

# CI NEWSLETTER

The Council of Industry of Southeastern New York

June 2009

The Manufacturers Association of the Hudson Valley

Volume 13 Issue 6

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## Welcome New Members:

**Hi - Tech Packaging Corp.** - manufacturer of poly sleeve labels. Contact: Frank Banister. Rockland County.

**Store & Ship** - Storage and shipping solutions. Contact: Frank Banister. Rockland County.

On Friday, May 29<sup>th</sup>, the Council of Industry recognized Town of Lloyd Supervisor Ray Costantino and the Chairman of EFCO Products, Jack Effron for their vision, dedication, hard work and tireless involvement in helping to overcome the many obstacles faced by manufacturers here in the Hudson Valley. The Council of Industry's Manufacturing Champions Award recipients were acknowledged at a breakfast in their honor at the Powelton Club in Newburgh.

From the public sector the Council chose to honor Town of Lloyd Supervisor Ray Costantino for his ongoing support of industry in the Town of Lloyd. Supervisor Costantino has been a supporter of the Ulster County shovel ready project which expanded the municipal water service and enabled Council of Industry member Se'lux and fellow manufacturer Zumtobel to announce expansion plans and add new jobs. He was also instrumental in the deal to relocate Prism Solar Technologies to the former Panasonic Plasma Display Building. Supervisor Costantino recognized that the efforts to support manufacturing in the Town of Lloyd is vital to the residents of Lloyd and the companies themselves. He also invited the other council member companies to look at the Town of Lloyd for any future moves or expansion plans they may have.

The manufacturing sector award was presented to Jack Effron, Chairman of EFCO Products and past President of the Council of Industry. He was selected "for a lifetime of dedicated leadership, wisdom and friendship that have enriched the lives of EFCO associates, colleagues and our community." Mr. Effron is a graduate of Poughkeepsie High School and Columbia University. He served in the army for two years before returning to the family business. Since then he has not only helped run EFCO Products, but has also been a member of Central Hudson Energy Group's Board of Directors, a founder and renowned former chair of The Taste of the Hudson Valley, a

former board member of Hudson River Housing, and instrumental in creating Hudson Valley Foodworks. Mr. Effron has served in a position of leadership on the board of Community Health Plan and as a trustee for St. Francis Hospital and Health Care Foundation where he was named the first Chairman for the foundation in 1998. Last but certainly not least, Mr. Effron has served as President of the Council of Industry from 1989 -1990 and on the Council's Board of Directors.



Jack Effron, EFCO Products, Inc., Council of Industry EVP, Harold King and Town of Lloyd Supervisor, Ray Costantino.

Mr. Effron reminisced about the many years he has been active in the Council of Industry. He pointed out that in the early 1960's, the council was instrumental in setting up the first HMO for this area, Health Shield, which was revolutionary at the time. Mr. Effron recalled the energy crisis of the 70's and how the Council of Industry provided information

to its members in ways to become more energy efficient and reduce dependence on foreign oil. There was also a task force that the council spearheaded to look into affordable housing in the 80's. These are all issues that as a manufacturer's association the Council of Industry is still working with various groups on today. The Council's goal is to get information to members on these topics and voice the opinion of the industrial companies in Albany and Washington.

Past winners of the Council of Industry's Manufacturing Champion Award for public service include New York State Senators Stephen Saland and William Larkin. Taylor N. Thompson, Chairman of Millrock Technology and Roger Smith, past President of Pawling Corporation, both received the award for their lifetime contributions to the field of manufacturing.

We would like to thank our generous sponsors **Central Hudson Gas & Electric Corporation, Dynegy Northeast Generation, EFCO Products, Inc and Rose & Kiernan Inc** for making this event possible.

## Training and Education

*This is an approach to process improvement that merges the complementary concepts and tools from both Six Sigma and Lean approaches. The resulting approach will have greater impact than one that centers on only Six Sigma or Lean.*

### Another Chance For Lean Six Sigma Yellow Belt Training



Frank Roberto, Jeffery Oakley and Ross Hartlipp, the team from Jabil, during their final presentation at the Council's Lean Six Sigma Yellow Belt program in April.

This is another chance for those of you that saw last month's article on the Lean Six Sigma program and thought that it sounded like a training that would benefit your company. Below is a description of the program and the dates, times and location. If you would like to register a team, contact Ana Maria Murabito at (845) 565-1355 or by e-mail at [anamaria@councilofindustry.org](mailto:anamaria@councilofindustry.org).

The Lean Six Sigma Yellow Belt Training is an approach to process improvement that merges the complementary concepts and tools from both Six Sigma and Lean approaches.

The resulting approach will have greater impact than one that centers on only Six Sigma or Lean. Participants will learn a short history of each approach and how they can complement each other. They will be introduced to the Define, Measure, Analyze, Improve, Control improvement process and some of the tools associated with each stage. The following topics will be focused during the training: Resistance to Change, 5-S Visual Controls, Team Building, Problem Solving Process and Statistical Thinking.

During this interactive Yellow Belt training, each group of participants will identify opportunities within their respective work areas and ways to improve those areas utilizing taught problem solving tools. The teams will present their identified work area opportunity and suggested solutions.

**Dates:** August 11, 12 & 13

**Location:** Kolmar Laboratories  
Port Jervis, NY

**Instructors:** Vinnie Buonomo and  
Dr. Don Baker from RIT

**Time:** 8:30 am—4:30 pm

**Cost:** \$300 per person, Must register  
in groups of 3 from a company.

*Continental breakfast and lunch included*

### Certificate in Manufacturing Leadership Program Recipients to Meet and Mingle with Council Board of Directors at June Barbeque

Once again the Council of Industry will hold a barbeque mixer for the Board of Directors and the twelve recipients of the Certificate in Manufacturing Leadership this year. The event will take place on the evening of June 17th at the Council office on the beautiful Desmond Campus of Mount St. Mary's College. Last year the mixer was quite a success and members of the board were able to get vital feedback from the Certificate recipients which was considered when putting together this year's Manufacturing Leadership Program. If you are a board member or a Certificate recipient and would like more information, please contact Ana Maria Murabito at (845) 565-1355 or by e-mail at [anamaria@councilofindustry.org](mailto:anamaria@councilofindustry.org).



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## Council News

### Loss Prevention System : How LPS Could Save You

The "Nobody gets hurt" vision was the main focus of May's Environment Health and Safety Sub-council meeting at Groundwater & Environmental Services, Inc. The Loss Prevention System (LPS) presented by Cris Altman of Groundwater & Environmental Services, Inc. (GES) outlined the benefits of having an LPS in place and the main components of the LPS and how to implement them in your work environment. Mr. Altman shared the statistics for GES and how this system has dramatically decreased not only incidents where there is a loss but also the incidents of a near loss.

The potential benefits of a Loss Prevention System seem obvious, no one wants an employee to become injured or worse, or to have equipment damaged or a spill/ release that will require costly and time consuming clean up. There are other benefits that are not as obvious such as increased productivity, reliability and efficiency, an enhanced reputation and improved competitive performance. It is important that a Loss Prevention System be in place from the top level management down. The system is most successful when all levels of the organization are involved.

The Loss Prevention System at GES consists of seven tools starting with "Safety Performance Self Assessment" (SPSA). This is a brief last minute risk assessment done mentally before performing a task, assess the risk, analyze how to reduce the risk and act to ensure safe operations. The next step is to perform a Job Safety Analysis (JSA), which reviews the work process and all hazards associated with each step, how to avoid these hazards and the best procedures to perform the job properly. A JSA is a document that should be available on site for each job and is continually modified and adjusted.

Once there is a near loss or near miss as some call them, it is important that the incident is reported and investigated so that this potential loss is prevented in the future. Mr. Altman stresses that it is important that employees aren't afraid of reprimand when a near loss occurs because that often leads to these situations going unreported and thus losing a great source of information on a situation that could potentially happen again with a much more dire consequence. With a loss or a near loss it is important to construct a Root Cause Analysis Flowchart (RCAF) **(Continued on Page 10)**

### HR Sub-council Meeting: Lessons Learned From "The Office" – Workshop on Employment and Labor Law

This workshop, presented by **Richard Landau** from **Jackson Lewis LLP**, uses clips from the hit **NBC TV show "The Office"** to illustrate labor and employment law blunders that can occur in the work place and what steps should be taken to avoid these pitfalls.

Last year's workshop was well attended and covered harassment policy, investigation guidelines, guidelines for reasonable suspicion and progressive disciplinary action programs.



Those Council members that attended last year, left the workshop, not only better prepared

to deal with these subjects, but also in a great mood after spending time laughing at subjects that are normally quite stressful. This year with all new episodes there are sure to be several new topics to cover.

Attendees may want to review some episodes of the show before attending, but it is not a necessity. Recent episodes are available online at [NBC.com](http://NBC.com) or you can catch new episodes on NBC, Thursday nights at 9pm.

**When:** Friday, June 19, 8:30 – 10:00 am

**Where:** Council of Industry Office, The Desmond Campus, Newburgh, NY

**Cost:** None for Council Members

To register or for more information contact Alison Butler by e-mail

[abutler@councilofindustry.org](mailto:abutler@councilofindustry.org) or call (845) 565-1355.

*Those Council members that attended last year, left the workshop, not only better prepared to deal with these subjects, but also in a great mood after spending time laughing at subjects that are normally quite stressful.*



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## Distribution & Shipping

### Freight Rail Shipment Offers Strategic Advantages

By Tom Siwula, C&S Engineers

Have you ever thought about moving your product by rail? Freight rail shipment can become a strategic advantage when you know your options.



**Rail use is growing in light of global trade and a shift away from using trucks for long hauls due to interstate congestion and fuel price volatility.**

#### Outlook on Rail Use Viability-

Rail use is growing in light of global trade and a shift away from using trucks for long hauls due to interstate congestion and fuel price volatility. The connectivity railroads provide to intermodal terminals, ports, natural resource transfer facilities, and manufacturing facilities enables companies to leverage the efficiency and environmental benefits of rail. Much of the existing rail traffic for New York State originates or terminates on short lines and regional railroads that connect to CSXT, Norfolk Southern Corporation (NSC), or Canadian Pacific Railroad (CP).

As example, CSXT lured over 100 industrial projects to its lines in 2008<sup>1</sup>. Projects included 63 new industries and the expansion of 42 others, and are expected to create 3,400 new jobs and nearly 150,000 additional carloads. Both NSC and CSXT are seeking public funding to accelerate rail-corridor projects, supported by the public benefits of limiting fuel use, traffic congestion, air pollution, and better transportation service of goods. The idea is gaining backers, and Congress continues to pass a railroad investment tax credits to fund rail improvements on an annual basis.

The following states represent some of CSXT's larger projects for 2008:

State	Annual Carloads	Jobs Created	Investment
New Jersey	8,326	138	\$ 28,020,000
New York	12,518	85	\$ 99,159,000
Ohio	10,370	161	\$305,150,000
Pennsylvania	3,600	650	\$ 46,545,000

#### What kind of industry is moving to rail?

Just about any industry can use rail. Roughly half of the investment dollars shown above in 2008 were related to energy related firms such as ethanol and bio-diesel facilities, as well as facilities for recycling or environmental remediation. Some projects matched stone producers and electric utilities to facilitate rail shipment of high-calcium limestone for use in 'scrubbing' power plant air emissions to reduce atmospheric sulfur dioxide. Yet other projects included facilities that handle construction materials such as stone, cement and asphalt, plastic products, consumer goods, metals, grain, paper, lumber, coke production, steel processing, and solid waste disposal.

#### Planning Your Move to Freight Rail Transportation

Becoming familiar with freight rail carriers and options for service is the first step for potential shippers. Should a regional carrier determine they can provide services to a business, they will provide you with approved consulting firm list to help you with the site plan development and approval process. In addition, CSXT & NSC offers assistance for development of infrastructure to connect customers to its rail systems that includes site layout services such as industrial park planning, site layout, track design, and logistics assistance.

#### A Word About C&S Engineers.

C&S Engineers is a full service civil engineering firm with offices throughout North America. C&S has achieved a wide range of successful projects for Transportation and Industrial markets, and has been the recipient of numerous professionally recognized awards.

Contact us at C&S Engineers for assistance in existing or proposed freight rail projects. We will prepare potential rail shippers with what to expect when working with a railroad, options for transportation of manufactured goods, project planning and development, and possible funding opportunities that may be available to you.



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## Personnel Matters

### Wellness and Productivity

From HR.com

The U.S. Congress is considering giving “employers sweeping new authority to reward employees for healthy behavior, including better diet, more exercise, weight loss and smoking cessation” reports Robert Pear of *The New York Times*.

Preventable health conditions can lower our quality of life and impact our work performance. Sean Sullivan, CEO of The Institute for Health and Productivity Management (IHPM) warns organizations that in light of the pending shortage of skilled talent due to changing demographics, “every single person has to be as healthy as possible for the economy to even function.” Furthermore, he states that “for business, the real value of health is in performance at work.”

Statistics from the Journal of the American Medical Association support this opinion. The statistics, which are included in the report *Employer Health Asset Management*, show that the costs of employee absenteeism and presenteeism combined far outweigh medical and drug costs for common health problems (chart, page 21). Actually, the IHPM suggests that “lost productivity at work for health reasons is more than double the cost of medical care and absenteeism.”

Perhaps this is why—as *The New York Times* reports—“growing numbers of employers have adopted wellness programs after finding that they can lower health

costs and increase the productivity of workers.”

Changing demographics are intensifying health care issues. As we age, we demand more of our healthcare systems. However, The Unum Life Insurance Company of America reports that “the driver of excessive healthcare cost by age is a result of the relative health risk the person has, not the age itself.” Furthermore, Unum reports, “health risk factors such as smoking, obesity, uncontrolled blood pressure, etc. double and triple the healthcare cost of the older worker.”

Cost reduction is not the only benefit of a wellness program. According to Saratoga, other benefits include “increased productivity, improved employee loyalty, demonstrated corporate responsibility and an enhanced corporate image.”

Just as performance management initiatives can range from a few simple changes to full-blown procedures embedded in the culture of the organization, health care initiatives can also vary in depth.

Simple changes serve as a starting point. Consider for a moment a scenario in which a team is working to meet a deadline. Since team members are working through meals, they may tend to rely on unhealthy meals and too much caffeine. The need for proper nutrition and hydra-

tion in order to perform well is well documented, yet, we can all think of times we neglect to eat well and drink lots of fluids. In the example of the team, ordering healthy food in for workers during an extended working period can improve performance while contributing positively towards employee health.

So, what are organizations doing to promote healthy living? The Change Agent Work Group report *Employer Health Asset Management* is a roadmap which includes step-by-step suggestions. The report recommends—among other ideas—that organizations put some of the following items in place:

- Bike racks
- Showers, lockers, and changing facility
- Designated no-smoking areas
- Walking paths
- Flexible work schedules
- Worksite relaxation center
- Substance and alcohol-free workplace
- Stairwell enhancements (carpet, music, etc.)
- Healthy food choices in vending machines
- Healthy food offerings in cafeteria
- Healthy food subsidized in cafeteria and vending machines
- Healthy food offerings at meetings
- Facilities for employees who bring lunch.

### Consumer Price Index - Mar. 2009

				<b>Point</b>	<b>%</b>	<b>% Increase</b>
<b>Wage Earners &amp; Clerical</b>	<b>Apr '08</b>	<b>Apr.</b>	<b>Mar.</b>	<b>Increase</b>	<b>Month</b>	<b>Year</b>
1967=100	627.61	619.34	617.24	2.11	0.3	-1.3
1982-84= 100	210.7	207.93	207.22	0.71	0.3	-1.3
<b>All Urban Consumers</b>						
1967=100	643.52	638.77	637.18	1.59	0.2	-0.7
1982-84=100	214.82	212.71	212.71	0.53	0.2	-0.7
Hudson Valley Unemployment Rate for April 2009 = 6.8%						

### Place Your Company's Ad Here

The Council of Industry's monthly newsletter has a mailing circulation of 250 manufacturers and an online circulation of hundreds more.

Contact Alison Butler at [abutler@councilofindustry.org](mailto:abutler@councilofindustry.org)

or call (845) 565-1355 for more information.



## Legislative Matters

**Most significantly, the legislation added several new grounds for decertifying (i.e., removing) a certified business from the Empire Zone program.**

### Empire Zone Legislation Includes Other Important Changes In Addition To Revocation Provisions (May 11, 2009)

From Bond, Schoeneck & King, PLLC

The New York State Legislature made significant changes to the Empire Zone program as part of the Budget Bill that was enacted on April 7, 2009. Most significantly, the legislation added several new grounds for decertifying (i.e., removing) a certified business from the Empire Zone program. The new grounds for decertification, and their retroactive application to 2008 tax returns, are discussed in our April 21, 2009 Tax Alert see (which can be found at [www.bsk.com](http://www.bsk.com), Tax Practice Group web page ).

The Budget Bill contained other important changes to the Empire Zone rules, including the following:

#### Earlier Sunset Date for Empire Zone Program:

The Empire Zone Program will now expire June 30, 2010 rather than June 30, 2011. Businesses that are certified before June 30, 2010 will continue to receive Empire Zone benefits for the remainder of their original 15 year or 10 year benefit period.

#### Sales Tax Exemption Replaced with Sales Tax

Refund or Credit: Under the prior law, before the Budget Bill amendments, certified businesses were entitled to a New York State sales and use tax exemption. This exemption has been repealed effective August 30, 2009 and replaced with a sales tax refund or credit process. Beginning September 1, 2009, all certified businesses must pay sales tax on purchases that would otherwise be exempt under the prior law, and submit a claim to New York State for a refund or credit no more frequently than once each sales tax quarter.

#### Reduced Credit for Real Property Taxes and

Sales Tax Credits/Refunds: Businesses that are first certified under the Empire Zone Program on or after April 1, 2009 will be allowed a credit for real property taxes equal to 75% of the credit amount allowed to businesses that were certified before April 1, 2009. Also, businesses certified on or after April 1, 2009 will be eligible for the sales tax credit/refund only if the municipality in which the business is located has adopted a local law allowing a credit or refund of the local portion of the sales and use tax.

#### New Cost/Benefit Test for Initial Certification:

Businesses seeking initial certification to participate in the Empire Zone Program on or after April 1, 2009 must meet a cost/benefit ratio of 20:1. The new cost/benefit ratio is 10:1 for manufacturers. Under the cost/benefit test, the estimated value of all wages and benefits paid to existing and projected Empire Zone employees during the first three years following certification of the business, plus the estimated value of capital investments for the first three years of certification must be at least 20 times (10 times for manufacturers) the total estimated Empire Zone tax benefits to be received by the business and its owners for the first three years of certification.

We understand regulations will soon be issued providing guidance as to how the new rules will be interpreted and applied. The legislature may also enact technical corrections or "clean-up" provisions for the Budget Bill, perhaps including some changes to the Empire Zone legislation. We continue to monitor developments in this area. For updates, visit [www.bsk.com](http://www.bsk.com)

### 2009 Employer's Guide to New York State Labor Laws is Available

The *Employer's Guide to New York State Labor Laws* is a concise summary of labor laws applicable to employers in New York State. Updated on an annual basis by Nixon Peabody LLP attorneys, the *Employer's Guide* serves as a valuable resource for human resource professionals as well as department managers seeking a convenient reference on issues such as new NYS WARN Act, social security number use, meal periods, day of rest, minimum wage, state disability, workers' compensation, posting requirements, and more. The *Employer's Guide* is published by the Rochester Business Alliance, the regional chamber of commerce located in Rochester, New York, serving businesses for over 80 years. Arrangements have been made for Council of Industry members to purchase the *Employer's Guide* at a special discounted rate. In addition, those who purchased Guides in the past year can purchase just the update packet to bring your Guide current, instead of having to purchase a whole new Guide.

For more information or to order, please refer to the enclosed brochure or contact Jennifer Suppe at RBA by phone (585) 256-4608 or e-mail [jennifer.suppe@rballiance.com](mailto:jennifer.suppe@rballiance.com)



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## Member Profile

**Member Profile:** Woodstock Percussion, Inc.

**Year Founded:** 1979

**Location:** Shokan, NY

**Products:** Manufacturer and distributor of windchimes and children's musical instruments.

**Website:** [www.chimes.com](http://www.chimes.com)



When Garry Kvistad started Woodstock Percussion (and their brand Woodstock Chimes) thirty years ago, he knew there was enormous potential for his business as long as he developed a wholesale business and was able to market his products to the general public. In the beginning Kvistad was producing a few sets of windchimes, but to increase the demand, he knew he needed to use the media. Garry decided to let his chimes speak for themselves. He sent sets of his original Chimes of Olympus® to a few select media people. It all started with Susan Stamberg at NPR's All Things

Considered news program in 1980. She loved the chimes and invited Kvistad to be interviewed. The response to that exposure was phenomenal. A short while later, Kvistad sent a set of chimes to Gene Shalit at NBC's *The Today Show*.

Once again, Garry was invited to be on the show and this time the exposure led to retail store owners contacting Woodstock Percussion. That's when the company really took off.

Getting noticed is one thing, but staying on the forefront of the industry is another. Woodstock Chimes stands out from the majority of other windchimes on the market today because of the quality of their sound. Many windchime manufacturers produce a product that looks a certain way, with little attention paid to the pitch and harmony of the sounds it produces. At Woodstock Percussion, windchimes are considered musical instruments. A lot of attention is paid to how the tubes vibrate. Each set of tubes is tuned to a specific

in-

group of notes, often from an existing scale or melody. The length of the tube determines the pitch, but because of variables in the tube diameter, wall thickness and temperament, each tube needs to be tuned individually. Woodstock Percussion uses state of the art tuning machines to accomplish this. The construction of the chimes is crucial as well. The density of the wood, the place where the string goes through the tubes, the placement of the clapper and the weight of the windcatcher are all factors in the correct sound of the finished product.

Woodstock Percussion manufactures a wide range of chimes; there is a set for every possible occasion and price range. Some of the designs are variations on popular current models with new colors or new elements. When a design is completely different it requires a great deal of sourcing for new parts or manufacturing techniques. Occasionally someone will send Woodstock Percussion a design that

really stands out and they will license it, but the vast majority of their designs are their own original creations. Kvistad likes his products to be unique.

When a company becomes successful it is often tough to keep up with demand; this was a challenge Kvistad faced as his business grew. Up until six

years ago, Woodstock Chimes were manufactured domestically. While everything else is done in Shokan, NY, the chimes themselves are manufactured in many parts of the world, in safe facilities with humane working conditions that are inspected often. This allows Woodstock Percussion the margin needed to grow the company.

Another key to keeping a company growing is staying ahead of the curve and Kvistad seems to be way ahead. Woodstock Percussion has been using computers since the early 1980s for product design and for controlling CNC machines. They also had the foresight to register the domain name [www.chimes.com](http://www.chimes.com)

early on. The latest "green" craze is nothing new for a company that has produced wind powered products for thirty years.

Reduce, reuse, recycle has always been part of Woodstock Percussion, way before it became chic. In fact, Kvistad built his first metallophone from an aluminum lawn chair he found at the local landfill in the early 70's. In addition, many Woodstock Chimes are made from laminated bamboo components, bamboo being a sustainable material that can grow much faster than hardwoods. This is a company that is looking to the future and ways to make that future better.

There are many factors that contributed to making Woodstock Percussion the successful company it is today. It is similar to the many notes that make up a melody working with each other, each in just the right spot at the right time. One factor in their success is their dedication to a quality sound. This focus on quality and sound has also brought the Woodstock Music Collection, the children's musical instruments that Woodstock Percussion manufactures and distributes, awards and acclaim over the last few years. The various children's instruments have been given outstanding reviews by *Creative Child Magazine*, *Family Fun Magazine* and *Time Magazine*. Of course, Woodstock Chimes have also earned their share of accolades as well from magazines such as *InStyle*, *Fortune Small Business* and the *Wall Street Journal*. It is great when ingenuity and being truly invested in the product come together this successfully, like a piece of beautiful music.



A supersized Woodstock Chimes that stands in front of the Woodstock Percussion Inc. Facility in Shokan, NY.

***At Woodstock Percussion, windchimes are considered musical instruments. A lot of attention is paid to how the tubes vibrate. Each set of tubes is tuned to a specific group of notes, often from an existing scale or melody.***



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## EHS Matters

**"Penalties are the key enforcement mechanism under the OSH Act. They must be real. They must be meaningful. They must function to deter violations. They must get people's attention and these enforcement mechanisms must not be a mere cost of doing business."**

### "Protecting America's Workers Act": Reintroduced Bill Overhauling OSHA to a Hospitable Congress

From JacksonLewis.com

In an attempt to amend the Occupational Safety and Health Act of 1970 (the "OSH Act"), to expand coverage to additional workers, to increase protections for whistleblowers, and to increase penalties for certain violations, Representative Lynn Woolsey (D-CA) has reintroduced the Protecting America's Workers Act (H.R. 2067) ("PAWA"). PAWA is sponsored by 17 members of the House of Representatives, and according to Senator Edward Kennedy (D-MA), a similar version of the bill will be introduced shortly in the Senate. PAWA had been introduced in 2004, 2007 and 2008 without success, but with increasing Congressional support. Both President Barack Obama and Vice President Joe Biden, then Senators, were co-sponsors of the previous versions of PAWA.

PAWA would boost workplace safety by expanding the OSH Act, according to its proponents. Among other things, the legislation would:

#### 1. Increase penalties for OSHA citations.

Representative George Miller (D-CA), Chairman of the Education and Labor Subcommittee, said, "[P]enalties are the key enforcement mechanism under the OSH Act. They must be real. They must be meaningful. They must function to deter violations. They must get people's attention and these enforcement mechanisms must not be a mere cost of doing business." Thus, PAWA proposes the following:

#### Civil Penalties

PAWA amends the civil penalties provided in the OSH Act. For example, the minimum civil penalty for willful or repeated violations would increase from \$5,000 to \$8,000 and the maximum penalty would increase from \$70,000 to \$120,000. Should a willful or repeated violation cause an employee's death, PAWA creates a

new penalty structure with a minimum penalty of \$50,000 (\$25,000 for employers with less than 25 employees) and a maximum of \$250,000. Serious or "other" violations receive an increased maximum penalty from \$7,000 to \$12,000; while a fatality caused by a serious violation would result in a penalty from \$20,000 (\$10,000 for employers with less than 25 employees) to \$50,000. Further, PAWA's failure-to-abate penalties increase to \$10,000 per day from \$7,000. PAWA also provides that civil penalties be adjusted at least once every four years to account for inflation.

#### Criminal Penalties

Additionally, PAWA removes the requirement that workplace fatalities must occur before criminal charges may be brought for willful violations. It provides for possible felony prosecution as a result of an employer's repeated and willful violations which result in an employee fatality or serious bodily injury. Criminal penalties upon conviction also would increase in range from a minimum of six months in prison to 10 years for a first offense and from a maximum of one year to a maximum of 20 years for repeat offenses. Further, if a willful violation causes serious bodily injury, but did not cause death, criminal penalties could include imprisonment for up to 5 years for a first offense, and 10 years for a repeat violation.

#### 2. Increase "Whistleblower" (Section 11 (c)) Protection.

The OSH Act Whistleblower provisions have remained unchanged since the Act's enactment in 1970. PAWA would amend the OSH Act to protect an employee "reporting any injury, illness, or unsafe condition" to the employer, agent of the employer, safety and health committee involved, or employee safety and health representative involved. OSHA's whistleblower regulations and recordkeeping rule provides certain similar protections presently.

**(Continued on page 10)**

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## CI Calendar—What’s Ahead

June 19	<b>Human Resources Sub-council Meeting: Lessons Learned from “The Office” - Workshop on Labor and Employment Law</b> - 8:30 - 10:00 am at The Council of Industry Office, The Desmond Campus, Newburgh, NY. Cost: None for members.
Aug 11, 12, 13	<b>Lean &amp; Six Sigma: Lean Six Sigma Yellow Belt Training</b> - 8:30am — 4:30 pm at Kolmar Laboratories, Port Jervis, NY. Cost \$300 per person, must register in teams of three from one company.
Aug 24	<b>SAVE THE DATE! The Council of Industry’s Annual Golf Outing!</b> 12:30 Lunch, 1:30 Shotgun. Cost: \$135 per person/ \$410 for a foursome. <a href="#">Sponsorships are available.</a>

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## Energy Matters

### Energy 1010 - What Are the Major Sources and Users of Energy in the United States?

The major energy sources in the United States are petroleum (oil), natural gas, coal, nuclear, and renewable energy. The major users are residential and commercial buildings, industry, transportation, and electric power generation. The pattern of fuel use varies widely by sector. For example, oil provides 96% of the energy used for transportation, but only 2% of the energy used to generate electric power. Understanding the relationships between the different energy sources and their uses provides insights into many important energy issues.

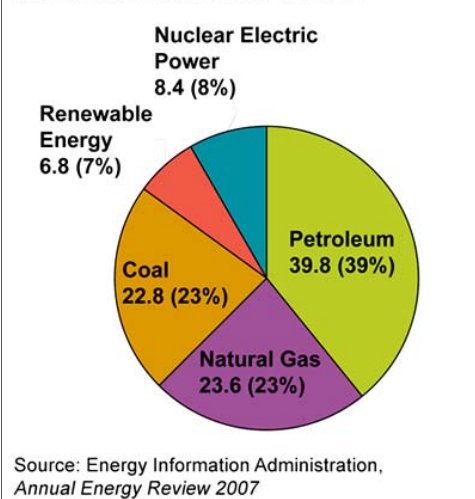
Primary energy sources are commonly measured in different units: barrels (= 42 gallons) of oil, cubic feet of natural gas, tons of coal. To compare across fuels, we need to use a common unit of measure. The United States uses Btu, or British thermal units, which measure fuel use by the energy content of each fuel source.

Total U.S. energy use in 2007 was a little more than 100 quadrillion (or one thousand trillion) Btu. One quadrillion Btu, often referred to as a “quad,” therefore represents about 1% of total U.S. energy use.

In physical energy terms, 1 quad represents 172 million barrels of oil (8 to 9 days of U.S. oil use), 50 million tons of

coal (enough to generate about 2% of annual U.S. electricity use), or 1 trillion cubic feet of natural gas (about 4% of annual U.S. natural gas use).

**Primary Energy Use by Source, 2007, Quadrillion Btu and Percent**



The number of quads used in 2007 from each primary energy source is shown in the pie chart. Petroleum (oil) provides the largest share of U.S. primary energy, followed by natural gas, coal, nuclear energy, and renewable energy (including hydropower, solar, geothermal, wind, and biomass).

Primary energy includes petroleum,

natural gas, coal, nuclear fuel, and renewable energy. Electricity is a secondary energy source that is generated from these primary forms of energy

The mix of primary energy sources varies widely across demand sectors. Energy policies designed to influence the use of a particular primary fuel for environmental, economic, or energy security reasons often focus on sectors that are major users of that fuel.

For example, because 70% of petroleum (oil) is used in the transportation sector, where it provides 96% of the total energy used, policies to reduce oil consumption have tended to focus on the transportation sector. These policies usually seek to increase fuel efficiency or promote alternative fuels. Ninety-one percent of coal, but only 2% of oil, is used to generate electricity, suggesting that policies affecting electricity generation are likely to have a much larger impact on coal use than oil use.

Some primary energy sources, such as nuclear and coal, are entirely or predominately used in one sector. Others, like natural gas and renewables, are more evenly distributed across sectors. Similarly, while transportation is almost entirely dependent on one fuel (oil), electric power uses a variety of fuels.

**(Continued from Page 8 EHS Matters)**

Additionally, PAWA prohibits discharging or discriminating against an employee "for refusing to perform the employee's duties if the employee has a reasonable apprehension that ... [to do so] would result in serious injury to, or serious impairment of the health of, the employee or other employees." The bill states that "when practicable," employees must have sought and been unable to obtain correction from the employer. Should an employee not be able to obtain correction from the employer, the employee has 180 days to file a complaint. If the Secretary of Labor finds merit to a complaint, a preliminary order is issued. The order may correct the violation, reinstate the employee with backpay, provide compensatory damages and may include costs and attorney's fees. Employers may contest the preliminary order, *but* reinstatement will stand during the hearing process. Under current law, an employee has 30 days in which to complain to Occupational Safety and Health Administration (OSHA) of an alleged discriminatory act. If, after investigation, OSHA finds merit to the employee's complaint, it must file an action in federal court to obtain relief, unless a settlement is reached.

**3. Employee and Union Objections to Proposed Penalties.**

PAWA would allow employees or their representatives to object to a withdrawal or modification of a citation or proposed penalty under an agreement between OSHA and a cited employer. Employees or their unions have the right to an OSH Review Commission hearing on objections and to determine whether the settlement adequately abates the alleged violations. PAWA also eliminates "unclassified" violations, which sometimes enable employers to avoid a record of "willful" violations.



PAWA has been referred to the House Committees on Education and Labor for consideration. As further developments occur, we will keep you advised.

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**4. Extend the OSH Act Definition of "Employer" to include "The United States, A State, or a Political Subdivision of a State."**

Currently the OSH Act fails to cover 8.5 million American workers, including federal, state and local public employees. PAWA provides OSHA protection to a majority of these workers.

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**(Continued from Page 3 Loss Prevention)**

this looks at the real reason an incident occurred and what specific factors contributed to the loss or near loss. This type of analysis will help to focus on the root cause and not just look at the symptoms.



Cris Altman, Groundwater & Environmental Services, Inc. points out the benefits of having a Loss Prevention System in place.

Some of the most common root causes are:

- Lack of skill or knowledge
- Doing the job the right way takes more effort
- Short cuts have been reinforced or tolerated
- The job has "always been done this (wrong) way" and nothing bad has happened (yet).
- Lack of or inadequate procedures
- Lack of or inadequate expectations or communication
- Lack of or inadequate tools or equipment

The final root cause which is only the cause of less than 2% of loss or near loss is "Nothing could be done about it."

The next tool in this Loss Prevention System is Loss Prevention Observation (LPO) which is a peer evaluation which take place from time to time observing how a task or job is performed compared to company procedure or the JSA. This is followed up with positive feedback and if any questionable procedures are observed those are addressed and corrected. The goal is reinforce correct behavior and eliminate unsafe procedures.

The remaining tools are the Near Loss Investigation and Loss Investigation of which Mr. Altman stress that it is important to analyze. And finally the last tool is Stewardship or the management of these LPS tools. It is important to focus on the quality of the process and once again that this is a system that every level of the company participates in from the top down.

## Manufacturing Matters

### Immigration Stimulus

From The Wall Street Journal

At the dawn of the Industrial Age, in 1719, the British Parliament passed a law banning craftsmen from emigrating to France or other rival countries. The law also targeted anyone who tried to entice skilled British workers to share technological information with foreigners.

"At that time the chief concern was the loss of iron founders and watchmakers," Gavin Weightman writes in his new book, "The Industrial Revolutionaries." Spies from around the world tried to uncover the secrets of British engineering, but "were often reduced to lurking around local inns, hoping to engage knowledgeable workmen in conversation and induce them to cross the Channel for some splendid reward."

This attempted protectionism of ideas was doomed by easier travel and communication. The precursor to the London Times complained in 1785 that a Briton who set up a textile plant in France had "entailed more ruin and mischief on this kingdom than perhaps even the loss of America."

Which brings us to our own era, and the debate on immigration reform beginning this week with congressional hearings that include an appearance by former Federal Reserve Chairman Alan Greenspan. President Barack Obama says he wants to address the issue by the end of the year.

It usually pays to be skeptical about immigration reform, given the alliance between nativists and labor unions for tighter borders. Still, an economic downturn is the right time to move on immigration, one of the few policy tools that could clearly boost growth.

The pace of lower-skilled migration has slowed due to higher unemployment. This could make it less contentious to ease the path to legalization for the 12 million undocumented workers and their families in the U.S. It's also a good time to ask why we turn away skilled workers, including the ones earning 60% of the advanced degrees in engineering at U.S. universities. It is worth pointing out the demographic shortfall: Immigrants are a smaller proportion of the U.S. population than in periods such as the late 1890s and 1910s, when immigrants gave the economy a jolt of growth.

Immigrants have had a disproportionate role in innovation and technology. Companies founded by immigrants include Yahoo, eBay and Google. Half of Silicon Valley start-ups were founded by immigrants, up from 25% a decade ago. Some 40% of patents in the U.S. are awarded to immigrants. A recent study by the Kauffman Foundation found that immigrants are 50% likelier to start businesses than natives. Immigrant-founded technology firms employ 450,000 workers in the U.S. And according to the National Venture Capital Association, immigrants have started one quarter of all U.S. venture-backed firms.

Banks getting federal bailouts are saddled with new hurdles to get visas for skilled workers. The wait for H-1B visas for skilled people from countries such as China and India is now more than five years, with only 65,000 visas granted annually among 600,000 applications. But countries such as Canada and Singapore actively recruit technologists and scientists. As Intel Chairman Craig Barrett has suggested, instead of sending the half million higher-education students from overseas home when they graduate, we should "staple a green card to their diplomas."

Economic recovery and immigration are closely linked, as New York City Mayor Mike Bloomberg also understands. Last month he launched a business-plan competition targeting business and engineering students overseas with winners getting cash and introductions to venture capitalists in the city. "Unfortunately, as we're moving to open our doors even wider to the world, Congress is moving in the opposite direction," Mr. Bloomberg said.

There's a strong case that we need both more skilled and unskilled immigrants. In "The Venturesome Economy," Columbia business professor Amar Bhidé showed that wherever technology is developed, it's the creative application of innovation that builds great businesses. The Web was conceived in a lab in Switzerland, but it matured in Silicon Valley. Mr. Bhidé argues that immigrants at all levels, including as "venturesome consumers," are an important reason the U.S. retains a strong lead in innovation, even as the lead in advanced technology and science

***At a time when our financial-capital markets are still reeling from the credit bust, the human-capital market remains open for business. Fewer workers will be lured to the U.S. during a recession, but the ones who come will speed recovery.***

has eroded.

At a time when our financial-capital markets are still reeling from the credit bust, the human-capital market remains open for business. Fewer workers will be lured to the U.S. during a recession, but the ones who come will speed recovery. There are costs to immigration, especially in border states with generous welfare programs, but the overall benefit is akin to the advantages of free trade in goods and services.

In contrast to the early days of the Industrial Revolution, when manufacturing secrets drove competitive advantage, today's information technologies thrive as innovators share new ideas and make businesses out of them. Much of this activity is being done by foreigners who want to become economically successful Americans. This makes more open immigration one of the few stimulus packages Washington can deliver with confidence that it would help.

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