Q AND A WITH N.C. LABOR COMMISSIONER | *Originally published on March 9, 2008*

Berry plans no changes after stories on poultry

N.C. Labor Commissioner Cherie Berry says she has partnered with the state's businesses to make workplaces safer. That approach, she says, gets problems fixed faster than hitting companies with hefty fines.


Berry

In "The Cruelest Cuts," an investigation into workplace safety in the poultry industry, the Observer found that weak enforcement, minimal fines and declining inspections have allowed companies nationwide to ignore hazards that can kill and injure workers. Fines for serious workplace violations in North Carolina are less than half the national average, the newspaper found.

The newspaper also reported that House of Raeford Farms, a large N.C. poultry company, has masked the extent of injuries in its plants.

Berry says her department has done a good job of protecting workers and isn't planning changes in response to the stories. She points to declining deaths and reported injuries as proof her approach is working. Most businesses accurately record injuries, she contends.

Berry, a Republican who formerly owned a Catawba County company that made spark plug wires, was first elected labor commissioner in 2000 and is running for her third term. She subscribes to Thomas Payne's philosophy that "the government is best which governs least."

Here are excerpts from her two recent interviews with Observer reporter Ames Alexander:

Q. *How would you evaluate your department's track record for keeping workers safe, particularly in dangerous factory jobs such as poultry processing?*

Our department has ... the best safety record and fatality record we've had in many, many years.... Our numbers have been on a downward trend. And that's what our work is targeted toward -- keeping those numbers going down.

Q. *Where would you like to see the state improve?*

I'd like to see us improve by having zero injuries and illnesses and zero fatalities.

Q. *How would you like to see the state get there?*

By continuing down the path we started on when I took office, and that is to develop partnerships with the business community and the employees and to initiate training and education so that everyone understands how important it is to have safe and healthy workplaces.

Q. *When we asked Gov. Easley a couple of weeks ago for his thoughts about the poultry series, he issued a statement saying the following: "Every worker deserves a safe workplace with inspections carried out and overseen by OSHA and the State Commissioner of Labor. She is aware of the problem and if she needs additional assistance from us in some form we would be happy to help." Have you since talked with the governor about this?*

I haven't had an opportunity to speak with him yet. ... What I would hope is to have a discussion with him about perhaps using his influence with the National Governors Association to have those governors who have states with state plans do some lobbying on our behalf at the federal level. ... I'd like to see a more equitable distribution of the federal budget to states that are "state plan" states.

(Note: Federal OSHA regulates workplace safety in about half the states. The other half -- including the Carolinas -- run their own programs, using state and federal money.)

Q. *Workplace safety inspections at the state's poultry plants have dropped sharply in the years since you've been labor commissioner. Given that, how confident are you that the state will be able to catch most of the serious problems that exist inside plants?*

According to the Employment Security Commission, there are 37 poultry sites in the state. Last (fiscal) year we visited eight, so that's about 22 percent. But let me emphasize ... that the last fatality at a poultry facility was March 14, 2004. And that was when a worker fell doing ventilation work. Since that date, 103 construction workers have lost their lives. And I think your readers would understand the need for a comprehensive approach to worker safety. ... You have to understand, you have to have a reason to do an inspection. We can't just go and inspect.

Q. *Researchers -- along with some current and former OSHA officials -- have concluded that the government's official injury rates are inaccurate because many injuries inside workplaces don't get reported. We also found that, for a variety of reasons, many injured poultry workers aren't winding up on company injury logs. Will your department take any additional steps to ensure that company injury logs reflect reality?*

Well, I find it offensive that it seems to me you're suggesting that not keeping the proper paperwork is commonplace in our business community. I just don't find that. ... We're going to keep doing what we're doing because it's working. And, no amount of ink and paper in the world that you generate is going to stop us from doing the good job we're doing.

Q. *North Carolina OSHA tends to be more lenient on companies that are found in violation of workplace safety rules than regulators in most other states. We found that in North Carolina, the average fines for serious violations are less than half the national average. Also, N.C. uses its toughest penalty -- willful violations -- in only one of every 1,800 citations against manufacturers. That's far less often than such penalties are issued nationally. It's about one of every 300 nationally. Some workplace safety experts worry that low fines and minimal enforcement make conditions ripe for another Hamlet (a 1991 fire killed 25 in a chicken plant in Hamlet). What do you think?*

Whoa, another Hamlet? God, I hope not. ... When you say we're more lenient, I can't accept that. Granted, if you look at total fines imposed, they may be lower; but we're not in the business of collecting money. We're in the business of getting hazards abated. And, if during a settlement process, we can negotiate a fine downward and get that hazard taken care of immediately, that's where I'm going.

Q. *Do you think there are any bad actors out there who are ignoring workplace hazards, or failing to report injuries? Is there ever a place for stiff fines against such companies?*

Are you going to have a bad actor? Sure, that's human nature. There are some who aren't going to follow the rules until they get caught. ... Do I believe stiff fines will bring them around? ... You can impose huge fines. But ... we see no evidence that that equates to hazards eliminated in a more timely fashion, or a better attitude imposed within the culture of that workplace. We just don't see any evidence that that's effective.

Q. *You previously rescinded the state's ergonomics standard -- a set of rules that workplace safety experts had described as key to protecting many workers in highly repetitive factory jobs such as poultry processing. Talk about why you opposed those rules.*

I would say that something as controversial as ergonomics is not suited for a one-size-fits-all, 600-page-long standard that is generated and put forth at the federal level. This is something that needs to be industry specific. It needs to be devised by the industry. It needs to be guidelines that they can follow. And, unless you've read those 600 pages, and I did, you cannot possibly understand the bureaucratic nightmare it would have created for everyone involved.

Q. *We understand about one-tenth of N.C. OSHA inspectors speak Spanish. Given the influx of Latino workers in many dangerous industries, are there enough to ensure you're truly hearing from all the workers you need to hear from?*

I think so. You have to look at the fact that there aren't a lot of people that we can employ that have that ability, that have Spanish as a language that they're fluent in. ... There aren't that many people applying for those jobs. And oftentimes ... when we are successful at finding someone that meets our needs and has that ability, they are snapped up by the private sector because they also have that challenge. We've talked to workers who've been fired after reporting injuries, workers who weren't allowed to go to the doctor after reporting injuries, who say they've gotten the message that if they complain they become unemployed.

They need to call us if that's the case. They're protected under the law. They need to call us. If we don't know about them, we can't help them.

Q. *We see that one N.C. poultry plant has gone multiple years without reporting a single case of carpal tunnel syndrome or tendinitis. Experts tell us that's pretty much inconceivable. But I wonder if you think that's plausible in an industry that requires workers to make thousands of repetitive motions per shift.*

Well, I know there are experts who say that's not feasible or even plausible. But what I'm telling you is on the record-keeping information we have, we're finding only 2.5 percent of those inspections conducted resulted in record-keeping violations.

Q. *Why are you running for re-election? What do you hope to accomplish that you haven't accomplished already?*

We have put together the team in the Department of Labor that can make good things happen. We've been able to change the attitude and the culture, the relationship between OSHA and the business community. We've gotten rid of ... that adversarial relationship. And we want to continue to build on that.

POULTRY WORKER'S DEATH CASTS LIGHT ON SAFETY OVERSIGHT | *Originally published on April 26, 2008*

Family devastated, plant fined $2,500

By AMES ALEXANDER
aames@charlotteobserver.com

WILKESBORO — Every night, Thomas Okrenuk returned home tired and sore, scratches covering his arms. But the 49-year-old father of two rarely complained about the chicken plant where he worked.

For Okrenuk, the Tyson Foods plant provided a steady paycheck. He'd been laid off from a nearby cheese factory before landing the job hanging live chickens on moving hooks.

Two days after Christmas in 2003, Okrenuk was on a conveyor belt, working to free a stuck cage filled with live chickens. Without warning, a forklift operator, unaware Okrenuk was there, put another rolling cage on the belt and gave it a push. Okrenuk, a quiet man who loved camping and fishing for trout, was crushed between two 2,700-pound cages.


T. Okrenuk

When officials with the N.C. Occupational Safety and Health Division investigated his death, they discovered that Tyson's managers knew about the hazards, but failed to eliminate them. The fine: $2,500.

"I've lost everything," said Okrenuk's widow, Debbie, a mother of two. "What did they lose? ... I believe it's not a big enough fine that it will even faze them."

On Tuesday, a U.S. Senate committee is scheduled to examine how weak enforcement and low fines have done little to motivate companies to address deadly workplace hazards.

The hearing follows Observer stories that focused on working conditions in the poultry industry, where thousands of workers are hurt each year as they cut and package chicken and turkey. The stories showed how feeble OSHA enforcement, minimal fines and dwindling inspections have allowed companies to ignore hazards that can kill and injure workers.

The congressional attention comes at a time when workplace deaths are climbing. Figures released earlier this month show the total number of workplace deaths nationally increased about 2 percent from 2005 to 2006, from 5,734 to 5,840.

Nationally, when OSHA found violations following workplace deaths in manufacturing plants, the average penalty was about $13,300, according to an Observer analysis of inspections from 1997 through 2006. In the poultry industry, it was about $8,800.


JOHN D. SIMMONS – jsimmons@charlotteobserver.com

Amy Okrenuk (left) and her sister Angie lost their father when Thomas Okrenuk was crushed to death at a Tyson Foods poultry plant in Wilkesboro in 2003.

The fines tend to be lower following manufacturing deaths in the Carolinas -- an average of about $5,900 in North Carolina and $3,900 in South Carolina, the Observer found.

Poultry processing can be a deadly business. Nationally, about 100 poultry workers have died on the job during the past decade. Many of the deaths -- like Okrenuk's -- were not only gruesome but avoidable, the Observer found.

There's no clearinghouse of information on deaths in the poultry industry. But the newspaper was able to obtain and analyze records for 30 fatalities since 2000 and found that more than two-thirds might have been prevented with simple safety precautions. Regulators cited poultry companies for serious safety violations in 24 of those deaths.

But in most cases, the proposed fines were cut significantly.

Among those who died:

Bernard McKay, an employee at the Gold Kist plant in Siler City was run over by a forklift driver whose view was obstructed by a chicken cage on March 26, 2001. Requiring forklift drivers to drive with their loads behind them likely would have prevented the death. N.C. OSHA found the plant didn't properly train its drivers. Regulators proposed fines of $6,300 but reduced them to $4,725.

Jerome Sullivan, a House of Raeford Farms worker in Greenville, S.C., was ripped apart by a machine used to dispose of chicken feathers and blood on Dec. 15, 2001. The machine was missing a safety guard designed to prevent such accidents. An OSHA inspector had complained months earlier that the company wasn't fixing all safety problems she had pointed out. Regulators cited the company for more than 40 serious safety violations and proposed fines totaling $63,900. The penalties were reduced to $13,560.

David Hartness, 42, died at the Tyson plant in Wilkesboro on March 14, 2004, less than three months after Okrenuk's death. He was working on pipes near the ceiling when the duct he was perched on collapsed. He fell 20 feet to a concrete floor and died from head injuries. Inspectors later wrote that supervisors instructed workers to use fall protection but failed to ensure they did the job safely. OSHA proposed a $3,150 fine and reduced it to $2,500.

Philip Hines, an employee at a Pilgrims Pride plant in Moorefield, W.Va., was crushed Feb. 12, 2002, after his clothing became snagged in a machine that moved ice throughout the plant. The equipment had no safety guard to prevent such accidents, regulators found. The company was fined $7,000; the penalty wasn't reduced.

Officials for those poultry companies say they work hard to protect workers and have taken steps to prevent such accidents from recurring.

"There's nothing more important to us than the safety and well-being of our people," Tyson spokesman Gary Mickelson wrote in an e-mail to the Observer. "That's why we continue to examine ways to enhance our workplace safety efforts in our plants and ensure we're making safety everyone's business."

Poultry officials say deaths in their industry are rare; about four of every 100,000 poultry workers die on the job each year. Still, poultry's death rate has been higher than that for manufacturing as a whole, where about three of every 100,000 workers have died on the job in recent years.

Workplace safety regulators often cut fines after workplace deaths or the discovery of hazards. OSHA officials say they often reduce penalties in exchange for an employer's promise to fix problems quickly.

"Penalties, whether in South Carolina or any other state, are not the primary focus of inspectors," said Jim Knight, S.C. Department of Labor, Licensing and Regulation spokesman. "We would rather have a small employer invest their limited dollars in the safety of employees through training, guards for machinery, personal protective equipment, etc., rather than OSHA collecting funds to be deposited in the state treasury."

But workplace safety experts contend many of today's fines aren't getting the attention of companies. Jerry Scannell, who headed federal OSHA under the first President Bush, likened it to the calculations made by motorists in deciding whether to speed.

"If the penalty is $5 or $10, you might risk it," he said. "But if it's $200 and you're going to get your name in the newspaper, it's not worth it. There needs to be some incentive."

Following Okrenuk's death, N.C. workplace safety inspectors concluded Tyson had taken no precautions to help workers deal safely with stuck cages.

Company supervisors "readily realized the hazard" and "failed to provide adequate protection" for workers who had to climb atop the conveyor, according to OSHA documents.

Debbie Okrenuk vividly recalls the day. She was shopping in West Jefferson two days after Christmas in 2003 when her daughter phoned to tell her she needed to call Tyson. There had been an accident at work. Something had happened to Tom.

After tense hours of waiting in the hospital, she was summoned to a room where a doctor broke the news that her husband had died. More than four years later, the memories haunt Okrenuk's family. Debbie Okrenuk drives out of her way to avoid the plant. She and her daughters no longer celebrate Christmas because it's too painful.

Today, Debbie Okrenuk stays home to care for an adult daughter with Down syndrome. She and her younger daughter each receive about $142 a week in workers' compensation payments since the accident. It barely covers the grocery bills, but she worries what she'll do in two years when the checks end.

"You wake up one morning and nothing's the way it was," she said.

— STAFF WRITER KERRY HALL AND DATABASE EDITOR TED MELLNIK CONTRIBUTED.