

# Rare study by feds may prompt OSHA changes

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LABOR DEPARTMENT

Jordan Barab, acting assistant secretary of labor who oversees federal OSHA

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The U.S. Labor Department has formed a task force to look into problems at Nevada's Occupational Safety and Health Administration, a top official said Thursday.

For the past week and a half, two officials from the Labor Department and two officials from other state workplace safety agencies have been at Nevada's OSHA offices to review the state's

practices for investigating workplace accidents, said Jordan Barab, the acting assistant secretary of labor who oversees federal OSHA.

After speaking to officials and reviewing documents, the task force will issue a report detailing any problems it discovers and recommending policy changes. The report is expected in about a month.

Barab acknowledged that the move is rare, and an indication that the federal agency has serious concerns about how workplace safety has been handled in Nevada over the past few years.

Nevada officials said they are cooperating with and support the review.

Nevada, along with about half of the other states, operates its own agency, known as a “state plan,” to enforce laws governing workplace safety. In the remaining states, Barab’s agency, federal OSHA, governs workplace safety.

FedOSHA is also charged with reviewing the state plans to make sure they’re at least as effective as the federal agency.

Its mission has remained constant, but FedOSHA’s level of oversight has varied over the years. Direct interference in the operation of state plans is rare.

The power of the federal government in regulating the state agencies is limited. Its only enforcement tool — the takeover of a state agency — is drastic and has never been used.

At a meeting last month of state plan administrators in Portland, Ore., Barab told state officials that the federal government plans to step up its monitoring of state plans.

So far, only Nevada is being visited by a special task force.

FedOSHA officials routinely look at data from state plans, speak to local officials and investigate incidents that are brought to their attention. But OSHA observers say their intervention here appears to be the most dramatic federal involvement in a state plan since the feds nearly took over North Carolina’s state plan in 1991, after a fire at a poultry plant there killed 25 people.

New Nevada Industrial Relations Division administrator Donald Jayne met with Barab at the gathering in Portland. During that meeting Jayne agreed that Nevada OSHA has had problems and responded favorably to the task force plan, Barab said.

Nevada OSHA came to the attention of federal officials last year after [a string of 12 construction worker deaths](#) on the Strip in 18 months amid fast-paced construction. In June 2008, FedOSHA inspectors took the unusual step of joining Nevada inspectors in looking at safety practices at large Strip sites, including CityCenter, Cosmopolitan and Planet Hollywood.

Federal officials also responded to the state’s investigation of a double fatality involving maintenance workers at the Orleans. After two workers died and a third was injured at the casino

in February 2007, several people involved in OSHA's subsequent investigation issued a formal complaint to federal OSHA about the state's unusual practices in that investigation.

A [Sun series](#), which this year received the [Pulitzer Prize for Public Service](#), drew attention to the deaths and the failure of government, management and labor to protect workers.

After investigating the Orleans incident, federal officials concluded that Nevada's conduct had been problematic and asked the state to review its practices.

Tom Czehowski, the state OSHA administrator at the time, responded to the federal request last fall, saying the agency would not comply immediately.

The developments prompted efforts by the Nevada Legislature to revamp the agency, but lawmakers' efforts largely failed.

With the federal scrutiny and retirements of key personnel in Nevada, change appears to be coming to the agency.

In March, Czehowski's boss, Industrial Relations Division administrator Roger Bremner retired. Czehowski retired in May.

As the new chief of the Industrial Relations Division, Jayne intends to forge a close partnership with federal OSHA, he said.

"We have the same mission," Jayne said. "We all want to make sure we have safe workplaces in Nevada and around the country. We hope to get valuable feedback and if we have procedural problems and someone helps to identify them, we'll fix them."

Jayne ran the state's workers' compensation program from 1991 to 1993. He found that the agency was headed toward bankruptcy, which led to major agency changes and eventually, privatization of workers' compensation in Nevada.

Jayne, who is hiring Czehowski's replacement, said Nevada OSHA is complying with FedOSHA's request to do a self-evaluation of its procedures and policies, especially those related to the Orleans incident. He expects to have the results of that review in 30 to 60 days.

The federal task force arrived July 22.

That day, Jayne organized a meeting with the media at his offices. It was an abrupt shift in strategy for an agency that was closely guarded under its former leadership, and whose officials almost always refused to speak to reporters.

The task force will conclude its work in the state office by Aug. 7.

A federal takeover of the state agency is not on the table, said Barab, who will become the No. 2 person at OSHA after an assistant secretary is confirmed. (President Barack Obama on Tuesday nominated George Washington University professor David Michaels for that post.)

“We’ve had nothing but good vibes from them,” Barab said of Nevada OSHA administrators. “We’re completely confident that they’ll take our recommendations seriously.”



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