

H. WILLIAM DEWEESE
THE DEMOCRATIC LEADER



THE STATE CAPITOL
HARRISBURG, PENNSYLVANIA 17120-2020
PHONE: (717) 783-3797

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INDEPENDENT REGULATORY
REVIEW COMMISSION

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August 8, 2000

**Honorable John McGinley, Jr., Chairman
Independent Regulatory Review Commission
14th Floor, Harrisstown 2
333 Market Street
Harrisburg, PA 17101**

Dear John:

I am writing to express my concerns about the Department of Labor and Industry's proposed Final Form Workers' Compensation Health and Safety Regulation.

I was contacted by the AFL-CIO last week and I believe that its arguments against adoption of this regulation should be carefully considered, especially the following points:

- The regulation allows an employer to select the employee representative on the Workplace Health and Safety Committee. I am in agreement with the 1970 decision of the US Supreme court in the GENERAL ELECTRIC case, which found that such a practice creates a de facto company union in violation of the National Labor Relations Act.**
- The regulation removes the requirement that Health and Safety Committee minutes be maintained for five years and also allows an employer to recertify the Committee and to qualify for a 5% workers' compensation insurance premium discount on the basis of an employer affidavit unverified by either the employee chair of the Health and Safety Committee or by the Department. This**

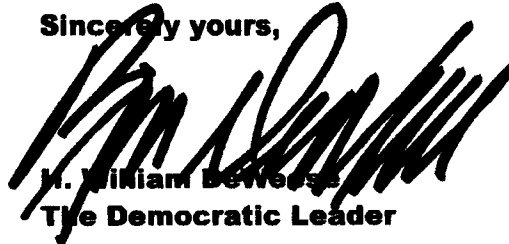
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lack of accountability on the part of employers is also evident in provisions that allow self-review of emergency action plans.

- **The regulation simply requires periodic audits of an insurer's accident and illness prevention services rather than "inspections," as is required by law. In addition, a pre-audit exchange of information is permitted which defeats the purpose of unannounced inspections. Further, the regulation creates "initial determinations" of adequacy or inadequacy of services, ignoring statutory language that deals only with final determinations and defines the penalty for noncompliance.**

I have other concerns about the proposed regulation. However, I believe that these alone should warrant your disapproval or, in the alternative, a vote to defer action on the regulation until there is an opportunity for representatives of Pennsylvania's working men and women, including the AFL-CIO, to meet with the Department and to discuss this very important rulemaking.

Sincerely yours,



H. William Bowers
The Democratic Leader

HWD/hfn