

RICOSH MEMO

Protecting America's Workers Act Introduced

'To Make Critical, Decades-Overdue Updates to OSHA'

On February 7, 2010, 6 workers were killed and at least 50 injured when the Kleen Energy power plant in Middletown, CT exploded after workers used natural gas at a high pressure to remove any debris in the plant's piping. During this process, the natural gas found an ignition source and exploded. The hazards of making use of natural gas in such a procedure were well known. Standardized safety protocols established in both OSHA and USEPA risk management rules existed that required all potential sources of ignition from welding, electrical equipment and other practices to be eliminated before this blow-out procedure is utilized but in a rush to finish construction of the plant these were ignored. In fact one of the mechanical subcontractors refused to have his employees work on the site that day. (Subsequent pressure from professional engineering, building code, fire safety associations and the US Chemical Safety Board as well as Congressional hearings succeeded in getting industry to discontinue this natural gas 'blow-out' practice.)

Protecting America's Workers Act (PAWA) H.R.1074 has been introduced into the House of Representatives by Congressman Joe Courtney (D-CT). Rep Courtney introduced the bill with over two dozen cosponsors on the anniversary of the 2010 Kleen Energy power plant explosion with the following:-

'Today, on the ninth anniversary of the accident, it's appropriate that my colleagues and I reintroduce this legislation to make critical, decades-overdue updates to OSHA. Every day, 14 employees go to work and never come home to their families due to fatal on-the-job injuries. The OSHAct made great strides in protecting American workers, but since it was enacted the American workplace has modernized and diversified. The law should keep up with the realities that workers face on the job today. Our bill is focused on updates and compliance, not on petty, punitive measures against employers, and will ensure that today's workforce is empowered and protected by our nation's chief worker safety law.'

PAWA amends the Occupational Safety and Health Act to expand coverage to public sector workers, to expand worker rights following OSHA findings of citations, to increase protections for whistleblowers, to increase penalties for high gravity violations, to adjust penalties for inflation, to provide rights for victim family members during OSHA investigations of worksite fatalities.

Provisions [Selected] of PAWA

- **Expand OSHA coverage** to millions of state and local government employees in the 24 states where they're not currently covered and federal workers- -the original OSHA Act of 1970 did not include coverage for public sector employees or federal employees.
- **Authorize felony penalties against employers who knowingly commit OSHA violations** that result in death or serious bodily injury and extend such penalties to corporate officers and directors. Under the current law, criminal penalties for the willful death of a worker are only misdemeanors. In addition, the PAWA proposes a combination of fines to be increased to a maximum of \$250,000 for individuals and \$500,000 for organizations for OSHA violations which cause or contribute to a worksite fatality and 'serious bodily harm and include possible criminal prosecution.
- **Establish rights for families of workers who were killed on the job** by giving families the right to meet with OSHA investigators, receive copies of citations, and to have an opportunity to make a statement before any settlement negotiations and also to be involved in pleading and reviews before the OSHA Review Commission where OSHA citations are formally contested by employers
- **Improve whistleblower protections** for workers who report unsafe working conditions, by extending the time limits on filing a whistleblower complaint to 180 days from the current 30days.
- **Expand workers' right to contest citations and penalties.** An employee or employee representative may challenge the severity of a citation (e.g. willful, serious, repeated, etc.) and/or the size of the proposed penalty. Currently employees and their representatives are only allowed to contest the length of time to abate the cited hazard (s).
- **Ensure worker safety is protected in a timely manner** by mandating that an employer correct hazards even while a OSHA citation is being contested. Currently, if an employer challenges an OSHA citation, the employer does not have to mitigate the hazard(s) cited. OSHA will often choose to reduce or even or downgrade citations to secure timely abatement of hazards.
- **Update obsolete consensus standards.** There are approximately 200 general industry and maritime consensus standards that were adopted in the early 1970s and that effectively are out of date. PAWA within two years would require OSHA to update these standards.

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