STATEMENT OF

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On behalf of ORC Worldwide, I would like to thank the Subcommittee for this opportunity to discuss how to make sure that serious risks to worker safety and health get addressed on a corporate-wide basis. We appreciate being able to share ORC member company experience in this area.

ORC Worldwide is an international management and human resources consulting firm whose Washington, DC office has for 36 years provided specialized occupational safety and health consulting services to businesses and other organizations. Currently, more than 140 leading global corporations in more than 20 industry sectors are members of ORC's Occupational Safety and Health Groups. The focus of these groups is to help ORC members achieve safety and health excellence by promoting effective occupational safety and health programs, benchmarking and sharing best practices in areas such as management systems and performance metrics, and creating new strategies and tools to improve safety and health performance. ORC is also a key industry voice on national and global safety and health policy issues. The activities of ORC's Occupational Safety and Health Groups are based on the premise that providing safe and healthful working conditions is the mutual concern of employers, workers and government agencies and that cooperation and collaboration among these key stakeholders is essential to finding solutions to safety and health issues.

How can a company make sure that a safety or health risk that is known to exist at one of its location does not go unnoticed or ignored at another location? At the very least, if there is an OSHA citation or a worker suffers an injury or even a near-miss incident at one company establishment, what steps does the business need to take to assure that no worker is endangered by a similar risk at some other company facility? I will do my best today to offer Mr. Torres and his family hope that there are real, practical answers to these questions and that there are effective approaches that companies can and do use to prevent the kind of tragic loss they have suffered.

But let me comment briefly before going further that OSHA clearly has an important role to play in ensuring safety and health risks are addressed on a corporate-wide basis. It was during my years at OSHA in the mid-1980s that the egregious penalty policy was

developed and implemented in order to enhance OSHA's enforcement arsenal in the case of flagrant multiple serious safety and health infractions. It is entirely appropriate for OSHA to impose the strongest possible sanctions when a company acts in intentional or reckless disregard of the requirements of well-established OSHA standards addressing serious risks to workers, especially in cases of multiple identical or similar citations across a corporation's facilities. Any company that receives citations for serious violations of an OSHA standard, particularly high-gravity serious violations, in one or more facilities, simply must establish the necessary processes and systems to require other locations with similar operations to determine the existence of like violations, and to correct any potentially serious violations that are found.

Unfortunately, we know from our experience that even companies that work diligently to comply with OSHA standards will not necessarily have an effective process for assuring that findings of non-compliance in one facility will be made known across the organization and addressed at other facilities. There are several important prerequisites to having an effective corporate-wide approach to finding and fixing similar hazards at multiple locations.

Top Leadership Commitment to Full Compliance

It will not come as a surprise that the indispensable foundation for effective action is the establishment of a clear and authoritative policy from a corporation's senior leadership, preferably the CEO, stating explicitly that the corporation as a whole will insist on full compliance with all worker safety and health standards and requirements. Without such a policy, and without senior leadership actively engaged in monitoring compliance progress consistent with the policy, it will be extremely difficult to sustain the effort necessary to attain full corporate-wide compliance.

Implementation of an Occupational Health and Safety Management System

But even a clearly articulated policy of full compliance from company leadership, while essential, is by itself insufficient to assure that the necessary actions are taken to actually attain and sustain corporate-wide compliance. Companies that consistently achieve superior safety and health performance, and that seek continual performance improvement, rely on a management system that includes several key elements. Probably the most up-to-date, complete and accessible description of an effective health and safety management system (OHSMS) is the 2005 ANSI Z10 American National Standard for Occupational Health and Safety Management Systems. It is important to understand that the fundamental goal of a comprehensive OHSMS is the elimination of injuries and illnesses *through a continuous process of identifying, assessing and reducing risks*. While most corporate management systems include compliance with safety and health standards in their scope, the focus of the system is more broadly on the reduction of *all* risks, not just those covered by OSHA standards.

A few of the key elements of an effective management system that are particularly applicable to the corporate-wide abatement of hazards covered by OSHA requirements are:

- **Establish clear responsibility, authority and accountability through all levels of the corporation.** From the CEO to the shop floor, all management levels and line employees must be assigned and understand their roles in the management system for finding and fixing hazardous conditions. In addition, each level of the business must have the authority and the resources to get the job done, and each must be held accountable for achieving results.
- **Encourage employee participation and reporting of unsafe conditions.** No safety and health management system can function effectively without employee participation in key aspects of the system's development and implementation. Line employees are a company's most knowledgeable resources about hazardous conditions and they must be encouraged to report such conditions with full confidence that management will take prompt corrective action.
- **Perform regular safety inspections and audits.** Part of the responsibility of management in each company facility is to perform periodic systematic reviews of the each workplace to identify, evaluate and ultimately control risks, including potential OSHA violations.
- **Perform root cause investigations of significant incidents (near-misses as well as injuries and illnesses).** Most large employers and other businesses that have employed safety and health professionals at the corporate and/or the facility levels, perform investigations of incidents involving serious injuries. However, it is also important to investigate, where resources permit, near-miss incidents, particularly those where serious injury could have occurred. The nature of those investigations should go beyond looking at the "unsafe act or behavior" of the worker involved, and should examine more closely the "root causes" of the incident. It is ORC's experience that, in general, there are usually more fundamental systemic, cultural, workplace design or other reasons for such incidents that need to be addressed beyond the worker behavior.
- **Establish metrics that go beyond OSHA-recordable injuries and illnesses.** In order for a management system to be most effective as a tool for the prevention of injuries and illnesses, companies should establish metrics for tracking leading indicators of the company's success in identifying and reducing risks and exposures, rather than collecting only the traditional "lagging" measures of how many injuries or illnesses occurred. So, for example, company leadership should want to know how much time it is taking to correct potential serious OSHA violations once they are found, or whether the company is successfully reducing the numbers of occurrences of certain kinds of risks or exposures, e.g., machine guarding.

Integration of Special Procedures for Corporate-Wide Compliance.

While the above elements constitute some of the basics of an effective OHSMS, even ANSI Z10 and other management system guidelines do not explicitly address the issue of

how to assure that risks (including potential OSHA violations) discovered at one company location are necessarily dealt with at other locations. To be perfectly candid, that has proven to be a challenge for some companies that have otherwise effective programs. Companies that have recognized this particular aspect of managing risks have enhanced their management systems with special measures designed to assure such multi-site awareness and response. Examples of these measures include:

- A requirement for each workplace in a corporation to report significant incidents, risks or potential violations to a centralized corporate function or team.
- A preliminary review of those reported events at the corporate level to assess whether there might be a significant potential likelihood of occurrence in other locations of the company.
- A notification or "alert" to locations with the potential for similar issues, describing the issue.
- Assigning responsibility and accountability to the other locations for evaluating the issues, determining appropriate action and providing feedback to the corporate function or team.
- Follow-up (much like for an audit) at the corporate level to assure closure of any potential violations found at other locations.

Although the execution of an effective approach to a uniform corporate-wide approach to multi-establishment compliance requires a significant and focused effort, the basic principles of leadership commitment, a systems approach, effective organizational communication and vigilant follow-up are the keys to success.

Challenges and Opportunities for OSHA

Let me turn for a moment to how OSHA can contribute to assuring that corporations with multiple facilities take effective action across the corporation to maintain compliance. In my view, from an enforcement perspective, OSHA faces a few longstanding institutional impediments to adopting a more corporate-wide orientation, among the most significant of which are:

- The entire enforcement regime of the Occupational Safety and Health Act of 1970 is based on the inspection of individual "establishments" rather than corporate entities. As a result, OSHA's inspection targeting strategy has been based on the safety and health experience at individual workplaces and the constitutional underpinnings of OSHA's inspection authority have been affirmed on that basis. That is not to say that OSHA could not refocus its efforts, where policy considerations warrant it, to a broader, more corporate-wide approach. In fact, OSHA has done so on a limited basis, in its use of corporate-wide settlements, its application of the repeat violation policy, and even to a limited extent in the Enhanced Enforcement Program (which has been recently been modified).
- Perhaps bigger practical impediments to an expanded corporate-wide enforcement policy are the ways in which safety and health data are collected and maintained at both the governmental and company levels. Again, reflecting the

establishment-based orientation of the OSH Act, the Bureau of Labor Statistics and OSHA do not systematically collect or maintain either injury and illness data or, in OSHA's case, citation history on a company-wide basis. And of course, OSHA collects data only from a limited number of workplaces nationwide, so it would rarely have in its data base a complete or even representative set of data from any multi-establishment corporation. And while many large multi-facility companies do collect and often analyze some injury and illness data at the corporate level, it is often a limited subset of the data from all of its facilities.

- There is also the bureaucratic version of the "silo" issue faced by many organizations, including corporations – each OSHA Area Office and each OSHA Region and each State Plan State has its own priorities, goals and targets in terms of inspections of the unique mix of establishments in these "mini-jurisdictions." If OSHA is to address more fully and strategically violations by a single company at multiple sites throughout the nation, the agency would need to institute some special program (akin to a National Emphasis Program) that encourages or requires coordination and the exchange and analysis of information, followed by action.

Despite these issues, there would appear to be solid reasons for OSHA to consider additional ways to examine a company's compliance on a corporate-wide basis under limited circumstances. Most fundamentally, OSHA is always looking for ways to leverage its scarce resources in order to maximize its impact – such a focused corporate-wide approach may be one way to further that objective. By the same token, any new or enhanced program to focus more heavily on corporate-wide compliance would have to balance the additional resources required against the potential impact of the program.

One possible approach OSHA could take would be to establish certain "triggers" whereby if an Area or Regional Office has experienced a citation history of a designated "high" magnitude at the establishment or establishments of a corporation known to have national operations, this history could be brought to the attention of the National Office and other potentially affected Regions for an evaluation of the company's compliance experience nationally. If the analysis finds similar compliance histories in other company locations, OSHA could establish a series of steps ranging potentially from notification of the company's senior management of these findings and requesting a corporate review, to more intensive enforcement efforts at other company locations.

Finally, on a more general note, ORC would strongly encourage OSHA to search for new ways to promote and advocate the value of safety and health management systems as a critical tool to reducing risk and achieving full compliance. In the long term, nothing will have a more significant impact on the reduction of risks, injuries and illnesses, as well as improved compliance, than the widespread adoption of such systems - OSHA can play a critical role in this effort.

ORC looks forward to working with the Subcommittee as it continues to evaluate the issues raised in this hearing and other approaches to reducing injuries and illnesses in the workplace.