

**Testimony of David J. Socolow
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Committee on Education and Labor
Subcommittee on Workforce Protections**

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STATE INITIATIVES FOR SAFER WORKPLACES

Chairwoman Woolsey, Congressman Payne, Members of the Subcommittee, thank you for holding this vitally important hearing in New Jersey. I am David Socolow, Commissioner of the New Jersey Department of Labor and Workforce Development. I join Governor Jon S. Corzine in offering a warm welcome to you, Madame Chairwoman, as you visit the Garden State, along with our profound thanks for your leadership and dedication to the lives and health of America's workers. I appreciate this opportunity to discuss what our state is doing to protect workers through safer and healthier jobsites.

Governor Corzine has established the promotion of workplace safety as a top priority for state government. Every worker and his or her family has the right to expect when he or she arrives at work each day that he or she will be able to return home safe and whole at the end of a day's work. We strive for this goal each day, reflecting a commitment to occupational health and safety in New Jersey going back for more than a century.

NEW JERSEY'S HISTORIC COMMITMENT TO SAFER WORKPLACES

Governor Corzine is building on New Jersey's long history as a pioneer in improving worker safety and health. We are proud of the efforts of labor, business and government in the Garden State to foster a culture of safety. Our state has been a leader in protecting our greatest assets, the working men and women of New Jersey, and communicating this commonsense value to an expanding number of our state's employers.

As far back as 1904, New Jersey's Factory Act sought to guard the safety of industrial workers and to "surround the workman with more protection than the common law gave him." Established in 1920, the New Jersey State Industrial Safety Committee remains active today, promoting cooperative approaches between management and labor to eliminate workplace accidents and injuries. The New Jersey State Industrial Safety Committee is the longest-running organization of its kind in our nation; it provides our state government with valuable advice and insight on issues of workplace health and safety today, as it has for state Labor Commissioners throughout more than eight decades.

In partnership with the Industrial Safety Committee, we sponsor annual awards to recognize the cooperative efforts of exemplary New Jersey businesses and their workers to maintain jobsites free of lost-time accidents, some with zero-incident records that have stretched for more than a decade. From the past 80 years of New Jersey's Governor's Annual Occupational Safety and Health Awards Program, we've seen that when a jobsite logs millions of consecutive hours without a single lost-work-time incident, it's not simply good luck – such an achievement reflects a true culture of safety with buy-in from management and real involvement by workers and their representatives.

New Jersey's path-breaking commitment to workplace safety and health was also an inspiration for the federal Occupational Safety and Health Act. In 1965, before OSHA's inception, New Jersey enacted a comprehensive state Worker Safety and Health Act, which provided that "every employer shall furnish a place of employment which shall be reasonably safe and healthful for employees." In the late 1960s, U.S. Senator Harrison Williams of New Jersey took this concept to the halls of Congress, sponsoring workplace health and safety legislation to protect workers on the job. The Williams-Steiger Occupational Safety and Health Act of 1970, largely based on the 1965 New Jersey law, created today's OSHA to assure the health and safety of workers across America.

While the federal Occupational Safety and Health Act preempted state enforcement of New Jersey's earlier law, since the early 1970s, our state government has worked in close partnership with the federal OSHA agency to help protect workers. And while New Jersey's state government does not have jurisdiction for occupational safety and health enforcement in private sector workplaces, we continue to work with OSHA and the unions and businesses of the Garden State to educate, train and build stronger and coordinated labor-management approaches to making workplaces healthy and safe. In 1983, our state established safety and health protections for New Jersey's more than 500,000 public employees – and in 2001, our state PEOSHA program was recognized by federal OSHA as one of only three certified public-sector-only state plans in the nation. The latest data show that New Jersey's private sector continues to have some of the safest worksites in the nation. Our most recent accident and illness rate, at 3.6 incidents per 100 full-time workers, remains well below the national average of 4.4. Any workplace injury is devastating to the worker and his loved ones – but we believe that we can continue to reduce the number and severity of these terrible events, save workers' lives and protect their health, by continuing our focused efforts to foster a culture of safety.

OCCUPATIONAL SAFETY AND HEALTH TRAINING INITIATIVES

New Jersey provides significant state support to train workers in occupational safety and health curricula. We have committed millions of dollars of New Jersey state funds to provide comprehensive safety and health training to assist employers to protect their workers, to emphasize the importance of robust worker involvement in workplace safety, and to demonstrate to employers the value of well-trained workers and safer worksites.

In 1992, New Jersey enacted the Workforce Development Partnership (WDP) Act to provide a dedicated state funding source for job training, including incumbent worker training. Three percent of the money raised through the dedicated WDP payroll tax is allocated to support occupational safety and health training, and today, the state invests nearly \$1.5 million annually in WDP funding to bring training about safety and health protections to the workers who need it most. These state funds help provide a range of training and educational programs that reach workplaces across our state, providing thousands of workers with training that could make the difference between working safely or risking injury or death.

New Jersey's WDP program sponsors the highly-effective Occupational Safety and Health Education Project (OSHEP), a vital partnership between the New Jersey Department of Labor and Workforce Development and the State AFL-CIO. Targeting high-hazard industries, OSHEP provides health and safety training programs, including the OSHA 10-Hour General Industry Training Course and other customized occupational safety training, to workers at jobsites across the state. OSHEP expands its reach by teaching occupational safety and health curricula to worker-trainers who act as force-multipliers, by then training their fellow workers in the skills they have learned.

OSHEP has also developed and delivered truly critical and timely Security Awareness and Preparedness courses for workers in New Jersey's chemical and petroleum sector, pharmaceutical companies, water treatment facilities and hospitals. This training has helped to raise worker awareness and knowledge about maintaining security at these vital facilities. This innovative curriculum explicitly draws parallels among the systems required to promote worker safety, to prevent accidents, and to guard against deliberate terrorist attacks in high-hazard sites. More than 150 facilities have taken part in the training, with thousands of workers trained to improve security at their facilities.

STATE OSHA CONSULTATION SERVICE

New Jersey's continuing partnership with federal OSHA enables the state Department of Labor and Workforce Development to provide important knowledge, training and assessments to employers and their employees through our Safety and Health Consultation Service. This service is offered to employers free of charge, and last year, New Jersey's Safety and Health Consultation Service provided services to nearly 500 public and private sector employers and their 38,000 workers. I encourage every employer in the Garden State to take advantage of the service so that they may:

- Understand the importance of safe and healthy workplaces, both for their employees' lives and well-being, and for efficiency and productivity;
- Receive assessments of the working conditions, hazards and potential hazards in their particular workplace or sites; and
- Obtain training to help ensure that workers know how to reduce the risks of particular jobs that inherently pose hazards to their safety and health.

Our approach in these consultations encourages the development of robust labor-management safety and health committees to maintain a consistent focus on these important issues and the involvement of both workers and management in keeping safety a priority. When managers directly and meaningfully involve workers and their union representatives, they can significantly improve workplace safety.

With each interaction between our consultation service and New Jersey employers and workers, we strengthen our statewide commitment to safer workplaces. By enhancing workers' knowledge and ability to recognize hazards, and by helping employers to recognize the value of communication in reducing hazards, we foster workplaces where labor and management cooperate to correct dangerous situations and to implement policies and procedures for safe work practices.

OSHA'S CONFINED-SPACE STANDARDS

As the recent tragic events here in Linden have reminded us, some workplace locations are particularly hazardous. We were heartbroken to learn of the deaths of two industrial laundry workers last month who were assigned to clean a chemical storage tank, and our thoughts and prayers go out to the Diaz families. This senseless tragedy underscores how important it is for employers to comply with the OSHA standards for working safely in confined spaces.

Based on our Department's experience, these standards are a vital component of a safety program at a business with employees working in confined spaces. Confined-space entry standards are designed to protect employees working in a space such as a tank, storage bin or silo that is large enough for an employee to enter and work; which has restricted means of entry; and which is not designed for continuous occupancy.

The OSHA standards also differentiate higher-hazard, or permit-required, confined spaces. These are confined spaces with recognized serious safety or health hazards including the potential to contain a hazardous atmosphere or a material that could engulf anyone entering the space. These spaces also include those configured in such a way that an entrant could be trapped or asphyxiated by a downward sloping floor tapering to a smaller cross-section or by walls that converge inward.

One of the most crucial steps to ensuring worker safety involves determining if the worksite includes confined spaces and permit-required confined spaces. Effective communication is also a key element in this process and an employer must consult with the affected employees and their authorized representatives on the development and implementation of all aspects of the permit-required, confined-space program.

If the job site has permit-required confined spaces and if the employer decides that its employees will enter these spaces, the employer must develop and implement a proper written confined-space program and prepare an entry permit.

The employer also needs to clearly establish the duties of all authorized entrants, attendants, and supervisors. It is critical, too, that an employer provides comprehensive training so that employees working in confined spaces acquire the understanding, knowledge, and skills necessary for the safe performance of their duties.

Finally, an employer whose employees work in confined spaces must designate an in-house rescue team, or must arrange for an outside rescue service that can respond to a rescue summons in a timely manner. This approach, with its well-defined policy and worker training, is vital to providing consistent protection for workers when they are required to work in confined spaces.

Many of the businesses in New Jersey do not have workers involved in confined-space entry. However, the specific confined space training, particularly for permit-required entry, is recommended as part of the comprehensive 30-hour OSHA training course, and it certainly must be presented to businesses where confined-space entry is an issue. It is vital that all employers with workers engaging in confined-space entry commit to providing this specific training to their employees, in addition to other occupational safety and health course components.

CONCLUSION

The dedicated staff at the New Jersey Department of Labor and Workforce Development will continue to work with our many partners to maintain and build upon our existing culture of safety in New Jersey's workplaces. However, while our state government can provide and sponsor crucial training and consultation to employers and workers, as I noted earlier, the state of New Jersey does not have jurisdiction over occupational safety and health enforcement in the private sector. Robust enforcement by federal OSHA, and development of new national occupational health and safety standards reflecting up-to-date knowledge of workplace hazards, are the bedrock foundation on which our state programs depend. Yet under the Bush Administration, federal OSHA has focused attention on voluntary partnerships and alliances with unproven effectiveness, at the expense of vigorous and meaningful enforcement that actually changes employer behavior. OSHA has also almost completely stopped issuing new or improved safety and health standards during the past seven years.

I hope this hearing in New Jersey today will bring greater attention to this urgent priority – a matter of life and death for countless workers – and I urge the members of this Subcommittee to take the lead in Congress in promoting stronger OSHA enforcement.

Thank you again for this opportunity to appear before you. I will be pleased to answer questions you may have.