

***THE NATIONAL COUNCIL FOR
OCCUPATIONAL SAFETY AND HEALTH***

4/25/06

Workplace Health and Safety Dirty Dozen Report

INTRODUCTION - America's Dangerous Employers

This report describes 12 cases of companies whose reckless disregard for their employees' safety and health has had tragic consequences. These companies have been able to act with such negligence due to a lack of adequate sanctions from governmental regulations or public oversight. With the goal of preventing future tragedies, this report announces a new National COSH campaign, "Stop Corporate Killers" which will call for an overhaul of the regulatory system to ensure that workers realize the right to a safe and healthy workplace that the Occupational Safety and Health Act promised.

Each year workers in the U.S. suffer tragic consequences from workplace injuries and illnesses. Current data from the federal agencies directed to track workplace injury and illness tell a grueling tale: Federal sources document that an average of more than 16 worker deaths occur each day [1]. In addition, roughly four million workers are seriously injured each year [2]. Another 60,000 workers are estimated to die each year as result of exposure to hazardous materials in the workplace. Most of this toll of death and injury and illness is preventable.

Particularly alarming is the data related to the most vulnerable people in the workplace – youth and immigrant workers. The National Institute of Occupational Safety and Health [NIOSH] estimates 70 youth [less than 18 years old] are killed each year at work, while the rate of workplace fatalities for workers of foreign descent has increased steadily for the last five years [3].

Each case of workplace death or injury needs its own analysis to determine the exact causes and prevention methods. We do know some companies that have particularly bad track records in health and safety. This list is meant to create public accountability for worker health and safety. Unfortunately, there are more offenders that space can provide on this list but these cases can serve as examples for the need to make companies more accountable in our society. Often companies with bad health and safety records also have poor track records in environmental issues, labor relations, discrimination, and quality standards.

THE “DIRTY DOZEN” [Arranged in alphabetical order]

1. **British Petroleum** – On March 23, 2005, an explosion ripped through the BP Amoco refinery in Texas City, Texas. Fifteen workers lost their lives in that explosion; another 170 were injured in the incident. In mid-September 2005, OSHA announced it would fine BP North America \$21.4 million for more than 300 violations (296 were “egregious”) that were identified in an investigation following the explosion.

BP Amoco leads the U.S. refining industry in deaths over the past decade, with 22 fatalities since 1995 [4]. This represents more than a quarter of those killed in refineries nationwide. BP also leads the nation in refinery industry accidents; between 1990 and 2003, 3,565 accidents were reported, the highest among all American Chemistry Council member facilities [5].

In response to the Chemical Safety Board’s recommendation that it set up a committee to review its safety and health practices, BP named James Baker, the well-connected Texas corporate lawyer to head up the committee, even though he has absolutely no safety and health expertise. [6]

2. **Cintas Corp.** – Since January 1, 2003 alone, the national workplace uniform supplier Cintas, has racked up an abysmal record of workplace safety lawlessness:

- over 170 violations of all OSHA Standards
- over 70 violations that OSHA determined could cause "death or serious physical harm"
- total initial penalties were almost \$190,000
- over \$30,000 in penalties for "repeated" violations of the same identical standards in multiple locations.

As a result, OSHA inspectors have found multiple hazards or violations in 31 of the 42 inspections that they have conducted in this period [75% rate of failure].

3. **DuPont Corp.** – The DuPont Corporation, a worldwide manufacturer of chemicals, has carefully crafted a public relations image as being the “benchmark” for safety in industry. They sell their trademark “STOP” safety program to other companies reaping over \$100 million in revenues from their misdirected program. The STOP program is a behavior-based program founded on the theory that almost all injuries are caused by worker unsafe acts. This contradicts the current approach of health and safety professionals that identifies hazards and unsafe conditions as the principle causes of workplace injuries and illnesses.

In fact, DuPont has achieved such record breaking numbers in safety by a coordinated program of intimidation and underreporting of injuries and illnesses. A long history of citations by OSHA and EPA has dogged the company reputation. OSHA cited DuPont for record keeping violations in a landmark case in 1998 for not reporting 117 occupational injuries and illnesses at their Delaware facility. They have continued to build this legacy by getting cited by OSHA again for recordkeeping violations [July 2004] and violation of federal law for not providing health and safety information to the union under the National Labor Relations Act [June, 2004].

4. **Hayes Lemmerz International** – Like thousands of other manufacturing plants in America, this Company’s plant in Huntington, Indiana suffered a fatal

workplace incident in 2003. The story serves as a reminder of the tragic consequences of each one of these workplace fatalities. An aluminum dust explosion killed one worker, 33-year old Shawn Boone and injured six others. The subsequent investigations identified many safety violations including the fact that fires and other smaller explosions were happening routinely at the facility. Workers were instructed to let the fires burn out or to put them out in spite of the lack of training to perform this duty. They were instructed NOT to notify the local Fire Department. Potentially explosive dust such as aluminum dust, grain dust, and wood dust is common to many workplaces.

5. **Honda Motor Company of America** – Although they are highly regarded in the environmental world, the automotive manufacturer has become the wrong type of model in the health and safety world. Their drive for lean production has resulted in an abominable record for worker safety and health. Ergonomic injuries were so high at this company that one year’s tally of reported OSHA log entries [2000] accounted for 1.25% of the reported ergonomic injuries in the entire country! (The rate for repeated trauma injuries at the assembly plant in Marysville, OH was 21/100 workers and in East Liberty, OH was 35/100 workers compared to 7/100 for the average in the Auto Assembly Industry: BLS Data.) [See NY Times article 6/26/2002 “Auto Union and Honda Dispute Safety Record at Plants in Ohio” by Danny Hakim]

6. **International Coal Group (Sago Mine)** - On January 2, 2006 at 6:30 am, a methane gas explosion ripped through the Sago Mine in Tallmansville, West Virginia. Thirteen miners were trapped 280 feet underground equipped with canisters that only provided 10 hours of the life-saving oxygen. After an inaccurate report of survival numbers, the death of 12 miners made this the biggest West Virginia mine disaster in 40 years.

At the heart of this tragedy is the question of why the number of safety violations at the mine nearly tripled since the firm, ICG, bought the Sago mine and reopened it in 2004. Under IGC, the accident rate has climbed from an injury rate of 15.90 in 2004 to 17.04 in 2005, with 16 miners and contractors injured on the job. That compares with a national average injury rate of around 6 for the mining industry as a whole. A fairer comparison is with other small mines since Sago has a workforce of 145; for example, the West Virginia Kingston Mining No. 1 Mine had a rate of 1.21 in 2005.

7. **McWane***: - *The New York Times* ran a three-part series by David Barstow and Lowell Bergman that exposed the egregious safety record of McWane Inc., a large, privately held Alabama-based sewer and water pipe manufacturer. Nine McWane employees have lost their lives in workplace accidents since 1995. More than 4,600 injuries were recorded among the company's 5,000 employees. According to the series, one man died when an industrial oven exploded after he was directed to use it to incinerate highly combustible paint. A conveyor belt that lacked a required protective guard crushed another worker. Three of McWane's nine deaths were the result of deliberate violations of safety standards. In five others, safety lapses were a contributing factor.

According to the *Times*, McWane pulled the wool over the eyes of investigators by stalling them at the factory gates, and then hiding defective equipment. Accident sites were altered before investigators could inspect them, in violation of federal rules. When government enforcement officials did find serious violations, "the punishment meted out by the federal government was so minimal that McWane could treat it as simply a cost of doing business." "After a worker was crushed to death by a forklift that apparently had faulty brakes, an Occupational Safety and Health Administration investigation found defects in all 14 of the plant's forklifts, including the one involved in the death," the *Times* reported. "The fine was just \$10,500. Employers are further protected by the workers' compensation system, which can make it hard for victims to sue." [7]

** Public and union pressure since the New York Times series has resulted in improvements in the safety programs at McWane. The USW [United Steel Workers] reports that the company is working with the union to improve conditions at their facilities.*

8. **Safety Bingo Inc**– This California firm is the inventor of the “original” Safety Bingo. Their promotional materials claim “a company can reduce accident rates by 64% and improve worker morale by 86%” with the use of their product. Not bad for a mere investment in snake oil and trickery! This seemingly innocuous safety game sold by consultants can have devastating results for unsuspecting workplaces. Sold to companies as a way to reduce worker compensation in workplaces, the game discourages the reporting of injuries and reinforces a “blame the worker” approach to safety. Typically groups of workers earn a bingo number for each week without any loss-time injury reports. Workers match their numbers to a bingo card to win prizes, which may range from a pizza to a TV or more. The system encourages peer pressure not to report injuries and causes injured workers to be seen as the problem instead of unsafe conditions being the problem. The company lists satisfied customers such as Amazon.com, JW Marriot Hotel, Toyota Industrial Equipment and Pitney Bowes Management Services. But if you thought you heard the end of this, the company just came out with a new gimmick - SAFETY POKER!

9. **Sunesis** is a medium size construction company [100 employees] that was responsible for the death of a worker, 28-year old Timothy Roark, when a 30-foot trench collapsed on July 31, 2005 near Cincinnati, Ohio. Worker fatalities from trench cave-ins are well recognized in the industry and totally preventable. Past records from OSHA indicate that each year an estimated 40 workers are killed in trench cave-ins. In 2003, 15 of the country's 48 trench cave-in fatalities, or 31 percent, were Hispanic Workers, according to BLS data. OSHA's analysis of internal investigations puts the percentage even higher, at 44. OSHA has specific regulations to safeguard workers during these operations. The follow-up story after the fatality found that the company was “rushing to make a deadline.” In a very common follow-up media report on the fatality, Cincinnati News 5 reported that this was a “freak accident.” However, the hazards of unshored trenches have been well documented for decades and the numbers of workers killed each year tell the real story.

Subsequently, another Sunesis worker fatality occurred; Gregory Miller was killed on the job on October 17, 2005. "This is the second death at this company in three months. I am at a complete loss," said Robyn Miller, sister of the victim.

10. **UNICCO** – UNICCO is a sub-contractor for building maintenance operations. They recorded four separate workplace fatalities and one serious fall incident from 1999 to 2001. Two immigrant employees were killed while performing window cleaning operations in Boston, MA in May 2003. OSHA investigated the incident and found the company in violation of several standards including a faulty fall arrest program. The company agreed to abate the violations and prevent problems by instituting a program to inspect and correct hazards in future operations.

In spite of this, on June 8, 2005, another window washer lost his life and another was seriously injured, after falling from a four-story Burlington MA office building. OSHA then cited UNICCO for Willful violations. Some of the same hazards found in the 2003 fatality incident were cited yet again. The Miami Herald recently [12/23/05] reported about health and safety problems at the University of Miami campus with UNICCO. Workers have complained of getting sick from chemicals used in janitorial jobs.

11. **Wal-Mart Stores Inc.** Wal-Mart, the country's largest and most profitable corporation employing 1.3 million workers and making \$9.1 billion in profits in 2003. The retailer is also recognized as one of the nation's most frequent violators of labor laws and minimum labor standards including: failing to pay workers for overtime; locking workers into stores overnight; discriminating against women employees; exploiting workers overseas and offering substandard wages and benefits. According to the House Committee on Education and the Workforce, "Wal-Mart's power and reach mean that its unacceptable labor standards have vast implication for workers in the United State and around the world."

One of Wal-Mart's work practice scandals centers around a company "lock-in" policy instituted in some of its Wal-Mart and Sam's Club stores. The stores lock the doors at night so that no one can enter or leave the building, leaving workers trapped inside. For more than 15 years, Wal-Mart has instituted this policy with many employees saying it has created disconcerting situations from an Indiana worker suffering a heart attack, to workers' wives going into labor, workers being trapped inside the store during a hurricane in Florida, and sustaining serious injuries while being trapped inside unable to get immediate medical care. The fire exits at Wal-Mart are generally not locked; however, workers are many times threatened that if they use the fire exit to leave the building, they will be fired. Managers are supposed to have a key that will unlock doors to allow employees to escape in an emergency; however; many employees are locked-in without a manager present who has a key. According to a report by Representative George Miller on Wal-Mart's labor record, "Locked-in workers have had to wait for hours off-the-clock for a manager to show up to let them go home after they completed their shift. One worker claims to have broken his foot on the job and had to wait for hours for someone to

open the door. Another worker alleges she cut her hand with box cutters one night and was forced to wait until morning to go to the hospital, where she received thirteen stitches". [8]

After five years of investigations, the U.S. Department of Labor (DOL) found that Wal-Mart violated child labor laws in which 85 minors operated hazardous equipment at stores in three states. Though the law prohibits it, Wal-Mart had its young employees operating equipment such as cardboard balers and chainsaws--the most dangerous pieces of machinery in the industry. [9]

12. W. R. Grace – When the company bought the Asbestos and Vermiculite Mine in the mountains of Montana in 1960, medical science had already established that asbestos dust caused sickness and death. Perhaps that is why Grace chose to drop the word “asbestos” from the mine’s name. Until 1995, Grace ignored the fact that the vermiculite was contaminated with asbestos. Even when workers in the mine and mill became sick, Grace denied that asbestos was the cause. When one doctor in the small town below the mine realized his patients had asbestos-related disease, the company ran him out of town in order to keep its secret. Grace shipped hundreds of thousands of tons of asbestos-contaminated vermiculite to Grace-owned distribution points all over the U.S. and Canada. In those locations, the vermiculite was treated and packaged for sale. At least 30,000 men and women were heavily exposed to asbestos dust as they worked for Grace in Montana and in the network of vermiculite distribution points. The EPA estimates that another 13 million people are at risk because they lived around one of the distribution points.

Dishonorable Mention:

Buffalo Bituminous--Buffalo, MN. - On June 11, 1998 Patrick Randel, a 19-year old college student 9 days into his summer job as a laborer, was sent down into a manhole to clear debris. He started to falter and made it to almost the top trying to escape and fell backward; Patrick died from the incident. The fine issued by OSHA was just \$3,600 for this tragic workplace fatality.

CONCLUSIONS AND RECOMMENDATIONS

We have highlighted these 12 companies, because we believe they are important cases that illustrate the problems of worker health and safety in American workplaces. Had these companies invested in safety instead of just the bottom line, over 40 workers who recently died in these workplaces would still be alive today. Nevertheless, these deaths are just the tip of the iceberg.

The “**Stop Corporate Killers**” Campaign calls for:

- 1 Stronger enforcement of current standards and regulations.** This should include higher penalties and increased criminal prosecution of corporate irresponsibility in cases of willful and egregious actions by employers that result

in fatalities and serious workplace injuries. A minor \$3600 fine for the company responsible for the loss of 19-year old Patrick Randel or the death of a second worker at Sunesis, shows how poorly the current system is working.

- 2 Promulgation of new and revised standards to address known hazards.** Most standards were adopted by OSHA in 1970 and have not been revised since then. The OSHA and MSHA standard setting process is slow and ineffective. Explosive aluminum dust caused the fatality of Shawn Boone at Hays-Lemmerz and many other workplace fatalities, yet a comprehensive standard does not exist to protect workers against reactive dust. MSHA officials had withdrawn a proposed standard that would have required mine owners to install flame resistant conveyer-belt ventilation systems, which probably would have prevented the mine fire that recently killed two West Virginia Miners. Similarly, MSHA withdrew a rule proposal that would have required underground mine operators to provide caches of an adequate number of self-rescue devices (oxygen and breathing devices), allowing miners to escape to the surface or a safe location [10]. It was a similar Canadian standard that recently allowed 70 trapped miners to survive an oxygen-deprived environment. A new requirement for a worker safety impact statement that would initiate mandatory safety and health programs should be implemented in the construction industry, especially when public monies are involved.
- 3 Revise policies to increase the participation of unions in the OSHA process after the inspection and investigation occurs.** In the BP case, the United Steelworkers Union (USW) was excluded from the settlement process that resulted in OSHA settling with BP before any citations were issued. This sidetracked the citation process, which would have given the Union the right to participate in the settlement discussions that could have ensured a more far reaching agreement for worker health and safety.
- 4 Revise OSHA policies to include families of victims in agency procedures and access to information and increased rights to compensation.**
- 5 Preserve the right of workers and citizens to bring suits in the civil courts and have their claims presented before a jury of their peers when corporations have wantonly violated their rights to safe workplaces and communities.**
- 6 Appoint individuals to key safety and health positions on the basis of knowledge and competence, not ideology and political connections.** Recent developments at OSHA including the nomination of an appointee with little experience in professional safety for the head of OSHA, serves as a continued reminder of the neglect of this issue by politicians. Representative George Miller's report on the recent mining disasters notes that the Bush administration has filled the top five positions at MSHA with officials from the industry it is charged with regulating.

7 Pass a criminal prosecution law authorizing OSHA to indict corporations for felony manslaughter when they cause the death of workers by willfully violating safety and health laws.

No one knows and feels the consequences of these problems more than the victims and their loved ones. “We need to act now to save others from the pain and suffering these preventable tragedies bring”, said Tammy Miser of United Support and Memorial for Workplace Fatalities (USMWF) and sister to workplace fatality victim Shawn Boone at the Hays Lemmerz plant.

Donald Coit Smith, whose son was killed last year in a meatpacking fatality, states, “Another death incident was posted at OSHA. A company in North Tonawonda, New York was cited \$60,000 for 20 violations as a result of Corporate America not caring. No lockout procedures, no employee training, no lockout inspections just to name 3 of the citations given. OSHA does not have the power to stop these killings. Our legislature and lawmaking entities MUST TAKE CHARGE and quit covering up for companies killing people. Violations of the law, especially where death is concerned, must carry stiff penalties to include long jail terms. There's no difference in what happened in New York and someone getting run over by a drunk driver...except the laws protect companies. They are, in effect, getting away with murder.”

We must continue to name the names of the offenders, remember and memorialize the injured and killed, and fight to prevent injury and illness to the living.

ABOUT THE NATIONAL COSH

The National Council for Occupational Safety and Health is a federation of local and statewide "COSH" groups: Committees/Coalitions on Occupational Safety and Health. COSH groups, the first of which was founded in 1972, are private, non-profit coalitions of health and technical professionals, labor unions, and others that work to promote worker health and safety through education, training, and policy advocacy.

Endnotes

1. During the period from 1980 through 2004, at least 151,542 workers in the U.S. were killed on the job, (NIOSH – Marsh S and Layne L “Fatal Injuries to Civilian Workers in United States, 1980-1995 [National Profiles] and Bureau of Labor Statistics – “Census of Fatal Occupational Injuries (CFOI)” [www.bls.gov/iif/oshcfoil.htm]

2. The Federal Bureau of Labor Statistics’ Census of Fatal Occupational Injuries (CFOI)* counted 5,703 workplace deaths from traumatic injury in 2004. BLS also estimates that workers were injured 4.4 million times in 2003 alone; while NIOSH estimates that about 3.9 million occupational injuries were serious enough to be treated in hospital emergency rooms in 1999.

3. Loh, K, Richardson S. Foreign-born workers: Trends in fatal occupational injuries, 1996–2001. Monthly Labor Review, 2004 127: 42–53
4. Houston Chronicle 5/17/05 “BP Says Staff’s Mistakes Led to Deadly Blast”
5. US PIRG Education Fund 4/24/03 “Irresponsible Care: The Failure of the Chemical Industry to Protect the Public from Chemical Accidents”
6. The U.S. Chemical Safety Board is an independent federal agency responsible for investigating the causes of accidents due to hazardous materials in commerce and industry
7. Mokhiber R and Robert Weissman R, “The 10 Worst Corporations of 2004” AlterNet. Posted January 26, 2005
8. Rep. Henry Miller Staff, “Everyday Low Wages – The Hidden Price We All Pay for Walmart” 02/16/2004 available at <http://www.wakeupwalmart.com/facts/miller-report.pdf>
9. See more information at http://www.ufcw.org/issues_and_actions/walmart_workers_campaign_info/facts_and_figures/walmartonsafety.cfm
10. Borenstein S of Knight-Ridder's Washington Bureau “MSHA Flip-Flops on Breathing Devices, WV Mine Safety Chief Stepping Down” Wednesday, February 08, 2006

This report was compiled from a survey conducted among member groups. The committee who compiled this report determined that there was no single or combination of objective data [OSHA citations, Injury and Illness reports, fatality reports, etc.] to accurately identify the employers with the worst health and safety programs. Therefore the case studies presented in this report portray some of the stories behind the epidemic of workplace injury, illness and death.

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