Good Jobs, Safe Jobs – It’s Time!

More than three decades ago, Congress passed the Occupational Safety and Health (OSHA) Act, promising every worker the right to a safe job. Unions and our allies have fought hard to make that promise a reality—winning protections that have saved hundreds of thousands of lives and prevented millions of workplace injuries.

Nonetheless, the toll of workplace injuries, illnesses and deaths remains enormous. In 2005, more than 4.2 million workers were injured and 5,702 workers killed due to job hazards. Another 50,000 died due to occupational diseases.

Our fight for safe jobs has gotten harder as the Bush Administration, acting on behalf of corporate interests, has refused to address pressing problems. Instead, the Administration has moved to roll back and weaken protections. Dozens of important safety rules have been withdrawn. Voluntary compliance has been favored over new protective standards and enforcement.

Progress in protecting workers’ safety and health has slowed; and for some groups of workers, jobs are becoming more dangerous. Last year in the wake of the Sago and other mine disasters, the number of coalmine deaths doubled. Job fatalities for Hispanic and immigrant workers reached an all-time high.

The change in control of the Congress means that hostile legislative proposals to weaken job safety protections are no longer an imminent threat. But with President Bush still in office, major advancements in protecting workers will be difficult. Here are some of the major challenges we face in our fight for safe jobs:

No New Workplace Safety Rules
The Bush Administration has killed dozens of worker protection measures under development at OSHA and MSHA, including rules on cancer causing substances, reactive chemicals, and infectious diseases, such as TB.

More than 15 workers are killed every day on the job in this country … and a worker becomes injured or ill every 2.5 seconds.

This Bush Administration has the worst record on safety rules in OSHA’s entire history, issuing no new significant rules during its first term.

The only standard issued—a standard on hexavalent chromium—was in response to a court order. The Administration has refused to issue a rule requiring employers to pay for personal protective equipment. The AFL-CIO and UFCW have gone to court to seek an order to force OSHA to issue this rule, critical for immigrant and low-wage workers.

Ergonomic Hazards Still a Major Problem – Soon after taking office in 2001, the Bush Administration joined with anti-worker business groups to repeal OSHA’s ergonomics standard. The standard, ten years in the making, would have required employers to protect workers from the nation’s biggest job safety problem: injuries caused by heavy lifting and repetitive work. The Administration’s promised “comprehensive plan” to address ergonomic hazards has turned out to be a sham. In five years, only three voluntary
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non-enforceable guidelines—for nursing homes, retail grocery and poultry—have been issued, with no additional guidelines planned. Meanwhile, musculoskeletal disorders remain a major problem, responsible for one-third of all workplace injuries.

Millions Have No OSHA Protection

More than three decades after the passage of OSHA, more than 8.5 million state and local public employees—including in Wisconsin—and other workers, including flight attendants, still have no protection.

Securing Mine Safety Improvements

In 2006, as a result of the Sago mine disaster and others, the number of coalmine deaths doubled, with 47 coal miners killed on the job. In response to these tragedies, the Congress enacted the Mine Improvement and New Emergency Response (MINER) Act. The legislation requires MSHA to adopt stricter standards on mine rescue teams, communications and oxygen availability and sets mandatory minimum penalties for egregious and repeated violations. After withdrawing dozens of needed safety rules under development in 2001, the Bush administration now is being compelled by law to issue stronger mine safety protections.

Employer Voluntary Programs Favor Over Enforcement

The Administration has made expanding voluntary programs and outreach to employers a top priority. Bush’s OSHA has set up partnerships and alliances with dozens of employers, largely excluding unions. At both OSHA and MSHA, industry officials have been appointed to top positions, increasing the employer friendly orientation and policies of these agencies.

Protecting Healthcare Workers from Pandemic Flu

In the event of a pandemic flu outbreak, healthcare workers and other responders will be on the front lines, and at an increased risk of infection, disease and death. But rather than moving to provide the best protection possible for these workers, the Bush Administration has dragged its feet and failed to ensure even the most basic occupational health protections, such as NIOSH-approved respirators. The unions have called upon OSHA to issue an emergency standard and for HHS to strengthen guidelines to protect health care workers from pandemic flu, but after more than a year no action has been taken.

Maintaining OSHA, MSHA and NIOSH Funding

Since President Bush took office, maintaining adequate funding for the federal job safety programs has been a struggle, with repeated attempts to slash funding. Since FY 2001, the OSHA budget has been cut by $25.4 million (6%) in real dollar terms and hundreds of positions have been eliminated. At MSHA, repeated attempts were made to cut funding for coalmine enforcement. Only after the Sago and other mine tragedies has the Administration requested additional funds for the mine safety program. The FY 2008 budget request maintains the OSHA and MSHA programs at 2007 levels, but proposes to eliminate OSHA’s worker training program and shift funds instead to fund voluntary protection programs. For NIOSH, the job safety research agency, a $13.8 million cut (in real dollar terms) is proposed.

American workers need a strong OSHA and a strong MSHA that put workers, not employers, first and that protect safety and health, not corporate interests. We will continue to fight for strong safety and health protection for all workers.

Source: AFL-CIO Safety and Health Department, February 2007

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WisCOSH is available to answer questions about health and safety problems on the job.

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Still Waiting for Answers...

OSHA Investigation of Falk Disaster Continues

The Occupational Safety and Health Administration (OSHA) is continuing to investigate the cause of a deadly explosion that killed three Falk workers and injured 46 others on December 6, 2006.

Thomas LeTendre, Daniel Kuster and Curtis Lane were killed in the explosion.

Employees discovered a propane leak during an annual test shortly before an explosion rocked the factory. The leak allowed the gas to build up inside a warehouse, where it touched off a blast large enough to be picked up on a seismometer at UWM.

A Deadly Legacy

It wasn’t the first such disaster at Falk. In 1976, 12 employees were injured when a blast destroyed most of a concrete building where liquid propane was vaporized into gas for use in the factory.

Government safety officials ruled two earlier fatalities at Falk as accidents.

In 1991, Falk worker Hugo Schulz was killed when a 1,000-pound clutch fell on him.

In 1964, one worker died and 11 were injured when a 1,100-pound fragment of steel broke off a spinning machine, flew through the roof and over the freeway, landing more than three blocks away. Investigators blamed a metallurgical fault in a component manufactured by a Falk supplier.

Who Was in Charge?

While the OSHA investigation continued, Falk and its mechanical contractor J.M. Brennan Inc. traded charges over who was responsible for testing the propane system, the gas leak, and the evacuation of employees before the fatal explosion last December.

Brennan said their employees were on the scene only as observers, but Falk described them as active participants.

Neither the state of Wisconsin nor the city of Milwaukee requires regular inspections of propane systems after they are installed.

When a leak was discovered, Falk says its employees were assured by contractors that the situation was under control and there was no need to evacuate. Brennan insists that Falk was in charge.

Gaps in emergency plan?

Workers reported that they smelled the buildup of gas, and opened doors and windows to ventilate the building. Propane, however, is a relatively heavy gas that pools near the ground. In high enough concentrations, it can be ignited by something as inconsequential as a spark from a light switch.

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Proppane Industry Gets a Free Pass

- Once they’re installed, propane tanks and pipes don’t have to be inspected or tested by any government agency, no matter how old they are.

- A 1996 EPA rule would have required companies with 10,000 pounds or more of propane in a tank or set of interconnected tanks to have risk management plans.

- But a law passed by Congress in 1999 prevented the EPA from requiring propane facilities to detail maintenance schedules or safety and health procedures.

- The law was sponsored by Sen. James Inhofe (R-OK), who received campaign donations from the propane industry.

- That left regulation up to the states, which adopted guidelines set by the National Fire Protection Association.

- But neither the state of Wisconsin nor the city of Milwaukee requires regular inspections of propane systems after they are installed.

- The city of Milwaukee used to inspect propane tanks every three years.

- Then the state administrative code was changed to exempt propane tanks from regular inspections.

- The year was 1999, the same year that the federal law was passed protecting the propane industry.

- Companies are responsible for maintaining propane tanks, and workers who fill the tanks are required to check them.

- Problems are usually detected when someone smells propane.

Source: Associated Press
...Still Waiting for Answers in Falk Investigation

(continued from page 3)

The National Fire Protection Association recommends an evacuation when propane gas is detected inside a building.

But the evacuation at Falk was limited to the area near the propane storage tanks and the Annex. Workers in nearby buildings damaged by the blast were not told to leave.

In an emergency planning report on file with the Milwaukee County Emergency Management Bureau, Falk said a leak from one of the large propane tanks was a worst-case scenario, but failed to outline emergency response procedures.

Leaking Pipes?

Late in December, tests found a fracture—described as “a pretty significant-sized leak”—in a propane pipe that fueled the fatal blast.

In January, it was announced that there were two leaks, not one. The damaged segments are being examined by metallurgical experts to determine why they failed.

Something other than simple corrosion likely caused the fracture, according to David Heldenbrand, a consulting engineer who has investigated roughly 500 gas system failures in his career.

“Something would have to cause that pipe to fracture,” he was reported as saying.

OSHA is leading the investigation into the cause of the explosion, and was joined at the test site by engineers, investigators and attorneys working for the legal firm representing the families of the three men killed.

Lawsuit Filed by Families

In February, the families of the three Falk workers filed a wrongful death lawsuit against J.M. Brennan, the mechanical contractor.

Falk and its parent company Rexnord were not named as defendants because the state worker’s compensation law prevents employees from suing their employers.

There’s no evidence of malicious or reckless conduct by any party to support criminal charges, but that doesn’t rule out civil negligence...

The families’ lawsuit names mechanical contractor J.M. Brennan and its insurance carrier, claiming that it:

- Improperly installed the pipeline in 1988, causing it to fail
- Didn’t test the pipe before running propane through it
- Didn’t check the pipe’s pressure while running the propane
- Delayed an evacuation that may have prevented the deaths

Crime or Negligence?

In March, the Milwaukee County prosecutor reviewing the disaster determined no criminal charges were warranted.

“There is no evidence of malicious or reckless conduct by any party to support criminal charges,” Deputy District Attorney Kent Lovern stated.

The decision does not rule out civil negligence, as alleged in the families’ lawsuit.

In response, Brennan says it was not to blame for what happened. It claims the pipe deteriorated because Falk failed to inspect and maintain it as recommended. The anti-corrosion protection was no longer effective when tested after the explosion.

Now that the contractor’s response has been filed, attorneys will start taking depositions from witnesses and experts.

OSHA Fines Rexnord $120K

In April, OSHA announced $120,000 in fines against Rexnord for serious and repeated safety and health violations—but not for the Falk explosion.

The Rexnord plant at 4800 W. Mitchell St. in West Milwaukee was the culprit.

OSHA inspectors found the company lacked protective guarding on mechanical presses and chain and sprocket equipment.

The company also failed to follow lockout and tagging procedures for machines and lacked mechanical power-press inspections.

Rexnord also was cited for three serious health violations:

- Lack of employee personal protective clothing during exposure to cutting fluids
- Lack of proper labeling of hazardous chemicals
- Blocked space around electrical panels

In the past, the Rexnord plant was inspected by OSHA 24 times and received 71 safety and health violations.

In the last five years, two inspections revealed 10 alleged serious violations, according to OSHA.

Source: Milwaukee Journal Sentinel
Associated Press
Top 10 Unreported Workplace Safety Stories of 2006

By Jordan Barab

You won’t read in any newspapers that if the 12 deaths at Sago last year, or the 15 deaths at the BP Texas City refinery the year before had been the only workplace fatalities on those days, those would have been good days in the American workplace.

More than 15 workers are killed every day on the job in this country and a worker becomes injured or ill on the job every 2.5 seconds. The overwhelming majority of deaths, injuries and illnesses could have been easily prevented had the employers simply provided a safe workplace and complied with well-recognized OSHA regulations or other safe practices.—JB

1) Sago Mine Disaster

Sago catapulted mine safety into the nation’s consciousness like no other workplace disaster in decades. Subsequent mine explosions and fires in the Aracoma and Darby mines, as well as numerous other coal mine accidents—largely stemming from increased mine activity (as a result of higher energy prices), neglected maintenance, crumbling infrastructure and insufficient training—led to 47 coal mining deaths in 2006, a ten-year high and more than twice as many as in 2005.

Besides faulty respirators, poor communication between miners and the surface contributed to the tragedies.

But more important, the coal mine disasters of ’06 revealed the Bush administration’s abdication of its responsibility to ensure safe workplaces for this nation’s miners...[and] the human toll of this administration’s close ties to the industries it is supposed to regulate.

No longer able to deny that the Emperor was as naked as a jaybird, Congress overwhelmingly passed the MINER Act, which started the process of implementing needed improvements in the nation’s mine safety law.

2) Richard Stickler at MSHA

The Bush administration added insult to injury (and death) by nominating Richard Stickler to head the Mine Safety and Health Administration. Stickler, nominated a few months pre-Sago, was perfect for that long-gone (and never really existing) era when MSHA was a forgotten dusty agency that no one noticed or cared about. But after the tragic first few months of ’06 and Stickler’s less-than-impressive performance at his confirmation hearing, it became vividly clear to almost everyone... that the former mine industry manager with a lousy safety record was manifestly unsuited for the job. Given the makeup of the new Senate, unless Stickler pulls some rabbit out of his hat, he’ll be heading back to retirement in West Virginia at the end of 2007.

3) Ed Foulke’s Debut At OSHA

Coming from a union-busting law firm, Ed Foulke had a lot to prove when he took the reins of OSHA last March. Would he be able to overcome OSHA’s hard-earned image as a tired, ineffectve, moribund, anti-worker agency that had become almost totally irrelevant to workplace safety in this country? Apparently not. Foulke blew his honeymoon almost immediately with a series of speeches that seemed to blame workplace injuries and deaths on dumb workers. Blaming employees for on-the-job injuries and fatalities is an all-too-common myth... but such ignorant rhetoric was more than a little surprising and unforgivable coming from the man who is supposed to be leading the nation’s effort to make workplaces safe.

4) OSHA’s Miserable Failure to Issue Standards

—One of the jobs that Congress gave OSHA when it was created in 1970 was to issue standards that would protect workers from work-related injuries, illnesses and deaths. George Bush’s OSHA seemed to have completely forgotten this role until, after years of regulatory infertility, the agency finally gave birth to its first major health standard in six years... But OSHA’s new hexavalent chromium standard... established a permissible exposure limit so high that it will allow hundreds of extra lung cancer deaths among exposed workers.... The new standard was issued less than a week after a report revealed that scientists working for the chromium industry had concealed data from OSHA that showed that even very low-level exposures to hexavalent chromium can cause cancer.

5) BP Texas City Disaster

The massive explosion at BP’s Texas City refinery that killed 15 workers and injured 180 in March of 2005 barely caused a ripple in the nation’s consciousness compared to the 2006 Sago tragedy— despite the record $21.3 million OSHA penalty. Yet revelations throughout 2006 about BP’s faulty safety system have raised major questions not just about the giant oil company itself and how seriously it takes the safety of its workers, but also OSHA’s failure to enforce refinery safety regulations.

Preliminary reports of the Chemical Safety Board, as well as documents released as a result of the settlement with BP of a lawsuit filed by Eva Rowe, who lost both of her parents in the explosion, revealed a devastating picture of a company that cut back on its safety budget, delayed maintenance, failed to conduct training and ignored warnings by refinery management that all was not well at the plant.... None of this stopped BP’s CEO Lord John Browne from pulling down a cool $11 million in compensation last year.

6) Families Go On The Offensive

From West Virginia and Kentucky to Texas, California and Maine, families of workers killed on the job are getting mad as hell and refusing to take it anymore. Frustrated by the small fines and weak penalties resulting from the preventable deaths of their loved ones, mine widows demanded better information about what happened to their husbands, picketed mines to keep their health care, and spoke (continued on page 6)
More Unreported Workplace Safety Stories of 2006

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truth to power by warning President Bush not to appoint Richard Stickler to head MSHA. Family members like Coit Smith, whose son was killed in a meat processing plant, Michelle Lewis, whose stepfather was killed in a trench collapse, and Tammy Miser, whose brother was killed in a factory explosion, have launched campaigns to change the way workplace safety oversight works in this country… and provide support to the families who have suffered similar losses.

7) Union Organizing Victories
The organizing victories of janitors in Houston and the University of Miami, the successful campaign to organize the nation’s hotel workers and surging support for the Employee Free Choice Act that would require unions to be recognized by card check, rather than the failed traditional system of workplace elections, are not—on the surface—health and safety stories. But while a strong and active OSHA is necessary, anyone who’s worked a hazardous job will tell you that the best tool to make the workplace safe isn’t an OSHA inspection; it’s a well-organized and knowledgeable union.

8) Undercounting Injuries And Illnesses — OSHA broke open the champagne to celebrate a record low number of reported workplace injuries and illnesses last year, but … despite the hundreds of millions of dollars spent by OSHA and the Bureau of Labor Statistics on collecting workplace injury and illness data, no one really knows how many workers are injured and made sick on the job every year. One recent study estimated that the current national surveillance system for work-related injuries and illnesses may miss two-thirds of the total number of occupational illnesses and injuries. The reasons for undercounting are no mystery … companies are able to cook the books by discouraging workers from reporting injuries and illnesses.

9) Chemical Safety Board Takes Up The Slack — With CSHA and MSHA struggling unsuccessfully to pass the oversight laugh-test, the tiny Chemical Safety and Hazard Investigation Board seems to be the only serious workplace safety game in Washington at the moment. Among the six reports that the Bush-appointed Board has issued this year was a study on combustible dust explosions that recommended that OSHA issue a standard to prevent the often overlooked hazard that killed 14 workers in 2004, and killed 119 workers and injured 718 over the past 25 years. More significantly, the Board revealed disturbing preliminary findings of its BP investigation including an appearance by its Chairman Carolyn Merritt on 60 Minutes. (See number 5 above.)

10) Confined Space Wins Koufax Award For Best Single-Issue Blog
Yes, after a hard-fought contest, Confined Space won a convincing victory for the best single issued “lefty” blog, an award even more significant than being named Time’s Person of the Year. And Confined Space came in third in the running for LaborStart’s Best Labor Website of the Year. Bottom Line: There are a lot of angry people out there and Confined Space has helped them find a voice.

Confined Space Blog Closes Up Shop

By Jordan Barab

January 24, 2007—This will be my last Confined Space post. Next week I start work at the House Education and Labor Committee.

Over the past four years, I’ve written more than 2,800 posts here at Confined Space. My original goal was not just to educate people about what is happening in American workplaces, but also to put workplace safety and health into a political context…

What that means is that organizing unions and electing politicians who will fight against unlimited corporate control over our regulatory agencies, our workplaces and the environment are of vital importance to protecting the health and safety of American workers.

So, has this blog had any impact on improving the conditions for workplace safety in this country? Maybe. Enough? Not nearly. Since I started this blog, the AFL-CIO has dismantled its safety and health department, OSHA has issued only one new, weak standard (under court order) and expanded its voluntary programs at the expense of enforcement. Immigrant fatalities continue to grow, coalmine fatalities more than doubled last year, the Bush administration continues to appoint political cronies and union busters to agencies entrusted with ensuring workers’ lives and well-being, and Congressional oversight became a thing of the past—until now.

The real test of success is how many more workplace safety activists exist today than existed four years ago….

We need to make it clear that the right to a safe workplace wasn’t bestowed upon us by concerned politicians or employers. The right to a safe workplace was won only after a long and bitter fight by workers, unions and public health advocates. It was soaked in the blood of hundreds of thousands of coal miners, factory and construction workers. And the current movement to transform the agency into nothing but a coordinator of voluntary alliances is a betrayal of that promise and those lives.

Hopefully in my new job, I can help to restore the system of checks and balances that our constitution provides to make sure that our government does what it’s supposed to do.
Immigrant Workers Risk Injury and Death on the Job

Today, immigrant workers in this country face an epidemic of workplace injury and death. In fact, immigrant workers are at far greater risk of being killed or injured on the job than native-born workers.

Overall, workplace fatalities among foreign-born workers increased by 46 percent between 1992 and 2002. Fatalities among Hispanic workers increased by 58 percent over the same period.

Foreign-born workers are likely to toil in high-risk occupations, work in the unregulated, “informal” economy and often fear reporting workplace injuries.

Many are not aware of their legal rights to safety and health on the job and to workers’ compensation if they are injured.

The AFL-CIO report, *Immigrant Workers at Risk: The Urgent Need for Improved Workplace Safety and Health Policies and Programs*, examines how these factors contribute to the alarming rates of injury and death on the job among immigrants and discusses the detrimental economic effects of such workplace injuries and death across society. Among the report’s key findings:

- Although the share of foreign-born employment increased by 22 percent between 1996 and 2000, the share of fatal occupational injuries for this population increased by 43 percent.
- Nearly one in four fatally injured foreign-born workers was employed in the construction industry.
- Less than one-third of the costs of occupational illnesses and injuries are paid for by employer funded workers’ compensation—with taxpayers picking up nearly 20 percent of the tab through Medicaid and Medicare. Injured workers and their families pay the largest share.

**What Must Be Done**

Immigrant workers must have the same safety and health protections as native-born workers. The existing barriers need to be removed so immigrant workers are aware of their rights and are free to exercise them without fear of retaliation.

**Job fatalities among Hispanic workers increased by 58 percent, and last year reached an all-time high**

For that to happen, the following actions must occur:

- Codify OSHA policy so that the agency does not refer cases involving undocumented workers to the Bureau of Citizenship and Immigration Services.
- Ensure through interagency agreement or legislation that the Immigration and Customs Enforcement Agency will not represent itself as OSHA.
- Strengthen whistle-blower and anti-retaliation provisions to protect all workers, regardless of their immigration status, who exercise job safety rights and raise job safety concerns.
- Enhance outreach, training and education programs for immigrant and Hispanic workers to inform them of job safety rights, job hazards and available protections.
- Require OSHA to provide materials, publications and information in the primary languages of major immigrant worker populations.
- Ensure OSHA requires employers to provide safety and health training in a language understood by their employees.
- Expand language capabilities of OSHA inspectors and other personnel to facilitate communication with and outreach to immigrant workers.
- Require a targeted enforcement program for industries, employers and operations when immigrant workers are at high risk of injury or illness.
- Require OSHA to develop local emphasis programs when immigrant workers are at high risk for injury or illness.
- Strengthen OSHA criminal and civil penalties.
- Require OSHA to issue a final standard mandating that employers must pay for personal protective equipment required by OSHA standards.
- Ensure all workers have access to workers’ compensation when injured on the job, regardless of immigration status, and that workers are not penalized for filing workers’ compensation claims.
- Mandate that NIOSH expand research programs to address the safety and health problems of immigrant and Hispanic workers.

Source: *IMMIGRANT WORKERS AT RISK: The Urgent Need for Improved Workplace Safety and Health Policies and Programs*, AFL-CIO, August 2005
Community Shares is a federation of 37 progressive, non-profit organizations working together to build Social and Economic Equity and a Healthy Environment for all citizens in Greater Milwaukee.

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