violation of a safety rule by the employee. In some cases, however, an employer may attempt to use a work rule as a pretext for discrimination against a worker who reports an injury. Vague rules, such as a requirement that employees "maintain situational awareness" or "work carefully" may be manipulated and used as a pretext for unlawful discrimination. Where such general rules are involved, the investigation must include an especially careful examination of whether and how the employer applies the rule in situations that do not involve an employee injury. Enforcing a rule more stringently against injured employees than non-injured employees may suggest that the rule is a pretext for discrimination against an injured employee.”

● “Finally, some employers establish programs that unintentionally or intentionally provide employees an incentive to not report injuries. For example, an employer might enter all employees who have not been injured in the previous year in a drawing to win a prize, or a team of employees might be awarded a bonus if no one from the team is injured over some period of time. There are better ways to encourage safe work practices, such as incentives that promote worker participation in safety-related activities, such as identifying hazards or participating in investigations of injuries, incidents or "near misses."

Writes Fairfax, “If the incentive is great enough that its loss dissuades reasonable workers from reporting injuries, the program would result in the employer's failure to record injuries that it is required to record under Part 1904. In this case, the employer is violating that rule, and a referral for a recordkeeping investigation should be made.”

Fairfax also notes: “OSHA has also observed that the potential for unlawful discrimination under all of these policies may increase when management or supervisory bonuses are linked to lower reported injury rates… we cannot condone a program that encourages discrimination against workers who report injuries.”

Some safety professionals who have taken notice of the new directive question its rationale: that massive under-reporting of injuries exists across industries and too many employees are unfairly disciplined and discriminated against for the sake of keeping a clean accident sheet.

WHAT DO YOU THINK?

Some safety pros fear this directive will cause confusion about when discipline is acceptable and when it’s not, with the end result being companies dropping discipline program in fear of having them ruled discriminatory.

WHAT DO YOU THINK?
There is also the fear that this directive gives OSHA inspectors too much discretion in interpreting what is, and what is not, a discriminatory safety policy or program, with safety professionals being burdened to deal with the gray areas and defend long-standing incentive and discipline programs.

WHAT DO YOU THINK?

Email your comments to Larry Curtis, CSHM, executive director of the Institute for Safety and Health Management at manager@ishm.org; www.ishm.org

SECTION THREE – Safety First, or just in the top three REVISITED

Last month we included an article about Mike Rowe and his program called ‘Dirty Jobs”. It stared with:

My husband works on the oilrigs as a well tester. We watched you folks do so without any eye protection! Are you crazy? Drilling a hole with no protective eyewear? Between him, a well tester, and me, a workers’ compensation lawyer, we're cringing! Somebody could LOSE AN EYE! Seriously – Safety First, fellas! I would expect better from the Discovery Channel!! — suzemommy

Mike’s reply (condensed version):

I sincerely appreciate your concern for me, and agree that stupidity plays an ongoing role in my professional and personal life. But believe me, I have no wish to be injured on the job. However, it is not the objective of Dirty Jobs to conform to any particular set of safety standards, other than those dictated by the people for whom I happen to be working at the time. I take my cues from them, and I assume whatever risk they assume, for the most part. In the end, we hope to capture an honest look at what life is like for the workers in a particular venue. We do not aspire to set an example, or be a poster child for OSHA or any particular industry. I realize that my sound controversial, but it’s the truth, and not nearly as inflammatory as what I’m going to say next. Ready?

Of all the platitudes automatically embraced in the workplace – and there are many – there is none more pervasive, erroneous, overused, and dangerous, than “Safety First!” in my opinion.

I have heard this slogan countless times. I have seen it emblazoned on banners, T-shirts and hats. I have sat through mandatory briefings and slideshows and presentations designed to “protect me from the hazards at hand.” And I have listened as safety officers and foreman have run down list after list of OSHA requirements, all apparently construed to remind me that nothing is more important to the employer than my own well-being. What a load of unmitigated nonsense.
In the jobs I have seen thus far, I can tell you with certainty, that safety, while always a major consideration, is never the priority.

Never.
Never, ever.
Not even once.

I asked for folks to respond and promised to print worthy articles. We received some very good responses. They follow. I hope you enjoy them as much as I did.

Christopher Gates, ASHM
EH&S Specialist II
Shaw Power Group

Rethinking the phrase “Safety Comes First”. Are we really displaying the phrase in a manner that truly promotes a safety comes first employer attitude? The phrase has been put out all over the globe and yes some companies really do appear to put safety first but we need to ask ourselves are we really doing that as a whole or is it just part of us. Yes 99% of your safety professional today do have this approach to jobsite and employee safety but in the whole realm of things are we as a whole company taking this approach. Another question to ask yourself is am I taking safety to the level of a company as a whole or am I just concerned with my buddies at the site and myself. Sometimes we do get caught up in the buddy system, or maybe even sometimes the favoritism game when it comes to enforce safety and really displaying the phrase “Safety Comes First”. When we as safety professionals go out into the field and preach safety comes first we need to practice what we preach. Example and I have actually done this myself on occasions, if one of our companies policies is you will wear gloves when working with your hands at all times then we need to practice this ourselves. I have caught myself grabbing something up and moving it without wearing my gloves just to get it done quickly and I have seen management do the same and then turn around and see someone else do it and scold them for it. The factor here is does your management really take this approach or is this an area where you as a safety professional can take to the educational approach to show bottom line where it just makes more sense to do it safe the first time instead of running the risk of having an injury and then reaping the direct and indirect cost of having a jobsite injury and or long term loss time accident. The key factor here is to know your estimated cost with workers comp, medical cost, lost time salaries, benefit payouts, new employee hire to fill the position, retraining the injured employee or permanent disability payouts for him or her not being able to return to the workforce. There are several other cost that can be factored into this as well, such as finding the employee a position within the company that they can do after the injury if they are unable to return to the same job, and possibly a payout amount to accommodate a permanent disability claim or should the injury result in death and then the payouts can sometimes be astronomical. So ask yourself are we really promoting the phrase in a manner that really suggest that the company takes the approach “Safety Comes First” and are we displaying this in our own actions. If we aren’t and we are just worried about getting the job done and saying we are taking this approach then we need to make sure we as a company have very deep pockets because eventually it will happen if in some companies it hasn’t already.
Bottom line is the job has to be done, it has to be done cost effectively, on time, and safely. The question is are we as a company going to put these in the right order to minimize our risk or are we just going to say get it done no matter what.

Larry J. Sloan, CSHM
Project SSH&E Manager
Black Point Power Station
Black Point Gas Supply Project
Hong Kong, New Territories

This month’s News Letter discusses the old adage that "Safety First" or "Safety Is Our Priority" are true statements. Or are they? I am speaking on my behalf and based upon my experience. (30+ years)
If you take a close look at the industry trend for TRIR over the past decade you will see that with implementation of Procedures, Method Statements, Risk Assessments and Behaviour Analysis the TRIR have come down. But again as in the past years we have begun to flat line without any significant improvement over the past five plus years. During this time I have been on my own crusade in changing the thought process on my last two jobs and with great success.
What have I been doing? Well from the beginning of each job I pull all of the management team together and start off by saying that "I do not believe that Safety is Number One" and "I do not believe that Safety Should be Our Priority". You may say what the heck are you talking about.
Well I have received the same response from all of participants as well. You see it became very clear to me working internationally that these were very well accepted catch phrases that the client's wanted to hear. So without any real thought about what these statement truly means, they were plastered on every SSH&E Plan and company proposal.
I have seen true success by pressuring the following: I explain that a Priority is a stance taken with the understanding that it is subject to change during certain condition. Money, schedule, production, short cuts, etc.. What is a Priority today often is not the same Priority tomorrow. Resulting in accidents. My stance is that when I accept a position, the Management Team will accepts the concept that Safety is not the projects Priority. I expect the Management Team to accept the position that Safety on their project is a Core VALUE.
Our Values are unshakable and remain consistent over time. Some of our basic values are family, religion, etc.. It takes allot to change these values and are not taken lightly. The same occurs with a project that accepts that Safety is a part of the projects Core Value. This thought process must be repeated often to embed it into the project itself. The results I have seen have been amazing and I am sure that if we as safety professionals would spread this thought process, the success would be shared by all.
Examples of when Safety becomes a Core Value:
Ras Lafan, Qatar: >25 - million man-hour w/o LTA
Black Point Gas Supply Project, Hong Kong:

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JOHN GOLD, CSHM

I have always enjoyed Dirty Jobs, but I was always amazed at the lack of safety protection used on many of the jobs highlighted on the show. I mean who really needs respirators when a handkerchief will work! The article below explains it all.

As a CSHM I have worked at a few companies where (as you mentioned below) safety was touted as a very important part of the company in the meetings, but was treated as a “necessary evil” in the exec offices; the employees in the shop were definitely concerned about safety though! Fortunately, I have also been fortunate to have the opportunity to serve in companies where employee safety was truly #1, and it was a pleasure to see lower WC costs, turnover, and happier employees.

I agree that we need to be bi-lingual – many companies are not concerned about OSHA inspections/regulations, but they do respect anything that will help the bottom line (more so in this economy). In one company we rebuilt the safety program and lowered the WC costs by $80,000 within 18 months. The money saved more than covered my salary, and that company saw/understood the financial value of a functioning safety program. This was a win/win situation – the employees were thrilled to have safety in the workplace (lower injury rates, and better working conditions), and management was thrilled w/the money saved.

We need to be able to qualify what we do as safety professionals; not only in regard to OSHA compliance, but also with the effect that we can have on the bottom line.

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Gary Scotton, CSHM

Safety is all about minimizing the risk. I agree that everything we do in life has risk. But an employer has the responsibility to provide a safe workplace. Just ask OSHA! OSHA will tell you if an employee has an accident at work, you, the employer did not do your job! The employer must provide a safety workplace under the law. So Safety is a company’s responsibility. While I agree that my personal safety should be a higher value to me than my employer, the employer is a key stake holder in me being safe. They provide the work environment and work culture in which I work. They are responsible for them, including ensuring that I obey the work policies and procedures. So Mike is way off base.

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Robert Kestenbaum, ASHM

The article about Safety First or Dollars First brings up a thought that I have always taught to other safety peers or trainees that I work with. Safety professionals come from several different paths. This can be straight out of college, up through the ranks from the workforce, or through a different profession (engineering, environmental, etc.). One common thing with all of the paths, though, is a lack of business acumen or understanding by your typical safety professional. I’m not talking about managers, directors, consultants or safety business owners. I’m talking
about your boots-on-the-ground safety technician or your mid-level safety supervisor. This group has no understanding of profit/loss, margins, return of investment, or any other aspect necessary to run or maintain a business. As such, they don’t know how to ‘talk’ to management to get a buy-in for safety programs or initiatives.

Far too many times, I have been approached by a field safety technician with the comment “We need to do X, it’s the law, it will make things safer, it will help the employee feel safer.” I ask how much, the response is “Who cares how much it costs. Lives are priceless. We are saving lives here.” Each time I get this, I ask the safety technician to go back and prepare a cost benefit analysis to ‘sell’ their idea. I explain, unless we can talk to management in their language, you won’t get buy-in to implement your program. This conversation results in me giving a brief training session on business acumen (my bachelor’s is in Business Management).

This same attitude towards ‘safety first above all else’ is especially prevalent among the recent graduates, whether from a safety program or IH. They have no understanding of business requirements, all they see is what is needed to make things safer/more comfortable.

On the flip side, I have seen managers, especially those coming in with the almighty MBA, with no understanding of safety requirements in a workforce. They only see things in a bottom-line, myopic view. If it won’t make money, then it is a loss leader, therefore, it’s not worth funding.

In either case, an argument can be made that training must change for both groups. Safety professionals, at all levels, must have some business training in order to understand and to be better tasked to present or sell safety. Managers, engineers and other non-safety professionals must have at least one course in safety management in order to better understand the safety side of the argument. The impetus to get this training requirement comes from us, the current safety professionals, whether we are managers, directors, consultants or technicians. We must push this change if we are to see a change in education and knowledge and, in the long run, a different attitude towards providing a safer work environment.

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Gregg Richley, CSHM
Environmental Health and Safety Manager
Plant Engineer

In reply to the Mike Rowe issue,... I say this every time I watch the show!
I watched him and the crew he was with work on the top floors of New York City skyscraper water towers with no fall-protection! I understand his position on this issue, but he really could have a great influence if he would highlight safety from time-to-time, (or on every show!).
Thanks for this issue of the newsletter, it was really good.