

**Statement of
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**Before the
Committee on Education and the Workforce
Subcommittee on Workforce Protections
U.S. House of Representatives**

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Thank you Chairman Walberg, Ranking Member Woolsey and members of the subcommittee for granting me the opportunity to speak before you today about the Occupational Safety and Health Administration's (OSHA) Voluntary Protection Programs (VPP).

My name is Davis Layne and I currently serve as executive director of the Voluntary Protection Programs Participants' Association, Inc. (VPPPA). I got my start in the safety and health field working with the U.S. Army Material Command Field Safety Agency and subsequently joined OSHA in 1971 as a compliance officer, served as an area director in three offices, a deputy regional administrator, a regional administrator and retired as deputy assistant secretary for the agency in 2004.

I was initially skeptical of VPP when I first encountered it as a deputy regional administrator. However, after seeing the profound impact it can have in workplaces of all sizes, I have come to believe that there is simply no better approach to nurture a culture of safety and health excellence.

Program History and Overview

VPP got its start as a pilot program with California's Division of Occupational Safety and Health, also known as Cal/OSHA, during the first Jerry Brown administration in 1979. The program proved to be a tremendous success and was adopted by federal OSHA in 1982. Since then, it has grown steadily through every administration and enjoyed bipartisan support. Impressed by VPP's track record, the Department of Energy (DOE) created its own version of the program in 1994 to address the unique hazards its employees face. In 1998, federal government worksites became eligible for VPP.

VPP is comprised of four elements: Management Commitment and Employee Involvement; Worksite Analysis; Hazard Prevention and Control; and Safety and Health Training. These four focuses form the basis of a superior worksite safety and health culture that supports cooperation, trust and innovation. After a worksite has maintained a VPP-quality safety and health management system for at least a year, as outlined by OSHA's VPP Policies and Procedures Manual, it then undergoes an extensive qualitative audit of said system. This entails an onsite inspection of the working environment, an examination of records and documentation and

interviews with employees. If all of these support the criteria set forward by OSHA and the site has maintained injury and illness rates below the average for its industry, then it will be approved for VPP. On the whole, VPP sites have rates 50% below industry averages.

Value for Participants

Aside from the direct impact on worker safety and health, VPP has many important benefits for American businesses and communities. As worksites come together to address occupational hazards, they build a sense of community and trust that creates a beneficial cycle of involvement. Employees feel more valued and look out for the well-being of their peers and contribute more to the worksite's safety and health efforts. Productivity and awareness rise because of reduced time away from work due to injuries and illnesses and morale improves.

Another key component of VPP is outreach. Sites are encouraged to share their knowledge and experience with industry peers and the local community, benefiting an even larger section of the public. VPP employees will often supplement their safety and health teams with valuable initiatives emphasizing safety at home, environmental issues or healthy eating. These fall outside VPP programmatically, but they demonstrate how eager these workers are to use the organizational framework and attitude of VPP to effect other positive changes.

By taking part in VPP, worksites are inviting OSHA to their site. Estimates often point out that it would take OSHA more than 130 years to randomly inspect every American worksite, and more than 70 years in those jurisdictions with state programs. VPP employees have the benefit of working with regulators to improve their safety and health programs and share information and best practices. Most Americans will never interact with OSHA, or they will only if something has gone horribly wrong.

Additionally, VPP is a proactive program that calls on participants to continuously improve their systems. It is not some form of honor roll or a merit badge to be earned. Sites that rest on their laurels and only maintain the work that earned them entry into VPP will not be re-approved. They must demonstrate how they have continued to work to address any remaining hazards or improve their processes even further.

This also ensures that VPP sites are able to address hazards that are new to the working environment and unaddressed by OSHA regulations. Many OSHA standards have not been updated since the administration was formed by the Occupational Safety and Health Act of 1970. Some are even more outdated because those initial standards are based on even older legislation and rules. For example, the Safety Code for Conveyors, Cableways, and Related Equipment for the pulp and paper industry is based on an industry consensus created in 1957. Several other portions of the standard rely on guidance that also predates the formation of OSHA. VPP sites are not content to limit themselves to requirements established during the Eisenhower administration. Because of the slow nature of new standards being formulated and implemented, many hazards can remain inadequately addressed for long periods of time. VPP sites seek to tackle all hazards at a worksite, regardless of OSHA requirements, to best ensure the health and safety of their employees.

A Competitive Edge

The effectiveness of VPP yields indirect advantages for employers as well. Compensation costs are an often overlooked expense for employers. By reducing time away from work and bolstering morale, VPP can improve productivity. The National Safety Council estimated that the program saved private industry \$300 million in 2007. Additionally, federal agencies saved \$59 million that same year. Several participants have shared that they believe their operations would have been relocated abroad because of cost considerations had they not pursued VPP status.

It is for these numerous benefits that many of America's top companies have VPP sites, including: General Electric, Raytheon, Honeywell, IBM, Amazon, 3M, Kraft Foods and Morton Salt. But smaller employers also find success with VPP. Wenner Bread Products in Bayport, N.Y. has experienced a tremendous change in their workplace environment. Elisiona Valle, assistant manager to human resources at Wenner, shared, "Pursuing VPP has been an overall rewarding experience for the Wenner family [...] Wenner Bread has experienced improved labor relations within the bilingual workforce, which led to an increase in productivity and an increase in product quality." VPP provides these small businesses with a proven process for establishing a safety and health management system and the resources of hundreds of other sites eager to reach out to interested companies.

VPP worksites represent the breadth of the American economy, with approximately one million workers at approved sites across more than 400 industries. These are not limited to large manufacturing and plant environments either; office locations have been approved for VPP, addressing the ergonomics and other hazards faced by an increasing percentage of the nation's workforce. More than 46% of VPP worksites have less than 100 employees.

Organized Labor's Vital Contribution

Unions at prospective VPP sites are involved in every step of the process to attaining VPP status. As part of overall employee involvement, union participation and contributions are considered vital. Any union, even if it is one of many at a worksite, can halt a site's preparation for VPP. This also holds true for existing VPP sites. Any union can remove its entire site from the program. This veto power exists to ensure that all parties at a worksite are committed to safety and health excellence; if there is any concern that this goal is being jeopardized or sidelined, employees are not locked into continuing to pursue VPP approval or remaining in the program. Because of this safeguard that emphasizes the voluntary nature of VPP, more than one quarter of approved worksites host unions.

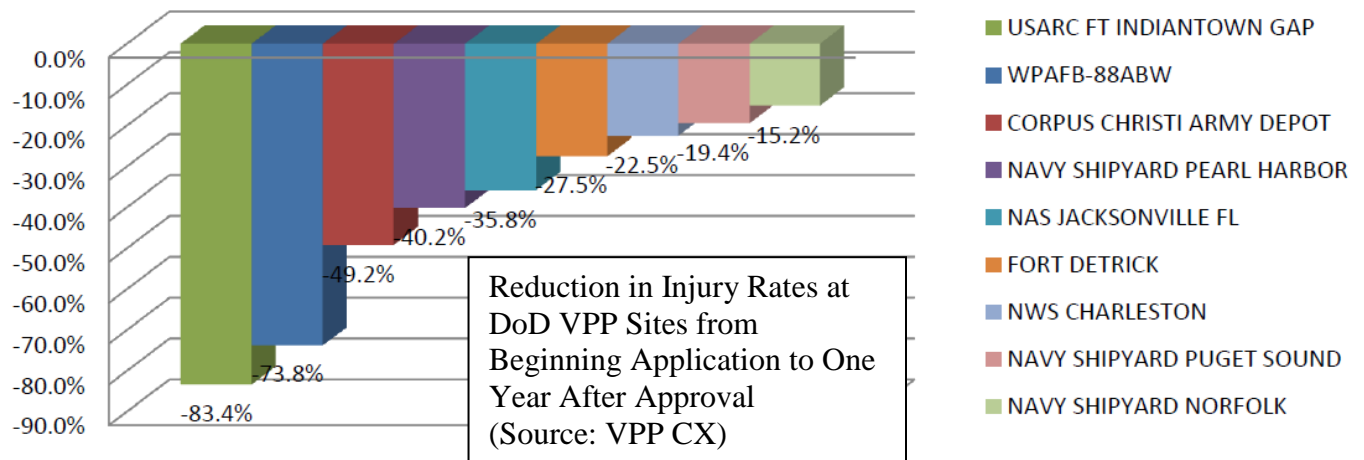
Some prominent examples of unions involved in VPP include: American Federation of Government Employees, United Steelworkers, International Association of Machinists and Aerospace Workers, International Union of Operating Engineers, International Brotherhood of Electrical Workers, Communications Workers of America and Service Employees International Union.

DoD Experience

In 2005, the secretary of defense set a goal of reducing the Department of Defense's (DoD) preventable injuries by 75% from 2002's recorded levels. Subsequently, the Defense Safety Oversight Council (DSOC) recommended that the department should utilize VPP to reach

this goal and the DoD Voluntary Protection Programs Center of Excellence (VPP CX) was formed to see this through. Currently, more than 40 DoD sites across services and agencies are approved as VPP sites with dozens of others pursuing VPP status.

The military views the safety of its employees as a key component of mission readiness. DoD VPP sites have averaged 69% lower incidence rates and 62% lower lost day rates. This has improved both morale and productivity at these locations. VPP CX holds that this has increased available military end strength and force readiness.



Since starting the DSOC and VPP, DoD has experienced a 40% reduction in Civilian Lost Time, resulting in \$149,000,000 in savings in Fiscal Year 2010. Corresponding cost savings from VPP participation due to lower rates range from \$73,000 to more than \$8.8 million per site. For instance, Pearl Harbor Naval Station has saved \$8 million since implementing VPP and realized a 40% reduction in their injury rate.

Lieutenant General William E. Ingram, Jr., director of the Army National Guard, supports VPP's mission: "Mutual commitment and accountability are fundamental to such pacesetter actions as the Occupational Safety and Health Administration's Voluntary Protection Programs, and the Guard must continue to set an example for our Soldiers by implementing such proven initiatives."

An Asset and a Resource

In the past, some have called for companies to pay for their VPP approval. This is a misguided policy proposal and is essentially tantamount to, as one participant has put it, "buying the VPP flag." It would also ruin the independent nature of the VPP process; program administrators would have perverse incentives to maximize the revenue generated by fees, potentially overlooking rural, isolated and smaller sites as a result. OSHA estimates that the program costs more than \$3 million to run annually. This figure is unequivocally dwarfed by the direct savings realized by government participants, the indirect benefits received by private industry and the human resources committed by participating companies.

In addition to the vast savings realized by DoD, other government worksites benefit from VPP. DOE runs its own VPP program that addresses the different hazards faced by its employees. Additionally, locations as varied as the U.S. Mint in Philadelphia to the Kennedy Space Center

are participating VPP sites. Colonel Robert Cabana, director of the center, states that, “Although we were already safe, VPP takes you to that next level, with strong management attention, strong contractor attention and strong workforce involvement. It really makes a difference; it’s teamwork, it’s pulling together.” Federal Government sites save millions in tax dollars as outlined previously.

Because VPP sites seek out new and more efficient ways to address hazards, they often create best practices that OSHA can share with their industry peers. Through the Special Government Employee (SGE) Program, something unique to VPP, sites are able to share their expertise even further. SGEs, after receiving training from OSHA, are sworn in to serve as temporary government employees on VPP audits to supplement up to half of the auditors assigned. This not only frees up OSHA resources, but also contributes years of knowledge and industry-specific experience. A given evaluator cannot be familiar with every work task and its associated hazards in the entire American economy. SGEs provide OSHA with the ability to ensure that VPP sites are truly delivering superior protection for their employees. Moreover, because VPP operates in a spirit of cooperation, this is another opportunity for best practices and ideas to cross-pollinate between different worksites that normally would not interact. SGEs receive no pay from the government and their travel costs are paid by their companies. If OSHA uses 330 SGEs in a given year, then using moderate estimates for travel expenses and lost work time, VPP companies contribute at least \$2 million to the program through SGEs per year.

Furthermore, acting as a force-multiplier, VPP frees up resources for OSHA as VPP site representatives become advocates for safety and health excellence, engaging in outreach and training so that other sites can improve their safety and health as well. As OSHA expresses it, VPP serves as a “corps of ambassadors enthusiastically spreading the message of safety and health system management. These partners also provide OSHA with valuable input and augment its limited resources.”

Incentive Programs

The VPP Policies and Procedures Manual, as established by OSHA, originally stated that incentive programs should not be based solely on rewarding employees for lower or no safety and health incidents. Additionally, it held that evaluations should look at existing programs with a specific eye on how they could impact reporting and the veracity of injury and illness data. With the release of VPP Policy Memorandum #5, this policy has shifted so that any program that has the “potential to discourage worker reporting” disqualifies a company for VPP. While auditors have the discretion to allow worksites a brief window to alter their incentives programs or award them VPP on the condition that they do so, some VPPPA member companies have been told that any incentive program, regardless of its nature, could jeopardize their status.

Also, OSHA did not think out all of the implications of this new policy and overlooked the fact that collective bargaining agreements can include stipulations on incentives and would need to be renegotiated in order to comply with this policy change. The administration now occasionally allows worksites in this situation more time in order to accommodate renegotiation. This makeshift solution disadvantages worksites without collective bargaining agreements that must comply with the policy in a shorter timeframe.

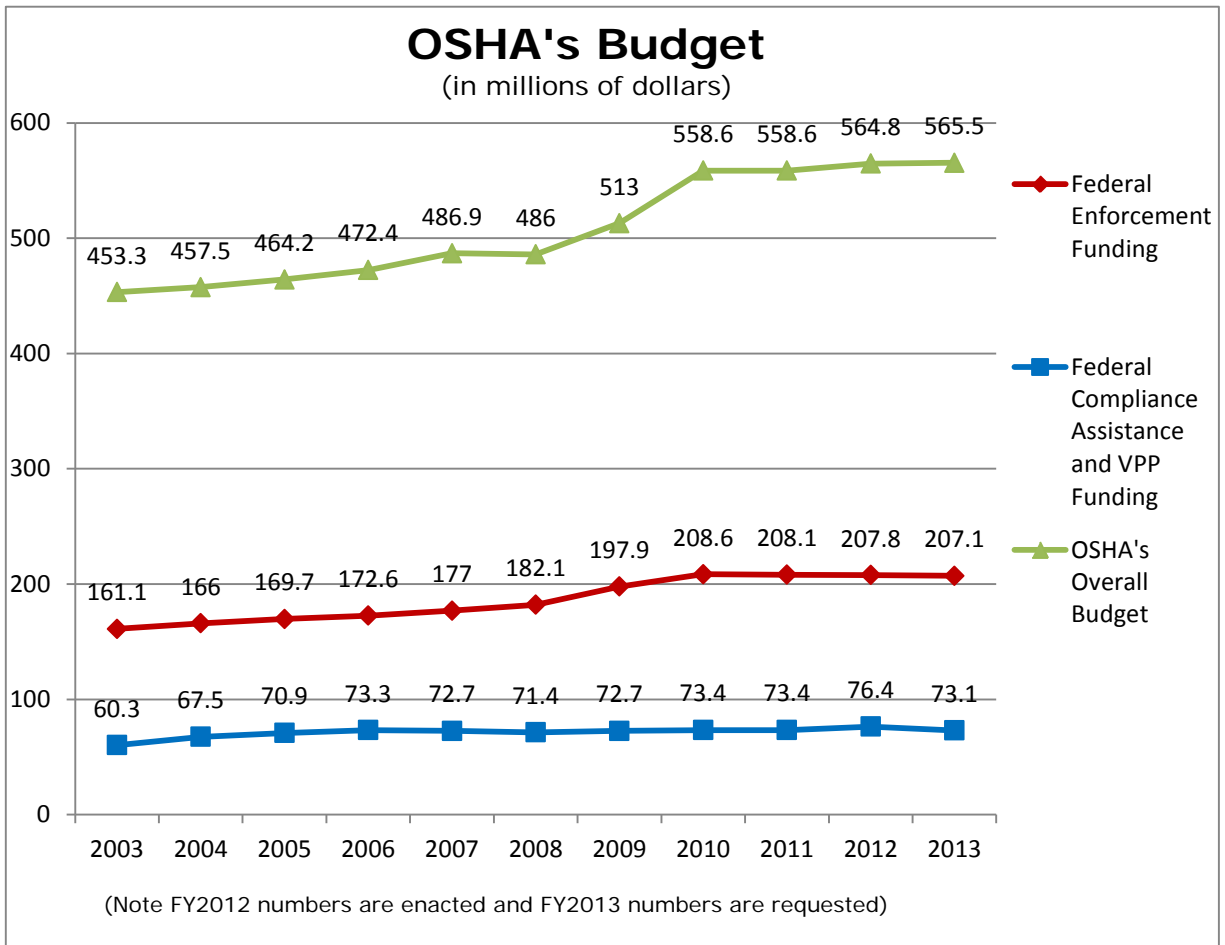
The Government Accountability Office (GAO) published a report in April 2012 on the subject of incentives programs, “Better OSHA Guidance Needed on Safety Incentive Programs.” This report recommended that OSHA should expand the policy set forward by VPP Policy Memorandum #5. The data backing up this conclusion is tenuous at the very best. Of the 26 studies utilized by GAO, only six examined the effectiveness of incentive programs, and of those, only two studied the effect on injury and illness reporting. The results of these two were inconclusive according to GAO: “Three studies—including the two that specifically evaluated the programs’ effect on reporting of injuries—focused on one type of safety incentive program and found that their effect on workplace safety was inconclusive or that the programs had no effect.” To my knowledge, none of these studies took place at a VPP worksite.

This begs the question as to why OSHA is specifically applying incentives guidance to VPP worksites, which, unlike other worksites under its jurisdiction, already have to have their incentive programs qualitatively reviewed by OSHA auditors. The administration should restore its policy on incentive programs as it originally existed in the VPP manual.

Guaranteeing VPP’s Continued Success

VPP has received strong backing from every administration since its inception and the number of participants has grown steadily until very recently. During the administration of President Clinton, then-Assistant Secretary of Labor for Occupational Safety and Health Joseph Dear highlighted VPP as “the premier example of partnership between government, management and workers, and is a model for virtually all of OSHA’s reinvention initiatives. These are the companies where you want your family, your children, your husband or wife to work.” Former Vice-President Al Gore celebrated the program’s emphasis on cooperation: “It is about working in partnership with common goals, instead of as adversaries, to protect the safety and health of our workers. It’s about focusing a lot less on red tape, and a lot more on results.”

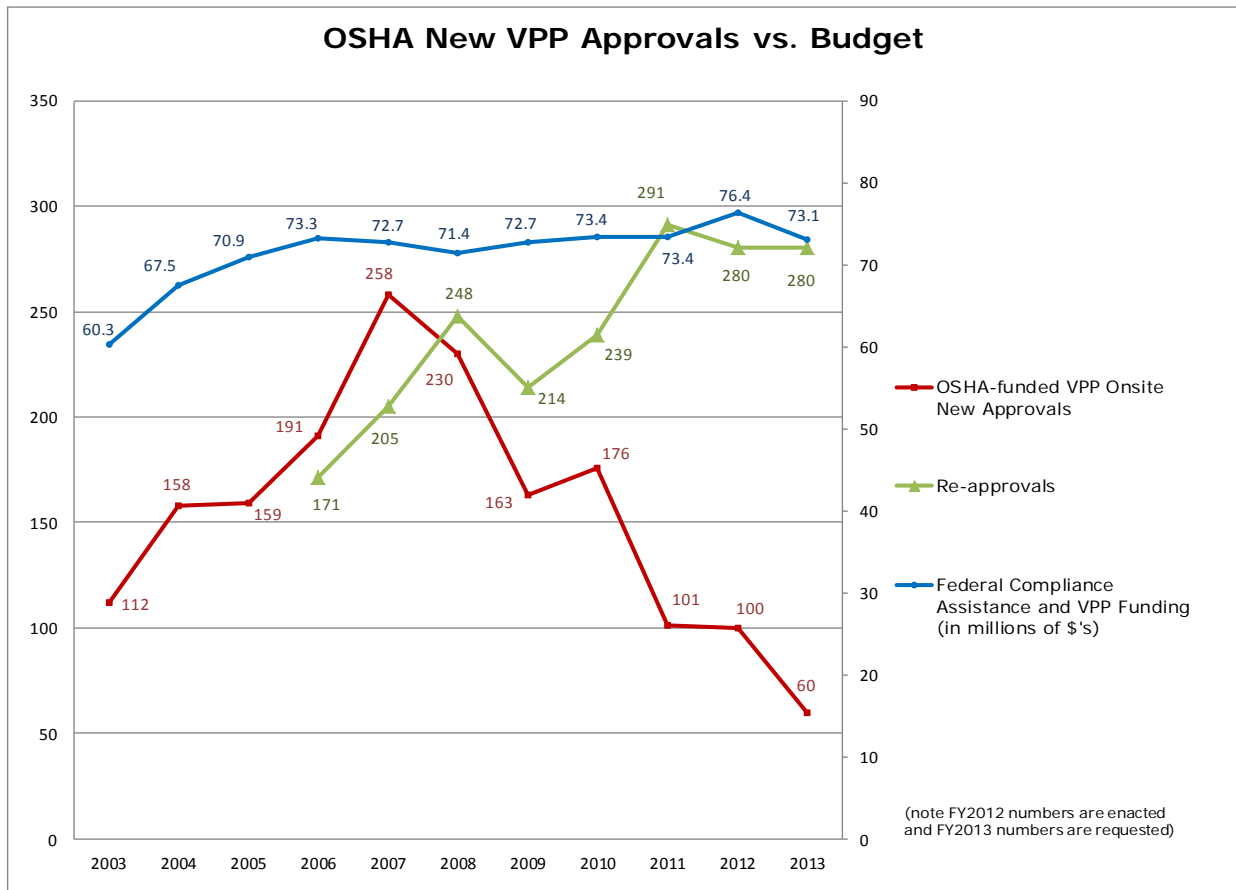
This support has continued under the current administration. Assistant Secretary of Labor for Occupational Safety and Health Dr. David Michaels has repeatedly emphasized the importance of VPP and the commitment of time and resources by participating companies, stating, “We do as [much] compliance assistance as we do enforcement inspections. We’re going to keep doing that. We want employers to come to us and say, ‘We want to do everything we can.’ We think the best model for that is the Voluntary Protection Program. The companies in VPP know how to do it, they’ve made the commitment and put the resources into it, and we certainly support that.”



Unfortunately, the evenhanded approach cited by Dr. Michaels has not been borne out by some of OSHA's recent choices. Funding for OSHA's Compliance Assistance-Federal budget category, of which VPP constitutes a small portion, grew slightly and leveled off over the past decade. This has not kept pace with the growth in federal enforcement or OSHA's overall budget. While this funding comes from Congress, OSHA has chosen to direct resources away from VPP, which it estimates costs over \$3 million annually and utilizes approximately 40 full-time equivalents (FTE). For comparison, compliance assistance-federal's fiscal year 2012 allotment of FTE is 295 and the Department of Labor (DOL) as whole uses more than 2,300 FTE.

In DOL's Fiscal Year 2013 Budget Request, it seeks to remove 31 FTE and over \$3 million from compliance assistance-federal. This will have a direct impact on VPP as OSHA says that it plans to approve just 60 new VPP sites, a number that has been falling steadily since 2007. Interest in VPP has not fallen over time; OSHA has chosen to move its resources away from VPP of late. I have heard from several of VPPPA's members concerning applications for approvals and re-approvals that have been delayed for well over a year. At this rate, it appears that OSHA is not even keeping up with its obligations to re-approve those sites in order to maintain the program. The fact that the number of active VPP sites has decreased over the past couple years supports this. Dr. Michaels spoke recently to a safety and health group and commented that the program had gotten too large and that budget cutbacks were to blame for this slowing pace. OSHA's

compliance assistance-federal funding has not seen a drastic cut as of yet, so the administration is choosing to divert resources away from VPP. The program has grown steadily in past years and I cannot see why anyone would prevent it from continuing to do so considering the profound impact that has had at worksites in both the private and public sectors. Former Assistant Secretary of Labor for Occupational Safety and Health John Henshaw put it best: “I know we all will agree that VPP adds so much value that we cannot deny workplaces, who qualify, the opportunity to participate and grow into the programs.”



Conclusion

The Occupational Safety and Health Act of 1970 requires 13 objectives to be accomplished. Only one of the 13 objectives is enforcement. Three are directly related to the development of cooperation between employer and employee to establish a safe workplace: exactly what the founders of VPP established the program to accomplish.

I’m sure everyone has heard the phrase, “You can’t prove a negative.” When debating issues of workplace safety, this can seem especially true; there is no way to concretely prove whether an accident might have been prevented or a small business owner saved X number of dollars because of particular policy initiatives. But from my entire experience with VPP, from a young,

skeptical deputy regional administrator for OSHA through retiring as the administration's senior career employee, I can say this with complete confidence: VPP works. Regardless of the dollar amounts or safety figures, there is something tremendous about the culture that VPP promotes. It is truly about involving everyone to incessantly strive to make our lives safer and healthier. I hope that in this spirit we can all work together to guarantee that VPP can continue to thrive as the America's premier program for safety and health excellence. To echo Assistant Secretary Michaels before this very subcommittee in October of last year, "[VPP] saves jobs and it saves lives."