



UNITED SUPPORT & MEMORIAL FOR WORKPLACE FATALITIES

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BECAUSE GOING TO WORK SHOULDN'T BE A GRAVE MISTAKE!

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(April 16, 2012/Lexington, KY): The leading U.S. advocacy group for family-member victims of workplace fatalities is pleased the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) is improving some of its policies for victims' rights. The agency announced today new instructions to its field offices called "Communicating OSHA Fatality Inspection Procedures to a Victim's Family."

"OSHA's new policy responds to concerns raised by widows, mothers and fathers, sons and daughters, and other family members that they were kept in the dark too often about OSHA's investigation into how and why their loved one died," said Tammy Miser, founder of United Support and Memorial for Workplace Fatalities (USMWF). Under the new policy, when citations and penalties are proposed to companies involved in a worker's death, OSHA field offices are directed to notify the victim's family immediately after the notice of violations is given to the employer. This should help prevent families from learning about the citations (or OSHA's decision not to issue any) in local news coverage, town gossip or other unofficial sources.

"We are disappointed, however, that OSHA didn't follow the Mine Safety and Health Administration's (MSHA) example, and put a family's right-to-know ahead of a company's," added Miser. Her brother, Shawn Boone, 33, died after suffering fatal burns from an aluminum-dust explosion in 2003 at the Hayes-Lemmerz plant in Huntington, Indiana.

USMWF had also urged OSHA to give a family-member representative an opportunity to participate in meetings scheduled by an OSHA area director and the employer to discuss the citations and penalties issued. These "informal conferences," which must take place within 15 workdays after the notice of violation is issued, are where the majority of OSHA citations are settled. The penalty amount is often reduced during

these informal conferences in exchange for the company making promises to correct the hazard.

“We are discouraged that OSHA didn’t see the benefit of having the worker-victim represented at these meetings. I speak for other families when I say the terms of the agency’s agreement with my deceased son’s employer would have been much different had I been able to participate in the informal conference,” said Debi Koehler-Fergen of Las Vegas, Nevada. Her son, Travis Koehler, 26, was killed by toxic gases in a confined space while working at Boyd Gaming’s Orleans Hotel & Casino. “I wasn’t even informed that the informal conference was taking place. This new OSHA policy will at least change that for other families” she noted.

“Had OSHA been bold enough to allow a voice for the victim to be present, the dynamics of these meetings and their outcomes for worker protections could have changed dramatically, ” said Katherine Rodriguez of Texas City, Texas. Her father, Ray Gonzalez, 54, and Maurice Moore, Jr., 39, died from severe burns suffered while working at the BP Texas City refinery in September 2004 .

USMWF believes that many employers are quick to blame workers when there is an injury or fatality. Family members experience insult upon injury when employers blame their loved ones for their supposed “unsafe acts.” The fact is that all workplace injuries and illnesses are the result of exposure to hazards – there are no exceptions. The focus belongs squarely on the underlying reasons or management system failures that led to the incident.

“So often we learn that our lost loved ones were put in harm’s way to meet a deadline or production goal, or because the company didn’t want to call in more staff or wait for the proper equipment,” commented Wendy Shurelds of Chula Vista, California. “Those are the kind of root-cause decisions by employers that put workers’ live at risk.” Shurelds’ mother Yvonne, 58, was killed in a 2008 forklift incident at DTR Industries in Bluffton, Ohio.

The revised policy issued by OSHA this week explicitly requires its field offices to keep the family regularly apprised about its post-fatality inspection case. It also makes clear that communications with the family should continue until the case is completely closed, even if an employer’s challenge to OSHA’s findings drags on for years before the independent Occupational Safety and Health Review Commission.

“We will be eager to see how quickly the States that run their own OSHA enforcement programs respond to this new policy, ” said Miser. “We appreciate that some already have written policies that provide stronger family rights than federal OSHA.”

USMWF is a not-for-profit organization dedicated to supporting family members who have lost loved ones from workplace hazards and employers' disregard for workers' lives. USMW promotes family involvement, transparency and fairness in the investigative systems; supports improvement in health and safety protections and workers' compensation; and puts a human face on worker fatalities.