

Testimony of Warren K. Brown
on behalf of the
American Society of Safety Engineers
before the
Subcommittee on Employment and Workplace Safety
of the
Senate Health, Education, Labor and Policy Committee
on the issue of
OSHA's Effectiveness
April 28, 2009

I am Warren K. Brown, CSP, ARM, CSHM, and as the President of the American Society of Safety Engineers (ASSE) I am pleased to be here today representing the more than 32,000 safety, health and environmental professionals who belong to ASSE.

ASSE was formed in 1911, shortly after the Triangle Shirtwaist Factory tragedy in New York City when a group of safety engineers decided it was time to build a profession committed to helping employers improve workplace safety. Now, ASSE's members work with employers to protect workers and workplaces in every industry, every state and across the globe. ASSE has sixteen practice specialties and is the secretariat for numerous ANSI consensus standards that help shape safe workplaces. Our members work with employers small and large. Some are members of organized labor. Some work for government. Some are academics. But all work hard to help make sure workers go home to their families each day safe and healthy.

That is what I have been committed to doing every day of my nearly 33 years managing occupational safety and health for major manufacturers in Ohio producing vehicle air conditioning compressors and diesel engines.

I appreciate this opportunity to share the perspective of safety and health professionals that I believe can help inform this Subcommittee as it considers OSHA reform legislation. Employers have much to say about their responsibility for safety. Workers – especially those victimized by failure to make a workplace safe – have much to offer this Subcommittee. Safety and health professionals, however, are responsible for working with both management and workers to get safety and health done. We see the challenges employers face in managing safety and the challenges workers face in trying to work safe. And we know well the risks workers and employers face when those challenges are not met.

Yes, the Occupational Safety and Health Administration (OSHA) has been subjected to strong criticism over enforcement, rulemaking and its cooperative programs. ASSE has expressed some similar concerns. A strong, effective OSHA is necessary to this nation's commitment to safety. Some changes are necessary. But ASSE cautions against wholesale changes that will diminish OSHA's capability to be this nation's leader in occupational safety and health.

In safety and health, a leader must be many things. To lead as a safety and health professional, I – like OSHA – must identify hazards and work to make sure employers and employees can avoid those hazards. I help my employer set safety rules, as in making sure lockout/tagout is done properly to guard against incidents. And I often have to be tough and uncompromising to make sure a rule like lockout/tagout is carried out. But the most important part of my job in a plant is building relationships, teaching, selling safety, and communicating

with both employers and employees. Being good at these skills is the best shot I have at keeping an employee safe and healthy.

The federal agency leading this nation's commitment to worker safety must have this same multi-faceted capability to meet its mission.

The fact is, the vast majority of employers do not implement safety programs out of fear of OSHA, its monetary penalties or even the threat of criminal prosecution. They do so, first, because it is the right thing to do. They also do so because proactive safety programs make sense from a productivity and monetary perspective.

Just as companies target resources where they will reap maximum benefits, so, too, should OSHA direct its enforcement resources where the greatest gains in safety can be achieved – towards those employers with a history of flagrantly ignoring their compliance responsibilities.

I've been involved in numerous OSHA inspections. On more than several occasions the inspections helped me deal with risks. Overall, however, most of these inspections were not needed at the companies where I worked. These companies had a commitment to safety. As OSHA knew, they had well-trained safety staff and highly developed safety management systems. While some level of OSHA inspections were needed, I can only wonder, with OSHA's limited resources, how much more it would have accomplished had many of these inspections been done at workplaces less committed to safety.

That is why ASSE is disappointed to find in a March 2009 report that the Department of Labor's Inspector General found OSHA's Enhanced Enforcement Program not nearly as effective as it could be in identifying high-risk employers to target with increased enforcement. We urge this Subcommittee to make sure this program works. No matter how high penalties are, OSHA must work at improving its ability to target its resources.

That program can be improved in the same way OSHA has improved its positive capability to help employers, employees and the safety and health community to achieve safer and healthier workplaces. These capabilities have made OSHA a more positive, open organization better engaged with others responsible for safety and health. The Voluntary Protection Program (VPP) and the Safety and Health Assessment and Research for Prevention Program (SHARP) have provided real incentives for companies to do safety and health well. The alliance and partnership programs have developed a meaningful sense of cooperation across many industries and organizations resulting in impressive guidance materials and e-tools that our members use in their jobs.

OSHA has also strived to help lead what may be, after the moral argument for safe workplaces, the most compelling argument in the private sector for safety and health commitment. ASSE's white paper *Addressing the Return on Investment for Safety, Health and Environment Programs* (<http://www.asse.org/search.php?varSearch=business+of+safety>) provides insight into the current focus of safety and health professional leadership that ASSE wants OSHA to continue to help lead, as reflected in OSHA's Safety Pays Program (<http://www.osha.gov/dcsp/smallbusiness/safetypays/index.html>) and other initiatives.

There is little doubt among this nation's leading employers that a commitment to effective safety and health programs provides U.S. business with a competitive advantage. It is especially important in today's harsh economic times that we need a vocal leader to help convince companies that the last place that cuts should be made is in their safety and health programs.

The 2007 Workplace Safety Cost Index found workplace injuries cost society \$48.3 billion in direct losses, and the indirect costs of injuries may be 20 times the direct costs.

Conversely, a Liberty Mutual survey reported that 61 percent of executives say \$3 or more is saved for each \$1 invested in workplace safety.

To be effective, however, the programs must have commitment from senior management for a strong corporate safety culture. This is not a change that OSHA can bring about solely through enforcement.

We ask a lot of OSHA. It has a tough job and is an easy target for complaint. But any changes in OSHA must go beyond simple solutions.

Some complain OSHA misses hazards in inspections, but OSHA's website indicates just how many standards and guidance documents its inspectors must know. So better training is an issue, too. Some complain OSHA negotiates fines away. But OSHA's front-line staff is forced to balance further legal action against a company willing to address the problem and wanting to move on to other complaints. Some complain OSHA does not issue enough standards. But overlooked is just how the existing standards pose a challenge to employers, employees, safety and health professionals, and even OSHA in adequately enforcing those standards.

So, please be careful. There are no easy answers.

We hope our perspective is helpful as the Subcommittee considers how it will help edit the new chapter in OSHA history about to be written. ASSE looks forward to providing constructive suggestions on OSHA reform legislation. We also look forward to working with OSHA's new leadership to continue to advance protections for the safety and health of American workers.

Thank you for this opportunity. I will be more than happy to respond to any questions.