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OCCUPATIONAL HEALTH AND SAFETY ACTIVITITIES OF PORT ELIZABETH'S INTEGRATED DEPARTMENT OF LABOUR INSPECTORATE IN 2005

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A dissertation submitted in fulfilment of the requirements for the
Master of Public Health: Occupational Hygiene
In the Faculty of Health Sciences at the
University of Witwatersrand

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DECLARATION

I, **Bulelwa Daniswa Denise Huna** declare that the thesis "OCCUPATIONAL HEALTH AND SAFETY ACTIVITITIES OF PORT ELIZABETH'S INTEGRATED DEPARTMENT OF LABOUR INSPECTORATE" is my original work and has never been submitted by me or anyone else at any university for a degree. All the sources that I have used are indicated by means of references.

_____ _____

Researcher's signature Date

ABSTRACT

This study was aimed at describing the nature of Occupational Health and Safety (OHS) inspections and blitzes conducted in the Port Elizabeth Integrated Department of Labour (DoL) in 2005, the nature and number of prohibitions, contraventions, as well as improvement notices issued. The objectives were to determine the number of OHS inspections conducted in the Port Elizabeth Labour Centre (PELC) in 2005; to describe the nature of the inspections and the type of industries inspected in the PELC in 2005; and to determine the frequency and nature of prohibitions, contraventions and improvement notices issued. The data was obtained from the PELC.

The results of the study revealed that the inspectorate conducted a total of 1258 and this exceeded the target of 800 OHS inspections for the PELC. However, it is questionable how this target was developed. The target is not representative and does not give an overall picture of conditions in the workplace. The results indicated that inspectors were not competent in conducting boiler inspections as well on Major Hazardous Installation (MHI) since none of these inspections were conducted. On the inception of the OHS task team, there was a sudden increase in inspections conducted in the construction industry in October 2005 as well as the rate of finalisation of incidents in November 2005 and this was attributed to the fact that they were not conducting inspections on other labour laws and were only focusing on OHS.

An assessment of the inspectors' inspection checklists revealed that the inspections were being reduced to just a yes or no tick exercise, with no recommendation on appropriate action to be taken by the employer. It became evident that the inception of a special team in September 2005 contributed to an increased number of OHS inspections, since they were only focusing on OHS issues. This team ensured that in November 2005 there were 43 incidents finalised as compared to the 101 finalised over 11 months. They also ensured that a total of 258 OHS inspections were conducted from September 2005 to December 2005. Although these inspectors were not fully competent in addressing health and safety issues their momentary focus on OHS activities ensured that they made a difference in the rate of finalisation of incidents. However, when some of the cases were taken to

court no successful prosecution could be obtained because there are no OHS focused prosecutors, which have a clear understanding of Act.

Discussions with the inspectors revealed that there was a lack of morale and loss of interest in their work, thus causing them not to put in much effort. These discussions revealed that this lack of morale was caused by the frustrations they often experienced in the execution of their duties due to lack of training as well as lack of cooperation from the employers. Furthermore, the inspectors revealed that the great number of resignations from inspectors who were leaving for greener pastures left them with a lot of work with no financial incentive. It also became apparent that there was no objective strategy underlying the number of inspections required relative to the purpose of the inspections, taking into account the nature and complexity of the industry that is to be inspected. The failure of the Service Delivery Unit to give a direction on how qualitative inspections should be measured demoralised them because the focus was only on the quantity (240 inspections per annum) of inspections that are to be conducted by each inspector.

It is recommended that training, which should include a proper career path be conducted for inspectors to improve the inspectors' capability and to motivate them. Strong relations with the South African Police Services and the Department of Justice should be promoted to ensure effectiveness of service delivery. These relations will ensure that inspectors are readily assisted by the police when they deal with uncooperative employers. Training of prosecutors will ensure that they understand the OHSA and its implementation and therefore effectively defend cases that are taken to court. The targets set for inspections should be scientifically supported and take into account the nature and complexity of the production processes. Lastly, revision of salary packages should be looked into to ensure retention of competent staff.

The above recommendations will only be effective if the Business Unit Manager and the Regional Manager address them through the National Department of Labour since their implementation will affect all inspectors.

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GLOSSARY

Approved Inspection Authority

An inspection authority approved by the chief inspector to conduct occupational hygiene monitoring.

Backlog

Any case that is older than 90 days. This does not include cases that have been submitted to the Labour Court or Magistrates Court

Blitzes

Intensive sector specific inspections conducted by the Labour Inspectorate targeting a specific sector, usually from a directive from the National Department of Labour or Provincial Department of Labour.

Contravention notices

Legal document served by the Labour Inspectorate, giving an employer 60 days to rectify the identified non-compliance according to the regulations promulgated in terms of Section 43 of the Occupational Health and Safety Act.

Improvement notices

Legal document served by the Labour Inspectorate, giving an employer 60 days to rectify the identified non compliance not addressed by the regulations promulgated in the Occupational Health and Safety Act.

Level 1 inspection

An inspection conducted using the basic integrated inspection checklist addressing all labour legislation requirements, and this can be a proactive or reactive inspection (refer to definition for proactive and reactive).

Main Registry

An office whereby all company files are filed and supervised by a clerk

Normal inspection

Routine inspection conducted by the Labour Inspectorate after two weeks the employer has been notified of the visit.

Occupational Health and Safety Directive No. 006

Directive issued by the Chief Inspector on the manner in which notices are to be written by an inspector.

Organised Labour

Different trade unions that are representing the rights of the employees.

Proactive inspections

Inspections initiated by the Labour Inspectorate without receiving a complaint from a client.

Proactive inspection register

A register used to record all proactive inspections conducted by the Labour Inspectors.

Prohibition notices

Legal document served by the Labour Inspectorate to immediately stop/ cease any activity causing imminent danger to employees.

Reactive inspections

Inspections conducted in response to an incident in the workplace or a complaint from a client.

Service Delivery

Unit in the National Department of Labour that coordinates all activities of the inspectorate including setting of target inspections.

Targeted inspections

Inspections initiated by Labour Inspectorate targeting specific sectors that are not complying with the requirements of the Occupational Health and Safety Act.

Team Leader

An inspector at supervisory level responsible for overseeing the activities of other inspectors reporting to him or her.

Work plan

A standard set by service delivery branch to give direction to provinces in the manner in which departmental work must be conducted.

ABREVIATIONS

AIA

Approved Inspection Authority

BCEA

Basic Conditions of Employment Act, Act No. 75 of 1997

CCMA

Commission for Conciliation Mediation and Arbitration

COIDA

Compensation for Occupational Injuries and Diseases Act, 1993

CR

Construction Regulations

DoL

South African Department of Labour

DMR

Driven Machinery Regulations

DPSA

Department of Public Service and Administration

ESDS

Employment and Skills Development Services

EEA

Employment Equity Act, 1998

FR

Facilities Regulations

GAR

General Administrative Regulations

GMR

General Machinery Regulations

GSR

General Safety Regulations

HBA

Hazardous Biological Agents

HCSR

Hazardous Chemical Substances Regulations

IBS

Integrated Beneficiary Services

IIES

Integrated Inspection and Enforcement Services

ILO

International Labour Organization

LMI & P

Labour Market Information and Statistics and Planning Services

LRA

Labour Relation Act, 1995

MSS

Management Support Services (MSS).

NIHL

Noise Induced Hearing Loss

OHS

Occupational Health and Safety

OHS legislation

Occupational Health and Safety Legislation

OHSA

Occupational Health and Safety Act, Act No. 85 of 1993

PELC

Port Elizabeth Labour Centre

SDA

Skills Development Act, 1998

SDLA

Skills Development Levies Act, 1999

SAPS

South African Police Services

UIA

Unemployment Insurance Act, 2001

UIF

Unemployment Insurance Fund

VUP

Vessels Under Pressure

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CHAPTER ONE

1. Introduction

1.1 Background and Literature Review

The Department of Labour (DoL) is meant to strive for a labour market that is conducive to economic growth, investment and employment creation, and which is characterised by rising skills, equity, sound labour relations, respect for employment standards and worker rights. To effectively ensure this, service delivery operations are structured into five Business Units which are: -

- Integrated Inspection and Enforcement Services (IIES);
- Employment and Skills Development Services (ESDS);
- Integrated Beneficiary Services (IBS);
- Labour Market Information and Statistics and Planning Services (LMI + P); and
- Management Support Services (MSS).

DoL has an integrated inspection and enforcement services unit whose role is to advocate, inspect and enforce labour legislation. The IIES Business Unit plays a central role in the implementation and enforcement of all or certain aspects of the following legislation: -

- Basic Conditions of Employment Act, Act No. 75 of 1997 (BCEA);
- Labour Relation Act, 1995 (LRA);
- Employment Equity Act, 1998 (EEA);
- Occupational Health and Safety Act, Act No. 85 of 1993 (OHSA);
- Skills Development Act, 1998 (SDA);
- Skills Development Levies Act, 1999 (SDLA);
- Unemployment Insurance Act, 2001 (UIA); and
- Compensation for Occupational Injuries and Diseases Act, 1993 (COIDA).

The inspectors monitor compliance with legislation using the inspection checklist. The monitoring excludes LRA and SDLA. LRA is enforced by the Commission for Conciliation Mediation and Arbitration (CCMA), and the inspectors only play an advisory role. The SDLA is paid through the South African Revenue Services (SARS). The Occupational Health and Safety (OHS) legislative framework consists of the OHSA and 20 sets of regulations. The main OHS functions of the inspectorate are to: -

- Ensure compliance with the legal requirements of the OHSA;
- Enforcement through the issuing of prohibition, contravention and improvement notices;
- Conduct advocacy information sessions; and
- Providing statutory services to the clients i.e. registration of lists and boilers, process of applications for exemptions as well as any statutory services required by the OHSA.

The promulgation of the Occupational Health and Safety Act in 1993 [1] was an era that ensured that workers and their representatives, the trade unions, had now achieved greater participation in matters regarding their health and safety. This participation culminated in basic rights at the workplace, versus the right to participate in matters concerning their health and safety, the right to information with respect to their health and safety and the right to training in this regard.

The inspectors that were conducting inspections in terms of the OHSA were from various disciplines such as Electrical Engineering, Mechanical Engineering, Environmental Health (Occupational health and hygiene), Analytical Chemistry, as well as Civil Engineering. These inspectors were now faced with the challenge of learning and working with other labour related legislations, although they still had to conduct specialised tasks in terms of the OHSA. This challenge meant that the inspectors had to accept that change would be necessary as a way forward.

Change [2] is an integral part of an organisational landscape. Organisations

wanting to adapt to the changing conditions in the business world have to be leaner, faster and more flexible, and must be able to adapt to changing circumstances in order to survive and thrive. The environment in which the organisation operates constantly forces it to change. This could be to its advantage and the advantage of the employees as well. Organisational change is not about the organisation alone, [2-3] it also affects the individual employee. The change process is fundamentally about feelings. It is most often encountered at the personal level. Organisational change, in some cases, has negatively affected employee loyalty, trust and motivation. The introduction of the integration strategy was part of the organisational change for DoL. This negatively affected the morale of the OHS inspectors, and resulted in an exodus which continued over the period of years as industry was getting an opportunity to poach these inspectors, offering them more remuneration and career prospects. In a general survey on labour inspection, [4] it was noted that the sometimes very low levels of remuneration of labour inspectors and lack of career prospects, caused inspectors to leave the profession in favour of more prestigious ones.

Trust and loyalty are essential for organisational transformation. Organisations have to accept that fundamental change is of a permanent nature and it needs to take place at all organisational levels. This means it must take place at both individual and organisational levels. It also needs to take place at a national level. [4] One often wonders how this integration process was carried out within DoL, and questions arise: Is integration for DoL provincial offices and labour centres only? Why does DoL head office not offer an integrated service? How is this impacting on the affected inspectors? When the activities of the different directorates in head office are assessed, it is often asked whether they do consult each other in terms of the activities that need to be cascaded to provinces and labour centres.

For transformation to take place, [5] the employees' thought processes, actions and performance should be gradually influenced to change towards the organisation's mission, purpose and values. Therefore, it is imperative that the new vision of the organisation should be communicated to the employees, and

they must be informed and educated about the impending change and the necessity for it. Essential to this is trust. If the employees trust the leadership of the organisation, each and every employee will be aware of their responsibilities to clients. Improved performance and behaviour should be encouraged.

Prior to the adoption and implementation of an integrated service, the OHS inspectorate were only responsible for the enforcement of the OHSA. To keep abreast of the changes, in 1999 DoL introduced the concept of an integrated service for their clients; meaning that one labour inspector visiting a company has to address all the labour legislations enforced by DoL. This seemed to be effective in the spirit of *Batho Pele Principle*, meaning *People First* in Sotho, due to the maximising and efficient utilisation of the limited resources, both financial and human to ensure that workers' health is not compromised by their work

Labour centres and provinces are expected to offer a service in a way that is integrated to the client. Inspectors are expected to offer an integrated service up to a certain level. Not all inspectors have to be specialists on all aspects yet all should have a basic understanding so as to offer an integrated service as and when required. Most inspections are undertaken by inspectors on entry level with the option of calling a specialist for advice and support within IIES when required. This assistance may be available centrally or regionally depending on the size and capacity of the province.

Although the integration of DoL services seems to be a good concept on paper; it should be borne in mind that, prior to its introduction, DoL was complemented by inspectors from various backgrounds. There were inspectors that were specifically trained to address OHS related matters in the various industries, while others were trained to enforce other legislations administered by DoL. The inspectors that were initially addressing only OHS related matters had academic qualifications related to their OHS activities and were further trained through intensive short courses provided by DoL through accredited service providers. These ensured the development of their skills, knowledge and experience in assessing workplaces and provide comprehensive feedback and advice to employers and employees

thus ensuring the continued improvement in health and safety.

The world of work in South Africa [6] is characterised by organisations focused on improving performance and lowering costs, whilst employees are seeking fulfilment in their careers and lives. Just as the concept of balance is encoded in the human DNA, with the two opposite strands supporting the building blocks in between, so is the concept of balance between human and profit motive vital in creating the perfect structure for human capital management. In between these two motivations lie the essential elements necessary for a better relationship between employer and employee, the balance which creates value for the organisation and its stakeholders. The integration process has somehow shifted this balance in DoL and took away this skill, as the remaining OHS inspectors have to focus on other legislations while providing on the job training for non-OHS inspectors which are struggling to enforce the OHS legislation.

Training is an integral component [6] in any organisations that thrives on success. No person and no organisation can proper without sustained, proactive learning process that ensures that opportunities that are rolling down towards the tube of time are met. In the context of an organization development policy, [7] training will probably be the single most important tool at the disposal of labour inspection managers to improve the performance of their inspectors and support staff and, in consequence, that of their organisation. Training is the instrument of choice to bring about change in an organization. It is the main management strategy used to transfer knowledge, develop skills, change attitudes, and impart a set of organisational and societal values. In order to be effective, however, training must be based on a clear comprehensive training policy. The type of training [8] depends on the functions that the inspectors are to carry out. If these are specialised, it may be comparatively easy to provide it as per the activities of the inspectors. The impact of integration is indicated through the accumulation of incidents that are not investigated. Due to lack of comprehensive training and mentoring for newly appointed inspectors that are OHS-oriented, there is varying degree of knowledge on the entry level staff, and this has an impact on the quality of work being performed. It is a fact that it takes a minimum of 3 years to

capacitate an OHS inspector and be confident that the person will perform the work effectively. This lack of coordination in training of staff is causing an unnecessary burden for OHS-oriented inspectors. While they are busy coaching the new inspectors on OHS activities, other labour related cases are piling up. The same OHS inspector has to conduct investigations on BCEA which has its own sectoral determinations which are industry specific, UIF as well as delivering wage returns for COIDA and advise employers on other labour related issues. Whilst the inspectors were busy calculating outstanding UIF contributions and other outstanding monies due to complainants, the rate of unattended incidents and complaints was increasing, thus causing the OHS backlog. This meant that employees were continually exposed to hazardous conditions in their workplaces and there was no recourse for them as the inspector will only be able to attend to the incident after a year.

Effective and efficient labour inspection [9] has become an essential part of any government and of any successful economy. Labour inspectors have a pivotal role in promoting compliance with International Labour Organisation (ILO) core labour standards, and giving advice and information about how these standards can be met in practice. ILO [10] also firmly believes that work-related accidents and ill-health can be prevented and that action is needed at an international, regional, national and enterprise level to achieve this. Part of the answer lies in more or better education and training, with occupational safety and health better integrated within training courses. This is a big challenge for the labour inspectorate, because rapid change and innovation in the working environment continues to pose major problems as they are struggling with this concept of integration.

Whilst struggling with this concept, there is nevertheless, a marked tendency for hygiene, welfare, and occupational health and safety, to predominate. Over recent decades, advances in scientific, psychological and technical knowledge have revealed the impact of working conditions on workers, physical and mental health and consequently, on the productivity of enterprises. These technological advances require labour inspectors to be specialist thus ensuring that workers are

effectively protected in their respective workplaces. [4]

Integrated services [11-13] have also been to promote preventive policies through a culture of sharing expertise, specialist advice and by targeting effort where it is most needed. These services are to ensure the efficient and effective delivery of OHS services through a nationally integrated inspection service that is underpinned by collaborative prevention strategies and policies that will ensure a healthy and safe workplace for every South African.
Inspections form the core activity of IIES and it is crucial to consider which methods of intervention are most effective. Such an approach will vary widely depending on the size of the business and the nature of their risks. Inspections [9] should never be just a "checklist activity", wherein the inspector ticks off from the list whether the employer has complied or has not complied with the applicable legislation. It is much more about assessing the ability of the company to manage its own compliance with the legislation when the inspector is not there. Clearly if risks of non-compliance especially with the OHSA are more serious, the inspector has to be more careful to ensure that the business will comply with all the requirements stipulated in terms of OHSA.

Inspectors spend much of their time advocating to employers and employees. To do so most effectively, they need to have a considerable technical and legal knowledge. They [14] have sufficient powers to get the information they require for inspections and investigations of incidents, to enable them to make sound decisions about present and future risks, and what remedial action needs to be taken. They have also been empowered by the Minister of Labour in terms of section 30 of the OHSA to serve prohibition notices in cases of imminent danger; contravention notices in cases of non-compliance with the applicable regulations promulgated in terms of section 43 of the OHSA; and improvement notices if the non-compliance is not addresses by the regulations.

1.2 Motivation for the study

Several blitzes have been conducted on both the provincial and head office directives in addition to normal inspections conducted by the labour inspectorate in 2004, however there has been no comprehensive feedback to the inspectorate on the frequency and type of non-compliances identified through these inspections to indicate where they need to develop their skills in improving service delivery to the clients. This study will enable the Eastern Cape Provincial Management to understand the nature of occupational health and safety services provided by the integrated inspectorate to industry, and consequently develop an intensive internal and external training and mentoring programme that would assist the newly appointed OHS oriented inspectors as well as the non-OHS orientated inspectorate in further improving their skills in such inspections.

This study will also enable the inspectorate to understand their role in delivering an integrated service, and ensure that both the specialist and non-specialist are able to complement each other when delivering service to clients. A literature review was conducted and this revealed that there were no publications on the subject.

1.3 Aim and objectives of the study

The aim of the study is to describe the nature of OHS inspections and blitzes conducted in the Port Elizabeth Integrated DoL in 2005, the nature and number of prohibitions, contraventions, as well as improvement notices issued. The objectives are:

- To determine the number of OHS inspections conducted in the Port Elizabeth Labour Centre (PELC) in 2005;
- To describe the nature of the inspection and the type of industry and size of enterprise inspected in the PELC in 2005; and
- To determine the frequency and nature of prohibitions, contraventions and improvement notices issued.

CHAPTER TWO

2. Materials and methods

This chapter gives an outline of the research methodology used. The research aim and objectives, sampling method, data gathering instrument, and data analysis are discussed in more details. It further takes into account the limitations of the research, as well as the challenges encountered during data collection and when the records available at the PELC were reviewed. An excel data capturing sheet has been designed and used for the purpose of this research.

2.1 Research methodology

2.1.1 Study design

A descriptive study was used to review 2005 records of the PELC. This study design was chosen in order to identify and provide a comprehensive picture of the OHS services rendered in 2005 by the OHS and non – OHS orientated inspectorate. It identified the type of inspections conducted as well as the nature of the respective notices served. The data was obtained from the PELC.

2.1.2 Study population and sample

In 2005, the Eastern Cape Province had 16 labour centres, with the largest labour centre in the highly industrialised city of Port Elizabeth. The study population was all inspections conducted by the 17 labour inspectors and 6 Team Leaders in employment for the duration of 2005 at the PELC. All available records in this labour centres were assessed.

2.1.3 Standard for performance

- Every inspector is expected to conduct 240 inspections per inspector per annum, and the Team Leader 120 inspections per annum. This has been averaged for the purpose of the study to determine the minimum number of inspections per legislation that were to be conducted by each inspector. Out of the 8 pieces of legislation administered by DoL, the focus has been on 6 pieces of legislation that are being enforced through inspections, with the exclusion of Labour Relations Act, 1995 and Skills Development Levies Act, 1999.
- The minimum of 40 inspections per annum per legislation for each inspector, and 20 inspections per annum for each Team Leader will be used to measure whether inspectors have performed as expected or not.
- OHS Directive No. 006- inspector's guidance notes for writing of OHS notices.

2.1.4 Limitations of the study

- There is no set target for the minimum number of inspections that are expected per legislation. The 240 inspections per inspector are inclusive of all the pieces of legislation enforced by DoL.
- Due to cost and time constraints, not all labour centres were included in the study. The results from this study might lead to a further study including all the labour centres in the Eastern Cape.

2.1.5 Source of Data

Approximately 4800 records were available for all the inspections made (both reactive and proactive conducted) by the Eastern Cape integrated labour inspectorate in 2005. These included all the labour laws administered by DoL. From these records only the OHS activities for PELC were extracted. The data was obtained from the following sources: -

- Level 1 national inspection checklist which is covering the OHSA and regulations as well as other labour legislation; and the OHS notices issued will be attached to each checklist (See Appendix A);
- Specialised checklists used during blitzes, e.g. hazardous biological agent inspection checklist, and silicosis checklists; and
- The Integrated Occupational Safety System (IOSS) for reactive inspection. This is a program used for the registration of complaints and incidents as well as the statutory services offered to clients.

2.1.6 Data collection

Data was obtained from the 2005 activities conducted in PELC. Permission to conduct the study was obtained from Mr. Livingstone Matiwane, the Business Unit Manager of the Eastern Cape's Integrated Inspection and Enforcement Services section, and Mr. Matthew Mafani the Regional Manager of PELC. The data was in the form of checklists and the OHS notices served. A data capture sheet was used to determine the number of inspections conducted by each inspector, nature and type of notice issued for an identified non-compliance. (See Appendix B)

2.1.7 Data analysis

- Data was analysed using Microsoft Excel 2003 software and descriptive statistics was used.
- The national work plan for DoL was also used to compare the number of inspections conducted and the constraints thereof.
- The number of employers registered on the Integrated Occupational Safety System (IOSS) was also used to determine whether the number of OHS inspections were adequate in ensuring protection of employees.

2.1.8 Ethical consideration

An application for permission to conduct the study was submitted to the Wits Ethics Committee and an approval to conduct the study was granted and the Clearance Number is PC-J/467/dsk 1 4es. Permission to conduct the study was obtained from the Business Unit Manager of the Inspection and Enforcement Services at the DoL Provincial Office in Eastern Cape. Confidentiality was maintained for the data collected

2.1.9 Challenges

The following challenges were encountered during data collection:

2.1.9.1 Assistance of the research team

Due to the various unplanned public hearings that had to be prepared for on behalf of the Employment Standards Commission, the inspectors had to deliver invitations to employers, employees and unions (for these hearings). As a result of these disturbances in their daily activities, the initial research team lost interest in the project and could not continue as contemplated. Therefore new team members had to be co-opted.

2.1.9.2 Availability of files

All employer files pertaining to inspections conducted in the respective companies as well as the complaints investigated are supposed to be kept in registry; and the incident files are kept in filing cabinets in the inspection and enforcement services section filing area. During the data collection period it was discovered that not all files were returned to registry after the inspection was conducted. It was also discovered that not all incident reports were filed in the filing cabinets in the IES filing area. The research team had to follow up on these files some of which were kept by inspectors in their offices and others were

missing.

2.1.9.3 Incomplete inspection reports

Some of the Level 1 national inspection checklists as well as the specialised inspection checklists had inadequate reports pertaining to the inspection. This resulted in the researcher to spend time discussing the contents of these checklists with the inspectors concerned.

CHAPTER THREE

3. Results

This chapter summarises the data that was analysed during the research process. The data included types of inspections conducted, contravention and improvement notices served as well as the prohibition notices, and is reflected in the form of tables and graphs for ease of reference.

The data which was available at the PELC was collected from January 2006 until August 2006. The research team verified the inspections conducted in 2005 in the proactive inspection register as well as on IOSS and then collected files from main registry and from the inspector's offices. Summarised results are tabulated in Table 1. Tables 2-9 consist of inspections conducted per sector as well as investigations conducted with as notices served. All the tables of results are attached as Appendix D. A separate Microsoft excel data sheet was used as a tool to collate data for each month of 2005.

The study revealed that only 1258 OHS inspections were conducted by the inspectorate in the PELC from January 2005 until December 2005 (see Table 1 in Appendix D & figure 1). These inspections comprised of 891 Level 1 inspections (proactive and reactive) in the manufacturing sector, 173 construction site inspections, 37 Hazardous Biological Agent inspections in the Health sector and funeral parlours, 127 Noise Induced Hearing Loss (NIHL) inspections in the manufacturing sector, 5 Silicosis inspections in the manufacturing sector, as well as 25 stacking inspections also in the manufacturing sector. According to the 2005 records, there were no boiler inspections and Major Hazardous Installation inspections conducted.

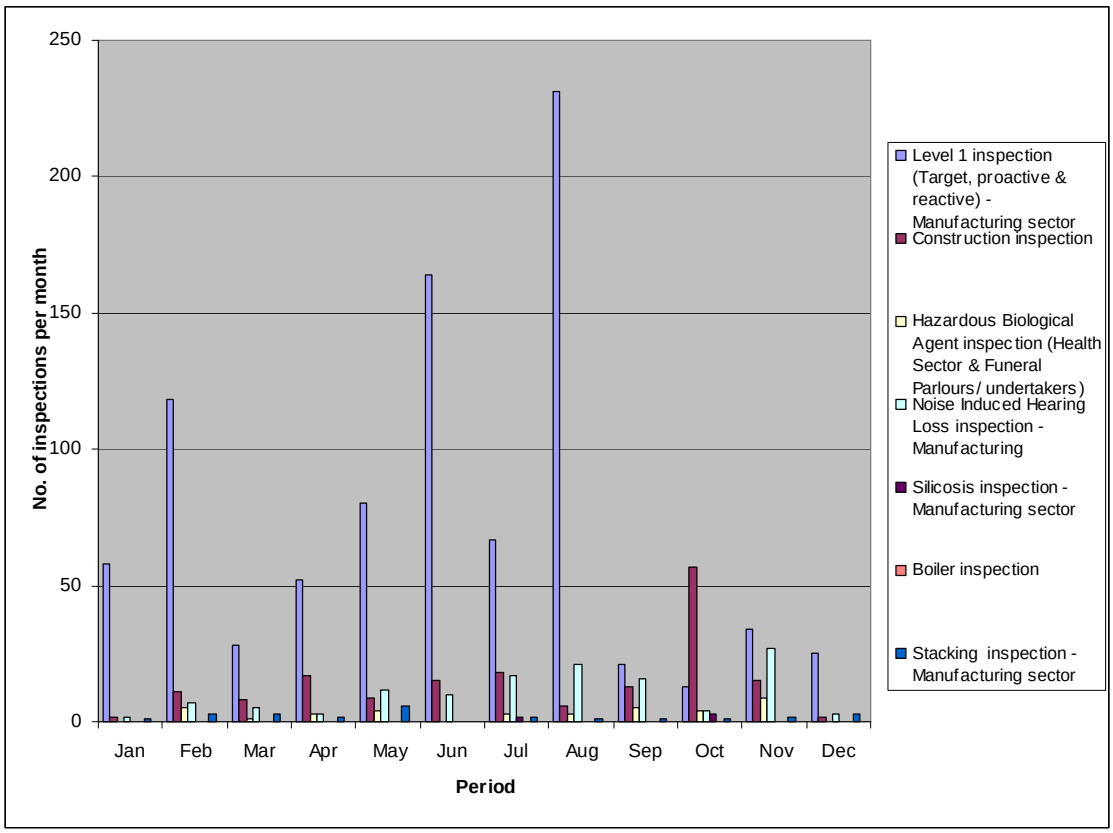

Figure 1: Summary of OHS inspections conducted at PELC in 2005

3.1. Inspections in the manufacturing sector

A total of 1048 inspections in the manufacturing sector were conducted by the Port Elizabeth inspectors from January 2005 until December 2005. There were companies with activities that have silica exposure and machinery generating noise levels above the noise rating limit of 85dB(A) as well as stacking requirements that exceeded the legal requirement three times. Therefore these inspections were focusing on level 1 inspections; noise induced hearing loss, silicosis as well as stacking height requirements. Tables 2 to 8 in Appendix D with their respective Figures are outlining all these inspections with the notices served as well as the nature and frequency of notices served.

3.1.1 Level 1 inspections

The study revealed that from the 891 level inspections that were conducted for the period of 2005, 470 were proactive inspections (see Table 2). This type of inspection was focusing on all the basic aspects of the OHSA and the regulations.
The remaining 421 reactive inspections were as a result of inspection requests received from employees, as well as Organised Labour in some instances (see Table 2, Appendix D).

3.1.2 NIHL inspections

The study revealed that 127 inspections focusing on NIHL requirements in the manufacturing sector were conducted as stipulated by the NIHL Regulations (see Table 1, Appendix D).

3.1.3 Silicosis inspections

These inspections were conducted in accordance with Hazardous Chemical Substance Regulations (HCSR). The study revealed that only 5 inspections were conducted (see Table 1, Appendix D).

3.1.4 Stacking height requirement inspections

These inspections were conducted in response to applications for stacking heights requirements as stipulated in the General Safety Regulation (GSR) 8. The Port Elizabeth office had received 25 applications that required stacking height approvals above the legal limit due to space restrictions (see Table 1, Appendix D).

3.1.5 Nature and frequency of contravention notices served in the manufacturing sector

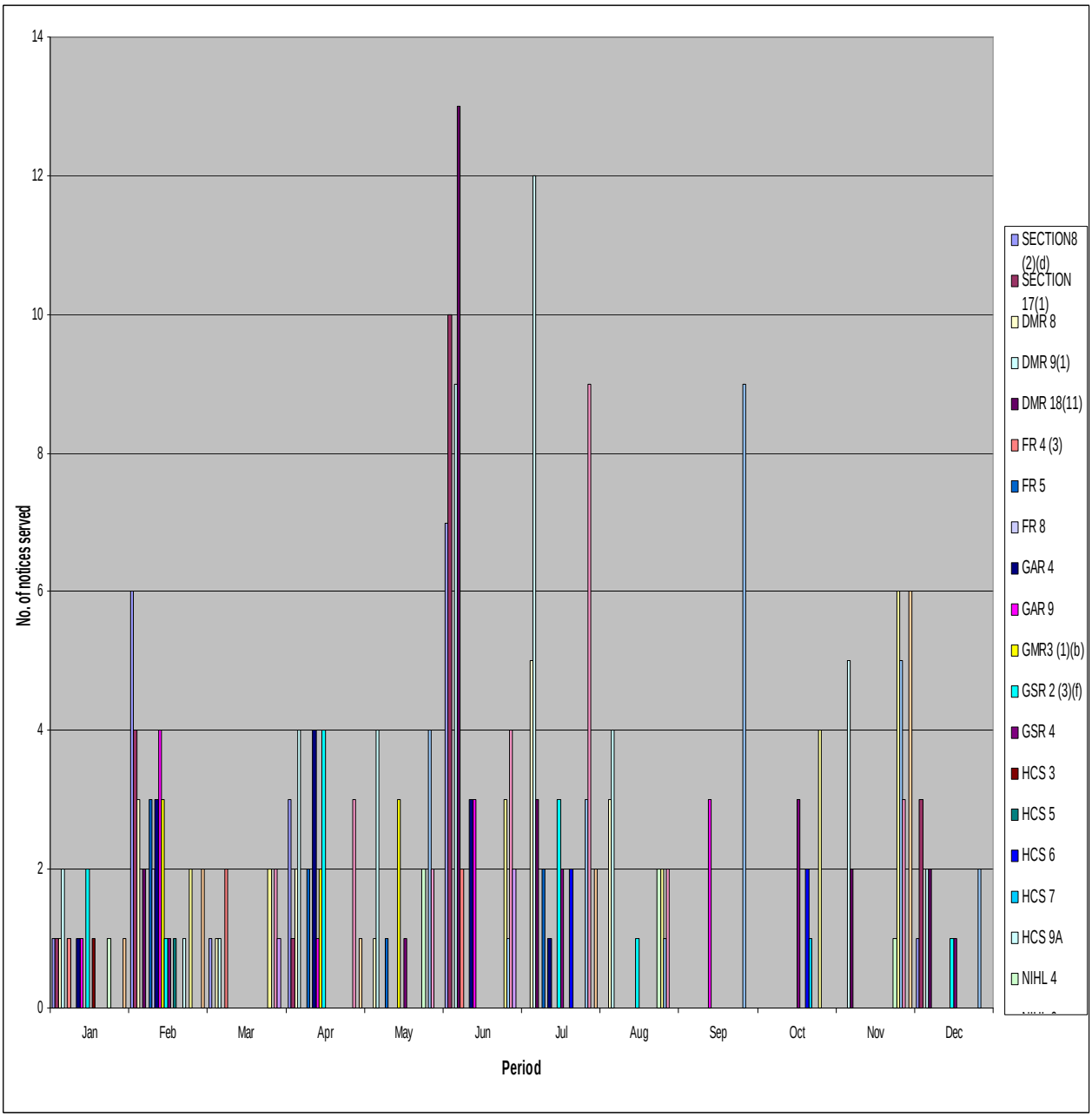

Figure 3: Nature& Frequency of contravention notices served

A total of 284 contraventions were served in this sector (see Table 3 in Appendix D and Figure 3). These notices were served during level 1 inspections, NIHL inspections as well as silicosis inspections. Approximately 19 (6.69%) contravention notices for the whole of 2005 were addressing the establishment of hazards in the workplace as required by section 8(2) (d) of the OHSA. The additional 19 (6.69%) notices in terms of section 17(1) and General Administrative Regulations (GAR) 6(1) were addressing nomination as well as the appointment of health and safety representatives.

There were a total of 81(28.52%) notices served in terms of the requirements of the Driven Machinery Regulations (DMR. The 16 (5.63%) notices served in terms of DMR 8 were addressing the unsafe condition of grinding machines. Forty three (15.14%) notices served in terms of DMR 9(1) were addressing the unsafe conditions of presses, and 22 (7.75%) were in terms of the requirements of DMR 18 and were addressing the training of forklift drivers. The notices served in terms of Facilities Regulations (FR) were addressing the following: 5 (1.76%) notices were in terms of FR 4(3) for non-compliance of change rooms, 8 (2.82%) were in terms of FR 5 addressing the issue of dining rooms, and 2 (0.704%) were in terms of FR 8 concerning the issue of seating arrangements for work performed while seated.

Twelve (4.23%) of the companies did not have the copy of the OHSA
as required by GAR 4 and the other 12 (4.23%) were in terms of GAR 9 for failure to record and investigate the incidents that were occurring. The exposed drive belts in machinery were addressed through General Machinery Regulation (GMR) 3(1) (b), and 8 notices were served. In 12 (4.23%) companies, employees were found to be working on top of cement floor without duckboards and to address this, contravention notices were served in accordance with General Safety Regulation (GSR) 2(3)(f). Eight of the companies were served with contravention notices that required them to ensure the construction of flammable liquid stores in their respective premises as required by GSR 4. A further 8 (2.82%) notices were served in terms of the requirements of Hazardous Chemical Substance Regulations (HCSR). Of the 8 (2.82%) notices served, 4 (1.41%) were respectively addressing information and training in accordance with HCSR 3, assessment

of potential exposure as required by HCSR 5, medical surveillance as per HCSR 7 as well as handling of hazardous chemicals as per HCSR 9A; and the 4 (1.41%) remaining notices were addressing air monitoring.

From the 78 notices served in terms of the Noise Induced Hearing Loss Regulations (NIHLR), six (7.69%) were addressing information and training as required by Regulation 4 of the NIHLR, 19 (24.36%) were for assessment of potential noise exposure as per requirements of NIHLR 6, and 25 (32.05%) were addressing the actual monitoring of noise as required by NIHLR 7, and the another 25 (32.05%) were for medical surveillance as per NIHLR 8. The remaining 3 (3.85%) were for demarcation of noise zones as required by NIHLR 9. There were also 12 (15.38%) notices that were addressing the maintenance of handheld fire extinguishers in accordance with regulation 11(1) of the Vessels Under Pressure Regulations (VUP).

3.1.6 Nature and frequency of prohibition notices served in the manufacturing sector

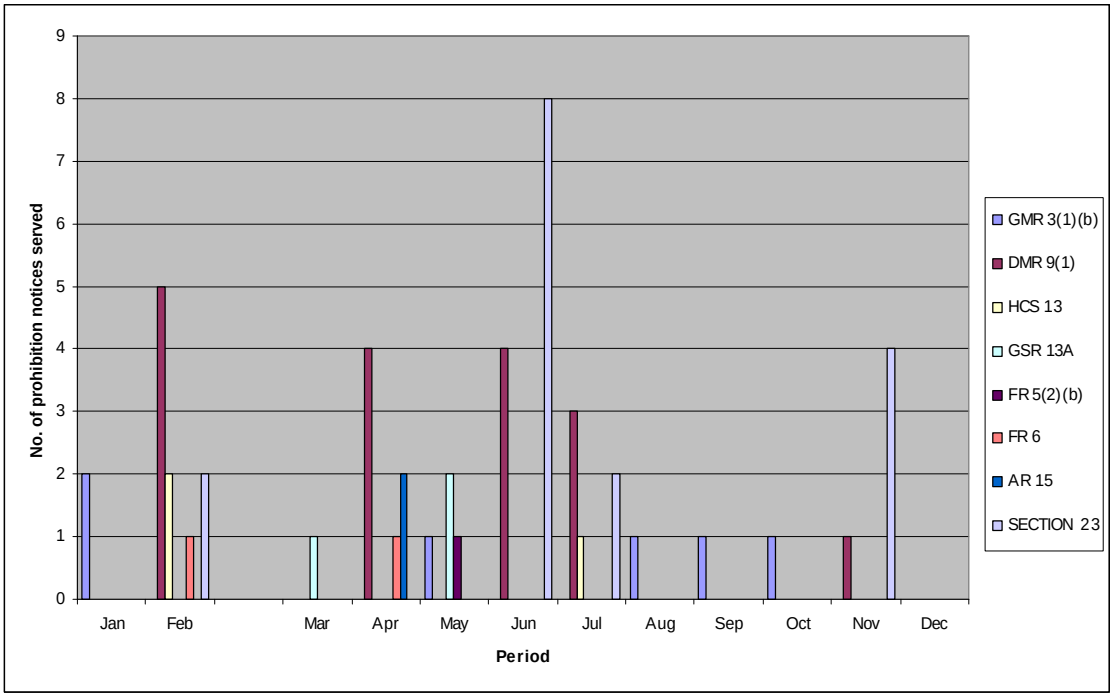

Figure 4: Frequency of Prohibition notices served in the manufacturing sector

The study revealed that there was a total of 50 prohibition notices served in the manufacturing sector. Six (12%) prohibition notices were served in terms of regulation 3(1) (b) of GMR addressing the use of unguarded machinery and 17 (34%) prohibitions were for the use of noncompliant presses (see Table 4 and Figure 4). The 3 (6%) additional prohibitions in terms of regulation 13 of the HCSR were addressing the use of compressed air to clean hazardous chemicals. There were only 3 (6%) prohibitions in terms of GSR 13A and they were addressing the use of noncompliant ladders, 1 (2%) prohibition in terms of FR 5(2) (b) was addressing the use of dining rooms connected to a work area that will cause cross contamination, and the 2 (4%) prohibitions in terms of FR 6 was to address smoking in hazardous areas. The further 2 (4%) prohibitions that were served in terms of AR 15 were to address non-compliance while working with asbestos cement sheeting. Lastly, 16 (32%) prohibitions in terms of Section 23 of the OHSA were to address the deduction of personal protective equipment for employees.

3.1.7 Inspections conducted in terms of the Regulations for Hazardous Biological Agents

Twenty three inspections were conducted in the health sector in terms of Hazardous Biological Agents Regulations (HBAR) and only 14 such inspections were conducted in funeral parlours or undertakers (see Table 5, Appendix D).

3.1.8 Nature and frequency of contravention notices served in terms of the HBAR

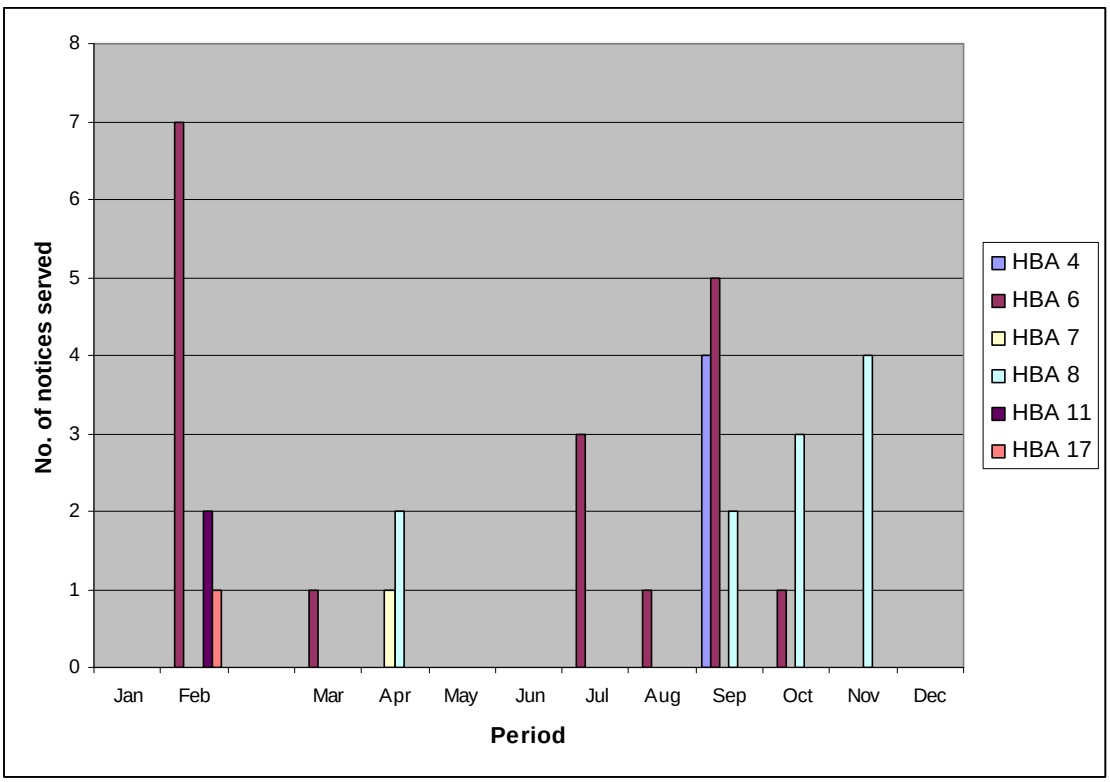

Figure 6: Nature & frequency of contravention notices in terms of HBAR

Figure 5 shows the 37 contravention notices were served to address non-compliance in terms of HBAR. Out of these notices 4 (10.81%) was addressing information and training (HBAR 4), 18 (48.65%) were to conduct a risk assessment (HBAR 6), 1 (4.35%) was for monitoring exposure at the workplace (HBAR 7), 11 (29.73%) were for medical surveillance (HBAR 8), 2 (8.69%) were to address personal protective equipment and facilities (HBAR 11), and 1 (4.35%) was addressing the disposal of hazardous biological agents (HBAR 17).

3.2 Inspections conducted in the construction sector, types and frequency of notices served

The study revealed that only 173 construction inspections were conducted by the inspectors for the year 2005 (see Table 1, Appendix D). Table 7 in Appendix D and Figure 7 show the frequency and nature of the notices served. According to this Table 7 (5.78%) notices were for the duties of the principal contractor and contractor (CR 5), seven (4.05%) notices were for the supervision of construction work (CR 6), 15 were to address risk assessments (CR 7) and only 1 (0.578%) was addressing the absence of fall protection plan (CR 8). The issue of housekeeping at the site (CR 25) was addressed with 4 (2.31%) notices, and only 1 (0.578%) notice was addressing stacking and storage at the site (CR 26).

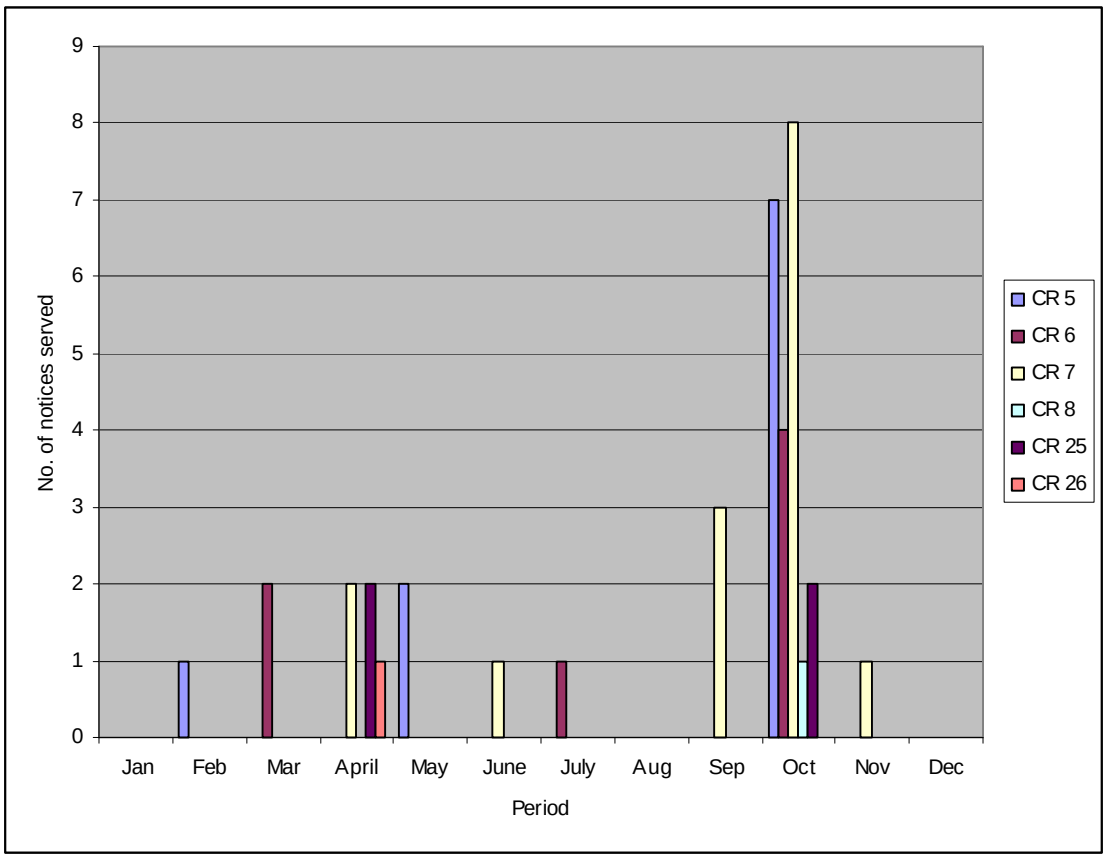

Figure 7: Frequency of contravention notices served

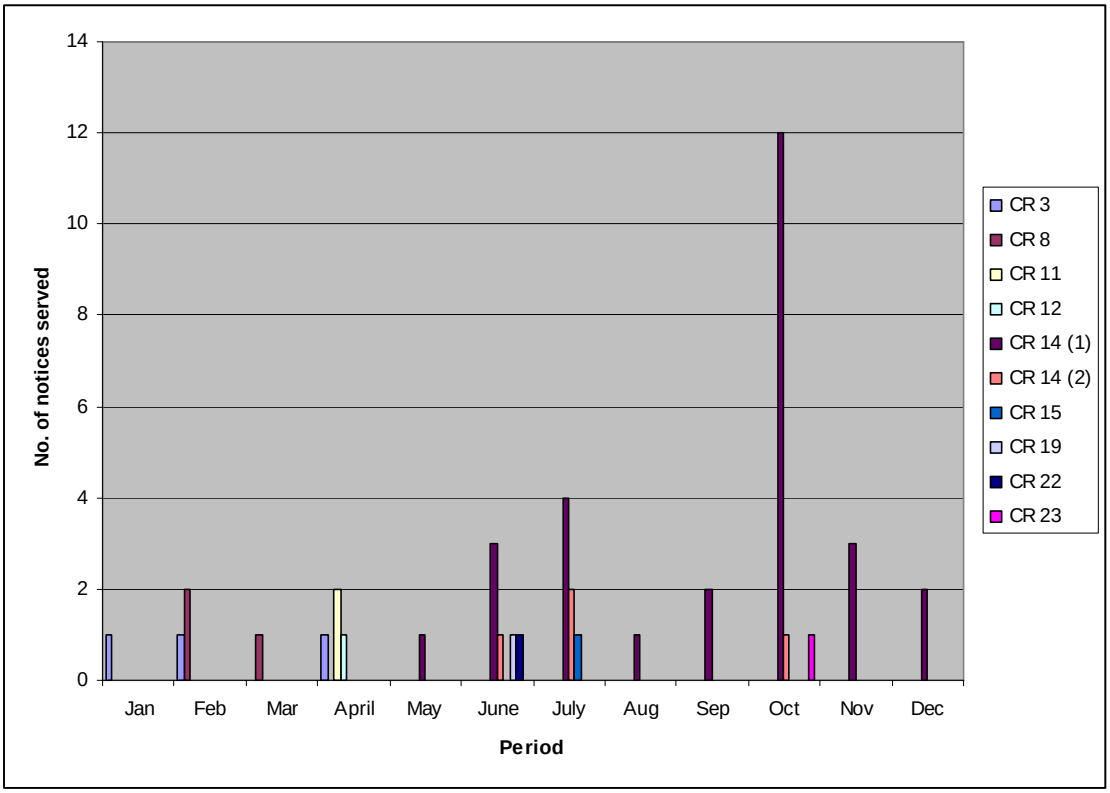

Figure 8: Frequency of prohibition notices served in the construction sector

Table 8 in Appendix D and Figure 8 indicate that the prohibition notices were addressing issues such as notification of construction work (CR 3), fall protection plan (CR 8), excavation (CR 11), demolition work (CR 11), erection of scaffolds (CR 14 (1)), supervision of the scaffolds (CR 14 (2)), suspended platforms (CR 15), use of explosive powered tools (CR 19), safety of electrical installation and machinery on construction sites (CR 22) as well as use and temporary storage of flammable liquids on construction sites (CR 23).

3.3 Complaints and incidents investigated in 2005

There were 57 complaints received pertaining to the requirements of the OHSA and regulations. There has been a carry over of complaints from month to month, and inspectors have not been investigating them. Forty five of these were investigated and finalised (see Tables 9, Appendix D). Table 9 also shows that there were 88 incidents carried over from December 2004 and a total of 134 incidents were received for the whole period of 2005, and 144 was investigated and finalised.

CHAPTER FOUR

4. Discussion

This chapter discusses the results of the study, outlining the activities of the inspectorate in 2005. It further addresses the quality of the inspections conducted as well as the notices served to non-complying employers.

The outcome of this study was mainly influenced by: the number of OHS inspections conducted in the PELC; the nature of inspections and type of industry; and the quality of inspections.

4.1 Number of OHS inspections conducted in the PELC in 2005

During the period of January to December 2005, there were only 1258 OHS inspections that were conducted at PELC and the different types are outlined in table 1 on appendix D. According to the 2005-2006 IES National and Provincial work plan, [15-16] each inspector had to inspect a minimum of 240 workplaces per year including all labour legislation administered and enforced by the DoL, and achieve 70% compliance from the companies visited within 90 days of inspection. In terms of the 2005 staff establishment for IIES at PELC, there were 17 inspectors and 6 Team Leaders. The inspectors were to conduct a minimum of 4080 (680 per legislation) inspections per annum and the 6 Team Leaders a minimum of 720 (120 per legislation) inspections per annum, yielding a total of 4800 (800 per legislation) per annum for the centre. These were to include all the labour legislations administered by DoL except for LRA and SDLA. This means that on average, the centre was expected to conduct a minimum of 800 OHSA inspections.

The total 1258 OHS inspections far exceeded the target of 800 OHS inspections expected from PELC. In comparison to the number of inspections conducted, the inspectors have achieved far beyond what was expected of them. The concern however, is the impact of the inspections target set with regards to depicting conditions in workplaces. The number of OHS inspections conducted is not enough to ensure protection of employees in various workplaces. The criterion used to develop the target is not clear. Is the target adequate to

provide an overview of what is happening in the workplace? As it stands the target is not representative and it is inadequate to give a picture of the overall conditions in the workplace. This kind of a situation defeats the purpose of inspections.

According to IOSS, Port Elizabeth had about 6123 employers registered on this program in 2005. These employers have a widespread of activities which include manufacturing as well as construction activities. This total of 1258 OHS inspections is very low compared to the number of employers. Only 20.55% of the employers were covered.

4.2 Inspections conducted and type of industry inspected

During the analysis of the inspection records for 2005, it became evident that there were a small number of inspections conducted in noise generating industries, silica generating industries, HBA sectors, the construction sector as well as the low finalisation rate complaints and incidents. The quality of work conducted was of poor standard as it was reduced to a "checklist activity", wherein the inspector ticks off from the list whether the employer has complied or has not complied with OHSA requirements. The findings are outlined as follows:

4.2.1 Nature of inspections and type of industry inspected

Although the OHS oriented inspectors are considered to be a specialist group, they were still expected to conduct inspections in other legislations and this was having a negative impact on their workload in terms of OHSA. The extra effort they were giving on other legislations could have been added to OHSA inspections. They have to deal with all OHS related queries, inspections, investigations of complaints and incidents, and were still expected to address all other complaints in terms of BCEA and sectoral determinations, UIF and EEA. Whilst they were dealing with all the labour legislations, other inspectors were not addressing OHS issues. They would refer all OHS work to these inspectors at all times.

The above situation result in the OHS inspectors not to have enough time to update

themselves with issues on noise exposure, silica exposure and HBA as well as conduct research on best practices in terms of OHS. This was evident in the inspections conducted in terms of the NIHLR which indicated that inspectors were unable to inspect and monitor the protection of workers beyond the inspection checklist requirements. They did not understand that noise exposure can also contribute to other illnesses such as high blood pressure. The duty of the inspector is not only to enforce the OHSA. An inspector has to advocate and advise the employer about the requirements of OHSA in the workplace. For example an inspector could advise an employer to obtain relevant knowledge regarding hazards in the workplace and thereafter implement health and safety preventive measures, and provide proof at the next visit or be issued with a notice. It becomes a challenge for inspectors to fully advocate to the employer on the health effects of being exposed to a particular hazard, if they do not understand the outcome of exposure. This causes them to leave the premises without properly advising the employers about their responsibilities in terms of health and safety, and the financial implications this may have on the company if there are no preventive measures in place.

Although there was basic training conducted for all inspectors on silica exposure, the OHS inspectors did not give themselves time to probe further into the subject, as a result they were not confident in conducting silicosis inspection and these were left to the inspectors that attended the silicosis course at the University of Cape Town (UCT). In 2005 Port Elizabeth [17-18] had 30 clinics, 5 public hospitals, 5 private hospitals and 54 operational funeral parlours or undertakers. All of these funeral parlours were registered with the Nelson Mandela Metropolitan Municipality, in Port Elizabeth. Both inspections on silica exposure as well as HBA have received little attention from inspectors. This can be attributed to lack of confidence in understanding the subject on silica exposure as well as HBA. This further emphasizes the fact that these OHS inspectors do not have enough time to develop themselves and as a result all OHS related inspections are compromised in terms of quality.

It was revealed during the assessment of the inspection checklists that, the inspectors that were conducting these HBA inspections were only reading what is in the regulations; they could not probe beyond what was written on the inspection checklist. To them these

inspections were just a checklist activity. At the end of each checklist, an inspector is expected to summarise the whole inspection indicating areas that need to be urgently addressed by the employer. Furthermore, an inspection report has to be compiled depicting everything that had transpired during the inspection with the course of action that needs to be taken by the employer. The absence of qualitative summaries on the inspection checklists as well as inspection reports with recommendations indicate that the inspectors lack knowledge in the interpretation of the OHSA and this causes them to be intimidated during their interactions with Chief Executive Officers of various companies and their legal advisors. During such interactions employers expect them to know everything with regard to health and safety and often ask them questions that are not addressed by the checklist. This often intimidates the inspectors as they are unable to address health and safety issues beyond the checklist requirements. This emphasises the need for intensive training addressing all issues of health and safety. This apathy detected through the work of the inspectorate can also be related to issues of salary packages in relation to the load and the importance of the work they have to do; and this can affect their morale.

4.2.2 Inspections conducted in the construction sector

The major incidents such as the Injaka and Coega bridge collapse as well as the Volkswagen of South Africa crane incident indicate that the construction sector needs to be monitored closely to ensure compliance. The work in this sector is often carried out under extreme climatic conditions with little or no protection for employees against such elements. The uneven terrain in the construction industry is mostly not conducive for the safe movement of people, and equipment.

Due to the Coega development project [19] and the awarding of tenders to emerging contractors, as well as the expanded Public Works Programme, PELC received 685 construction notifications in 2005. Although Port Elizabeth had such a high number of construction notifications that were received, there are other construction activities that fail to be reported due to the fact that the owners lack knowledge about the responsibilities of contractors in terms of the CR.

In September 2005, a decision to formulate an OHS Task Team was taken by the Eastern Cape Business Unit Manager in DoL. This consisted of inspectors that had qualifications in Chemical Engineering, Analytical Chemistry, Environmental Health Occupational Health and Occupational Hygiene), Civil Engineering, Electrical Engineering, Mechanical Engineering, Safety Management as well as those who were still studying towards an OHS related qualification. In addition to this team, there were inspectors that had no formal qualification on OHS but were conversant with OHS work through short courses. This team was to focus on specialised activities in OHS and also address the backlog in incidents. In October 2005, these inspectors focused on construction sites in the Port Elizabeth area to ensure increase the inspectorate's visibility in this sector. The lack of inspectors' comments in the construction inspection checklists indicated that the inspectors' lack of knowledge on this subject causes them to be intimidated by this industry as some employers are highly qualified in this industry and have about 20 years experience doing construction work. Comparing the 20 years experience and a two-day course received that was addressing scaffolding erection, with no other training that would assist them in terms of excavations, form work and support work when they do such inspections, as well as the lack of knowledge in interpreting the CR is always a frustration for them. The notices that were served were of poor quality as they were not directing employers as required by the directive on serving of notices. Instead of directing the employer on the steps to be taken in correcting the non-compliance, the inspectors had copied exactly what was written on the OHSA and regulations. This is a limitation to them as they can only restrict themselves to what is on the checklist.

4.2.4 Quality of work conducted in 2005

4.2.4.1 Inspection checklists and enforcement documents served

Whilst going through the inspections records conducted from January 2005 to December 2005, it was realised that the checklists were not adequately completed. There were no detailed comments made by inspectors to depict the situation in the respective companies. The inspections conducted were reduced to a checklist activity, whereby the inspector had ticked on the yes/no or not applicable part in the checklist. There were no comments to

further substantiate what had transpired during the inspection. The inspections on HBAR further revealed that the inspectors were not able to address health and safety issues beyond what was specified on the checklist.

According to the Occupational Health and Safety Directive no. 006, [20] when an inspector is serving either a contravention notice, improvement or prohibition notice, he or she has to direct the employer on the steps to be taken to rectify the situation. The notices that were served were not directing employers on steps to be taken instead they were copying exactly what was written on the regulations. For example, the DMR 8(5) says: "Having regard to the nature of the work which is performed, the user shall cause a power-driven grinding machine where the work - piece is applied to the wheel by hand, to be provided with a substantial adjustable work rest, which shall be securely fixed in position and adjusted to within 3 mm from the grinding face of the wheel." [21] This extract is not directing the non-complying employer on what to do; it is instead a copy of what is in the DMR 8(5). If an inspector was to direct an employer this would be phrased as follows, "Ensure that the distance between the grinding stone and the tool rest is not greater than 3 mm" On receiving this directive from an inspector, the employer would refer to the requirements of DMR 8(5)

The prohibition notices, contravention notices as well as the improvement notices served in 2005 are depicted in Figures 3, 4, 7 and 8. These Figures indicate a low number of notices served with respect to the inspections conducted. This can be attributed to the fact that inspectors are unable to address health and safety issues beyond the checklist. This results in improper examining of health and safety issues thus not effectively ensuring protection of workers in their workplaces.

Prior to the implementation of integration, OHS inspectors used to be subjected to training in OHSA and OHS Directives for 3 months at the national DoL in Pretoria. After this they would be placed under a mentor to monitor their work for a period of 3 months with an additional 3 months whereby the mentor would monitor the inspector's work, and thereafter declare that an inspector is competent or recommend further mentoring. The re-adoption of this approach could, if adopted by the Department of Labour Authorities have a

positive impact on service delivery and ensure that inspectors are able to effectively do their jobs, thus resulting in improved working conditions in workplaces that are being visited.

4.2.4.2 Lack of retention strategy

In 2005 alone, two competent OHS inspectors left the PELC to join the private sector. It is generally agreed that working for DoL is a very important opportunity due to exposure to different industries, which result in gaining valuable experience; however, remuneration seems to be a challenge. Although it may be argued that remuneration will not adequately motivate a person to perform, its inadequacy may be a demotivating factor. Remuneration is an integral part of any organisation. With reference to Labour Inspectors, [8] it is necessary to attract and retain a highly skilled staff, devoted to their work and capable of fighting temptation. The inspectors' impartiality is a fundamental obligation and guarantees that the authority of the inspection service may not be compromised. Remuneration often exposes inspectors to bribery, and some have succumbed to temptation. As a result of this, they face disciplinary action with a possibility of losing their jobs.

One of the aspects that DoL is faced with is the resignation of inspectors due to poor remuneration. This is further affected by the ratio of new appointments versus resignations in the inspectorate. During the period of January to December 2005 the ratio of new appointments versus resignations was 4:2 in Port Elizabeth Labour Centre. [22] Although there was a good ratio of new appointments versus resignations for the inspectorate in 2005, the problem was that the new inspectors had no experience in OHS. In 2008, there was a contrast to the 2005 ratio, because there were no newly appointed OHS inspectors. The 2008 ratio for new appointments versus resignations was 0:3. Out of this 3, one was promoted and transferred to Western Cape, and the remaining 2 had resigned to join the private sector. Although there was this high turn over of inspectors in Eastern Cape, there were no OHS appointments to compensate for the loss. [23-24] DoL like all other government departments is faced with the challenge of attracting and retaining competent staff. The onus is on DoL to utilise its Career Management and Retention Policy on attraction and retention of competent staff to address their needs. Although it can be argued

that the inspectors that have resigned are contributing to the greater economy of the country and will promote health and safety in the private sector, it is a big blow for a government department like DoL that has failed to retain its skilled employees. This is an indication that the lack of programmes to retain skilled employees within is forcing inspectors to look for better opportunities in other organisations. This may have negative impact to service delivery whereby the quality and quantity of inspections may be compromised.

4.2.4.3 Quality versus quantity of inspections

Another matter that always affects the quality of work is the targets that are set by Service Delivery. If an inspector is allocated big manufacturing companies as well as companies with complex production processes, the target of 240 inspections per year will not be achieved. This will mean that an inspector will only rush through an inspection to ensure that such a target is achieved and therefore not do justice to the work These targets encourage the inspectors to rush in order to achieve the set target. This causes a dilemma for the inspectors, resulting in them weighing quantity versus quality because an inspector will be deemed to be under performing if the target is not met. They end up focusing on quantity thus compromising quality which would have been a learning curve for them as they sometimes need to consult. Their failure in conducting qualitative inspections and be able to advise employers on the requirements of the OHSA results in poor service delivery. This leads to increased number of incidents and occupational diseases as employees are left exposed to hazardous conditions.

4.2.4.3 Lack of cooperation from employers

Access to employers' premises is often a problem for inspectors. In terms of GAR 2(1), [25] no person shall refuse an inspector access into his or her premises to perform his or her functions unless that person is authorised by any other law. In terms of Section 29 of the OHSA, an inspector can enter premises which are occupied by an employer or in which an employee performs work at any reasonable time to conduct an inspection; but inspector are

sometimes faced with uncooperative employers who refuse them access into their premises. All these dynamics have an effect on the targeted number of inspections that must be conducted per inspector as inspectors will seem to be under performing. Inspectors are often chased away from the premises of employers, especially on farms, and the South African Police Services (SAPS) do not offer any assistance. The inspectors end up not knowing how to address the matter as they need something that will assist them at that moment of difficulty. These dynamics also leave the workers unprotected as the inspector is unable to enter the premises. This becomes a failure on DoL's side as the objective of the OHSA is unable to be met.

4.2.5 Quality of incidents and complaints investigated

The study revealed that there were very few notices served in relation to the number of incidents and complaints. The inspectors that are OHS focused were unable to identify other contraventions not addressed by the OHSA and regulations, and they had lost interest in dealing with these complaints due to the fact that they were also dealing with all other legislations administered by DoL while the inspectors that are not OHS focused ignored the complaints. The inception of the OHS task team in September 2005 was meant to qualitatively investigate and finalise the OHS backlog incidents. This team was trained in incident investigation and the Labour Centres were mandated to reduce other cases on BCEA, UIF, COIDA and EEA for these inspectors and allow them time to work on the OHS backlog.

The result of this action was shown by the dramatic increase of finalised incidents in November 2005 which had increased to 43 as compared to the 101 finalised in all other months (See Table 9, Appendix D). Although this team was formed, the focus should not have been on incident investigation alone, they should have been taken through a basic course of interpreting the OHSA and conduction of inspections. After this basic course other courses should have been built-in to equip them in terms of OHS activities. Presently, the problem with this task team is that they are still not confident in other aspects of OHS inspections and they are also unable to write professional reports that can stand in court. This results in a situation wherein employers are not being brought to justice due to

lack of evidence on inspector's incident reports.

In cases where there are some reports that can stand in court, the weakest link often becomes the Department of Justice (DoJ) whereby the prosecutors do not seem to understand the requirements of the OHSA and its implementation. During the court proceedings it sometimes becomes quite apparent that the particular prosecutor may not clearly understand what he/she is reading from the OHSA when addressing the contravention. The failure of the said prosecutor to understand the OHSA causes some of the cases not to be effectively investigated.

CHAPTER FIVE

5. Recommendations and conclusion

This chapter is addressing the recommendations that will be presented to the Business Unit Manager as well as the Regional Manager to increase the morale of inspectors which will ensure improvement in terms of the quality of their work and therefore improve service delivery thus promoting protection of vulnerable employees in all workplaces.

5.1 Recommendations

Currently, [26] DoL is busy with the review of the inspection and enforcement services strategy. This review process has identified three aspects that need to be addressed, which is the professionalism of inspectors, customer service and improved compliance. The professionalism aspect will address issues of entry requirements for inspectors, capacity building for existing inspectors as well as recognition of experts in the field of OHS and other legislations administered by DoL. It is evident that there is a need for OHS specialists, BCEA specialists as well as EEA specialists, although all of them should understand the basic services of DoL.

Training [7] is part of the process change. It brings about planned modifications in people to enable improved work performance. It provides people with new knowledge, new skills, new techniques, and often substantially different attitudes that alter their behaviour. DoL [27] has identified the lack of training that has had a negative impact on the work of the inspectorate. As a result of this, [27] the year 2007 has started on a new page whereby inspectors are being sent on various OHS trainings to improve their capability. Furthermore, service delivery has decreased the targeted number of inspections from 240 to 160 per inspector per annum.

The following recommendations will be instrumental in improving the quality of the work done by inspectors as well as their morale:

- A work plan with clear OHS inspection targets should be developed. These target inspections should be capable of providing an overview of conditions in the workplace. The complexity of the production process, the size of industry, as well as the nature of the inspection should be considered when the targets are set. For instance if an inspector is allocated with companies having a complex production processes, DoL should expect 4 inspections per month from the inspector with a comprehensive inspection report compiled at the end of each inspection. According to the Cuban study tour report, [28] inspectors from Cuba take 7 days to conduct inspection on one company, thus focusing on quality not on quantity. In addition to the reduced targets, they need to urgently fill the vacant posts for OHS inspectors and also increase the number of OHS per province in order to complement the growing needs of the industry.

- DoL needs to identify the inspectorate profession as an essential and scarce skill and urgently address the shortage of OHS inspectors. They need to embark on a major recruitment strategy that will attract a high calibre of staff with qualifications varying from all Engineering disciplines, Environmental Health, BSc Chemistry as well as Analytical Chemistry. This will ensure that DoL has a calibre of staff that can address its challenges.

- There should be structured training that is designed for all the newly appointed inspectors. This training should cover basic skills on conducting inspections as well as interpretation of the OHSA. This should be followed by advanced training on conducting all types of inspections as well as investigation skills which will address both the investigation of complaints and incidents. To complement all this, the training should be coupled with practical training that will give the inspector an opportunity to understand the theory that has been taught. In Cuba [28] a newly appointed inspector is subjected to a two year training program with a minimum entry level requirement of a bachelor's degree. On the other hand, inspectors in the Czech Republic, [29] newly appointed inspectors are subjected to a 6 months training program, and not later than 12 months the candidate has to pass the final examination of knowledge, competence and skill. This means that DoL must

conduct a feasibility study to determine which training program will address the needs of the inspectorate.

- There should be an introduction of career path training which will ensure that within OHS an inspector is developed in certain field. It can be on mechanical, electrical or any other aspect of OHS that can assist DoL in its services. This should include professional registration and affiliation of inspectors to the various councils such as the Institute of Safety Management, Engineering Council of South Africa as well as any other professional body that is related to their various qualifications. This will ensure that inspectors are fully capable of addressing the various problems that they are often faced with in this dynamic field of OHS, thus increasing compliance with the requirements of the OHSA. Furthermore, they will be able to interact with the Approved Inspection Authorities (AIA) and understand technical reports supplied by them in the various fields. According to the International Labour Office (ILO), [30] one of the essential elements of an adequate system of labour inspection is the competency and efficiency of its human resources. Therefore, the implementation of personnel selection systems is an indispensable step to incorporate into the services high level professionals or technicians whose backgrounds are closely related to the field of inspections. The candidates must be admitted on the basis of competitive exams. This approach is complemented by adequate permanent systems of professional education, training and upgrading. In addition to this, there should be monitoring of the ethical behaviour and conduct of the inspectorate, there should be a professional body in place for registration of labour inspectors. This body should have a code of conduct that will govern inspectors the ethical as well as professional behaviour of inspectors. This will ensure that employees as well as employers have great confidence in the work done by inspectors, and there is recourse when an unethical behaviour such as bribery is identified.

- The fact that recognition of prior learning is one of the fundamentals of the National Qualification Framework provides organisations and institutions of higher education with an opportunity to accelerate learning and employment equity to

everyone's benefit. [5] In the spirit of improving all inspectors, there should be recognition of prior learning for inspectors that have been working in the field of OHS without tertiary qualification, to ensure that they are not left out. For example, an inspector with no qualification but 15 years experience in OHS work could be assessed as competent to study an advanced OHS course without being required to do basic training, thus avoiding unnecessary training and saving time, energy and money. There should be accredited courses that will allow them to study towards a qualification.

- The programme of mentorship [7] in the OHS field needs to be re-introduced, whereby an inspector will be mentored by a competent person and declared competent when he or she has met all the requirements of the mentorship. This programme of mentorship should be able to address task orientation to reduce the gap between the job requirements and the training received.

- There should be a working relationship formed by management with SAPS to ensure that they fully understand the work done by inspectors in industry. Section 29(2) (a) of the OHSA, allows an inspector to seek assistance from the SAPS when need arises. This collaboration with SAPS will ensure that inspectors are assisted when need arises.

- A further working relationship needs to be formed with the DoJ, whereby prosecutors will be taken for training to ensure that they understand and are able to interpret the OHSA and regulations. This collaboration with DoJ will ensure that there are competent prosecutors who are able to effectively prosecute noncompliant employers with regard to OHS.

- Lastly, the issue of revising remuneration packages should be looked into, to ensure that they are market-related. This will also assist in retaining competent staff.

5.2 Conclusion

This study has shown that inspectors are no longer motivated in doing their work as they did not achieve the minimum standard of inspections set by Service Delivery Unit from national DoL. The low rate of specifically focused inspections such as the HBA, NIHL, silicosis and construction site inspections indicated the inspectors' lack of confidence in conducting such inspections. This has been further emphasised by the low rate of construction site inspections that were being conducted throughout the year, and suddenly increased in October 2005; and the finalisation rate of incidents that increased in November 2005. The quality of the work done by the inspectors also indicated a training gap that needs to be addressed in order for them to improve.

To ensure that service delivery is continuously improved and maintained, training should be the crux of all activities carried out in the Inspection and Enforcement Services of DoL. This will ensure that all inspectors understand the basic application of the OHS legislation, except in areas that require specialist advice, and will also assist in increasing OHS awareness in industry.

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APPENDIX A - DEPARTMENT OF LABOUR BASIC INSPECTION CHECKLIST

Ref No:……

PART1-EMPLOYER DETAILS
1.1 REGISTERED NAME OF EMPLOYER:……
1.2 TRADING NAME OF EMPLOYER:……..
1.3 CONTACT PERSON …… …DESIGNATION……
1.4 ACCOMPANIED BY:……
1.5 PHYSICAL ADDRESS: ……
1.6 POSTAL ADDRESS ……
1.7 TEL NO: ……FAX NO:……
1.8 APPLICABLE LEGISLATION: ……
1.9 NUMBER OF EMPLOYEE'S ……..
PART 2 – DOCUMENT AUDIT

	YES	NO	N/A
1. COPY OF ACT			
1.1 A copy of the Occupational Health and Safety Act and regulations – GAR 4 (5 or more in workplace - copy of act required.)			
Comments:……			
2. HEALTH & SAFETY REPS. – Section 17 read with GAR 6			
2.1 Letter of designation of: (more than 20 employees appoint a safety rep.)			
2.2 Health and safety representative(s) accompanied inspector on the inspection. (If not why not)			
2.3 Shopsteward(s) accompanied inspector on the inspection. (If not, why?)			
2.4 Is ratio correct - section17 (5) (Shops & offices minimum of 1 Rep for every100 employees, other workplaces a minimum of 1 for every 50.)?			
2.5 Are representatives nominated and elected by workers?			
Have they been trained - section 18(3) read with GAR 6(1)(e)?			
Comments:…….			

	YES	NO	N/A
3.HEALTH AND SAFETY COMMITTEE - Section 19(3) read with GAR 5			
3.1 Are all members designated in writing?			
3.2 Are all H/S representatives members of the committee?			
3.3 Are minutes kept of Health and Safety committee meetings?			
3.4 Are meetings held at least once every 3 months?			

Comments:…… ……			
4. COMPETENT PERSON			
4.1 Maximum power demand ……kW			
4.2 The competent person – GMR 2(1): **1200kW and less -Competent person**			
1201kW - 2999 kW -Definition b, c or d			
3000kW or more -Definition c or d			
Comments:…… …… ……			
5. CONSTRUCTION WORKS SUPERVISOR			
5.1 Construction Works Supervisor – CR 6(1)			
Comments:…… ……			
6. VESSELS UNDER PRESSURE			
6.1 Registered person of vessels under pressure – VUP 13(1)(b)(Inspect appointment in writing of registered person)			
6.2 Inspections & tests (every 36 months) VUP 13(1)(b)			
6.3 Records of inspections & tests VUP 14			
Comments:…… ……			
7. FIRST AIDERS			
7.1 Certificate of competency of first-aider (s) – GSR 3(4) (More than 10 employees)			
7.2 Is ratio correct- (1 for every100 employees for Shops & Offices or part thereof and 1 for every 50 employees for other workplaces)?			
7.3 Are all first aid certificates still valid? (Expires after 3 years)			
7.3 Training authority …… ……..			
7.4 Accreditation number ……..			
Comments:…… ……			
8. RECORDS, REPORTS AND FORMS	**YES**	**NO**	**N/A**
8.1 Are Inspections conducted by H/S representatives? - section 18(1)(g)			
8.2 Are records kept of recommendations from health and safety committee? – section 20(2) read with GAR 5(b)			
8.3 Are incident records kept in the form of Annexure 1? – (GAR 9)			
8.4 Is a goods hoist record book kept? – DMR 17(2)			
8.5 Are lifting machines (including forklift trucks) and lifting tackle record books kept? – DMR18(7)			
8.6 Logbooks or written records for pressure vess els? – VUP 14			
8.7 Boiler certificate and record book – **Note** Registration no. – VUP 5(4)			
8.8 Copies of valid certificates of training of forklift and Jib crane operators available – DMR 18(11)			
8.9 Is diving work performed ?			

8.10 Is a diving supervisor available during diving operations? – DR 5			
8.11 Is an operations manual compiled for each operation? – DR 6			
8.12 Certificate of compliance for electrical installation – EIR 3(1)			
Medical and Biological surveillance records;			
ÿ Does the diver have a valid medical certificate of fitness – DR 4(4)			
ÿ HBA REG 8			
ÿ HCSREG 7			
ÿ Asbestos – AR 9			
ÿ Lead – LR 8			
ÿ Audio-metric reports (normal and baseline) – NIHL REG 8			
8.11 Risk assessment records;			
ÿ In terms of Section 8 (2)d for any hazards to the health and safety of persons			
ÿ Asbestos assessment - AR 7(1)			
ÿ Construction site risk assessment - CR 7(1)			
ÿ Lead assessment – LR 6(1)			
ÿ HBA REG 6			
ÿ HCSR 5(1)			
ÿ Major Hazard Installation – MHI 5 (1)			
8.12 Air monitoring reports – HCSR 6(3)(c)			
ÿ Asbestos Measurement Records – AR 7(5) + AR 8			
ÿ Lead Air monitoring – LR 7(3)(d)			
ÿ HCSR 6(3)(c)			
Comments:…… ……			
9. COMPENSATION FOR OCCUPATIONAL I NJURIES AND DISEASE ACT			
9.1 (COIDA)Reg number **:** ……			
9.2 Number of claims submitted to the Compensation Commissioner for the last year…….			
ÿ Accidents (WCL 2) ……			
ÿ Diseases (WCL 1) ……..			
9.3 Proof of last payment: Date ……..…. Amount ……			
9.4 Date of last Wage Return submitted……			
9.5 Inspector to share information of process and procedure (WCL 1,2,etc)			
Comments:……. …… ……			
10. INFORMING EMPLOYEES OF THEIR RIGHTS			
10.1 Statement of the employee's rights as prescribed in terms of section 8 & 14 of the Occupational Health And Safety Act of 1993			
10.2 Make sure it complies with the prov ision in the Act			
Comments:…… ……..			

PART 3 – WALK THROUGH INSPECTION

1. ENVIRONMENTAL STRESS FACTORS			
1.1 In your opinion is there a stress factor present on the premises with reference to:			
Physical factors			
ÿ Noise			
ÿ Heat			
ÿ Lighting			
Chemical factors			
ÿ Dust			
ÿ Fumes			
ÿ Fluids			
Ergonomic factors			
ÿ Static work posture			
ÿ Frequent bending and twisting			
ÿ Awkward posture			
Biological factors			
ÿ Fungi and bacterial contamination			
Other			
1.2 Action required?			
1.3 Was an assessment done?			
1.4 Obtain copy of the report.			
Comments:…… ……			
2. HAZARDOUS SUBSTANCES (Chemicals)			
2.1 Are hazardous chemicals used in the workplace			
2.2 If yes, obtain copy of the risk assessment report.			
2.3 If no, serve notice [HCS 5(1)]			
Comments:…… …… …… ……... **NOTE: Presence of chemicals in workplace: Automatic Referral to level 2 inspector.**			
3. GENERAL SAFETY			
3.1 Are passageways clear? – ER6			
3.2 Are appropriate handrails and barriers in place			
3.3 Are emergency exists – ER9;			
ÿ Clearly marked			
ÿ Free of obstacles			
3.4 Are Fire extinguishers provided? – ER9(2)			
ÿ Are these accessible and marked?			
ÿ Serviced regularly			
3.5 Is PPE provided free of charge and being used?			
ÿ Is training on the use of PPE provided – Section 8			
ÿ Are PPE being maintained – GSR 2(2)			
3.6 Are floors skid free, free of obstacles and other hazards – ER6			
3.7 Is the First Aid Box:			
- Accessible			
- Locked			

- Does content comply to prescribed list – (Ann 1-6 – SR 3)			
3.8 Are flammable liquids used – (GSR 4)			
3.9 Are they stored in a flammable liquid store?			
Comments: …… ……..			
4. ELECTRICAL SAFETY			
4.1 Are conductors insulation intact? EIR 2 (1)			
4.2 Are plugs and socket-outlets appropriately covered?			
4.3 Are circuit breakers and panel boards labelled?			
4.4 Are they enclosed to prevent contact with live conductors (covers in position)?			
Comments:…… …… ……..			
5. FACILITIES REGULATIONS			
5.1 Is suitable seating provided? - FR 4(2)(b), 5(2)(a), 8(a)			
5.2 Clean sanitary facilities available? – FR 2			
Are separate male and female ablution facilities provided and are they demarcated male and female? – FR 4			
Do the toilets have seats? – FR 2(3)(b)			
Is there soap and toilet paper provided? – FR 2(3)(a)			
Are there facilities for the workers to dry their hands? – FR 2(3)(c)			
Do employees have facilities for safekeeping of personal goods–FR 3			
Comments:…… ……..			
6. MACHINERY			
6.1 Are moving parts of machinery guarded? GMR 3			
6.2 Are lifting machinery clearly marked - showing maximum load – DMR 18			
Comments:…… …… ……..			
7. BUILDING WORK AND CONSTRUCTION			
7.1 Is there construction work being carried out on the premises?			
7.2 Has the employer notified the Department of Labour (for construction work that will continue for more than 30 days and is either at a depth of more than 1m or at a height of more than 3m)? – CR 3			
Comments:…… …….. **Note: Automatic referral to level 2 inspector.**			
8. EMPLOYEES INTERVIEWED			
8.1 Have you had contact with worker representative regarding COIDA & OHS?			
8.2 Does the employer consistently provide information regarding above legislations?			
8.3 Is there adequate accommodation for interviewing personnel?			

Employee Name	Occupation	Experience/Categories	Prescribed Wage	Paid

Inspector's Comments/Recommendations:

…… …….

…… …….

Follow up date:…… ……..…… .

PLEASE INDICATE WHAT NOTICE WAS SERVED ON THE EMPLOYER (IF ANY):

……

……

Inspectors Name: …… Inspectors Signature: ……
(please print)

Date: …… Employer's Signature: ……

INSTRUCTIONS BY SUPERVISOR:

……..……

…… …….

Team Leader's Signature: ……. Date: ……

Abbreviation Index

AR	Asbestos Regulations	GMR	General Machinery Regulations
CR	Construction Regulations	HBAR	Hazardous Biological Agents Regulations
DMR	Driven Machinery Regulations	HCSR	Hazardous Chemical Substance Regulations
EIR	Electrical Installation Regulations	LR	Lead regulations
EMR	Electrical Machinery Regulations	MHI	Major Hazard Installation Regulation
ER	Environmental Regulations for workplaces	VUP	Vessels under Pressure Regulations
FR	Facilities Regulations	NIHLR	Noise Induced Hearing Loss Regulations
GAR	General Administrative Regulations	VUP	Vessels under Pressure Regulations

APPENDIX B - DATA CAPTURE SHEET

LABOUR CENTRE:

IIES

PROACTIVE INSPECTIONS

	Routine	Random	Target	Total Proactive inspections	No of Improvement Notices	No Contravention Notices	No Prohibition Notices	No of non compliance	No of follow-up
Level 1 inspection									
Construction inspection									
Hazardous Biological Agents (HBA) inspection									
Noise induced hearing loss (NIHL) inspection									
Silicosis inspection									
Boiler Inspection									
Stacking inspection									
Major Hazard Installation inspection									
Total									

REACTIVE INSPECTIONS

	Routine	Random	Target	Total Proactive inspections	No of Improvement Notices	No Contravention Notices	No Prohibition Notices	No of non compliance	No of follow-up
Level 1 national inspection									
Construction inspection									
Hazardous Biological Agents (HBA) inspection									
Noise induced hearing loss (NIHL) inspection									
Silicosis inspection									
Total									

COMPLAINT AND INCIDENT INVESTIGATIONS

	Reactive investigations	Investigations finalised	No Improvement Notices	No Contravention Notices	No Prohibition Notices	No of non compliance									
OHSA COMPLAINTS															
OHSA INCIDENTS															
TOTAL															

APPENDIX C - OCCUPATIONAL HEALTH AND SAFETY Directive No. 006

DEPARTMENT OF LABOUR
CHIEF DIRECTORATE: OCCUPATIONAL HEALTH AND SAFETY

PRETORIA

OHS DIRECTIVE NO: 006

The Provincial Executive Manager
Gauteng South, Gauteng North, Mpumalanga, Western Cape,
Limpopo, North-West Province, Free-State, Eastern Cape
Western Cape, Northern Cape and Kwa Zulu-Natal

ATTENTION: BUSINESS UNIT MANAGER:
INSPECTION AND ENFORCEMENT SERVICES
OCCUPATIONAL HEALTH AND SAFETY ACT, ACT 85 OF 1993
NOTICES, OTHER LEGAL STEPS AND PROCEDURES REQUIREMENTS

A NOTICES

In terms of Section 30 of the Act, the inspector can serve three types of notices, i.e.—

1 Prohibition notice

1.1 There are three types of prohibition notices that an inspector can serve:

1.1.1 In terms of section 30 (1)(a) and relates to acts which threaten the health or safety of a person.

1.1.2 In terms of Section 30 (1)(b) and relates to the threat to the health or safety of persons using machinery, as well as any other person who is, or may become, in the vicinity thereof, in other words we are concerned with the protection of employees and the public at large; and

1.1.3 In terms of Section 30(1)(c) and relates to the conditions which threaten the health or safety of an employee, in other words we are concerned solely with the protection of employees.

1.2 An inspector may, in order to enforce the prohibition notice served in terms of Section 30 (1)(a) or (b), block, bar, barricade or fence off that part of the workplace, plant or machinery to which the prohibition applies in terms of Section 30 (2).

1.3 An inspector may revoke a prohibition notice or remove any barricade, fencing, barring or blocking if he is satisfied that the threat no longer exists and it must be in writing.

1.4 The inspector must recommend prosecution if the employer or user fails to comply with the provisions of a prohibition notice or interferes with or removes blocking, barring, barricading or fencing, as this is an offence in terms of section 38 (1)(a) or (b).

1.5 An employer or user of machinery may lodge an appeal, in terms of Section 35, against the decision of an inspector as set out in the prohibition notice.

1.5.1 An appeal lodged against a prohibition notice served under section 30 (1)(a) or (b). shall not suspend the operation of such prohibition.

1.6 When serving a prohibition notice:

1.6.1 Inspectors must not serve prohibition notices lightly and without restriction as prohibition notices can have serious financial implication for the employer or user.

1.6.2 The inspector must describe in details the precise nature of the act, operation, process, or type of machinery being used which he is prohibiting in order that the act, or operation of machinery, or the circumstances under which the machinery is being used, can be identified.

1.6.3 It must be served on the employer or user and not to a specific employee using the prohibited machinery or operating the prohibited process or performing the prohibited action.

1.6.4 It must be served summarily in handwritten form on the premises, except in cases where Chief inspector must be consulted.

1.6.5 The inspector must identify the employee by name or by category, and he must further indicate the substances or conditions to which these persons are exposed and the occupational exposure limit which may not be exceeded.

1.6.6 The inspector must ensure that the situation holds an immediate danger for the health or safety of persons.

1.6.7 The inspectors must add that the employer or user is required to bring the contents of the notice to the attention of the Health and safety representative and employees concerned.

1.7 A typical case where a prohibition notice can be served is where an inspector comes upon a situation which holds immediate danger for the health or safety of persons because the provisions of a specific regulation are not being complied with.

1.8 A prohibition notice must under no circumstance be issued to force an employer or user of plant or machinery to comply with a contravention or improvement notice

2 Improvement notices

2.1 In terms of Section 30 (3), an inspector must serve an improvement notice when—

2.1.1 the safety or health of a person at the workplace or in the course of his employment, or in connection with the use of plant or machinery is threatened on account of refusal or failure of an employer or user of plant or machinery to take reasonable steps in the interests of health or safety where no specific provisions in a regulation, or

2.1.2 there is a directive from Head office relating to the threat.

2.2 The inspector must recommend prosecution if the employer or user fails to comply with the provisions of an improvement notice after a period as specified on the notice has expired, as this is an offence in terms of Section 38 (1)(b).

2.3 An employer or user of plant or machinery may lodge an appeal against the decision of an inspector as set out in the improvement notice.

2.4 The provisions of an improvement notice are temporarily suspended as soon as an appeal is lodged. If the appeal does not succeed, the provisions of the improvement notice again become operative as from the date on which the decision on the appeal was given.

2.5 When serving an improvement notice:

2.5.1 The inspector must specify the true nature of the threat, and he/she must describe exactly the level of health or safety to be attained, however, he or she must not describe the manner in which the desired level of health or safety can be achieved.

2.5.2 The inspector must lay down the period of time during which the action specified in the notice, must take place, the period is laid down by the chief inspector to be 60days, however the inspector may at his discretion extend this period

2.5.3 It must be served in handwritten form on the premises.

2.6 The period set for an improvement notice is 60 days, when a condition is so unsafe that the inspector is of the opinion that 60 days is excessive; he may consider issuing a prohibition notice.

2.7 Inspectors must only accept written request for an extension of time/period and it must indicate the consultation with health and safety committee or representatives or employees concern.

2.8 Whenever a condition is so unsafe that the inspector is of the opinion that an immediate danger exist he or she must serve a **prohibition notice instead of an improvement notice** on the employer or the user of plant or machinery.

3 Contravention notices

3.1 In terms of Section 30 (3), an inspector must serve a contravention notice when the employer or user of plant or machinery does not comply with a specific provision of a regulation.

3.2 The inspector must recommend prosecution if the employer or user fails to comply with the provisions of a contravention notice after a period as specified on the notice has expired, as this is an offence in terms of Section 38 (1)(b).

3.3 An employer or user of plant or machinery may, in terms of Section 35, lodge an appeal against the decision of an inspector as set out in the contravention notice.

3.4 The provisions of a contravention notice are temporarily suspended as soon as an appeal is lodged in terms of Section 35. If the appeal does not succeed, the provision of the contravention notice again become operative as from the date on which the decision on the appeal was given.

3.5 When serving a contravention notice:

3.5.1 The inspector must specify the nature of the non-compliance and prescribed steps required to be taken in order to comply with the regulation.

3.5.2 The inspector must specify the period within which the action specified in the notice must take place, the period is laid down by the chief inspector to be 60 days, however the inspector may at his discretion extend this period

3.5.3 Inspectors must summarily serve notices on the employer or user. In cases of doubt regarding the threat, the inspector should rather consult the head of his/her office before serving such notice.

3.5.4 Inspectors must ensure that notices are handwritten on the premises.

3.6 Inspectors must only accept written request for an extension of time/period and it must indicate the consultation with health and safety committee or representatives or employees concern.

3.7 The period set for a contravention notice is 60 days, when a condition is so unsafe that the inspector is of the opinion that 60 days is excessive, he may consider issuing a prohibition notice

4 The three types of notices are printed on a standard form. These forms must be used and under no circumstances must notices be served by way of letters.

5 Notices may not be posted.

6 A reminder notice (in a case of a contravention and an improvement notice) must be sent to the employer or user of machinery concerned, 60 days after the date appearing on an improvement or contravention notice, unless the employer or user of machinery has indicated in writing that he or she has complied with the requirements of the notice or if he or she applied for an extension.

7 Whenever a follow-up inspection is undertaken to determine whether notices have been complied with, with a view to the possible institution of a prosecution, **no notice** of such inspection must be given.

B CONTRAVENTION OF SECTIONS OF THE ACT:

The Act obliges an inspector to recommend prosecution when a contravention of a provision of the Act comes to his notice, but for practical purposes the Department may adopt a more lenient approach.

The following three provisions of the Act, must without exception receive the special attention of inspectors during routine and follow-up inspections:

1. Section 17 and 19 (Health and Safety Representatives and Committees)

   The designation of health and safety representatives and the establishment of health and safety committees is one of the most important provisions in the Act and is aimed at co-regulation as far as occupational health and safety is concerned. Prosecution for a contravention of this clause must be instituted immediately.

2. Section 24: Reporting of Incidents

   Reporting of incidents go hand in hand with the principle that an employee is entitled to the protection of the Act. Where his/her health and safety is prejudiced through an incident, contraventions of this provision of the Act must not be overlooked.

   A prosecution for contravening this provision of the Act, read with regulation of the General Administrative Regulation 8, must accordingly be recommended in all cases, which come to notice.

3. Section 38: Offences and Penalties

   This section lays down which offences or acts are punishable. All these offences or wrongful acts are important, but for the purpose of this directive, special attention must be given to actions as set out in Section 38 (1)(n), (o) & (p) and relating to the willful conduct by a person and Section 38 (2) which deals particularly with negligence by an employer.

   Where a person is affected by an incident to such an extent that the incident becomes reportable in terms of Section 24 and the incident can be ascribed to an action referred to in the above-mentioned sections, a prosecution must be recommended.

CHIEF INSPECTOR: J NAIDOO (Signed) **DATE:** 09 MARCH 2005

APPENDIX D: TABLES OF RESULTS

Month	Level 1 inspection (Target, proactive & reactive) - Manufacturing sector	Construction inspection	Hazardous Biological Agent inspection (Health Sector & Funeral Parlours/ undertakers)	Noise Induced Hearing Loss inspection - Manufacturing	Silicosis inspection - Manufacturing sector	Boiler inspection	Stacking inspection - Manufacturing sector	Major Hazard Installation	**TOTAL**
Jan	58	2	0	2	0	0	1	0	63
Feb	118	11	5	7	0	0	3	0	144
Mar	28	8	1	5	0	0	3	0	45
Apr	52	17	3	3	0	0	2	0	77
May	80	9	4	12	0	0	6	0	111
Jun	164	15	0	10	0	0	0	0	189
Jul	67	18	3	17	2	0	2	0	109
Aug	231	6	3	21	0	0	1	0	262
Sep	21	13	5	16	0	0	1	0	56
Oct	13	57	4	4	3	0	1	0	82
Nov	34	15	9	27	0	0	2	0	87
Dec	25	2	0	3	0	0	3	0	33
Total	891	173	37	127	5	0	25	0	**1258**

Table 1: Summary of OHS inspections conducted in 2005 at the PELC

Month	Level 1 inspection (target & proactive)	Level 1 inspection (reactive)	Total
Jan	46	12	58
Feb	91	27	118
Mar	13	15	28
Apr	50	2	52
May	26	54	80
Jun	108	56	164
Jul	53	14	67
Aug	12	219	231
Sep	15	6	21
Oct	13	0	13
Nov	23	11	34
Dec	20	5	25
Total	470	421	**891**

Table 2: Level 1 inspections (target, proactive & reactive) conducted in the manufacturing sector

Month	SECTION8 (2)(d)	SECTION 17(1)	DMR 8	DMR 9(1)	DMR 18(11)	FR 4 (3)	FR 5	FR 8	GAR 4	GAR 9	GMR3 (1)(b)	GSR 2 (3)(f)	GSR 4	HCS 3	HCS 5	HCS 6	HCS 7	HCS 9A	NIHL 4	NIHL 6	NIHL 7	NIHL 8	NIHL 9	VUP 11 (1)	**Total contraventions per month**
Jan	1	1	1	2		1			1	1		2		1					1					1	13
Feb	6	4	3		2		3	2	3	4	3	1	1		1			1		2				2	38
Mar	1		1	1		2														2		2	1		10
Apr	3	1	2	4			2		4	1	2	4										3		1	27
May			1	4			1				3		1						2		4	2			18
Jun	7	10		9	13	2			3	3										3	1	4	2		57
Jul			5	12	3		2		1			3	2			2					3	9		2	44
Aug			3	4								1							2	2	1	2			15
Sep										3											9				12
Oct													3			2	1			4					10
Nov				5	2														1	6	5	3		6	28
Dec	1	3		2	2							1	1								2				12
Grand total	19	19	16	43	22	5	8	2	12	12	8	12	8	1	1	4	1	1	6	19	25	25	3	12	**284**

Table 3: Nature and frequency of contravention notices served in the manufacturing sector

Month	GMR 3(1)(b)	DMR 9(1)	HCS 13	GSR 13A	FR 5(2)(b)	FR 6	AR 15	SECTION 23	**Total**
Jan	2								2
Feb		5	2			1		2	10
Mar				1					1
Apr		4				1	2		7
May	1			2	1				4
Jun		4						8	12
Jul		3	1					2	6
Aug	1								1
Sep	1								1
Oct	1								1
Nov		1						4	5
Dec									
Total	6	17	3	3	1	2	2	16	**50**

Table 4: Frequency of prohibition notices served in the manufacturing sector

Month	HBA inspections (Health Sector)	HBA inspections (Funeral Parlours/ undertakers)	**Total**
Jan	0	0	0
Feb	6	4	10
Mar	0	1	1
Apr	3	0	3
May	0	0	0
Jun	0	0	0
Jul	0	3	3
Aug	0	1	1
Sep	10	1	11
Oct	0	4	4
Nov	4	0	4
Dec	0	0	0
Total	23	14	**37**

Table 5: Hazardous Biological Agents inspection (Health sector & Funeral Parlours/ Undertakers)

Month	HBA 4	HBA 6	HBA 7	HBA 8	HBA 11	HBA 17	**Total**
Jan							
Feb		7			2	1	10
Mar		1					1
Apr			1	2			3
May							
Jun							
Jul		3					3
Aug		1					1
Sep	4	5		2			11
Oct		1		3			4
Nov				4			4
Dec							
Total	4	18	1	11	2	1	**37**

Table: 6 Frequency of contravention notices served in terms of HBAR in the health sector as well as in funeral parlours or undertakers

Month	CR 5	CR 6	CR 7	CR 8	CR 25	CR 26	Total
Jan							
Feb	1						1
Mar		2					2
April			2		2	1	5
May	2						2
June			1				1
July		1					1
Aug							0
Sep			3				3
Oct	7	4	8	1	2		22
Nov			1				1
Dec							0
Total	10	7	15	1	4	1	**38**

Table 7: Frequency of contravention notices served in the construction sector

- CR – Construction Regulations

Month	CR 3	CR 8	CR 11	CR 12	CR 14 (1)	CR 14 (2)	CR 15	CR 19	CR 22	CR 23	Total
Jan	1										1
Feb	1	2									3
Mar		1									1
April	1		2	1							4
May					1						1
June					3	1		1	1		6
July					4	2	1				7
Aug					1						1
Sep					2						2
Oct					12	1				1	14
Nov					3						3
Dec					2						2
Total	3	3	2	1	28	4	1	1	1	1	**45**

Table 8: Frequency of prohibition notices served in the construction sector

Month	Complaints carried over per month	Complaints received	Complaints investigated and finalized	**Total number of outstanding complaints**	Incidents carried over per month	Incidents received	Incidents investigated and finalized	**Total**
Jan	45	5	1	**49**	88	6	32	**62**
Feb	49	6	5	**50**	62	8	4	**66**
Mar	50	11	6	**55**	66	11	6	**71**
Apr	55	9	3	**61**	71	12	5	**78**
May	61	1	6	**56**	78	13	8	**83**
Jun	56	0	5	**51**	83	10	11	**82**
Jul	51	4	3	**52**	82	17	8	**91**
Aug	52	1	6	**47**	91	9	8	**92**
Sep	47	3	7	**43**	92	12	18	**86**
Oct	43	6	1	**48**	86	12	0	**98**
Nov	48	8	2	**54**	98	16	43	**71**
Dec	54	3	0	**57**	71	8	1	**78**
Total	**611**	**57**	**45**	**623**	**968**	**134**	**144**	**958**

Table 9: Complaints and incidents received and finalized by inspectors

Universit
of the Witwatersran
Johannesbur

Human Research Ethics Committee (Medical)
(formerly Committee for Research on Human Subjects (Medical)

Secretariat: Research Office, Room SH10005, 10th floor, Senate House • Telephone: +27 11 717-1234 • Fax: +27 11 339-5708
Private Bag 3, Wits 2050, South Africa

PC-J/467/dsk14es

16 Augus

TO WHOM IT MAY CONCERN:

Name: **Bulelwa HUNA**

re: **Occupational health and safety activities of Port Elizabeth's integ
Department of Labour Inspectorate in 2004**

Degree: **Masters in Public Health**

This certifies that this project does not require clearance from the Human Research Committee (Medical).

The research is to determine the number of inspections conducted in the Port Eli Labour Centre in 2004; no human subjects will be involved.

Yours faithfully

Professor Peter Cleaton-Jones
Chair: Human Research Ethics Committee (Medical)

copy: Anisa Keshav, Research Office, Senate House, Wits

Faculty of Health Sciences
Medical School, 7 York Road, Parktown, 2193
Fax: (011) 717-2119
Tel: (011) 717-2745

Reference: Ms Tania Van Leeve
E-mail: tania.vanleeve@wits.ac.za
22 December 2008
Person No: 041698/D
PAG

Ms BD Huna
11 Pomana Tini Rd
Kwa-Nobuhle
Uitenhage
6242
South Africa

Dear Ms Huna

Master of Public Health (Occupational Hygiene): Approval of Title

We have pleasure in advising that your proposal entitled "*Occupational health and safety activities of Port Elizabeth's Integrated Department of Labour Inspectorate in 2005*" has been approved. Please note that any amendments to this title have to be endorsed by the Faculty's higher degrees committee and formally approved.

Yours sincerely

Mrs Sandra Bann
Faculty Registrar
Faculty of Health Sciences