

**Presentation by Rick Engler, Director, New Jersey Work Environment Council (WEC)  
OSHA Listens, March 4, 2010, Washington, D.C.**

The New Jersey Work Environment Council is an alliance of 70 labor, environmental, and community organizations working for safe, secure jobs and a healthy, sustainable environment. We are affiliated with the National Council for Occupational Safety and Health and the Blue Green Alliance. Since 1986, WEC has trained thousands of workers and managers to prevent workplace disease and injury and has advocated for state and national policies to engage front line workers for workplace and environmental protection.<sup>1</sup>

This experience has offered us valuable lessons. One is that OSHA can never have enough inspectors to regularly inspect most workplaces. For example, New Jersey currently has 51 OSHA inspectors and inspector trainees (34 safety inspectors and 17 industrial hygienists).<sup>2</sup> New Jersey has more than 243,000 workplaces (see appendix). Of this total, there are more than 60,000 construction, manufacturing, and health care establishments. Even if OSHA deservedly received funds to triple its inspection staff, this number of compliance officers could inspect just the tip of the iceberg. For 153 inspectors to inspect annually 60,000 facilities, ignoring workplace size, character, and complexity, each inspector would have to 392+ inspections! Obviously, this is impossible and this reality applies nationally, as well.

Workers cannot rely on visits by OSHA, an external inspection system, to substitute for workplace-based mechanisms to prevent and abate hazards. Through a new standard, OSHA can and should find new ways to tap the experience and knowledge of employees about their conditions of work.

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<sup>1</sup> For information about WEC, please view our web site at [www.njwec.org](http://www.njwec.org).

<sup>2</sup> E-mail communication with OSHA Region 2 Office, February 3, 2010.

OSHA already recognizes the value of worker engagement. For example, the Process Safety Management standard regulating high hazard chemicals says, “Employers shall consult with employees and their representatives on the conduct and development of process hazards analyses and on the development of the other elements of process safety management...” However, this standard covers relatively few chemical facilities and this employee participation language is vague.

**WEC urges OSHA to issue a comprehensive “Health and Safety Program Standard”.** As starting points, OSHA should assess the strengths and weaknesses of the *Occupational Safety and Health Management Systems* standard issued by the American National Standards Institute<sup>3</sup> and California OSHA’s 1991 Injury and Illness Prevention Program requirements.<sup>4</sup> OSHA should require the “hierarchy of controls” for chemical exposures.

The proposed standard should include specific provisions for effective employee involvement. First, workplaces should have a mandatory safety and health committee (with very few exceptions where a committee is impractical, such as in certain very small facilities). A number of states, Canadian provinces, and Western European nations, as well as many collective bargaining agreements, require such Committees. Some employers want alternative structures and claim they can be just as effective as committees. However, such structures are rarely defined or function effectively. Varying structures would also impede OSHA enforcement of this provision.

In unionized workplaces, to be consistent with the *National Labor Relations Act*, the union, as the authorized representative of employees for dealing with working

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<sup>3</sup> ANSI/AIHA Z10–2005

<sup>4</sup> California's Injury and Illness Prevention Program law and regulation (Labor Code 6401.7 and Title 8 California Code of Regulations 3203)

conditions, must select employee members of the committee. In non-union workplaces, this standard should encourage individuals to volunteer and allow management to select members based on experience, expertise, and coverage of work areas. Management and employee “representatives” should co-chair the committee.

Committee members must have clear rights and responsibilities. The Committee must have adequate time during work hours for meeting preparation, to meet no less than monthly, and for hazard assessment and incident investigation. Members must be paid their regular compensation for committee activities.

As part of the standard, management, with committee input, must routinely assess in writing potential safety and health hazards, including ones that may develop because of new processes, technology, chemicals, or work organization, such as reduction of staffing or increasing work hours. The Committee should review all accidents, releases, spills, fires, explosions, and near miss incidents.

The Committee must be able to promptly review reports and assessments of work hazards and indicate agreement, disagreement, and minority viewpoints. If they decide *not* to abate a hazard, management must post a written justification in a prominent location and provide it to the committee.<sup>5</sup>

Training is a particularly important component of this standard. Training must address potential *specific* hazards and not rely on “off the shelf” templates. The standard should require an annual training plan, indicating how employees would be trained under both applicable OSHA standards and to understand the Program

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<sup>5</sup> In recent rules issued under New Jersey’s *Toxic Catastrophe Prevention Act*, management must justify in writing delays to correction of maintenance deficiencies. Title 7, Chapter 31, Section 68.73(b).

Standard. Training must be provided in language(s) understood by employees. There must be opportunity to interact with qualified instructors and managers.

The standard should also require that employers electronically register the names and e-mail addresses of Committee members with OSHA. The agency should maintain that information in an automated system to send information and alerts to Committee members.

A Health and Safety Program standard is not a panacea or a substitute for a strong OSHA enforcement program. OSHA inspectors will still need to enforce the standard when employers do not comply. It is not a substitute for other standards when particular controls are necessary or for stronger employee whistle-blower protections. OSHA should also stop employer incentive efforts that discourage worker injury and illness reporting and inhibit other safety and health activities.

A program standard with meaningful employee participation would prove an important agency accomplishment. We look forward to working with OSHA on such an initiative. Thank you for this opportunity to present our views.

**For more information, contact:**

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## APPENDIX - New Jersey Illustration

Number of OSHA Compliance Officers in NJ (2010): 51

Number of Establishments and Employees in NJ:

Industry code	Industry code description	Total NJ Establishments	Total NJ Employees*
11----	Forestry, Fishing, Hunting, & Agriculture Support	245	1,644
21----	Mining	107	1,960
22----	Utilities	342	17,225
23----	Construction	25,500	177,095
31----	Manufacturing	9,216	292,324
42----	Wholesale Trade	16,005	269,317
44----	Retail Trade	34,544	466,715
48----	Transportation and Warehousing	7,408	174,469
51----	Information	4,177	114,139
52----	Finance and Insurance	13,443	220,545
53----	Real Estate and Rental and Leasing	9,431	62,027
54----	Professional, Scientific, and Technical Services	31,948	309,851
55----	Management of Companies and Enterprises Administrative & Support & Waste Management &	1,405	172,040
56----	Remediation Services	13,427	292,961
61----	Educational Services	3,262	91,616
62----	Health Care and Social Assistance	25,771	506,595
71----	Arts, Entertainment, and Recreation	3,587	47,723
72----	Accommodation and Food Services	19,345	287,101
81----	Other Services (except Public Administration)	23,908	156,062
99----	Unclassified	279	
	<b>Total</b>	<b>243,350</b>	<b>3,661,679</b>

Source: *County Business Patterns 2007*, US Census Bureau.

\* Paid employees as of March 12, 2007.

Note: An establishment is a single physical location at which business is conducted or services or industrial operations are performed. It is not necessarily identical with a company or enterprise, which may consist of one or more establishments. Most public sector establishments are excluded from this data set and OSHA inspectors do not inspect non-federal public employer establishments, which are regulated by a separate NJ public sector OSHA plan.