

Senate and House Hold Workers' Memorial Day Hearings to Underscore Need for Greater Employer Accountability

On April 28, the 20th anniversary of Workers Memorial Day, both the Senate and House Labor Committees held hearings on the imperative to prevent almost 6,000 deaths and 50-60 thousand occupational illnesses annually by increasing corporate accountability through increased OSHA penalties, stronger criminal sanctions, and bringing victims and their families into OSHA proceedings when OSHA issues a citation after a fatality or catastrophic accident.

"Four million work-related injury and illnesses were reported by employers for 2007, the latest year that records exist, but due to underreporting and limitations in the reporting system, this number underestimates the problem", according to *Death on the Job*, the AFL-CIO Annual Report on Accidents and Injuries in the Industrial Workforce. "The true toll is estimated to be two to three times greater or 8-12 million injuries and illnesses per year."

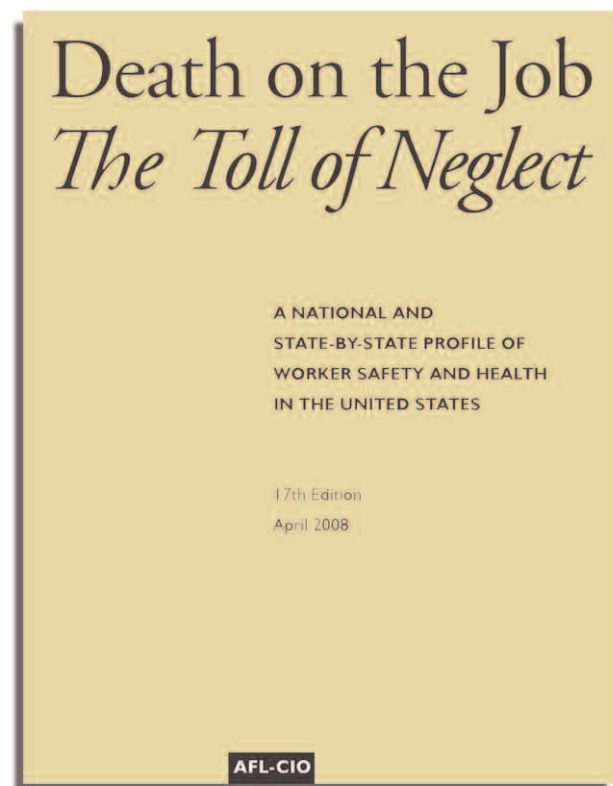
Both Celeste Monforton, Assistant Professor, George Washington University, at the Senate hearing, and Peg Seminario, Health and Safety Director, AFL-CIO, at the House hearing, made one easy to implement suggestion: that OSHA citations, penalties, and other records be posted on the web for public display. Monforton discussed at length the value employers placed on reputation and how OSHA could jeopardize that by making "violation information, company's nationwide inspection history, hazard abatement performance, details of fatalities, serious injuries or illnesses among the company's employees or contractors available to the public and the press." She felt the risk of reputational damage could act as a strong deterrent to potential violators.

The OSHA penalty system needs a major overhaul and only Congress can effect those changes, according to David Uhlmann, Director of the Environmental Law and Policy Program at the University of Michigan, and formerly with the Justice Department where he was head of the Environmental Crime Unit for seven years. "The average OSHA penalty for a fatality was only \$3,675 in 2007",

according to Uhlmann. When he was working for the DOJ, Uhlmann used environmental laws, with their much stricter penalties, to prosecute occupational safety and health cases.

Jim Frederick, Assistant Director of Health, Safety and Environment for the United Steelworkers, pointed out how safety incentive programs are used to discourage workers from reporting workplace injuries and illnesses, and allowing hazards to go unrecognized because statistically, at least, there is no record that someone has been hurt or maimed. He cited Congressman George Miller's Report "Hidden Tragedy: Underreporting of Workplace Injuries and Illnesses" that presented four employer incentives to

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underreport workplace injuries and illnesses. Low injury illness rates decrease the chance of having an OSHA inspection; they decrease workers compensation claims; they can earn bonuses and supervisors bonuses; and, they look good to the public.

Warren K. Brown, President of the American Society of Safety Engineers (ASSE), said that since the vast majority of employers implement safety programs and abide by them, OSHA should "direct its enforcement resources where the greatest gains in safety can be achieved – towards those employers with a history of flagrantly ignoring their compliance responsibilities."

Two family members Rebecca Foster and Tammy Miser testified before the House and Senate Committees respectively on behalf of the relatives they lost to workplace fatalities.

Rebecca's stepson Jeremy died at 19 from a workplace safety violation at a timber company in Arkansas. His shirt had caught on a piece of equipment that had been modified by welding a piece of keystone to an auger shaft and then

not protected with a guard. His shirt started winding continuously until he couldn't breathe and he strangled. OSHA told the family the fine would be \$4,500 for the violation, but it was reduced to \$2,250. "We were left with nothing but pain and loss", Foster said.

Tammy Miser, founder of the United Support and Memorial for Workplace Fatalities, stressed the importance of family members being involved in OSHA's accident investigation process. She suggested that family members have a representative to act on their behalf that would act as a conduit between the family and OSHA and keep the family involved about the progress of the investigation. She also advocated steeper OSHA penalties and noted that the average OSHA fine for a serious violation only levies \$900.

The agreed upon solution by nearly all who testified was for Congress to enact the Protecting American Workers Act H. R. 2067, recently re-introduced by Congresswoman Lynn Woolsey (D-CA). You can help strengthen OSHA's powers by getting your Representative to cosponsor this bill.

Labor, Occupational Health Professionals and Environmental Groups Back Mark Griffon for Vacant Chemical Safety Board Position

A broad group of Unions, Environmental Groups and Occupational Health Professionals are supporting the appointment of Mark Griffon, member of the President's Committee on Radiation and Worker Health, to be nominated and confirmed to a vacant seat on the U. S. Chemical Safety and Hazard Investigation Board (CSB). The USW, UAW, CWA, ICWUC, AFL-CIO, Change to Win Alliance, The Public Health Institute, New Jersey Work Environment Council, The Blue Green Alliance, the AFL CIO, the Center for the Biology of Natural Systems, Queens College, City University of New York, and the University of California Centers for Occupational and Environmental Health are among those groups who have sent letters of support to the White House and key Congressional Representatives endorsing a nomination for Mark Griffon.

Griffon has worked in the environmental and occupational health sector for over twenty years including work in both the public and private sector. His experience includes overseeing large chemical clean-up contracts and several large radioactive waste characterization and clean-up projects. Griffon has worked for a number of years with the USW (formerly PACE and OCAW) in the development and implementation of a number of worker health and safety programs.

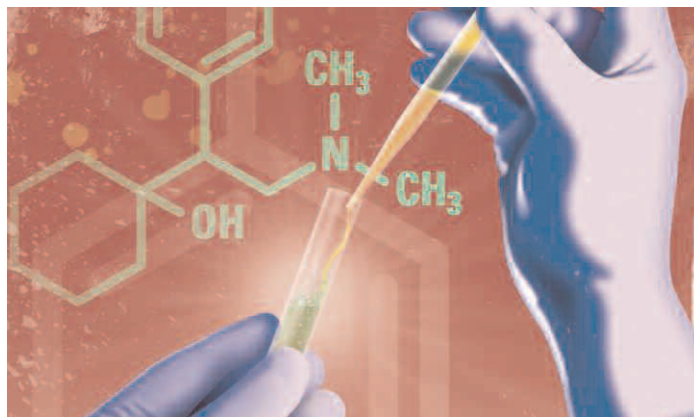
He also worked with the University of Massachusetts Lowell where he was part of their initial hazardous waste training program as well as the Toxic Use Reduction Institute. He developed and delivered professional training for industry toxics use reduction planners and assisted cor-

porations with their planning while with the Toxic Use Reduction Institute.

Griffon has been a member of the Federal Advisory Board on Radiation and Worker Health for seven years (2002-present). His workload on that Board has been staggering even though the position is not a full time one. Out of two subcommittees on the Board, he is Chair of one and member of the other. Of nine workgroups, he is head of three workgroups and member of the other six.

He has also served as a member of the Federal Advisory Committee on External Regulation of Department of Energy Nuclear Safety.

Griffon has a B.S. in Chemistry from Rensselaer Polytechnic Institute and an M.S. in Radiological Sciences from the University of Massachusetts Lowell.



Canadian USW Health, Safety and Environment Publishes Booklet for New Workers

New workers and particularly young workers usually have no idea of what their health and safety rights on the job are. Add to that their fear of job loss if they refuse any order they receive from a supervisor and the result could be disabling or even deadly. The USW Canadian National Health, Safety & Environment Department aims to ensure that new workers know their rights on the job before they begin work. They have published a New Worker Awareness booklet that is the core of their New Worker Awareness Program. It builds upon a program for Young Worker Awareness adopted nationally by the union in 2000.

The materials that make up the program are the booklet, a poster, bookmark, and an anti-harassment and right to refuse card.

The booklet stresses the employers obligation to provide safe and healthful workplace for all workers and the three basic rights which workers have to protect themselves under Canadian law,

The right to know the hazards you face on the job;

The right to participate in the correction of those hazards; and

The right to refuse unsafe work.

It is also clear in making the connection to the role of the union in helping workers exercise their rights.

Volunteer local union activists use these materials and go to local high schools and conduct training sessions on workplace health and safety rights. High school students get an orientation to the workplace in a relaxed atmosphere before they are actually on the job and too intent on learning the job to think about worker rights. This year activists will also be targeting new employees who are unfamiliar with the workplace. Research has clearly showed that increased risk of injury is not a function of age as much as experience. The idea that younger workers have more injuries because they are careless is as much of a myth as the rest of behaviour based safety.

The program appears to be an ideal model for local unions everywhere to adopt for new workers. It sets the stage for a new generation of activist members.

The New Worker Program is led by Nancy Hutchison, District 6 HSE Coordinator, supported by Al Hedd, Resource Technician, Sarah Konig, Support Staff, Ron Corbeil, District 3 HSE Co-ordinator and Andy King, Department Leader.

Lesley Stodart in Communications designed a leaflet that has been sent to locals asking for volunteers to promote the program in area high schools.

For more information, go to the USW website at: <http://www.usw.ca/program/content>



Good Lobbyists, Excluded

To the Editor:

Re "The Good Lobbyist" (editorial, April 23):

Attention has focused on the Obama administration's refusal to appoint Tom Malinowski as human rights chief at the State Department because he has lobbied to promote human rights around the world. As your editorial notes, the Obama administration has decided to exclude lobbyists from the administration whether they are high-priced K Street lobbyists who work for multiple corporate clients or in-house lobbyists like Mr. Malinowski who work for a single public interest organization.

Many other good lobbyists are being barred from service in this administration because they have spent their careers advocating for the public good. The administration's ethics policy has also disqualified the A.F.L.-C.I.O.'s longtime health and safety director, Peg Seminario, from running the Occupational Safety and Health Administration. Ms. Seminario is widely recognized and respected by labor, government, public health and business leaders as a national leader on job safety. She is uniquely qualified to rebuild morale at the agency, reverse eight years of damage by the Bush administration, and return OSHA to its mission of protecting the health and safety of America's workers. But Ms. Seminario has been disqualified because she was registered as a lobbyist to work on legislation to provide health care for emergency responders and others who got sick after the 9/11 disaster — legislation that would not even be administered by OSHA.

The Obama administration deserves high marks for making good on its commitment to ethics reform. But the policy should be revised to focus on stopping the revolving door and conflicts of interest, while not excluding stellar candidates who have lobbied for the public interest, not financial gain.

Jonathan Hiatt

General Counsel, A.F.L.-C.I.O.

Washington, April 24, 2009

Reprinted from The New York Times, May 2, 2009

Grant Announcement USW TMC Training Grants

On April 1, OSHA approved the USW Tony Mazzocchi Center's (TMC) applications for two Susan Harwood Training Grants. OSHA's Susan Harwood Training Grant program provides federal funding for programs aimed at reducing workplace injuries and illnesses, improving job health and safety conditions and expanding grantees' abilities to provide occupational safety and health training and services. These awards will continue two of the USW/TMC's health and safety training projects that have been offered to USW members since 2000. One of these awards will continue our project currently called "Promoting Safe and Healthy Workplaces: A Training Project for Steelworkers" which offers training on a union approach to health and safety, and the other continues the Catastrophic Accident Prevention grant for the next year.

The "Promoting Safe Workplaces" project will continue to offer training on 'union approach to health and safety' topics such as:

1. Increasing the effectiveness of your health and safety committee
2. Creating an effective union health and safety committee
3. Hazard identification (including body mapping, hazards mapping, identifying and reducing work related stress, developing and conducting union health and safety surveys)
4. Tools for getting hazards and hazardous

conditions corrected

5. Addressing health and safety impacts of work restructuring (covering issues such as understaffing/downsizing, mandatory overtime, extended working hours, production pressures, etc.)
6. Communicating with and involving members in the Union's health and safety efforts
7. Creating comprehensive worksite health and safety programs focused on finding, fixing and preventing hazards rather than programs that blame workers

The Catastrophic Accident Prevention grant has been in effect since 2000. Its goal is to reduce deaths and injuries at high-risk hazard facilities and to empower workers as trainers, investigators, and writers. This includes Lessons Learned, a program that identifies root causes of specific catastrophic incidents and shares the information within and across workplaces. Through this project, the TMC plans to reach 5,950 participants with nearly 20,000 hours of Lessons Learned training and mentoring for catastrophic incidents. Previously written Lessons Learned can be viewed on the USW Health, Safety & Environment website.

If your local union is interested in these or other health and safety training programs and materials, please contact safety@usw.org.

Chemical Plant Safety, New York Times Editorial May 17, 2009

There was a major explosion last year at a Bayer chemical plant in West Virginia, in which two employees were killed. Congressional investigators reported in April that the blast could have been far more deadly had it gone in a different direction. These revelations provide more evidence — as if more were needed — that the nation needs a tough chemical plant security law, this year.

The explosion last August sent a fireball into the air. The staff of the House Energy and Commerce Committee reported that the blast nearly compromised a nearby tank filled with several tons of methyl isocyanate, the same toxic chemical that leaked from the Union Carbide plant in Bhopal, India, in 1984, killing thousands of people. If things had gone badly, according to the staff, the consequences might have been worse than in Bhopal.

Chemical plants, where large amounts of highly toxic chemicals are routinely stored, are the nation's greatest terrorism vulnerability. Since the Sept. 11 attacks, environmental groups and others have been pushing for a federal law that imposes tough safety

regulations on the plants. One of their highest priorities has been a mandate that plants replace particularly dangerous chemicals, like chlorine, with safer alternatives when practical.

So far, Congress has failed to come through. In 2006, it sided with the chemical industry and passed an extremely weak law. That faulty law sunsets this fall, which gives Congress a new chance to make things right.

The next law should impose strong, mandatory safety rules. It should contain a safer-chemicals requirement, protection for whistleblowers, and a provision allowing citizens to sue for violations. It should make clear that the federal rules do not pre-empt state laws, so states can do more to protect their residents if they want.

This will not be easy. The chemical industry, which is a major campaign contributor, has spent years fighting tougher safety rules, which it sees as a threat to its bottom line. The more the process is delayed, the harder it will be to get a good bill drafted and voted on.

OSHA Refinery Audit Exposes Massive Violations

http://ehstoday.com/standards/osha/ehs_imp_78976/

OSHA's nation-wide refinery audit revealed that 17 of the 81 targeted U.S. refineries so far have yielded 146 potentially life-threatening violations.

By Katherine Torres

Richard Fairfax, OSHA's director of enforcement, told the Houston Chronicle he found the preliminary results "disturbing" and was looking into expanding OSHA's Petroleum Refinery Process Safety Management National Emphasis Program to include chemical plants.

He also said that he aims to extend the program beyond the initial 2-year period, which was the time frame OSHA designated to complete its investigations of the remaining 64 refineries.

OSHA uncovered violations at the following oil refineries in the past 8 months, which have resulted in a total of \$896,300 in proposed penalties:

OSHA discovered 11 violations at the Total Petrochemicals refinery in Port Arthur, Texas, 45 at another plant in Canton, Ohio, and 19 at a Kansas facility.

The agency cited Frontier El Dorado Refining Co. of El Dorado for hazards associated with a permanently occupied structure that was located in a high hazard zone as well as failing to address fire, explosion and chemical hazards. OSHA proposed penalties totaling \$153,500, but a spokesman from the Frontier Oil Corp., which owns the refinery, indicates the penalties will be contested.

At the Marathon petroleum Co. LLC, OSHA found that the company needed to protect its process piping external corrosion and that it needed to address equipment deficiencies related to pressure relief devices and toxic and flammable gas/vapor detectors, among other hazards. The company agreed to pay \$321,500 in fines and already has taken corrective action to eliminate unsafe working conditions, OSHA said.

Citgo also reached a settlement with OSHA and agreed to pay fines totaling \$155,250 after the agency discovered process safety issues, as well as fire hazards and inadequate training at the company's Lemont refinery.

At Murphy Oil USA, OSHA found during its investigation that alarms used to alert operators of failing positive pressure systems were deactivated and not continuously monitored. This, along with other violations associated with fall protection, emergency action and response plans and lockout/tagout procedures, prompted OSHA to issue fines totaling \$179,100, which the company agreed to pay.

Similar findings were revealed in a survey conducted by the United Steelworkers union (USW) in 2007, which suggested that the problems that contributed to the March 2005 blast at BP's Texas City facility were pervasive in refineries across the nation. USW represents 30,000 refinery workers nationwide. For more on the USW survey, see

www.usw.org/usw/program/content/BeyondTexasCity.php

According to the Chronicle, refineries suffered 29 fatalities from 2005 to February 2008, including 18 that occurred at the BP Texas City refinery in four incidents. The 2005 BP Texas City explosion, which killed 15 workers and injured 180 others, drew public attention to U.S. refinery hazards.

OSHA's Petroleum Refinery Process Safety Management National Emphasis Program was launched in 2007 as a result of a report issued by the Chemical Safety and Hazard Investigation Board, which alleged that OSHA neglected enforcement of its process safety management standard (29 CFR 1910.119, Process Safety Management of Highly Hazardous Chemicals) at oil and petrochemical facilities across the country.

What you should do if OSHA comes to your workplace

If OSHA shows up for a NEP (or any other inspection for that matter) the designated union representative/employee needs to do the following:

1. Be sure you make contact with OSHA right away and identify yourself as the local union (employee representative) contact
2. Suggest process units that may be of the most concern at your facility to undergo the inspection (typically the NEP focuses on two process areas)
3. When the inspectors are in the facility, be with them to accompany them through the facility, answer any questions they may have, clarify information, point things out, sit in on meetings/employee interviews and to take notes
4. Contact Kim Nibarger of the USW Health, Safety & Environment Department and let him know that a NEP is taking place at your facility. He is willing to help with any questions you may have concerning the process
5. Send by FAX or email a copy of the citations issued to the company by OSHA to Kim Nibarger, USW, Health, Safety and Environment Department at the contact point below.
6. Attend the Informal Conference following the inspection
7. Attend any settlement meetings OSHA has with the company; the employee's representative has a right to be in attendance. Again, contact Kim Nibarger of the USW Health, Safety and Environment Department for any issues that may need to be addressed in the settlement.
8. If the company contests the citations, contact the USW Health, Safety & Environment Department immediately to have them file third party status with the OSHA Review Commission.

Contact information: Kim Nibarger, United Steelworkers-Health, Safety & Environment, Five Gateway Center, Pittsburgh, PA 15222, 412.562.2587 office, 412.418.6240 cell, 412.562.2584 FAX, knibarger@usw.org