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PUBLIC HEARING

before

SENATE LEGISLATIVE OVERSIGHT COMMITTEE

The Implementation of the
Public Employee Occupational Safety and Health Act

July 28, 1987
Room 334
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

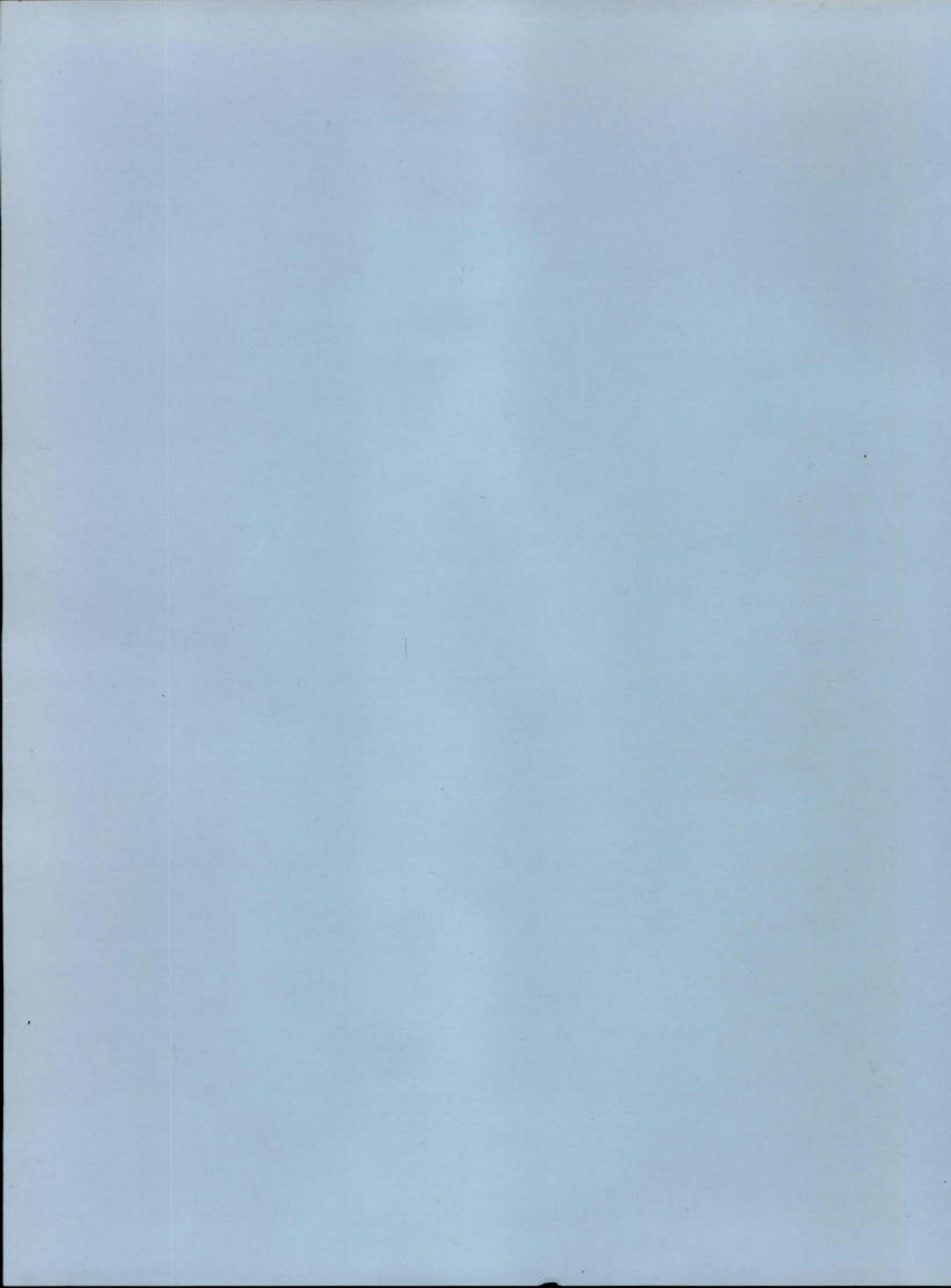
Senator Gerald R. Stockman, Chairman
Senator Christopher J. Jackmen, Vice Chairman

ALSO PRESENT:

Steven B. Frakt
Office of Legislative Services
Aide, Senate Legislative Oversight Committee

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Hearing Recorded and Transcribed by
Office of Legislative Services
Public Information Office
Hearing Unit
State House Annex
CN 068
Trenton, New Jersey 08625



MEMORANDUM

TO: LIS
Hearing Unit

FROM: Steven B. Frakt, committee aide ^{SD}

DATE: July 13, 1987

SUBJECT: HEARING ON JULY 28

Senator Stockman has scheduled a hearing of the Senate Legislative Oversight Committee on the implementation of the Public Employee Occupational Safety and Health Act. The hearing will be held on Tuesday, July 28 in room 334 of the Annex, beginning at 10 a.m.

The Commissioner of Labor will testify.

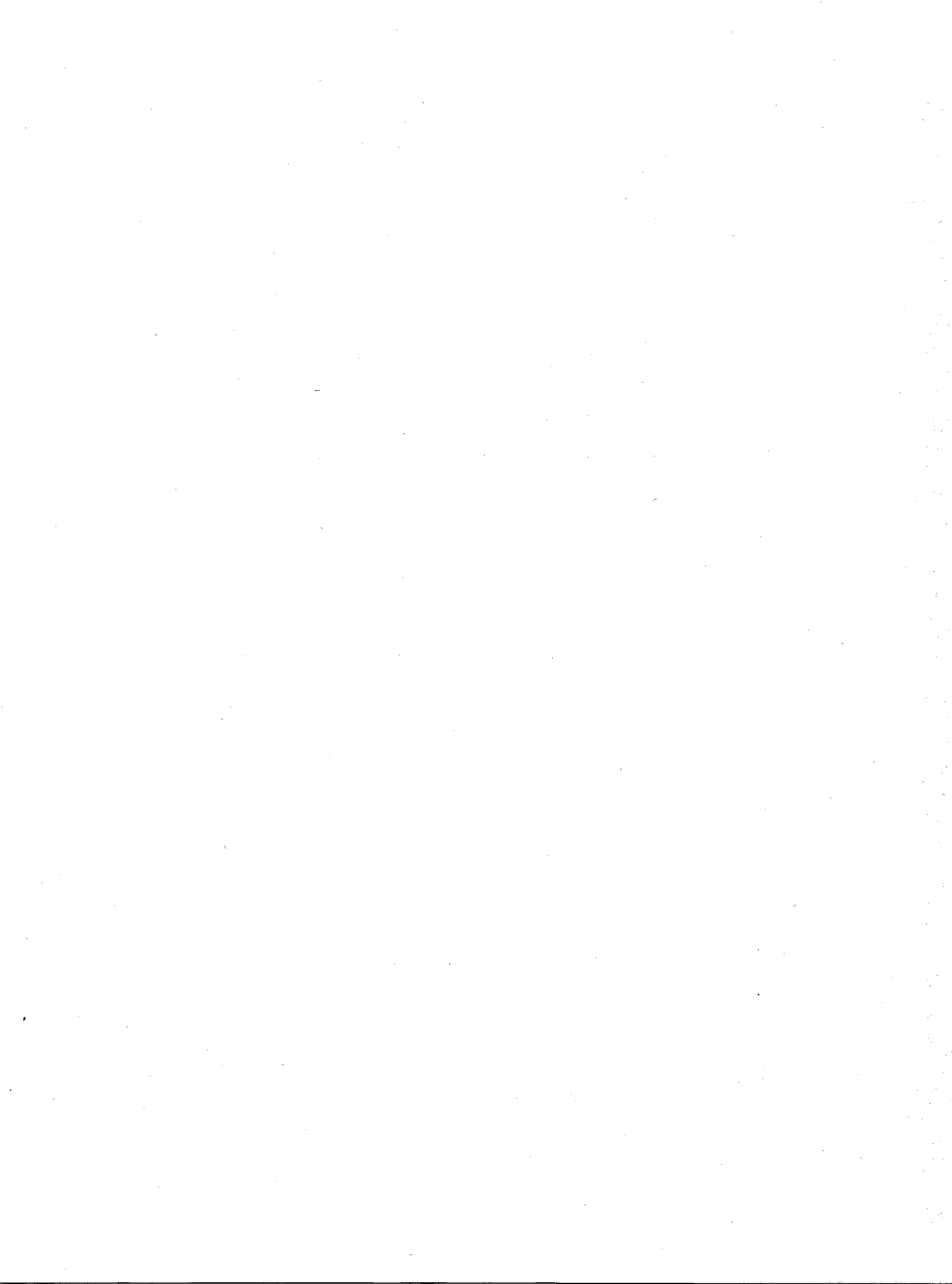


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SENATOR GERALD R. STOCKMAN (Chairman): Good morning. This is the third hearing of the Senate Legislative Oversight Committee on the question of the enforcement of the Public Employee Occupational Safety and Health Act.

There have been complaints and concerns expressed about how vigorous, how thoughtful, and how well implemented that legislation is, whether it needs revision, whether the Legislature has given it the support and the funding it needs to, and a variety of other questions. We've had some colorful and at times apparently exciting testimonies. I think there are still some serious unanswered questions about where we are with implementing the bill standards, enforcements, differences between the Departments.

We've invited the Commissioner to come and himself answer some questions perhaps, or at least give us his view at the outset as to where we are in the hopes of improving the enforcement of this law and, more specifically, the hopes of being sure that public employees in New Jersey are safe in their workplace and are not exposed to unreasonable risk of harm.

Senator Jackman, who, as usual, is a faithful and valued companion to this Committee, is here. And I know he'd like to make an opening statement before we begin today's hearing.

SENATOR JACKMAN: Thank you very much Mr. Chairman. Let me, on the outset, welcome everyone here to the meeting because this is going to be what I consider a very important contribution from the people who are present in the room. At the outset, may I compliment you, Mr. Commissioner for a job well done with that garbage strike that took place up in the northern end of our State. Your intercession was very, very important. I think my colleague agrees with me that if you had not interceded, there could very well been the strike that would have been to the detriment, I think, to our end of the

State, and we appreciate your contribution and we welcome you here this morning. Thank you.

SENATOR STOCKMAN: Welcome, Mr. Commissioner. I think that Senator Jackman has put it well. You're welcome to express your opinions to the Committee.

COMMISSIONER CHARLES SERRAINO: Is this on? (referring to mike)

SENATOR STOCKMAN: I think so. Yeah, it's just for the recording of the hearing testimony.

COMMISSIONER SERRAINO: Well, I wonder if we could agree on an order of procedure.

SENATOR STOCKMAN: Well, we could try.

COMMISSIONER SERRAINO: Mr. Chairman, I'd like to suggest to you that what I mean by that is that you permit-- I have no written statement. I'm going to talk off the top of my head, so to speak.

I do have some written material which I would like to submit to the Committee from time to time. But if it is at all possible, I would like to give you my impression of what the whole situation is, at the end of which I'm open to any questions -- rather than raising questions as we go along. Is that all right with you?

SENATOR STOCKMAN: That's fine.

COMMISSIONER SERRAINO: First of all, Senator Jackman, I certainly appreciate your very kind words. Had it not been for the fact that the Governor sent me into the garbage strike, I would have been here at the last meeting; and I regret any inconvenience I may have caused the Committee because of that.

SENATOR STOCKMAN: Excuse me. Let me ask something. I'm not sure-- Is Mr. Clark here or--

COMMISSIONER SERRAINO: Mr. Clark is on vacation and I thought it would be better to not bring him in from vacation. I don't want to disturb him.

SENATOR STOCKMAN: Okay.

COMMISSIONER SERRAINO: I didn't want to talk about Mr. Clark, frankly.

SENATOR STOCKMAN: There was some spirited exchanges with Mr. Clark, and I--

COMMISSIONER SERRAINO: I'm going to raise that question.

SENATOR STOCKMAN: Okay.

COMMISSIONER SERRAINO: I've known Mr. Clark a long time. He was Director of Workplace Standards when I was Commissioner of Labor 17 years ago and got to know him then. And I want to, on behalf of the Department of Labor and myself, personally, to apologize for how he defended his position. I commend him on his defense. He's a loyal, longtime servant of the State of New Jersey. I am not talking about what he said or the arguments he chose to use. I just regret that he got excited and got into an altercation. And while I say that to the general more specifically, Senator Jackman, I offer you my regrets for ever having it happen. So, I'd like to clear the air on that point.

Let me say that I'm proud of this organization that we have in the Department of Labor. We do not do things perfectly, and I daresay that no one does. I'm very proud of its achievements, -- sometimes under very difficult circumstances and sometimes under financial constraints. Whatever these hearings result in, I would like you to know that fundamentally it's my responsibility. To use these words of a famous President, "The buck stops right here." I accept responsibility. I'll accept whatever credit we get and I'll accept whatever blame we get.

All I know is that we've got a loyal organization that works very hard and any differences which we might have with you and more specifically, which Mr. Clark had with you, I'm sure it's not political, Senator. I mean, Bill Clark is a loyal Democrat for many years. He used to be Deputy Mayor of Perth Amboy. So, it wasn't a political difference.

SENATOR JACKMAN: No. I know that.

COMMISSIONER SERRAINO: And I was very proud the year I had-- January of 1986 they were appointing him Assistant Commissioner. I appointed him a year and a half ago and I was happy to do so because he was the best qualified man.

There has been much testimony here, and I would like to pick up, Senator, where you issued an opening statement at the last meeting, and I think that is a good place, because what, in essence, you were saying there is that there are many points that have been raised, but you'd like to discuss the whole question from the systemic point of view. And I think that's proper. So, I'm now referring to your statement which was issued at the time. And I'd like to begin there.

If you would look at number eight on page two, one of the points being made is that there is constant bickering between the Departments of Labor and Community Affairs. I am not aware of any bickering, and I am positive there is none. We did have a difference of opinion in the very beginning; there is no question about that. But that was straightened out a long time ago on the basis of the Act itself.

We're on page three of the Act of this booklet. It clearly sets forth that any pertinent standards shall not exceed those established by the Commission of Community Affairs pursuant to the State Uniform Construction Code Act and pursuant to the Uniform Fire and Safety Act. Then, if you turn to page 16, it's very clear: "Nothing in this act shall be deemed to conflict with or supersede any provision of the State Uniform Construction Code Act or the Code promulgated thereunder, or to affect or limit the powers, duties, authorities, or responsibilities of the Commissioner of Community Affairs; or any enforcing agency thereunder."

From that point on, the only jurisdiction that we had in this whole area is in the matter of protective clothing, and we had no dispute since then with DCA and I think that

constitutes, frankly, my answer to number eight. I don't know where this originated, but if--

SENATOR STOCKMAN: Commissioner, can we take that then because you are going to take other points too? Can we go with eight?

COMMISSIONER SERRAINO: Well, I want to go through the whole thing.

SENATOR STOCKMAN: It's going to be difficult, but if that's the way you want to proceed, I'll defer to you, but I'll try to make notes from that. All right.

COMMISSIONER SERRAINO: I would like to go to number five which has to do with regulations for an educational program. May I submit to you and to Senator Jackman a synopsis of what we've done educationally. On the very first page, it shows agencies with whom we've had meetings and the amount of people affected. We've met with 19 State employers, with 1278 people involved. We met with 22 municipal employers -- 731 people; we met with 22 county employers -- 784 people; we met with 20 school boards -- 789 people; we met with 40 fire departments -- 2232; we met with 16 unions -- 765 people; we met with two police departments -- 320 people; and miscellaneous groups of people -- 14 -- representing 668 people.

In addition to the above, we've had 24 on site consultations which was basically training sessions. And they were conducted under the question of space entry, office safety, trenching and excavation, and assisting the employers in developing their own safety programs. And these consultations, or the communities, Plainfield, Burlington, Perth Amboy, East Orange, Little Falls, Watchung, Duttonville, Sayreville, South Amboy, Rahway, Lawrenceville, Camden, South River, Montclair, Secaucus, Woodbridge, Hamilton Township, Cedar Grove, and East Windsor.

Educational material -- I'm going to the second page -- were prepared and printed in 1985 to assist workers in

exercising their rights and to aid employers in establishing safety and health programs procedures. Materials were distributed to the persons attending educational seminars and are available upon request: lists of safety hazards, commonly violated safety standards, pamphlet highlighting pertinent sections of the Act, complaint forms for public employees, informational posters on fire dangers in the home and in the workplace.

We've had other educational activities. Telephone lines -- designated by the Departments of Health and Labor and Community Affairs -- for reporting hazards. Downsized versions of informational posters containing telephone numbers for reporting hazards were forwarded to the Department of Treasury. These posters were included in the paychecks of every State worker. Visitations were made to a total of 487 work sites; and the purpose of the visitations was to advise employers and workers of their rights and responsibilities on the PEOSHA and to provide assistance in helping them to secure safe and healthy work sites.

Press releases were released to all news media outlets in June 1985, January 17, 1986, and August 21, 1986, to alert public employers and employees of their rights and responsibilities under the PEOSHA. Work safety and health was addressed in a total of 20 speeches scheduled for the Commissioner or scheduled for other Department of Labor representatives between January 10, 1986, and May 5, 1987. A library of safety films was assembled for usage by employer and employee groups. The library deals with a wide range of subjects concerning safety and health hazards. The film is available free of charge to employers or group representatives.

The Office of On Site Consultation Services is in the process of developing guidelines for a safety awareness program to encourage employers to conduct their operations in the safest possible manner. The program, which is expected to be

developed by the end of the year, will be similar to the one which is conducted in conjunction of the New Jersey Industrial Safety Committee, which I don't have to tell you, has been a huge, huge success. We've got Governor's awards, Commissioner's awards-- We get mobs and mobs of people attending all of these affairs in the private sector. We hope to do the same in the public sector.

Materials for posters were mailed out to every municipality, school board, and State agencies in May 1986. And on the last page there, or on the next two pages, you'll see a list of speeches which were made on this whole question by me or members of my Department -- a list of 20. So, that with or without regulations, we've been working very hard on the question of education. I should like to give you, however -- and this may sound self-serving, but I think I must do it -- a picture of how I feel about the situation. In short, I'm talking about my commitment to the question of safety and health.

I became Commissioner for the second time late in the fall of '84, and on February 1, 1985, I issued an administrative order -- a copy of which you see there -- which indicates my position on this whole question of safety and health. Behind that, you'll see samples of stories that we ran in our newspaper. This has to do with my Department alone; not the whole State, of course. This question of my position-- You have samples of the speeches that I gave having to do with this whole question and if in your spare time you happen to read this, I think you'll get the gist of where I'm coming from on this whole question of law and safety.

I thought I might go back into history. Will you turn to the page which says the Joint Safety Program of the Forstmann Woolen Company Center. Okay. This is a cover of a book that was issued, and the second page shows that this joint safety program was a subject of a study made by Rutgers

University. And if you turn to the next page, there's an excerpt of the whole study, and up on the top: B. Union Co-operation Starts. Do you see that, sir?

SENATOR JACKMAN: It's going back to 1945.

COMMISSIONER SERRAINO: In early 1945 the manager of the Passiac Joint Board of the Union approached the vice president of the company to offer the union's formal cooperation in preventing accidents. Maybe that was before you were born Senator, I don't know.

SENATOR STOCKMAN: I wish it was, Commissioner, but unfortunately it wasn't.

SENATOR JACKMAN: He was a baby at that time.

SENATOR STOCKMAN: That's a lie too.

COMMISSIONER SERRAINO: Okay. So, the manager of the Passiac Joint Board approached the vice president and the joint safety program was rigged out. If you would be kind enough to turn that page, you will see Appendix 1 of the joint safety program. And I'm very proud to tell you that my name appears where it says Manager of the Joint Board. I was dedicated to the question of health and safety problems way back -- and this is on record at Rutgers University, sir. And what I'm talking about is my commitment to this whole question.

SENATOR JACKMAN: This was yours, Charlie, and I say it with some modesty. I go back that far. In fact, my union goes back to 1936. I just celebrated my 51st year with the union, so I know that this has been a model with Rutgers University on the basis of safety, and it's listed, no questions about it, in the files. I have copies of this myself back in my files with my international union, so I know that it's true.

COMMISSIONER SERRAINO: And so, in the light of PEOSHA, when I walked into this job again, I got a hold of our Assistant Commissioner of-- Well, we wasn't the Assistant Commissioner then, he was the Director -- Larry Arcioni,

another Democrat who I have appointed as Acting Commissioner (sic). He was the Director, I appointed him in January of 1986 as Acting Commissioner for the Department of Labor. I said to him, what do we have in terms of safety committees? I want to turn the mike over to him for about five minutes. Larry?

L A W R E N C E L. A R C I O N I: Thanks for the great introduction, Commissioner.

COMMISSIONER SERRAINO: Don't make it too long.

ASSISTANT COMMISSIONER ARCIONI: That's not what you told me. This is, again, Mr. Chairman, by way of my personal commitment.

SENATOR STOCKMAN: Mr. Commissioner, you're making this hearing difficult for me, frankly; but out of the deference to your years of involvement in this area and your desire to proceed in this manner, I will now turn -- before we have a chance to really get into some of what you have said -- to another witness whom I know well, Larry Arcioni, and we'll hear from him and then come back--

ASSISTANT COMMISSIONER ARCIONI: Thank you Senator Stockman and Senator Jackman. I don't have 51 years with the union, Senator, but I do have 42 years of employment with the State of New Jersey -- all of them in the Department of Labor. And since about 1964, I've been in a management position. And prior to Commissioner Serraino's return as Commissioner, I thought that in the Department of Labor, we had a sense of pride. The Department's attitude toward matters of employee health and safety led the field to the State government. And the reason for that was, of course, the Department was highly laborized. I, in turn, helped to form that type of activity, having been head of a State employee union for about nine or ten terms.

What I want to say is that Commissioner Charlie placed emphasis in the field over and above beyond any previous commissioner. In September of 1984, just prior to us coming on

board I had several briefings with Charlie Serraino regarding the State of affairs in the Department, in particular the labor relations aspect. Among the items that we discussed was contractual obligation in health and safety, matters with the union, and we do have a contractual obligation, because the State and the union shall establish a limited experimental joint health and safety committee to meet at the departmental level.

And it goes on to say further what the avenues of participation are, but the participating departments are the Departments of Transportation, Health, and Labor. This is an excerpt from the agreement with the Communication Workers of America, one of the bargaining units.

But his first words to me on the subject were -- he says, "Larry, I'm sure with your background you understand that the employee health and safety is an absolute right, not a privilege. But I want it emphasized more than ever. I want this Department to be way ahead of others in the area, because it's the right thing to do and the only thing to do for employees, and I want the employees to expect it automatically."

He went on to say, "Larry, don't let any union, regardless of AFSCME, CWA, (indiscernible) beat us on matters of employee health and safety," he said, "We should be leaders of the field -- innovators, not reactors. And immediately, in October of 1984, he personally met with the Department's Health and Safety Committee and he told them of his feelings, and his personal commitment. As a matter of fact, he asked me not to attend in order to give those members who were shop stewards in the building a free hand in expressing themselves.

Seven or eight days later we received a letter from the Shop Stewards Local 1034 extolling his virtues and proclaiming him to be quite the individual in that particular field. Not only this, at our first retreat of directors, within 30 days afterward, we established a top priority in the

health and safety area, that it was one of our main objectives to carry out and to implement an effective policy program in the areas of employee health and safety. And he told us then that he charged directors and assistant commissioners -- he says, "Employee" -- I've got this down -- "Employee health and safety awareness is not found in the legislative or contractual provisions, but it's a matter of moral entitlement." And we've worked around that.

The Commissioner not only approved our own safety and health awareness program for employees which we call SHAPE, but urged concern for employees around the clock. He said that we didn't go deep enough. In 1985, we set up two training sessions for our mid-level managers -- one, we held at New Brunswick, at the Labor Education Center and one in Trenton at the War Memorial Building. Charlie Serraino spoke at both of these meetings and gave his views.

In addition to that, we even had Bob Percel, now CWA director, at one of these meetings and he spoke on the union approach of safety and health, a cooperative approach. From that meeting, we established procedures for our field officers and for procedures for our building.

In concurrence with that, he instructed me to establish and to prepare an administrative order, establishing a policy on employee health and safety. In May of 1985, he appointed a health and safety officer at the Department. I don't think there's any other State department that has a health and safety officer.

In 1986 he even said that that wasn't enough. In 1986 he established a top management safety and health committee under the Deputy Commissioner and 11 top management members, the policy of which was, it's the duty and responsibility of all levels of departmental management to provide a workplace free of recognized hazards for every employee under their jurisdiction.

The Department does quite a bit. We have a program for testing. We have testing, consultation, and information on health and safety programs. We've done blood pressure screening, hearing tests, vision screen, and cardiopulmonary resuscitation. And we've conducted seminars on office and home safety, fire safety, crime prevention, stress, smoking, and so forth.

We established a health fair at the tail end of 1985. At that fair, in our cafeteria, we had 17 stations doing all of this type of activity. Another one is planned for '87. We're the only department that stressed a buckle-up driving campaign under the auspices of the New Jersey Safety Committee. We did it last year and we're going to do it this year, notwithstanding that we did receive some criticism because we gave away a bond in the amount of \$100 to urge participation.

We're ready to promulgate other rules. We're ready to promulgate rules. We're ready to promulgate policies on AIDS as well as a massive education program in that area. No other department has done this, and I say this because I know what has been going on. I know that this is because of the heavy reinforcement from Charlie Serraino -- the impetus that we've gotten from him.

I just want to close-- This is an excerpt from our administrative order. Charlie Serraino didn't write it. Larry Arcioni didn't write it. But it's little bits and pieces of really what he has instructed us all the time. This goes back to '85. The Department of Labor never before issued a policy statement regarding the health and safety of its employees. Given the dramatic evidence of individual and collective concern, it is important the Department set an example for the rest of the government and for the private sector to follow. This recognizes that good safety and health performance is not easily acquired and without the dedicated effort of Departmental management, it will never happen.

The Department, too, gains when it provides safe and healthy working conditions because they promote better morale and increased productivity. These are my legitimate concerns for each and every one of us. Thank you Senator Stockman, thank you Senator Jackman.

COMMISSIONER SERRAINO: Thank you Larry. Mr. Chairman, I would like to give you and Senator Jackman the document called the Status of Standards. In your statement of July 1, Senators -- Point number one, two, and three have to do with the fact that no standards have been promulgated. And that also goes for number five, on the question of education.

If you turn to the first insert, you will see a listing of standards. On your left is the title, in the center is the current status, and on the right are major issues and comments.

Standards on toxic and hazardous substances: Notice of proposed amendments were published in the "New Jersey Register" on February 2, 1987. However, the Office of Management and Budget, on May 8, 1987, asked that the promulgation of the rules be indefinitely postponed. That request is going to be considered by the Advisory Board at its August 6 meeting, which is next week, I guess, or two weeks from now. That's the status of that standard.

Firing range standards: The Advisory Board consented to a new rule on May 20, 1985. And that particular one is in our possession at the moment. We are drafting a position paper on these rules for examination of use of the Department of Health. In other words, the Department of Health is waiting for us; and momentarily they will be getting our position on those rules.

Work in confined spaces: There was a new rule which was developed and which will be reviewed by the subcommittee on safety and health rules in its August 19, 1987 meeting, in which it will reveal additional comments. That's where that one rests.

On standards for fire fighters: The new rule was received from Health. This was in the possession of Health until July 16, 1987. We have just received it and we are now having it under consideration.

Asbestos assessment, management, and abatement: There was a new rule consented to by the Advisory Board with the condition that Health, Treasury, and the municipal members resolve their differences. Health, Treasury, and the municipal member reached an agreement. Health agreed to draft the amendment language and present the proposal to the Labor Department for promulgation. And as soon as we receive it from Health, we will promulgate it.

Hazardous waste operations and emergency response: The Advisory Board advised, on April 2, 1987, that Labor may adopt a new rule. We are promulgating rules on this question and we have submitted the proposal to the Office of Administrative Law. We would like their comments before we proceed any further. On the question of procedural rules for public employees, this is not in possession yet, but it's on the way, so to speak, to the Advisory Board who will consider the rules again at their August 6 meeting.

Now we turn to the second page, and all of these issues on the first and second page have been, from time to time, considered or called priority issues. On the question of general building ventilation, the local exhaust of carbon monoxide in garages, communicable disease control, temperature limits in workplace, and video displays and terminals, the Department of Health is responding to us. They're working on the rule and will then communicate to us what it is, and then we will consider it. Those are health standards.

When we come to safety standards, you see the-- I'll read the issues. Work on roads and highways, lockout practices, protective measures for security workers, control and restraint for mental patients, and lifting material. These

are in the interagency area. This is where these items are in the possession of all the agencies. But in the large sense, it's really Health and Labor.

On the first one, it's possible that new rules may not be necessary, because rules have already been adopted. This is not final, this is just conjectural. Rules have already been adopted as NJAC12:105-2A which would reference 29CFR, part 1926 and cover signs, signals, barricades, material handling, and so forth and so on. We adopted this November 5, 1984.

Rules and lockout practices: Rules have been adopted again with CFR references. And that was November 5, 1984. But this item is still in position of the interagency group. These are just comments that we're making.

Protective measures of security workers: This issue has a very narrow application, and has been assigned to lower priority. But it's still under discussion between Health and Labor, and if necessary, DCA, DEP, and the Treasury.

The control and restraints for mental patients: We have the same comment as we do on security workers.

The lifting of materials: This is not an easy one. And it's a source of much discussion between the agencies due to the wide variety of loads that are physically handled in many different situations. It would be exceedingly difficult to draft meaningful and forceful rules. Federal OSHA has been able to develop these rules -- in 17 years. We believe it's an educational issue that cannot be solved by regulation. But we're working on it. We're working on it with Health and the others to see if we can come up with it.

Now, that's the status of the standards about which there's been much comment. Now let me turn to the attached paper there, which talks about the summary of attendance at meetings of subcommittee. As you know, that we--

SENATOR JACKMAN: Excuse me, Charlie. With your permission, the subject matters that are on this page were being discussed at these meetings?

COMMISSIONER SERRAINO: Wherever it's indicated.

SENATOR JACKMAN: Okay.

COMMISSIONER SERRAINO: Wherever we say subcommittee.

Yes.

SENATOR JACKMAN: Okay, thank you.

COMMISSIONER SERRAINO: Now, I want to point out that these subcommittees were set up in a very informal way. As a matter of fact, volunteers were asked. There was no attempt to weight it one way or the other. Volunteers were asked for and even the Chairmanship -- we asked for volunteers. And if you notice, the first one is the Subcommittee of Safety and Health Rules. The Chairman is an employer representative -- Morneweck. If you turn to the next page, it's the Subcommittee on Administrative Rules. The Chairman is L. Cossey, who is the representative of AFSCME. And if you turn to the last one which is not a very active one, the Subcommittee on Funding and Resources, the Chairman is E. Kirlin, who is a representative of CWA. Now, you must take particular note of the composition of the subcommittees. In each case, union representation has a majority.

It appears to me that when we talk about the lay (sic) and whatnot, the only place they don't have majority is on the last one where it's three-three. What I'm trying to say to you is that if I were in the union as I used to be, and I had a majority control so to speak on the subcommittee, and I saw signs of dogging it, well, I'd do something with the majority. I just want to point out what the composition is; and this is subject to change.

SENATOR JACKMAN: Excuse me. Through you, Mr. Chairman--

SENATOR STOCKMAN: The Chairman has been asked to modify your request that you be allowed to finish in order that he can answer your question.

SENATOR JACKMAN: I just wanted to note that--

COMMISSIONER SERRAINO: You're going to make me lose my trend of thought, Senator.

SENATOR JACKMAN: No, you won't lose you trend of thought. You're too smart for that, Charles.

COMMISSIONER SERRAINO: I'm too old.

SENATOR JACKMAN: You're not kidding me, babe. You've been around a long time. I noticed that in the back of that page that the unions were the only ones that showed up. Only one employer showed up. One out of six meetings, he only showed up once -- the employer. So eventually there wasn't too much of an input from the employers.

COMMISSIONER SERRAINO: No. The reason is that we didn't have too much money to talk about it. That's a subject which might come up later -- I don't know -- the whole question of funding. Because that's been the problem to us.

Okay. I would like to turn your direction to the question of expectations which is in point six of your statement and point seven, and I think that covers your whole statement, Senator. Some of this is repetitious, I'm sure, because it's been testified to before. At the outset I want to make one statement. My staff assures me that every single complaint that has been registered has been investigated and taken care of one way or the other. There has not been one complaint that has gone unattended, and I have enough confidence in my staff to believe that.

Now as of the moment, this represents enforcement effort on our part. We have a total list of inspections of 1980. We have complaint inspections -- 234. We have follow up inspections of 915. We have a number of hazards identified -- 19,949. And this is the nexus of a very controversial subject and I will be glad to discuss it with you later. Orders to comply: DOL 13, orders to comply: DOH 2.

A sample survey of 74 initial inspections conducted during early 1986 shows that there were 11 State employers and

63 other employers included in the survey. Of the 11 State employers surveyed, eight were found to be in total compliance during a follow-up. Of the 63 other employers of 835 were found to be in total compliance. Now, this was before the mandatory compliance state of 1986 and I suspect it's much better since then.

Now as a further note, there were 1795 hazards identified in those 74 inspections; and 1484 were found to be corrected during a follow-up inspection which represents an 83% compliance rate before the mandatory compliance rate. That's a better than OSHA has, although I'm not saying OSHA is the acme of safety and health, but you have to compare it to something.

I included in here a whole section-- Do you have the section that has to do with mercury spills?

SENATOR JACKMAN: Yeah.

COMMISSIONER SERRAINO: I specifically listed the whole chronology of the mercury spill situation in case you want to get into it. That's there for your information. I also included what we call notice of violations. Do you see that one, Senators? It's addressed to Honorable Arthur Blomkvist, the Mayor, City Hall, Cape May. That's only a sample -- just a illustration of what we do on notice of violations.

Following that is our order to comply, which is the last document which shows you how we handle the order to comply. Now I know there's been serious questions raised from this point, but what I wanted to give you was a picture of where we stood on inspections and orders to comply and the methods that we use to achieve these things. And of course this is open to discussion as we go down the line.

The last point on your document, Senator Stockman, is point number four. It has been charged that although the Commissioner of Labor is required to issue a plan to develop health and safety standards, no plan has been adopted. Well,

could I give you the document? And you will notice that it is headed, "State Plan Program" and "No State Plan Program."

The State Plan Program is just about ready for submission. We are just awaiting some material from the Department of Health. And they were just notified three or four days ago that we needed it. It should be forthcoming soon and that plan will be ready. But I have a larger issue to discuss with you. And that is if we submit this State plan for approval to the Federal government, it's going to be rejected, because, we will not be in compliance with many of its reasons. The basic reason for the State getting Federal approval of a State plan is for funding purposes where they can fund us for 50%. It is not needed, really. It is not needed for operational. You don't need the State plan for operational. You've got the Act, you've got the standards, you've got the procedures, so the real reason-- But we're prepared anyway. We're prepared for not only operations in the State, but of approval to the government. And if we want this plan approved by the government so that we can get up to 50% funding, I suggest you take a look at the paper which reads, "Amendment Requested in State Act if Not in State Plan Program." Right?

SENATOR JACKMAN: July 23.

COMMISSIONER SERRAINO: July 23. (consults with aide) It the other one. Amendment Requested for a State Plan Program. Okay.

Do you have that Senator?

SENATOR STOCKMAN: Well we have two. Amendments Requested in the State Act for a State Plan Program--

COMMISSIONER SERRAINO: Okay, that's the one.

SENATOR STOCKMAN: That's the one. All right.

COMMISSIONER SERRAINO: If we wanted it approved by the Federal government so that we can secure it-- Okay. Let me read: The State Act has serious deficiencies when compared to the Federal Occupational Safety and Health Act. The Federal

Act will be the guidepost, by which to say that, will be judged as to its adequacy when the State plan is considered for approval. The purpose of the plan is to gain matching funds. The deficiencies in the State Act will prevent approval of a Federal program. And the Act has to be amended in the following sections to gain Federal approval." And I think there's a serious question over here as to whether we want a Federal program or whether we just want a State program.

If we want approval by the Federal government so that we can get funding up to 50% -- NJSA B through H are requirements for a State plan. But these requirements-- If you take a look, you have to follow it in the Act -- if you take a look at 34:6A-29 which begins on page three, B through H are requirements for a State plan, but these are not requirements of the Act. But these requirements with the exception of H should be requirements of the statute independent of the State plan. In other words, B through H except for H should be incorporated in the Act. That's step number one.

And here's a serious problem. A, under 29, does not permit building structural or fire safety standards to exceed those standards promulgated under the State Uniform Construction Code or the State Uniform Fire Safety Act. This is an unacceptable position for Federal Occupational Safety and Health Administration. They will not accept limitations on the rule making authority of the approved State agency. So, that will have to go out if we want approval from the government.

30 establishes that rule making, other than Federal standards can be made only with the consent of the Advisory Board. Federal OSHA will not allow an outside body to have a veto power over the rule making authority of the State Labor Department. Now at the moment I'm not making an issue of consent. I'm only saying that if the consent is in there, it's going to be a bar to our getting Federal approval.

32: If we read 32 it permits a distinction by regulation by laboratories of higher education and permits an exemption for a variance. Neither of these procedures would be acceptable to the United States Labor Department. There is no precedent for a dry agency jurisdiction.

Of the 25 states that have approved state plans, in 24 of the states, the authority is vested in a single agency and in only one state there is both health and labor jurisdiction. In our act we have triagency jurisdiction.

Now we go to 35B and 37B which impose a limitation on the right to enter which is when he has reason to believe-- I can only enter when I have reason to believe there's something wrong. Such a limit to the authority of the inspection agency is not acceptable to the Federal OSHA.

The Commissioner has a right to go in when he wants to. 6A:38, this is only a technical error. This paragraph deals with the Commissioner of Labor when it should be dealing with the Commissioner of Health. That's only a technical problem. Now, 6A:41 does not provide for first instant sanctions as a Federal Act requires. Under the State Act, in order to comply must be first issued and the employer given a period of time to correct the violation. Authority for the first instant sanctions with the direct right to levy fines should be granted to the Commissioner. You know that in our act we cannot levy a fine directly. We have got to go to the AG and into the courts before any fines can be levied.

6A:43 does not provide for appeals to the (indiscernible) Commission. On the part of employees, it doesn't provide for the employees to be a part of any appeal. Both of these positions are contrary to Federal OSHA rules. Now, again, we go back to that DCA situation. 6A:49 establishes that building structural or fire safety standards under this act -- and for the purposes of Occupational Safety and Health-- It cannot be in conflict or supersede those

standards adopted under the State Uniform Construction Act or the Uniform Fire Safety Act. This position is unacceptable to OSHA.

This is a restriction under the authority of the Commissioner, and the paragraph about not limiting the power and the authority of the Commissioner of Community Affairs should have to be deleted. That's what has to be done if we want to apply for Federal approval. On the other hand, if we don't want to-- And I think this is one bit of good that can come from this Committee, you know.

I think that somewhere along the line the decision should be made as to whether we go for Federal approval and make certain changes, or we operate solely on the State plan in which I am suggesting some changes anyway. If you go to the other paper, this is the State Plan, now. This is if we don't go to the Federal authorities-- I would suggest that we retain in this section either the concept of the Department of Labor being the sole agency, or the concept of Labor administering safety and health; Community Affairs administering building structural and fire issues.

We have a trial agency set up here. And despite its best intentions, it has resulted in what could have been a better application of the Act. So, I am suggesting that we take a look at an alternative. Either give one agency -- and very naturally, I would say that if it's one agency it should be the Department of Labor-- You either give one agency the responsibility of the whole Act, or cuddle up in three pieces: give safety to Labor with no responsibility elsewhere, give health to Health with no responsibility elsewhere, and give building structural and fire safety issue to DCA with no responsibility elsewhere. I throw this out to the Committee.

Okay. I thought I had a conclusion on this, but I didn't. If we continue on that -- State Plan Program, I would like to remove from our present Act our qualifier, when the

Commission has reason to believe that a violation exists, and change that to the Commissioner having a right to enter without delay.

I am also suggesting that we strengthen the language having to do with employers making available certain information. What does making available mean? It means that they compile their records and keep them in their office, so then we have to go get them. The serious question is that we would like to change the language in the Act to require submission of annual or semiannual summaries of occupational illness, injuries, or fatalities to the Commissioner of Labor. And secondly, authority for the Commissioner of Labor to compile and analyze occupational safety and health statistics in regard to illness, injuries, and fatalities.

I think we have the right to do that right now but, boy, I need that for budget purposes. Because to run a program having to do with the question of annual summaries in which we develop incidents of accidents, illness, and fatalities, it's going to cost us \$100,000 a year to run. And if we want to run a program where we compile and analyze the safety and health statistics, it's going to cost us \$120,000 a year to run. So, I'd like a little beefing up in the Act so that we're in a good position to argue for funding.

I have a copy of our budget through the last five years which I just submitted to you for informational purposes. And I want to conclude by making a short statement having to do with priorities. When I came into office and began to take a look at the lay of the land and take a look at our budget, I decided -- and this is my decision -- that we had to give our priorities to three questions: inspection enforcement; standards, rules, and regulation; and education to the best of our ability and to the best of our available funds. Whether we've applied ourselves 1000% of correcting it or not remains to be seen. I know we work very, very hard. I

think we did a hell of a job on inspection enforcement. We can compare with any other agency. Take a look at any other agency enforcement inspections and everything else. Standards, rules, and regulations is the question as to why it took so long. The fact is that for nine months now, since November of '86 we are slightly behind the ball on the question of having standards for local, other than state. And since 1985, the State--

Education: I tried to give you a picture of what we tried to do in the absence of regulation, even those are right now in the process of being approved. I have some priorities for the future. So, far as I'm concerned we're going to intensify the completion of standards, rules, and regulations using the words competition advisory, because we're never through developing standards. If I get the money, I'm going to spend a hell of a lot of the money in education developing staff and providing materials for education and training for employees and employers.

We're going to go through with our awards program. We're going to develop a special safety and health promotional program for all employers. We're going to improve our statewide on-site consultation program. We only did this in 24 situations. I read the titles to you before and it was completely successful. But we need a hell of a lot of money to extend this throughout the State.

I think we ought to provide employers with budget expertise and program analysis that is necessary so that they can effectively implement safety and health planning. I think that is the responsibility that was just shown.

And last but not least, I want to seek and encourage voluntary joint safety and health committees comprised of employers, employees, and employee representatives. About two years ago, we sought to do this by the rule making process and we were informed by the Office of Employee Relations -- and I think they were right -- that this was an infringement on the

collective bargaining process -- that you just can't go ahead and order an employer or employees to enter into this program which involves time and money, people and so forth and so on.

But there's nothing to stop us. And we need the time and the money. There's nothing to stop us from seeking and encouraging voluntary joint safety and health committees comprised of employer and employees. What the hell, look what I did with my own Department. You've heard about that. I don't see why it can't be done everywhere we can convince an employer, employees, or the unions involved? To me there is nothing more important in effectuating the purpose of the Act than education. Nothing. You can look until the blood comes out of your nose. It will not compare to what education in a job will to. And that's where we've got to put a lot of our money. Those are my priorities for the future.

One more comment. I would like to submit to you, not for discussion, but I just want to insert this in the record. I mean, you can do with it whatever you want, but I want to insert this in the record. This is Mario Gomes' answer, point by point, to the charges made by Mr. E. Squibb in the very beginning of the hearings. Mr. Gomes never had a chance to answer. So, I'm asking you to accept this for the record so that you peruse this whenever you want and which shows you his answers for those charges. I think I'm going to need a glass of water; and I'm finished.

SENATOR STOCKMAN: Could somebody get Commissioner Serraino a glass of water. That response, Commissioner, is 14 or 15 pages, so we'll certainly take a look at it, but I think the situation today is such that we can't, all right?

COMMISSIONER SERRAINO: Yeah. I just want to get that into the record.

SENATOR STOCKMAN: You indicated that you might be too old and that you might lose your train of thought. I'm a little bit younger than you, but I can tell you that your

testimony has given me a great challenge not to loose my train of thought in this and I'd like to go over some of what you said. I assume Senator Jackman would, likewise.

One thing I want to say at the outset -- in a sort of an initial response to your relaxed informal comments, Commissioner, and certainly I speak for myself, but I think that I speak for Senator Jackman -- is that Commissioner Serraino is not here on any kind of suggestion that you personally aren't interested in health and safety. That as far back as 1940 -- 40 years ago or more, you were in the forefront of some effort within your own union to be so involved. Or that you don't see a moral obligation aside from the statute that we're here to deal with, as an impelling reason why we ought to be safe with people. Any of your comments that someone might interpret to suggest that you felt that was part of what this Committee is all about, I would hope we could dispel.

Your comments about Mr. Clark and the initial hearing. Of course, he's not here now. And I don't know whether or not it will do any good to deal with those-- I mean, I'm fascinated, frankly Commissioner, with your apology, but your commendation for Mr. Clark. That's got my mind a little bit troubled in terms of whether you cleared the air on that. You suggested that you cleared the air by telling us you'll apologize for Mr. Clark, but you commended him. And I'm--

COMMISSIONER SERRAINO: I was apologizing for his conduct, but not his defense.

SENATOR STOCKMAN: Okay. Well, the problem is, and aside from the heat that may have been occurring here, there were some substantive problems being discussed, in terms of his view of what was going on. And in terms, I think, of others.

The other thing that I want to say is that I think you appreciate that we're here because we're-- Among other things,

it's been suggested to us by organized labor people that there have been these delays. But rather than gentle, see if subject to-- Senator Jackman -- I'll be happy to have him speak. I can try to go through your testimony and deal with some aspects of it, then more specific ones. You're going to leave me on the--

SENATOR JACKMAN: I'll jump in once in a while.

SENATOR STOCKMAN: All right. Now, Commissioner is it your suggestion that as far as this question of promulgating standards, that the Department has lived up to its responsibility under the statute?

COMMISSIONER SERRAINO: As far as it could. Yes. First of all, you must remember that in '85 we were under a tremendous question of asbestos, and we were charged of course with the responsibility of drawing up an asbestos standard. That took minutes, hours, days, weeks, and months; and you may remember how hot a subject that was all over the State. The Governor set up a special committee, which I was a member headed by Ken Merin, of the Office of Planning and Policy, to discuss this whole question of how it was going to affect the schools. It was a very, very serious question and much time of the Department of Health and the Department of Labor was spent on discussing the order of the day for almost the year while they were working somewhat on the other standards. The great concentration was on asbestos. That contributed a whole lot.

SENATOR STOCKMAN: But you see, Commissioner, I have difficulty on the suggestion that because there were other challenges -- and I'm not suggesting there weren't -- there are other areas that we are three years plus into the Act without the one standard that's been promulgated. I'm having a difficult time in not wanting to jump around, but if we go even to the material that you supplied to us on standards, it confirms the statement that these standards seem not to be forthcoming. I mean, for each one of them there is an

explanation, you told us where we are, and indeed, incidentally, I can see some recent activity. I'm not saying that it's a result of this Committee or not, but--

COMMISSIONER SERRAINO: Believe me, believe me. It's coincidental.

SENATOR STOCKMAN: Okay. I accept that. But we haven't got a promulgation of any of these standards that I can see in the material that you supplied to us. Incidentally, as far as the Office of Management and Budget saying that there ought to be a definite postponement of standards concerning toxic and hazardous substance, that's new news to me that I want to look into. And I'm puzzled that they would--

COMMISSIONER SERRAINO: I think you ought to look into that.

SENATOR STOCKMAN: Yeah. --that they would make that kind of request. So, I'm happy that you brought that to our attention.

COMMISSIONER SERRAINO: I would be glad to supply you with a copy of the communication, sir.

SENATOR STOCKMAN: I wish you would. That's one of the number of things that I think needs answering. But, I still -- speaking for myself and whether the Committee agrees with me -- generally have a hard time understanding why we haven't gotten further with these standards in over three years? Some of the proposed changes in the law that you talk about today -- and that's interesting to me, because this is the first time, and I think that's an important suggestion spread on the record, that the Department has expressed interest in changing this law. Mr. Vuocolo testified, and I have his statement here, and it's some length to us, and one of the things that he said was very distressing to me and we got into a discussion on that, and I'll talk to you about that before we're finished.

COMMISSIONER SERRAINO: Sure.

SENATOR STOCKMAN: But, there was no suggestion of need for any changes in the law. I gather that in the last part of your testimony that you are suggesting some changes in the law. Also, we've got to get into the question of whether the Department is of the position that we ought to be applying to the Federal government or ought not. I think we ought to get -- I, speaking of myself -- some clear position from the Department of Labor, three plus years after this act, as to whether you think we should submit a plan to the Federal authorities and take our chances and deal with the problems that creates, or should not. I gather from your testimony that that is a difficult issue. I'm not sure of what your position is. And I'm jumping a little bit--

COMMISSIONER SERRAINO: That's all right.

SENATOR STOCKMAN: What is the position of the Department of Labor now on this?

COMMISSIONER SERRAINO: Let me say first, some of these questions that you raised have been going around my head for some time. They are new to you now, because they are new in the sense that I thought that this would be an excellent opportunity for me to bring them out.

SENATOR STOCKMAN: Today?

COMMISSIONER SERRAINO: Yes. I thought this would be an excellent opportunity. There's another question later on which I might ask your assistance on, as a matter of fact, and I thought that this would be a good chance for me to do so.

SENATOR STOCKMAN: Well, let me ask you, Commissioner, if this is a good opportunity, what is the position of the Department of Labor as to whether or not according to the Act we should prepare a plan and submit it to the Federal authorities to try to get some Federal assistance in funding? Do you support that?

COMMISSIONER SERRAINO: If we cannot get sufficient State funding, okay, to do the kind of the job which I believe is necessary, than I think we have no alternative. We should amend the plan to conform with Federal standards so that we can get up to 50% of Federal funding.

SENATOR STOCKMAN: Commissioner, your own material -- budget data -- the last thing that you handed us, suggested that you requested \$64,000 in this area for enforcement of the Public Employees Occupational Safety and Health Act. You got \$64,000. In '84 you requested \$365,000, you got \$365,000. In '86 you requested \$548,000--

COMMISSIONER SERRAINO: Yeah, if you remember, that came off--

SENATOR STOCKMAN: Let me make a record Commissioner, please. You requested \$548,000; you got \$548,000. In July of '85 for '87 you requested \$575,000; you got \$575,000. In July '86 for Fiscal Year '88 you requested \$613,000; you got \$613,000. If I'm reading the material that you supplied to me, you've gotten everything that you've requested at this point.

COMMISSIONER SERRAINO: Well, I don't know why you've missed that middle column, Senator.

SENATOR STOCKMAN: Priority package?

COMMISSIONER SERRAINO: That's right. In August of 1984, we asked \$548,000, we requested \$550,000 of priority, but we got only \$548,000. You missed it again in July '85. We asked for \$575,000 in the continuation budget and \$590,000 of priority; we only got \$575,000.

SENATOR STOCKMAN: Wait a minute. I'm confused. Maybe I'm misreading this. According to this, in July of '85 -- let's take that - for the Fiscal Year '87, you requested \$575,000.

COMMISSIONER SERRAINO: Right. And our priority package -- we wanted \$590,000.

SENATOR STOCKMAN: What's a priority package? What do you mean by a priority package?

COMMISSIONER SERRAINO: That's new money.

SENATOR STOCKMAN: Oh, in addition to the \$575,000.

COMMISSIONER SERRAINO: Of course, that's new money.

SENATOR STOCKMAN: All right. So, you requested, actually, over a million dollars.

COMMISSIONER SERRAINO: That's right. Okay?

SENATOR STOCKMAN: All right. So, when you made this request, was this to the Appropriations Committee, to the Legislature, or to the Administration?

COMMISSIONER SERRAINO: This was to the-- Well, to the best of my ability, it was to the Administration. I had a couple of serious operations during the budget years.

SENATOR STOCKMAN: All right. But the Administration turned thumbs down. You're telling me that the Administration turned thumbs down on it.

COMMISSIONER SERRAINO: I'm not sure. It was somewhere along the line. Either there or the Appropriations Committee. We can determine that.

SENATOR STOCKMAN: And I think we'd better. If the Administration was turning you down in terms of money you claimed you needed for the safety of public employees, and it never got to the Legislature, that's one thing. If the Legislature did, that's something else we have to look into.

COMMISSIONER SERRAINO: But the main point is that I tried to get more money and I didn't get it. You're making the point of needing money.

SENATOR STOCKMAN: No, no. You made the point, Commissioner.

COMMISSIONER SERRAINO: Yes. You picked up my budget.

SENATOR STOCKMAN: Right, because I thought you had suggested that some of the explanation for the delay or the problems that we're having were fiscal, which we know may be

the case. But if they are, we've got to know the amount of them and where they are. But I was focusing, at the moment that we got into this discussion, on the question of whether the Department of Labor proposes to submit a plan to the Federal government for approval. You brought up the fact and you didn't answer my question; and maybe you can't today.

If your position is that the Department of Labor cannot answer that question today, then I guess we'll have to deal with that. But I thought you brought up a further proposition that it really depended on whether you could get enough money from the State.

COMMISSIONER SERRAINO: I prefer a State plan.

SENATOR STOCKMAN: And not applying to the Federal government?

COMMISSIONER SERRAINO: Right. But, if I can get a bigger budget through a combination of State and Federal, then I'll go with the Federal plan.

SENATOR STOCKMAN: The Act seems unequivocal, Commissioner. Correct me if I'm wrong. Doesn't the Act unequivocally direct that such a plan be prepared and be submitted to the Federal authorities?

COMMISSIONER SERRAINO: It provides that we prepare the plan. And as I said before--

SENATOR STOCKMAN: Submit it to the Federal--

COMMISSIONER SERRAINO: That's right. We're just missing a few items.

SENATOR STOCKMAN: But, that demand or that request or that direction by statute is well over three years old. But, we haven't submitted any plans to the Federal people, nor to my knowledge has the Department come back to the Legislature and said, "We don't want to submit it. We'd rather amend the law and deal strictly on a State basis."

COMMISSIONER SERRAINO: No, no. I'm not saying that. You can't submit a plan unless you embodied in that plan all of

the necessary ingredients. And we haven't had the ability to develop all of those ingredients up until the present time.

SENATOR STOCKMAN: For over three years?

COMMISSIONER SERRAINO: Well, you keep on saying three years, but this thing, you know, this thing first came into effect and this whole budget situation, between 1984 and '85, 64,365 all seemed to come at one time.

SENATOR STOCKMAN: It was effective January 17, 1984.

COMMISSIONER SERRAINO: I understand that. But you don't have money. You can't do things without money. We have been short-handed on inspections. We have been short-handed on personnel for standard making. We had to borrow from another department, so to speak -- another division -- to get people in to help us. We've been obstructed by such a question as the asbestos thing, which believe me, ate up people, ate up time, ate up everything for a long, long time. All I'm saying is we have done best job that we could have done under the circumstances and under the funding.

SENATOR JACKMAN: Let me ask one question. Through you, Mr. Chairman.

SENATOR STOCKMAN: Go ahead.

SENATOR JACKMAN: Is it my understanding, Commissioner, that the Federal OSHA has no opportunity to come into this State and oversee what they think they should do, even without giving us money?

SENATOR STOCKMAN: No. Not on public employees; just on private.

SENATOR JACKMAN: Only on private, not on public?

COMMISSIONER SERRAINO: Right.

SENATOR JACKMAN: They don't have that right.

COMMISSIONER SERRAINO: Right.

SENATOR JACKMAN: Now, monetarily, do you feel that the infusion of money from them would hamper your style of doing the kind of job that you think is important enough to be

done, or do you think it's better that we just give you the money from the State and give you that opportunity?

COMMISSIONER SERRAINO: Yes. I would rather have all the money we need from the State.

SENATOR JACKMAN: All from the State?

COMMISSIONER SERRAINO: Yes, rather than have some from the State and some from the Federal government.

SENATOR JACKMAN: All right. Now, your feeling is that your, more or less, hands will be tied with the Federal intervention. Is that your analysis?

COMMISSIONER SERRAINO: Well, there's certain restrictions, certain regulations that we'd have to abide by. Yes.

SENATOR JACKMAN: The opposite to that. You have been -- and you've documented it pretty well -- you have a participation from your employees within the unions, participating in these OSHA programs. Is there an overlap with the Health Department and the Community Affairs Department, and your Department, that in some cases, could be misunderstood or feeling -- let's use the acronym -- stepping on one another's toes? Okay?

COMMISSIONER SERRAINO: Yes.

SENATOR STOCKMAN: Commissioner, let me go back to some of the material you supplied to me and maybe we can clear up some questions, or maybe we can't. On this educational question, there's been no regulations promulgated in that area.

COMMISSIONER SERRAINO: Almost. They're in the procedural rules. And that's in the possession of a subcommittee, at the moment. And the subcommittee released it to the Advisory Council.

SENATOR JACKMAN: And that's in August. It's coming up.

SENATOR STOCKMAN: That's coming up. You don't have regulations for education, but you've been trying to do your

best, I think, trying to do them in the absence of regulations. You'd agree that education regulations are important and need to be put in place.

COMMISSIONER SERRAINO: It's right before the Committee now -- August 6.

SENATOR STOCKMAN: Incidentally, is this Advisory Board doing its job?

COMMISSIONER SERRAINO: Senator, I don't know how I can escape the issue of consent. The Advisory Board is conscious of the fact that they have the right to advise and consent. Okay?

Before the Advisory Board appears -- in advisory capacity to the board or in consultation to the board -- before it appears, people (indiscernible) the Department of Labor, DCA, Treasury, if necessary. And the only way you're going to get a final document out of the advisory council with advise to the consent is by consensus. And it means one side, one department or the other, or a public member or a union member, or an employee member having to give up a position he doesn't want to relinquish in order to get desired results.

What would happen if I took the position as Commissioner, and I just by-passed these voluntary subcommittees, okay? That's not part of the Act. It's a good educational process. It's a democratic process. And as I told you before, whoever wanted to get on, got on. But as the Commissioner of Labor, in the interest of saving time, suppose I by-passed those committees and reached an agreement with DCA on what an item should be and give it to the advisory council and say, "advise me or consent." And they advise me, or us, and we didn't take their advise, and they refuse to consent. What would happen? And we felt so strongly about it.

SENATOR STOCKMAN: Commissioner, I guess that's a rhetorical question to me.

COMMISSIONER SERRAINO: What would happen?

SENATOR STOCKMAN: I asked you-- Let me ask you again. Are they doing their job? I don't know whether you are seeing my problem. And I don't mean, Commissioner-- You are a greatly respected and admired person. You have years of commitment to labor, and I'm here questioning you here tonight. I'm a trial lawyer when I'm not in the Senate. I've got to be careful that I don't become confrontational or accusatory.

COMMISSIONER SERRAINO: You must admit, you had me at a disadvantage.

SENATOR STOCKMAN: How so?

COMMISSIONER SERRAINO: You are a trial lawyer.

SENATOR STOCKMAN: Well I'm trying to

COMMISSIONER SERRAINO: I got a high school diploma which I can't even find. (laughter)

SENATOR STOCKMAN: Come on now, Commissioner, I think if we took an assessment of everybody in this room, I think they'd sense and feel that you are not exactly on the ropes. You really don't seem to be knocked too hard around. I hope you don't feel that way either. While I can't give away some background and training I have elsewhere, I'm trying to be very careful not to make this a sort of an investigation in the sense of an accusatory thing. But we're trying to accomplish some things here and I must tell you that I'm having a hard time with your testimony.

Now, I ask you is this Advisory Board -- is it working at doing the job, and you pause; my instincts tell me that's a tough question. Then you talked at length and ended up asking me what would I do? Well, shouldn't we change the law to reduce the power of that? Should we give more staff to it? You know, is it a problem?

COMMISSIONER SERRAINO: Well, I think that so long as you have-- This former Governor which we have with Departments and Commissioner, right, that the Commissioner, whether it's my

Department or the Department of Health, should have the authority and the responsibility. The advice and consent takes away from that. It takes away from that. I could find myself--

SENATOR STOCKMAN: And it's encumbering your ability to get the job done?

COMMISSIONER SERRAINO: It does. But, I want to say this, that's not the only encumbrance, in all fairness. I think there have been other problems such as the asbestos problems, such as the differences between the Departments of Health, DCA, and ourselves -- I can't deny that. Those things exist.

SENATOR STOCKMAN: It may not be constant bickering, but it's differences, at least.

COMMISSIONER SERRAINO: Not with DCA. No, you mentioned DCA. I have no problems with DCA.

SENATOR STOCKMAN: All right.

COMMISSIONER SERRAINO: Okay? So, what I'm trying to say to you is that it would be better if you gave -- whether it's Health or me or whoever -- if you're going to give them the responsibility, you have to give them the authority. The Act takes that away from them.

SENATOR STOCKMAN: Senator Jackman?

SENATOR JACKMAN: Charlie, let me ask you something that's just off the top of my head. Do you think legislatively that it might be wiser for us not to legislate some of these programs, and that you and employees work on this in the union level and the employer/employee level to try to reconcile some of these problems that now are existing on the outside rather than me come up with a piece of legislation that says, "You have to do this and so does the union have to follow that?"

COMMISSIONER SERRAINO: I'm glad you raised that question. While I believe there must be a basic fundamental Act--

SENATOR JACKMAN: No question.

COMMISSIONER SERRAINO: --the Act should not be drawn up in terms that it takes away from unions, for instance, their obligations and their responsibilities of negotiating with the employers. If the day comes and unions depend on getting certain things through the Legislature and not getting them in their contracts, the day is going to come that when a Legislature gives, another one will take away.

SENATOR JACKMAN: It gets taken back.

COMMISSIONER SERRAINO: Absolutely.

SENATOR JACKMAN: Okay.

COMMISSIONER SERRAINO: I think unions, in addition to seeking basic legislation which is necessary, must really pursue-- Take the question of safety committees. You know, that should be part of the collective bargaining process, not depend on law to do it. I'm sorry about that.

SENATOR JACKMAN: Okay. That's it. That's all. I just wanted to get a reaction from you. That's it.

SENATOR STOCKMAN: Commissioner, let's take a look at these amendments requested in the State Act for a State plan program and if not in a State program-- And I'm not certain in my mind whether you're closing in on a plan that's called for under the Act, as I understand. Is that correct?

COMMISSIONER SERRAINO: Yes we are. We're almost finished with it.

SENATOR STOCKMAN: All right.

COMMISSIONER SERRAINO: That's a good work -- closing in. We are.

SENATOR STOCKMAN: Closing in on a plan. I've got to tell you that one of the confusions that I have is that I thought earlier in response to a request that we ask about that -- a copy of the plan for the development and enforcement of occupational and health standards as specified in NJSA36:6A. I have a letter -- July 1 -- in which you signed the letter. It says, "The plan referred to in the Statute is not for

development and enforcement of an occupational safety and health standards, but is an application for funding." Isn't there an independent importance to this plan to develop a plan for enforcement of this?

COMMISSIONER SERRAINO: All it does is rehash what we have done. You see? The Act plus everything else we do-- You want a plan, what do you think is in that plan? The Act plus everything that we do. That's what's in the plan. We have to change it so that we conform to Federal standards in order to get approval.

SENATOR STOCKMAN: Now, you specifically suggest that the Act has to be amended in the following sections to gain Federal approval now.

COMMISSIONER SERRAINO: Right.

SENATOR STOCKMAN: I don't mean to belabor, but you're working towards submitting this plan to the Federal authorities to gain approval?

COMMISSIONER SERRAINO: No. We're drawing a plan up under the Act.

SENATOR STOCKMAN: All right, and then you'll make a decision as to whether or not to submit it to the Feds?

COMMISSIONER SERRAINO: Right.

SENATOR STOCKMAN: Who has the responsibility for making that decision, in your opinion?

COMMISSIONER SERRAINO: I think I would have to consult with my superiors on that, because it's a question of whether we go for the plan and get it turned down or change the Act in order to get it approved.

SENATOR STOCKMAN: I assume you're talking about the Governor as your only real superior--

COMMISSIONER SERRAINO: Or people that work for the Governor. Can I say it again? Either we -- which I think is a waste of time -- either submit the plan to the Federal government knowing in advance it's going to be rejected or we

attempt to change the Act in order to conform with the requirements of the Federal government. And to change the Act for legislative action, I would have to go to Mike Cole or somebody and tell them.

SENATOR STOCKMAN: All right. Now, you get specific. You say 34:6A 29B - H requirements for a State plan, but these requirements, with the exception of H, should be requirements of the State's statute independent of the plan.

COMMISSIONER SERRAINO: Yeah, but not in the statute.

SENATOR STOCKMAN: Why-- I'm looking at a copy of the statute and --

COMMISSIONER SERRAINO: They're listed but they're not in the statute.

SENATOR STOCKMAN: Well, they say that these things should be contained in the plan.

COMMISSIONER SERRAINO: Yeah, I know.

SENATOR STOCKMAN: We sort of go around in circles.

COMMISSIONER SERRAINO: Right, but they're not in the Act.

SENATOR STOCKMAN: But if you have a plan that incorporates them, that plan would be binding on the State and it could be part of a submission to the Federal authorities. So, I'm really a little puzzled as to why, or just even how, we would, as a Legislature, go about changing it. I guess you just--

COMMISSIONER SERRAINO: I think they have to just make it a part of the plan -- or a part of the Act rather than say that it should be--

SENATOR STOCKMAN: I'm really struggling. But let's go on to your next proposal.

COMMISSIONER SERRAINO: Senator, all it says is that these should be part of the plan.

SENATOR STOCKMAN: Correct.

COMMISSIONER SERRAINO: But they're not in the Act. Do you see? Now in order for us to get approval from the Federal government, we've got to put these in the Act.

SENATOR STOCKMAN: All right. Let's go on to the next section. You refer to the section 29: does not permit building structural or fire safety standards to exceed those standards promulgated by a code." And this would run afoul. So you suggest that we delete that provision.

COMMISSIONER SERRAINO: If we want Federal approval we've got to delete. Not only that, but on page 16--

SENATOR STOCKMAN: And that would give-- How would that square with the Uniform Construction? That would simply mean that you could promulgate even more stringent requirements from a health and safety point of view.

COMMISSIONER SERRAINO: Right. And we could ignore the Commissioner of Community Affairs. Now, I'm not suggesting that we do, though I'm saying if we want approval from the act--.

SENATOR STOCKMAN: Let me ask you this, are you going to submit these suggestions to Mike Cole to submit to the Governor or the Administration as to whether or not they'll support them? Or have you?

COMMISSIONER SERRAINO: I'm going to have to make a decision on whether we go for an approval and get our brains kicked out by the Federal government, as I know we will, or whether we decide to change the Act which in my case, you know, Mike is in charge of legislation.

SENATOR JACKMAN: Through you, Mr. Chairman. You're talking about the Legislature changing the Act in order to comply.

COMMISSIONER SERRAINO: Oh yes. I can't go to the Legislature. Mike Cole has to do that.

SENATOR JACKMAN: I understand.

SENATOR STOCKMAN: A general question, Commissioner, because I think as a layperson it's in my head, I would think anybody trying to follow what's going on is, why would the Federal government kick our heads in, figuratively, over a plan we might complete in accordance with this statute and submit to them?

COMMISSIONER SERRAINO: Basically, there are many reasons, but the basic reason is, it will not allow any infringement--

SENATOR JACKMAN: Or advisory councils or anything of that nature to operate.

COMMISSIONER SERRAINO: Well, such as, let's take DCA. I understand the purpose of DCA. I understand all of this. I have no problem with DCA. But from a Federal point of view they will not allow-- This is an infringement on the Federal government. After all, they are going to kick in 50% of the funding. They want no restrictions on me.

SENATOR STOCKMAN: And they want single control and responsibility in one Department.

COMMISSIONER SERRAINO: No. They don't say single control. I said to you that whenever states have applied for Federal approval of the public employee plan, 25 of them-- In 24 cases, it's been a single agency.

SENATOR STOCKMAN: Well, I gather one succeeded in having some dual or shared responsibility.

COMMISSIONER SERRAINO: I beg your pardon.

SENATOR STOCKMAN: I gather one state managed to deal with it on a different basis.

COMMISSIONER SERRAINO: Right. It was Labor and Health. And that was Michigan. Michigan has a dual one and they approved that.

SENATOR STOCKMAN: But you don't think they would for New Jersey. New Jersey is triparty-ism.

COMMISSIONER SERRAINO: Well, they certainly wouldn't approve triagency. That's my point.

SENATOR JACKMAN: Through you.

SENATOR STOCKMAN: Yes.

SENATOR JACKMAN: Is there advantage being with the national group? The only thing you're talking about is money. Nothing else.

COMMISSIONER SERRAINO: Senator, if we had the money, I wouldn't look at the Federal group.

SENATOR JACKMAN: Okay.

COMMISSIONER SERRAINO: If we had the money to do the job which has to be done, I wouldn't look at the Federal group.

SENATOR STOCKMAN: Section 30, of course, is the Advisory Board and you, I think, more than intimated that it's a problem for you and, of course, you point out that there's no way the Federal government would accept an entity like that as having a veto power. So, you're really, suggesting the role of the Advisory Board ought to be changed.

COMMISSIONER SERRAINO: You notice that I didn't put that in mine. If you look in my plan, I'm leaving that the way it is.

SENATOR STOCKMAN: All right. I didn't pick that to--

COMMISSIONER SERRAINO: Okay. I'm not making an issue of that right now, even though I explained to you how I thought it was encumbrant -- the situation -- because it does have a veto power over the Commission and can result in stalemates. That board will have a right to say this is what it should be, and me and Health and the others would have the right to say this is what it should be and that's the end of it and nothing happens.

SENATOR STOCKMAN: The next provision deals with a very limited question of laboratories in higher education facilities. We won't get bogged down on that. But then comes this limitation on the right to enter when he has reason to believe -- which is more restrictive. And your sense is that they wouldn't buy that? Is your opinion that it shouldn't be in the law?

COMMISSIONER SERRAINO: Yes. I think it shouldn't be in the law. I shouldn't have reason to believe-- I should have a right to enter when I want to, and that's what the Federal government says.

SENATOR STOCKMAN: So, that's an amendment to our law that you are unequivocal on?

COMMISSIONER SERRAINO: Yes.

SENATOR STOCKMAN: And that may be one bit of good that kind of comes out of this Committee hearing as I think you said, or at least one of a few because I think we have to look carefully at that. 38 -- you say this paragraph is all wrong. It's not the Commissioner of Labor.

COMMISSIONER SERRAINO: That's a technical error; that's all that is.

SENATOR STOCKMAN: In the Act?

COMMISSIONER SERRAINO: Yes. In the Act.

SENATOR STOCKMAN: 41 -- does not provide for first instance sanctions.

COMMISSIONER SERRAINO: Right. That's C.

SENATOR STOCKMAN: Okay. Do you advocate in your separate -- and I'll go through that -- that there be authority for first instance sanctions?

COMMISSIONER SERRAINO: I do.

SENATOR STOCKMAN: Why?

COMMISSIONER SERRAINO: Because I believe in the process of education. I believe in working with an employer to get him to understand the law, to get him to correct his violation by citing him for the violation and then giving him an order to comply. Okay? I believe in giving him time to work it out, because then he would appreciate what the State of New Jersey is all about. But at the end of that time, if he hasn't done what he is supposed to do, I don't want to have to go to the civil court and the AG: I want to be able to fine him right there. I want to talk softly and carry a big stick, in other words.

SENATOR STOCKMAN: Well, maybe I misinterpret it. You said that it does not provide for first instance sanctions. I interpret it to mean that you could sanction them as soon as you find a violation, without a compliance order.

COMMISSIONER SERRAINO: I could.

SENATOR STOCKMAN: You can now?

COMMISSIONER SERRAINO: No, I can't now. If you changed it, at the first instance, I could. But I'm telling you how I would apply it. I'd use a--

SENATOR STOCKMAN: I'm reading you amendments requested in the State Act for State programs, and Section 41 says, "This section does not provide for first instance sanction as the Federal Act requires. Under the State Act, in order to comply, must first issue an employer, given a period of time to correct the violation, authority for first instance sanction with direct right to levy fines should be granted to the Commissioner."

COMMISSIONER SERRAINO: Right.

SENATOR STOCKMAN: But I thought you just said a moment ago, Commissioner, that you want to issue a compliance order, give them a chance to comply, and then if they didn't, sanction them.

COMMISSIONER SERRAINO: Right. Then that's final -- instead of having to go to the civil courts through the AG.

SENATOR STOCKMAN: Well, the question of whether to accomplish collection of the fine, have to go into a civil court is a separate one.

COMMISSIONER SERRAINO: No it isn't. It's the whole problem. When I determine that this guy is incorrigible or doesn't want to do what we want to do and I want to fine him, I have to go to the court. You can't separate it.

SENATOR STOCKMAN: But this, as I read your submission with regard to amendments to this State Act, you seem to be urging a tougher stand, a more immediate ability to fine--

COMMISSIONER SERRAINO: No. I will not depart from my philosophy that the best way that we're going to get enforcement of the Act by all of the employers in the State of

New Jersey is not by clubbing them the first minute they make a misstep, is by--

SENATOR STOCKMAN: Commissioner, this is your statement. It says, "Authority for first instant sanction with direct right to levy fine should be granted to the Commissioner."

COMMISSIONER SERRAINO: "Instead of going to the courts and the AG." If it doesn't say that, that's what it should say.

SENATOR STOCKMAN: Section 43 -- "Does not provide for appeal to the review commission on the part of employees, nor does it provide for the employee to be a party to any appeal." Both of these positions are contrary to Federal OSHA. You'd need a change in that if you go to OSHA. And 49 -- goes to this fire safety standard. I think we dealt with that.

Now separate from that, amendments requested if we don't go the Federal route--

COMMISSIONER SERRAINO: Right.

SENATOR STOCKMAN: 29 -- delete the concept of providing a State plan. You don't think we need a State plan if we don't go to the Federal authorities. I really have a difficult time in--

COMMISSIONER SERRAINO: To tell you the truth it doesn't make much difference because the State plans are actually what we're going to be able to do under the Act.

SENATOR STOCKMAN: Next remove the, "When he has reason to believe--" We've talked about that.

COMMISSIONER SERRAINO: How about the rest of that 29, sir?

SENATOR STOCKMAN: All right. Delete the concept of providing State plan. Retain in this section either the concept of the Department of Labor being the sole agency or the concept of Labor administering the safety issues, Health administering health issues, and Community Affairs administering building, structural, and fire safety issues.

COMMISSIONER SERRAINO: That will certainly cut down on the time needed to develop standards. And that certainly will fix the responsibility for inspection and compliance. If you want to do it that way--

SENATOR STOCKMAN: Well, is that your recommendation?

COMMISSIONER SERRAINO: No. One way or the other is what I'm saying.

SENATOR STOCKMAN: 35:B is the, "when he has reason to believe." 37:B -- is that technical?

COMMISSIONER SERRAINO: That's technical. And so is the next one technical.

SENATOR STOCKMAN: Now 40 -- this sections should be amended to require submission of an annual summary of occupational illnesses, injuries, and fatalities to the Commissioner. Now let me come to that for a moment, because at the hearing I know I was frustrated to a certain extent and I pressed this question, do we have statistics? There was a general comment and I think we somewhat reiterated it, that, "Hey look, we're checking all the complaints. We're doing a great job." I asked how many injuries in the workplace, how many injuries that are traceable to conditions in the activities of a public employee are occurring? Do we have statistics to be able to know just how good or bad things are out there? And it was my understanding that we didn't.

And further, you told this Committee by letter of July 1, that to the best of our knowledge, such data does not exist for local public employees and it is not required to be compiled by any agency. The Bureau of Risk Management in the Department of Treasury is required to keep such statistics for State employees. However, we're informed by Risk Management that it would take them at least a week to obtain this information, because their data base is in Texas. Now, do we have, Commissioner, any statistics as of July 26?

COMMISSIONER SERRAINO: We did get a communication.

(At this point during the hearing, due to an equipment malfunction, approximately three minutes of testimony was lost.)

SENATOR STOCKMAN: I'm reading Section 40. It says, "In accordance with the Commissioner's regulations, each employer shall make available up to five years the following detailed records--"

COMMISSIONER SERRAINO: Well, the question is, what does "make available" mean? You see, I want to strengthen that by saying--

SENATOR STOCKMAN: Have you promulgated regulations as to what it means?

COMMISSIONER SERRAINO: No, we haven't.

SENATOR STOCKMAN: Don't you think that that would be a way of clarifying what it means?

COMMISSIONER SERRAINO: They're going to the advisory council right now.

SENATOR STOCKMAN: But this is three years-- Let me ask you another question. Are they different than the Federal? Where did they come from?

A L F R E D B. V U O C O L O, J R.: They're basically patterned after the Federal.

SENATOR STOCKMAN: They're really an adoption of the Federal, right? But it's taken-- I don't want to be too tough on you Commissioner, but let me put this one right-- I mean this act is been on the books for three years. We know we have really no decent statistics on work related injuries. You're telling me you're about to put in place a regulation that would require the various departments to make this available, but the regulation that you're about to come to grips with and put in place is essentially an adoption of Federal regulations which

was available three years ago. Now that's the kind of-- I may be wrong. If I'm wrong in what I just stated, correct me. But if not, isn't that the kind of thing that could lend suspicion to this Committee as to whether or not we're really coming to grips with this act?

COMMISSIONER SERRAINO: Well, Mr. Chairman, if you don't mind me saying so, here's where I think you're unfair to the whole Department.

SENATOR STOCKMAN: Okay.

COMMISSIONER SERRAINO: Okay. I think you treat very lightly our assertions about how difficult it has been to do a job under difficult circumstances with not enough funding and with many many impediments, and you keep harping under three years, three years, three years as if you've got something really by the throat and I think that's absolutely unfair.

SENATOR STOCKMAN: Well, I am sorry you made that point, Mr. Commissioner. Let me respond to you. Because that's a direct attack on me. I assume you're not talking to the Committee; you're talking to me.

COMMISSIONER SERRAINO: Whoever says it.

SENATOR STOCKMAN: And if that's a direct suggestion that I've been unfair to you about this three year period, I'll stand on the record. And I will repeat the observation that if you don't have any statistics out of this Section 40 and if you admit that you could promulgate regulations and you haven't promulgated them for three years; and Mr. Vuocolo turns to us and tells us that they are about to be promulgated and they are essentially regulations that the Federal government had that could have been adopted at least two or three years ago; and that I'm harping or being unfair to your whole Department, I'll let the people in this room and I'll have to let the general public make that decision. I think that's an unfair comment on your part.

COMMISSIONER SERRAINO: I don't think it is, sir.

SENATOR JACKMAN: Through you, Mr. Chairman.

SENATOR STOCKMAN: Senator Jackman.

SENATOR JACKMAN: Let's not lose the tenor of the kind of expressions we started off with at the earlier part of the day. I don't want to let this thing get into a position where I don't think there's an honest misunderstanding. Statistical data is important because questions were raised, Mr. Commissioner, by other people who came to prior meetings. Statistically, we think it's important for us to have that kind of information. I agree in principle with you that in order to get the statistics, somebody's got to go and gather them. Somebody's got to be out in the field. And that we don't have the kind of money that's important enough to continue this kind of in depth study that my colleague thinks is important and I feel is important.

Then it's incumbent upon us, with your cooperation, to make sure our colleagues know that money is a necessary part of this input. Don't misunderstand the three year thing. I think the three year thing was raised on a number of occasions without your presence, and what we're trying to do is make sure that we're going to be helpful to you. When we find out there is statistical data being gather by the Federal government, then we think that if it's that important, then somewhere along the line we want you to know that we want to cooperate with you and help you where it's necessary.

But don't misunderstand the three year tenor. That's is something that was raised here, not on one occasion, but on a number of occasions. And of course, being the Chairman, it's incumbent upon him now to put the statistical data that we gather at these meetings in cooperation with one another together so that when we leave there, we go back to our colleagues and we say, "X, X, and X is what's got to be done." And if the Act has got to be modified and you want to give us the kind of input to make that modification, we'll be able to

do it in a joint effort. So, I think this is just to let you know that this is not a witch hunt by any stretch of the imagination.

COMMISSIONER SERRAINO: Okay. Thank you, Senator.

SENATOR STOCKMAN: Commissioner, I don't want to keep you here too long on this. And I also know we have a representative who has been at two past hearings and is from the Department of Community Affairs and who hasn't had a chance to speak. I don't want to leave him off.

I am concerned about this question about compliance orders and maybe I'll just ask this: You make the point that you can fine people until blood comes out of your nose, and I understand and appreciate that's not necessarily a healthy thing to have one branch of government fining another division of government, per se. There ought to be better ways.

On the other hand, I think we know that that is a tremendous leverage to make some recalcitrant managerial people recognize that you mean business.

COMMISSIONER SERRAINO: Absolutely. I agree with you.

SENATOR STOCKMAN: I understand, statistically, that there have only been a handful of orders of compliance since this act went into effect -- I think approximately 13. Actually, I thought the number was less than that. But your records indicate--

COMMISSIONER SERRAINO: More recent.

SENATOR STOCKMAN: How many of those were recent ones?

COMMISSIONER SERRAINO: I can't tell you how many.

SENATOR STOCKMAN: But, because our statistics were even less than 13.

COMMISSIONER SERRAINO: That's true.

SENATOR STOCKMAN: When we began these hearings, there were six or seven. Don't you think that more compliance orders are in order, in terms of getting the message out across the State that we mean business in this area of safety and health?

COMMISSIONER SERRAINO: This has been my policy, sir. When we move in on a situation and find something wrong, we cite him for violation. And you have a copy of our citation which I gave you. And we give a short period of time -- as short as we can -- to begin to correct the situation. We follow it up, we come back and take a look at the situation and we say, "Okay, you're making progress. If you don't have this thing cleared up completely in 30 days or 60 days or whatever it takes, okay, then we're going to issue you an order to comply. And you have a copy of orders to comply.

So, this is my philosophy. You sort of go in and notify him he's wrong, and give us (indiscernible) here in a time to demonstrate progress. If he demonstrates progress, as they all have done except in all of those cases, then you give him the proper amount of time according to the judgment of the inspector to finish the job completely. And when we come back, if he's finished it, he's okay. If he's not finished, that is when I want the power to fine him and not to have to go to the AG and to the courts.

SENATOR STOCKMAN: Okay. I think I understand.

COMMISSIONER SERRAINO: That's what I mean by using--

SENATOR STOCKMAN: But my interpretation, Commissioner, is that the Act doesn't give you quite the discretion that I think you seem to interpret. I think you're wrong. I may be wrong, but I don't see where the Act gives you that much discretion not to issue your orders of compliance. I think the Act contemplates that when you find violations, you issue orders of compliance. There are some legal and practical advantages, incidentally, to doing that, as opposed to taking a prior step of a citation, as you described it, and wait to see what happens. We had quite a debate on that earlier. I don't want to belabor it, but that is a point that I'd like to comment on.

COMMISSIONER SERRAINO: Okay. I am not an attorney--

SENATOR STOCKMAN: Lucky for you.

COMMISSIONER SERRAINO: --but my interpretation is as I see it now. I will, now that you make a point of it, I will take this point to the AG and if he tells me that your interpretation is right and mine is wrong, then I will, number one, follow your interpretation, number two, try to get the Act changed so that it will conform with the way that I think it would be. I've been fooling around with education, safety, and health for a long, long, time. And that's what I'll have to do.

If the AG tells me that you're right, then I'll change the policy immediately. But I will also attempt to secure to changing the Act to conform with what I believe should be the approach.

SENATOR STOCKMAN: All right. Do you, Senator Jackman, have any further questions for the Commissioner?

SENATOR JACKMAN: No. I know that your job is a tough one. You're talking about dealing with municipal governments. You're talking about dealing with people that are being paid by taxpayers' money, and you know that when it comes to correcting some of the things and the taxpayer has got to pay it, there's always a little bitching going on, so to speak. So, I want you to know we appreciate your input, so we can assure you -- myself and my colleague -- if there's any corrective measures that you desire, you let us know about it. We'll certainly work towards that end.

SENATOR STOCKMAN: Commissioner, let me make my own statement. I appreciate you coming in. I know this act is not as clear in some ways as it should be. I think it needs some changes myself -- the way things are going. And I think we're working right now in that direction. I am sorry that you feel that I have been in some ways argumentatively unfair to your Department in my comments. You have already expressed that, but we'll move on from there.

COMMISSIONER SERRAINO: I'll be glad to take that back. I don't want to hurt your feelings. I'll take that back, all right?

SENATOR JACKMAN: Take that back.

SENATOR STOCKMAN: All right, fine.

COMMISSIONER SERRAINO: Now let me ask you something. I am going to try to get, even though it's late, I am going to try to get a priority package in the amount of \$800,000 for which I will need sponsors. If I get the okay, I'll need sponsors in the Legislature.

SENATOR JACKMAN: We'll help you.

SENATOR STOCKMAN: We'll give it very serious consideration. (laughter)

COMMISSIONER SERRAINO: He said you would help.

SENATOR STOCKMAN: I chose my words carefully.

SENATOR JACKMAN: He's a lawyer.

SENATOR STOCKMAN: All right Commissioner. William Connolly is here. Mr. Connolly?

SENATOR JACKMAN: Take care of yourself, Mr. Commissioner.

COMMISSIONER SERRAINO: Thank you.

SENATOR STOCKMAN: I apologize for the Committee for the fact that you have been very patient, and you seem to understand the situation, and I'm sure you'll follow through.

W I L L I A M M. C O N N O L L Y: First of all, I want to thank you, Mr. Chairman and Senator Jackman, for giving me this opportunity, and also Commissioner Coleman for giving me this opportunity to address the Committee on what I think is a very important issue -- one very close to my own self.

I don't have a written statement this morning. The issues that I need to address are, hopefully not as long or nearly as complex as those that you have gone through before. I would like to address just two specific issues.

1) The Department of Community Affairs role and the enforcement of the PEOSHA Act.

2) The issue of training programs for the fire service which is one of the issues which initiated these hearings.

I want to address those two separate issues, because we do indeed, as has been mentioned, enforce parts of the PEOSH Act. But we have another major responsibility, that is that we are the State's fire agency. We're the people who have to stand up and speak on behalf of the fire service in this State within the State government. I want to address some of the issues from that perspective as well.

Let me first talk about our Department in the PEOSH Act. No law is written on a completely blank page, and the PEOSH Act is certainly an example of that. At the time the PEOSH Act was being considered before the Legislature, new Jersey already had the most complete up-to-date construction code and fire codes in America. They protect all of our citizens, both public and private. And they're backed by the most organized system of enforcement anywhere in this nation.

Our construction codes deal with all construction works, structural safety of existing buildings, light, ventilation, elevator safety, asbestos removal, indoor air quality, and ventilation problems in existing buildings. And our fire code insures that every existing building in this State, whether public or private, is safe from the hazards that are associated with fire.

We do have in New Jersey one State agency, the Department of Community Affairs, which is responsible for all aspects of building and fire safety in every State building. We issue all permits, we inspect all buildings regularly, and we are the final arbiter of all building related, safety related, safety issues in public buildings. We also supervise the enforcement of these same codes for all other buildings within the State. That enforcement is being done by our local governments under our supervision and direction.

Taking note of this existing system and taking care not to confuse or duplicate it, the PEOSH Act prohibits that the State codes shall be the rules, in terms of building and fire safety, and the Department of Community Affairs and the local enforcing agencies that are associated with the Department, shall enforce those standards. There is no dispute with the Department of Labor on this point as has been pointed out previously.

This approach does have some very real advantages to the State. Number one: Our standards adopted through our codes and fire codes are in fact far more up-to-date than OSHA standards. A single example is the version of the National Electrical Code which Federal OSHA used in the 1975 edition. We use the 1987 edition.

If you just read a little bit of it in the papers about where OSHA stands in the Federal pecking order these days, you know, it's been an agency under siege for a quite some time. And as a result, many Federal OSHA standards are quite outdated. There's been a lot of progress in terms of dealing with electrical hazards, for example, in the last 12 years. We have the benefit-- The New Jersey public employees have the benefit of that experience under the approach we've taken, which they wouldn't have otherwise.

The codes that we enforce are far from the outdated codes. I think that Mr. Engler somewhat mistakenly referred to it in his testimony almost a month ago now. Since the Department of Community Affairs must address all building and fire safety issues for the public anyway, this approach makes sure that there's no need to duplicate those efforts in the Department of Labor for those buildings occupied by public employees. There's no double standard in terms of our requirements to the disadvantage of public employees. I think the record will show all across this nation where the different standards are adopted for public employees as opposed to the

public generally, those standards tend to be lower for institutional reasons that I'm sure we're all familiar with. If you have to pay the bill and you write the standard as well, that can be a kind of a problem.

Our tough enforcement procedures apply under this arrangement. With building fire codes, we don't make recommendations, we don't try to convince people; we have very explicit standards and we issue orders as a result of any and every inspection. Something I'm sure that a great many of you read about in the papers a couple of years was a good illustration, where we closed the Office of Administrative Law and moved them out of their building on 48 hours notice. We found very serious safety hazards in that building.

Employees, however, do have appeal rights in this system. If a public employee feels that we made the wrong call and have not vigorously enough adopted and enforced the standards that we have, they do have appeal rights within the system that was created by the PEOSH Act. A good example is one that was raised in the testimony earlier but somewhat mistakenly -- the shelving issue -- the shelving that collapsed at the State Records Center several years. It was testified that three years later there was still no standard applicable to shelving that had been adopted. That's incorrect. That issue is covered by our State's construction code.

We cover all structural issues of that kind. The shelving that was intended to replace that shelving which collapsed did, in fact, have some problems measuring up to those standards. The people that were going to construct it were sent back to the drawing boards in order to make what they were going to do comply with the standards that we do have in place -- more shelving of a structural nature.

Indoor air quality is another example. We've gained some advantages. We do, in fact, have standards through our State's building code for indoor contaminants of various kinds

that's set at levels that can't be exceeded. What we also have being developed at the national level -- which we will adopt automatically in accordance with our building code system when it's available sometime within the next six to eight months -- is evaluation procedures for the ventilation systems of existing building are being developed by actually the American Society of Heating, Refrigerating, and Air Conditioning Engineers which will make it possible for us to deal in an organized way with what's commonly referred to as the stuffy building syndrome where people seem to have health problems yet you can't find through air monitoring, any particular contaminants that are causing that problem.

Asbestos removal is another illustration. By utilizing the State's building code, we're able to incorporate what I think is a very tough and very effective standard governing the actual removal of asbestos from buildings in a safe manner. Our code, for example has been adopted as far away as Hong Kong, because it is a leader, literally in the world in the area of safe removal of asbestos from buildings. We strongly believe that our State codes being enforced through PEOSHA don't lead to a duplication of enforcement and don't lead to a duplication of effort, but rather eliminate what would otherwise be such a duplication.

I also think that while it's often easy to think about people stepping on one another's toes and too many agencies involved in an issue, interagency coordination is one of the bright spots in terms of State government in recent years. There are many number of examples that I'll go into later where a multidepartment effort, each bringing its own particular expertise to a problem -- if it is well coordinated -- makes the sum of the parts greater than it otherwise would have been.

We do however believe that some improvements of PEOSHA are necessary to eliminate what is obviously some confusion that was testified to this Committee -- and the people think

it exists and it doesn't. We think most of them can be taken at the administration level. Very important in that approach is the clear procedural rules that everybody talked about here before and which are now at the point of being proposed for adoption. It's set forth very clearly -- an inspection in a complaint resolution process -- key to the type of complaint so that there isn't any confusion on the part of public employees as to who can take care of their problems.

Second, we believe that some of the visions of the OSHA standards that have been adopted by reference are necessary in order to eliminate some confusion that is at least in the (indiscernible) between the standards that we have under the Uniform Construction Code and the Uniform Fire Code which, as I pointed out earlier, are universally higher standards with those Federal OSHA which have been adopted by reference. That is something that we've been working with the Department of Labor on, and I think that is an important step that would eliminate some confusion.

The Commissioner of Labor pointed out that a lot of effort could be put into training. We think even more can usefully be put into training local, county, and State administrators and managers concerning the rules, and employee representatives on what the rules require and how they can effectly pursue complaints.

We do believe we have, right from the beginning, indicated no additional staffing or whatever to carry out our roles with the PEOSHA. The framework -- we received no additional staffing, and of course that was one of the reasons the construction code and the fire code were incorporated because there were some efficiencies in economy. This year in our budget request, we will be asking for a very small amount for a couple of administrative coordination type people. We don't need field staff; we have access to a lot of field staff. But one area that I think we have let slip down is in

getting back to people after we have investigated a complaint, whether we've taken action, or whether we've found that it wasn't probably really as serious as was first anticipated. I don't think we've done as good a job as we can in getting back to the original complaintant and saying, "This is what happened and this is what we have found and this is the action that we didn't take, and these are the reasons why." That doesn't take a lot of people; perhaps a couple. I know that is, in fact, incorporated in the Department's budget request for the coming year.

Let me just turn momentarily to the question of State plans and our Department's position on State plans. Number one, obviously, whether or not a State plan is to be submitted is very definitely called for the Commissioner of Labor, whoever he chooses to consult with. The Department of Labor is in the lead in this law and we certainly recognize that.

I just wanted to point out that in pursuing a Federally approved State plan, at least in certain ways, we might create some problems or leave some things we're really looking for, and I think the Commissioner prefers those sort of things. It's entirely possible that the amount of money that it would take to duplicate the building and fire code enforcement system that we currently have in the Department of Labor -- if you were to take a truly unitary approach -- it might well exceed the amount of money that you could get from the Federal government to support this effort.

Secondly, I want to point out that at least as nearly as we can tell and researched it -- we've done both at the time this law was being considered recently -- that Federal OSHA will accept our system, at least insofar as the Department of Community Affairs is concerned. I'd like to just mention to three references. I'm going to give you three references from the Code of Federal Regulations:

29CFR Chapter 17, Sub R&B Criteria for State Plans. A couple of important sentences there -- number one: a State plan will designate a State agency or agencies as the agency responsible for administering a plan throughout the State. It provides a very clear basis for a multidepartment effort.

SENATOR JACKMAN: With your permission.

SENATOR STOCKMAN: Yes.

SENATOR JACKMAN: He made reference to only 24 states not having it. And only one, Michigan-- Are you saying that if we make an application, the possibility would be that we could have both?

MR. CONNOLLY: It's certainly allowable under the Federal regulations and that's--

SENATOR JACKMAN: Would you say the presentation is the important part of it?

MR. CONNOLLY: Yes.

SENATOR JACKMAN: I got you. Okay. Thanks.

MR. CONNOLLY: Second, the State plan shall -- and this is relative to our codes themselves -- the State plan shall include and provide for the development and adoption of standards which are at least as effective as those promulgated under Section 6 of the Act as Federal standards so long as our State building codes and fire codes are at least as effective. And I submit to you as someone who has worked on a technical level on this for many years that they are. It can create some work for the Federal government. There's a whole lot of analysis that they have to do when we submit that kind of a plan. They're not crazy about extra work. But, if we look at the kind of protection the people of this State and public employees of the State get from the 1987 addition of National Electrical Code, for example, as opposed to 1975, it's worth the trouble to us.

And lastly on that issue as far as whether it should be one agency or three, as I indicated before, we think that

some of the multidepartment efforts, such as the asbestos effort which involves four State departments, such as the efforts to deal with radon litigation that involves both ourselves and the Department of Environmental Protection; the boarding home format which involves ourselves, Human Services, and the Department of Health; the underground storage tank program which we're doing also jointly with the Department of Environmental Protection-- In every case that has given us a more effective approach and saved the State some money by enabling us to use the expertise in the staff of the various agencies and not having to constantly reinvent the wheel in different places within the State government.

SENATOR STOCKMAN: And not being too cumbersome to private citizens in terms of having to deal with the multiplicity of departments, Mr. Connolly? By asking that, I'm not suggesting-- I don't want to suggest--

MR. CONNOLLY: No. I think that all of those illustrations have not, in fact, been too cumbersome for the public. It is very important though in multidepartment efforts that somebody have a strong lead and exercise a strong coordinating role. In each of these cases, it's one or another department while it's a multidepartment effort. Somebody is in charge, and we would submit that in this effort, the Department of Labor is in charge and that's the way it should be. The primary expertise in this area rests with that, although, we have something significant and useful that we can contribute.

Let me turn from PEOSHA in general to the fire service. Because we are a State fire agency, we've done a number of things relative to PEOSHA that I think are very important and I want to bring to the attention of this Committee, including most importantly the training, but other areas as well.

The State Fire Commission established a special committee, a broad base representing the entire fire service to advise on PEOSHA issues. The issue of equipment and replacement of equipment was a very important issue about who was (inaudible)-- And utilizing the expertise of that committee, utilizing the expertise of the Fire Commission itself, we've been able to work very closely with the Department of Labor to ensure adequate input for the fire service in terms of the rules that are going to be adopted. And I want to point out that the Fire Commission did very strongly support the adoption of the personal protection equipment rules that are being enforced by the Department of Labor and have been upgraded once, and are now under consideration for upgrading again.

Another thing that we did was that we issued a newsletter, a special edition of our "Fire Safety Newsletter" which goes to every fire department in the State. I would like to ask if someone would pass out a couple of copies of it to the Committee which in very clear illustrated form indicates to every fire department of the State exactly what they must do to comply with the personal equipment standards that have been adopted under the PEOSHA list -- a whole lot of what I think is a very clear explanation -- and also even pictures of equipment that complies and doesn't comply, so that every fire department will have the opportunity to know exactly what it is that it's supposed to do on behalf of its fire fighters to make sure that they can be safe on the job.

We're very proud of that publication. It was plagiarized in total by the New York State fire marshal and has been used in other states across the nation, because I think it is probably the best explanation of just what OSHA's stand for fire fighters require that's available.

We've initiated efforts for the State Purchase and Property Division to have an established State contract for all

the OSHA complying equipment that is required in our local fire departments to bid and put them on what's called State contract so that all the fire departments throughout the State could:

1) Be assured that what they buy, they buy what the State contract does comply, and 2) they can get the best possible price, because of the very large buying power of the State, as opposed to the each individual fire department.

And finally, thanks to an initiative that came out of the Legislature, we are providing low interest loans for this equipment to volunteer fire departments. This can be both fire fighting equipment and also the personal protective equipment that's required under the OSHA Act. In those circumstances where the local volunteer fire department has a great deal of difficulty coming up with the funds.

We hope to announced within the next month about \$2 millions worth of those loans. We've had some conversations with members of Legislature and with the Governor's office which indicate that when we went through our application process, which is just completing this week, and we documented the total scope of the need of both the Legislature and the Governor's office who are interested in thinking about a supplemental appropriation to that fund.

Let me talk now a little bit about training. We are implementing a comprehensive training system for all the fire departments throughout the State. It's a two-year effort. It's a big effort. It will proceed by steps. We already have in place comprehensive training requirements for all fire inspectors. That went first because it's related to the new State fire code which was a top priority in the first couple of years that we were the State fire agency.

A second is a certification system for all fire instructors -- people who actually conduct the training programs for fire fighter and fire officers. Third, we will be

implementing training programs for fire fighters and then for fire officers.

All of these training programs are based on the standards of the National Fire Protection Agency which defines exactly what it is that a fire fighter, a fire officer, or fire instructor needs to know in order to do their job safely and properly. We will establish these training requirements and course contents by rule. Those rules will also contain training facility requirements -- the kinds of facilities that a training organization needs to have access to in order to properly provide that kind of training. That's an area that I want to highlight. There is a shortage of adequate facilities within this State. Our budget request for the coming year will include a request for roughly \$3 million for fire training and fire training facilities at the county and the local levels. It's been established by Commissioner Coleman as a very high priority. The only higher or equal priority within the Department's budget request are some initiatives relating to the problem of lawlessness.

SENATOR JACKMAN: Though you.

SENATOR STOCKMAN: Yes.

SENATOR JACKMAN: You don't presently have that in existence around this State. A fireman can come in off the street after taking an examination and he doesn't go to any academy or anything and the guy just tell him to unroll the hose. Is that true?

MR. CONNOLLY: That's possible. That certainly doesn't happen--

SENATOR JACKMAN: You're trying to correct that now. I think that's commendable.

SENATOR STOCKMAN: That's right. Well, a systematic training program will apply to all of the State's 70,000 fire fighters. But let me just complete the point on facilities.

Only 7 of 13 counties and 4 of 13 local training facilities of this State actually have facilities to do any sort of live burn training, and that's important. In other words we have only 11 facilities in the entire State that can provide that kind of training. That kind of training is required by anyone's analysis of what a good training should include. Eleven facilities to serve 70,000 fire fighters -- it's going to cost a significant amount of money. But we're requesting that kind of money to try to implement this program.

We will supervise the carrying out of the training by any of the many institutions which already exist across the State and some parts of the State are very well served by county training academies or in a couple of instances even municipal training academies. Certainly, they should play a part in the overall system. We need to fill in the gaps when we don't have that kind of facility, and somebody needs to supervise that kind of whole system to make sure that the training that's provided meets the national standards that are recommended by the National Fire Protection Association.

We plan to issue certifications based on successful completion of these accredit courses in all the areas that I've described before. We are already issuing those certifications for fire inspectors. We'll be proposing the rules for fire instructors and fire fighters within the next couple of months. We're virtually finished with them.

This is a system that's carefully constructed to work in both the volunteer and a paid context. That's not the easiest thing to do in the world -- to promulgate and establish a training system that makes sense in both of those contexts. But we think it can be done and we think the training programs we're about to put on the street will in fact do that.

This certification program that we're establishing will provide a basis for local departments to impose requirements. We do not have in the fire safety laws that we

currently enforce, the authority to make this training mandatory for all the fire services throughout the State. We do have the authority to establish a system based on voluntary certifications. We've conducted surveys of all the fire departments to try to get some feel for whether they would go along, whether they would, in fact, make these requirements a condition of employment or as a condition of serving as a volunteer fire fighter.

Our surveys indicate that 80% of the fire departments would do so. That's what they tell us at this point. They are very strongly in favor of this and at least 80% of them would make possessing those certifications a requirement on their own. What this voluntary approach does allow us to do is phase in carefully what is going to be a massive training system -- 70,000 people. A large substantial turnover, particularly in the volunteer services is a lot of people, and it's going to be a massive program.

We think that when we get a couple of steps down the road, it will not only be possible, but it will be broadly supported to make this approach mandatory. We're not certain that to make it mandatory before people have the opportunity to participate in it and to see what it's going to be like is going to be easy or even possible or perhaps not even worth the fight. We would anticipate by now that when the fire safety package was before the Legislature in 1984, we got a lot of very serious concerns arising primarily out of the volunteer services as to how far we are going to go in mandating training.

We think it's probably wise to put something in place and then see where it takes us down the road and perhaps in two or three years, we can impose mandatory on those who are bringing up the rear and who are still not cooperating without a whole lot of difficulty on anybody's part and sort of preserve the volunteer fire service of this State while doing so.

We do have just a few recommendations on the training issue. Let me just summarize them. I've alluded to most of them. But one, we do need to provide for adequate training facilities at appropriate locations. And we don't have that now. We're are county government and in its wisdom have seen fit to provide those kinds of facilities we have, but in other areas we don't. We need to look at whether we should mandate counties to do it or whether we should provide some sort of State assistance. Our recommendations would be to provide some sort of assistance rather than mandating the counties to provide these facilities.

We need some support for the truly substantial cost of adequate training for the volunteer fire service. They already have a great deal of difficulty raising the money that's necessary whether it's more support from the tax base at local level or whether it's some form of State aid. I think we need to recognize that there will be some cost from the volunteer fire departments that they can't raise strictly through private fund raising activities to meet these training needs because fire fighting these days is a serious and a difficult business.

And it isn't just that way in the larger cities where we have paid departments. I think some of our largest and most complex buildings these days are located in areas served by volunteers and they need to have expertise too that's almost equivalent to that of the City of New York. That's very difficult to do on a private fund-raising basis.

We think this money can be made available. Let me just throw a suggestion on the table. For example, a penny on the tax would be more than adequate to cover the needs for a fire training system. There's an awfully good correlation between cigarette smoking and matches and many of our fires that it may make a little bit of sense to consider that as a possible funding mechanism.

However we do it, we owe some very serious support to all those paid and volunteer fire fighters who daily go into harms way so that the rest of us can be safe. Thank you very much.

SENATOR STOCKMAN: Very good.

SENATOR JACKMAN: Very good. Through you. What's your recommendations based upon the Commissioner -- before Commissioner Serraino-- Do you see any advantages of being part of OSHA -- the Federal part of OSHA -- with your Department? Or do you participate with them?

MR. CONNOLLY: From our perspective, strictly from building and fire safety, we see no particular advantage. There are some of the disadvantages that the Commissioner alluded to that exist in general, and as far as funding, because our system was entirely fee supported, we don't need any Federal money and I don't know what we would do with Federal, because we're adequately supported.

SENATOR JACKMAN: Let me compliment you. Through you, Mr. Chairman. Because I know what your Department has been doing around the State. I've got some feedback because I've got a vested interest in the fire departments because my father-in-law at one time was a fire chief. I've noted of late that some of the volunteer fire departments are going to be paid. For example, in Fort Lee, they're now going to be paying volunteer fire department members so much per month for their taxes because they feel there's a need now and there's an incentive now to bring these volunteers in. I'm sure that your people were very helpful in that because I got some feedback on it.

Again, I think your expressions to us and I think the need now for the cooperation that I think is important-- And I think you made a good presentation. And I'm sure that once we get an opportunity to make some evaluations, our recommendations are going to be along those lines. I hope it

will be for me. You know, I've got one of the greatest gimmicks as a politician. If you look at my eyes, I'm starting to tear now. That's because I've got a vein where the artery is and when I talk too long I start to cry. A guy says that's a hell of a gimmick for politician; he cries on cue. (laughter) I know that there will be a follow-through on our part.

MR. CONNOLLY: Thank you.

SENATOR STOCKMAN: Bill, I have a couple of questions to some of what you testified to. I gather that your suggesting to us-- Well, first of all, let me ask you what kinds of moneys might we be talking about that might be available if we met the Federal OSHA peoples' standards. We've made some corrections, changes, and so on.

MR. CONNOLLY: I honestly don't know how much. It is my understanding that it's fairly limited as with all things in OSHA. But I honestly don't know how much.

SENATOR STOCKMAN: Did you suggest or do you think we ought to make the try for that and that it's conceivable that without major disruption of this arrangement, that this is without surrendering your Department's responsibility in the areas that you have that we might get OSHA approval?

MR. CONNOLLY: That's my judgment. I don't think that they'd be crazy about it, because it makes life a little bit more complicated. And like everybody, they don't like complications any more than they have to. But, I read within the Federal and within their own regulations that this arrangement can, in fact, be done and will work.

SENATOR STOCKMAN: Incidentally, am I a right in suspecting that we could make that application submission and if they reject it, that's if they say, "We're sorry. You're going to have to fill in the Department of Community Affairs role." And I think we're impressed with the role in the job that you have. (inaudible; interrupting voices) -- to get our approval, then we could say, "Thanks, but no thanks." Right?

MR. CONNOLLY: That's a judgment that we could make at that time. Presumably at that time, we would also know how much money we were talking about.

SENATOR STOCKMAN: Right. So, it would seem to me, out of this comes evidence that we ought to be making that move, at some point soon. But that's my own judgment. Let me see.

SENATOR JACKMAN: Now, if there was a move on their part, do you think it would be advantageous to do it on a joint basis with the Labor Department? Or would it be a separate entity? The thing that worries me, with your permission, is that if you try to make it, an application for OSHA, and then they don't, meaning the Labor Department, and from what I can gather, the significance of 24 states not having it and only one having it, what the hell are our chances of getting it if we don't have that cooperative-- What I mean is the cooperative setup from within the Labor setup in your Department?

SENATOR STOCKMAN: Well, I think that Mr. Connolly made clear that the lead agency in this is Labor. And I think that you'd agree that if an application were made, it would have to be through Labor, but with your help.

SENATOR JACKMAN: Okay, that's all.

SENATOR STOCKMAN: So you agree that clear procedural rules are needed and apparently, according to the Commissioner now, may be about to be promulgated. I think that's to the good-- These revisions with regard to OSHA and your codes, you're working on that and you hope to get those into place. There's nothing we can do about that.

Under this fire training issue-- Incidentally, there are 70,000 fire fighters. Remind me, what portion are volunteer and what part are paid?

MR. CONNOLLY: About 10,000 are paid and the rest are volunteer.

SENATOR STOCKMAN: So, the volunteer problem is a very real one. It's changing. I understand that there's increasing difficulty in recruiting volunteers.

MR. CONNOLLY: It's very devastating.

SENATOR STOCKMAN: All right. I think your testimony is good and clear. And as Senator Jackman said, I have no further questions. Thank you.

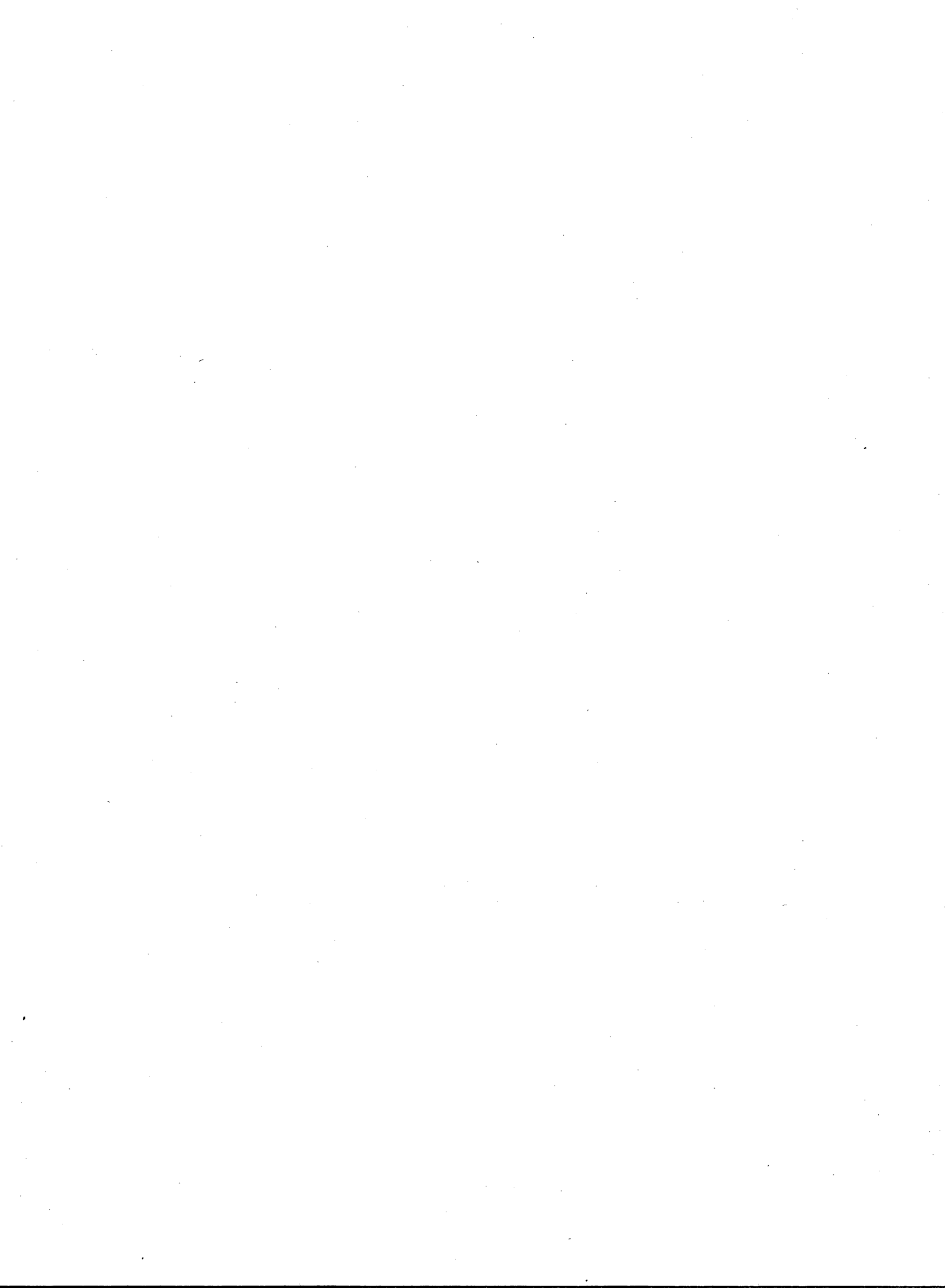
MR. CONNOLLY: Thank you very much.

SENATOR JACKMAN: Thank you.

SENATOR STOCKMAN: I think that we don't have anyone else submitting a request to testify, therefore, I think we'll end the hearing at this point.

(HEARING CONCLUDED)

APPENDIX



OFFICE OF PUBLIC EMPLOYEES SAFETY

BUDGET DATA

The following figures (expressed in thousands) represent budget request for enforcement of the Public Employees Occupational Safety and Health Act.

<u>DATE OF PREPARATION</u>	<u>FISCAL YEAR</u>	<u>REQUEST</u>	<u>PRIORITY PACKAGE REQUESTED</u>	<u>TOTAL APPROPRIATED</u>
March 1984	1984	\$ 64	--	\$ 64
April 1984	1985	365	--	365
August 1984	1986	548	\$555	548
July 1985	1987	575	590	575
July 1986	1988	613	549	613

July 23, 1987

*Case Studies of Co-operation Between Labor
and Management: No. 1*

THE JOINT SAFETY PROGRAM

of

**THE FORSTMANN WOOLEN
COMPANY**

and

**LOCAL 656
TEXTILE WORKERS
UNION OF AMERICA, CIO**

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by

**Richard H. Wood, in Charge of Research
and
John J. Pearce, Jr., Research Assistant**

1948

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3X

B. Union Co-operation Starts

In early 1945, the Manager of the Pasic Joint Board of the Union approached the Vice-President of the Company to offer the Union's formal co-operation in preventing accidents. This offer was enthusiastically accepted. For some time before this, each party, separately, had been considering the possibility of co-operating with the other in the prevention of accidents. The National Educational Director of the Union had previously suggested to Union officials that they consider setting up Union safety committees, which would have been concerned with the promotion of safety and health in general, as well as with informing workers about their rights under the Workmen's Compensation Law. Subsequently, a bulletin on the subject of joint safety activities, published by the United States Department of Labor, turned the interest of the Union officials toward setting up joint committees to help in preventing accidents. On their side, Management officials had become convinced that the time was ripe for stimulating renewed interest in their safety program by changing it in some way. They had, just prior to the Union's offer of co-operation, been considering how best to secure that co-operation.

The Vice-President of the Company, in accepting the offer of Union co-operation in accident prevention, suggested that two conditions should prevail in their co-operative activities:

1. It was necessary to keep in mind always that the final responsibility for safety must remain in the hands of the supervisors; otherwise, the joint program would, he felt, lead to confusion and probably to an increase in the number of accidents.

2. No office-holding Union member should serve on any safety committee. The purpose of this was to keep safety activities out of the area of controversy, and separate from the grievance procedure.

The Union agreed to these conditions, and the Joint Safety Program was soon launched. The first meetings were held in June, 1945, and have continued at monthly intervals since that time (except during the month each summer when the plant has usually been closed for a one-week vacation period).

The first accomplishment of the Joint Safety Council was the drawing up of a "Constitution" to govern the activities under the Joint Safety Program. (The 1948 revision of this Constitution will be found as Appendix I of this Study.) It is especially noteworthy that the members of the Joint Safety Council actively participated in the drawing up of their own Constitution through the work of sub-committees, composed of equal numbers of Union and Management representatives. These sub-committees reported back to the Joint Safety Council as a whole, and the recommendations of the Council were then referred to the Manager of the Pasic Joint Board of the Union and the Vice-President of the Company for final approval.

Having secured this approval, the Joint Safety Council turned its attention to setting up Departmental Joint Safety Committees, of which sixteen were established. These Departmental Safety Committees started to meet in March, 1946, and have continued to meet monthly (except for the summer vacation period) since that time.

The Constitution of the Joint Safety Council was recently amended for the first time. The procedure by which this revision was accomplished is worthy of mention at this point. Whereas the Constitution was originally drawn up by the Joint Safety Council, and presented to top Management and Union officials for approval,

suggestions for the recent revision were worked out by the Union safety representatives meeting separately with top Union officials. These suggestions were then taken up by the top Union officials with top Management, and the differences ironed out. Only then was the Joint Safety Council brought into the picture, and then, it appears, merely to be notified of the accomplished fact of revision. The method by which this revision was accomplished would appear to be the reverse of that implied by the provisions for amendment in the Constitution itself.

APPENDIX I

UNITED FOR SAFETY

JOINT ACTION TO PREVENT ACCIDENTS

Management and Union are united in their sincere desire to prevent accidents and promote the health of Forstmann workers.

We are in agreement that accident prevention can best be accomplished by co-operation. Safety is a noncontroversial matter. It is a common cause. Both Company and Union are pledged to work in the interests of safety.

In order to make joint action effective, a Joint Safety Council has been set up, and Departmental Joint Safety Committees provided for. This booklet presents the Constitution and By-Laws of our Joint Safety Council, and outlines the functions, responsibilities, purposes, and activities of our joint safety organization.

CHARLES SERRANO
Manager
Passaic Joint Board
T.W.U.A.-C.I.O.

GLENN GARDNER
Vice-President
Forstmann Woolen Co.
Passaic, N. J.

CONSTITUTION JOINT SAFETY COUNCIL

ARTICLE I

Name

The name of this Council shall be "Joint Safety Council."

ARTICLE II

Purpose

1. To promote the Safety and Health of Forstmann Woolen Company employees.
2. To create, propose, and guide accident prevention programs which will make more effective the safety efforts of those responsible for the well being of the employees.
3. To stimulate safety consciousness and activities among all employees.

ARTICLE III

Methods

The Joint Safety Council shall accomplish its purpose by:

1. Keeping informed as to the fundamental principles and practices of accident prevention as developed by industry and by National and State agencies.
2. Organizing, co-ordinating, and overseeing the work of departmental Joint Safety Committees.
3. Appraising the suggestions of such Joint Safety Committees and recommending the necessary action to be taken.
4. Formulating, recommending, and guiding the application of Company-wide safety and health policies.
5. Reviewing lost time and serious accidents to determine causes and recommend preventative measures.

ARTICLE IV

Membership

1. Membership will be composed of one Overseer and one non-office holding Union member each from the Worsted Spinning, Wool Spinning, Weaving, and Finishing Mills, and the Engineering Department.
2. A Permanent Chairman will be provided by the Company.
3. Members of the Joint Safety Council will be changed at regular intervals and in such a manner that their terms will be staggered. Members will serve twelve months.
4. Overseers will be appointed by the respective Mill Manager. Union Members will be nominated by the Business Agent of the Union. The names of Union members thus nominated will be submitted to the President of Local 696 for appointment.
5. Qualifications of members:
 - a. Company representatives must have held the rank of Overseer or Assistant Overseer for a minimum period of one year.
 - b. Union members must have had at least one year's service in the mill they are to represent and must have served on a Departmental Joint Safety Committee.
 - c. No member of the Joint Safety Council may serve a second term until all who are eligible have served.

ARTICLE V

Meetings

Regular meetings shall be held monthly. Special meetings may be called when necessary. All meetings shall be held on Company time.

ARTICLE VI

Amendments

This Constitution and its By-Laws may be amended by vote of the Joint Safety Council, subject to the approval of the Company Vice President and the Business Manager of the Union.

BY-LAWS

ARTICLE I

Procedures

- A. All meetings will be held as informally as possible.
- B. The general order of business for regular meetings shall be as follows:
 1. Review and acceptance of the minutes of the previous meeting.
 2. Discussion of pertinent correspondence and communications.
 3. Review of lost time accident cases.
 4. Summary and Review of Action taken or recommended by Departmental Joint Safety Committees.
 5. Planning Activities to be undertaken by Departmental Joint Safety Committees.
 6. Unfinished business.
 7. New business and general discussion.
- C. In the event a vote is taken, seven affirmative votes shall be necessary to carry the motion. A vote may be taken only when a motion has been placed before the Joint Safety Council.
- D. Minutes of every Joint Safety Council meeting shall be sent to all Council members, Departmental Joint Safety Committee Chairmen and Members, Business Agent of the Union and Education Director of the Union.
- E. Reports of Departmental Joint Safety Committee meetings shall be made in writing to the Joint Safety Council Chairman following each meeting. Copies of the reports shall be sent to both Company and Union Joint Safety Council Representatives from the respective divisions as soon as received by the Joint Safety Council chairman.
- F. The names of Joint Safety Council Representatives and their telephone extension numbers shall be posted on both Company and Union bulletin boards during their term of office.

ARTICLE II

Attendance

Every member shall attend each meeting unless excused.

ARTICLE III

Officers

- A. Chairman
 1. The Permanent Chairman shall preside at all meetings of the Council.
 2. He may call special meetings.
 3. He shall appoint working committees, when needed, from among the members of the Council.
 4. When a vote is taken, the Chairman shall have no vote.

B. Secretary

1. The chairman shall appoint a secretary subject to the approval of the members.
2. In the event of the absence of the Chairman, the Secretary may call the meeting and shall preside.

DEPARTMENTAL JOINT SAFETY COMMITTEES

I. ORGANIZATION

A. Committees

Joint Safety Committees will be organized in the principal mill departments so that a company-wide program of accident prevention and safety and health education may be effectively carried on.

B. Membership

1. Membership will be composed of two Foremen, and two members of the Union who do not hold office in the Union.
 - a. If it is found that a larger committee is desirable, the membership may be increased by one Foreman and one Union member.
2. Mill Managers of the respective mills will designate an Overseer or Assistant Overseer to be the Permanent Chairman of each Departmental Committee.
3. Members of each Committee will be changed at regular intervals so that their terms will be staggered.
 - a. In order to give participation to as many employees as possible, Union members will serve for six months.
 - b. Because of their smaller number, Foremen will be required to serve for twelve months.
4. Foremen will be appointed by the Overseer. Union members will be nominated jointly by the shop steward and business agent. The names of Union Members thus nominated will be submitted to the President of Local 696 for appointment.
5. Qualifications of members:
 - a. Company representatives must have held the rank of Foreman or Shift Foreman for a minimum period of one year.
 - b. Union members must have had at least one year's service in the department.
 - c. No member of a Committee may serve a second term until all who are eligible have served.

C. Meetings

Regular meetings will be held monthly. Special meetings may be called when necessary. All meetings will be held on Company time.

D. Identification

1. Departmental Safety Committee members will be expected to wear their badge of office while at work during the full extent of their terms.



NEWSLETTER

Volume 3 Number 1

January 25, 1985

What is Affirmative Action?

Affirmative action is defined as positive actions initiated by an employer to ensure equal employment opportunities exist for minorities, women, and the handicapped. Positive action generally is directed toward two major areas: (1) Affirmative action to identify and remove artificial barriers which may be built into personnel policies and procedures, and (2) Recruiting activities designed to ensure that minorities, women and the handicapped are aware of employment opportunities and become part of the applicant pool.

Few fairminded persons will argue with the objective of increasing the participation of minorities, women, and the handicapped in areas (titles or positions) in which they have historically been excluded. By identifying underrepresentation of minorities and women by offices and titles and/or ranges, an affirmative action plan is developed. "Goals" are established based on levels of representation of minorities and women employed against a State-established standard of representation. Goals, unlike quotas, are not rigid or inflexible and are simply targets which management strives to achieve. It means that given the opportunity to recruit, hire or promote, management will give consideration to qualified minorities, women or handicapped candidates.

Affirmative action is not just good human resource management but also is good, sound management practice. Those who support affirmative action, to dismantle the process of discrimination, are not insensitive to any single group. In fact,

Continued on page 3

Toms River Update

Late last year a problem arose in the Toms River U.I. Office when some employees detected a strange odor in parts of the office. The Department reacted immediately by calling in personnel from the Department of Treasury and Health and by dispatching representatives of this Department to the scene to investigate.

Upon arriving at the office it was found that a solvent-like odor was being emitted from the air supply ducts. This was brought about when a lubricant used by servicemen performing work on the air conditioning units on the roof was sprayed on the units' fan belts.

Office personnel were evaluated and the local fire department used specialized equipment to recirculate the air inside the building. Air samples were subsequently taken at 16 different office locations and all readings were evaluated as being in normal range.

The Department of Health's report of the readings stated in part "a very faint trace of solvent odors did exist in the front section of the office, however, the odor did subside after a short period of time." The report concluded "in summary again, no harmful pollutants were detected in the Department of Health testing."

The Department is assured from the DOH Specialist who analyzed the situation that our employees were not exposed to any toxic substance in this situation.

Previously a Union study was conducted by Galson Technical Services and sent to the Office of Employee Relations (OER). The study was forwarded by OER to the Department of Health for an

Continued on page 3

Commissioner Speaks On Public Employees' OSHA

Commissioner Serraino delivered the opening remarks to some 150 administrators at a meeting of representatives of state departments on the Public Employees Occupational Safety and Health Act on Thursday, January 17.

In his remarks, Commissioner Serraino said that he has a strong commitment to worker health and safety as a result of his experience in the labor movement, private industry and state government.

The Commissioner pointed out that when he previously served as Commissioner of the Department of Labor and Industry, the Department administered a worker health and safety program in the private sector.

This program was superseded by the Federal Occupational Safety and Health Act.

"But -- even though New Jersey opened up new frontiers for worker health and safety programs -- in that early program public employees were left out of the coverage provisions and had no statutory protections," the Commissioner added. "In fact, in reviewing most of the labor laws that were enacted in this country over the last century, it is clear that most excepted public employees."

"This is neither right nor just," the Commissioner continued. "Public employment runs the gambit of occupations that exist in private industry. Therefore, public employees should have the same right to physical and emotional health as all other working people in our society."

Commissioner Serraino said the Public Employees OSHA law, "makes good sense in

Continued on page 3

10x

ADMINISTRATIVE SERVICES:
BELLE RAE SIEGLE thanks all of her friends in the Department of Labor for the get well wishes sent to her home. Belle stated, "the cards lent me a bright note knowing that I have so many friends that care in the Department. Thanks to all of you!"

Memorabilia Needed For UI's 50th Anniversary Celebration

As reported in earlier issues of the Newsletter, 1985 marks the 50th anniversary of the Unemployment Insurance Program in the United States.

The committee is attempting to collect memorabilia from the past for a display which will travel throughout the State. We are thinking of such items as claims records, claimant identification cards, posters, pamphlets, newspaper clippings, photographs, etc. Employees with items to add to the display should contact Bill Schwarz in Room 913 at extension 2-2680.

The committee is also interested in recruiting Divisional personnel to write articles on various aspects of the Unemployment Insurance Program. In addition to having these articles submitted for publication, it is hoped they will also serve as a foundation for a proposed commemorative journal to mark the 50th anniversary.

Articles should be submitted to Sandy Katz, Room 605 of the Labor and Industry Building.

What is Affirmative Action?

The Department's Office of Monitor Advocate and Affirmative Action Programs must seek remedies for any personnel practice or policy which discriminates against anyone -- male or female, White, Black, Hispanic, Asian or Native American.



interpretation of the scientific data so that a final determination regarding the environmental factors in the Toms River Office can be made.

In addition, the landlord at the Toms River site had an independent laboratory study conducted by Princeton Testing Laboratory. This study found in part that the "results indicate a substantially acceptable environment for worker health. No measurable amounts of formaldehyde or other volatile organics were found. A ventilation measurement indicated that the supply of fresh air is irregular in the building, and that some adjustment in the balance of the system may be required. Inadequate air supply, while not considered a potential health hazard, can cause employee discomfort. The analyses documents, however, show that no current health risk is present."

This study too, was forwarded to the Office of Employee Relations (OER), as well as to the Department of Health and the General Services Administration for their attention.

Commissioner Speaks

behalf of public workers and their families."

The law, which is the first worker safety and health law in the history of the state to extend workplace protection to public employees, was signed into law by Governor Thomas H. Kean on January 17, 1984.

The Public Employees OSHA Bill, Commissioner Serraino said, "affords public employees the same right to workplaces free from recognized and removable hazards that is afforded to employees in private industry."

"I assure you that as a representative of Governor Kean and your Commissioner of Labor, it is my intention to administer a meaningful and purposeful public employee Health and Safety Act for all public employees in New Jersey."

Commissioner Serraino said a series of informational meetings for workers and administrators is being planned to discuss a host of issues including electrical

grounding, back in protective equipment, ladders, traffic signs and workers' compensation for work-related injuries.

Employee Anniversaries

The following individuals are marking employment anniversaries in the Labor Department:

40 YEARS

Rose Fracaro
Employment Services

35 YEARS

Dorothy A. Shotwell
UI & DI

25 YEARS

Agnes Fitzpatrick
UI & DI
Joseph L. Alampi
Employment Services
Thelma Terry
Employment Services

20 YEARS

Robert J. Hutchinson
Systems & Communications
Dorothy Celinski
Workplace Standards
Ronald J. McGovern
Vocational Rehabilitation

15 YEARS

Walter V. Clark
Income Security
Rita A. LaMarca
UI & DI
Norma J. O'Brien
UI & DI
Mary Ann T. Rieger
UI & DI
Charles G. Davis
Administrative Services
Michael M. Margulies
Systems & Communication
Deanna D. Durant
Labor Relations
Richard Angelotti
Employment Services
Richard D. Byer
Employment Services
Anne M. Degeer
Employment Services
Willie F. Emanuel
Employment Services
Betty J. Schuman
Employment Services
Eric Wexler
Employment Services
Marcella Yarish
Employment Services
Edward N. Murray
Vocational Rehabilitation
Hector Iglesias
Employment and Training
Ronald E. Pugh
Employment and Training

11/x

OFFICE OF THE COMMISSIONER
NEW JERSEY DEPARTMENT OF LABOR

178
Contact: Gene Berman
(609) 292-7832

TRENTON, June 3 -- The 11th meeting in a series of meetings to acquaint public employers and employees with the New Jersey Public Employees Occupational Safety and Health Act will be held at Morris County College on Wednesday, June 5, according to Commissioner Charles Serraino of the New Jersey Department of Labor.

"The meetings have proven to be an effective vehicle to acquainting employers and workers with the law and explain to them their rights and responsibilities under the act," Commissioner Serraino said. "This legislation affords government workers the same right to workplaces free from recognized and removable hazards that is afforded to workers in private industry."

"We want our program to be successful and it is our goal to have New Jersey lead the nation in providing a safe and healthy working environment for public workers," the Commissioner added.

The Public Employees Occupational Safety and Health Act states that "every employer shall provide each of his employees with employment and a place of employment which are free from recognized hazards which may cause serious injury or death to his employees."

The act encourages employers and employees to comply with the Federal Occupational Safety and Health Act standards which have been adopted as a minimum standard.

The New Jersey Department of Labor enforces and administers the act. Inspections are made by the Departments of Labor, Health and Community Affairs in their respective areas of jurisdiction.

(more)

12x

"Employee safety and health is of paramount importance to us," Commissioner Serraino said. "And we will utilize all of the resources at our command to ensure that safety and health standards are complied with."

The June 5 meeting will be held in Room A 141 at Sheffield Hall at Morris County Community College. It will begin at 10 a.m.

Previous meetings were held at Bergen County Community College, Ocean County College, Kean College, Burlington Community College, Brookdale Community College, Atlantic County College, Somerset County College, Gloucester County College and Mercer County Community College.

(30)

NJDL No. 17

NEW JERSEY DEPARTMENT OF LABOR

TRENTON, January 17 -- "Safety is everybody's business," Commissioner Charles Serraino of the New Jersey Department of Labor said today as he reminded managers and employees of the State of New Jersey of their rights and responsibilities.

"I'm asking every manager in state government to take some time, right now, to evaluate their workplace. Our workers have a right to a safe and healthful work environment -- it is up to management to provide that," Commissioner Serraino said.

The Commissioner said state employees, who are the chief beneficiaries of the law, should assume an active role in its implementation. "We need the help of every employee in our effort to keep the workplace safe," The Commissioner said.

"State workers are able to bring to our attention problems and prospective problems that can and will be corrected. Together we can act to make the work environment a safer place," Commissioner Serraino said.

"The Public Employee Occupational Safety and Health Act which went into effect for state workers in November provides state employees with the right to a safe and healthful workplace. It is a perfect opportunity, now, for managers to make an extra effort to ensure their workers of that protection," the Commissioner said.

Under the new law, state employees have a number of new rights to ensure a safe, healthful workplace.

State employees have a right to request an inspection when they believe a safety or health hazard exists and to have a representative accompany the inspector as he investigates the claim.

In addition, the law provides that employees can file a complaint without suffering any discrimination for their concern.

(more)

14x

We are hoping to achieve safe and healthful workplaces for all employees and this new law can help state employees insure that they have such protection," the Commissioner said.

Employees wishing to file for an inspection may contact their union or employer representatives for help. Notice in writing should be directed to the Commissioner of Health for health violations, to the Commissioner of Community Affairs for fire and building code violations and to the Commissioner of Labor for safety hazards.

The Public Employee Occupational Safety and Health Act will not become applicable for local government agencies until November, 1986, except in cases where conditions pose an imminent hazard. Those conditions must be corrected immediately.

Commissioner Serraino said the Department has made approximately 75 educational inspections of fire houses and police stations. These inspections have turned up a number of hazardous conditions ranging from exposed electrical wiring and blocked fire exits to air cylinders which were only partially charged.

Commissioner Serraino said local agencies have been cooperative in correcting these conditions when they were brought to their attention.

"Action must be taken right away to correct conditions which pose an imminent hazard," the Commissioner said. "And when the new law becomes effective at the local level in November, personal protective equipment purchased for fire fighters after that date will have to meet adopted standards."

In addition, Commissioner Serraino cautioned local government leaders that any such equipment currently being used, which can melt, is flammable or poor fitting and which does not offer full body protection should be replaced.

OFFICE OF THE COMMISSIONER
NEW JERSEY DEPARTMENT OF LABOR

Contact: Gene P. ...
(609) 292-7832

TRENTON, August 21 -- Commissioner Charles Serraino of the New Jersey Department of Labor today announced that the Department of Labor's Occupational Health and Safety Consultation Services Program will now be available to employers in the public sector as well as to employers in private industry.

"The program has proven to be an effective way for private employers to recognize and correct safety and health hazards in the workplace," Commissioner Serraino said. "We are confident that employers in our local and county governments and in state government will also be able to utilize our on-site program to develop effective and efficient safety and health programs within their jurisdictions."

Commissioner Serraino said the Occupational Health and Safety Consultation Services Program will be an effective tool in helping the Department of Labor enforce specific occupational safety and health standards mandated under the Public Employee Occupational Safety and Health Act (OSHA) in January, 1984.

Employees of state government are currently covered under provisions of the Act. Protection under the Act will be extended to local and county government workers on November 6, 1986.

According to Commissioner Serraino, professional staff available from the Department are prepared to assist in identifying the many serious hazards associated with public sector employment in numerous occupations. The occupations include:

- Police and other law enforcement activities (many operations to include Highway Patrol).
- Fire fighting activities.
- Water and sewage treatment plant operations.
- Electrical utilities and services.

(more)

16x

- Water utilities and services.
- Refuse collection and disposal.
- Maintenance of streets and highways.
- Operation and maintenance of schools.
- Operation of parks and maintenance of recreational equipment.
- Operation of maintenance garages and servicing activities for city, county, and state equipment.
- Warehouse and storage activities.
- Printing operations.
- Disaster control and emergency operations.
- Transportation activities.
- Conservation and wildlife activities.
- Administrative operations.

The Department of Labor's On-site Consultation Services will provide a unique opportunity and challenge to all public sector employees," the Commissioner said. "They can voluntarily utilize this valuable service for hazard identification in such areas as employee exposures to toxic substances, noise or other physical agents including nonionizing radiations, ventilation, and personal protective equipment.

"The consultants look for mechanical and physical hazards that may cause or are likely to cause accidents," Commissioner Serraino continued. "Besides helping employers to identify and correct specific hazards, consultants provide guidance in establishing or improving safety and health programs and offer training and education for the public employer, the employer's supervisors and employees."

For further information interested parties should contact Anthony Rossi, Assistant Director, Office of Occupational Health and Safety, at (609) 984-3507.

OFFICE OF PUBLIC EMPLOYEES SAFETY

EDUCATION

The following data represents the education and training effort of the Office of Public Employees Safety:

AGENCY

State Employers	19	1,278
Municipal Employers	22	731
County Employers	22	784
School - School Boards	20	789
Fire Departments	40	2,232
Unions	16	765
Police Departments	2	320
Miscellaneous	<u>14</u>	<u>668</u>
Totals	153	7,567

In addition to the above, 24 on-site consultations were conducted between September 10 and October 26, 1986. The training sessions were conducted on confined space entry, office safety, trenching and excavation, and to assist employers in developing their own safety programs.

The consultations were conducted in: Plainfield, Burlington, Perth Amboy (three consultations), East Orange, Little Falls, Watchung, Guttenberg, Burlington, Sayreville, So. Amboy, Rahway, Lawrenceville, Camden, So. River, Montclair, Secaucus, Woodbridge, Hamilton Township, Cedar Grove, and East Windsor.

Educational materials were prepared and printed in 1985 to assist workers in exercising their rights and to aid employers in establishing safety and health programs and procedures. The materials were distributed to persons attending education seminars and are available upon request. The materials included:

- A list of safety hazards most likely to be encountered in an office setting, in a workshop or maintenance shop setting, and
- A list of commonly violated safety standards.
- A pamphlet highlighting pertinent sections of the Act (developed prior to the printing and availability of the entire Act in booklet form).
- A complaint form for public employee use to identify hazards in the workplace.
- An informational poster encouraging employees to report unsafe or unhealthy conditions, first to their employer's safety officer, second to their union representative, and lastly to contact the appropriate inspecting agency.
- A poster on fire dangers in the home and workplace.

Other Educational Activities

-- Telephone lines were designated by the Departments of Health and Labor and Community Affairs for reporting hazards. The telephone numbers were printed on the posters.

-- Downsized versions of the informational posters containing the telephone numbers for reporting hazards were forwarded to the Department of Treasury and these posters were included in the paychecks of every state worker on May 19, 1987.

-- Visitations were made to a total of 487 worksites. The purpose of the visitations was to advise employers and workers of their rights and responsibilities under PEOSHA, and to provide assistance in helping them to secure safe and healthy worksites.

-- Press releases were issued to all news media outlets in June, 1985; January 17, 1986, and August 21, 1986 to alert public employers and employees of their rights and responsibilities under PEOSHA.

-- Worker safety and health was addressed in a total of 20 speeches scheduled for the Commissioner or scheduled for other Department of Labor representatives between January 10, 1985 and May 5, 1987.

-- A library of safety films was assembled for usage by employer and employee groups. The library deals with a wide range of subjects concerning safety and health hazards. The film is available free of charge to employers or groups requesting it.

-- The Office of On-Site Consultation Services is in the process of developing guidelines for a safety awards program to encourage employers to conduct their operations in the safest possible manner. The program, which is expected to be developed by the end of the year, will be similar to one which is conducted in conjunction with the New Jersey Industrial Safety Committee.

-- Materials for posting were mailed out to every municipality, school board and state agency in May, 1986.

PUBLIC SPEECHES RELATING TO PEOSHA

The subject of Public Employees Occupational Safety and Health was addressed in speeches by Commissioner Serraino or other Department of Labor representatives on at least 20 occasions between April 5, 1984 and May 7, 1987.

The speeches were scheduled on the following dates:

- April 5, 1984: State Public Employees Occupational Safety and Health Program.
- January 10, 1985: PEOSHA Advisory Board.
- January 15, 1985: AFL-CIO Health and Legislative Conference (Page 5).
- January 17, 1985: PEOSHA Meeting.
- February 3, 1985: Rutgers Institute of Management and Labor Relations (Pages 11 & 12).
- April 3, 1985: ES Managers' Conference (Pages 8 & 9).
- April 11, 1985: TDI Conference (Page 7).
- May 4, 1985: Carpenters' PAC -- (Pages 6 & 7).
- May 21, 1985: Warren/Hunterdon County Industrial Safety Committee (Page 4).
- May 23, 1985: North Jersey Industrial Safety Committee (Page 5).

- August 8, 1985: Safety and Health Conference.
- September 15, 1986: AFL-CIO Legislative Conference: (Page 10).
- October 14, 1986: SEED Conference (Page 3).
- October 18, 1986: Labor Intern Conference (Page 10).
- November 19, 1986: Rutgers University -- NJ DOL Course (Pages 4 & 5).
- December 17, 1986: NJ State Industrial Safety Committee (Page 2).
- March 27, 1987: Labor Intern Program (Page 2).
- April 28, 1987: Industrial Safety Committee Awards (Pages 3 and 4).
- May 5, 1987: New Jersey State Chamber of Commerce (Page 5).
- May 7, 1987: Middlesex-Somerset Industrial Safety Committee (Pages 3 and 4).



State of New Jersey
DEPARTMENT OF HEALTH
CN 360, TRENTON, N.J. 08625-0360

MOLLY JOEL COYE, M.D., M.P.H.
COMMISSIONER

MARK P.
DNJIT file
Noted 5/26/87
MJC

May 20, 1987

William Glover
Vice President for Operations
New Jersey Institute of Technology
323 Martin Luther King Blvd.
Newark, NJ 07102

Dear Mr. Glover:

I have received your letter requesting a ninety day extension for providing the written detailed plan of abatement to the PEOSH Project. We understand that the process of hiring a qualified person to head a Health and Safety effort will take some time and will serve to benefit all employees and students of NJIT. On this basis, the PEOSH Project will grant your request for extension and expect to receive the information requested of NJIT no later than September 1, 1987.

Please feel free to contact me if you require further assistance in this matter.

Sincerely,

Richard M. Lynch,
Program Specialist III
Public Employees Occupational
Safety & Health Project

RML/rad

cc: M. Gomes, NJDOL
R. McMillion, AFSCME Local 2282
S. Fenster, President NJIT

RECEIVED
NEW JERSEY DEPARTMENT OF LABOR
OFFICE OF PUBLIC EMPLOYEES SAFETY

MAY 22 1987

23x

STATE OF NEW JERSEY
DEPARTMENT OF LABOR
MEMORANDUM

TO: Alice Freund, Project Director
Department of Health

FROM: Mario Gomes, Assistant Director
Office of Public Employees Safety

SUBJECT: Your request of April 13, 1987 to cite N.J.I.T.

OFFICE:
FILE NO.:

TELEPHONE: 2-7036

DATE: May 7, 1987

Under the provisions of the Act, I do not think it is appropriate or necessary for the Department of Labor to cite N.J.I.T.

MG:mas
c: A. Freund File

24x



April 27, 1987

Mr. Richard M. Lynch, Program Specialist III
Public Employees Occupational Safety &
Health Project
State of New Jersey
Department of Health
CN 360
Trenton, New Jersey 08625

Re: Request for Extention

Dear Richard:

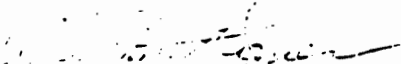
As per our telephone conversation on Thursday, April 23rd,
I am in receipt of your investigative report of our facility
dated April 1, 1987.

I have shared said report with the President, Dr. Fenster,
the Vice President for Academic Affairs, Dr. Thomas and with
Dr. Parker, Professor of Chemical Engineering. We all agree
that there is much work to be done.

As discussed with you, it would assist us greatly if your
office would grant us an extention of ninety days in order
that we may identify an individual who will head up the
emergency response team for the development, training and
implementation of this program. I am attaching hereto for
your benefit, a copy of the job description for this position
and would be most appreciative of your comments and/or recomm-
endations.

I look forward to your positive response to this request at
your earliest convenience.

Sincerely,


William Glover
Vice President for Operations

WG/vr
Attachment

cc: Mr. Mario Gomes, Dept. of Labor

RECEIVED
NEW JERSEY DEPARTMENT OF HEALTH
OFFICE OF PUBLIC HEALTH & SAFETY

APR 30 1987



State of New Jersey

DEPARTMENT OF HEALTH

CN 360, TRENTON, N.J. 08625-0360

MOLLY JOEL COYE, M.D., M.P.H.
COMMISSIONER

MEMORANDUM

TO: Mario Gomes,
Assistant Director
Office of Public Employee Safety

THROUGH: Alice Freund *AF* and Raja Iglewicz *RI*
PEOSH Project

FROM: Richard M. Lynch *RL*
Program Specialist III

SUBJECT: New Jersey Institute of Technology

DATE: April 13, 1987

Attached, please find a copy of the final report generated following an accident investigation conducted at the New Jersey Institute of Technology. Also attached are the completed forms for instituting appropriate citations.

Please take action necessary to cite NJIT for the alleged violations.

AF:RI/alb
Attachment

RECEIVED
NEW JERSEY DEPARTMENT OF LABOR
OFFICE OF PUBLIC EMPLOYEES SAFETY

APR 15 1987

26x



State of New Jersey

DEPARTMENT OF HEALTH
CN 360, TRENTON, N.J. 08625-0360

MOLLY JOEL COYE, M.D., M.P.H.
COMMISSIONER

April 1, 1987

Mr. Saul K. Fenster, President
New Jersey Institute of Technology
323 Martin Luther King Blvd.
Newark, NJ 07102

Dear Mr. Fenster:

Enclosed is a copy of our final report on an investigation of your facility. The potential violations noted have been forwarded to the New Jersey Department of Labor for enforcement.

We request that you submit a written detailed plan of abatement to the PEOSH Project outlining a schedule for the implementation of our recommendations, as referenced in the attached report.

Please forward the plan to the PEOSH Project within 45 days. We will review your plan and notify you regarding our approval or disapproval of your course of action.

If you have any questions regarding this report or require assistance please contact me at (609) 984-1863.

Sincerely,

Richard M. Lynch
Program Specialist III
Public Employees Occupational
Safety and Health Project

RML/cmc

c: W. Glover
R. McMillian, AFSCME 2282
L. Goldstein, New Jersey Department
of Higher Education
R. Parker, NJIT
Files

27x

NEW JERSEY DEPARTMENT OF HEALTH
PUBLIC EMPLOYEES OCCUPATIONAL
SAFETY AND HEALTH PROJECT

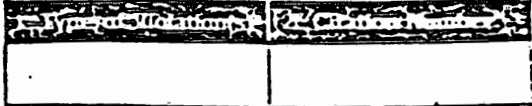
3/25/87

1193

5. Reporting ID	6. OS-C O CNE
7. General Report No.	8. Page No. 3

The violations described in this Citation are alleged to have occurred on or about the day the inspection was made unless otherwise indicated within the description given below.

10. Inspection Date(s): 10/16/86



11. Inspection Site:

Faculty Hall
New Jersey Institute of Technology
323 Martin Luther King Jr. Blvd.
Newark, NJ 07102

9. To:

Saul Fenster, President
NJIT
325 Martin Luther King Jr. Blvd.
Newark, NJ 07102

12. Item Number	13. Standard, Regulation or Section of the Act Violated	14. Description	15. Date by Which Violation Must Be Abated	16. F
1910.132		Mercury Spill was cleaned without the use of chemical resistant gloves	4/15/87	
1910.134		Mercury Spill was cleaned without the use of proper respiratory protection	4/15/87	
NJSA 34:6A-33		NJIT unnecessarily exposed its employees to mercury by inhalation and skin contact by not using an efficient and filtered mercury vacuum.	4/15/87	

17.

18.

NOTICE TO EMPLOYEES — The law gives an employee or his representative the opportunity to object to any abatement date set for a violation, if he believes the date to be unreasonable.

EMPLOYER DISCRIMINATION UNLAWFUL — The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act.

28x



State of New Jersey

DEPARTMENT OF HEALTH
CN 360, TRENTON, N.J. 08625-0360

MOLLY JOEL COYE, M.D., M.P.H.
COMMISSIONER

December 11, 1986

Mr. William Glover
New Jersey Institute of Technology
323 Martin Luther King Boulevard
Newark, New Jersey 07102

Dear Mr. Glover,

On October 9, 1986 an accident involving a mercury spill from a diffusion pump occurred in the electrical engineering lab 410 Faculty. While cleaning the spill, two custodians became nauseated and experienced headaches and fatigue. They were treated and released from Saint Michael's Hospital.

Our onsite investigation revealed that poor communications as well as lack of adequate emergency spill abatement procedures and training were factors contributing to this incident. On October 16, 1986 two inspectors from the Public Employees Occupational Safety and Health Project conducted air monitoring for mercury. Elevated levels of mercury vapor were measured in the screen rooms and we determined that additional cleanup was necessary.

NJIT Officials were instructed to keep the lab closed until the area was cleaned to the Department of Health's satisfaction. The Department of Health gave the following specific instructions:

- AETC (the cleanup contractor) should complete the cleanup of the mercury. This included removing the floors of the three screen rooms at the rear of the lab and removing residual mercury that seeped under those floors.
- Following the cleanup of all visible mercury, an industrial hygiene consulting firm should conduct air monitoring in the immediate area using a direct reading mercury vapor monitor to determine the effectiveness of the cleanup procedure. The designated decontamination level of mercury vapors was 0.005 mg/m³ (1/10th of the NIOSH permissible 8 hour exposure limit). This air level was chosen because of the potential for any residual mercury to accumulate and vaporize inside the screen rooms and classroom.

- The lab should be ventilated throughout the weekend to help reduce airborne concentrations within the facility. The ventilation system was to be operated in a mode which would exhaust air from the classroom directly above the roof and not allow any recirculation of contaminated air.
- After the consultant determined that the mercury had adequately been cleaned, the room was to be left unventilated for at least one day, to allow air levels to reach equilibrium under worst case conditions. After one day, 8 hour time weighted average sampling was to be conducted in the unventilated room. 3M mercury badges were recommended for this purpose.
- Following lab analysis of the 8 hour sample, a determination would be made by the Health Department regarding re-entry into the room. Airborne levels lower than 0.05 mg/m³ for an 8 hour TWA would be indicative of an adequate cleanup of the spill. Under such conditions, access by faculty and students could be regained pending clearance by the Health Department. It was understood that a written report of the analysis was to be forwarded to me. ?

The cleanup was performed on Friday, October 17, 1986 and Monday October 20, 1986. The lab had been ventilated throughout the weekend. Instead of using a direct reading mercury vapor analyzer to evaluate the effectiveness of the cleanup, NJIT hired Princeton Testing Laboratories to conduct air sampling for mercury vapor. On Tuesday October 21, 1986, Princeton collected 3-hour samples in each of the screen rooms, the classroom area, the hallway and the roof. These samples were later analyzed in their laboratory.

On October 23, 1986 8-hour samples were collected using the 3M mercury vapor badges. These were shipped to 3M for analysis. Turn around time for these samples was to be approximately 2 weeks. To expedite re-entry, NJIT instructed Princeton Testing Laboratories to collect 8-hour samples and determine time weighted averages in the classroom and screen rooms. On October 24, 1986 this sampling took place.

These deviations from my specific instructions were discussed with me and are considered acceptable by the Department of Health.

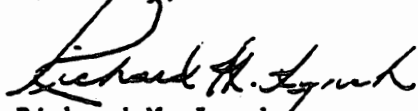
On October 28, 1986, Princeton Testing Laboratories verbally notified the Health Department that the 3 and 8 hour sampling had been conducted. All 3 hour sample results were below 0.006 mg/m³. All 8 hour air levels were below 0.012 mg/m³. The NIOSH 8 hour permissible exposure limit for mercury vapor is 0.05 mg/m³. After receiving this information, I verbally informed Paul Zell that room 410 F could be re-opened. ?

I am still waiting for Princeton Testing Laboratories written report including data as well as a description of the sampling conditions. Clearance to re-enter was conditional upon our receipt of this information. It is required that this report be received within two weeks of your receipt of this letter. NJIT is required to make this information available to the

PEOSH project as outlined in 29 CFR 1910.20. Additionally, I am formally requesting that you send me a copy of the 3M mercury vapor badge sampling results as soon as they are received.

Your cooperation is appreciated in this matter and additional correspondence regarding recommendations and possible citations are forthcoming. If you have any questions, or require assistance regarding this letter, please contact me at (609) 984-1863.

Sincerely,



Richard M. Lynch
Program Specialist III
Public Employees Occupational
Safety and Health Project

RML/jms

c: R. McMillian, President AFSME Local 2282
L. Goldstein, PEOSH Liason, NJ Dept. of Higher Education

CHRONOLOGY OF EVENTS

MERCURY SPILL AT N.J.I.T.

- October 9, 1986 Mercury spilled from a diffusion pump. During the clean up two custodians became nauseated and experienced headaches and fatigue. They were treated and released from St. Michael's Hospital, Newark.
- October 16, 1986 Two inspectors from Department of Health conducted an investigation of the accident as well as air monitoring for mercury. "Hot" spots were found (levels of mercury exceeding allowable limits).
- October 17 and 20, 1986 Further clean up
- October 21, 1986 Princeton Testing Laboratories (Hired by N.J.I.T.) monitored for mercury.
- October 23, 1986 Samples collected and sent to 3M for analysis (results expected in 2 weeks).
- October 24, 1986 More sampling by Princeton Testing Laboratories to expedite reentry to classroom.
- October 28, 1986 Princeton Testing Laboratories informs Department of Health (via phone) that levels of mercury were acceptable. Department of Health informs N.J.I.T. verbally that they can reenter the classroom.
- December 11, 1986 Letter from Department of Health to N.J.I.T. confirming instructions on clean up procedures.
- March 25, 1987 "Citation and Notification of Penalty" issued to N.J.I.T. by Department of Health with April 15, 1987 as abatement date.
- April 1, 1987 Letter from Department of Health to N.J.I.T. with copy of final report and a request for a written plan of abatement outlining a schedule for implementation of Department of Health's recommendations contained in the final report. Abatement required within 45 days!
- April 15, 1987 Memo from Department of Health dated April 13, 1987 received by Department of Labor. The memo requests necessary action (By DOL) to cite N.J.I.T. for the alleged violations. (contained in their 3/25/87 Citation and Notification of Penalty with abatement date of April 15, 1987).

April 27, 1987

Request from N.J.I.T. for extension of abatement with respect to DOH's recommendations contained in their April 1, 1987 letter.

May 7, 1987

Memo from DOL (Gomes) to DOH (Freund) saying "Under the provisions of the act, I do not think it is appropriate or necessary for the Department of Labor to cite N.J.I.T.

May 20, 1987

Letter from DOH to N.J.I.T. granting extension to September 1, 1987.

July 23, 1987

OFFICE OF PUBLIC EMPLOYEES SAFETY

ACCOMPLISHMENTS - INSPECTIONS

The following data represents the enforcement effort of the Office of Public Employees Safety.

Initial Inspections	1,980
Complaint Inspections	234
Follow Up Inspections	915
Number of Hazards Identified	19,949

Orders to Comply (By DOL)	13
Orders to Comply (For DOH)	2

A notice was sent to all employers of fire fighters requiring them to remove from service all personal protective clothing that was hazardous to the wearer.

ADDITIONAL NOTE

A sample survey of 74 initial inspections conducted during early 1986 shows that there were 11 state employers and 63 other employers included.

Of the 11 state employers surveyed, 8 were found to be in total compliance during a follow up.

Of the 63 other employers surveyed, 35 were found to be in total compliance. This was before the mandatory compliance date of November 1986 for these employers.

As a further note, there were 1795 hazards identified in those 74 inspections and 1484 of these were found to be corrected during a follow up inspection, representing an 83 percent compliance rate before the mandatory compliance date.

July 23, 1987

34x



STATE OF NEW JERSEY
DEPARTMENT OF LABOR

CHARLES SERRAINO
Commissioner

DIVISION OF LABOR RELATIONS AND WORKPLACE STANDARDS

WILLIAM J. CLARKE
Assistant Commissioner

LABOR AND INDUSTRY BUILDING
TRENTON, NEW JERSEY 08625 - 0058

ORDER TO COMPLY

TO: Honorable Lewis G. Vinci
City Hall
10th and Atlantic Avenues
North Wildwood, NJ 08260

RE: File No. A87-065
North Wildwood City Hall
10th and Atlantic Avenues
North Wildwood, NJ

North Wildwood City is in violation of N.J.S.A. 34:6A-25 et seq., and N.J.A.C. 12:100-4.3 as noted on the attached citation issued by the Department of Labor. North Wildwood City is hereby ordered to take immediate steps to abate this violation pursuant to N.J.S.A. 34:6A-33a, 34:6A-33b, 34:6A-41, 34:6A-44, and N.J.A.C. 12:100-3.2(a).

NOW, THEREFORE IT IS HEREBY ORDERED THAT, North Wildwood City shall abate the violations noted by:

1. Providing a clean and orderly storage area located in the battery room.
2. Providing at a minimum a distance of 7 inches between the center line of the fixed ladder rungs to the nearest permanent object in back of the rungs located in the Police Building at the ladder to the roof.
3. Providing side rails that extend at least 3½ feet above the landing located in the Police Building at the ladder to the roof.
4. Providing protective covers to the general illumination tubes and bulbs located in the crawl space of the City Hall.
5. Providing for the weather protection of the TV monitor conduit wiring located on the Police Building roof.
6. Removing temporary wiring located in the Mechanical Room crawl space.

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ORDER TO COMPLY

If a purchase is necessary to abate this violation, a purchase order shall be placed with an appropriate vendor by North Wildwood City on or before September 11, 1987.

Pursuant to N.J.S.A. 34:6A-41b this order or a copy thereof shall be posted at or near each location of the violation cited so that it is clearly visible to affected employees.

Mario Gomes (Emp)
Mario Gomes, Assistant Director
Office of Public Employees Safety
New Jersey Department of Labor

July 10, 1987
Date

MG:MP:js

36x



STATE OF NEW JERSEY
DEPARTMENT OF LABOR

CHARLES SERRAINO
Commissioner

DIVISION OF WORKPLACE STANDARDS

WILLIAM J. CLAR
Assistant Commissioner

LABOR AND INDUSTRY BUILDING
TRENTON, NEW JERSEY 08625 - 0058

September 30, 1986

Honorable Lewis G. Vinci
City Hall
10th & Atlantic Avenues
North Wildwood, NJ 08260

Re: File No. A87-065
North Wildwood City Hall
Mechanical Rooms
10th & Atlantic Avenues
North Wildwood, NJ

Dear Mayor Vinci:

A safety inspection was conducted by Occupational Safety Consultant Frank Gorski on August 21, 1986. Attached is a listing of all safety hazards observed and requirements for abatement.

Inspection of this facility revealed 10 instances of serious hazards and 11 instances of non-serious hazards.

Serious hazards must be abated promptly, but no later than November 6, 1986. A follow-up inspection of your facility may be conducted to insure that all hazards have been abated.

Please reference our file number if you have any questions pertaining to this report. If you require assistance with your efforts to maintain a safe workplace, please contact this office.

Sincerely,

Mario Gomes, Assistant Director
Office of Public Employees Safety
Division of Workplace Standards
(609) 292-7036

ATTACHMENT

MG:FG:tr

c: Thomas Flud
File

37x

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**OFFICE OF PUBLIC EMPLOYEES SAFETY
HAZARD DESCRIPTION AND COMPLIANCE REQUIREMENTS**

N. Wildwood City Hall & Police Dept. Mechanical Areas

PAGE 1 OF 3

ITEM NO.	DESCRIPTION AND LOCATION OF HAZARD OR VIOLATION	APPLICABLE STATE/OSHA STANDARD	INSTANCES	S/N	REQUIREMENTS FOR ABATEMENT	FILE NUMBER <u>A87-065</u>
1.	Battery room was not kept clean and orderly (balloons, boxes, holiday ornaments, etc.). Loc: City Hall	1910.22(a)(1)	1	N	Provide proper storage area.	
2.	Stairway more than 44 inches wide open both sides with 4 or more risers, does not have a stair rail on both sides. Loc: Boiler room stairs, 5 risers, to outside of City Hall	1910.23(d)(1)(iii)	1	N	Install standard handrails on both sides.	
3.	2 foot high wood stepladder has not been taken out of service due to cracked step. Loc: City Hall Mechanical Room	1910.25(b)(1)(i)	1	S	Take ladder out of service and tag "DANGEROUS - DO NOT USE" until properly repaired.	
4.	Distance between centerline of fixed ladder rungs to nearest permanent object in back of rungs did not meet 7 inch minimum. Loc: Police Bldg. ladder to roof; top 2 rungs measure 3 inches	1910.27(c)(4)	1	N	Relocate ladder to comply with standard.	
5.	Side rail of fixed ladder did not extend 3 1/2 feet above landing. Loc: Police Bldg. ladder to roof	1910.27(d)(3)	1	N	Extend siderails of ladder.	
6.	Approved container for gasoline was not in use.	1910.106(d)(2)(i)	1	S	Use approved portable container for storing and transporting flammables.	

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**OFFICE OF PUBLIC EMPLOYEES SAFETY
HAZARD DESCRIPTION AND COMPLIANCE REQUIREMENTS**

N. Wildwood City Hall Mechanical

PAGE 2 OF 3

ITEM NO.	DESCRIPTION AND LOCATION OF HAZARD OR VIOLATION	APPLICABLE STATE/OSHA STANDARD	INSTANCES	S/N	REQUIREMENTS FOR ABATEMENT	FILE NUMBER <u>A87-065</u>
7.	Gasoline pump was not fully protected against collision damage. Loc: Outside gasoline pump area	1910.106(g)(3)(iv)(d)	1	S	Place barricade on sidewalk side of west pump.	
8.	Portable fire extinguishers were not maintained in fully charged condition. Loc: Garage	1910.157(c)(4)	1	N	Provide fully charged fire extinguishers or identify area for fire extinguishers in need of recharging.	
9.	7 portable fire extinguishers underwork bench with 1983 and 1984 inspection tags were not subject to annual inspection. Loc: Maintenance Room	1910.157(e)(1)	1	N	Inspect fire extinguishers and include in annual inspection.	
10.	Belt drive within 7 feet of floor unguarded. Loc: Air handler blower drive in Maintenance Room	1910.219(e)(1)(i)	1	S	Install guard over belt drive.	
11.	Electrical breakers are not identified as to their purposes. Loc: a) Maintenance room main switches b) Maintenance room by entrance c) Maintenance room by outside door d) Maintenance room over work bench	1910.303(f)	4	N	Identify breakers.	
12.	Clear space of 30 inches in front of switchgear is not maintained. Loc: Maintenance room	1910.303(g)(1)(i)	1	N	Remove materials stored against switchgear.	

55X

**OFFICE OF PUBLIC EMPLOYEES SAFETY
HAZARD DESCRIPTION AND COMPLIANCE REQUIREMENTS**

N. Wildwood City Hall Mechanical

PAGE 3 OF 3

FILE NUMBER A87-065

ITEM NO.	DESCRIPTION AND LOCATION OF HAZARD OR VIOLATION	APPLICABLE STATE/OSHA STANDARD	INSTANCES	S/N	REQUIREMENTS FOR ABATEMENT
13.	Electric cord for enlarger next to sink is not grounded with 3-prong plug. Loc: Darkroom	1910.304(f)(4)	1	S	Provide electrical ground.
14.	General illumination tubes and bulbs were not protected from accidental contact. Loc: Mechanical room a) Over work bench b) In crawl space	1910.305(a)(2)(iii)(F)	2	S	Provide protective covers.
15.	TV monitor conduit wiring is not protected from the weather. Loc: Police roof	1910.305(e)(1)	1	S	Replace rusted conduit.
16.	#2 air handler electric switch box pulled from support allowing dampness to enter box. Loc: Roof	1910.305(e)(2)	1	S	Reattach box to be weatherproof or replace box.
17.	Temporary wiring does not replace fixed wiring. Loc: Mechanical Room crawl space	1910.305(g)(1)	1	S	Replace temporary wiring or remove entirely.



STATE OF NEW JERSEY
DEPARTMENT OF LABOR

CHARLES SERRAINO
Commissioner

DIVISION OF WORKPLACE STANDARDS
LABOR AND INDUSTRY BUILDING
TRENTON, NEW JERSEY 08625 - 0058

WILLIAM J. CLAR
Assistant Commissioner

June 2, 1987

Honorable Arthur Blomkuest
Mayor
City Hall
643 Washington Street
Cape May, New Jersey 08204

Re: File No. B87-277
Cape May
Water & Sewer Dept.
Public Works
Canning House Lane
Cape May, New Jersey

Dear Mayor Blomkuest:

A safety inspection was conducted by Occupational Safety Consultant Frank Gorski on May 5, 1987. Attached is a listing of all safety hazards observed and requirements for abatement.

Inspection of this facility revealed 32 hazards as defined in the standards promulgated under the New Jersey Public Employees Occupational Safety and Health Act (N.J.S.A. 34:6A-25 et. seq.).

All hazards must be abated promptly, but no later than July 6, 1987. A follow-up inspection of your facility may be conducted to insure that all hazards have been abated.

Please reference our file number if you have any questions pertaining to this report. If you require any assistance with your efforts to maintain a safe workplace, please contact this office.

Sincerely,

Mario Gomes, Assistant Director
Office of Public Employees Safety
Division of Workplace Standards
(609) 292-7036

ATTACHMENT

MG:FGE/Th/1

c: F. Coldren
D. Carrick
F. Gorski
File

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OFFICE OF PUBLIC EMPLOYEES SAFETY
HAZARD DESCRIPTION AND COMPLIANCE REQUIREMENTS

NAME OF FACILITY Cape May Water & Sewer

PAGE 1 OF 8
FILE NO. B87-277

ITEM NO.	DESCRIPTION AND LOCATION OF HAZARD OR VIOLATION	APPLICABLE STATE/OSHA STANDARD	INSTANCES	REQUIREMENTS FOR ABATEMENT
1.	Cover and/or guard rail was not provided to protect personnel from the hazard of an unprotected opening between deck plates over pit. Loc: <u>Outside chlorine room</u> where separated deck plates, used as a walkway, had two openings, one was three inches by twenty-five inches and the second was three inches by twenty-five inches.	1910.22 (c)	1	Close gap between deck plates and secure to prevent separating.
42X 2.	Where operating conditions necessitated the feeding or removal of materials into or from any hatchway or chute opening, protection was not provided to prevent a person from falling through the opening. Loc: <u>Coast Guard Sewer Pump Station</u> Employee was removing solids with long handled net through three feet by four feet surface opening to liquid level about ten feet below surface with no railings to prevent falling into well.	1910.23 (a) (3) (ii)	1	Hinge well cover and install guard rail on all open sides to prevent employees from accidentally falling into well.
3.	Open sided floors or platforms four feet or more above the adjacent floor or ground level were not guarded by standard railings (or the equivalent as specified in 29 CFR 1910.23 (e) (3) (i) through (v), on all open sides.	1910.23 (c) (1)	3	Install standard handrails on all open sides except where necessary to enter.

OFFICE OF PUBLIC EMPLOYEES SAFETY
HAZARD DESCRIPTION AND COMPLIANCE REQUIREMENTS

NAME OF FACILITY Cape May Water & Sewer

PAGE 2 OF 8
FILE NO. B87-277

ITEM NO.	DESCRIPTION AND LOCATION OF HAZARD OR VIOLATION	APPLICABLE STATE/OSHA STANDARD	INSTANCES	REQUIREMENTS FOR ABATEMENT
	Loc: a) <u>#4 Well Meter Pit</u> b) <u>#5 Well Meter Pit</u> Both pits were approximately fifteen feet by five feet by five feet deep with no standard hand rails.			
4.	Fixed stairs were not provided for access from one structure level to another where operations necessitated travel regularly, daily or at each shift.	1910.24 (b)	2	Install standard ladders meeting the requirements of CFR 29 1910.25 (c) through (i).
	Loc: a) <u>#4 Well Meter Pit</u> b) <u>#5 Well Meter Pit</u> To read water meters on a daily basis, employees were required to step from floor onto top of twelve inch water pipe, four feet below floor level.			
5.	Approved containers or portable tanks were not used for the storage of flammable or combustible liquids.	1910.106 (d) (2) (i)	4	Flammable and combustible liquids are only to be stored, dispensed into or from safety containers.
	Loc: a) <u>#4 Well</u> Oil was not in an approved container.			

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OFFICE OF PUBLIC EMPLOYEES SAFETY
HAZARD DESCRIPTION AND COMPLIANCE REQUIREMENTS

NAME OF FACILITY Cape May Water & Sewer

PAGE 3 OF 8
FILE NO. B87-277

ITEM NO.	DESCRIPTION AND LOCATION OF HAZARD OR VIOLATION	APPLICABLE STATE/OSHA STANDARD	INSTANCES	REQUIREMENTS FOR ABATEMENT
	<ul style="list-style-type: none"> b) <u>#5 Well</u> Oil was not in an approved container. c) <u>Coast Guard Pump Station</u> Oil was not in an approved container. d) <u>Room adjacent to water works office</u> Oil was not in an approved container. 			
6.	<p>Portable tank was not provided with emergency venting device.</p> <p>Loc: <u>Section behind and adjacent to meter test station</u> <u>Twenty gallon drum of flammable "Lift Station Degreaser"</u> did not have emergency vent.</p>	1910.106 (d) (2) (ii)	1	Install approved emergency venting device.
7.	<p>Flammable or combustible liquids were not drawn from or transferred into vessel's containers, or portable tanks within a building through a closed pipe system, from safety cans, by means of a device drawing through the top, or from a container or portable tank through an approved self-closing valve.</p>	1910.106 (e) (2) (iv) (d)	1	Install approved self-closing valve.

OFFICE OF PUBLIC EMPLOYEES SAFETY
HAZARD DESCRIPTION AND COMPLIANCE REQUIREMENTS

NAME OF FACILITY Cape May Water & Sewer

PAGE 4 OF 8
FILE NO. B87-277

ITEM NO.	DESCRIPTION AND LOCATION OF HAZARD OR VIOLATION	APPLICABLE STATE/OSHA STANDARD	INSTANCES	REQUIREMENTS FOR ABATEMENT
	<p>Loc: <u>Section behind and adjacent to Meter Test Station</u> Twenty gallon drum of flammable "Lift Station Degreaser" did not have approved self-closing valve.</p>			
8.	<p>Protective eye and face equipment was not required where there was a reasonable probability of injury that could be prevented by such equipment.</p>	1910.133 (a) (1)	1	Provide and require that a full face shield be worn when using the grinder.
	<p>Loc: <u>Meter Test Room bench grinder.</u> Eye and face protection was not required.</p>			
9.	<p>Safety instruction signs were not used where there was a need for general instructions and suggestions relative to safety measures.</p>	1910.145 (c) (3)	1	Install standard safety instruction sign requiring employees to wear face shield when using grinder.
	<p>Loc: <u>Meter Test Room by bench grinder where flying particles may be in the air and cause injury to the face and eyes.</u></p>			
10.	<p>Where employees were exposed to injurious corrosive materials, suitable facilities for quick</p>	1910.151 (c)	1	Provide deluge shower and safety eye wash fountain.

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OFFICE OF PUBLIC EMPLOYEES SAFETY
HAZARD DESCRIPTION AND COMPLIANCE REQUIREMENTS

NAME OF FACILITY Cape May Water & Sewer

PAGE 5 OF 8
FILE NO. B87-277

ITEM NO.	DESCRIPTION AND LOCATION OF HAZARD OR VIOLATION	APPLICABLE STATE/OSHA STANDARD	INSTANCES	REQUIREMENTS FOR ABATEMENT
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drenching or flushing of the eyes and body were not provided within the work area for immediate emergency use.

Loc: Meter Test Room

Where necessary cleaning of water meters was accomplished by acid cleaning. Splashing of materials in acid container may cause injury to the eyes, face and body.

X 94

11. Abrasive wheel used on grinding machinery was not provided with safety guard which covered the spindle end, nut, flange projections.

1910.215 (a) (2)

1

Install proper side guard.

Loc: Meter Test Room bench grinder

Had left side guard missing which may result in injury by accidental employee contact or if abrasive wheel might shatter, injuries may result due to flying particles.

12. Grinding machinery was not used with work rests to support offhand grinding work.

1910.215 (a) (4)

2

Install work rests and maintain adjustment to wheels not to exceed 1/8 inch.

Loc: Meter Test Room bench grinder

did not have work rests (2) installed.

OFFICE OF PUBLIC EMPLOYEES SAFETY
HAZARD DESCRIPTION AND COMPLIANCE REQUIREMENTS

NAME OF FACILITY Cape May Water & Sewer

PAGE 6 OF 8
FILE NO. B87-277

ITEM NO.	DESCRIPTION AND LOCATION OF HAZARD OR VIOLATION	APPLICABLE STATE/OSHA STANDARD	INSTANCES	REQUIREMENTS FOR ABATEMENT
13.	Grinding machinery was not used with tongue guards in place. Loc: <u>Meter Test Room bench grinder</u> did not have tongue guards (2) installed.	1910.215 (b) (9)	2	Install tongue guards and maintain adjustment to wheels not to exceed 1/4 inch.
14.	Electric equipment was not free from recognized hazards that were likely to cause death or serious physical harm to employees. Loc: <u>Meter Test Room bench grinder</u> flexible cord had deteriorated exposing wiring where it was looped around a nail.	1910.303 (b) (1) (iii)	1	Replace wire with one of equal size and properties.
15.	Enclosure or guard for electric equipment in locations where it would be exposed to physical damage was not arranged and of a strength to prevent such damage to the equipment. Loc: <u>Water Works Office</u> Had pendant light bulb unguarded.	1910.303 (g) (2) (ii)	1	Provide guard around light.
16.	Pull boxes, junction boxes, and fittings were not provided with covers approved for the purpose.	1910.305 (b) (2)	3	Install approved box covers.

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OFFICE OF PUBLIC EMPLOYEES SAFETY
HAZARD DESCRIPTION AND COMPLIANCE REQUIREMENTS

NAME OF FACILITY Cape May Water & Sewer

PAGE 7 OF 8
FILE NO. B87-277

ITEM NO.	DESCRIPTION AND LOCATION OF HAZARD OR VIOLATION	APPLICABLE STATE/OSHA STANDARD	INSTANCES	REQUIREMENTS FOR ABATEMENT
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Loc: a) Chlorine Room
Had an open junction box.
b) Coast Guard Pump Station
Had an open junction box on each (2) motor.

17.	Flexible cord and cable was used for purposes prohibited in that they were used as a substitute for the fixed wiring of a structure.	1910.305 (g) (1) (iii) (A)	1	Replace extension cord with fixed wiring receptacle.
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Loc: Meter Test Room bench grinder
Cord was connected to an extension cord.

18.	Flexible cord and cable was used for purposes prohibited in that it ran through holes in walls, ceilings or floors.	1910.305 (g) (1) (iii) (B)	1	Install fixed wiring receptacle by clock.
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Loc: Water Works Office
Clock wire ran through wall.

19.	Flexible cords were not used in continuous lengths without splice or tap.	1910.305 (g) (2) (ii)	2	Flexible wire smaller than fourteen gauge is to have no splice or repair.
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Loc: a) Meter Test Room
Bench grinder wire was spliced.
b) Water Works Office
Had fifty feet coil of wire spliced or repaired.

X 8/4

OFFICE OF PUBLIC EMPLOYEES SAFETY
HAZARD DESCRIPTION AND COMPLIANCE REQUIREMENTS

NAME OF FACILITY Cape May Water & Sewer

PAGE 8 OF 8
FILE NO. B87-277

ITEM NO.	DESCRIPTION AND LOCATION OF HAZARD OR VIOLATION	APPLICABLE STATE/OSHA STANDARD	INSTANCES	REQUIREMENTS FOR ABATEMENT
20.	Flexible cords were not connected to devices and fittings so that the tension would not be transmitted to joints or terminal screws. Loc: <u>Room adjacent to Water Works Office</u> Wire had pulled loose from pendant lamp.	1910.305 (g) (2) (iii)	1	Properly secure wiring to lamp.
21.	Employer did not provide employees with a place of employment free from recognized hazards in that the employer did not have a confined space entry procedure for employees per ANSI- .117.1 et seq. as required by working conditions. Loc: <u>Chlorine room and various sewage confined space areas in which employees enter</u> A confined space entry procedure had not been prepared which would include testing for a flammable, oxygen deficient and toxic atmosphere prior to and during employee entry which otherwise could result in a fatality.	N.J.S.A. 34:6A-33a	1	Provide written confined space entry procedure and train all affected employees.

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NEW JERSEY SENATE

JOHN F. RUSSO

SENATE PRESIDENT

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201-240-2220

Immediate

John Russo

July 24, 1987

201-349-2800

SENATOR RUSSO TO HOST RECEPTION FOR DUKAKIS

NEW BRUNSWICK - Senate President John F. Russo will host a reception for Democratic presidential candidate Michael S. Dukakis at 6:30 p.m., Wednesday, Aug. 12, at the Hyatt Regency.

"This reception will provide Governor Dukakis with an excellent opportunity to meet a wide cross section of individuals who care about the future of New Jersey," said the Senate President.

Those invited to be guests of the Senate President include U.S. Sens Bill Bradley and Frank Lautenberg, the Democratic Congressional delegation, Democratic County Chairmen and all Democratic legislators and legislative candidates.

Other guests invited to the reception for the Massachusetts Governor will include top labor officials, leaders of the state's business community, environmentalists and prominent supporters of Democratic candidates.

"Governor Dukakis has led an economic resurgence in a state which in many ways shares the same problems and challenges as New Jersey," Senator Russo said. "I have been impressed with his sensible approach to government at a time when the entire concept of managerial style in government is under close scrutiny in Washington."

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Senator Russo said he wants to provide a forum which will be of mutual benefit to Governor Dukakis and to those who have provided significant input in helping to shape the political and governmental structure of New Jersey.

"The resurgence of the Democratic Party, both here in New Jersey and on the national level, can only be enhanced by the communication of ideas at forums such as these," Senator Russo said.

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To: Senator Gerald R. Stockman, Chairman
Legislative Oversight Committee

From: Mario Gomes, Assistant Director
Office of Public Employees Safety

Subject: Reply to Mr. E. Squibb's Presentation of June 23, 1987

The following is a point by point response to the presentation by Edward Squibb at the Oversight Hearing on June 23, 1987.

The text of Mr. Squibb's presentation is indicated below. My rebuttal to his presentation is indented and follows his allegations.

The passage of the New Jersey Public Employees Occupational Safety and Health Act in January 1984 should have led to safer workplaces for public employees, reduced operating costs for taxpayers, greater productivity and more efficient management in government. All of these are results which experience has shown us can be expected from a professional program of safety management.

Instead we find that, three and one-half years after the act's signing we have a deadlocked bureaucracy, inept management, and policies adopted by the state which not only deny public employees of rights granted them by the act but also negatively impact rights that employees enjoyed under common law prior to the act.

This is a broad statement made without any basis in fact. There are no examples cited by the writer to support his allegations.

Just as the required state plan provides the framework for assuring the rights of public employees to a safe and healthful workplace, the legal obligation placed on the Commissioner of Labor to order unsafe or unhealthful conditions corrected is the backbone of the act. Yet from the very creation of the Office of Public Employee Safety there has been written policy to ignore this obligation and rely on persuasions to bring about compliance. As the effective dates of the standards were reached this (SIC) policy became more intense (SIC) as it became clear that both individual employees and employee representatives believed that the law was supposed to protect employees. The staff of the Office of Public Employee Safety were informed at a staff meeting on May 25 (SIC) that no orders to comply would be issued unless it were absolutely necessary.

There is no policy, written or otherwise, to ignore the obligation of the Commissioner to order the correction of unsafe or unhealthy conditions. The statement from the May 27, 1986 staff meeting minutes is, "The office policy is to bring about com-

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pliance through cooperation and education. The use of penalties and compliance orders will be a last resort when no effort is made to correct hazards or a refusal to correct hazards is encountered."

What is meant became clear in July, when the firefighters unions, by means of a lawsuit were able to obtain the agreement of the Department of Labor to issue the first orders to comply. However, it was made clear to DOL employees that this did not reflect a change in policy. As time has gone on this policy has been reiterated more and more forcefully.

The reference that the Department of Labor issued an order to comply in July (1986) is incorrect. On July 31, 1986, in settlement of a law suit the Commissioner issued a notice to all employers of firefighters in New Jersey regarding certain items of personal protective equipment which present a hazard to the wearer. A copy of that notice is attached. The settlement agreement had nothing to do with the issuance of orders to comply. In fact the first order to comply was issued in April 1986, which was prior to the referenced settlement.

At the present time the official policy, as expressed by Mr. Gomes is "The Commissioner has the discretion not to enforce the act."

I have NEVER said "The Commissioner has the discretion not to enforce the act." On the contrary, I have said repeatedly that the Commissioner does NOT have the discretion to selectively enforce those standards which he favors and ignore others which he has the responsibility to enforce.

Both Mr. Gomes and Mark Pollak, present chief of enforcement have stated "We are not responsible for assuring that the employer provides a safe and healthful workplace. That is the employer's responsibility. Our job is to advise management what thier (SIC) deficiencies are."

The above quote is not accurate. Both Mr. Pollak and I have said many times "It is the employer's responsibility to provide each of his employees with employment and a place of employment which are free from recognized hazards which may cause serious injury or death to his employees." This language is expressly found in the PEOSHAct. In that context a statement was made that the inspectors' obligations is to inspect and bring hazards to the attention of the employer. The inspector's responsibility, under the Act, is not to assure a safe and healthful workplace; that is the legal obligation of the employer.

Safety specialists employed by DOL who believe that the taxpayers are paying for professional performance have been harassed, disciplined and humiliated for attempting to fulfill the intent of the act.

No charge of harassment of any kind has been filed by Mr. Squibb nor anyone else in the Office of Public Employee Safety against any supervisor or the Assistant Director.

We have been informed we have to get rid of our moral and ethical concerns and comply with the policies of the office.

The safety personnel have been told that they cannot cite hazards over which we have no jurisdiction, e.g. respiratory equipment. They were advised that they should make a note of the suspected hazardous condition, refer that to their supervisor who in turn would refer it to the proper agency, Department of Health or Department of Community Affairs for their attention.

The muscle of the act lies in the rights of employees to file a complaint with the Commissioner of Labor if an employer fails to comply with the act. The Department of Labor recognizes (SIC) its obligation to investigate those complaints but without any obligation to order the employer to come into compliance. Thus the "right" to file a complaint is a hollow one.

Complaints are investigated and the employer is required to abate all hazards identified during the inspection, not only those contained in the complaint, assuming the complaint is valid.

In practice, to file a complaint with the Commissioner of Labor is to risk your job.

A complaint form has been developed with the joint efforts of the DOH, DCA, and DOL. The form contains a section where the complainant can request anonymity. That request is honored when it is made. The Commissioner has received and investigated 234 complaints and is aware of no one who has lost their job because of making a complaint.

Although the law prohibits discrimination and the language of the law makes it clear that the Commissioner of Labor has the legal obligations to enforce this prohibition, the department has taken the position that an employees only recourse is to bring legal action against his or her employer.

N.J.S.A. 34:6A-45 b. states "Any employee who believes that he has been discharged, disciplined or otherwise discriminated against by any person in violation of this section may, within 180 days

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after employee first has knowledge such violation did occur, bring an action in the Superior Court against the person alleged to have violated the provisions of this section. In any such action, the Superior Court shall have jurisdiction, for cause shown, to restrain violations of this section and order all appropriate relief, including rehiring or reinstatement of the employee to his former position with back pay." This is the only employee recourse against discrimination provided by the Act.

Aside from the harassment of DOL employees, which in itself is a discriminatory act under the law, three cases of reprisals by employers are known; in the first case a volunteer firefighter complained about the quality of personal protective equipment used by his company. Elected officials and company officers castigated him publicly as a troublemaker and worse. He was harassed in the firehouse and eventually wound up buying his own equipment. The Department of Labor did nothing to protect him despite appeals from himself and his wife to the commissioner and the governor. The employer still has not complied.

On February 19, 1986, an anonymous complaint concerning personal protective equipment was received by telephone. On February 21, 1986, a letter was sent to the Mayor of Bradley Beach (the employer) informing him that we received a complaint regarding unsafe conditions at the Bradley Beach Fire Department.

An inspection of companies 1, 2 and 3 was conducted on March 11 and April 2, 1986. A report identifying the hazardous personal protective equipment was sent to the employer on April 24, 1986 advising that the equipment must be replaced.

After a series of letters were exchanged between the employer and the Office of Public Employees Safety in which Bradley Beach requested help with their specifications, and after the subsequent bidding process, an order was placed on December 29, 1986 for personal protective equipment in the amount of \$18,781.

That personal protective equipment has been received and distributed to the firefighters in Bradley Beach.

In a second case an employee of a recreation maintenance department was assigned to use a sandblaster to clean some equipment. Seeing (SIC) the warning on the bag of sand stating "Danger - May Cause Lung Disease" the employee demanded the proper safety equipment. The employer refused to provide same as well as the hazardous material data sheet and eventually the employee was docked a day's pay for "conduct unbecoming a public employee." He filed a complaint under the

Right to Know Law alleging discrimination. Upon investigation it became clear that he had exercised rights which were protected by PEOSHA and the discipline was discriminatory. Nevertheless Mr. Gomes ruled that he had no protection under the Right to Know because his request had not been made in writing and he had not complained about discrimination under PEOSHA, therefore the department would take no action. Despite the department's position, the investigator, on his own initiative, negotiated an agreement with the employer to pay the employee the lost wages, and if the (SIC) employee had no disciplinary problems for one year, to remove any written record of the discipline. The message was not lost on his fellow employees.

This complaint was received claiming a violation of the Right to Know Act. The complainant did not have a legitimate complaint under the Right to Know Act and would be required to bring action in the Superior Court against the person alleged to have violated the provisions of N.J.S.A. 34:6A-45 (Public Employees Occupational Safety and Health Act).

The investigator pursued the eventual settlement, not on his own initiative, but with the approval of Assistant Director Gomes. A letter is on file from the complainant thanking us for our assistance.

In a third instance, an employee was ordered (SIC) to enter an underground sewer thru a manhole. He refused to do so without proper safety equipment. This refusal was mandated by the requirement in PEOSHA that employees comply with standards applicable to their (SIC) on conduct. The employer, the Department of Human Services, fired him on the spot. The employee filed a written complaint with the Department of Labor charging discriminatory retaliation. This was followed by a personal visit by the employee and his union representative. Mr. Gomes informed them that the employee would have to bring legal action to gain redress. The employee, thru the grievance process, eventually had the discipline reduced to 7 days without pay. The hearing officer held that the employee should have filed a complaint with the Department of Labor.

In this case the complainant refused to follow an order to perform a job duty. The Act does not give an employee that right.

The complainant visited the office of Public Employee Safety hand carrying his written complaint.

As in the previous two cases cited, he was advised of his right to bring action in Superior Court on his own behalf.

In order to investigate the allegations of the complaint, this office then conducted a "routine" inspection inasmuch as the complainant was no longer an employee and could not legally register a complaint.

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The inspection resulted in an "Order to Comply" to the employer. The hazard complained of has been abated as a result of the Department of Labor's efforts.

The Attorney engaged by the complainant contacted this office several times requesting information in this case. A letter is on file from the attorney thanking us on behalf of the complainant for our cooperation in this matter.

As the situation exists today, the New Jersey Public Employees Occupational Safety and Health Act is a dead letter. Every section of the act which places a duty on the administration of the act has been ignored. In several cases the department has written administration of the act has been ignored. In several cases the department has written policy to do exactly the opposite of that required by the act. For instance, The (SIC) act mandates that advance notice of inspections be prohibited. The written policy of the department is that the director of Office of Public Employee Safety or the Chief of Enforcement may give advance notice almost at will.

The written policy of the office is to conduct inspections without advance notice.

There is no policy to give advance notice "almost at will".

To be sure there are times when advance notice is necessary, either to assure the presence of key people or to assure that conditions which need inspecting are operating.

The above is correct and these are the times when advance notice is given.

Federal OSHA limits advance notice to 24 hours prior to the inspection and requires that both management and the employee representative be given notice. The Commissioner's policy sets no time limits and does not require that the employee representative be notified. It does provide that the department will notify the employee representative if the employer requests it and provides the department with the name, address and telephone number of the employee representative.

The above refers to proposed administrative procedures currently before the Advisory Board for their advice and consent. The representation above purports this to be the Commissioner's policy, when in fact, it is not.

The act requires that the commissioner provide for the adoption of all applicable health and safety standards adopted or recognized (SIC) under federal OSHA. That has not been done. Although the act specifically mandates the department of health make inspections in the area of medical and first aid, these standards have not been adopted by the commissioner of labor.

All required standards have been adopted or have been sent to O.A.L. for adoption. The standards in question have been adopted by reference in the February 2, 1987 New Jersey Register. This was done to rectify the original omission which was occasioned through a clerical error.

The act requires that the commissioner of labor provide for the publication and dissemination of informational and educational materials. The commissioner has distributed flyers, informing employees of their right to file a complaint. No mention has ever been made of an employee's right to petition the advisory board on matters of safety and health nor the employee's right to accompany an inspector during an inspection, nor the employee's right to know the findings of these inspections, nor an employee's right to participate in review commission proceedings, all of which are required by PEOSHA.

The act states, "The board shall make itself available to receive information regarding matters of concerns to public employees in the areas of occupational safety and health." The employee may participate by contacting any member of the Advisory Board.

The field staff of the Office of Public Employees Safety have been instructed repeatedly to request an employee representative to be present at the opening and closing conferences, to accompany them during the course of the inspection, and to make them aware of their rights under the act.

The act does not give the right to employees to participate in review commission proceedings. A recent opinion from the Attorney General's Office confirms this.

The act sets specific requirements for permanent and temporary variances. They are uniformly ignored. For that matter, variances are ignored since there is no intent to enforce the act or compliance with it's provisions.

There have been only three requests for variances submitted to the Department. They have been promptly addressed. The conclusion that there is no intent to enforce the act is a completely false, subjective opinion based on incorrect assumptions, and a total lack of understanding of the Department's jurisdictional authority under the provisions of the act.

The act requires employers to keep records of occupational injuries and illnesses as well as employee exposure to toxics or harmful physical agents. These records are of vital importance because they provide the basis for

programming to insure that limited resources are directed at the worse problems. No regulations requiring these records exist and the inspection effort is unfocussed and undirected.

Procedural rules have been drafted and have been approved by the appropriate PEOSHA Advisory Board subcommittee. The Department of Labor cannot promulgate any standards which have not been approved and consented to by the Advisory Board. The Department has no control over this process until the proposed rules are approved by the Advisory Board and submitted to the Commissioner for promulgation.

The act provides for the establishment of an occupational safety and health review commission. The commission has been appointed; the commission has met, public funds have been expended; yet no procedures have been adopted. No one has access to the review commission. None of the orders to comply which have been issued have even mentioned the employers right to appeal the order to the review commission.

The review commission has met several times. Access to the commission is available in accordance with the act. The procedural rules are in final form and ready for submittal to the Office of Administrative Law for adoption.

The act provides that, should the commissioner conclude that conditions or practices in violation of the prescribed safety standards exist he shall inform the affected employees and employer of the danger. This is a very important provision of the act. It is also a provision hated by the administration. As Mr. Gomes expressed it, "I can't run this office with people looking over my shoulder." For that reason the policy has been to ignore this requirement.

Apparently the writer of the above statement has difficulty taking and understanding directions. There have been numerous meetings, which are well documented, where the field staff have been directed to require an employer and employee representative during the opening conferences.

The inspectors are instructed to request that the employer representative accompany them during the inspection and to discuss with the employee and employer representative all hazards identified at the site during a closing conference.

The sentence in quotes is taken completely out of context. That statement was made during the course of discussing the need for confidentiality during ongoing investigations.

Even employees who have filed complaints have not been told the commissioner's findings unless they (SIC) have submitted a written request for a copy of the inspection report.

Absolutely untrue. Any request from a complainant for a copy of the results of an inspection which has been released by the office, whether the request is written or verbal, has been honored.

Federal procedures require this report be provided to the complainant automatically, as well as providing a written explanation to the employer when enforcement action is not taken, as to why enforcement action is not taken.

These are federal procedures which are not binding on our field procedures. However we do offer copies of our inspection findings to anyone requesting them. Very often, a complaint is made anonymously and it is difficult to involve the complainant in the procedures and still protect the employee's anonymity.

Subsequently to the announcement of these hearings the department altered the policy to provide for a copy of the report to the union representative at the job site if he can be identified. There still is no mechanism to assure affected employees are notified or those employees without a union representative on site are informed.

The longstanding policy of the Office is to make available inspection reports to any employee making such a request. The notification of employee representatives has been discussed many times with union representatives. It is a difficult problem to deal with because of the many unions that represent public employees, sometimes multiple unions at the same site. The Department of Labor will cooperate with any reasonable request to accomplish proper notification.

The policy of notifying employee representatives does not apply to workplaces under the control of the Department of Labor or the Division of State Police. In these two areas the inspection staff is under strict instructions not to send copies of the report to the worksite but only to the top management of the organization.

The Department of Labor and Division of State Police have requested that inspection reports be sent to their central office because the employer authority at the site does not have the authority to effect changes. Employees or employee representatives at these sites are provided copies of reports upon request.

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The duties imposed on an employer under the act demonstrate clearly the legislative intent that the act be interpreted broadly to provide maximum protection to public employees. In response the administration has adopted policies designed to narrow the interpretation and implementation of the act so as to provide minimum protection. As an example, the present policy of DOL is that witnesses statements are hearsay evidence and cannot be used to support an allegation that the employer violated the act. This limits our authority to observation of physical hazards. I cannot deal with unsafe work practices because I cannot establish any unsafe act I observe is in fact done routinely with employer knowledge.

The standards adopted address physical hazards and not unsafe acts. The employer has the responsibility to assure that employees are performing their duties in a safe manner.

The language of the act leaves little doubt that the Department of Labor is supposed to be an umbrella organisation (SIC) with overall responsibility for enforcement of the law. But instead of doing so the department spends much (SIC) of it's time denying responsibility and authority to enforce the act. There is an announced policy to decide on a case by case basis whether to accept jurisdiction.

As with many of the previous allegations there is no specific example. The writer might be alluding to several cases in which a decision had to be made as to whether we had jurisdiction, such as N.J. Transit Rail Operations (Federal jurisdiction or State?), Palisades Interstate Parkway (bi-state agency?) and very broadly, if a complainant calls, a determination must be made if the complainant is in the public or private sector. The Act also establishes areas of responsibility for DOH and DCA.

The administration promotes the position that DCA has the responsibility under PEOSHA to inspect for structural and firesafety hazards. However, specific provision is made in PEOSHA emphasizing that nothing in PEOSHA's provisions may supercede (SIC) the rules (SIC) of the DCA. DCA's rules prohibit employees, or anyone else, from accompanying a DCA employee on an inspection. In addition DCA has special appeal procedures which exclude everyone except DCA and the building owner from participating. Thus employees who file complaints with DCA give up thier (SIC) rights granted by the PEOSHA act.

The PEOSHA ACT provides that Department of Community Affairs has jurisdiction over structural and fire safety hazards under the State Uniform Construction Code Act and the State Uniform Fire Safety Act. This distinction is statutory and employees have no choice concerning which Act complaints are filed under.

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Because PEOSHA does not apply in these areas, any employee rights granted by PEOSHA are inapplicable in these areas. While employee rights under DCA might not be as liberal as those granted under PEOSHA, employees filing complaints dealing with structural and fire safety hazards are not giving up any rights.

One might believe that under our system or government one could seek redress from the attorney general to enforce the law. Unfortunately this has been shown to be a false hope, as shown by another known case of discriminatory retaliation. As a result of the lawsuit filed by the FMBA last year several of our inspection staff were required to give depositions before the FMBA attorneys. As I'm sure you are all aware these depositions are given under oath. During the conduct of these depositions a deputy attorney general became so upset over the answers the woman was giving that he physically struck her and rebuked her for telling the truth. During a later part of the proceedings when the deputy AG was questioning the witness in rebuttal he became so abusive that the FMA attorney felt compelled to protest the AG's badgering of his own witness. Following the deposition proceedings the consultant filed a written complaint with Mr. Gomes. Mr. Gomes forwarded the complaint to assistant commissioner William Clark, with the notation that Mr. Gomes felt the deputy AG owed the young lady an apology at the very least. No investigation was conducted and nothing further (SIC) was heard of the matter.

As this incident is being investigated by the Attorney General at the request of Senator Stockman, a detailed response would be inappropriate at this time. Based on eyewitness accounts, however, the Department believes these statements are both misleading and deliberately inflammatory.

The statement also neglects to mention that Mr. Squibb was not an eyewitness to the deposition proceedings.

The consultant prepared, at Mr. Gomes' suggestion, a memorandum detailing this incident. Mr. Gomes forwarded this memorandum to Mr. Clark, stating that he felt an apology would be in order if the allegations were true. Mr. Clark reviewed the consultant's allegation and concluded that it was not actionable on the basis of her admission that she was touched on the arm to gain her attention.

Finally, it should be noted that many of the most hazardous worksites in the public sector are not being inspected at all because our staff in the office of public employee safety have not been provided with the proper equipment to detect hazards nor the personal protective equipment to protect ourselves against hazards. We are exposed to flammable (SIC) gases and vapors, hydrogen sulfide, carbon monoxide, ionizing and nonionizing radiation, noise, asbestos, electrical hazards and myriad others. To face these hazards, the dol has provided us with

hard hats, and earplugs, along with instructions not to expose ourselves to any hazards. (SIC) Find hazards without exposing yourself to them is an extremely difficult task, especially in those (SIC) cases, such as explosive atmospheres and carbon monoxide, where the hazard is not detectable by the human senses. As a result, many areas, which are the worst hazardous, are not inspected because we dare not enter the area without the proper equipment. This is particularly true of confined spaces and sewage treatment plants.

Most of the potential hazards referred to fall outside the scope of our jurisdiction. Note that N.J.S.A. 34:6A-37a(3) gives the responsibility for inspecting for toxic and hazardous substances to the Commissioner of the Department of Health.

For two years or more we have been requesting the needed equipment. Some of us bought our own. Finally the union filed a grievance on our behalf. Mr. Gomes ignored the grievance and didn't respond. The union moved the grievance to the second step and Mr. William Clark, Assistant Commissioner, ignored it. The union is now asking for a hearing and awaits an answer from DOL. No more telling action could demonstrate the contempt that the DOL holds for the rights of employees under the PEOSHAct.

Grievance on the subject was submitted directly to the Department's Personnel Office on May 13, 1987. It was not filed with Mr. Gomes nor Mr. Clark, who were unaware of its existence until the third week of July. Although the union has filed a grievance, it has not requested a hearing as stated by Mr. Squibb.



STATE OF NEW JERSEY
DEPARTMENT OF LABOR

CHARLES SERRAINO
Commissioner

CN 110
TRENTON, NEW JERSEY 08625-0110

NOTICE

TO: All Public Employers Of Firefighters In New Jersey
FROM: Charles Serraino, Commissioner of Labor
DATED: July 31, 1986

This is to advise you that certain items of personal protective equipment used by firefighters engaged in interior structural firefighting present imminent hazards of serious injury or death to firefighters engaged in such activities. Pursuant to the New Jersey Public Employees Occupational Safety and Health Act, and for the purpose of complying with N.J.A.C. 12:100-4.2(a) 9 and 29 CFR Part 1910.156(e), the following personal protective equipment must be replaced immediately by all public employers (including municipal employers) of firefighters.

1. Any helmet without either a suspension system or an impact liner must be replaced with a helmet which has an impact liner or which otherwise meets the standards set forth at 29CFR 1910.156(e)(5).

2. Any turnout coat with a nylon or other flammable liner must be replaced unless a long-sleeve Nomex or other nonflammable shirt is provided by the employer and is worn under the coat. Replacement coats must meet the standards set forth at 29 CFR 1910.156(e)(3).

3. Rubber or other flammable or meltable protective gloves, such as fireball gloves, must be replaced with gloves that meet the fire resistance, heat resistance, cut resistance and puncture resistance standards set forth at 29CFR 1910.156(e)(4).

All employers are reminded that they must provide all required personal protective equipment to firefighters at the employer's sole expense, at no cost to the employee, pursuant to N.J.S.A. 34:6A-33 and 29 CFR 1910.156(e)(1).

This Notice is issued pursuant to N.J.S.A. 34:6A-33, N.J.S.A. 34:6A-35c and N.J.A.C. 12:100-3.2.



COMMISSIONER

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July 23, 1987

**AMENDMENTS REQUESTED IN STATE ACT
FOR A STATE PLAN PROGRAM**

**PUBLIC EMPLOYEES OCCUPATIONAL SAFETY AND HEALTH ACT
NJAC 34:6A-25 et seq.**

The State Act, NJSA 34:6A-25 et seq. has serious deficiencies when compared to the Federal Occupational Safety and Health Act of 1970 (Public Law 91-596).

The Federal Act will be the guidepost by which the State Act will be judged as to its adequacy when the State Plan is considered for approval by the US Department of Labor.

The purpose of an approved State Plan is to gain matching funds (50 percent) from the US Department of Labor.

The deficiencies in the State Act will prevent approval of a Federally funded program.

The Act has to be amended in the following sections to gain Federal approval.

NJSA 34:6A-29 b. through h. are requirements for a State Plan but these requirements with the exception of h. should be requirements of the State statute independent of the State Plan.

NJSA 34:6A-29 a. does not permit building, structural or fire safety standards to exceed those standards promulgated under the State Uniform Construction Code Act or the State Uniform Fire Safety Act. This is an unacceptable position for the Federal Occupational Safety and Health Administration (OSHA). They will not accept limitations on the rulemaking authority of the approved State Agency.

NJSA 34:6A-30 establishes that rulemaking other than Federal standards can be made only with the consent of the Advisory Board. Federal OSHA will not allow an outside body to have a veto power over the rulemaking authority of the State Labor Department.

NJSA 34:6A-32 permits a distinction by regulation in laboratories of higher education and permits an exemption for a variance. Neither of these procedures would be acceptable to the US Labor Department. There is no precedent for tri-agency jurisdiction. Of the 25 States that have approved State plans, in 24 of the States the authority is vested in a single State agency and in only one State is there both health and labor agency jurisdiction.

NJSA 34:6A-35 b. and 37 b. impose a limitation on the right to enter which is "when he has reason to believe". Such a limit to the authority of the inspection agency would not be acceptable to Federal OSHA.

NJSA 34:6A-38 second paragraph. This paragraph is all wrong. It is not the Commissioner of Labor, Safety Standards and Safety Officer, but the Commissioner of Health, Health Standards and Health Officer.

NJSA 34:6A-41 does not provide for first instance sanctions as the Federal Act requires. Under the State Act, an order to comply must be first issued and the employer given a period of time to correct the violation. Authority for first instance sanctions with the direct right to levy fines should be granted to the Commissioner.

NJSA 34:6A-43 does not provide for appeals to the Review Commission on the part of employees nor does it provide for the employee to be a party to any appeal. Both of these positions are contrary to Federal OSHA Rules of Procedure.

NJSA 34:6A-49 again establishes that building, structural or fire safety standards under this act and for the purposes of occupational safety and health cannot be in conflict or supercede those standards adopted under the State Uniform Construction Code Act or the Uniform Fire Safety Act. This position would be unacceptable to OSHA. In this section, there is a restriction on the authority of the Commissioner of Labor and the paragraph about not limiting the power and authority of the Commissioner of Community Affairs should be deleted.

July 23, 1987

AMENDMENTS REQUESTED IN STATE ACT
IF NOT IN STATE PLAN PROGRAM

PUBLIC EMPLOYEES OCCUPATIONAL SAFETY & HEALTH ACT
NJSA 34:6A-25 et seq.

The State Act, NJSA 34:6A-25 et seq. has serious deficiencies. The Act should be amended in the following sections to gain a more effective program.

NJSA 34:6A-29 Delete the concept of providing a State plan.

Retain in this section either the concept of the Department of Labor being the sole agency or the concept of Labor administering safety issues, Health administering health issues and Department of Community Affairs administering building, structural, and fire safety issues.

NJSA 34:6A-35b Remove the qualifier "when he has reason to believe" that a violation exists. This is a restriction on the authority of the Commissioner and should read "enter without delay."

NJSA 34:6A-37b The comment on 34:6A-35b also applies here to the authority of the Commissioner of Health.

NJSA 34:6A-38 second paragraph. This paragraph is all wrong. It is not the Commissioner of Labor, Safety Standards and Safety Officer, but the Commissioner of Health, Health Standards and Health Officer.

NJSA 34:6A-40 This Section should be amended: (1) to require submission of an annual summary of occupational illnesses, injuries, and fatalities to the Commissioner of Labor and (2) authority for the Commissioner of Labor to compile and analyze occupational safety and health statistics with regard to injury, illnesses and fatalities.

NJSA 34:6A-41 The Commissioner should be given the unilateral right to issue fines rather than having to proceed through a civil court proceeding filed by the Office of the Attorney General.

SUMMARY OF ATTENDANCE AT MEETINGS OF
STANDING SUBCOMMITTEE ON SAFETY AND HEALTH RULES

	2/28/85	3/18/85	4/29/85	5/20/85	7/31/85	9/18/85	10/30/85	11/20/85	12/11/85	12/16/85	3/13/85	4/8/86	SUMMARY of Attendance at Twelve Meetings	
<u>EMPLOYEES</u>														
L. Cornwall	P	-	P	P	P	P	P	P	-	P	P	P	10	
L. Cossey	P	-	-	-	P	-	P	P	-	-	-	-	4	
P. Gwiazdowski	P	P	P	P	P	P	P	-	-	P	P	-	9	
E. Kirilin/J. Tarlau	P/P	P/PP	P	P	P	P	P	P	P	P	P/P	P	12	
E. Murphy	P	-	P	-	P	P	P	P	-	-	-	-	6	
													Sub total	41
<u>EMPLOYER</u>														
S. Morneweck Chairman	P	P	P	P	P	P	P	P	P	P	P	P	12	
J. Forker	-	-	P	-	P	-	-	-	-	-	P	-	3	
D. Howell	P	P	-	-	P	P	-	-	-	-	P	-	5	
													Sub total	20
<u>PUBLIC</u>														
L. Newcomb	P	-	-	P	-	P	P	P	P	P	P	-	8	
													Sub total	8

SUMMARY OF ATTENDANCE AT MEETINGS OF
STANDING SUBCOMMITTEE ON ADMINISTRATIVE RULES

	1985				1986	1987		SUMMARY OF ATTENDANCE AT SEVEN MEETINGS
	3/7	4/17	5/13	11/7	4/27	6/11	7/9	
<u>EMPLOYEES</u>								
L. Cossey Chairman	P	P	P	-	-	P	P	5
P. Gwiazdowski	-	-	-	-	P	-	P	2
E. Murphy	P	-	P	-	-	-	-	2
. Kirlin/J. Tarlau	P/P	P	P	P	P	P	P(s)	<u>7</u>
							Sub total	16
<u>EMPLOYER</u>								
S. Dobrinsky	P	-	-	P	P	P	P	<u>5</u>
							Sub total	5
<u>PUBLIC</u>								
J. Gibbs	-	-	P	-	-	P	P	3
A. Goetze	P	P	P	P	-	P	P	<u>6</u>
							Sub total	9

71x

SUMMARY OF ATTENDANCE AT MEETINGS OF
STANDING SUBCOMMITTEE ON FUNDING AND RESOURCES

	1985			SUMMARY OF ATTENDANCE AT THREE MEETINGS	
	3/8	3/15	4/17		
<u>EMPLOYEES</u>					
E. Kirlin, Chairperson	P	P	-	2	
L. Cossey	P	P	P	3	
E. Murphy	P	-	-	1	
			Sub total	6	
<u>EMPLOYER</u>					
S. Dobrinsky	-	P	-	1	
J. Forker	-	-	-	-	
P. Wristen	-	-	-	-	
			Sub total	1	

UNDER CONSIDERATION BY
PUBLIC EMPLOYEES OCCUPATIONAL SAFETY AND HEALTH ADVISORY BOARD

NJAC RULE	CURRENT STATUS	MAJOR ISSUES AND COMMENT
12:100-7 Standards on Toxic and Hazardous Substances	Notice of Proposed Amendments was published in NJ Register on Feb. 2, 1987.	Office of Management and Budget on May 8, 1987 asks that the promulgation of the rules be indefinitely postponed. Advisory Board will consider OMB letter at their meeting of August 6, 1987.
12:100-8 Firing Range Standards	New rule consented to by the Advisory Board on May 20, 1985.	Labor is drafting a position paper on these rules for examination and use of the Department of Health.
12:100-9 Work in Confined Spaces	New rule will be reviewed by the Subcommittee on Safety and Health Rules in August 19, 1987 Meeting.	Subcommittee will review additional comments received.
x 12:100-10 Standards for Firefighters	New rule received from Health July 16, 1987.	Currently under consideration.
12:100-13 Asbestos Assessment, Management and Abatement	New rule consented to by the Advisory Board with condition that Health, Treasury, and municipal member resolve their differences.	Health, Treasury and municipal member reached an agreement. Health agreed to draft the amended language and present proposal to Labor Department for promulgation.
12:100-4.2 Hazardous Waste Operations and Emergency Response	Advisory Board advised on April 2, 1987 by Labor that Labor may adopt new rule.	Labor is promulgating rules under NJSA 34:6A-30 and has submitted proposal to Office of Administrative Law.
12:110 Procedural Rules for Public Employees	Advisory Board will consider rules at August 6, 1987 meeting.	

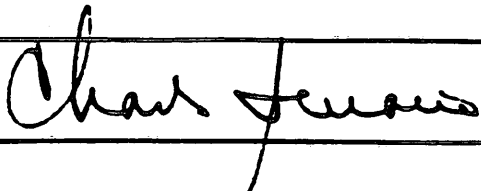
educational issue and cannot be solved by a regulation. Labor believes this is ... years.

Date Issued: March 7, 1985
Effective Date: February 1, 1985
 New
 Supersedes:
Distribution: SD-222

Classification:
General Management

Subject or Purpose:
Employee Health and Safety

Issued by:
Charles Serraino, Commissioner



I. Purpose and Scope

This Order establishes the Department of Labor's policy on employee health and safety. It expresses the Department's commitment to the right of every employee to a healthy and safe workplace.

II. Policy Statement

The Department of Labor endorses the conscious concern of employees about their individual health and safety and establishes this overall policy.

- A) The safety and health of the employees of the Department of Labor, and the public which it serves, are of paramount concern.
- B) Safe and healthful working conditions must always take precedence over expediency.
- C) Every attempt will be made to reduce the causes and possibility of work-related illnesses or accidents.
- D) The Department intends to vigorously abide by all safety and health laws and rules and regulations, as well as accepted standards of sound practice.

III. Background

The Department of Labor never before issued a policy statement regarding the health and safety of its employees. Given the dramatic evidence of individual and collective concern, it is important that the Department set an example for the rest of government and for the private sector to follow. This recognizes that good safety and health performance is not easily acquired and without the dedicated effort of departmental management, it will never happen. The Department recognizes its obligation, not only from a moral perspective, but as provided for under the New Jersey Public Employee Health and Safety and the New Jersey Worker and Community Right-to-Know Acts and its contractual arrangements with employees. The Department, too, gains when it provides safe and healthy working conditions because these promote better morale and increased productivity, and these are legitimate concerns of each and every one of us.

IV. Implementation

To make this policy statement a reality, operating management is to be guided by these instructions.

- A) In all your contacts with employees, make it clear that a health and safety program has the fullest departmental support.
- B) Hold all executives, managers, and supervisors accountable for the health and safety of employees in their area of authority.
- C) Provide safe equipment, tools, and machines.
- D) Arrange and schedule office operations with due attention to health and safety.
- E) Provide a formal inspection system to identify potentially hazardous situations.
- F) Take quick action to correct identified hazards.
- G) Provide relevant health and safety training to all employees.
- H) Organize an on-going series of safety-related and safety-promoting activities.



