



Executive Office of Labor and  
Workforce Development  
Department of Labor

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# DIVISION OF OCCUPATIONAL SAFETY Annual Report 2010

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The mission of the Massachusetts Division of Occupational Safety (DOS) is to promote and protect workers' safety and health, wages and working conditions. In collaboration with public and private entities, DOS protects workers by means of education and training, workplace safety and health consultation and assessment, occupational injury and illness data collection and analysis, and consistent and responsible administration and enforcement of its statutes and regulations. DOS carries out its objectives in a manner that supports both employees and employers and strengthens the Commonwealth's communities and economy.

DOS is comprised of the following programs: Prevailing Wage, Minimum Wage, Employment Agency, On-Site Consultation, Asbestos, Lead, Occupational Lead Poisoning Registry, Massachusetts Workplace Safety and Health, Occupational Safety and Health Statistics, Mine Safety and Health, and the Occupational Hygiene Laboratory. During 2010, each program has either engaged in new initiatives or enhanced its existing services, while serving the people and businesses of the Commonwealth as detailed in this Annual Report. Even though the agency's employee count is at its lowest number in six years, DOS was able to:

- Enact new regulations and implement the Lead Renovation, Repair and Painting Rule;
- Enhance transparency in its wage programs for the regulated public;
- Take the lead role in executing Executive Order 511 across all Secretariats;
- Create a Diversity Committee;
- Draft a Language Access Policy, pursuant to Executive Order 519;
- Implement improved information technology to connect all six DOS offices to one secure network to expedite licensing operations and improve communication;
- Create an outreach plan for the Consultation Program to address safety issues in the high-risk fields of landscaping and horticultural work, as well as outreach to temporary workers;
- Participate in and refer cases to the Joint Enforcement Task Force on the Underground Economy and Employee Misclassification, established by Executive Order 499;
- Collaborate with Division of Unemployment Assistance and Division of Industrial Accidents to deny licensure to employment agencies which fail to comply with workers compensation and unemployment laws, resulting in the procurement of workers compensation coverage for over 100 workers in the Commonwealth.

## **NEW INITIATIVES**

### **Lead Renovation, Repair and Painting Rule (RRP Rule)**

Effective July 9, 2010, DOS promulgated amendments to 454 CMR 22.00 (Deleading and Lead-Safe Renovation). These amendments, which establish safety standards for renovation, repair and painting work that disturbs lead paint in target housing and child-occupied facilities built before 1978, parallel similar federal EPA requirements that became effective on April 22, 2010 under the "Renovation, Repair and Painting Rule" (RRP Rule), 40 CFR 745.80-92. The amendments to 454 CMR 22.00 are designed to be as protective of human health and the environment as the federal standard.

### **Division of Occupational Safety (DOS) enhanced transparency in its wage programs**

DOS instituted a new online Prevailing Wage request system for awarding authorities in 2009 to make the process more efficient for the regulated public. The same system currently allows any member

of the public to request example rate sheets 24 hours day / 7 days per week in order to get a sense of the ballpark of wage rates that should be being paid for projects in various areas. The system was also designed to ease the Annual Update requirement in an effort to assist awarding authority compliance with the law passed in 2008. During 2010, DOS worked on upgrades to the system to further enhance information that is made available to the public; this work will continue through June of 2011.

In addition, DOS updated and supplemented its compendium of general information to provide members of the public, business and government greater access to Prevailing Wage information. For example, DOS issued a Guide to Awarding Authorities to aid in compliance efforts and posted the Guide on its website. DOS also updated its website content by posting over one decade's worth of opinion letters in an organized fashion, online, for public review. Since February of 2010, opinion letters issued for minimum and prevailing wage are now posted on our website within 48 hours of having been issued.

DOS conducted six training and education sessions during the year, for audiences ranging from the Department of Environmental Protection to the Office of the Inspector General's procurement seminars for awarding authorities. Lastly, DOS instituted a regular meeting schedule with contracting and union organizations, including the Associated Builders and Contractors (ABC) of Massachusetts and the Massachusetts Building Trades Council, to provide a venue where these stakeholders may ask questions and provide input about DOS wage programs.

### **Division of Occupational Safety (DOS) took the lead role in executing Executive Order (EO) 511**

DOS is the lead agency, along with the Human Resources Division (HRD), in administering EO 511, establishing the Massachusetts Safety & Health Advisory Committee. The advisory committee held its first meeting in October. Secretariat coordinators have already been named and health and safety committees across the state agencies are working on the tools provided by DOS to assess their agency's particular hazards and resources.

EO 511 creates two very important new elements for generating significant and sustainable improvements in safety and health protections for workers in the Commonwealth's executive branch; these workers are not covered under OSHA standards or other formal worker protections. First, EO 511 creates the Governor's Advisory Committee on Employee Safety and Health, a group that will evaluate existing worker protections at the macro policy level, and will identify effective strategies for improving these protections. Second, EO 511 will create a health and safety infrastructure consisting of secretariat-level health and safety coordinators plus joint labor-management health and safety committees covering all employees. These committees will conduct a comprehensive evaluation of existing worker protections for a set of serious hazards, which will provide insight into how health and safety is currently managed, and where improvements can be made. DOS has the primary role in implementing and conducting this initiative, including: setting the project strategy and goals, leading the Advisory Committee, assisting all of the secretariats/agencies in forming health and safety committees, providing training and tools for the committees to conduct their health and safety system evaluations, providing technical support throughout the process, and leading by example with DOS's safety committee formed under this initiative.

### **Division of Occupational Safety (DOS) formed a Diversity Committee**

In March of 2010, DOS formed a Diversity Committee to explore and foster the benefits that a diverse staff brings to the workplace. The formation of the committee fulfilled a long-standing goal of DOS's Diversity Plan. The Diversity Committee also focuses on exploring the diversity of the constituents served by DOS and how we can improve communication and relationships with the different groups with whom we interact. For example, during one of its monthly meetings, Corinne Williams, of the Community Economic Development Center of Southeastern Massachusetts, spoke to the Committee

about the challenges faced by Brazilian workers in Southeastern Massachusetts – a population served by DOS’s New Bedford Office. The Committee also participated in an awareness session with Kathy Gips, from the Institute for Human Centered Design, regarding disabled workers. The Diversity Committee Chair, Patricia DeAngelis, is also the Language Access Coordinator for DOS and she has solicited input from the Diversity Committee to achieve the goals recited in Executive Order 519. Diversity Committee pioneer members are as follows: Imani Bishop, Avelina Correia, Patricia DeAngelis, Michelle O’Leary, Ozelle Rivera, Heather Rowe, Patricia Sutliff and Patricia Washington.

### Secure Network Integration

In the summer of 2010, DOS connected its six offices through one secure network. Previously, there was some limited sharing of information between the Newton and Boston offices, but in each of the branch offices, data transmission speeds were so slow that it hindered the entire asbestos and lead licensing operation. Applicants for walk-in licenses were waiting up to one hour for license orders, a process that should have averaged ten minutes. In addition, communication lines between each of the offices and Boston would get interrupted, so staff would have to reboot the computers and log back in again. This was intolerable to our staff and the public we serve.

DOS invested in a secure network to improve communication and better serve the public. With the building of this system, DOS staff can now enjoy the benefits of being on one integrated network. The speed of data transmission has greatly improved, and field staff can complete their own data entry for licensing, thereby making operations more efficient. In addition to the reliability and stability of the network, all staff now have access to shared folders which facilitates access to information and yields greater productivity. DOS also acquired new equipment for its field staff. All field inspectors have been issued laptop computers with docking stations for their offices so that they can download the information collected during their inspections to the network.

### Consultation outreach to landscaping, horticultural workers and temporary workers

Landscaping and horticultural service workers are at risk of injury from a wide variety of potential hazards in this industry, including exposure to chemicals, noise, machinery, lifting, construction, falls, and weather related hazards. Outreach efforts to this industry were conducted to provide awareness of the hazards and to prevent potential injuries. A manual entitled, "*Safety and Health Programs for Landscape and Horticultural Services*" developed by DOS, was mailed to 738 landscaping companies in Massachusetts. The Consultation Program also had an exhibit booth at *The New England Grows* Convention in February 2010 where 100 additional manuals were distributed, and program staff gave a presentation on "*Safety and Health Awareness for the Landscaping Industry.*" That particular convention annually draws approximately 15,000 attendees. Program staff member Donald Delikat published an article in the January /February issue of *ProGrow News*: "*Making the Business Case for Health and Safety in Landscaping.*" *ProGrow News* is the official publication of the Massachusetts Nursery and Landscape Association, Inc. DOS posted the article on its website.

With regard to temporary workers, DOS and federal OSHA recognize the lack of safety and health training and the numerous injuries involving temporary workers. Many of these workers are picked up in the morning and are not aware of the exact nature of the work they will be doing on that particular day. Frequently, they do not receive training and are not informed of their rights. Another challenge is that many of these workers have limited English language proficiency, which leads to communication problems between employers and the temporary worker creating more safety issues. DOS has developed pocket sized handouts in several languages to educate these workers of their rights and possible hazards they may encounter on the worksite. In a multiple agency outreach, inspectors and engineers from DOS,

along with employees of federal OSHA, will hand out these materials to these temporary workers at pick-up sites throughout Massachusetts.

### **Joint Task Force on the Underground Economy and Employee Misclassification (JTF) participation**

DOS is an active agency partner in the Joint Enforcement Task Force on the Underground Economy and Employee Misclassification, established by Executive Order 499. Between January 1, 2010 through December 31, 2010, DOS forwarded 7 complaints to the Task Force for investigation. There were 7 cases regarding employment agencies with suspected or alleged wage and hour violations and employee misclassifications. After investigation, one was referred to the Attorney General's Office for violating the terms of a conditional license issued after a complaint hearing; 5 were referred to OSHA for unsafe working conditions; and one unregistered agency closed its office and is no longer in business. Twenty-two complaints received by Task Force partner agencies were referred to DOS for investigation. Nineteen of those cases involved employment agencies, 15 of which have been closed, and 3 of which are now under investigation by the Attorney General's Office. One asbestos contractor is currently under investigation by the Insurance Fraud Bureau (IFB) and the Department of Industrial Accidents (DIA). DOS has been assisting with these investigations by providing copies of applications, documents, records and other information.

### **Department of Unemployment Assistance (DUA) and Department of Industrial Accidents (DIA) compliance monitoring in employment agency licensing**

Through collaboration with the DUA and the DIA, in late 2010, DOS began to deny licensure to employment agencies which fail to comply with workers compensation, unemployment tax and fair share contribution laws, resulting in the procurement of workers compensation insurance coverage for just under 100 workers in the Commonwealth, and employer tax payments made to the DUA in excess of \$700,000.

## **PROGRAM HIGHLIGHTS FOR 2010**

### **Division of Occupational Safety (DOS) Prevailing Wage Program**

DOS advises awarding authorities, contractors, unions and members of the public regarding interpretation of the prevailing wage laws, G.L. c. 149, Sections 26 and 27. During 2010, the program issued 13 opinion letters on novel issues raised with respect to interpretation of the law. For example, DOS changed the way that apprentice wage rates were calculated so as to be consistent with M.G.L. c. 149, §§ 26 and 27. The agency recognized that there were different understandings among union and non-union signatories about how to apply apprentice percentages to wage packages, because oftentimes, the base wage was uncertain. In order to eliminate the need to determine the base rate (without allowable benefits) before applying the percentage, DOS began publishing on the prevailing wage schedules, the actual apprentice wage rates including the enumerated benefits as established by the applicable collective bargaining agreement, on its wage schedules. DOS is continuing to investigate resources to further simplify the manner in which these wage rates appear on the schedules. DOS also clarified that employers must annualize contributions to qualifying health and welfare, pension and supplemental unemployment plans. The program also issued prevailing wage schedules to cities, towns, counties, districts, authorities, and agencies of the commonwealth for construction projects, trash hauling contracts, school bus transportation contracts, state printing and janitorial contracts and for housing authority employees, in accordance with applicable law.

### Division of Occupational Safety (DOS) Minimum Wage Program

The Minimum Wage program administers the Commonwealth's Minimum Fair Wage Law, M.G.L c. 151, Sections 1 through 22. The Minimum Fair Wage Law and Regulations address not only the payment of the basic minimum wage but also overtime; the minimum wage for tipped employees; reporting pay; on-duty or on-call time; travel time and expenses; deductions for lodging, meals, and uniforms; and wage records that employers are required to keep. Basic questions about the meaning of a provision in the Minimum Wage Law or Regulations are posted on the Frequently Asked Questions section of the DOS Website and detailed questions are answered either by e-mail or by the Minimum Wage information line at [Minimum.Wage@state.ma.us](mailto:Minimum.Wage@state.ma.us) or 617-626-6952.

During 2010, DOS organized its legal opinion letters on its website for ease of use by the public. Opinion letters are now organized by year, assigned a unique number identifier, and a brief description of the topic that the letter addresses is listed for each. These letters range from 2001 to 2010 and cover a broad spectrum of topics. Since Massachusetts, as well as the rest of the country, has faced the greatest economic downturn in decades, DOS issued more legal opinions during 2010 to keep pace with the growing demand of protecting workers' wages. The 2010 opinion letters address the following aspects of employment law: Live-in Health Care Workers/Compliance with Massachusetts Minimum Wage Law Regarding Sleeping and Meal Break Law (clarifying the overtime requirements of live-in home care aides); Compensable Work Time (an interpretation of the Minimum Wage regulation allocating paid time for employees to count tips); Workweek and the Three Hour Rule (protects workers from being docked their wages when sent home from work prior to earning three hours of pay). These legal opinions aid in guiding the public to comply with the Minimum and Prevailing Wage law interpretations and classifications.

<b>Prevailing Wage Schedules issued</b>	<b>10,754</b>
<b>Opinion Letters issued for prevailing and minimum wage</b>	<b>23</b>
<b>Training sessions conducted, including symposiums and presentations</b>	<b>12</b>
<b>Minimum Wage Waivers issued</b>	<b>211</b>
<b>Wage program information line requests &amp; resolutions</b>	<b>4,387</b>

### Division of Occupational Safety (DOS) Employment Agency Program

The Employment Agency Program protects the rights of workers being placed by employment agencies, and ensures those agencies use fair, ethical, and legal business practices. The program regulates modeling agencies, home care placement agencies, nanny and/or babysitter, placement agencies, temporary staffing and labor firms, as well as permanent placement employment firms.

One of the Programs' multi-year initiatives culminated in 2010 with the resolution of a case which originated from DOS against a Worcester temporary staffing agency that had operated mainly on a cash basis from 2004 through 2008. The company collected over \$24 million from the client companies to whom they supplied temporary workers, while paying out approximately \$15 million in cash wages. The company failed to disclose the \$15 million cash payroll to its workers compensation carrier as well as

to the Massachusetts Department of Revenue for purposes of unemployment insurance contributions and corporate excise tax filings. The company also never filed a corporate tax return while it was incorporated for the years 2002-2007. In September of 2009, the Attorney General’s Office announced that a Worcester County Grand Jury returned indictments against the business on over sixty counts of violating the Massachusetts wage and hour laws, and committing insurance and tax fraud. On August 20, 2010, Attorney General Martha Coakley announced that the owner and his company plead guilty to 65 counts and was ordered to pay \$500,000 in restitution and to serve 5 years probation.

DOS also engaged in the process of denying Employment Agency licenses based on inadequate Workers’ Compensation insurance under the authority granted DOS by M.G.L. c. 152 § 25C(6). DOS is required to deny an application for an employment agency license, or renewal, if the Division of Industrial Accidents (DIA) determines that the applicant business has not produced acceptable evidence of compliance of workers’ compensation coverage. In the past, DIA has not provided DOS with an in depth review of the workers’ compensation coverage of applicants for employment agency licenses and DOS has not had occasion to deny licenses on those grounds. During 2010, DOS did so as one means of furthering the legislative and policy goals of insuring that employers which receive the benefit of a license to operate a business in the Commonwealth provide legally adequate workers’ compensation coverage to their employees.

<b>On-site employment agency visits</b>	<b>646</b>
<b>Professional licenses and registrations issued</b>	<b>1288</b>

**Division of Occupational Safety (DOS) Temporary Worker Initiative**

Three programs within DOS, the OSHA Consultation Program, the Lead and Asbestos Program, and the Employment Agency Program, have begun an initiative to provide health and safety, and worker rights information to the temporary worker industry.

- The Consultation Program provided two-sided cards to be handed out to temp workers and day laborers; one side of the card has industry-specific OSHA requirements and information (i.e. Construction) in English, and the other side has the same information written in another language.
- Key languages and industry targets were generated from the Investigations and Enforcement Unit, and provided to the Consultation Program.
- Consultation and Investigations and Enforcement staff will devise an outreach plan to get the cards into the hands of day laborers and temp workers. They will draw upon their reserves of information about day laborer hot spots and work with worker centers, MassCOSH, Greater Boston Legal Services, and other organizations that are working very closely with temp workers and day laborers.
- DOS will also draw upon the resources of the Joint Task Force (JTF) on the Underground Economy and Employee Misclassification to help disseminate information. One of the major focuses of the JTF has been on the temporary staffing industry.

**Division of Occupational Safety (DOS) On-Site Consultation Program**

Through the On-Site Consultation Program, DOS offers a free consultation service designed to help employers recognize and control potential safety and health hazards at their worksites, improve their safety and health program, assist in training employees, and possibly qualify for a one-year exemption

from routine OSHA inspections. This service, which is jointly funded by the DOS and the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA), is primarily targeted for smaller businesses (less than 250 employees per establishment or 500 employees nationwide) in high hazard industries such as manufacturing, healthcare, and construction. It is a confidential service in which one’s business name, and any other information provided and any unsafe or unhealthy working conditions found, will not be reported routinely to the OSHA inspection staff.

An important part of the Consultation’s mission is training and outreach and in that light, the program provided four OSHA Construction ten-hour courses and one OSHA General Industry course. Also, representatives of the program attended conferences by the New England Conference of Occupational and Environmental Medicine, New England Grows, the Massachusetts Nurses Association, the Massachusetts Electrical Contractors Association, the Association of Occupational Health Professionals in Healthcare, and the Massachusetts Occupational Health Nurses Association, to promote safety and health in the workplace.

<b>On-site safety and health visits</b>	<b>415</b>
<b>Hazards identified</b>	<b>1930</b>
<b>Interventions conducted</b>	<b>125</b>

**Division of Occupational Safety (DOS) Asbestos Program**

DOS’s Asbestos Program is responsible for the regulation of occupational asbestos exposure in the Commonwealth. The Program works with employers, employees, unions and state and local agencies to create healthier and safer work conditions for Massachusetts workers through site visits, analytical services, and technical information. The Program aids in the coordination of OSHA, EPA and multi-state regulatory authorities along with the Consortium of Northeast States (CONES) in the common goal of protecting the public from long term damage from excessive asbestos exposure.

In September, DOS issued a civil citation and penalty to a charter school for violations of the Asbestos Hazard Emergency Response Act (AHERA, also known as “Asbestos in Schools Rule”) regulations. This is the first time DOS issued a civil penalty to a school. DOS had inspected this school several times over the past few years and issued notices of non-compliance for violations of the AHERA regulations, but the school never corrected the violations to the satisfaction of DOS. In June 2010, DOS sent a letter to the school requesting verification that the school was taking measures to correct the violations. DOS did not receive any response. DOS issued a civil citation and penalty to the school in September, 2010 in the amount of \$900. After several attempts to make contact with the school, DOS finally made contact and the school stated they are initiating measures to come into compliance with its AHERA requirements. DOS conducted an inspection of the school in early November 2010; the inspection revealed that the violations noted in past citations, most recently in September, had not been corrected. DOS made an offer to the school that instead of payment of the civil penalty to DOS, the civil fine could be better-utilized if put toward hiring a consultant to assist the school in correcting the AHERA violations. After much effort by DOS, the school is taking steps to correct the violations and bring the school into compliance.

<b>On-site safety and health visits</b>	<b>669</b>
<b>Hazards identified</b>	<b>603</b>
<b>Training sessions conducted</b>	<b>9</b>
<b>Workers trained</b>	<b>181</b>
<b>Licenses issued</b>	<b>3532</b>

**Division of Occupational Safety’s (DOS) Lead Program**

The goal of the DOS’s Lead Program is to reduce the incidence and severity of lead exposures for the Commonwealth’s workers and other members of the general public. DOS accomplishes this goal by administering and enforcing standards for renovation, repair and painting carried out in older homes and child-occupied facilities that may contain lead paint as well as for deleading operations.

On July 9, 2010, DOS’s amendments to its Deleading and Renovation regulation became effective. The amended regulation includes provisions that regulate any renovation, repair and painting work conducted for a fee that disturbs more than threshold quantities of painted surfaces in pre-1978 residences and facilities where children of less than six years of age spend significant amounts of time, such as kindergartens and day care facilities. These requirements include: (1) requirements for the lead testing of paint that would be disturbed by such work; (2) requirements that the work be carried out by a licensed contractor or entity (or an entity that has received a licensing waiver under the state standard); (3) requirements that the work be overseen by a supervisor who has received one day of lead safety training from an approved training provider; (4) compliance with specified work practices, including requirements for covering horizontal surfaces within the work area, and worksite cleanup; and (5) certain notification and recordkeeping requirements.

Many of the construction trades are potentially affected by this regulation: renovators, electricians, plumbers, HVAC contractors, painters and maintenance staff and more. DOS conservatively estimates that there are approximately 30,000 contractors in Massachusetts who perform work that is subject to the DOS regulation which requires that workers be certified as lead-safe renovator supervisors and companies be licensed. Since the implementation date of July 9, DOS received almost 1,000 Lead-Safe Renovation Contractor License and License Waiver applications by the close of calendar year 2010.

DOS has been providing outreach to contractor and other trade organizations, property owners/maintenance staff, real estate associations and local building and health departments to raise awareness about the new regulations. DOS has responded to many complaints regarding contractors not performing work in a safe manner and not being trained or licensed. In most cases, DOS provided the necessary information for the contractor to perform the work safely, and provided them with the application to apply for a license. In some cases, DOS found more egregious violations at the worksite and had to stop the work until the contractor took the necessary steps to clean up the site and conduct the work properly.

In 2010, DOS issued two civil penalties to two different contractors for violations of its Lead-Safe Renovation regulations. In both cases, the contractors were not licensed, had not cleaned up properly and left behind significant amounts of lead paint chips and dust. In the first case, the contractor paid the civil penalty. The second case is currently under appeal.

<b>On-site safety and health visits</b>	<b>242</b>
<b>Hazards identified</b>	<b>89</b>
<b>Training sessions conducted</b>	<b>4</b>
<b>Workers trained</b>	<b>98</b>
<b>Licenses issued</b>	<b>1566</b>

**Division of Occupational Safety’s (DOS) Civil Administrative Penalties**

DOS promulgated its Civil Administrative Penalties Regulations in 2009 and began enforcement of the regulations in the fall of that year. 2010 was the first full year of assessing civil penalties. As indicated by the following chart, the Employment Agencies Program generated the most warnings and citations, and the greatest amount of fines. As DOS moves forward in enforcing its amended lead regulations, DOS anticipates 2011 will see an increase in the number of lead-related civil penalties being assessed.

2010	Lead Program	Asbestos Program	EA Program	Total
<b>Written Warnings</b>	<b>9</b>	<b>1</b>	<b>39</b>	<b>49</b>
<b>Civil Citation &amp; Penalty</b>	<b>2</b>	<b>3</b>	<b>12</b>	<b>17</b>
<b>Cessation Orders</b>	<b>1</b>	<b>0</b>	<b>4</b>	<b>5</b>
<b>Hearings</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>
<b>License Actions</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>4</b>
<b>Civil Fines Assessed</b>	<b>\$1,500</b>	<b>\$3,650</b>	<b>\$7,500</b>	<b>\$12,650</b>
<b>Civil Fines Collected</b>	<b>\$300</b>	<b>\$2,750</b>	<b>\$2,400</b>	<b>\$5,450</b>

**Occupational Lead-Poisoning Registry**

In 1990 the Massachusetts Legislature passed the Occupational Lead Poisoning Registry Law (M.G.L. Chapter 200). The Registry was created because occupational exposure to lead is still a major cause of disease. Excessive exposure can cause serious damage to the blood, kidneys and nervous and reproductive systems. Occupational lead poisoning is still quite common in the United States, despite the availability of effective control technologies and the existence of state and federal regulations designed to limit exposure. The Occupational Lead Poisoning Registry tracks elevated blood lead levels, provides educational counseling and guidance to workers, and through its medical consultant, offers advice to physicians on the medical management of lead poisoning.

During 2010, the program made presentations to five community health centers on topics including the health effects and sources of lead, medical guidelines and the OSHA lead standard. In addition to health center presentations, program staff gave similar presentations to contractors and consultants at two workshops sponsored by the DOS’s Onsite Consultation Program and a presentation on the relationship between toxics use reduction and blood lead levels in Massachusetts at the annual ABLES/CSTE meeting. Lastly, program staff helped to organize a public performance of a play entitled, “They Don’t Tell You Anything” and lead an interactive discussion dealing with lead exposure of day laborers.

Blood Lead Level	Reports	Individual (Peak Level)	New Cases
25 – 39	188	126	101
40 – 49	56	30	23
50 – 59	16	13	7
60+	6	5	5

**Massachusetts Workplace Safety and Health Program (WSHP)**

WSHP conducts free investigations of workplace health hazards upon request of a public sector employer, employee, union, board of health or upon referral by another agency or health professional. Although the focus of the program is primarily public sector workplaces, the program also provides

assistance and technical information to private sector workplaces when issues not specifically covered by OSHA are involved (such as indoor air quality). Investigations can be done in a variety of work settings ranging from schools and offices to public works garages. The investigations may include air sampling for hazardous air contaminants and evaluations of written programs. Written reports are issued after all investigations that detail any problems found and recommend solutions for controlling health hazards and improving the work environment.

During 2010, one focus of the WSHP was working with the Massachusetts Department of Environmental Protection (DEP) drinking water program on several issues that affect municipal water departments in the State. The DOS worked with DEP to modify several procedures for water fluoridation to decrease the likelihood of injury to workers. In addition, DOS helped revise DEP regulations associated with climbing water tanks to include better fall protection and confined space entry procedures. DOS continues to coordinate with the DEP to provide health and safety articles for the quarterly newsletter sent out to water departments throughout the State.

In addition to implementing Executive Order 511 for state worker safety and health, the program continues to work cooperatively with the Department of Capital Asset Management (DCAM) to train State facilities managers on various health and safety topics including Confined Space Entry, Personal Protective Equipment, Lead and Asbestos Awareness and Indoor Air Quality. DOS has provided a number of OSHA 10 hour trainings as part of MAFMA’s (MA Facilities Managers Association) newly-developed certificate program. This past year the program developed and distributed a bulletin on Aerial Lift Safety to municipalities as a response to several serious falls from aerial lifts. In addition, the program developed a bulletin on High Visibility Apparel that will be distributed to police, fire and public works departments throughout the state. The Program continues to work with the Mass Interlocal Insurance Association (MIIA) on training programs designed to improve the health and safety of municipal workers. DOS provided training through this program on topics ranging from Right to Know to Aerial Lift Safety and Bloodborne Pathogens.

<b>On-site safety and health visits</b>	<b>47</b>
<b>Hazards identified</b>	<b>513</b>
<b>Training sessions conducted</b>	<b>112</b>
<b>Workers trained</b>	<b>3143</b>
<b>Cases resolved (both phone and investigation letter)</b>	<b>90</b>

### Occupational Safety and Health Statistics

DOS administers the Annual Survey of Occupational Injuries (SOII) and Illnesses for all private-sector and public-sector industries, trades, and occupations. This survey, conducted in partnership with the U.S. Department of Labor, Bureau of Labor Statistics, provides detailed information on injuries and illnesses in the workplace. Selected employer units receive a pre-notification package in the December prior to the calendar year in which they are required to maintain records. The Division also conducts the OSHA Data Initiative every spring/summer, collecting workplace injury and illness data from thousands of private sector establishments in Massachusetts. DOS has implemented the collection of public sector injury and illness data through the SOII by working with the state’s Human Resources Division (HRD) on its e-Services system, to facilitate state agency reporting through existing systems with which they are already familiar.

<b>Injury and illness employer surveys completed</b>	<b>4689</b>
<b>Injury and illness worker cases completed/coded</b>	<b>7785</b>

**Mine Safety and Health Program**

The Mine Safety and Health Program is administered in Massachusetts by DOS in cooperation with the U.S. Department of Labor, Mine Safety and Health Administration. Under 30 CFR Part 56, safety and health standards are required to be in place for all surface metal/non-metal mines throughout the nation. Initial and annual refresher training of all mining employees and contractors is required as well (30 CFR Part 46). These requirements apply to the approximately 150 mining operations in Massachusetts. The mining operations include sand and gravel pits, crushed stone operations, and quarries; the contractors include electricians, drillers and blasters. Efforts by DOS are focused on preventing injuries and illnesses by conducting site inspections at the mines and providing annual refresher training for mining employees and contractors.

<b>On-site safety and health visits</b>	<b>24</b>
<b>Hazards identified</b>	<b>24</b>
<b>Training sessions conducted</b>	<b>13</b>
<b>Workers trained</b>	<b>707</b>

**Occupational Hygiene Laboratory**

The Industrial Hygiene Laboratory provides analytical and technical support to engineers and inspectors within the department, unions, local boards of health and state agencies. Samples are collected from workplaces throughout the Commonwealth and evaluated to assist in the identification and subsequent control and elimination of hazards to the workers.

Lab qualifications:

- *Industrial Hygiene* accreditation by the American Industrial Hygiene Association (AIHA-Lab ID #100061) since 1990. (Metals, Organic Solvents, Asbestos PLM)
- *Environmental Lead* accreditation by the American Industrial Hygiene Association. (paint chips, dust wipes, air, soil)
- *OSHA-approved blood lead laboratory* through participation in the College of American Pathologist (CAP) Blood Lead Survey Program
- Participant in the Wisconsin State Laboratory of Hygiene *Blood Lead Proficiency Testing Program*
- Participant in the Centers for Disease Control (CDC) sponsored *Blood Lead Laboratory Reference System* (BLLRS) instituted to establish and maintain an accuracy base for blood lead levels

<b>Laboratory samples, analyses and controls processed</b>	<b>3494</b>
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**AGENCY FUNDING AND REVENUE GENERATION**

During FY2011 (July 1, 2010-June 30, 2011), DOS was funded in the amount of \$4,327,054 through grants, retained revenue and state appropriations. It carried out its mission and created new incentives with approximately 48 employees, 4 of whom are part-time. Since July 1, 2010, DOS

backfilled just one vacant position—a Research Analyst in our Occupational Safety and Health Statistics Program.

<b>FY11 DOS Funding</b>	
State Appropriation	\$1,750,652
Retained Revenue	\$452,850
Mine Safety and Health Administration (MSHA) Training	\$65,651
Bureau of Labor Statistics	\$73,345
Adult Blood Lead Levels Surveillance	\$19,500
TSCA Asbestos Licensing and Monitoring	\$108,000
TSCA Lead Licensing and Monitoring	\$360,000
OSHA Data Initiative	\$86,707
OSHA Onsite Consultation	\$1,413,000
<b>Total Grant Funding</b>	<b>\$2,123,552</b>
<b>Total State Funding</b>	<b>\$2,203,502</b>
<b>TOTAL FUNDING</b>	<b>\$4,327,054</b>

<b>Calendar Year 2010 (January 1, 2010-December 31, 2010) Revenue Collected by DOS</b>	
Blood Lead Testing	\$1,300
Surcharges	\$276,350
Applications for Minimum Wage Waivers for Day Camps	\$10,700
Applications for Minimum Wage Waivers for Special Wage Permits	\$5,900
Applications for 120 day Seasonal Permit for Overtime Exemption	\$10,200
Applications for Employee Uniform Deposits and Waivers	\$200.00
Civil Fines	\$7,150
Applications for Employment Agency Licensure & Registration	\$334,830
Applications for Lead Discipline Licenses (including RRP)	\$189,940
Applications for Asbestos Discipline Licenses	\$1,005,686
Miscellaneous	\$3,065
<b>TOTAL</b>	<b>\$1,845,321</b>

### DOS Application Fees 2010

TITLE	FEE	SURCHARGE <sup>1</sup>	SURCHARGE <sup>2</sup>	TOTAL
<b>Employment Agencies</b>				
Licensed Employment Agency (one to four counselors)	\$250		\$50	<b>\$300 per year</b>
Licensed Employment Agency (five or more counselors)	\$500		\$50	<b>\$550 per year</b>
Registered Employment Agency (main office)	\$250		\$50	<b>\$300 per year</b>
Registered Employment Agency (each branch office)	\$130		\$50	<b>\$180 per year</b>

<b>Right to Know Program</b>				
Third Party Instructor/Consultant Registration	\$20			annual
Training Seminar Attendance Fee	\$50			per person
<b>Asbestos Abatement</b>				
Asbestos Abatement Contractor	\$2,000		\$50	<b>\$2,050 annual</b>
<b>Asbestos Abatement Certifications</b>				
Supervisor	\$200		\$25	<b>\$225 annual</b>
Management Planner <sup>3</sup>	\$600		\$25	<b>\$625 annual</b>
Inspector <sup>4</sup>	\$600		\$25	<b>\$625 annual</b>
Project Designer	\$600		\$25	<b>\$625 annual</b>
Project Monitor	\$600		\$25	<b>\$625 annual</b>
Analytical Services	\$700		\$50	<b>\$750 annual</b>
Training Provider	\$1,700		\$50	<b>\$1,750 annual</b>
Asbestos Abatement Worker License	\$50		\$25	<b>\$75 annual</b>
Asbestos Abatement Duplicate License	\$20		\$25	<b>\$45 per License</b>
Asbestos Abatement Duplicate Certification	\$20		\$25	<b>\$45 per Certification</b>
<b>Lead Abatement</b>				
Deleader Contractor License	\$500	\$25	\$50	<b>\$575 annual</b>
Deleader Supervisor License	\$100	\$25	\$25	<b>\$150 annual</b>
Deleader Certification-Training Provider	\$1,700	\$25	\$50	<b>\$1,775 annual</b>
Deleader Duplicate License	\$20		\$25	<b>\$45 annual</b>
Deleader Worker License		\$25	\$25	<b>\$50 annual</b>
Lead-Safe Renovator Contractor License	\$100	\$25	\$250	<b>\$375 every 5 years</b> (includes the \$50 surcharge for the 2 <sup>nd</sup> through 5 <sup>th</sup> years of the license)
Lead-Safe Renovator Training Provider	\$1,700	\$25	\$50	<b>\$1,775 (fee waived for State, federally recognized Indian Tribe, local government or non-profit organization; \$75 surcharge still applies)</b>
Lead-Safe Renovator Duplicate License	\$20	\$25		<b>\$45 annual</b>
Blood Lead Test	\$20			<b>per test</b>
<b>Minimum Wage Program</b>				
Seasonal Wage Certificate for Residential and Day Camps	\$100			<b>per person</b>
Special Wage Permit for Sheltered Workshops, Employees with Disabilities in Community Employment, and Student Waivers	\$100			<b>per year</b>
120 Days Seasonal Permits for Overtime Exemptions	\$200			<b>per season</b>
Approval for Employee Uniform Deposits and Waivers	\$100			<b>per year</b>

<sup>1</sup> All persons licensed to perform deleading services are required to pay a \$25.00 surcharge in accordance with section 22 of Chapter 482 of the Acts of 1993, which reads in relevant part: "Amounts raised by said surcharges shall be deposited into a retained revenue account hereby established for the department of public health, for the production and dissemination of educational materials pertaining to lead paint poisoning prevention and treatment issues, as required by section one hundred and ninety-two B and section one hundred and ninety-seven A of chapter one hundred and eleven of the General Laws, and for training of lead paint inspectors as well as homeowner training for those aspects of lead paint abatement or containment which the department, through regulations, authorizes homeowners to perform themselves.

The department shall use amounts in said retained revenue account for the aforesaid purposes and for no other, without the need for further appropriation.”

<sup>2</sup>In accordance with Section 212 of chapter 184 of the Acts of 2002, these surcharges shall be collected for the purpose of conducting “occupational safety and health inspections, assessment and other operations as required by [the statutes governing lead abatement, asbestos abatement, and the regulation of employment agencies].”

<sup>3</sup> A person applying for certification as an Asbestos Inspector and as an Asbestos Management Planner at the same time need pay only one fee (including surcharges).

<sup>4</sup> See footnote 3.

**NOTE:** All fees have been established by the Executive Office for Administration and Finance pursuant to 801 CMR 4.02, the Massachusetts regulation governing Fees, Licenses, Permits and Services to be Charged by State Agencies.

**DOS FTE COUNT FROM JUNE 2005-DECEMBER 2010 (FY05-FY11)**

<b>FY</b>	<b>Date</b>	<b>FTE</b>
FY11	12/18/10	44.8
FY11	9/25/10	44.2
FY10	6/19/10	47.2
FY10	3/27/10	49.0
FY10	12/19/09	49.0
FY10	9/26/09	47.7
FY09	6/20/09	51.7
FY09	3/28/09	51.1
FY09	12/20/08	52.4
FY09	9/27/08	53.0
FY09	7/5/08	51.0
FY08	6/21/08	51.8
FY08	3/29/08	52.3
FY08	12/22/07	52.3
FY08	9/29/07	52.9
FY07	6/23/07	52.9
FY06	6/24/06	52.4
FY05	6/25/05	53.1

**DOS EMPLOYEES DURING CALENDAR YEAR 2010**

***Administration***

Laura Marlin, Commissioner  
 Heather Rowe, Acting Commissioner / Deputy Commissioner

Patricia DeAngelis, Acting Deputy Commissioner, Legal Counsel  
 Mitchell Goldstein, General Counsel

Tina Fontaine, Personnel Officer  
 Carol McQuilken, Business Management Specialist  
 Patricia Washington, Business Management Specialist

***Prevailing and Minimum Wage***

Kathleen Coyne, Program Coordinator  
 Stephen Falcone, Administrative Assistant

***Licensing and Regulation***

Ernest Kelley, Manager  
 James Dello Russo, Program Coordinator  
 Ozelle Rivera, Administrative Assistant  
 Barbara Shultze, Administrative Assistant

***Investigations and Enforcement***

Brian Wong, Chief  
 Jennifer Callari, Compliance Officer  
 Avelina Correia, Industrial Safety & Health Inspector  
 Gary Gaspar, Industrial Safety & Health Inspector  
 Jennifer Gearing, Industrial Safety & Health Inspector  
 Rebecca LaPlume, Compliance Officer  
 Michelle O’Leary, Industrial Safety & Health Inspector  
 Garry Pharris, Industrial Safety & Health Inspector

***Safety and Health Programs***

Robert Kenrick, Manager  
 Imani Bishop, Research Analyst  
 Jean Cho, Industrial Safety & Health Inspector  
 Stephen Dagle, Industrial Safety & Health Inspector  
 Donald Delikat, Environmental Engineer  
 Neal Doherty, Industrial Safety & Health Inspector  
 Mary Dozois, Environmental Engineer  
 Kathryn Flannery, Environmental Engineer  
 Maxine Garbo, Environmental Engineer  
 Debra Gursha, Environmental Engineer  
 Hilary Hackbart, Environmental Engineer  
 Susan Humphreys, Clerk  
 Salvatore Insogna, Environmental Engineer  
 Michael Kissel, Environmental Engineer  
 Frank Kramarz, Environmental Engineer  
 Marvin Lewiton, Environmental Engineer  
 Jon Lifvergren, Industrial Safety & Health Inspector  
 Albert Loftin, Industrial Safety & Health Inspector

Jean Manoli, Environmental Engineer  
Janet McKenna, Environmental Engineer  
Alexander Murphy, Industrial Safety & Health Inspector  
Robert Nicotera, Environmental Engineer  
Nancy Pearce, Environmental Engineer  
Arthur Pennesi, Industrial Safety & Health Inspector  
Paul Petrowski, Industrial Safety & Health Inspector  
Richard Rabin, Environmental Engineer  
Sean Ross, Research Analyst  
Patricia Sutliff, Environmental Engineer  
Joel Weddig, Environmental Engineer