

**STATEMENT OF JOHN L. HENSHAW
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HEALTH
BEFORE THE
SUBCOMMITTEE ON LABOR, HEALTH AND HUMAN SERVICES
AND EDUCATION
COMMITTEE ON APPROPRIATIONS
U.S. HOUSE OF REPRESENTATIVES**

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Mr. Chairman, Members of the Subcommittee

I am very pleased to testify today on OSHA's budget request for Fiscal Year 2005 and to report on our progress in protecting America's working men and women. The FY 2005 OSHA budget request is \$461.6 million and 2,238 FTE. This represents a \$4.1 million net increase to better accomplish the Department's occupational safety and health mission and build on our successes.

I am proud of the fact that the overall workplace injury and illness rate in 2002 was only 5.3 cases per 100 workers. Due to changes in recordkeeping requirements, we cannot directly compare the data for 2002 with those for previous years. However, it is clear that the long-term trend in injury rates has been declining. This success is the result of hard work by Federal and state OSHA, and the employers and employees of this Nation.

However, we still have work to do. Although fatal injuries declined by 6.6 percent in 2002—the single largest annual decline ever—more than 5,500 workers still died on the job. OSHA's Strategic Management Plan, which sets forth ambitious but manageable goals for the Agency, continues our efforts to reduce fatalities. The plan calls for OSHA to focus on the "Triple

Bottom Line” of reducing injuries, illnesses, and fatalities. We intend to reduce the fatality rate over the next five years by 15 percent and to reduce the injury and illness rate by 20 percent. OSHA will accomplish these goals by: reducing hazards through direct interventions at the worksite; promoting a safety and health culture in American workplaces through compliance assistance, cooperative programs and strong leadership; and strengthening the Agency’s own capabilities and infrastructure.

In addition to the crucial legal and moral imperatives to save workers’ lives, reducing injuries and illnesses is good for our economy. The National Institute for Occupational Safety and Health (NIOSH) estimates that the cost of fatal occupational injuries in the U.S. between 1992 and 2001 was \$48.7 billion. By reducing these deaths, we not only prevent immeasurable suffering but we realize a benefit for all workers and the economy.

OSHA is seeking a \$4.9 million increase to expand its Federal Compliance Assistance efforts. This activity supports a variety of cooperative programs, training, and outreach to provide compliance assistance to employers and employees – particularly small businesses. The total request for Federal compliance assistance activities is \$71.4 million and 358 FTE. The Agency will also assist employers by continuing important programs like the Voluntary Protection Programs (VPP) and by seeking a \$1.7 million increase for the on-site Consultation Program for small employers to encourage safe and healthy workplaces. Through its compliance assistance efforts, OSHA works to help employers and employees recognize that safety and health adds value to their businesses and their lives.

Also included in OSHA's FY 2005 budget request is \$16.1 million to meet the commitments of its regulatory agenda and to develop and issue guidance products to better protect employees from workplace hazards. The budget request for OSHA's Federal Enforcement activity is \$171.0 million and 1,581 FTE – a \$5.0 million net increase over FY 2004 that includes \$2 million to support the Agency's enforcement of 14 whistleblower statutes, which have produced an increasing number of complaints in recent years. OSHA's Federal Enforcement activity increases compliance with workplace standards under the Occupational Safety and Health Act of 1970 through the on-site inspection of workplaces. OSHA will continue to target inspections based on the worst hazards and the most dangerous workplaces. OSHA will also assist other Federal agencies in establishing and maintaining occupational safety and health programs for Federal workers, including the President's recently announced Safety, Health and Return-to-Employment, or S.H.A.R.E., initiative, which creates a strong and visible incentive for Federal agencies to look more carefully at workers' compensation costs and workplace injury rates.

OSHA has been very busy in the past year. Some highlights from the last 12 months include the following:

Strong, Fair and Effective Enforcement

Enforcement underpins OSHA's activities. Federal OSHA conducted 39,817 inspections in FY 2003, an increase of about 2,000 inspections from FY 2002. Our enforcement program is designed to produce change in the workplace. OSHA utilizes its resources most effectively by focusing on the most dangerous workplaces through national emphasis, local emphasis, and site-specific targeting. Programmed inspections focusing on high-hazard workplaces increased by

almost 10 percent from FY 2002. The number of citations issued by Federal OSHA increased by more than 10 percent; citations of willful violations rose by 22 percent. Also, since January 2002, OSHA has conducted almost 1,500 inspections focusing on ergonomics issues and has followed up with citations and hazard-alert letters informing employers of ergonomic hazards in their workplaces. In addition, as you know, in 21 States and Puerto Rico, OSHA enforcement is provided through OSHA-approved State Plans. These states, along with four additional states that cover only public employees, conducted an additional 59,290 inspections last year, extended full protection to state and local government employees, and provided extensive compliance assistance through VPP, outreach initiatives, training and education, partnerships, and alliances – all tailored to states’ unique needs.

Through its Enhanced Enforcement Program, OSHA focuses on employers who defy safety and health regulations. This newly implemented policy emphasizes follow-up visits, additional inspections, and tougher settlements for priority enforcement cases -- both fatality cases where OSHA finds high-gravity violations related to worker death, and cases with multiple willful repeated violations. When circumstances warrant, OSHA will inspect other worksites of a company-wide employer to determine whether the compliance problems at the primary enforcement case site are indicative of a company-wide problem. OSHA also works closely with the Solicitor of Labor to ensure prompt actions by attorneys on all significant enforcement cases and to place special emphasis on cases involving discrimination or retaliation against workers who exercise their rights under the OSH Act.

To improve the Agency's enforcement capability, OSHA has placed emphasis on the personal development of OSHA's compliance staff. In the past two years, the number of professionally certified staff in the Agency has increased by almost 60 percent, and OSHA will continue assisting and encouraging its employees to receive certification in their professions.

Outreach, Education and Compliance Assistance

OSHA's efforts to reach out to employers and employees who want safe and healthful workplaces also continue to increase. In FY 2003, state-consultation programs conducted more than 31,000 consultation visits, and assisted employers in recognizing and removing over 123,000 serious workplace hazards. These consultants provide additional assistance to small business by helping them develop safety and health management systems specifically for their workplaces.

In FY 2003, OSHA's training programs reached more than 300,000 employers and workers. The OSHA Training Institute (OTI) near Chicago and the OTI Education Centers, located throughout the country, focus on training primarily employers and employer representatives, who work to ensure their worksites are in compliance with OSHA requirements and also train their employees. Because many of the OSHA training programs use a Train-the-Trainer model, the programs create a multiplier effect, which allows a significantly larger number of students to be trained.

OSHA's website, which was named one of the "Best of Web" in 2003 by *Business Insurance* magazine for its usefulness and innovation, is one of the main avenues for providing compliance

assistance to the public. Visits to OSHA's website increased 150 percent from 2002-2003. OSHA places information on its website immediately after a new hazard emerges to help employers protect their workers. For example, as soon as the Agency learned of ricin exposure in Senator Bill Frist's office, OSHA placed information about the dangers of this substance on our website. More than 52 million visits to this site are expected this year, providing a tremendous amount of outreach on worker safety and health. Also in 2003, 146,000 calls were made to our 1-800 number, which provides information about the Agency and directs callers to relevant sources of information.

OSHA has provided employers and employees numerous compliance assistance tools to enhance their awareness of workplace hazards. The tools include eight new *e-tools* and 11 new safety and health pages on our website, 16 Safety and Health Information Bulletins, and, for the maritime industry, a Safety and Health Injury Prevention sheet and a video of a fatality investigation by OSHA. Two new tools on the OSHA website are MyOSHA, which creates individually-tailored links to OSHA online resources and Quick Start, a step-by-step guide to identify major OSHA requirements and guidance materials. In just one month, more than 2,000 people have registered for MyOSHA since its launch in January 2004.

An example of OSHA's approach to outreach comes from Buffalo where OSHA's staff conducted 66 seminars for small businesses in one year. Through the seminars, our local office assisted small-business owners in developing safety and health programs for their workplaces and made them aware of methods used by other firms to protect workers in their industries. OSHA worked with the New York Consultation Program, local community colleges, Small

Business Development Centers, local chapters of the National Safety Council, and various chambers of commerce in upstate New York to deliver the material. These organizations provided classroom space and publicity for the seminars. As employers learned of the seminars, participation grew and the feedback from the small-business owners who attended was very positive. Similar outreach efforts are being conducted in many other parts of the country.

Partnerships and Cooperative Programs

Partnerships and cooperative programs expand OSHA's impact. As of January 31, we have 46 national alliances and 105 regional- and area-office alliances. A sample of our working alliances, with a wide range of organizations, include Dow Chemical Company, the Society of the Plastics Industry, the MacDonough School of Business at Georgetown University, the American Industrial Hygiene Association, the Washington Group International, and the American Meat Institute. Each of these alliances represents an opportunity for OSHA and a business or organization to build a trusting, cooperative relationship, form networks with others committed to workplace safety and health, and leverage resources to maximize worker safety and health protection. For instance, OSHA and thirteen major airlines, including American Airlines, Delta Air Lines, Continental Airlines and JetBlue Airways, and the International Air Transport Section of the National Safety Council formed an alliance to address ergonomic issues associated with handling passenger-checked baggage. The alliance is helping to develop an ergonomics-training manual for their employees who handle checked baggage. The manual will be made available free-of-charge to all airlines. In addition, through the alliance, the airlines and OSHA worked cooperatively to review and provide ways to improve OSHA's eTool for baggage handling. Using both groups' input, this tool was updated and it is now available on OSHA's

website. Fifteen of OSHA's Alliances focus on ergonomics, and we will sign additional agreements that address ergonomic issues in the workplace in the upcoming months.

OSHA currently maintains 212 strategic partnerships with employers, associations, and labor unions, and has participated in a total of 300 partnerships since the program began in 1998. In the past three years, we have increased the number of partnerships by an average of 54 new participants annually. Partnerships have measurable results, both in reducing injuries and in saving costs. A partnership between OSHA and the Idaho General Contractors reduced the fatality rate among members by 57 percent in six years. The number of workers' compensation claims among these firms in Idaho dropped by 30 percent during that period. Another partnership, with the Division of Marine Operations, Pension Horizon Lines of Puerto Rico, Inc. resulted in a drop in the total case rate during the first year of the partnership from 8.6 to 5.1, a 41 percent decrease.

To fulfill our commitment to recognizing model employees, OSHA continues to expand participation in the VPP, an initiative that the Agency has successfully used to promote the effectiveness of comprehensive safety and health management systems at worksites through cooperative relationships among management, labor, and OSHA. As of January 31, 2003, there are 1,036 worksites participating in VPP -- 740 Federal and 296 State. These firms represent 208 industries and they make continuous improvement in their efforts to protect their workforce. The injury rates of VPP companies, which go beyond OSHA's requirements for protecting their workforce, continue to be about 50 percent below the rate of other companies in their respective industries. Many firms in the VPP also mentor and assist other companies in reaching their level

of excellence. A report developed by the Conference Board surveyed senior safety executives of major corporations, and concluded that many companies give “high marks” to the VPP because of its role in developing company cultures of safety.

We continue to develop innovative approaches to expanding VPP’s impact while maintaining quality and integrity. Within the next two months, we will be launching a VPP geared specifically for construction, and two new pilots -- VPP Corporate and OSHA Challenge. VPP Corporate will offer an improved process for multiple sites within a corporation to apply for and gain VPP recognition. OSHA Challenge offers defined levels of progress that employers can follow, with specific requirements at each stage to successfully implement components of an effective safety and health management system. These stages serve as a guide for candidates to follow towards achieving VPP status.

OSHA realizes that death and injury among Hispanic workers is a significant problem. The results of OSHA’s initial enforcement and compliance assistance efforts targeted to this worker population have been positive as fatalities among Hispanic employees fell by six percent in 2002. We are working with NIOSH and our advisory committees to develop plans for a Hispanic summit. The summit, to be held later this year, will focus on sharing safety and health training and education and outreach successes among Hispanic employers and employers with a Hispanic workforce.

OSHA will also be joining the Mine Safety and Health Administration (MSHA) and the Bureau of International Labor Affairs (ILAB) in participating in the 17th Triennial World Congress on Safety and Health, to be held in the United States for the first time, in September 2005 in

Orlando, Florida. The central theme of the 2005 Congress is "Prevention in a Globalized World --Success through Partnerships". The Congress will focus on ways to strengthen partnerships among governments, employers, workers, nongovernmental organizations, employer and employee groups, and safety and health professionals to improve worker injury and illness prevention in a globalized world

Regulatory Activity

Last year, OSHA issued three final rules, and we are currently working on more than a dozen other rulemakings, for hazards such as chromium, silica, and beryllium. When it is more appropriate to issue guidelines or other information to address a hazard, OSHA employs this approach. For example, to reach our goal of increasing the use of automatic external defibrillators (AED) in American workplaces, the Agency signed alliances with the American Heart Association (AHA) and National Safety Council last year. Through the AHA alliance, OSHA and AHA will develop training and education programs on AED-program implementation to include key elements, system design, and best practices as jointly determined by OSHA and the AHA. Last November, the Agency released a publication on workplace defibrillators that lists reasons for placing the device in the workplace, and examples of workers who have survived cardiac arrest because AEDs were available.

In the past three years, OSHA has developed a credible regulatory agenda—a list to be accomplished rather than the wish lists of the past. In FY 2005, we will continue developing the standards that are on our regulatory agenda. Our work plan is clear, straightforward, and realistic. We continue to develop guidance to employers on many topics, including prevention of

ergonomic hazards, preparation of material safety data sheets, and protection of workers in chemical or biological emergency-response situations. We will issue a number of guidance products this year, with more to follow in 2005.

The most effective way to reduce injuries and illnesses is to use all the tools available through the OSH Act. An example of the way this can be accomplished occurred in the Atlanta Region last year. When regional officials learned that there were large numbers of workers electrocuted while working around power lines, they instructed OSHA's compliance officers to stop at worksites if they saw a crew working near a line. Compliance officers provided packets of information about power-line hazards to employers that described proper safety procedures. A training CD was produced for employers that included ready-made safety presentations and photos from OSHA's inspections. OSHA also formed a regional alliance with the International Brotherhood of Electrical Workers, the Southeastern Line Constructors Chapter of the National Electrical Contractors Association and the Southeastern Line Constructors Apprenticeship and Training Council to improve workers' ability to recognize and maintain a safe-working distance from power sources, use proper grounding techniques, and wear proper protective equipment.

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Mr. Chairman, the past 12 months have been a productive time for OSHA. The reputation of the Agency has been enhanced by its accomplishments. The President's request for \$461.6 million and 2,238 FTE in FY 2005 will allow us to continue moving forward. The increased funding is primarily to build on the success of OSHA's compliance assistance programs and to handle the additional caseload of whistleblower complaints from new statutes such as the Corporate and

Criminal Fraud Accountability Act of 2002 (Sarbanes–Oxley) and the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century. I am confident that the Agency will continue to realize success in protecting America’s working men and women.