

Worker Health and Safety and the Health of the Environment

Linked Problems. Linked Solutions.

BLUEGREEN
ALLIANCE



CWA



LiUNA!



2828 University Ave. SE, Suite 200
Minneapolis, MN 55414
612.466.4479

555 11th Street NW, 6th Floor
Washington, D.C. 20005
202.706.6900

www.bluegreenalliance.org



BLUEGREEN
ALLIANCE

Introduction

The health of the environment and the health and safety of workers are tightly connected. The disaster in the Gulf Coast is a prime example of this strong link: our country's biggest oil spill ever started with an explosion that killed 11 workers on the BP oil platform. If our nation's occupational safety and health laws had been strong enough to prevent the explosion, 11 oil rig workers would not have died, more than 200 million gallons of oil would not have spewed into the Gulf of Mexico and the wildlife and livelihoods of the Gulf Coast would have been spared.

This link between these problems and the solutions of good, safe jobs and a healthy, sustainable environment is a core principle of the BlueGreen Alliance (BGA), a national, strategic partnership between labor unions and environmental organizations dedicated to building a new green economy. Founded as a partnership between the Sierra Club and the Steelworkers in 2006, BGA has grown to include the Communications Workers of America (CWA), Natural Resources Defense Council (NRDC), Service Employees International Union (SEIU), Laborers' International Union of North America (LIUNA), Utility Workers Union of America (UWUA), American Federation of Teachers (AFT), Amalgamated Transit Union (ATU), Sheet Metal Workers' International Association, and the United Auto Workers (UAW). This unique labor-environmental partnership now unites nearly nine million members and supporters in pursuit of good jobs, a clean environment and a green economy.

The Occupational Safety and Health Act (OSHA) – the federal law that is supposed to protect worker safety and health – and the Toxic Substances Control Act (TSCA) – the federal law that is supposed to protect against dangerous chemicals – are a political link between the issues of worker health and environmental health. Both of these laws were passed in the 1970s and haven't changed since then. Both of these laws are now seriously out of date and ineffective. And Congress is now considering modernizing both of these laws to protect the American people and the environment we share. By making the link between workers and the environment visible to our Senators and Congressional Representatives, the environmental and labor membership of the BlueGreen Alliance can persuade our elected officials to strengthen and modernize these critical laws.



OSHA

Congress passed OSHA in 1970 to "ensure safe and healthful working conditions for working men and women." The first OSHA standards, like guard rails on walkways and staircases and "lockout/tagout," which stops machinery from being turned on during repairs, are credited with preventing 400,000 workplace deaths.

But political opposition has prevented OSHA from keeping up with changes in the American workplace and keeping down the rate of workplace injuries and deaths. More than 5,000 workers continue to die on the job every year. And at least 10 times that number die every year from occupationally-caused diseases like liver cancer from vinyl chloride, lung disease from asbestos, and leukemia from benzene. According to the Bureau of Labor Statistics, 11.1 million people get hurt or sick on the job every year, three times more than the number of injuries and illnesses that are officially reported.

A bill in Congress would modernize OSHA as part of the Robert C. Byrd Miner Safety and Health Act (H.R. 5663 and S. 3671). BGA supports this bill for three reasons:

1. OSHA Penalties Should Have More Impact

Unlike other agencies, OSHA penalties have barely been increased to reflect rising costs or inflation. Last year the average penalty for a serious violation of OSHA laws was \$965. A violation is considered "serious" if it poses a substantial probability of death or serious physical harm to workers.

The April 2, 2010, explosion at the Tesoro oil refinery that killed 7 workers in Anacortes, Washington, is a tragic example of the need for OSHA reform that sets mandatory minimum penalties for serious violations.

In 2008, the Tesoro refinery was inspected and fined \$85,700 for 17 serious health and safety violations among 150 overall deficiencies. In a settlement agreement, 14 of the 17 serious violations were deleted and the fine was reduced to \$12,250.

Unless we make OSHA penalties too serious to ignore, companies like Tesoro, which posted a profit of \$67 million for the second quarter of 2010, will continue to undervalue the safety and health of their workforce. The Safety and Health Act will also make criminal violations of the OSHA laws a felony instead of a misdemeanor and will expand the law to cover cases that involve serious bodily injuries, not just worker deaths. Individual corporate officers could be held criminally liable for knowingly violating the law.



2. Hazards Should Be Fixed, Even When Citations Are Fought

After the 2008 OSHA inspection at the Anacortes Refinery revealed 150 deficiencies, Tesoro managers got to work. But the focus of their work was how to get their lawyers to pressure OSHA to lower the penalties, not how to fix the safety and health problems that OSHA uncovered. The proposed law will clarify that employers must fix serious, willful, and repeat violations even when they are challenging the OSHA citation for the violations. The Safety and Health Act will also give OSHA the power to assess a maximum penalty of \$7,000 a day when an employer fails to correct a serious, willful or repeat violation by the date set by OSHA.



3. Whistleblowers Should Have More Protection and Injured Workers and Their Families Should Have More Rights

H.R. 5663 and S. 3671 will give OSHA more tools to protect the rights of workers who blow the whistle on the safety and health problems in their place of employment. The Safety and Health Act will give workers the right to refuse to do hazardous work and clarify that employees cannot be discriminated against for reporting injuries, illnesses or unsafe conditions.



The Safety and Health Act will also give injured workers, their families and the families of workers who die in work-related incidents the right to be informed and involved in investigations of workplace accidents. The bill will give victims and their families the right to meet with federal investigators and give workers and their representatives greater rights in the enforcement system.

BGA is dedicated to expanding the number and quality of jobs in the green economy. New green jobs, like all jobs, need to be safe and healthy for the workers, the surrounding community and the environment. The Safety and Health Act will modernize and strengthen OSHA so it can do its job of reducing workplace-related accidents, injuries and disease. The tragic deaths of 7 refinery workers in Anacortes, Washington, 29 coal miners in the Massey Upper Big Branch mine in West Virginia, and 11 oil rig workers on the BP Deepwater Horizon platform off the coast of Louisiana are more than enough reason for us to do more to protect the safety and health of American workers.

TSCA

The 1976 Toxic Substances Control Act (TSCA) was supposed to give the U.S. Environmental Protection Agency (EPA) the power “to regulate chemical substances and mixtures which present an unreasonable risk of injury to health or the environment.” But TSCA can’t do its job. When, in 1991, the federal courts ruled that TSCA didn’t give EPA the power to ban asbestos, the U.S. Environmental Protection Agency (EPA) stopped trying to use the law to restrict chemicals. Meanwhile, asbestos has been banned in 40 other countries because it causes cancer and other fatal lung diseases.



Formaldehyde is another chemical that makes the case for reform of TSCA. Formaldehyde is one of the 60,000 chemicals that was grandfathered in when TSCA became law. That means that the chemical was allowed to stay in use with no requirement that it be tested and shown to be safe. Formaldehyde is known to cause cancer, asthma attacks and other breathing problems. It is also suspected of harming the nervous and immune systems and is one of the chemicals that often causes sick building syndrome in schools and office buildings.

Because of these health impacts, China makes a low-formaldehyde plywood for domestic use and to export to the European Union and Japan. But China makes plywood with high levels of formaldehyde for export to the United States. This plywood was used in the trailers that FEMA, the Federal Emergency Management Agency, supplied to Hurricane Katrina survivors and, more recently, to the emergency workers cleaning up the BP oil spill in the Gulf of Mexico. After Katrina survivors started getting sick from the formaldehyde fumes, the U.S. Environmental Protection Agency (EPA) was petitioned to regulate this use of formaldehyde. EPA denied the petition because the agency said it doesn't have sufficient legal authority to take action against formaldehyde under TSCA. Formaldehyde is an ongoing problem in building materials and other consumer products used in the United States. An Arizona study designed to be representative of the general U.S. population found that the air in 25 percent of homes had dangerous levels of formaldehyde.

80,000 different chemicals have been produced and used since TSCA became law in 1976

62,000 of these chemicals were grandfathered in when TSCA became law with no requirement that they be tested and shown to be safe.

In the **34** years that TSCA has been the federal law on chemicals, EPA has required testing on just **200** chemicals.

When EPA was prevented from using TSCA to restrict asbestos **19** years ago, it gave up trying.

More than 30 years of environmental health studies show how chemicals are playing a role in the incidence of many chronic diseases and disorders. Chemicals are implicated in the rise in childhood leukemia, breast cancer, asthma, impaired fertility, premature puberty and birth defects of the reproductive system. New science has shown that babies are being born already contaminated with toxic chemicals. Tests of the cord blood of newborn babies have found more than 200 industrial chemicals that had been passed from the mother to child in the womb.

The Toxic Chemicals Safety Act in the U.S. House of Representatives (H.R. 5820) and the Safe Chemicals Act (S. 3209) in the U.S. Senate aim to modernize TSCA so that EPA has the power to protect the American people from health damaging chemicals. BGA supports these TSCA Reform bills for three reasons:

1. Instead of EPA Having to Prove That a Chemical is Dangerous, Chemical Companies Should Have to Prove That Their Products Are Safe

H.R. 5820 and S. 3209 will shift the burden of proof. These TSCA reform bills will require EPA to request information from chemical manufacturers on the health and environmental hazards of every chemical they make, starting with the chemicals that are likely to be most problematic. EPA would then determine if the information that the chemical manufacturer has provided shows there is reasonable certainty of no harm from the chemical. EPA would have the authority to set conditions or restrictions on the chemicals they decide are not safe.

2. Everyone That Uses Chemicals Should Have the Information They Need to Protect Themselves

Because most chemicals now in use were grandfathered in under TSCA, we don't really know which chemicals are safe and which are dangerous. Even major manufacturers like Kellogg's don't know if the chemicals they are using are safe.

This summer Kellogg's recalled 28 million boxes of Fruit Loops, Corn Pops and other cereals after consumers complained about strange tastes, odors, nausea and diarrhea. The company found elevated levels of 2-methylnaphthalene, a component of crude oil that is related to naphthalene, an ingredient in moth balls and toilet deodorant blocks. The government doesn't know if the chemical is dangerous because the EPA doesn't have basic health and safety data for this grandfathered chemical. TSCA reform will require chemical manufacturers to provide this information if they want to keep their products on the market.



3. The New Law Should Encourage Innovation and Investment That Should Create More Good, Green Jobs

TSCA reform can make the U.S. a global leader in green chemical production and make our country more competitive with Europe and Canada. Paints made without toxic fumes. Plastics made from vegetables instead of oil. These green chemistry innovations that factor in impacts on human health and the environment can create new job opportunities for American workers and prevent products with toxic chemicals from being imported from other countries. No more dangerous chemicals in imported toys and plywood. No more mystery chemicals in cereal box linings. Lower levels of chemicals in newborn babies. This is the promise of the TSCA reform in H.R. 5820 and S. 3209.



Our country's outdated occupational safety and health and chemical management laws are linked problems that can be solved through the unique influence of the BlueGreen Alliance. When environmentalists stand up for workers' safety and health, and when workers stand up for the health of the environment, we can win the victories that will build a new green economy for ourselves, our children and our environment. TSCA and OSHA reform are two of the victories we can help win right now.

Please contact your Senators and Representatives and ask them to modernize OSHA through H.R. 5663 and S. 3671 and TSCA through H.R. 5820 and S. 3209.

For more information, visit www.bluegreenalliance.org.