

**Statement of Rick Engler, Director
New Jersey Work Environment Council (WEC)**

Before the United States Senate Committee on Environment and Public Works,
Transportation Safety, Infrastructure Security, and Water Quality Subcommittee,
Hearing on *Importance of State and Local Authorities*
in Ensuring Chemical Plant Security

March 19, 2007

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Good morning and thank you for your invitation to the New Jersey Work Environment Council to present testimony today. My name is Rick Engler. I am Director of the New Jersey Work Environment Council or “WEC.” WEC is an alliance of labor, community, and environmental organizations that advocates for safe, secure jobs and a healthy, sustainable environment. Our 70 member organization includes many unions, such as affiliates of the United Steelworkers and Teamsters, which directly represent workers employed by industries that use highly hazardous chemicals, the state’s largest environmental organizations, and community groups whose members live within the vulnerability zones of industrial facilities.

Ensuring chemical safety and hometown security for New Jersey’s workers and the public is a WEC priority. For the last five years, WEC has worked to achieve this goal through developing and advocating for new state policies and by offering educational programs to workers and the public. We have a formal partnership with the United Steelworkers, our state’s largest industrial union, which represents thousands of chemical and oil workers, to provide training about chemical safety and security through their Tony Mazzocchi Center for Health, Safety, and Environmental Education. Our President, John Pajak, a rank and file worker at the Conoco-Phillips oil refinery in Linden and a member of Teamsters Local 877, was proud to stand with you and Senator Menendez last year when you, despite vociferous industry opposition, announced introduction of the *Chemical Safety and Security Act of 2006*.

WEC thanks you for holding this important hearing focusing on the value of state and local policies to ensure chemical safety and security. Senator, you have been a leader on this issue and a consistent champion for the public’s right to know about and right to

prevent exposure to toxic chemicals, dating back to your sponsorship of the *Emergency Planning and Community Right to Know Act* in 1986.

We share the concerns of many unions, environmental organizations, Governor Corzine and our Congressional representatives, that the proposed Department of Homeland Security (DHS) rules are severely flawed.

The major points of my testimony are:

- 1) The proposed rules on preemption far exceed Congressional intent. If DHS adopts them in their current form and they are upheld by the Courts, these rules will harm, not protect, the people of New Jersey and other states that act to address the new threats of a terrorist attack.
- 2) While DHS proposes to derail state protections, other federal agencies fail to enforce existing laws that promote chemical safety and security.
- 3) There are three underlying principles for policy that can effectively address chemical safety and security – safe operation, maintenance and design of facilities, meaningful worker and union participation, and cooperation between government agencies that address those issues.
- 4) There are at least thirteen key elements for a minimally effective state or national policy to ensure chemical safety and hometown security. These points are summarized in this testimony.

New Jersey Is the National Leader for Chemical Safety and Security Policy

New Jersey has taken some important actions to ensure both safety and security.

Historically, these steps have included:

- Enactment of the 1984 *Worker and Community Right to Know Act*, which along with subsequent federal laws, allows workers, plant neighbors, and emergency responders to learn about chemical hazards; and
- Enactment of the 1984 *Toxic Catastrophe Prevention Act* (TCPA), after Union Carbide's Bhopal, India disaster, which requires facilities that use extraordinarily hazardous chemicals to implement risk management plans. Because of this law, more than 300 water and sewage treatment plants no longer use large quantities of chlorine. The law served as a model for amendments to the federal *Clean Air Act* (CAA).

Under the Administrations of Governors Codey and Corzine, New Jersey has adopted three significant and precedent-setting new policies:

- 1) In November 2005, New Jersey became the first state in the nation to require that approximately 42 chemical sector facilities evaluate whether they can adopt "built-in" safety measures, a strategy to promote use of "inherently safer technology" by issuing *Best Practice Standards* for the chemical industry. Just last Friday, at the direction of Governor Corzine, the Department of Environmental Protection (DEP) issued a rule proposal to expand this requirement to cover 94 facilities, including oil refineries, paper mills, and water and sewage treatment operations. Other provisions in the *Best Practice Standards* require management of 154 facilities using highly hazardous substances to conduct vulnerability assessments, forward the Occupational Safety and Health

Administration's (OSHA) *Process Safety Management* (PSM) Standard violations to DEP, and consider workers' and unions' input.¹

2) In October 2005, New Jersey became the first state in the nation to allow and encourage workers and their union representatives to point out hazards while accompanying DEP staff on inspections at 94 of New Jersey's most hazardous facilities, those covered by the state's *Toxic Catastrophe Prevention Act*. These facilities include chemical plants, oil refineries, paper mills, food processing plants and water treatment and sewage operations.² Also, on March 14, 2007, the DEP issued a new Administrative Order ensuring that workers and union representatives can participate in inspections conducted under the Discharge, Prevention, Containment and Control (DPCC) program.

3) In July 2006, New Jersey became the first state in the nation to issue a requirement that 154 New Jersey chemical plants employing more than 38,000 workers train worker-trainers and their entire workforce about chemical safety and security. The required curriculum, developed by the United Steelworkers and the New Jersey AFL-CIO, covers mapping risks to workers and surrounding communities and underlying systems of safety.³

These three policies are significant accomplishments. WEC and our allies are pleased to have helped make them all happen. The chemical lobby claims that they will not challenge these policies "...as **currently implemented**..."⁴ [our emphasis].

¹ *Best Practice Standards At TCPA/DPCC Chemical Sector Facilities*, NJ DEP and NJ Domestic Security Preparedness Task Force, November 21, 2005

² NJ DEP Administrative Order No. 2005-05, October 1, 2005.

³ Security Awareness and Preparedness Program for the NJ Chemical and Petroleum Sectors. A WEC fact sheet on this requirement can be found at www.njwec.org.

⁴ "ACC does not believe that the New Jersey, New York, Maryland or Baltimore programs – as currently implemented – frustrate that flexibility." Source: American Chemistry Council (ACC) Comments on DHS—2006—0073, February 7, 2007, pages 4 and 24.

However, Governor Corzine has pledged further initiatives for chemical safety and security. The chemical lobby – *or just one of its individual member companies* – could use DHS preemption rules to challenge New Jersey’s existing and/or new initiatives. To put it simply, if the chemical industry wins by stopping New Jersey from taking strong action to meet the particular needs of our state, workers and the public lose. Corporate executives and their lobbyists, along with their friends at DHS, must not be allowed to put even higher profits ahead of worker and public safety and security. New Jersey and other states must be free to require industries that use hazardous chemicals to operate safely and securely.

In addition to the industry developed preemption language, the proposed DHS rules:

- Do not encourage facilities to adopt inherently safer and more secure approaches that minimize catastrophic risks and reduce the attractiveness of facilities as terrorist targets.
- Fail to engage workers and their unions when requiring plant management to assess risks or as part of ongoing consideration of safety and security concerns.
- Attempt to cover-up knowledge of toxic dangers through potentially gutting the worker and public “right to know provisions” of existing federal and state laws, including the *Occupational Safety and Health Act* and the *Emergency Planning and Community Right to Know Act*.
- Undermine government accountability through excessive secrecy. People will not be able to find out if DHS is requiring a facility to improve security or not.
- Include provisions for criminal background checks of long-term employees that won’t identify terrorists but will likely be used to retaliate against workers and their union leaders who speak out for safety, environmental, and security safeguards.

WEC urges Congress to promptly pass comprehensive chemical safety and security legislation along the lines of your *Chemical Safety and Security Act of 2006*.

Such legislation should supersede the proposed DHS regulations and charge the Environmental Protection Agency (EPA) and OSHA, as well as DHS, with greater authority to prevent and respond to chemical incidents, whether they are caused by a terrorist attack or a “routine” accident.

An underlying principle of such legislation – in stark contrast to the current DHS proposal – would be that worker and public safety are inseparable from security.

The industry’s focus on perimeter hardening, in other words, more gates, barriers, lights, and guards, is not in itself a bad thing. No one wants unauthorized individuals, whether they are terrorists or vandals, entering potentially hazardous operations.

However, the approach that needs support from industry, instead of their misleading and misplaced opposition, is one that would emphasize making changes to the underlying systems of safety and ensuring that inherently safer approaches are adopted.

While DHS Proposes to Derail State Protections, Other Federal Agencies Don’t Enforce Existing Laws

Ironically, the federal government has had important regulatory tools to promote safety and security since well before September 11, 2001 – but has chosen not to utilize them.

OSHA’s *Process Safety Management Standard* is the agency’s most important rule for preventing catastrophic events at facilities with highly hazardous chemicals. Issued in 1992, it requires covered employers to conduct a “Process Hazards Analysis” to review what could go wrong and what safeguards must be taken to prevent releases of highly hazardous chemicals. The standard mandates written operating procedures, employee

training and participation, pre-startup safety reviews, evaluation of mechanical integrity of critical equipment, contractor requirements, and written procedures for managing change. It also requires a permit system for “hot” work, incident investigation, emergency action plans, and employer internal audits at least every 3 years.⁵

However, a WEC review of OSHA’s enforcement record of private sector facilities in New Jersey has found that the agency has conducted few PSM inspections of PSM covered facilities since 9/11.⁶ Of the 21 facilities in New Jersey that could each potentially harm up to 15,000 people or more – all of which are covered by the PSM standard:

- **Only eight** have received an OSHA inspection since September 11, 2001.
- **Six have *never* even had one PSM OSHA inspection.** These include facilities which could potentially endanger between 20,000 and 500,000 people.
- **Seven were inspected before September 11, 2001, but have not been inspected since.** These include facilities which could potentially endanger between 34,104 and 12 million people. For a notable example, OSHA has not inspected the Kuehne Chemical plant in South Kearny since September 12, 1997.

Please see the attached table listing facilities and OSHA inspection data.⁷

When OSHA has conducted PSM inspections, the agency has found violations of this standard. For example:

⁵ Related OSHA Standards, such as Hazard Communication, also help to prevent chemical accidents and exposures.

⁶ Correspondence to Rick Engler, WEC Director, from Patricia K. Clark, Regional Administrator, OSHA, February 8, 2007 in response to a WEC Freedom of Information Act Request.

⁷ The data in this table is from US EPA Risk Management Plans and the OSHA compliance database online at www.osha.gov. Last OSHA inspection dates were also confirmed by OSHA Area Office Directors.

- On January 21, 2005, a violent explosion from the ignition of acetylene at the Acetylene Service Company in Perth Amboy, New Jersey killed three workers. OSHA subsequently found many serious and willful violations, including violations of the PSM standard, and penalized the company \$ 176,790.
- On March 29 and April 19, 2005, a chemical explosion and leak, respectively, at the Siegfried, USA pharmaceutical plant in Pennsville, New Jersey injured a number of workers. OSHA subsequently found serious PSM and other violations and penalized the company \$ 4,500.
- Since 9/11, OSHA inspections have also resulted in PSM citations and fines for Ashland Chemical in Totowa (\$3,465), DuPont in Deepwater (\$4,250), and ConocoPhillips in Linden (\$23,060).

WEC has urged OSHA to promptly develop a comprehensive plan to enforce the PSM standard in New Jersey. They are currently considering our request. We ask that Congress direct OSHA to strengthen the PSM standard and to systematically inspect high risk facilities.

The U.S. EPA, like OSHA, has also chosen not to use their full authority to prevent chemical accidents. For example, Section 112(r) of the CAA, enacted in 1990, says that workers and union representatives have a right to participate in EPA inspections, which would include the right to accompany EPA inspectors during risk management plan (RMP) compliance inspections and accident investigations.⁸ Governor Corzine has said,

⁸ Title 42, Chapter 85, Subchapter 1, Part A, Section 7412. The relevant language (in the section on the duties of the Chemical Safety Board) reads “Whenever the Administrator **[this refers to the EPA Administrator and state agencies which have assumed delegation]** or the Board conducts an inspection of a facility pursuant to this subsection, employees and their representatives shall have the same rights to participate in such inspections as provided in the Occupational Safety and Health Act [29 U.S.C. 651 et seq.].

“Who knows more about a plant than the workers who work there?” Workers are on the front lines. Because of their experience and skills, they are intimately familiar with their work environment. Workers can point out hazards, risks, and vulnerabilities that may not be readily apparent to even a skilled inspector who is infrequently on-site.

Unfortunately, WEC does not believe that EPA has ever encouraged workers or their union representatives to participate during their agency’s inspections. At the urging of WEC, the DEP, which has delegated EPA enforcement authority under CAA 112(r), adopted a TCEQ Administrative Order in October 2005, allowing and encouraging workers and their union representatives to participate in DEP RMP inspections.⁹ This program has proven successful, with a high percentage of inspections involving local union representatives. We ask Congress to ask EPA to issue a directive to its field staff and the other states with delegated enforcement instructing them to immediately engage workers and local union leaders during RMP inspections.

These two examples again demonstrate why safety and security are inseparable and why DHS, EPA, and OSHA should address this vital matter through an integrated approach, not rules that give DHS inappropriate power and responsibility.

Principles for Chemical Safety and Security Policy

In WEC’s view, there are three underlying principles for policy that can effectively address chemical safety and security.

First, facilities must be designed, operated, and maintained safely. No matter how many guards, gates, and surveillance cameras are in place, a determined terrorist who flies an

⁹ DEP Administrative Order 2005-05.

airplane into a chemical processing unit or storage tank can kill workers and thousands of neighbors. The most practical way to address this threat is to prevent hazards in the first place -- and to minimize the consequences of an incident if one does occur. For example, it is inexcusable that the Valero petroleum refinery in Gloucester County still uses a particular processing method involving hydrofluoric acid to make gasoline when their executives know that there are safer alternatives to this process. Oil companies are not poor. They should have to adopt safer methods, or at the very least, seriously consider their adoption. If they can't take real steps for safety, they should have to justify why they can't -- and smaller profits is no excuse.

Second, there must be meaningful worker and union participation. For example, plants must have labor-management site safety and security committees. These committees would meet regularly to discuss potential safety and security risks and ways to prevent them. These committees would be able to regularly inspect the workplace to identify potential vulnerabilities that could be exploited by terrorists or that could lead to a toxic exposure, explosion, spill, or fire. Requiring these committees is just common sense. Many joint labor/management safety committees already exist and help prevent hazards to both workers and the community.

Third, as noted earlier, since safety and security are inseparable, government agencies responsible for worker safety, environmental protection, and security must take an integrated and coordinated approach.

Thirteen Key Elements for Effective Chemical Safety and Security Policy

WEC believes there are at least thirteen key elements for a minimally effective state or national policy to ensure chemical safety and hometown security. We believe that these policy components should be incorporated in federal legislation, with the right of states to adopt more effective protections to address local needs, such as population density or the presence of particular industries.

These elements include:

- First, regulating the appropriate scope of facilities. All facilities that are required to submit EPA Risk Management Plans because they use or process extremely hazardous chemicals should have comprehensive protections and states should be able to regulate additional facilities based on particular circumstances.
- Second, facilities must conduct a thorough vulnerability assessment to consider risks of both unintentional accidents and deliberate attacks on workers, surrounding communities, and the environment. Such assessments should include the potential toxic impact of multiple and cascading process failures.
- Third, facilities must assess perimeter protections such as lighting, barriers, and perimeter security.
- Fourth, facilities must, at a minimum, analyze options for their potential to adopt inherently safer approaches and overall systems of safety. Such approaches include input chemical substitution, process redesign, product reformulation, reducing hazardous pressures and/or temperatures, and improving chemical use efficiency and inventory control. Such analysis must include a review of available approaches within the facility, including where they operate in other countries, and within the industry overall. If a

facility claims that they cannot financially afford to adopt measures for inherent safety, they should have to document the financial and other costs to workers, the public, and the environment of failing to take such approaches.

- Fifth, facility management must specify in writing the appropriate number of staff for safe operation, effective preventive maintenance, perimeter security, and emergency response. Many facilities, particularly in the chemical industry, have “downsized” and are running with fewer experienced staff even as their production output has stayed the same or increased. Needed maintenance, necessary for safety, is too often deferred. Management must specify safe staffing levels during all hours of operation.

- Sixth, facilities must establish joint employee/employer site Safety, Security and Environment Committees with real authority to help prevent, monitor, and respond to toxic releases. Safety Committees established by labor/management collective bargaining agreements already cover most manufacturing facilities. The function of such committees should be expanded to include security concerns. These committees should have the right to make recommendations to management, survey the workplace for risks, assist in accident and release investigations, and help develop safety and security assessments and plans. According to National Labor Relations Board decisions, in unionized facilities, the union must select its own representatives to committees dealing with safety and health, which would obviously include the prevention of catastrophic accidents.

- Seventh, all employees potentially exposed to hazardous chemicals should receive six hours of annual chemical safety and security training, in addition to training already

required by OSHA standards. Such training should focus on understanding of inherently safer approaches and worker rights and responsibilities.

- Eighth, workers and union representatives must be able to participate in all aspects of government enforcement of chemical safety and security rules. This includes the right to participate in all stages of DEP and DHS workplace inspections, including the accompaniment of government inspectors to help point out potential hazards and vulnerabilities.
- Ninth, there must be strong whistle-blower protection that encourages employees in union and non-union facilities to confidently point out potential dangers without fear of reprisal. (The existing anti-discrimination provisions of OSHA are weak. New Jersey has relatively strong whistle-blower protections in its *Conscientious Employees Protection Act*).
- Tenth, there must be meaningful opportunities for community involvement. Facility management, upon request by an environmental agency, a Local Emergency Planning Committee, or 25 or more residents and/or employees, shall convene a community meeting to discuss its risk management program, including off-site consequence analysis, inherent safety options analysis, and emergency response plan. There must be adequate notice to the community about such a meeting and all parties, including employees and their union, shall be invited to participate in this dialogue.
- Eleventh, facilities must have stronger emergency response plans. Plans should include specific explanations of what actions neighbors should take in the event of a catastrophic release and should describe steps management has taken to inform

neighbors.¹⁰ Low income and people of color communities, where these facilities are often located, face language and transportation barriers. Plans must address these factors.

- Twelfth, there must be sufficient enforcement authority, financial penalties, inspection staffing and other resources for government agencies to ensure compliance.
- Finally, we believe that there should be no rollback in either worker or public “right to know” protections. Weakening right to know laws would do little or nothing to stop terrorists but would endanger workers, emergency responders, and community members.

Thank you again for the opportunity to testify and we look forward to supporting your efforts to ensure chemical safety and security in the days ahead.

¹⁰ Most communities in New Jersey appear unprepared for a chemical disaster. A WEC neighborhood survey in 2004 in Linden revealed that few residents had any idea of steps to take if there was a toxic release from a nearby industrial facility. A WEC survey of emergency responders and health professionals in 2005 revealed that 63% of them did not even know if there was a TCPA facility in their municipality.

Appendix



**New Jersey
Work Environment Council**
Safe, secure jobs and a healthy, sustainable environment

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VIA FAX AND USPS

February 20, 2007

Patricia K. Clark
Regional Administrator
Occupational Safety and Health Administration
U.S. Department of Labor
201 Varick Street, Room 670
New York, New York 10014

Dear Administrator Clark:

Since September 11, 2001, it is understood that facilities using highly hazardous chemicals are vulnerable to terrorist attacks and unintentional accidents that could endanger both workers and surrounding communities.

The New Jersey Work Environment Council (WEC), an alliance of 70 labor, community, and environmental organizations, requests that the federal Occupational Safety and Health Administration (OSHA) promptly develop a plan to conduct inspections at New Jersey facilities that use extraordinarily hazardous chemicals in sufficient quantity to be covered by your agency's mandatory standard for *Process Safety Management (PSM)*.

The PSM standard is OSHA's most important rule to achieve prevention of catastrophic events at chemical facilities. Issued in 1992, it requires covered employers to conduct a "Process Hazards Analysis" to review what could go wrong and what safeguards must be taken to prevent releases of highly hazardous chemicals. The standard also mandates written operating procedures, employee training and participation, pre-startup safety reviews, evaluation of mechanical integrity of critical equipment, contractor requirements, and written procedures for managing change. It also requires a permit system for "hot" work, incident investigation, emergency action plans, and employer internal audits at least every 3 years.¹

According to February 2007 data from the New Jersey Department of Environmental Protection (DEP), there are 95 state-regulated facilities in New Jersey that use large

¹ Related OSHA Standards, such as Hazard Communication, also help to prevent chemical accidents and exposures.

quantities of extraordinarily hazardous chemicals. These substances include chlorine, hydrochloric acid, ammonia, ethylene oxide, and other materials that can pose severe risks to workers, community residents and the environment. ***We request that OSHA immediately begin a program to inspect for PSM compliance facilities with major potential off-site consequences, beginning with those facilities potentially harming up to 15,000 or more New Jerseyans.***²

According to an OSHA Directive, “OSHA's investigation of workplace conditions which cause, **or could cause**, catastrophes resulting in multiple loss of life and significant property damage is the agency's highest enforcement priority.”³

However, OSHA has conducted few PSM inspections of PSM covered facilities since 9/11.⁴

Of the 21 facilities in New Jersey that could each potentially harm up to 15,000 people or more – all of which are covered by OSHA’s PSM standard – only eight have received an OSHA inspection since September 11, 2001.

- **Six have never even had one PSM OSHA inspection.** These include facilities which could potentially endanger between 20,000 and 500,000 people.
- **Seven were inspected before September 11, 2001, but have not been inspected since.** These include facilities which could potentially endanger between 34,104 and 12 million people. For a notable example, OSHA has not inspected the Kuehne Chemical plant in South Kearny since September 12, 1997.

Please see the enclosed table listing facilities and OSHA inspection data.⁵

As you are well aware, unexpected releases of highly hazardous chemicals continue to endanger New Jersey workers and the communities adjacent to these facilities. On February 7, the Valero oil refinery in Paulsboro released hydrogen sulfide gas (an extraordinarily hazardous chemical) which forced the nearby high school to close after students developed headaches and vomiting.

When OSHA has conducted PSM inspections, the agency has found violations of this standard. For example:

² This statistic is based on the latest Risk Management Plan off-site consequence data submitted by facility management to the US EPA and is current as of February 9, 2007. This data was examined by WEC at EPA’s public reading room in Edison, New Jersey.

³ CPL 02-00-094 - CPL 2.94 - OSHA Response to Significant Events of Potentially Catastrophic Consequences (from OSHA website at www.osha.gov)

⁴ Correspondence to Rick Engler, WEC Director, from Patricia K. Clark, Regional Administrator, OSHA, February 8, 2007 in response to a WEC Freedom of Information Act Request.

⁵ The data in this table is from USEPA Risk Management Plans and the OSHA compliance data base on-line at www.osha.gov. Last OSHA inspection dates were also confirmed by OSHA Area Office Directors.

- On January 21, 2005, a violent explosion from the ignition of acetylene at the Acetylene Service Company in Perth Amboy, New Jersey killed three workers. OSHA subsequently found many serious and willful violations, including of the PSM standard, and penalized the company \$ 176,790.
- On March 29 and April 19, 2005, a chemical explosion and leak, respectively, at the Siegfried USA pharmaceutical plant in Pennsville, New Jersey injured a number of workers. OSHA subsequently found serious PSM and other violations and penalized the company \$ 4,500.

Since 9/11, OSHA inspections have also resulted in PSM citations and fines for Ashland Chemical in Totowa (\$3,465), DuPont in Deepwater (\$4,250), and ConocoPhillips in Linden (\$23,060).

Some of these facilities are covered by OSHA’s Voluntary Protection Program or participate in an OSHA voluntary educational “alliance” with the chemical industry. *However, these voluntary programs are not an effective substitute for PSM compliance monitoring and enforcement action by OSHA.*

Please note that the State of New Jersey is taking this issue very seriously. In response to a WEC request, the Public Employee Occupational Safety and Health Program (PEOSH) in the New Jersey Department of Health and Senior Services is now conducting inspections of five publicly-owned water treatment plants that use large quantities of chlorine gas. PEOSH has found violations and/or potential hazards at the facilities inspected to-date.⁶

In summary, WEC urges OSHA to promptly develop a comprehensive plan to enforce the Process Safety Management Standard in New Jersey. The potential danger to workers and communities – whether from unintentional accidents or an intentional terrorist attack – requires your immediate action.

Sincerely,

/s/

John Pajak, President

/s/

Rick Engler, Director

P.S. WEC would be pleased to cooperate with your agency on complementary efforts to educate workers and their union representatives, as well as management, about the PSM standard. However, development of an OSHA compliance and enforcement plan must come first.

⁶ We appreciate the assistance by federal OSHA compliance officers to help PEOSH to conduct these public sector inspections. We urge you to coordinate federal enforcement efforts at private sector facilities with the New Jersey DEP’s Toxic Catastrophe Prevention Program.

C: Via e-mail
Richard L. Canas, Director, Office of Homeland Security and Preparedness
Lisa Jackson, Commissioner, DEP
Gary Sondermeyer, Chief of Staff, DEP/Liaison to DSPTF
Dennis Quinn, Special Assistant to the Director, Office of Homeland Security and Preparedness
David Socolow, Commissioner, Department of Labor and Workforce Development
Julie Kashen, Deputy Policy Counsel to the Governor
Paul Baldauf, Assistant Director, Assistant Director, Radiation Protection and Release Prevention, DEP
Carolyn W. Merritt, Chair, U.S. Chemical Safety and Hazard Investigation Board

CS PSM OSHA Compliance Letter

OSHA Inspections at NJ Facilities with worst-case toxic or flammable release scenario affecting 15,000 people or more

Facility	Location	County	Chemical of Concern	Danger Zone (miles)	Population in Danger Zone	Date of Last OSHA Inspection	PSM violation? (#PSM violations)
1 Kuehne Chemical	South Kearny	Hudson	Chlorine	14.00	12,000,000	9/12/1997	
2 Infineum USA L.P.	Linden	Union	Chlorine	14.00	4,200,000	1/20/2000	
3 Solvay Solexis (formerly Ausimont USA)	Thorofare	Gloucester	Chlorine	25.00	4,165,831	9/23/1996	
4 Valero Refining Co	Paulsboro	Gloucester	Hydrofluoric acid (Conc. 50% or greater)	19.00	3,170,000	4/8/2004	
5 DuPont Chambers Works	Deepwater	Salem	Chlorine	25.00	2,000,000	7/7/2004	Yes (1)
6 Schweitzer-Mauduit Int'l	Spotswood	Middlesex	Chlorine	14.00	1,100,000	1/27/2003	
7 DuPont Performance Elastomers	Deepwater	Salem	Hydrochloric Acid	13.00	500,000	None	
8 New York Terminals	Elizabeth	Union	Ammonia (anhydrous)	5.00	485,000	None	
9 Hercules Incorporated	Parlin	Middlesex	Ethylene oxide	7.80	410,000	5/25/1999	
10 Basell USA, Inc (formerly Akzo Nobel Polymer Chem)	Edison	Middlesex	Titanium tetrachloride	6.20	404,046	1/4/1990	
11 Ferro	Bridgeport	Gloucester	Chlorine	7.50	240,000	None	
12 Bayonne Plant Holding	Bayonne	Hudson	Ammonia (anhydrous)	2.13	112,728	None	
13 Air Products Polymers, LP	Dayton	Middlesex	Vinyl acetate monomer	5.60	112,225	5/20/1985	
14 Farmland Dairies	Wallington	Bergen	Ammonia (anhydrous)	1.20	54,000	5/28/2004	
15 Mallinckrodt Baker	Phillipsburg	Warren	Ammonia (anhydrous)	2.30	52,535	6/24/2004	
16 AGC Chemicals	Bayonne	Hudson	Ammonia (anhydrous)	1.40	46,700	None	
17 State Metal Industries	Camden	Camden	Chlorine	1.30	34,104	4/24/1998	Yes (1)
18 *Siegfried (USA), Inc	Pennsville	Salem	Thionyl chloride	3.60	31,663	3/31/2005	Yes (4)
19 Tropicana Northeast Operations	Jersey City	Hudson	Ammonia (anhydrous)	0.97	20,000	None	
20 Conoco-Phillips Bayway Refinery (formerly TOSCO)	Linden	Union	Flammable Mixture	1.40	18,000	8/13/2002	Yes (6)
21 Nestle USA - Beverage Division	Freehold	Monmouth	Ammonia (anhydrous)	1.50	17,000	1/20/2004	

Number of Facilities:	21
# Facilities w Inspections Since 9/11:	8
# Facilities Inspected Prior to 9/11	7
# Facilities NEVER been inspected	6

* Facility regulated under NJ Toxic Catastrophe Prevention Act but not federal Clean Air Act .
 Source: Review of Risk Management Plans (RMPs) filed under Section 112 (r) of the federal Clean Air Act and under the NJ Toxic Catastrophe Prevention Act as of February 9, 2007.