Meeting Minutes – September 19, 2012

The meeting began with a welcome given by Don Turnham. All were in attendance: Tiffany, Jamie, Dennis, Nancy, Don, Kathy, Ellen, and Irene.

Legal Review with Jennifer & Jane

- Received an email from Federal OSHA in reference to the appeals process; need to speak with Kevin and Allen to make the call if NCDOL will follow that procedure; an email was sent to federal OSHA notifying them of NCDOL's appeals process; currently there is no law requiring an appeals process under OSHA; this is something that OSHA has decided that they are going to do; this is just their policy not a law; their process is very elaborate; must have an review committee; waiting to meet with Kevin and Allen; will need something in writing from Kim (Federal OSH) to okay our current appeals process; Tiffany will send a copy of the email in reference to the appeals process to everyone;
- Recently there was an IO call; the employee was terminated for fighting in the workplace; the case was not taken; employee had previously spoken to management and told them that the other employee was threatening to fight him; the employee filed an assault charge against the other; there was a restraining order; he did not file with OSHA; would this be considered an OSHA violation; Legal – as mentioned there are no OSHA standards for workplace violence; this would fall under the general duty clause; would not be a violation of OSHA if his complaint is that he was terminated for filing a police report; REDA does not offer that protection; if spoke with management prior to altercation; would have to take a look at their workplace violence policies; did company follow policies since there was a recognized hazard; if no policy in place must look at on a case by case basis;
- Must speak with OSHA; they should not send a letter to employees requiring a response if they do not enforce the hazard;

- Don has a case against Checkers; questioned what are the procedures when the Respondent has refused to submit a response; Legal noted that a refusal to submit a response is not a reason to issue a merit right to sue; others options would be to make a site visit or issue a subpoena; once again determined by a case by case basis; could be found in contempt of court; submit to AG' s office for review; they would have to look at the facts of the case.

The Information Officer of the day (IOD) calendar has been completed up to October. Please remember to check the calendar for your scheduled time. If you need to change dates with someone, please notify Tiffany and she will make the changes accordingly.

Spanish cases will be assigned to Irene as an extra duty. Please contact her before sending cases to avoid heavy caseload. It was suggested Lujuana place an identifier on the file to determine if the case is Spanish. For example, green stripe similar to the red stripe on OSHA cases. This would work only if Lujuana knows in advance that the person speaks Spanish. That determination cannot be made from the Complainant' s name only. It was suggested that the complaint form is updated to include a check box requesting a Spanish investigator.

It was questioned if EDB has access to E-verify. The current answer is "no". NCDOL human resources has access but this is to be used only for the verification of prospective DOL employees; not for EDB investigations. Wage and Hour has access/ or will be getting access soon. May have to coordinate with them if questions. Homeland security is also a possibility.

Dennis and Kathy are putting the final "tweeks" into the Safety Manual. They are still waiting on decisions from OSHA in reference to the appeals process. Investigators are reminded that the new OSHA process is currently in place. Nancy has a "cheat sheet" that she has devised notating the current process. She will email everyone a copy.

A few reminders regarding the OSHA process:

- Information must now be shared between the complainant and respondent including questionnaire;
- A **copy** must be made and submitted to PSIM for redaction; a special box is located on Rose' s desk for EDB files; don' t forget the cover sheet;
- Field OSHA cases should be given to Tiffany so that she can send a copy of this information to PSIM;
- Tiffany must review all cases; field investigators will send their ROI and Activity log through email for approval;
- All correspondence submitted through regarding OSHA must be sent certified;
- Medical records must be separated and given to Dennis, the medical custodian, if here in the Raleigh office; field investigators have been given lock boxes to separate the information on their own; *if the information is not needed to make a determination in the case, investigators have the option to return the information;
- Investigators will enter the OSHA 87 information into IMIS on their own; Dawain Faison is in the process of getting sign in information for all investigators;

Investigators are reminded to continue to discuss early resolution with Respondents. Additionally file activity logs must be specific and more detailed. In the event cases must be transferred to other investigators this will help in the investigation process. If using shorthand or an abbreviation make sure it is clear what the abbreviation is meant to represent.

The 90 right to sue letter request as a backlog strategy is working well. Investigators are reminded when they are the IOD to send out 90 day/rts letter requests. When a 90 day request is received, please give it to Tiffany. She is assigning these letters on a rotational basis to investigators.

Tiffany will be conducting investigator interims during the second week of October. The interims will cover progress from April 1 through September 30. Currently there are 25 cases over 90 days. Additionally there are 38 open OSHA cases. Please try to close these cases as soon as possible. Investigators must assign themselves at the very least five cases per month to reduce the number of unassigned cases. Please check monthly to make sure you are at 12% case completion as required in the action plan. Settlement negotiations should not be held open more than 90 days if you are not an active participant in the negotiations.

Nancy conducted safety training. The topics included:

- Fire drill safety – recently the ORB conducted a required fire drill. Don was able to stay in the stairwell; this was approved since the stairwell is fire retardant for approximately 2 hours; it was noted that employees were moving very slowly down the stairs; everyone is reminded to treat the fire drills as if there was a real emergency;
- Everyone conducted AED updated training; Kathy and Irene need to participate in initial training; the AED' s are located near the stairwell; videos were submitted on the use of the particular AED located on this floor; if you have not watched please do so;
- Since it will be cold soon, there will be an increase in space heaters; please make sure your heater is an approved; you can check the intranet for approved devices along with additional information relating to safety;
- If you are involved in a workplace accident and refuse to go to the doctor, you must sign a form stating that you are refusing treatment; the form is located on the intranet; all work related accidents should be reported to Tiffany immediately;
- All investigators CPR certification is expired, renewal must be completed before April 2013.

Please complete time in Beacon weekly. Investigators are additionally reminded to turn in weekly reports weekly.

Jamie has accepted a new position with the NC Department of Public Safety. She has not submitted a final date; she is currently waiting on background, reference, and records checks.

Next meeting: (date to be determined).