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IOSHA has never referred a case to prosecutors for the consideration of a job safety and/or health prosecution.

Beyond failing to keep civil penalties at a pace with inflation, IOSHA has been reluctant to impose civil penalties. From 1984 to 1986, IOSHA inspectors issued an average of $5,197 in total penalties per year. When divided by the 96 average inspections per inspector in 1986, the average fine amounts to $54.14 per inspection.

The IOSHA record, as shown in table 7, falls 34.3% below that of federal OSHA inspectors who averaged $7,910 in fines per year during the same period. An federal OSHA inspector completes an average of 62.5 inspections in 1986. The average fine per inspection by federal OSHA was $126.56.

Table 4.3

Penalties per Inspector
Federal OSHA v. Indiana OSHA

	1984	1985	1986	1983-86
Federal OSHA	$5,544	$7,142	$11,044	$7,910
Indiana OSHA	$4,229	$5,028	$ 6,334	$5,197

Source: LSA and U.S. Department of Labor Report to President for 1986

Criminal Penalties

In addition to civil penalties, federal occupational safety and health law permits the criminal prosecution of employers who commit a willful violation of safety and/or health standards which contributes to the death of an employee.

Indiana's state OSHA law is silent on criminal prosecutions. In fact, IOSHA has never referred a case to prosecutors for the consideration of a job safety and/or health prosecution. State officials have indicated that they believe that IOSHA had no authority to do so.

By abdicating the state's role in prosecuting violations of workplace safety and health, Indiana has

slammed the door on justice for workplace safety victims and their family members.

Moreover, it is possible that this gap in enforcement powers may constitute a failure by the state to maintain a safety program which is at least as effective as the federal government's OSHA program.

Since 1980, California has prosecuted 292 cases and secured 112 convictions for workplace safety violations.[11] The result has been a construction death rate which is almost 3 times lower than other state-plan states and almost 4 times lower than the fatality rate in federal OSHA states. See table 4.4.

Table 4.4

Workplace Safety Fatality Rates
in Major Cities

	Deaths Per Billion Construction $
Federal OSHA States	4.22
State-Plan States	3.25
California	1.14

Compiled by NSWI from The New York Times, September 21, 1987

IOSHA Resources

Funding constraints on IOSHA play an important role in limiting its effectiveness. In 1986, Indiana spent 37.5% less per worker than other state OSHA program and 46.3% less than federal OSHA.

The federal government is partly responsible for the underfunding of IOSHA. However, Indiana also shares the blame. The problem is two-fold:

1) *federal OSHA grants to Indiana are disproportionately smaller than grants to other state-plan states; and*

2) *Indiana appropriates proportionately less to its OSHA program than do other states.*

Table 4.5

Comparison of OSHA Funding
Fiscal Year 1986

	Total $ Per Worker	Federal Share	State Share
Indiana	$1.73	83¢	90¢
State-Plan States	$2.77	$1.66	$1.11
Federal OSHA	$3.22	$3.22	----

The pattern of underfunding by federal OSHA is long standing. In FY 1981, Indiana received 65¢ per worker in federal OSHA funding. Funding for other states ranged from 67¢ per worker in North Carolina to $2.21 per worker in Washington. While the gap has narrowed in recent years, it remains excessive.

Despite its difficulties in obtaining federal funding, Indiana cannot escape scrutiny. The state has failed to fill the gap created by insufficient federal support.

The Legislative Service Administration reported that low-salary levels have contributed to a high turnover rate among IOSHA inspectors. Entry level safety inspectors have a base pay of $15,132 compared to $16,619 in Ohio and $22,195 in Michigan.[12]

OSSC

The Occupational Safety Standards Commission (OSSC) in Indiana is charged with setting standards which will protect the state's workers from safety and health violations. Like the 19 other state-plan states,

Indiana is obligated, as a minimum level of enforcement, to enforce federal standards.

Only once, in 1983, has the OSSC adopted a standard which was not previously mandated by the federal government.

Clearly, the OSSC is seriously understaffed and underfunded. If state leaders do not want the OSSC to fulfill a needed mission, then the commission should be terminated. Otherwise, the OSSC should be properly funded and mandated to address critical regulatory opportunities designed to promote job safety and health in Indiana.

Only once, in 1983, has the OSSC adopted a standard which was not previously mandated by the federal government.

Conclusion

The problems experienced by IOSHA are threefold.

1) *Both civil and criminal penalties against job safety and health violators are little or under used in Indiana.* The penalties have never been altered to reflect the changing economy or to impose the severity needed to keep employers in line.

2) *Both the federal government and the state of Indiana have devoted too little of their total resources to IOSHA.* Without funding, the agency can hardly be expected to draw top-notch, experienced inspectors or administrators. And, if IOSHA receives neither federal nor state backing, then the agency can hardly be expected to fulfill its mission.

3) *The standard-setting commission has basic flaws in its organization,* funding, and mission which have led to its present day inert form of only approving what the federal government passes down the pipeline.

Chapter Five

Indiana Workers' Compensation A Benefit Program or A Shield to Justice?

Workers' compensation can actually reduce public expenditures by serving as an incentive for employers to reduce injuries, fatalities, and disease.

If a worker is hurt or injured, they must rely on workers' compensation insurance for income protection during the period during which they are out of work. Workers' compensation programs, which date back to the early 1900s, are designed to provide workers with modest income protection in the case of injury or illness, while at the same time, protecting employers against liability litigation.

In many respects, the trade-off implicit in workers' compensation is a Devil's bargain for workers—modest income protection in exchange for the right to recover the true costs.

Workers' compensation is more than an insurance and benefit program. Workers' compensation can actually reduce public expenditures by serving as an incentive for employers to reduce injuries, fatalities, and disease. The way that the program should work is simple.

First, the benefits must meaningfully compensate for the cost of a job injury. Since employers must pay the cost, higher costs provide greater incentives for employers to reduce claims (injuries).

Second, sensible programs must be as "experienced" based as possible. If a state regulates the insurance industry in such a way so the premiums (cost of insurance) do not reflect actual losses (benefits paid), then employers in that state have limited reason to reduce injuries.

The workers' compensation system in Indiana provides firms with little reason to reduce injuries. Indiana has the lowest workers' compensation costs,

based on average annual benefit costs per employee, in the entire U.S., as shown in Table 5.1

Table 5.1

1985 Benefit Cost Per Covered Employee

State	*Benefit Cost Per Employee*
Alabama	$198.00
California	$314.00
Florida	$233.00
Illinois	$231.00
INDIANA	**$ 90.00**
Kentucky	$276.00
Michigan	$255.00
Mississippi	$157.00
New Mexico	$318.00
Ohio	$365.00
West Virginia	$558.00

Source: National Foundation for Unemployment Compensation and Workers' Compensation

Indiana is the only state where costs are double digit. Since the cost of workers' compensation is such a small part of the cost of doing business in Indiana, incentives to prevent injuries are correspondingly low.

Indeed, state officials use this argument as an inducement to attract new business. State officials should think through the implications of the message they are sending.

Indeed, that message, to the extent it persuades employers concerned about workers' compensation costs, really involves the importation of death and injury from other states. If anything, state officials should impose high licensing fees on employers with high Experience Modification Ratings (EMRs, the rela-

tive rating of that firm versus other firms in the industry) which wish to relocate to Indiana.

Indiana has outrageously low benefits as compared with neighboring states. Illinois, the highest of the states, has an average benefit per claim which is 5.3 times higher than Indiana's.

Another example of the parsimonious cost of workers compensation in Indiana can be seen in an analysis of base rates in the construction industry. The base, per $100 payroll, for those involved in electrical wiring in Indiana is only $1.78. Indiana's border states are Michigan ($5.75), Kentucky ($3.54), and Illinois ($7.38). Once again, Indiana is at the bottom of the 50 states.[13]

An analysis of average workers' compensation benefits (see Table 5.2) shows that Indiana has outrageously low benefits as compared with neighboring states. Illinois, the highest of the states, has an average benefit per claim which is 5.3 times higher than Indiana's. Meager compensation results in lessened incentive on the part of employers to reduce injury and disease.

Table 5-2

Average Workers' Compensation Payout Levels
1984

State	*Caseload*	*Total Compensation Paid*	*Average Per Case*
Illinois	54,723	$824,872,000	$15,079.93
INDIANA	47,031	$133,984,000	$ 2,850.72
Kentucky	37,145	$193,854,000	$ 5,239.30
Michigan	75,045	$629,560,000	$ 8,394.13
Ohio	111,772	$1,121,001,000	$10,029.35

Compiled from Accident Facts, 1987, Page 34,
National Safety Council, Chicago, Illinois

Indiana's workers' compensation program is stacked in favor of employers and against workers in every important respect. Indeed, the Japanese External Trade Organization (JETRO), which advises

Japanese firms on industrial location decisions, counsels Japanese firms against locating plants in Indiana because of its poor workers' compensation levels.[14] JETRO officials point out in interviews that Japanese managers feel a high degree of responsibility for their workers. Partly as a result of this concern, many major Japanese plants have been built in Michigan and Illinois, states which have far more generous injury compensation programs.

Recently, the Indiana Legislature made modest improvements in workers' compensation benefits. More importantly, Indiana has scheduled significant increases in total disability payments, which will rise from $190 a week to $294 a week in 1990. Also, the duration of benefits is important, particularly to those who have permanent disabilities. Table 5.3 shows how Indiana compares with neighboring states.

Table 5.3

Maximum Total Disability Benefit Levels Under Workers' Compensation

State	*Maximum Benefit Per Week*	*Benefit Limitations*
Illinois	$554.00	Life
INDIANA	**$294.00**	**500 Weeks**
Kentucky	$331.00	Duration
Michigan	$397.00	Duration
Ohio	$385.00	Life

What happens to Indiana workers who are permanently disabled after their benefits are exhausted? That is a critical question. Unfortunately, there are no surveys which provide definitive information. However, it is likely that many of these individuals end-up on public welfare. Indeed, as case payments can help generate overwhelming financial problems which may in turn lead to family and/or societal problems.

Termination Hearings

Indiana workers' compensation laws allow employers or insurance companies the right to terminate benefits without a hearing. While comprehensive data are not available, Indiana is alone among its neighbors in adopting such an arbitrary and capricious policy.

Indiana workers' compensation laws allow employers or insurance companies the right to terminate benefits without a hearing.

Since insurance is both mandated and regulated by the state, the state condones such use of power. The unilateral termination of benefits by the state of Indiana is currently being challenged in U.S. District Court as a violation of due process.[15]

Moreover, Indiana procedures allow the employer the right to select an injured worker's doctor. While it is impossible to determine, it is only logical that some doctors may tilt their medical judgement in an employer's favor.

Indiana's permanent partial disability is 257% below the national average.

The doctor's inducement for such decisions is simply future business. It is only logical that employers retain doctors who provide them with favorable services. In this context, it is important to emphasize that Indiana's compensation levels are hardly high enough to induce individuals to deliberately stay out of work.

Other Benefit Issues

Indiana is consistently cheap in virtually every category—in the amount of compensation paid for a lost limb or in the duration of benefits for partial disabilities, for example. Indeed, the Legislative Services Agency has reported that Indiana's permanent partial disability is 257% below the national average.

Nor does Indiana law require that benefits be paid in a timely fashion, allowing employers and insurance companies an opportunity to hold onto capital, earning interest at the expense of the injured. In every conceivable respect, the Indiana workers' compensation system is stacked in favor of the employers at the expense of those injured or ill.

Furthermore, the State of Indiana does not require employers to pay for the cost of vocational rehabilitation. Indiana is one of only seven states whose workers' compensation laws contain no vocational rehabilitation component. The result, as we will see in the next chapter, is a tragic saga for workers and their families.

Chapter Six
The Human Dimension

Each day, Indiana suffers a human toll of job-related death, injury, and sickness. The numbers, if they could be accurately calculated, would be numbing. As citizens, we have grown numb to the steady drumbeat of death, injury, disease, and disfigurement. We, as a society, accept job injury and disease as a necessary if unwanted part of industrial life.

If society is numb to job injury, individual families are not. Real men and women are really injured. Their story tells of the human dimension of the pain and suffering and the costs, economic and social, that families and society bears. We will let them tell their story.

Elizabeth Groves, Hagerstown

"I keep pretending he is still coming," said Elizabeth Grovers. "Each Sunday, we used to go out and see our friends and family. Now, when Sundays come, I don't put on my clothes."

Mrs. Groves, 59 years old, was happily married to Richard Groves, a lineman for Henderson Electric of Louisville, Kentucky. On June 16, 1987, Mrs. Groves got some terrible news. Richard had been electrocuted.

The tragic news of Richard's death foreshadowed worse events to come. "I have never received the full story of what happened. Indiana OSHA never called me. I never did hear a word from Henderson Electric. I heard that Henderson Electric received a fine of $1,700."

For Mrs. Groves, life had suddenly taken a turn for the worse.

"I went five months without a check," Mrs. Groves remarked. "The hospital where Richard died and the lab both threatened to sue. I begged Hender-

son Electric and the insurance people to straighten out the situation. Things changed only when Congressman (Phillip) Sharp intervened on my behalf."

"My husband was a lineman for 35 years," continued Mrs. Groves. "I now have to live on for a month what I used to budget for a week. I get $720 a month. Of that, I spend $200 right-away for my medical (insurance)."

"I don't know what I will do when my benefits run-out at the end of the 500 weeks. The thought of it scares me. I just don't know what I will do."

Peggy Hoffelder, Auburn

On December 16, 1986, Peggy Hoffelder's hand was crushed when the machine she was operating malfunctioned.

Ms. Hoffelder worked making small rubber parts for automobiles. The machine she operated had been designed so that she had to reach into the machine during the machine's cycle to remove each part.

Although Ms. Hoffelder had had the machine previously checked-out, it malfunctioned on that day and came down upon her hand while she was reaching into the machine to remove a part.

Looking back, Peggy Hoffelder says the company where she worked was not unlike a foreign land. "They can do anything to those people in there (their workers), and there is nothing anyone can do about it.

"I never knew anything about (workers') compensation laws before. Unfortunately, I have become very well acquainted with them during the past few years." After the accident, Ms. Hoffelder was simultaneously undergoing medical treatments and trying to receive retribution. She learned that she was, and still is, at the mercy of her former employers.

First, if she wanted her medical treatments to be paid for, she had no voice in choosing the doctors she saw or the treatments she received. The company doctor met her at the hospital over an hour after the accident and he decided which surgeon would reconstruct her hand.

If she wanted her medical treatments to be paid for, she had no voice in choosing the doctors she saw or the treatments she received.

After six months, she still could not return to work, so she was sent to two other specialists for two more operations.

Last November, the doctors decided that no more could be done for Ms. Hoffelder. "I have just recently gotten so I can use my hand." With a lot of aspirin and a splint, Ms. Hoffelder says she can do some things with her hand. "I think it is as good as it is going to get."

Second, the company she worked for is self-insured and the doctors who treated her were hired by the company. Ms. Hoffelder's compensation payments continue to be based upon the evaluation of her condition by those doctors. While working, Ms. Hoffelder made about $400 a week. Now she receives $190 a week in workers' compensation.

At one point, from November 1987 to May 1988, her payments stopped. "At the time, I was under the impression that they did not have to pay me anything." Then the checks began again without any prompting on her part.

Ms. Hoffelder's doctors said that there is no more that can be done for her. She fully expects compensation payments to end at any moment. "I guess I will just worry about that tomorrow," said Ms. Hoffelder, who feels that she had no choice but to quit her job after being told that she could not continue with the same type of work. She is still not working.

"I think companies need to be held accountable, not taxpayers."

Third, under the workers' compensation system

employees are not able to sue their employers. One option left open to individuals is a third party lawsuit.

Ms. Hoffelder investigated the possibility of a third-party lawsuit against the manufacturer of the machine which malfunctioned and crushed her hand. She was told by a lawyer that it was impossible as the company she worked for had designed and made the machine she used and she could not sue her employer.

"Nobody should be able to get by with what that company is getting by with," said Ms. Hoffelder.

Eric Fogle, Auburn

"I will never forget the look on Jeremy's face when he came to get me."

That was a few short months ago. Eric Fogle, just 21-years old, was working as a cook at a Hardees Restaurant in Auburn. His younger brother, Jeremy, had come to get Eric when their brother, Craig, had been injured at the Bastian Plating plant in Auburn.

"We went down to the hospital to be with Craig. He was just 19-years old. He was too young to die. But the doctors told us he would not make it. I had hope, but I knew that Craig would die."

Two days later, life was over for Craig. "I was hoping for a miracle. We didn't get it.

"Craig had worked at Bastian for about a year. He went there after working for Auburn Foundry where he started work just after graduating from high school," recalled Eric.

"Craig was scared to work at Bastian. He came home with burns and rashes.

"Life is tough in Auburn. We have too many people hurt and killed. We need to stop this. We need good safety programs. We need to protect our people."

Craig Fogle died in a valiant yet tragic effort trying to rescue fellow workers. A total of five men suffered a common demise at Basitan Plating. The people of Auburn– their family and friends– will not forget them.

Rod Warren, Hobart

Rod Warren can remember the accident just like it was yesterday. The bridge which he was working on simply collapsed. The question in Rod's mind was not avoiding injury, but how to escape alive.

Mr. Warren awoke in a Gary hospital after the bridge collapse. He was alive, but he was only beginning to discover the hell of a job injury. As a 29-year old carpenter, he thought his life was in front of him. After the collapse and the loss of his right leg, his cracked pelvic bone and other serious injuries seemed meager by comparison.

The bridge collapse happened at midday on Thursday. His employer, Superior Construction, paid him for Thursday and Friday. Then Superior terminated his pay. That was only the beginning of his difficulties.

"My family received $140 per week the first year, then $75 a week the second year. Without my parents, the carpenters' union, and social security, we would have been in absolute poverty.

"Social security was critical, especially for a family with children. However, it took us a year to get the $960 a month we received. But with house payments, we needed it to survive.

"I don't know what so many people do," said Mr. Warren. "I borrowed $10,000 from my parents during the first year. We needed it because I couldn't work for two years."

Mr. Warren has a poor impression of IOSHA. His feeling about the Indiana's workers' compensation

system are worse. "I have very little respect for IOSHA. They seem almost like a bad joke to me. When they do come around, they seldom get tough. When they get tough, they back-off and reduce their fines.

The workers' compensation system...seems only to shield employers and leave workers in poverty.

"The workers' compensation system is worse. It is a disgrace. It seems only to shield employers and leave workers in poverty."

Mr. Warren's accident took place over six years ago. "It is a day I will never forget."

Sheila Grider, Indianapolis

Sheila hates paying Indiana taxes.

This is because these taxes support a system which failed to protect her husband and which did not adequately support her and her child who was born after his death.

Her husband, Charlie, was excited to begin training as a lineman for the Indiana Power and Light company in the summer of 1986. Mrs. Grider had concerns about the safety of this new job.

"He told me that as long as he was careful that everything would be okay." But the one thing neither of them counted on, according to Mrs. Grider, was that someone else would not be careful.

On a windy January 6, 1987, at the age of 23, Charlie Grider was electrocuted and died. On that day, Mr. Grider was installing some new equipment on a pole as two supervisors watched him from below.

Mrs. Grider, who obtained a copy of the Indiana OSHA file, said that it states that the two supervisors knew of the danger yet they left him on the pole and gave him no warning about an unblanketed wire which was behind him.

"The wire blew into by husband's back, he never saw it coming," said Mrs. Grider.

The company was cited for having Mr. Grider work outside of his job description, for undersupervision, and for leaving that wire unblanketed. The fine was $1,000. Mrs. Grider expressed deep disappointment in Indiana OSHA. "It seems that they should be on sites like this before (an accident), instead of after."

At the time, Mrs. Grider was expecting, Jessica, their first child. Following the accident, Mrs. Grider received $2,000 from her husband's union and $2,000 from the company to cover funeral expenses. "It was helpful, but not adequate...I remember sitting there, about to deliver and thinking this is it. This is all we get?"

A representative from the company came and visited Mrs. Grider to give her the $2,000 and to offer her a job at the company. Mrs. Grider said that for her own sanity she could not work for her husband's company. "I would have been Charlie Grider's widow."

When she requested that the company pick up health insurance for Jessica until the age of 18 or let her buy it at the rate paid by her husband, they refused. Mrs. Grider remembers them saying that by giving her the money and offering her a job they had fulfilled their legal and moral obligations to her.

At present, she recieves about $760 a month in workers' compensation and $500 a month in social security disability benefits attributed to Jessica. "If they are not going to raise it (the compensation level), then they should open up the right to sue."

Mrs. Grider has gone back to work. "I couldn't live on social security and workers' comp."

With the death of her husband nearly two years past and her daughter one year old, Mrs. Grider considers herself a survivor and not a victim. She still owns

the house which she and her husband bought together, but this is due to her efforts and not as a result of help from the Indiana workers' compensation system.

She is still bitter about the way the system did not protect Jessica's father and then left the two of them holding the bag with no recourse to receive retribution.

"It is just not fair. My child deserves the life she could have had..not just getting by."

Quentin Erwin, Muncie

On October 20, 1986, Quentin Erwin's livelihood took a severe turn for the worse.

On that day, Mr. Erwin was unilaterally terminated from receiving Indiana workers' compensation benefits. Mr. Erwin, however, was not notified of the termination until November 4.

"I was only receiving $96 a week," Mr. Erwin recalled. "My wife, at that time, and I had to move in with my in-laws to make things work.

"The cut-off left everyone confused. My doctor said that I should not go back to my original job at Procare. He did say that I could work at a job which did not require lifting. Yet he would not release me from disability."

The situation was a true Catch-22. Mr. Erwin was disabled, yet he wasn't. He could not go back to his original job. Although he could work somewhere else. No one would employ Mr. Erwin until he was released from his doctor's care.

"The circumstances left my life in a horrible situation. My in-laws couldn't understand it," Mr. Erwin said. "I ultimately got divorced."

Mr. Erwin was injured when his shoulder was severely dislocated when he was manhandled by a patient at Procare, a Muncie-based firm which treats emotionally disturbed patients. Mr. Erwin, who is 5-foot 4-inches tall, was beaten on several occasions by much larger patients.

To this day, Mr. Erwin remains outraged that his workers' compensation payments were terminated without a hearing. He has filed suit in U.S. District Court to constitutionally test Indiana's procedures for such terminations. Mr. Erwin cannot recover funds under his suit, but a favorable ruling would prevent the state from treating others in a similar manner.

"I intend to win the suit," said Mr. Erwin. "I will fight it will all that I have. It is outrageous that the state of Indiana treats people in such a manner. What the state did to me nearly ruined my life. The situation should not happen to someone else."

Chapter 7
How Many More Must Die? Conclusions & Recommendations

The State of Indiana must no longer condone legalized workplace homicide. Indiana has not enforced its job safety laws and it has pushed those injured or the family members of those who have been killed on-the-job into poverty.

As we saw earlier in this report, Indiana workers are dying in much larger numbers than their neighbors in Michigan, Ohio, or Illinois. Other data presented in this report show that Indiana is especially parsimonious in the way it handles workers' compensation. The combination of lax enforcement and low workers' compensation has produced a deadly result--business environments which produce excessive death and injury. This is the only possible explanation for the large differences between Indiana and neighboring states in selected job fatality rates.

Hoosiers have heard from industry and political leaders that low workers' compensation costs help lure jobs to Indiana. Indeed, any firm which buys this argument is precisely the type of firm that Indiana should not want. Such firms simply externalize the costs of job-injury to the injured, their families, and the public welfare system. In a report which will be released October 30, 1988, the National Safe Workplace Institute on shows that the costs of job injuries, in terms of increased welfare benefits by the federal government, to be $9 billion a year.[16] Those costs should be absorbed by the business environments which create the problems in the first place, not by the already hard-pressed taxpayers.

The gap between benefits and costs is outrageous. The maximum benefits paid for an Indiana fatality are less than $100,000. What is the cost? According to the National Safety Council, an industry group, the cost of a job related fatality is $460,000.[17]

The difference between the benefits paid by workers' compensation and the actual cost of $360,000 is absorbed by families, private charity, and public welfare.

How Many More Deaths?

Indiana has experienced a much higher death rate in construction than neighboring Michigan and Ohio. According to the National Safety Council, about one-third of job-related deaths occur in construction.[18] The National Institute of Occupational Safety and Health reports that Indiana had at least 133 job related fatalities in 1984,[19] which translates into 44 construction deaths. Table 7.1 demonstrates how many deaths would have occured if Indiana had fatality rates similar to Michigan or Ohio.

Table 7.1

Relative Death Rates

Indiana Alone, Assuming Michigan and Ohio Rates
Construction Industry

State	Fatality Rate per 100,000	Number of Fatalities	Fatality Gap
Indiana	34.1	44	—
Michigan	20.5	26	18
Ohio	21.4	28	16

As we can see from Table 7.1, Indiana would save 18 lives a year if the state operated programs which had the same effect as Michigan, or 16 if the state had the same programs as Ohio. Indiana's economy would have saved $8.3 million if it had experienced the same rate as Ohio--using $460,000 as the cost of a job related death. These estimates obviously do not bring into consideration the social costs of fatalities. Moreover, injuries occur almost in relation to fatalities. Hence, the total bill for Indiana could be a staggering, in the hundreds of millions of dollars each year.

Conclusions & Recommendations

Soon, the people of Indiana will have a new Governor. That Governor should immediately establish worker safety and health protection as a high priority in this administration.

It is time that meaningful protection be offered to the working men and women of Indiana or time that job safety and health jurisdiction be retuned to the federal government.

The new Governor should appoint a "Hoosier Job Safety and Health Gubernatorial Task Force." This effort should be comprised of labor and industry members, victims, and others who clearly have a stake in workplace safety and health issues. This Task Force should be required to report to the Governor within 90 days specifying both administrative and legislative reforms which should be made early next year.

This Task Force needs to consider reforms in workplace safety and health and in workers' compensation. The Task Force should conduct hearings, to maximize public input.

The goal which should drive the Task Force is the need for Indiana to have a system which prevents injuries rather than tolerates injuries.

The remainder of this chapter will focus on minimum goals for reforming IOSHA and the workers' compensation system in Indiana.

Enforcement/Regulation

IOSHA badly needs to be reformed. IOSHA needs competent personnel and the resources to compensate it personnel. Perhaps as importantly, IOSHA enforcement officers need a mandate.

They need to know that they will have support from the highest offices of the state to conduct their responsibilities.

IOSHA clearly needs to shift its enforcement activities from the public sector to the private sector. IOSHA should develop a special targeting system to identify those firms with high rates of injury and death.

Injury prevention strategies typically involve the potential of substantial penalties. IOSHA must be ready to impose such penalties in order for Indiana businesses to fully understand that the state will enforce the law.

Clearly, IOSHA has not been fairly treated by the federal government in the budget process for state grants. The federal government has consistently requested higher appropriations for federal programs than it has for state-plan grants.

Finally, the OSSC must have the resources and the authority to establish the safety and health standards which are critical to protecting Indiana workers. The OSSC should not rely on the federal government to promulgate effective standards.

Workers' Compensation

The Indiana workers' compensation system, in spite of recent modification, is a disgrace. Minimum reforms should include:

1) *The right to a hearing prior to having benefits terminated;*

2) *The adoption of benefits which are comparable to the average benefits in border states (Michigan, Ohio, Kentucky, and Illinois); and*

3) *The right to litigate against employers who have demonstrated recklessness.*

As we discussed in this report, there is no evidence to support the claim that firms move to Indiana because of the low-cost of workers' compensation insurance. Indeed, if it is true that firms that move

to Indiana because of lower insurance costs, then these firms would be precisely the firms which Indiana does not want. They would be all too willing to have the workers and taxpayers share the costs of mismanagement and recklessness.

The people of Indiana should be proud of their state. However, that pride should not extend to the way state government enforces job safety and health laws. Nor should that pride extend to Indiana's poverty-level workers' compensation programs.

The people of Indiana should demand that their government operate programs which prevent injury and which justly compensates people when injury occurs. With modest steps, Hoosiers will no longer be expendable people, but people with a future free from excessive death and injury.

NSWI Staff Capacity

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Footnotes

1. See Legislative Services Agency, Sunset Review Report, Executive Summary, Page 2.

2. See report of the National Academy of Sciences, Panel on Occupational Safety and Health Statistics, October 1987.

3. "National Traumatic Occupational Fatalities," 1980-1985, National Institute of Occupational Safety and Health, June 1988.

4. Death certificate data are more reliable for traumatic injuries than for occupationally-related diseases. Death certificate data provide a minimum count since under-reporting is highly likely.

5. See Anthony Suruda, M.D., M.P.H., "Counting Recognized Occupational Deaths in the United States," Journal of Occupational Medicine, Vol. 30, No. 11, November 1988.

6. See Accident Facts, National Safety Council, p. 34.

7. See news release of the International Molders Union, September 22, 1987.

8. Department of Labor, OSHA Annual Report, 1986.

9. Ibid.

10. See Occupational Safety and Health Act (Public Law 91-596), Section 17.

11. "Ending Legalized Workplace Homicide", National Safe Workplace Institute, July 15, 1988, p. 6.

12. Legislative Services Agency, Sunset Review Report, p. 21.

13. Engineering News Record, September 15, 1988, pages 58-59.

14. Conversation with officials of the Japanese External Trade Organization, Chicago, during October 1988.

15. Case involves Quentin Erwin, this report, pages 32-33.

16. See "Safer Work", NSWI, October 30, 1988.

17. See Accident Facts, National Safety Council, p. 31.

18. This statistic does not include accidents involving motor vehicles. Moreover, NIOSH has estimated that one-third of construction-related deaths go unreported to regulators.

19. See Suruda, op. cit., Table 1.

COMPARISON OF 1987 ALASKA AND NATIONAL
OCCUPATIONAL INJURY AND ILLNESS INCIDENCE RATES

	Alaska Rate	National Rate
Oil and Gas Extraction	9.0	8.3
General Building Construction	17.5	14.2
Heavy Construction	19.4	14.5
Special Trade Construction	15.0	15.0
Canned and Cured Fish Processing	35.2	26.4
Fresh/Frozen Fish Processing	35.3	18.8
Logging Camps and Contractors	51.8	19.3
Trucking and Warehousing	17.7	12.3
Water Transportation	13.2	12.9
Tranportation by Air	13.9	14.3
All Private Industries	10.9	8.3

TABLE A-11
Incidence rates of Occupational Injuries and Illnesses
Comparison of all States - Private Sector
1983 to 1987

	1983	1984	1985	1986	1987
USA	7.6	8.0	7.9	7.9	8.3
Alabama	7.9	8.3	8.4	8.7	
Alaska	10.6	10.3	10.7	10.2	10.9
Arizona	9.3	9.5	9.2	8.9	9.0
Arkansas	8.1	8.0	8.0	8.4	
California	9.1	9.3	9.1	8.9	8.8
Colorado	--	--	--	--	--
Connecticut	8.0	8.3	8.3	8.2	
Delaware	5.3	5.5	5.6	6.0	
Florida	8.7	8.9	8.8	8.8	
Georgia	--	--	--	--	--
Hawaii	10.6	10.0	9.6	9.5	9.8
Idaho	--	--	--	--	--
Illinois	--	--	--	--	--
Indiana	7.3	7.7	7.7	8.2	
Iowa	7.8	8.1	8.2	8.4	
Kansas	7.5	7.7	7.7	7.6	
Kentucky	7.6	8.3	8.3	8.4	
Louisiana	7.4	7.9	7.3	7.0	
Maine	11.0	13.2	12.5	12.9	
Maryland	7.6	7.8	7.9	7.8	
Massachusetts	--	--	--	--	--
Michigan	6.8	7.6	8.0	8.2	
Minnesota	7.3	7.7	7.6	7.3	
Mississippi	--	8.0	7.8	8.0	
Missouri	7.5	8.0	7.9	8.5	
Montana	--	8.5	8.0	8.2	
Nebraska	8.4	8.8	7.9	8.1	
Nevada	9.0	9.0	8.5	8.4	9.4
New Hampshire	--	--	--	--	--
New Jersey	--	--	--	--	--
New Mexico	7.8	8.7	8.4	7.7	
New York	--	--	--	--	--
North Carolina	6.8	7.2	7.4	7.2	
North Dakota	--	--	--	--	--
Ohio	--	--	--	--	--
Oklahoma	8.9	9.8	9.5	8.1	
Oregon	9.8	10.6	10.5	10.7	10.9
Pennsylvania	--	--	--	--	--
Rhode Island	8.3	8.4	8.9		
South Carolina	6.7	6.9	7.1	6.9	
South Dakota	--	--	--	--	--
Tennessee	7.9	8.6	8.2		
Texas	--	--	--	--	--
Utah	8.5	9.2	8.5	9.1	
Vermont	9.2	10.0	9.1	8.9	
Virginia	7.0	7.6	7.3	7.6	
Washington	9.7	9.9	9.4	9.8	10.6
West Virginia	6.7	7.2	7.2	7.7	
Wisconsin	--	--	--	--	--
Wyoming	7.9	8.6	7.4	7.6	
American Samoa	2.5	3.0	3.6	3.2	2.6
Guam	2.7	2.8	3.6	3.7	3.6
Puerto Rico	4.2	3.9	3.8	3.9	
Virgin Islands	2.8	2.4	2.4	2.4	

SOURCE: Bureau of Labor Statistics.
-- = Publishable Rate Unavailable.
X = 1987 data not available at time of publication.

Alaska

TABLE A-3
Incidence Rates of Recordable Occupational Injuries and Illnesses
Industry Data Time Series, Alaska 1978 to 1987

Industry	SIC Code	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987
TOTAL PRIVATE AND PUBLIC SECTOR		9.4	9.2	9.1	9.2	9.5	9.9	9.7	10.1	9.6	10.1
TOTAL PRIVATE SECTOR		10.0	10.1	10.4	10.0	10.3	10.6	10.3	10.7	10.2	10.9
MINING		15.2	14.0	12.1	15.4	14.8	11.5	10.5	9.4	8.1	8.9
Oil and Gas Extraction	13	15.7	13.7	12.4	15.8	15.3	11.8	10.6	9.7	8.2	9.0
Petroleum & Gas Production	131	--	--	2.5	7.3	6.7	5.1	2.8	2.6	2.1	3.5
Oil & Gas Field Services	138	22.6	23.0	23.8	24.9	24.6	19.6	22.0	17.4	14.8	15.2
CONSTRUCTION		16.4	16.4	18.5	17.2	19.4	17.6	16.9	19.4	16.2	17.1
General Building Contractors	15	17.1	14.3	16.5	19.8	19.6	21.6	17.7	19.5	17.6	17.5
Residential Buildings	152	16.5	11.9	15.1	15.6	16.5	17.7	13.4	15.4	18.0	17.0
Nonresidential Buildings	154	18.0	16.8	18.0	23.7	21.9	26.0	22.0	22.9	17.3	17.7
Heavy Construction Contractors	16	14.2	16.6	17.3	15.1	20.9	14.9	15.7	18.9	16.5	19.4
Highway and Street Construction	161	9.7	18.8	19.2	17.8	27.6	19.0	19.8	16.6	20.8	14.4
Heavy Construction, Except Hwy	162	16.4	15.1	16.4	14.0	16.8	12.9	13.9	20.3	14.3	22.8
Special Trade Contractors	17	17.6	17.4	15.9	17.8	17.9	17.7	17.1	19.8	14.9	15.0
Plumbing, Heating & Air Condit	171	14.6	14.8	16.7	18.8	17.0	25.6	23.3	18.9	16.0	14.4
Electrical Work	173	17.0	10.8	16.5	15.4	16.6	13.2	14.3	16.4	15.9	15.4
Misc Special Trade Contractors	179	--	23.1	16.3	21.6	18.6	14.6	20.6	23.6	15.9	12.6
MANUFACTURING		21.4	24.1	23.3	19.1	17.9	23.2	23.0	26.3	28.3	29.5
Food and Kindred Products	20	21.8	25.7	25.7	22.2	20.2	29.5	25.0	32.5	33.3	34.5
Misc Food Prep & Kindred Prod	209	22.3	26.0	26.9	22.5	20.8	30.1	25.7	32.9	33.4	35.3
Canned & Cured Fish & Seafoods	2091	18.7	23.5	21.4	19.9	18.6	21.4	25.0	30.3	34.3	35.2
Fresh/Froz Pkgd Fish & Seafds	2092	27.4	29.2	31.7	24.6	21.8	32.9	26.1	33.9	33.0	35.3
Lumber & Wood Prod Except Furniture	24	31.8	31.0	32.5	26.8	26.9	31.2	43.0	38.6	50.9	48.5
Logging Camps & Contractors	241	38.6	39.1	37.3	27.2	30.8	35.7	45.6	45.0	56.6	51.8
Printing, Publishing & Allied Ind	27	--	--	2.5	3.1	5.7	6.3	6.2	5.1	6.5	5.8
TRANSPORTATION AND PUBLIC UTILITIES		11.4	11.4	12.2	11.6	10.7	11.4	12.1	11.3	11.3	10.9
Local & Interurban Passenger Transit	41	--	5.1	4.8	6.7	4.9	--	7.1	6.3	11.3	12.8
Trucking and Warehousing	42	21.4	20.6	21.7	17.8	14.0	20.7	24.2	17.4	19.5	17.7
Trucking, Local and Long Distance	421	21.3	21.0	22.1	18.0	13.8	19.8	23.9	17.5	19.7	17.9
Water Transportation	44	18.6	16.0	16.2	16.6	11.7	11.9	10.8	16.2	10.7	13.2
Transportation by Air	45	15.2	12.4	13.2	13.6	12.7	10.7	14.2	14.0	13.3	13.9
Communication	48	3.0	6.9	9.1	8.4	8.6	9.6	5.7	6.7	6.2	4.5
Electric, Gas and Sanitary Services	49	15.5	14.6	14.6	13.9	14.8	16.4	19.4	16.0	16.2	15.5
WHOLESALE AND RETAIL TRADE		8.2	7.9	7.7	8.0	9.3	10.2	9.9	10.0	8.9	9.3
WHOLESALE TRADE		12.2	11.4	10.9	9.8	9.6	12.3	11.7	10.9	8.0	9.4
Durable Goods	50	12.2	11.6	8.5	7.9	7.4	8.9	9.7	8.9	5.8	7.7
Nondurable Goods	51	8.1	11.0	15.4	12.8	13.4	18.0	15.1	14.4	11.5	11.5
RETAIL TRADE		7.4	6.9	6.8	7.4	9.3	9.6	9.5	9.8	9.2	9.3
Building Materials & Garden Supplies	52	8.9	6.2	9.4	12.3	13.7	20.5	17.7	17.6	11.3	12.7
Lumber & Bldg Materials	521	--	--	--	--	17.2	25.5	22.6	21.3	12.4	-
General Merchandise Stores	53	9.2	8.8	6.0	7.1	8.2	12.3	10.4	9.3	10.7	10.8
Food Stores	54	9.5	8.9	10.1	8.5	11.8	9.7	15.8	15.5	18.0	15.6
Auto Dealers and Service Stations	55	10.2	8.5	9.5	8.9	8.1	10.4	13.5	10.8	8.3	8.7
Apparel and Accessory Stores	56	3.4	2.7	2.1	2.4	1.0	1.0	1.5	2.5	0.4	3.3
Furniture, Home Furnishings	57	--	--	--	--	4.8	3.5	4.4	5.2	6.4	5.8
Eating and Drinking Places	58	6.6	7.2	6.5	8.1	11.2	9.8	6.6	8.5	8.3	8.9
Miscellaneous Retail	59	6.7	3.9	2.9	5.1	5.5	6.4	6.6	5.9	4.3	3.6
FINANCE, INSURANCE AND REAL ESTATE		0.7	1.4	1.3	1.5	1.5	2.0	1.7	2.1	3.3	2.8
Banking	60	1.1	2.1	1.9	2.2	1.8	2.9	2.1	2.6	2.6	3.3
Credit Agencies	61	--	--	--	--	1.5	1.1	1.6	0.7	1.7	3.2
Real Estate	65	0.8	0.1	2.8	1.9	2.3	2.1	2.4	4.1	4.9	2.7
Holding & Other Investment Offices	67	0.3	1.8	0.0	1.2	0.7	1.3	1.3	2.3	--	3.5
SERVICES		4.3	4.0	4.3	4.3	4.4	4.7	5.1	5.5	5.4	6.5
Hotels and Other Lodging Places	70	5.5	7.9	9.3	6.8	7.0	9.9	11.0	10.0	13.4	13.6
Personal Services	72	0.6	1.3	2.5	2.8	1.7	4.1	5.3	6.3	1.7	3.7
Business Services	73	7.2	3.8	6.7	3.7	6.7	3.9	3.4	2.6	4.5	5.0
Automotive Services	75	--	--	--	7.5	8.4	8.2	6.6	9.9	6.3	11.2
Health Services	80	4.0	3.7	3.6	5.4	4.1	5.5	7.9	8.9	6.3	8.0
Legal Services	81	0.5	1.0	0.2	--	0.3	0.1	0.1	0.8	1.1	0.7
Social Services	83	4.3	4.9	3.5	3.9	3.7	4.2	3.5	7.3	3.0	3.7
Membership Organizations	86	2.9	2.9	3.1	3.0	2.8	3.0	0.7	1.8	4.0	5.8
Miscellaneous Services	89	2.9	1.8	2.8	3.0	2.0	1.1	2.6	2.6	2.8	2.7
STATE AND LOCAL GOVERNMENT		7.1	6.3	4.9	6.5	6.7	7.3	7.7	8.1	7.7	7.3
STATE GOVERNMENT		6.2	3.8	3.3	4.7	4.6	5.5	5.5	5.2	6.0	6.0
LOCAL GOVERNMENT		8.1	8.7	6.3	8.1	8.6	8.7	9.5	10.5	9.0	8.4

See footnotes at end of section.
** = Publishable rate unavailable.

TABLE A-8

Incidence Rates of Recordable Occupational Injuries and Illnesses
U.S. Private Sector, Select Industries, 1978 to 1987

Industry	SIC Code	Incidence Rate for Total Cases (per 100 workers) 1/ 1978	1979	1980	1981	1982	1983	1984	1985	1986	1987
TOTAL PRIVATE SECTOR..................		9.4	9.5	8.7	8.3	7.7	7.6	8.0	7.9	7.9	8.3
AGRICULTURE..........................		11.6	11.7	11.9	12.3	11.8	11.9	12.0	11.4	11.2	11.2
MINING................................		11.5	11.4	11.2	11.6	10.5	8.4	9.7	8.4	7.4	8.5
Oil and Gas Extraction..............	13	13.9	13.6	13.4	14.3	12.1	9.8	11.8	10.1	8.1	8.3
Petroleum & Gas Production.........	131	4.4	5.4	3.8	4.1	4.3	3.5	3.3	2.7	2.6	2.5
Oil & Gas Field Services...........	138	20.0	18.9	19.3	19.7	16.8	14.3	18.2	15.8	13.0	14.0
CONSTRUCTION..........................		16.0	16.2	15.7	15.1	14.6	14.8	15.5	15.2	15.2	14.7
General Building Contractors........	15	15.9	16.3	15.5	15.1	14.1	14.4	15.4	15.2	14.9	14.2
Residential Buildings..............	152	13.3	13.0	11.9	11.9	13.8	11.9	12.6	12.3	12.5	13.9
Nonresidential Buildings...........	154	19.2	19.7	19.4	18.5	17.1	17.3	18.9	18.7	17.9	18.5
Heavy Construction Contractors......	16	16.6	16.6	16.3	16.9	15.1	15.4	17.9	16.5	14.7	16.5
Highway and Street Construction...	161	15.2	15.5	18.6	16.0	13.4	16.3	16.6	13.8	13.9	14.2
Heavy Construction, Except Hwy....	162	17.2	17.1	16.6	15.3	15.7	15.9	15.1	14.8	15.1	16.7
Special Trade Contractors...........	17	15.8	16.0	15.5	15.3	14.7	14.8	15.8	15.4	15.6	15.3
Plumbing, Heating & Air Condit....	171	16.9	17.0	16.2	15.7	15.1	15.7	15.0	15.7	16.1	14.4
Electrical Work....................	173	14.0	14.0	14.2	14.0	13.9	13.7	14.4	14.3	13.2	13.0
Misc. Special Trade Contractors...	179	18.9	17.5	16.2	17.1	15.9	15.1	15.8	16.5	15.7	17.4
MANUFACTURING........................		13.2	13.3	12.2	11.5	10.2	10.0	10.6	10.4	10.6	11.9
Food and Kindred Products...........	20	19.4	19.9	18.7	17.8	16.7	16.5	16.7	16.7	16.5	17.7
Misc. Food Prep. & Kind. Prod.....	209	16.3	15.8	15.3	15.0	14.2	14.1	16.3	14.7	14.1	15.1
Canned & Cured Fish & Seafoods..	2091	22.3	24.4	23.2	22.4	17.8	17.1	--	--	19.1	26.4
Fresh/Froz. Pkgd.Fish & Seafds..	2092	28.4	22.0	19.4	18.6	17.1	17.9	17.3	19.2	18.2	18.8
Lumber & Wood Prod. except Furniture	24	22.6	20.7	18.6	17.6	15.9	18.3	19.6	18.5	17.9	18.5
Logging Camps & Contractors.......	241	25.9	24.2	22.3	19.3	20.4	21.5	21.7	23.0	19.1	[illegible]
Paper and Allied Products...........	26	13.3	13.6	12.7	11.6	10.8	10.0	12.4	13.2	13.5	12.8
Printing, Publishing & Allied Ind...	27	6.9	7.2	6.9	6.7	6.6	6.6	6.5	6.3	6.5	6.7
TRANSPORTATION AND PUBLIC UTILITIES...		10.1	[illegible]	9.4	9.0	8.5	8.2	8.0	8.6	8.2	8.4
Local & Interurban Passenger Transit	41	8.7	9.3	9.5	9.3	9.3	8.7	9.3	9.3	9.3	9.2
Trucking and Warehousing............	42	16.2	15.8	14.9	14.7	14.2	13.3	14.5	13.9	13.1	12.3
Trucking, Local and Long Distance.	421	16.3	15.7	14.8	14.7	14.2	13.3	14.6	14.7	13.2	13.2
Water Transportation................	44	10.6	16.1	16.2	12.5	11.4	13.0	13.2	13.3	13.7	12.9
Transportation by Air...............	45	13.4	13.7	13.3	13.5	13.6	12.7	13.2	13.1	13.2	14.3
Communication........................	48	2.7	2.8	2.8	2.7	2.8	2.9	2.7	2.9	2.7	2.8
Electric, Gas and Sanitary Services.	49	9.3	8.9	5.6	8.3	7.6	7.2	7.8	6.9	6.8	7.6
WHOLESALE & RETAIL TRADE..............		7.9	8.0	7.4	7.3	7.2	7.2	7.4	7.4	7.7	7.7
WHOLESALE TRADE.......................		8.8	8.0	8.2	7.7	7.1	7.3	7.2	7.2	7.2	7.4
Durable Goods........................	50	8.6	8.6	7.8	7.3	6.1	6.6	6.7	6.5	6.3	6.7
Nondurable Goods.....................	51	9.3	9.1	8.7	8.3	7.8	7.9	8.2	8.2	8.7	8.5
RETAIL TRADE.........................		7.5	7.7	7.3	7.1	7.2	7.3	7.5	7.5	7.8	7.8
Building Materials & Garden Supplies	52	9.8	9.5	8.4	8.3	8.4	8.5	9.6	9.0	10.2	10.2
General Merchandise Stores..........	53	9.1	9.0	9.3	9.0	9.2	9.7	9.8	10.3	10.4	10.8
Food Stores..........................	54	10.7	11.7	10.5	10.4	10.3	10.6	10.8	10.4	10.7	10.9
Auto Dealers and Service Stations...	55	8.9	7.9	7.2	6.8	6.9	6.8	7.2	6.9	7.1	6.8
Apparel and Accessory Stores........	56	2.3	2.6	2.3	2.2	2.5	2.4	2.8	2.6	2.9	3.2
Furniture, Home Furnishings.........	57	5.1	6.7	6.3	6.1	5.9	5.7	4.1	6.2	6.9	6.6
Eating and Drinking Places..........	58	7.5	7.6	6.9	7.3	7.6	7.8	7.8	8.2	8.2	8.8
Miscellaneous Retail................	59	3.8	3.8	3.5	3.5	3.7	3.6	3.9	3.7	4.2	4.3
FINANCE, INSURANCE AND REAL ESTATE....		2.3	2.1	2.0	1.9	2.2	2.3	1.9	2.0	2.0	2.0
Banking..............................	60	1.5	1.7	1.5	1.6	1.7	1.6	1.6	1.6	1.6	1.6
Credit Agencies......................	61	1.1	1.3	1.1	1.3	1.3	1.3	1.4	1.2	1.3	1.1
Insurance............................	63	1.8	2.0	1.7	1.8	1.9	1.8	1.7	1.8	1.9	1.8
Real Estate..........................	65	6.9	6.7	6.4	6.0	6.4	6.4	6.5	6.2	6.1	6.7
Holding & Other Investment Offices..	67	--	--	1.7	1.8	1.9	1.7	--	2.2	--	1.5
SERVICES.............................		5.5	5.5	5.2	5.0	4.8	5.2	5.2	5.4	5.3	5.5
Hotels and Other Lodging Places.....	70	9.2	9.3	8.9	8.8	9.0	9.2	9.8	10.2	10.3	10.6
Personal Services....................	72	3.5	3.2	2.9	2.8	3.1	2.9	2.9	2.9	3.2	3.1
Business Services....................	73	4.9	5.0	4.4	4.4	4.4	4.7	4.9	4.7	4.9	4.4
Automotive Services..................	75	8.2	8.3	7.5	7.6	7.6	7.1	6.8	6.5	6.8	6.7
Health Services......................	80	6.8	6.8	6.4	6.1	5.9	6.3	6.3	7.1	6.6	7.2
Legal Services.......................	81	--	--	0.4	0.4	0.5	0.5	0.5	0.6	0.4	0.6
Social Services......................	83	6.0	5.9	5.1	5.2	5.2	5.3	5.3	6.0	5.4	5.9
Membership Organizations............	86	--	--	3.4	3.3	--	3.6	--	--	--	--
Miscellaneous Services..............	89	1.9	2.2	1.6	1.6	1.3	1.3	1.4	1.7	1.6	1.6

HOUSE LABOR AND COMMERCE COMMITTEE
ALASKA STATE LEGISLATURE P.O. BOX Y, JUNEAU 99811
(907) 465-3892

November 23, 1989

M E M O R A N D U M

To: Members, House Labor and Commerce Committee

From: Representative Dave Donley, Chair
House Labor and Commerce Committee

Re: HB 286 - Workplace Safety

HB 286 increases the penalties for workplace safety violations by a factor of three to adjust for inflation since 1970 when the penalty structure was established in Alaska.

HB 286 addresses a concern that current penalties for even the most serious repeat or willful violations are so small in relation to today's dollar that they no longer serve as an effective deterrent against poor workplace safety practices. A Department of Labor fiscal note and position paper strongly endorsing HB 286 is included in your committee file along with several research reports dealing with workplace safety issues.

In addition to HB 286, the committee will be discussing other workplace safety issues during our November 30, 1989 public hearing.

dd/gbi89
b/hb286

STATE OF ALASKA

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P.O. BOX 21149
JUNEAU, ALASKA 99802-1149
PHONE: (907) 465-2700

FAX: (907) 465-2784

October 19, 1989

House Labor and Commerce Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Committee Members:

Enclosed is a Notice of Proposed Changes in the regulations of the Alaska Department of Labor, together with a copy of the specific changes we are proposing.

If you have any questions or comments concerning the action we are proposing, please contact the Occupational Safety and Health Section in the Division of Labor Standards and Safety at (907) 465-4856.

Sincerely,

Jim Sampson
Commissioner

Enclosures

07-G9LH

NOTICE OF PROPOSED CHANGES
IN THE REGULATIONS OF THE
ALASKA DEPARTMENT OF LABOR

Notice is given that the Alaska Department of Labor, under authority vested by AS 18.60.020, proposes to amend regulations in Title 8 of the Alaska Administrative Code dealing with occupational safety and health standards which are adopted by reference and proposes to repeal and adopt safety and health standards in Subchapter 05, Construction Code, dealing with the construction of underground tunnels, shafts, chambers, and passage ways, to implement AS 18.60.010 as follows:

8 AAC 61.010 is proposed to be amended to reflect amendments to Subchapter 05, Construction Code, therein adopted by reference.

Section 190 of Subchapter 5, Construction Code is proposed to be repealed and readopted.

The proposed regulations prescribe requirements for:

1. Safe access and egress to all work stations.

2. The check-in/check-out system that must be maintained to ensure that above-ground personnel have an accurate count of persons underground.

3. Safety instruction to be given to employees.

4. Notifying employees at the beginning of a workshift of any hazardous occurrences or conditions that might affect employee safety.

5. Safety instruction for all employees to recognize and avoid hazards associated with underground activities.

6. Methods of communications between the work face, the bottom of the shaft, and the surface.

7. Actions to be taken in case of emergencies.

8. Recognizing conditions under which operations are classified as "gassy" or "potentially gassy" and the work restrictions that accompany such classifications.

9. Air monitoring and atmospheric testing for all underground construction operations.

10. Ventilation and illumination.

11. Fire prevention and control.

12. Welding, cutting and other hot work.

13. Inspecting the work area for ground stability.

14. Blasting.

15. Inspecting drilling and haulage equipment before use.

16. Electrical safety.

17. Hoisting operations unique to underground construction.

The foregoing proposed changes in the regulations of the Alaska Department of Labor are intended to establish minimum safety and health requirements for places of employment in the State, and to be at least as effective as those promulgated by the U.S. Secretary of Labor.

CHAPTER 61.
OCCUPATIONAL SAFETY AND HEALTH

ARTICLE 1.
ADOPTION OF STANDARDS.

* Section 1. 8 AAC 61.010 is amended to read:

8 AAC 61.010. STANDARDS. The Alaska Department of Labor adopts by reference subchapters 1 (effective 6/30/73, as amended as of 5/21/89); 2 (effective 9/26/74, as amended as of 2/4/89); 3 (effective 6/30/73, as amended as of 2/4/89); 4 (effective 6/30/73, as amended as of 8/23/89); 5 (effective 9/26/74, as amended as of / /); 6 (effective 8/21/78, as amended as of 4/15/87); 7 (effective 3/27/76, as amended as of 2/4/89); 8 (effective 1/26/78, as amended as of 5/22/88); 9 (effective 1/26/78, as amended as of 2/4/89); 10 (effective 6/18/87, as amended as of 12/13/87); 11 (effective 8/11/76, as amended as of 8/23/80); 12 (effective 8/11/76, as amended as of 8/23/80); 13 (effective 8/11/76); 14 (effective 9/30/76, as amended as of 10/14/87); 15 (effective 9/12/84, as amended as of 10/1/88); and 16 (effective 9/1/88) of the Alaska Occupational Safety and Health Standards (AOSAHS), as outlined below. These standards are adopted in accordance with AS 18.60.020, as the minimum standards to be followed throughout the State of Alaska. The standards are adopted by reference pursuant to a finding by the lieutenant governor that a detailed printing of the regulations in the Alaska Administrative Code would be impractical.

(Eff. 6/30/73, Register 46; am 9/26/74, Register 51; am 5/7/75, Register 54; am 11/22/75, Register 56; am 3/27/76, Register 57; am 5/7/76, Register 58; am 8/11/76, Register 59; am 9/30/76, Register 59; am 12/16/76, Register 60; am 4/23/77, Register 62; am 1/26/78, Register 65; am 8/21/78, Register 67; am 11/19/78, Register 68; am 12/24/78, Register 68; am 5/2/79, Register 70; am 10/21/79, Register 72; am 6/13/80, Register 74; am 7/25/80, Register 75; am 8/23/80, Register 75; am 5/30/82, Register 82; am 12/16/82, Register 84; am 3/20/83, Register 85; am 3/25/83, Register 85; am 6/26/83, Register 86; am 9/30/83, Register 87; am 2/19/84, Register 89; am 6/16/84, Register 90; am 9/12/84, Register 91; am 12/16/84, Register 92; am 2/1/85, Register 93; am 6/9/85, Register 94; am 1/8/86, Register 97; am 5/10/86, Register 98; am 7/12/86, Register 99; am 1/9/87, Register 101; am 1/11/87, Register 101; am 1/16/87, Register 101; am 1/18/87, Register 101; am 1/30/87, Register 101; am 4/15/87, Register 102; am 6/18/87, Register 102; am 8/13/87, Register 103; am 10/14/87, Register 104; addt'l am 10/14/87, Register 104; am 12/13/87, Register 104; am 3/26/88, Register 105; am 3/30/88, Register 105; am 4/21/88, Register 106; am 5/22/88, Register 106; am 6/19/88, Register 106; am 9/1/88, Register 107; am 9/30/88, Register 107; am 10/1/88, Register 107; am 2/4/89, Register 109; am 4/21/89, Register 110; am 5/21/89, Register 110; am 8/23/89, Register 111; am / / , Register)

Authority: AS 18.60.020
AS 18.60.030
AS 18.60.075
AS 44.62.130

Note to Publisher: Outline of standards remains unchanged.

05.190 is repealed and readopted to read:

05.190 Underground construction. (a) Scope and application.

(1) This section applies to the construction of underground tunnels, shafts, chambers, and passageways. This section also applies to cut-and-cover excavations which are both physically connected to ongoing underground construction operations within the scope of this section, and covered in such a manner as to create conditions characteristic of underground construction.

(2) This section does not apply to the following:

(A) Excavation and trenching operations covered by 05.160, such as foundation operations for above-ground structures that are not physically connected to underground construction operations, and surface excavation; nor

(B) Underground electrical transmission and distribution lines, as addressed in 05.220.

(b) Access and egress.

(1) The employer shall provide and maintain safe means of access and egress to all work stations.

(2) The employer shall provide access and egress in such a manner that employees are protected from being struck by excavators, haulage machines, trains and other mobile equipment.

(3) The employer shall control access to all openings to prevent unauthorized entry underground. Unused chutes, manways, or other openings must be tightly covered, bulkheaded, or fenced off, and must be posted with warning signs indicating "Keep Out" or similar language. Completed or unused sections of the underground facility must be barricaded.

(c) Check-in/check-out. The employer shall maintain a check-in/check-out procedure that will ensure that above-ground personnel can determine an accurate count of the number of persons underground in the event of an emergency. However, this procedure is not required when the construction of underground facilities designed for human occupancy has been sufficiently completed so that the permanent environmental controls are effective, and when the remaining construction activity will not cause any environmental hazard or structural failure within the facilities.

(d) Safety instruction. All employees shall be instructed in the recognition and avoidance of hazards associated with

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

NOTICE OF PROPOSED CHANGES
IN THE REGULATIONS OF THE
ALASKA DEPARTMENT OF LABOR

Notice is given that the Alaska Department of Labor, under authority vested by AS 18.60.020, proposes to amend regulations in Title 8 of the Alaska Administrative Code dealing with occupational safety and health standards which are adopted by reference and proposes to repeal and adopt safety and health standards in Subchapter 05, Construction Code, dealing with the construction of underground tunnels, shafts, chambers, and passage ways, to implement AS 18.60.010 as follows:

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13. Inspecting the work area for ground stability.

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15. Inspecting drilling and haulage equipment before use.

16. Electrical safety.

17. Hoisting operations unique to underground construction.

The foregoing proposed changes in the regulations of the Alaska Department of Labor are intended to establish minimum safety and health requirements for places of employment in the State, and to be at least as effective as those promulgated by the U.S. Secretary of Labor.

Notice is also given that any person interested may present oral and written statements or arguments relevant to the proposed action at a hearing to be held on

November 28, 1989, 9:30 a.m.

Department of Labor Building
1111 W. 8th Street
Room 303
Juneau, AK

November 29, 1989, 9:30

Department of Labor Building
301 Eagle Street
Room 304
Anchorage, AK

November 30, 1989, 9:30 a.m.

Division of Labor Standards and Safety
Regional Office Building
675 Seventh Street
Fairbanks, Alaska

In addition, written statements or arguments may be sent to the Commissioner of Labor, P.O. Box 21149, Juneau, Alaska 99802-1149, to be received no later than November 30, 1989.

This action is not expected to require an increased appropriation.

Copies of the proposed regulations may be obtained by writing to the following offices of the Department of Labor:

Division of Labor Standards and Safety
P.O. Box 21149
Juneau, Alaska 99802-1149

Division of Labor Standards and Safety
P.O. Box 107022
Anchorage, Alaska 99510-7022

Division of Labor Standards and Safety
Regional Office Building
675 Seventh Street
Fairbanks, Alaska 99701-4596

The Alaska Department of Labor, upon its own motion or at the instance of any interested person, may at the hearing or after it adopt proposals within the scope of this notice without further notice or may decide to take no action on them.

Date 10/6/89

Jim Sampson, Commissioner

CHAPTER 61.
OCCUPATIONAL SAFETY AND HEALTH

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(2) This section does not apply to the following:

(A) Excavation and trenching operations covered by 05.160, such as foundation operations for above-ground structures that are not physically connected to underground construction operations, and surface excavation; nor

(B) Underground electrical transmission and distribution lines, as addressed in 05.220.

(b) Access and egress.

(1) The employer shall provide and maintain safe means of access and egress to all work stations.

(2) The employer shall provide access and egress in such a manner that employees are protected from being struck by excavators, haulage machines, trains and other mobile equipment.

(3) The employer shall control access to all openings to prevent unauthorized entry underground. Unused chutes, manways, or other openings must be tightly covered, bulkheaded, or fenced off, and must be posted with warning signs indicating "Keep Out" or similar language. Completed or unused sections of the underground facility must be barricaded.

(c) Check-in/check-out. The employer shall maintain a check-in/check-out procedure that will ensure that above-ground personnel can determine an accurate count of the number of persons underground in the event of an emergency. However, this procedure is not required when the construction of underground facilities designed for human occupancy has been sufficiently completed so that the permanent environmental controls are effective, and when the remaining construction activity will not cause any environmental hazard or structural failure within the facilities.

(d) Safety instruction. All employees shall be instructed in the recognition and avoidance of hazards associated with

underground construction activities including, where appropriate, the following subjects:

(1) Air monitoring;

(2) Ventilation;

(3) Illumination;

(4) Communications;

(5) Flood control;

(6) Mechanical equipment;

(7) Personal protective equipment;

(8) Explosives;

(9) Fire prevention and protection; and

(10) Emergency procedures, including evacuation plans and check-in/check-out systems.

(e) Notification.

(1) Oncoming shifts shall be informed of any hazardous occurrences or conditions that have affected or might affect employee safety, including liberation of gas, equipment failures, earth or rock slides, cave-ins, floodings, fires or explosions.

(2) The employer shall establish and maintain direct communications for coordination of activities with other employers whose operations at the jobsite affect or may affect the safety of employees underground.

(f) Communications. (1) When natural unassisted voice communication is ineffective, a power-assisted means of voice communication must be used to provide communication between the work face, the bottom of the shaft, and the surface.

(2) Two effective means of communication, at least one of which must be voice communication, must be provided in all shafts which are being developed or used either for personnel access or for hoisting. Additional requirements for hoist operator communication are contained in paragraph (t)(3) of this section.

(3) Powered communication systems must operate on an independent power supply, and must be installed so that the use of or disruption of any one phone or signal location will not disrupt the operation of the system from any other location.

(4) Communication systems must be tested upon initial entry of each shift to the underground, and as often as necessary at later times, to ensure that they are in working order.

(5) Any employee working alone underground in a hazardous location, who is both out of the range of natural unassisted voice communication and not under observation by other persons, must be provided with an effective means of obtaining assistance in an emergency.

(g) Emergency provisions.

(1) Hoisting capability. When a shaft is used as a means of egress, the employer shall make advance arrangements for power-assisted hoisting capability to be readily available in an emergency, unless the regular hoisting means can continue to function in the event of an electrical power failure at the jobsite. Such hoisting means must be designed so that the load hoist drum is powered in both directions of rotation and so that the brake is automatically applied upon power release or failure.

(2) Self-rescuers. The employer shall provide self-rescuers having current approval from the National Institute for Occupational Safety and Health and the Mine Safety and Health Administration to be immediately available to all employees at work stations in underground areas where employees might be trapped by smoke or gas. The selection, issuance, use, and care of respirators must be in accordance with section 05.050(d)(2) and (3) of this subchapter.

(3) Designated person. At least one designated person must be on duty above ground whenever any employee is working underground. This designated person must be responsible for securing immediate aid and keeping an accurate count of employees underground in case of emergency. The designated person must not be so busy with other responsibilities that the counting function is encumbered.

(4) Emergency lighting. Each employee underground must have an acceptable portable hand lamp or cap lamp in his or her work area for emergency use, unless natural light or an emergency lighting system provides adequate illumination for escape.

(5) Rescue teams.

(A) On jobsites where 25 or more employees work underground at one time, the employer shall provide (or make arrangements in advance with locally available rescue services to provide) at least two 5-person rescue teams, one on the jobsite or within one-half hour travel time from the entry point, and the other within 2 hours travel time.

(B) On jobsites where less than 25 employees work underground at one time, the employer shall provide (or make arrangements in advance with locally available rescue services to provide) at least one 5-person rescue team to be either on the jobsite or within one-half hour travel time from the entry point.

(C) Rescue team members shall be qualified in rescue procedures, the use and limitations of breathing apparatus, and the use of firefighting equipment. Qualifications shall be reviewed at least annually.

(D) On jobsites where flammable or noxious gases are encountered or anticipated in hazardous quantities, rescue team members shall practice donning and using self-contained breathing apparatus monthly.

(E) The employer shall ensure that rescue teams are familiar with conditions at the jobsite.

(h) Hazardous classifications.

(1) Potentially gassy operations. Underground construction operations must be classified as potentially gassy if either:

(A) Air monitoring discloses 10 percent or more of the lower explosive limit for methane or other flammable gases measured at 12 inches (304.8 mm) $\pm$ 0.25 inch (6.35 mm) from the roof, face, floor or walls in any underground work area for more than a 24-hour period; or

(B) The history of the geographical area or geological formation indicates that 10 percent or more of the lower explosive limit for methane or other flammable gases is likely to be encountered in such underground operations.

(2) Gassy operations. Underground construction operations must be classified as gassy if:

(A) Air monitoring discloses 10 percent or more of the lower explosive limit for methane or other flammable gases measured at 12 inches (304.8mm) $\pm$ 0.25 inch (6.35 mm) from the roof, face, floor or walls in any underground work area for more than a 24-hour period; or

(B) There has been an ignition of methane or of other flammable gases emanating from the strata that indicates the presence of such gases; or

(C) The underground construction operation is both connected to an underground work area which is currently

classified as gassy and is also subject to a continuous course of air containing the flammable gas concentration.

(3) Declassification to potentially gassy operations. Underground construction gassy operations may be declassified to Potentially Gassy when air monitoring results remain under 10 percent of the lower explosive limit for methane or other flammable gases for three consecutive days.

(i) Gassy operations-additional requirements.

(1) Only acceptable equipment, maintained in suitable condition, may be used in gassy operations.

(2) Mobile diesel-powered equipment used in gassy operations shall be either approved in accordance with the requirements of 30 CFR Part 36 (formerly Schedule 31) by MSHA, or must be demonstrated by the employer to be fully equivalent to such MSHA-approved equipment, and must be operated in accordance with that Part.

(3) Each entrance to a gassy operation must be prominently posted with signs notifying all entrants of the gassy classification.

(4) Smoking is to be prohibited in all gassy operations and the employer shall be responsible for collecting all personal sources of ignition, such as matches and lighters, from all persons entering a gassy operation.

(5) A fire watch as described in 05.100(c)(5) must be maintained when hot work is performed.

(6) Once an operation has met the criteria in (h)(2) of this subsection warranting classification as gassy, all operations in the affected area, except the following, must be discontinued until the operation either is in compliance with all of the gassy operation requirements or has been declassified in accordance with (h)(3) of this subsection:

(A) Operations related to the control of the gas concentration;

(B) Installation of new equipment, or conversion of existing equipment, to comply with this subsection; and

(C) Installation of above-ground controls for reversing the air flow.

(j) Air quality and monitoring.

(1) General. Air quality limits and control requirements for construction are found in 05.040(f), except as modified by this subsection.

(A) The employer shall assign a competent person to perform all air monitoring required by this subsection.

(B) Where this subsection requires monitoring of airborne contaminants "as often as necessary," the competent person shall make a reasonable determination as to which substances to monitor and how frequently to monitor, considering at least the following factors:

(i) Location of jobsite: Proximity to fuel tanks, sewers, gas lines, old landfills, coal deposits, and swamps;

(ii) Geology: Geological studies of the jobsite, particularly involving the soil type and its permeability;

(iii) History: Presence of air contaminants in nearby jobsites, changes in levels of substances monitored on the prior shift; and

(iv) Work practices and jobsite conditions: the use of diesel engines, use of explosives, use of fuel gas, volume and flow of ventilation, visible atmospheric conditions, decompression of the atmosphere, welding, cutting and hot work, and the employees physical reactions to working underground.

(C) The atmosphere in all underground work areas must be tested as often as necessary to assure that the atmosphere at normal atmospheric pressure contains at least 19.5 percent oxygen and no more than 22 percent oxygen.

(D) Tests for oxygen content must be made before tests for air contaminants.

(E) The atmosphere in all underground work areas must be tested quantitatively for carbon monoxide, nitrogen dioxide, hydrogen sulfide, and other toxic gases, dusts, vapors, mists, and fumes as often as necessary to ensure that the permissible exposure limits prescribed in 05.040(f) are not exceeded.

(F) The atmosphere in all underground work areas must be tested quantitatively for methane and other flammable gases as often as necessary to determine:

(i) Whether action is to be taken under (1)(O), (P), and (Q), of this subsection; and

(ii) Whether an operation is to be classified potentially gassy or gassy under (h) of this section.

(G) If diesel-engine or gasoline-engine driven ventilating fans or compressors are used, an initial test must be made of the inlet air of the fan or compressor, with the engines operating, to ensure that the air supply is not contaminated by engine exhaust.

(H) Testing must be performed as often as necessary to ensure that the ventilation requirements of (k) of this section are met.

(I) When rapid excavation machines are used, a continuous flammable gas monitor shall be operated at the face with the sensor(s) placed as high and close to the front of the machine's cutter head as practicable.

(J) Whenever air monitoring indicates the presence of 5 ppm or more of hydrogen sulfide, a test must be conducted in the affected underground work area(s), at least at the beginning and midpoint of each shift, until the concentration of hydrogen sulfide has been less than 5 ppm for 3 consecutive days.

(K) Whenever hydrogen sulfide is detected in an amount exceeding 10 ppm, a continuous sampling and indicating hydrogen sulfide monitor must be used to monitor the affected work area.

(L) Employees shall be informed when a concentration of 10 ppm hydrogen sulfide is exceeded.

(M) The continuous sampling and indicating hydrogen sulfide monitor must be designed, installed, and maintained to provide a visual and aural alarm when the hydrogen sulfide concentration reaches 20 ppm to signal that additional measures, such as respirator use, increased ventilation, or evacuation, might be necessary to maintain hydrogen sulfide exposure below the permissible exposure limit.

(N) When the competent person determines, on the basis of air monitoring results or other information, that air contaminants may be present in sufficient quantity to be dangerous to life, the employer shall:

(i) Prominently post a notice at all entrances to the underground jobsite to inform all entrants of the hazardous condition; and

(ii) Ensure that the necessary precautions are taken.

(O) Whenever five percent or more of the lower explosive limit for methane or other flammable gases is detected in any underground work area(s) or in the air return, steps must be taken to increase ventilation air volume or otherwise control the gas concentration, unless the employer is operating in accordance with the potentially gassy or gassy operation requirements. Such additional ventilation controls may be discontinued when gas concentrations are reduced below five percent of the lower explosive limit, but must be reinstituted whenever the five percent level is exceeded.

(P) Whenever 10 percent or more of the lower explosive limit for methane or other flammable gases is detected in the vicinity of welding, cutting, or other hot work, such work must be suspended until the concentration of such flammable gas is reduced to less than 10 percent of the lower explosive limit.

(Q) Whenever 20 percent or more of the lower explosive limit for methane or other flammable gases is detected in any underground work area(s) or in the air return:

(i) All employees, except those necessary to eliminate the hazard, shall be immediately withdrawn to a safe location above ground; and

(ii) Electrical power, except for acceptable pumping and ventilation equipment, must be cut off to the area endangered by the flammable gas until the concentration of such gas is reduced to less than 20 percent of the lower explosive limit.

(2) Additional monitoring for potentially gassy and gassy operations. Operations which meet the criteria for potentially gassy and gassy operations set forth in (h) of this section must be subject to the additional monitoring requirements of this paragraph.

(A) A test for oxygen content must be conducted in the affected underground work areas and work areas immediately adjacent to such areas at least at the beginning and midpoint of each shift.

(B) When using rapid excavation machines, continuous automatic flammable gas monitoring equipment must be used to monitor the air at the heading, on the rib, and in the return air duct. The continuous monitor must signal the heading, and shut down electric power in the affected

underground work area, except for acceptable pumping and ventilation equipment, when 20 percent or more of the lower explosive limit for methane or other flammable gases is encountered.

(C) A manual flammable gas monitor must be used as needed but at least at the beginning and midpoint of each shift, to ensure that the limits prescribed in (h) and (j) of this section are not exceeded. In addition, a manual electrical shut down control must be provided near the heading.

(D) Local gas tests must be made prior to and continuously during any welding, cutting, or other hot work.

(E) In underground operations driven by drill-and-blast methods, the air in the affected area must be tested for flammable gas prior to re-entry after blasting, and continuously when employees are working underground.

(3) Recordkeeping. A record of all air quality tests must be maintained above ground at the worksite and be made available to the Commissioner upon request. The record must include the location, date, time, substance and amount monitored. Records of exposures to toxic substances must be retained in accordance with Title 8, sections 61.260 and 270 of the Alaska Administrative Code. All other air quality test records must be retained until completion of the project.

(k) Ventilation.

(1) Fresh air must be supplied to all underground work areas in sufficient quantities to prevent dangerous or harmful accumulation of dust, fumes, mists, vapors or gases.
Mechanical ventilation must be provided in all underground work areas except when the employer can demonstrate that natural ventilation provides the necessary air quality through sufficient air volume and air flow.

(2) A minimum of 200 cubic feet (5.7 m^3) of fresh air per minute must be supplied for each employee underground.

(3) The linear velocity of air flow in the tunnel bore, in shafts, and in all other underground work areas must be at least 30 feet (9.15 m) per minute where blasting or rock drilling is conducted, or where other conditions likely to produce dust, fumes, mists, vapors, or gases in harmful or explosive quantities are present.

(4) The direction of mechanical air flow must be reversible.

(5) Following blasting, ventilation systems must exhaust smoke and fumes to the outside atmosphere before work is resumed in affected areas.

(6) Ventilation doors must be designed and installed so that they remain closed when in use, regardless of the direction of the air flow.

(7) When ventilation has been reduced to the extent that hazardous levels of methane or flammable gas may have accumulated, a competent person shall test all affected areas after ventilation has been restored and shall determine whether the atmosphere is within flammable limits before any power, other than for acceptable equipment, is restored or work is resumed.

(8) Whenever the ventilation system has been shut down with all employees out of the underground area, only competent persons authorized to test for air contaminants may be allowed underground until the ventilation has been restored and all affected areas have been tested for air contaminants and declared safe.

(9) When drilling rock or concrete, appropriate dust control measures must be taken to maintain dust levels within limits set in 05.040(f). Such measures may include, but are not limited to, wet drilling, the use of vacuum collectors, and water mix spray systems.

(10) Internal combustion engines, except diesel-powered engines on mobile equipment, are prohibited underground. Mobile diesel-powered equipment used underground in atmospheres other than gassy operations must be either approved by MSHA in accordance with the provisions of 30 CFR Part 32 (formerly Schedule 24), or shall be demonstrated by the employer to be fully equivalent to such MSHA-approved equipment, and must be operated in accordance with that Part. (Each brake horsepower of a diesel engine requires at least 100 cubic feet (28.32 m^3) of air per minute for suitable operation in addition to the air requirements for personnel. Some engines may require a greater amount of air to ensure that the allowable levels of carbon monoxide, nitric oxide, and nitrogen dioxide are not exceeded.)

(11) Potentially gassy or gassy operations must have ventilation systems installed which shall:

(A) Be constructed of fire-resistant materials; and

(B) Have acceptable electrical systems, including fan motors.

(12) Gassy operations must be provided with controls located above ground for reversing the air flow of ventilation systems.

(13) In potentially gassy or gassy operations, wherever mine-type ventilation systems using an offset main fan installed on the surface are used, they must be equipped with explosion-doors or a weak-wall having an area at least equivalent to the cross-sectional area of the airway.

(l) Illumination.

(1) Illumination requirements applicable to underground construction operations are found in Table D-3 of 05.040(g).

(2) Only acceptable portable lighting equipment may be used within 50 feet (15.24 m) of any underground heading during explosives handling.

(m) Fire prevention and control. Fire prevention and protection requirements applicable to underground construction operations are found in 05.060, except as modified by the following additional standards:

(1) Open flames and fires are prohibited in all underground construction operations except as permitted for welding, cutting and other hot work operations in (n) of this section.

(2) Smoking may be allowed only in areas free of fire and explosion hazards.

(3) Readily visible signs prohibiting smoking and open flames must be posted in areas having fire or explosion hazards.

(4) The employer may store underground no more than a 24-hour supply of diesel fuel for the underground equipment used at the worksite.

(5) The piping of diesel fuel from the surface to an underground location is permitted only if:

(A) Diesel fuel is contained at the surface in a tank which has a maximum capacity of no more than the amount of fuel required to supply for a 24-hour period the equipment serviced by the underground fueling station;

(B) The surface tank is connected to the underground fueling station by an acceptable pipe or hose system that is controlled at the surface by a valve, and at the shaft bottom by a hose nozzle;

(C) The pipe is empty at all times except when transferring diesel fuel from the surface tank to a piece of equipment in use underground; and

(D) Hoisting operations in the shaft are suspended during refueling operations if the supply piping in the shaft is not protected from damage.

(6) Gasoline may not be carried, stored, or used underground.

(7) Acetylene, liquefied petroleum gas, and Methylacetylene Propadiene Stabilized gas may be used underground only for welding, cutting and other hot work, and only in accordance with 05.100 and (j), (k), (m) and (n) of this section.

(8) Oil, grease, and diesel fuel stored underground must be kept in tightly sealed containers in fire-resistant areas at least 300 feet (91.44 m) from underground explosive magazines, and at least 100 feet (30.48 m) from shaft stations and steeply inclined passageways. Storage areas must be positioned or diked so that the contents of ruptured or over-turned containers will not flow from the storage area.

(9) Flammable or combustible materials may not be stored above ground within 100 feet (30.48 m) of any access opening to any underground operation. Where this is not feasible because of space limitations at the jobsite, such materials may be located within the 100-foot limit, provided that:

(A) They are located as far as practicable from the opening; and

(B) Either a fire-resistant barrier of not less than one-hour rating is placed between the stored material and the opening, or additional precautions are taken which will protect the materials from ignition sources.

(10) Fire-resistant hydraulic fluids must be used in hydraulically-actuated underground machinery and equipment unless such equipment is protected by a fire suppression system or by multi-purpose fire extinguisher(s) rated at sufficient capacity for the type and size of hydraulic equipment involved, but rated at least 4A:40B:C.

(11) Electrical installations in underground areas where oil, grease, or diesel fuel are stored must be used only for lighting fixtures.

(12) Lighting fixtures in storage areas, or within 25 feet (7.62 m) of underground areas where oil, grease or diesel fuel

are stored, must be approved for Class I, Division 2 locations, in accordance with 05.110.

(13) Leaks and spills of flammable or combustible fluids must be cleaned up immediately.

(14) A fire extinguisher of at least 4A:40B:C rating or other equivalent extinguishing means must be provided at the head pulley and at the tail pulley of underground belt conveyors.

(15) Any structure located underground or within 100 feet (30.48 m) of an opening to the underground must be constructed of material having a fire-resistance rating of a least one hour.

(n) Welding, cutting, and other hot work. In addition to the requirements of 05.100, the following requirements apply to underground welding, cutting, and other hot work:

(1) No more than the amount of fuel gas and oxygen cylinders necessary to perform welding, cutting or other hot work during the next 24-hour period may be permitted underground.

(2) Noncombustible barriers must be installed below welding, cutting, or other hot work being done in or over a shaft or raise.

(o) Ground support.

(1) Portal areas. Portal openings and access areas must be guarded by shoring, fencing, head walls, shotcreting or other equivalent protection to ensure safe access of employees and equipment. Adjacent areas must be scaled or otherwise secured to prevent loose soil, rock or fractured materials from endangering the portal and access area.

(2) Subsidence areas. The employer shall ensure ground stability in hazardous subsidence areas by shoring, by filling in, or by erecting barricades and posting warning signs to prevent entry.

(3) Underground areas.

(A) A competent person shall inspect the roof, face, and walls of the work area at the start of each shift and as often as necessary to determine ground stability.

(B) Competent persons conducting such inspections must be protected from loose ground by location, ground support or equivalent means.

(C) Ground conditions along haulageways and travelways must be inspected as frequently as necessary to ensure safe passage.

(D) Loose ground that might be hazardous to employees must be taken down, scaled or supported.

(E) Torque wrenches must be used wherever bolts that depend on torsionally applied force are used for ground support.

(F) A competent person shall determine whether rock bolts meet the necessary torque, and shall determine the testing frequency in light of the bolt system, ground conditions and the distance from vibration sources.

(G) Suitable protection must be provided for employees exposed to the hazard of loose ground while installing ground support systems.

(H) Support sets must be installed so that the bottoms have sufficient anchorage to prevent ground pressures from dislodging the support base of the sets. Lateral bracing (collar bracing, tie rods, or spreaders) must be provided between immediately adjacent sets to ensure added stability.

(I) Damaged or dislodged ground supports that create a hazardous condition must be promptly repaired or replaced. When replacing supports, the new supports must be installed before the damaged supports are removed.

(J) A shield or other type of support must be used to maintain a safe travelway for employees working in dead-end areas ahead of any support replacement operation.

(4) Shafts.

(A) Shafts and wells over 5 feet (1.53 m) in depth that employees must enter must be supported by a steel casing, concrete pipe, timber, solid rock or other suitable material.

(B) The full depth of the shaft must be supported by casing or bracing except where the shaft penetrates into solid rock having characteristics that will not change as a result of exposure. Where the shaft passes through earth into solid rock, or through solid rock into earth, and where there is potential for shear, the casing or bracing must extend at least 5 feet (1.53 m) into the solid rock. When the shaft terminates in solid rock, the casing or bracing must extend to the end of the shaft or 5 feet (1.53 m) into the solid rock, whichever is less.

(C) The casing or bracing must extend 42 inches (1.07 m) plus or minus 3 inches (8 cm) above ground level, except that the minimum casing height may be reduced to 12 inches (0.3 m), provided that a standard railing is installed; that the ground adjacent to the top of the shaft is sloped away from the shaft collar to prevent entry of liquids; and that effective barriers are used to prevent mobile equipment operating near the shaft from jumping over the 12 inch (0.3 m) barrier.

(D) After blasting operations in shafts, a competent person shall determine if the walls, ladders, timbers, blocking, or wedges have loosened. If so, necessary repairs must be made before employees other than those assigned to make the repairs are allowed in or below the affected areas.

(p) Blasting. This subsection applies in addition to the requirements for blasting and explosives operations, including handling of misfires, which are found in Subchapter 09, Alaska Explosive Code.

(1) Blasting wires must be kept clear of electrical lines, pipes, rails, and other conductive material, excluding earth, to prevent explosives initiation or employee exposure to electric current.

(2) Following blasting, an employee may not enter a work area until the air quality meets the requirements of (j) of this section.

(q) Drilling.

(1) A competent person shall inspect all drilling and associated equipment prior to each use. Equipment defects affecting safety must be corrected before the equipment is used.

(2) The drilling area must be inspected for hazards before the drilling operation is started.

(3) Employees may not be allowed on a drill mast while the drill bit is in operation or the drill machine is being moved.

(4) When a drill machine is being moved from one drilling area to another, drill steel, tools, and other equipment must be secured and the mast must be placed in a safe position.

(5) Receptacles or racks must be provided for storing drill steel located on jumbos.

(6) Employees working below jumbo decks shall be warned whenever drilling is about to begin.

(7) Drills on columns must be anchored firmly before starting drilling, and must be retightened as necessary thereafter.

(8) The employer shall provide mechanical means on the top deck of a jumbo for lifting unwieldy or heavy material.

(9) When jumbo decks are over 10 feet (3.05 m) in height, the employer shall install stairs wide enough for two persons.

(10) Jumbo decks more than 10 feet (3.05 m) in height must be equipped with guardrails on all open sides, excluding access openings of platforms, unless an adjacent surface provides equivalent fall protection.

(11) Only employees assisting the operator may be allowed to ride on jumbos, unless the jumbo deck meets the requirements of (r)(11) of this section.

(12) Jumbos must be chocked to prevent movement while employees are working on them.

(13) Walking and working surfaces of jumbos must be maintained to prevent the hazards of slipping, tripping and falling.

(14) Jumbo decks and stair treads must be designed to be slip resistant and secured to prevent accidental displacement.

(15) Scaling bars must be available at scaling operations and must be maintained in good condition at all times. Blunted or severely worn bars may not be used.

(16) Blasting holes may not be drilled through blasted rock (muck) or water.

(17) Employees in a shaft must be protected either by location or by suitable barrier(s) if powered mechanical loading equipment is used to remove muck containing unfired explosives.

(18) A caution sign reading "Buried Line," or similar wording must be posted where air lines are buried or otherwise hidden by water or debris.

(r) Haulage.

(1) A competent person shall inspect haulage equipment before each shift.

(2) Equipment defects affecting safety and health must be corrected before the equipment is used.

(3) Powered mobile haulage equipment must have suitable means of stopping.

(4) Powered mobile haulage equipment, including trains, must have audible warning devices to warn employees to stay clear. The operator must sound the warning device before moving the equipment and whenever necessary during travel.

(5) The operator shall assure that lights which are visible to employees at both ends of any mobile equipment, including a train, are turned on whenever the equipment is operating.

(6) In those cabs where glazing is used, the glass shall be safety glass, or its equivalent, and must be maintained and cleaned so that vision is not obstructed.

(7) Anti-roll back devices or brakes must be installed on inclined conveyor drive units to prevent conveyors from inadvertently running in reverse.

(8) Employees may not be permitted to ride a power-driven chain, belt, or bucket conveyor unless the conveyor is specifically designed for the transportation of persons.

(9) Endless belt-type manlifts are prohibited in underground construction.

(10) General requirements applicable to conveyors used in underground construction are found in 05.140(f).

(11) No employee may ride haulage equipment unless it is equipped with seating for each passenger and protects passengers from being struck, crushed, or caught between other equipment or surfaces. Members of train crews may ride on a locomotive if it is equipped with handholds and nonslip steps or footboards. Requirements applicable to underground construction for motor vehicle transportation of employees are found in 05.150(b).

(12) Powered mobile haulage equipment, including trains, may not be left unattended unless the master switch or motor is turned off; operating controls are in neutral or park position; and the brakes are set, or equivalent precautions are taken to prevent rolling.

(13) Whenever rails serve as a return for a trolley circuit, both rails must be bonded at every joint and crossbonded every 200 feet (60.96 m).

(14) When dumping cars by hand, the car dumps must have tiedown chains, bumper blocks, or other locking or holding devices to prevent the cars from overturning.

(15) Rocker-bottom or bottom-dump cars must be equipped with positive locking devices to prevent unintended dumping.

(16) Equipment to be hauled must be loaded and secured to prevent sliding or dislodgement.

(17) Mobile equipment, including rail-mounted equipment, must be stopped for manual connecting or service work.

(18) Employees may not reach between moving cars during coupling operations.

(19) Couplings may not be aligned, shifted or cleaned on moving cars or locomotives.

(20) Safety chains or other connections must be used in addition to couplers to connect man cars or powder cars whenever the locomotive is uphill of the cars.

(21) When the grade exceeds one percent and there is a potential for runaway cars, safety chains or other connections must be used in addition to couplers to connect haulage cars or, as an alternative, the locomotive must be downhill of the train.

(22) Such safety chains or other connections must be capable of maintaining connection between cars in the event of either coupler disconnect, failure or breakage.

(23) Parked rail equipment must be chocked, blocked, or have brakes set to prevent inadvertent movement.

(24) Berms, bumper blocks, safety hooks, or equivalent means must be provided to prevent overtravel and overturning of haulage equipment at dumping locations.

(25) Bumper blocks or equivalent stopping devices must be provided at all track dead ends.

(26) Only small handtools, lunch pails or similar small items may be transported with employees in man-cars, or on top of a locomotive.

(27) When small hand tools or other small items are carried on top of a locomotive, the top must be designed or modified to retain them while traveling.

(28) Where switching facilities are available, occupied personnel cars must be pulled, not pushed. If personnel cars must be pushed and visibility of the track ahead is hampered, then a qualified person shall be stationed in the lead car to give signals to the locomotive operator.

(29) Crew trips must consist of personnel loads only.

(s) Electrical safety. This subsection applies in addition to the general requirements for electrical safety which are found in 05.110.

(1) Electric power lines must be insulated or located away from water lines, telephone lines, air lines, or other conductive materials so that a damaged circuit will not energize the other systems.

(2) Lighting circuits must be located so that movement of personnel or equipment will not damage the circuits or disrupt service.

(3) Oil-filled transformers may not be used underground unless they are located in a fire-resistant enclosure suitably vented to the outside and surrounded by a dike to retain the contents of the transformers in the event of rupture.

(t) Hoisting unique to underground construction. Except as modified by this subsection, the following provisions of 05.140 apply: Requirements for cranes are found in 05.140. Section 05.140(a)(8) applies to crane-hoisting of personnel, except that the limitation in 05.140(a)(8)(B) does not apply to the routine access of employees to the underground via a shaft. Requirements for material hoists are found in 05.140 (c)(1)(A) and (2)(A). Requirements for personnel hoists are found in the personnel hoist requirements of 05.140(c)(1)(A) and (c)(3)(A) and in the elevator requirements of 05.140(c)(1) and (4).

(1) General requirements for cranes and hoists.

(A) Materials, tools, and supplies being raised or lowered, whether within a cage or otherwise, must be secured or stacked in a manner to prevent the load from shifting, snagging or falling into the shaft.

(B) A warning light suitably located to warn employees at the shaft bottom and subsurface shaft entrances must flash whenever a load is above the shaft bottom or subsurface entrances, or the load is being moved in the shaft. This subsection does not apply to fully enclosed hoistways.

(C) Whenever a hoistway is not fully enclosed and employees are at the shaft bottom, conveyances or equipment must be stopped at least 15 feet (4.57 m) above the bottom of the shaft and held there until the signalman at the bottom of the shaft directs the operator to continue lowering the load, except that the load may be lowered without stopping if the

load or conveyance is within full view of a bottom signalman who is in constant voice communication with the operator.

(D) Before maintenance, repairs, or other work is begun in the shaft served by a cage, skip, or bucket, the operator and other employees in the area shall be informed and given suitable instructions.

(E) A sign warning that work is being done in the shaft must be installed at the shaft collar, at the operator's station, and at each underground landing.

(F) Any connection between the hoisting rope and the cage or skip must be compatible with the type of wire rope used for hoisting.

(G) Spin-type connections, where used, must be maintained in a clean condition and protected from foreign matter that could affect their operation.

(H) Cage, skip, and load connections to the hoist rope must be made so that the force of the hoist pull, vibration, misalignment, release of lift force, or impact will not disengage the connection. Moused or latched open-throat hooks do not meet this requirement.

(I) When using wire rope wedge sockets, means must be provided to prevent wedge escapement and to ensure that the wedge is properly seated.

(2) Additional requirements for cranes. Cranes must be equipped with a limit switch to prevent overtravel at the boom tip. Limit switches are to be used only to limit travel of loads when operational controls malfunction and may not be used as a substitute for other operational controls.

(3) Additional requirements for hoists.

(A) Hoists must be designed so that the load hoist drum is powered in both directions of rotation, and so that brakes are automatically applied upon power release or failure.

(B) Control levers shall be of the "deadman type" which return automatically to their center (neutral) position upon release.

(C) When a hoist is used for both personnel hoisting and material hoisting, load and speed ratings for personnel and for materials must be assigned to the equipment.

(D) Material hoisting may be performed at speeds higher than the rated speed for personnel hoisting if the hoist and components have been designed for such higher speeds and if shaft conditions permit.

(E) Employees may not ride on top of any cage, skip or bucket except when necessary to perform inspection or maintenance of the hoisting system, in which case they must be protected by a body belt/harness system to prevent falling.

(F) Personnel and materials (other than small tools and supplies secured in a manner that will not create a hazard to employees) may not be hoisted together in the same conveyance. However, if the operator is protected from the shifting of materials, then the operator may ride with materials in cages or skips which are designed to be controlled by ar operator within the cage or skip.

(G) Line speed may not exceed the design limitations of the system.

(H) Hoists must be equipped with landing level indicators at the operator's station. Marking of the hoist rope does not satisfy this requirement.

(I) Whenever glazing is used in the hoist house, it must be safety glass, or its equivalent, and be free of distortions and obstructions.

(J) A fire extinguisher that is rated at least 2A:10B:C (multi-purpose, dry chemical) must be mounted in each hoist house.

(K) Hoist controls must be arranged so that the operator can perform all operating cycle functions and reach the emergency power cutoff without having to reach beyond the operator's normal operating position.

(L) Hoists must be equipped with limit switches to prevent overtravel at the top and bottom of the hoistway.

(M) Limit switches are to be used only to limit travel of loads when operational controls malfunction and may not be used as a substitute for other operational controls.

(N) Hoist operators must be provided with a closed-circuit voice communication system to each landing station, with speaker-microphones so located that the operator can communicate with individual landing stations during hoist use.

(O) When sinking shafts 75 feet (22.86 m) in depth, cages, skips, and buckets that may swing, bump, or snag

against shaft sides or other structural protrusions must be guided by fenders, rails, ropes, or a combination of those means.

(P) When sinking shafts more than 75 feet (22.86 m) in depth, all cages, skips, and buckets must be rope or rail-guided to within a rail length from the sinking operation.

(Q) Cages, skips, and buckets in all completed shafts, or in all shafts being used as completed shafts, must be rope or rail-guided for the full length of their travel.

(R) Wire rope used in load lines of material hoists must be capable of supporting, without failure, at least five times the maximum intended load or the factor recommended by the rope manufacturer, whichever is greater. (See 05.140(c)(3)(N)(iii) for safety factors for wire rope used in personnel hoists.) The design factor must be calculated by dividing the breaking strength of wire rope, as reported in the manufacturer's rating tables, by the total static load, including the weight of the wire rope in the shaft when fully extended.

(S) A competent person shall visually check all hoisting machinery, equipment, anchorages, and hoisting rope at the beginning of each shift and during hoist use, as necessary.

(T) Each safety device must be checked by a competent person at least weekly during hoist use to ensure suitable operation and safe condition.

(U) In order to ensure suitable operation and safe condition of all functions and safety devices, each hoist assembly must be inspected and load-tested to 100 percent of its rated capacity: at the time of installation; after any repairs or alterations affecting its structural integrity; after the operation of any safety device; and annually when in use. The employer shall prepare a certification record which includes the date each inspection and load-test was performed; the signature of the person who performed the inspection and test; and a serial number or other identifier for the hoist that was inspected and tested. The most recent certification record must be maintained on file until completion of the project.

(V) Before hoisting personnel or material, the operator shall perform a test run of any cage or skip whenever it has been out of service for one complete shift, and whenever the assembly or components have been repaired or adjusted.

(W) Unsafe conditions must be corrected before using the equipment.

(4) Additional requirements for personnel hoists.

(A) Hoist drum systems must be equipped with at least two means of stopping the load, each of which must be capable of stopping and holding 150 percent of the hoist's rated line pull. A broken-rope safety, safety catch, or arrestment device is not a permissible means of stopping under this paragraph.

(B) The operator must remain within sight and sound of the signals at the operator's station.

(C) All sides of personnel cages must be enclosed by one-half inch (12.70 mm) wire mesh (not less than a No. 14 gauge or equivalent) to a height of not less than 6 feet (1.83 m). However, when the cage or skip is being used as a work platform, its sides may be reduced in height to 42 inches (1.07 m) when the conveyance is not in motion.

(D) All personnel cages must be provided with a positive locking door that does not open outward.

(E) All personnel cages must be provided with a protective canopy. The canopy must be made of steel plate, at least 3/16-inch (4.76 mm) in thickness, or material of equivalent strength and impact resistance. The canopy must be sloped to the outside, and so designed that a section may be readily pushed upward to afford emergency egress. The canopy must cover the top in such a manner as to protect those inside from objects falling in the shaft.

(F) Personnel platforms operating on guide rails or guide ropes must be equipped with broken-rope safety devices, safety catches or arrestment devices that will stop and hold 150 percent of the weight of the personnel platform and its maximum rated load.

(G) During sinking operations in shafts where guides and safeties are not yet used, the travel speed of the personnel platform may not exceed 200 feet (60.96 m) per minute. Governor controls set for 200 feet (60.96 m) per minute must be installed in the control system and must be used during personnel hoisting.

(H) The personnel platform may travel over the controlled length of the hoistway at rated speeds up to 600 feet (182.88 m) per minute during sinking operations in shafts where guides and safeties are used.

(I) The personnel platform may travel at rated speeds greater than 600 feet (182.88 m) per minute in completed shafts.

(u) Definitions.

(1) "Acceptable"--Any device, equipment, or appliance that is either approved by MSHA and maintained in permissible condition, or is listed or labeled for the class and location under 05.110.

(2) "Self-rescuer" --escape only, self-contained breathing apparatus using mouthpiece oxygen meeting MSHA and NIOSH certification requirements under 30 CFR, Part II and duration requirements of one hour.

STATE NEWS

State fines Juneau in worker's death

JUNEAU — The state has fined Juneau $1,000 for violating safety rules in the death of a city worker. Donald A. Anderson, 58, died after he fell 24 feet from a roof he and other workers were replacing at a community center in August. None of the workers was wearing safety equipment, in violation of state law. The workers should have been provided some protection such as a cable or rope to work as a lifeline, a fall net or a guardrail, said Eric Shortt of the state Division of Labor Standards and Safety in Anchorage.

Mill worker dies

The Associated Press

SITKA — A worker died early Wednesday in an accident at the Alaska Pulp Corp. mill, the company reported.

Joseph E. Lau, 28, of Sitka was killed at 6 a.m. as he was changing a 16-foot-wide pulp roll. Police said Lau was killed when he fell or got caught on rollers.

He is survived by his wife, Sheila, and two children.

ADN 10/10/89

got info on

Pilot, mill worker die in separate accidents

By BARBARA ROGERS
Times Writer

9/28/89 - Times

Separate accidents killed two men as an Anchorage pilot in a homebuilt airplane crashed in Palmer and a sawmill employee was crushed in a Ketchikan industrial accident Wednesday.

The pilot, whose name was not released this morning pending notification of his family, took off from Anchorage International Airport about 8 p.m. Wednesday en route to the Birchwood Airstrip, Palmer and then back to Anchorage, said Paul Steucke of the Federal Aviation Administration.

He was reported overdue by his wife at 10 p.m. and a helicopter search was begun by Alaska State Troopers this morning, Steucke said.

The wreckage of his homebuilt Long-Eze was found spread over a swampy area of the Matanuska River Park about 8:30 a.m. today after searchers picked up a signal from the aircraft's emergency locator transmitter, said Palmer Police Department Sgt. Greg Carpenter.

The body of the pilot was found in the cockpit of the single-seater, Carpenter said. He was pronounced dead at the scene.

In Ketchikan, a 60-year-old man died Wednesday afternoon when he was crushed between a gate and an upper structural bar at Ketchikan Sawmill, troopers report.

Dead is Francis K. Glover, who was leaning on a hydraulically operated gate when the gate lifted him, crushing his body, troopers and a Ketchikan Pulp Co. spokesman said.

Also Wednesday, in a traffic accident on Minnesota Drive just south of Tudor Road, two small boys were injured when the station wagon they were riding in was struck from the rear by another car.

Michael Nichols, 5, was in fair condition this morning while Justin Bushre, 7, was in serious condition at Providence Hospital, a spokeswoman said today. Both received head injuries in the accident, said Sgt. Greg Stewart of the Anchorage Police Department.

Stewart said the station wagon was southbound on Minnesota Drive when its engine quit as the car was about halfway up the bridge over the Alaska Railroad tracks.

Driver Terry Risinger, 32, turned on the emergency flashers and was trying to restart the car when it was struck from behind by a car driven by Afualo Uatisone, Stewart said.

The force of the accident collapsed the rear of the station wagon, pinning the seatbelted boys inside, Stewart said. Rescue workers got them from the car and took them to the hospital, where they originally were listed in critical condition.

American sailors world over brush up on safety

By D.W. PAGE
The Associated Press

NORFOLK, Va. — In Navy wardrooms and engine compartments, flight decks and hangars, sailors around the world were busy Thursday in lectures and training in an unprecedented, two-day "stand-down" to brush up on safety.

The Navy ordered the halt to normal operations Tuesday after an unmatched string of accidents over the last three weeks killed 10 people and injured at least 71.

Aboard the guided missile cruiser USS Josephus Daniels docked at the Norfolk Naval Station, Petty Officer Mike Ballard instructed seamen in damage control.

Again and again, Ballard walked sailors through the proper way to wear firefighting equipment and the necessary checks for each safety device.

Every sailor is trained in damage control, according to Lt. j.g. Paul Ward, the ship's assistant damage control officer. He said the ship runs a daily fire or rescue drill. Ward saw the stand-down as a good way to stress safety to all hands.

"Our job is to carry out our mission while sustaining damage. Everyone here has to be a capable firefighter. When there is a fire on board, you can't just run away. ... There is nowhere to run," Ward said.

Throughout the ship, sailors gathered in compartments for talks about electrical safety, fire aid and weapons handling.

While sailors were going to school aboard the Daniels, 30 miles away at the Oceana Naval Air Station the pilots of Squadron VF-41 were in their ready room going over data on the flight performance of the F-14 Tomcat.

The squadron already had been scheduled for a safety inspection today by the Naval Safety Center, so the stand-down did not affect the flight schedule. One pilot characterized the exercise as a "two-day stand-around."

Repetitive-motion disorders account for increase in U.S. workers' injuries

By JOHN KING
The Associated Press

WASHINGTON — The number of injuries and illnesses reported in American workplaces was up significantly last year, with nearly half of the problems blamed on repetitive-motion disorders, according to Labor Department data.

Department and labor union analysts said the reported jump in injuries and illnesses from 6 million in 1987 to 6.4 million last year is at least partly attributable to improved reporting by employers.

About 3,300 workplace deaths were reported by the department's Bureau of Labor Statistics.

Margaret Seminario, the AFL-CIO's associate safety director, said Thursday that improved reporting stems from more aggressive enforcement of reporting requirements by the Labor Department's Occupational Safety and Health Administration.

"OSHA's heavy hand has employers more thoroughly reporting data," Seminario said.

Still, she said that even considering the impact of improved reporting on the numbers the data still indicated that safety problems in American workplaces were getting worse.

The Bureau of Labor Statistics said in a report released Wednesday that the reported increases last year brought the rate of injuries

Please see Back Page, STUDY

STUDY: Job injuries up

Continued from Page A-1

and illnesses to 8.6 for every 100 full-time workers, up from 8.3 in 1987. The number of incidents that resulted in lost workdays rose to 4 for every 100 workers in 1988, up from 3.8 percent in 1987.

The number of reported injuries and illnesses was up in ever sector of the economy, with more than 200,000 of the increase in reported injuries coming in manufacturing, which reported 2.46 million on-the-job injuries and illnesses last year.

The highest incidence of injuries came in automobile manufacturing, where 19.5 injuries were reported for every 100 full-time workers last year.

Of 240,000 illnesses reported by employers for 1988, 115,400 — 48 percent — were associated with repeated trauma, the department's term for illnesses blamed on ergonomic problems such as

repetitive motion.

The number of reported cases in that category was up 58 percent, a factor interpreted by analysts as evidence that repetitive motion problems are being clearly identified in manufacturing, meatpacking, construction and other sectors of the economy where they are most common.

Labor Secretary Elizabeth Dole has promised to encourage OSHA to take an aggressive stance in seeking to eliminate repetitive-motion problems, and the agency has entered into agreements designed to do just that with several companies in recent months.

Publications from the

National Safe Workplace Institute

NATIONAL REPORTS

Failed Opportunities: The Decline of U.S. Job Safety in the 1980s

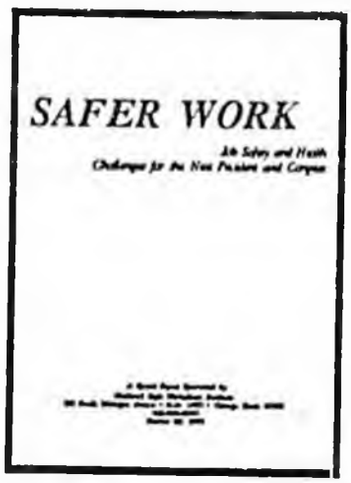
An evaluation of the effectiveness of OSHA's civil enforcement programs, key OSHA management issues, and recommendations for improving the nation's job safety programs.
September, 1988.

The Rising Wave: Death and Injury Among High Risk Workers in the 1980s

An examination of the deterioration of workplace safety in the 1980s, the administration of the nation's safety and health laws by OSHA, and recommendations to provide for safer working conditions.
September, 1987.

SAFER WORK: Job Safety and Health Challenges for the Next President and Congress

Comprehensive proposals to set a challenging job safety and health agenda for the next President and the 101st Congress.
October, 1988.



Safety at Bay: The Failure of the Department of Justice to Enforce Federal Occupational Safety Laws

An evaluation of the U.S. Department of Justice's performance in enforcing the criminal provisions of OSH Act and proposals to improve the execution of the law by the federal government.
June, 1987.

Summary Outline of COUNTING INJURIES AND ILLNESSES IN THE WORKPLACE

An outline summarizing the highlights of the National Academy of Sciences' study of the adequacy of workplace safety and health data.
November, 1987.

Ending Legalized Workplace Homicide

An examination of federal and state prosecutions for workplace safety and health violations and recommendations for improving the nation's criminal justice system.
July, 1988.

REGIONAL & OTHER REPORTS

Tunnel of Death -- Interim Report on the Metropolitan Sanitary District's Tunnel and Reservoir Project

An examination of the safety record of the U.S. EPA's largest public works project and steps needed to make a safer workplace.
January, 1988.

Information Sources on Workplace Safety and Health Issues

A directory of public and private sources for workplace safety and health information.
November, 1988.

Expendable Hoosiers: Job Safety & Health Problems in Indiana

An appraisal of the deplorable conditions of Indiana's workers' compensation and state-run OSHA program, and recommendations to improve Hoosier worksites.
October, 1988.

Safety and Health Voice

NSWI's periodic publication. Published at least six times annually.

Price Lists Are Available

About the National Safe Workplace Institute ...

BOARD OF DIRECTORS

OBJECTIVES

The National Safe Workplace Institute was founded in 1987. The Institute is funded by foundations, contributions from individuals, and through the sale of publications. The Board of Directors supports the use of appropriate tools to achieve the Institute's goals, including:

Research and Education ...

The Institute examines workplace conditions and policies and educates the public on issues relating to safety and health.

Intervention...

The Institute intervenes on behalf of individuals with regulators, law enforcement agencies, and the social welfare system to secure justice and pursues compensation and other remedies.

Acknowledgement...

Each year the Institute acknowledges, with its "Commitment to Life" award, people who have made important contributions in advancing workplace safety and health.

The National Safe Workplace Institute
122 South Michigan Avenue
Suite 1450
Chicago, Illinois 60603
312-939-0690

National Safe Workplace Institute

How We Make a Difference

Education

Inform opinion leaders and the general public on workplace safety and health issues. Informed individuals can take steps to reduce workplace injuries and fatalities. NSWI has:

- Contributed to greater public understanding of job safety and health problems through reports and by providing the media with information at their request. NSWI's work has been covered by every major U.S. news organization.
- Participated and supported a successful public proposition to restore job safety jurisdiction in California to state government. For this, NSWI prepared an issue analysis and testified before the California General Assembly.
- Worked with Congressional and state legislative committees in their consideration of job safety regulation, enforcement, and workers' compensation issues.
- Spoke at the 1988 Investigative Editors & Reporters National Conference in Minneapolis. Prepared an information guide for the media.
- Participated in "talk shows" in virtually every major media market.
- Provided hundreds of injured workers, victim's families, and interested citizens with job safety information.

Government Accountability

Scrutinize government programs and policies to identify ways in which public servants can more effectively reduce workplace injuries and fatalities. NSWI has conducted extensive research and issued reports on federal, state, and local public agencies. NSWI's reporting has highlighted mismanagement and influenced reforms. NSWI has:

- Revealed that the U.S. Department of Justice has failed to attain imprisonment of a single individual for job safety violations.
- Exposed massive abuse of victims--injured workers and their family members--by the U.S. Occupational Safety and Health Administration (OSHA).
- Revealed that OSHA's mega-fine strategy (fines over $100,000) has resulted in unintended consequences that potentially undermine OSHA's effectiveness.
- Evaluated and informed the public of the significant weakening of OSHA enforcement during the 1980s (OSHA often reduced its penalties for serious violations by two-thirds).
- Researched and reported on how Indiana workers are dying--due to pitifully weak state enforcement--at a much higher rate than workers in neighboring states.
- Showed that prosecutors in most states are ignoring criminal prosecution as an injury prevention tool.

Intervention

Intervene with appropriate parties in workplace safety and health issues to advance the cause of injury prevention. NSWI has:

- Successfully persuaded the U.S. Department of Justice to impose much higher penalties in workplace safety and health criminal cases.
- Battled to expand the categories of workers and types of firms regulated by OSHA.
- Recommended changes in federal job safety policy.
- Encouraged cooperation between the U.S. Environmental Protection Agency (EPA) and OSHA on EPA's wastewater construction projects. As a result of our work, EPA engineers now receive hazard training. Also, EPA has developed procedures to debar contractors with safety violations.
- Intervened in individual cases where safety-advancing precedents can be established. Intervention by NSWI has led to numerous OSHA policy changes.
- When appropriate, sought investigations by Congress, the U.S. General Accounting Office, and the Inspector General's Office.

National Safe Workplace Institute
122 South Michigan Avenue • Suite 1450 • Chicago, IL 60603
312-939-0690

What Others Say

National Safe Workplace Institute*

122 South Michigan Avenue
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312-939-0690

Hon. William E. Brock,
Former U.S. Secretary of Labor

"Any accomplishments we made to improve workplace safety were due in large measure to you and your organization...you have made a tremendous difference for which all American workers are grateful."

The Christian Science Monitor

"The Environmental Protection Agency is taking a new tack on worker safety...the work of a new Chicago organization called the National Safe Workplace Institute, brought increasing pressure on EPA...."

Hon. Edward M. Kennedy,
United States Senate

"I want to thank you for your assistance to the Senate Labor and Human Resources Committee in connection with the recent oversight hearings concerning the Occupational Safety and Health Administration. Your efforts and those of the National Safe Workplace Institute have made a significant contribution to the cause of worker safety. I commend you for your activities in this regard."

Dr. Philip Landrigan, M.D.
Director
Environmental & Occupational Medicine
The Mount Sinai Medical Center

"[SAFER WORK] is an extremely important and timely document. In large measure, its importance derives from its specificity. This is not just a fluff piece espousing generalities; it is instead concrete, well documented and hard hitting. My congratulations on a very nice piece of work."

John B. Moran
Former Director of Safety Research
National Institute of Safety and Health

"In a very short period of time, the National Safe Workplace Institute has established itself as one of the nation's most effective injury prevention organizations."

Peggy Holly
Fort Lauderdale, Florida
Sister of a Workplace Accident Victim

"I was very enthused to learn that there is an organization...concerned about the safety standards of high risk workers."

The Daily Herald

"We also appreciate the dogged determination of the Chicago-based National Safe Workplace Institute. Worker safety on the Deep Tunnel project has gained the attention of the EPA and OSHA in part, because NSWI has challenged those agencies to examine and evaluate the safety issue on the MSD's huge public works project."

Lee Doyle
Bloomington, Illinois
Father of a Workplace Accident Victim

"Again, thank you so much for your help and support."

Hon. Jim Edgar
Secretary of State, Illinois

"Your leadership in focusing public attention on safety in the workplace is admirable."

The Chicago Tribune

"The Midwest's top federal environment official Friday asked his department's inspector general to investigate allegations of unsafe construction...A prime catalyst for the federal investigation [is], the National Safe Workplace Institute..."

*From letters to the institute or news articles about the institute.

Alaska Loggers Association, Inc.

111 STEDMAN, SUITE 200
KETCHIKAN, ALASKA 99901
Phone 907-225-6114

May 23, 1989

The Honorable Dave Donley, Chairman
Labor and Commerce Committee
House of Representatives
Alaska State Legislature
3111 "C" Street
Anchorage, Alaska 99501

Dear Chairman Donley:

It is the understanding of the Alaska Loggers Association that your Committee may work on legislation during the interim which may be of interest to ALA. In particular, we understand that the Committee may focus on H.B. 286, legislation regarding penalties for workplace safety violations.

As you may know, ALA is vitally interested in making the workplace as safe as possible, and has an active and effective training program to accomplish this objective. Therefore, we are interested in any legislation which advances workplace safety. However, we are concerned about legislation which takes a punitive approach towards workplace safety, instead of a positive one. The legislative goals articulated in H.B. 286 are worthy of support, but we are concerned that emphasis on increasing penalties alone may not be as effective as other alternatives.

In closing, we want to emphasize that the ALA is interested in working in a constructive manner with the Committee on H.B. 286, and other workplace safety legislation. Would you please be sure to inform us of any meetings or work sessions which the Committee plans to hold during the interim on this type of legislation? Thank you for your time and cooperation on this matter.

Sincerely,

D.L. Finney
General Manager

DLF:cs

BILL/RESOLUTION HISTORY 10:22 AM 09/15/88 PAGE 1
BILL HB 53
NAME: CSHB 53(JUD) AM
TITLE: "AN ACT RELATING TO VIOLATIONS OF WORKPLACE SAFETY LAWS."

PRIME SPONSOR: KOPONEN
CO-SPONSOR: GOLL,DAVIS,DONLEY,DAVIDSON

FUNDING: $31,600 GENERAL(FNOTE) $31,600 OTHER(FNOTE)

CURRENT STATUS: (S) HES STATUS DATE: 05/11/87
THEN L&C, JUD, FIN

SELECTION=> _____

PF1 HELP PF2 PF3 EXIT PF4 MENU PF5 TEXT PF6 PRINT PF7 BWD PF8 FWD PF9 PF10 FIRST PF11 LAST PF12 QUIT

HB 53 BILL/RESOLUTION ACTION PAGE 2 OF 3

CURRENT STATUS: (S) HES

	JRN-DATE	JRN-PG		ACTION
1	01/16/87		(H)	PREFILE RELEASED
2	01/19/87	29	(H)	READ THE FIRST TIME - REFERRAL(S)
3	01/19/87	29	(H)	HESS, JUDICIARY, FINANCE
4	01/22/87	54	(H)	CO-SPONSOR ADDED: DAVIS
5	01/30/87	100	(H)	HES RPT CS(HESS) 4DP 3NR
6	01/30/87	101	(H)	FISCAL NOTE PUBLISHED 1/30/87
7	01/30/87	116	(H)	CO-SPONSOR ADDED: DONLEY
8	02/25/87	315	(H)	JUD RPT CS(JUD) NEW TITLE 4DP 2NR 1DNP
9	03/11/87	461	(H)	FIN RPT CS(JUD) 5DP 5NR
10	05/09/87		(H)	RULES TO CALENDAR 5/9/87
11	05/09/87	1281	(H)	READ THE SECOND TIME
12	05/09/87	1281	(H)	JUD CS ADOPTED UNAN CONSENT
13	05/09/87	1282	(H)	AM NO 1 FAILED Y18 N19 X2 A1
14	05/09/87	1283	(H)	AM NO 2 ADOPTED UNAN CONSENT
15	05/09/87	1283	(H)	AM NO 3 WITHDRAWN
16	05/09/87	1283	(H)	ADVANCED TO THIRD READING UNAN CONSENT
17	05/09/87	1283	(H)	READ THE THIRD TIME CSHB 53(JUD)AM
18	05/09/87	1283	(H)	PASSED Y25 N13 X2

SELECTION=> _____

PF1 HELP PF2 PF3 EXIT PF4 MENU PF5 TEXT PF6 PRINT PF7 BWD PF8 FWD PF9 PF10 FIRST PF11 LAST PF12 QUIT

HB 53 BILL/RESOLUTION ACTION PAGE 3 OF 3

CURRENT STATUS: (S) HES

	JRN-DATE	JRN-PG		ACTION
1	05/09/87	1284	(H)	TAYLOR NOTICE OF RECONSIDERATION
2	05/09/87	1293	(H)	CO-SPONSOR ADDED: DAVIDSON
3	05/11/87	1329	(H)	RECON TAKEN UP - IN THIRD READING
4	05/11/87	1330	(H)	RETURN TO 2ND FOR AM FLD Y18 N22
5	05/11/87	1330	(H)	PASSED ON RECONSIDERATION Y25 N15
6	05/11/87	1332	(H)	TRANSMITTED TO (S) CSHB 53(JUD)AM
7	05/11/87	1333	(S)	READ THE FIRST TIME - REFERRAL(S)
8	05/11/87	1333	(S)	HES THEN L&C, JUDICIARY & FINANCE

THE QUESTION BEING: 'SHALL CSHB 53(JUD)AM PASS THE HOUSE?'
THE ROLL WAS TAKEN WITH THE FOLLOWING RESULT:

CSHB 53(JUD)AM

YEAS:	25	ADAMS, BARNES, BOUCHER, BOYER, BROWN, CATO, COTTEN, DAVIDSON, DAVIS, DONLEY, ELLIS, GOLL, GRUENBERG, HERRMANN, HOFFMAN, KOPONEN, LARSON, MENARD, NAVARRE, POURCHOT, SPRINGER, SUND, SWACKHAMMER, ULMER, WALLIS
NAYS:	13	FRANK, FURNACE, GRUSSENDORF, HANLEY, HUDSON, MILLER, PEARCE, PETTYJOHN, PHILLIPS, RIEGER, SHULTZ, TAYLOR, ZAWACKI
EXCUSED:	2	COLLINS, MARTIN
ABSENT:	0	

AND SO, CSHB 53(JUD)AM PASSED THE HOUSE.

THE QUESTION TO BE RECONSIDERED: 'SHALL CSHB 53(JUD)AM PASS THE HOUSE?' THE ROLL WAS TAKEN WITH THE FOLLOWING RESULT:

CSHB 53(JUD)AM RECONSIDERATION

YEAS:	25	ADAMS, BOUCHER, BOYER, BROWN, CATO, COTTEN, DAVIDSON, DAVIS, DONLEY, ELLIS, GOLL, GRUENBERG, HERRMANN, HOFFMAN, KOPONEN, LARSON, MARTIN, MENARD, NAVARRE, POURCHOT, SPRINGER, SUND, SWACKHAMMER, ULMER, WALLIS
NAYS:	15	BARNES, COLLINS, FRANK, FURNACE, GRUSSENDORF, HANLEY, HUDSON, MILLER, PEARCE, PETTYJOHN, PHILLIPS, RIEGER, SHULTZ, TAYLOR, ZAWACKI
EXCUSED:	0	
ABSENT:	0	

HOUSE LABOR AND COMMERCE COMMITTEE
ALASKA STATE LEGISLATURE P.O. BOX Y, JUNEAU 99811
(907) 465-3892

September 26, 1989

To: David TeaL, Director
House Research Agency

From: Representative Dave Donley, Chair
House Labor and Commerce Committee

Re: Research request - Workplace Safety information

In preparation for consideration of legislation dealing with workplace safety issues, I'm writing to ask that your agency gather information on the following:

1. Los Angeles, California criminally prosecutes executives of companies where workplace safety violations have occurred that resulted in the death of a worker and the number of workplace deaths has subsequently dropped. I would like any information you can find on this issue, including copies of legislation, articles, publications, and background information for any other state where such prosecutions occur.

2. Scandinavian countries are highly industrialized with many hazardous occupations such as shipbuilding and iron work. Historically they have far fewer workplace deaths or serious injuries than their American counterparts. I would like any information you can find as to what is unique about the way these countries deal with workplace safety that may account for their excellent record and any articles, studies, publications or model legislation that may be useful to Alaska in trying to develop workplace safety programs.

3. Is there a "model" workplace safety program that is recognized by 1) Alaska, 2) any other state, or 3) the federal government, that could be used by Alaska businesses? In working with the workers' compensation reform package last year, we considered mandating a five percent rate decrease for any company that instituted a workplace safety program. The problem is we couldn't find a "model" program that was recognized by insurers or easily adopted into various workplace situations. If you can not find an existing program, please forward to me any articles, publications or studies you locate that could help us develop a model program.

Please contact Ginger Baim at 561-7629 if you have any questions or need additional information.

The Job Safety and Health Act of 1989

Title One: Joint Worker/Management Committees

A. Worker/Management Committees must be authorized to:
   1. Stop work until hazardous conditions are abated.
   2. Review appointment and employment of safety and health personnel.
   3. Conduct monthly inspections.
   4. Obtain employer's information concerning safety and health practices.
   5. Investigate accidents.

B. Worker participation must be legitimate.

C. Committee members must receive sufficient training.

D. All businesses with eleven or more employees must designate a safety and health officer.

Title Two: Rights of Victims and Whistleblowers

A. Victims must have:
   1. The right to obtain copies of OSHA investigative files and citations quickly and free of charge.
   2. The right to participate in appropriate deliberations and adjudicative processes, personally or through their representatives, as proposed in the Construction Safety and Health Improvement Act, S. 2518.

B. Whistleblowers must have:
   1. The right to disclose hazards which violate federal law or threaten health and safety.
   2. The right to participate in a federal agency proceeding relating to the dangerous activities of an employer.
   3. The right to refuse to perform dangerous work, as proposed in the Uniform Health and Safety Whistleblower Act, S. 2095.

Title Three: Civil and Criminal Penalty Structures

A. Civil penalty changes.
   1. Minimum penalty increases should:
      a. Adjust all civil penalties for inflation (a maximum willful violation penalty would be increased from $10,000 to $29,700).
      b. Tie future penalties to the cost-of-living index, as proposed in the Federal Civil Penalties Inflation Adjustment Act, S. 1014.
   2. NSWI recommends penalty increases of:
      a. $50,000 (up from $10,000) for a willful violation.
      b. $10,000 (up from $1,000) for a serious violation.

B. Penalty settlement guidelines.
   1. Penalty reductions must not exceed 30%.
   2. Settlement discussions must not occur until after abatement of hazardous conditions.

National Safe Workplace Institute
122 South Michigan Avenue
Suite 1450
Chicago, Illinois 60603
(312) 939-0690

3. Written rationalizations for any reduction must be made available to all concerned parties.
4. Settlements over $100,000 should be entered into U.S. District Court records.

C. Criminal penalties.
1. Current maximum fine of $10,000 and a six month prison sentence for an individual or a corporation are too weak.
2. An increased fine of $250,000 for an individual and $500,000 for a corporation (as proposed by former Assistant Attorney General William Weld) should set the new standard.

D. Willfulness.
1. The current willfulness standard, requiring an employer to have a history of previous citations, and subsequently to have a repeat violation involving a fatality, makes it very difficult to convict serious offenders.
2. A new definition of willfulness, based on the California penal code, should be adopted.

E. Reckless endangerment.
1. A new standard for reckless endangerment should be based on the following criteria:
   a. Any violator with one serious or willful violation during the previous four years would potentially be liable of reckless endangerment.
   b. Willfulness would not be considered in applying the reckless endangerment test.
   c. Reckless endangerment would carry a maximum fine of $100,000 and a prison sentence of one-to-five years.

F. Fatalities.
1. Increase penalties for violations involving fatalities to a maximum prison sentence of 20 years, as proposed in S. 2518.

Title Four: Public Welfare Cost Recovery

A. In cases where federal funds provide support for victims of job-related injury or illness, the government should litigate to recover costs from employers for standards-related violations.
B. The Departments of Labor and Justice would litigate under this provision.

Title Five: Rights of Local and State Governments

A. Current case law discourages a state or local government from pressing criminal charges against an employer in a federally-regulated OSHA state.
B. Federal preemption of state or local laws, including criminal laws, which provides more stringent job safety and health standards should be prohibited, as proposed in S. 2518.

Title Six: State-Plan States

A. State-Plan States should be encouraged to experiment in developing safer workplaces by providing a grant program for special initiatives.
B. The Secretary of Labor should develop standard reporting measures for State-Plan States and make reports available to the public.
C. Workers in State-Plan States should have the right to demand inspections by federal officials when state inspections fail to eliminate hazardous conditions.
D. The Secretary of Labor should terminate inadequate State-Plan programs.

Title Seven: Safety and Health Standards

A. The revision of existing standards and promulgation of new standards lags far behind sound scientific knowledge.
B. The Secretary of Labor's responsibility to promulgate standards should be strengthened by:
    1. Reasserting the right to propose individual standards.
    2. Reasserting the right to promulgating consensus standards.

Title Eight: Licensed Technicians

A. In oversight of all high-risk activities, the law should:
    1. Require licensing of all key supervisory personnel.
    2. Provide general definitions of the work functions to be supervised by licensed technicians.
B. An employer's failure to comply with this provision should constitute a serious violation.

Alaska State Legislature
Representative Niilo Koponen

Pouch V
Juneau, Alaska 99811
(907) 465-4992

House District 21

119 N. Cushman, Suite 207
Fairbanks, Alaska 99701
(907) 456-8172

MEMORANDUM

To: Rep. Gruenberg

From: Dana Owen

Re: HB 286, HB 53

Date: 3/8/90

You asked for a comparison of HB 286 with the similar measure that passed the House in the 15th Legislature. That bill was CSHB 53 (Judiciary) am. The two are laid out the same. I'll discuss them by section.

Sec. 1. The standard of wilful or repeated is replaced by knowing or repeated, both bills. Changes amount of penalty.

currently:	$10,000
CSHB 53:	$25,000
HB 286:	$30,000

Sec. 2. Changes the penalty for serious violations. Leaves the definition intact.

currently:	up to $1,000 per violation
CSHB 53:	not less than $1,000 per violation not more than $10,000 per violation
HB 286:	up to $3,000

Sec. 3. Changes amount of penalty for non-serious violations.

currently:	up to $1,000
CSHB 53:	up to $5,000
HB 286:	up to $3,000

Sec. 4. Changes amount of penalty for failure to correct a violation.

currently:	not more than $1,000 per day
CSHB 53:	not more than $10,000 per day
HB 286:	not more than $3,000 per day

Sec. 5. Regarding a violation resulting in death, standard is changed from wilful or repeated to knowing or repeated, both bills. Penalty amount is changed.

First violation	currently:	$10,000
	CSHB 53	$150,000
	HB 286	$30,0000
Second violation	currently:	$20,000
	CSHB 53:	$500.000
	HB 286:	$60,000

Sec. 6. Penalty amount for false statement changed.

currently:	$10,000
CSHB 53:	$25,000
HB 286:	$30,000

Sec. 7. Penalty amount for posting violation changed.

currently:	$1,000
CSHB 53:	$2,000
HB 286:	$3,000

In addition, CSHB 53 included a section 8, which stated that amendments to the statute made by the act applied only to violations occurring on or before the effective date.

Neither bill contained an effective date clause.

I hope this has answered your questions. I have attached a fact sheet that was included in the HB 53 bill packet which you might find useful. If you need additional information or if I can be of any other help, please let me know.

Alaska State Legislature
Representative Niilo Koponen

Pouch V
Juneau, Alaska 99811
(907) 465-4992

[illegible]

HB 53 SOME OTHER FINES FOR OTHER MISDEMEANORS AND VIOLATIONS FOR COMPARISON PURPOSES

You will receive a fine of $5,000 for:

- concealing merchandise worth $$50 or more.
- issuing a bad check for $50.00
- deceptive business practices (be careful when you sell your old car)
- misrepresenting the use of a propelled vehicle (of course the mileage is accurate, my grandmother only drove it to church on Sunday!")
- defrauding a creditor
- simulating Legal process (be careful how you dun people who owe you money).

You will receive a fine of $1,000 for:

- concealing merchandise of less than $50 value.
- writing a bad check for less than $50
- impersonating a public servant etc.

I hope this helps put the fines in HB 53, which deal with dangers to human life & limb, in proper perspective...

Original sponsor(s): REP. KOPONEN, Donley, Navarre, Brown, Spohnholz, Goll, Ellis, M.Davis, Menard

IN THE HOUSE BY THE JUDICIARY COMMITTEE

CS FOR HOUSE BILL NO. 286 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to penalties for violation of workplace safety laws; and assessing costs for an employer's failure to appear at certain hearings of the OSHA Review Board."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 18.60.093 is amended by adding a new subsection to read:

(f) If an employer fails without good cause to appear at a hearing held under this section after receiving proper notice of the hearing, the OSHA Review Board may order the employer to pay all reasonable expenses incurred by the board for the hearing, including the board's actual travel expenses and per diem.

* Sec. 2. AS 18.60.095(a) is amended to read:

(a) An employer who <u>knowingly</u> [WILFULLY] or repeatedly violates a provision of AS 18.60.010 - 18.60.105 that is applicable to the employer or a standard or regulation adopted under AS 18.60.010 - 18.60.105 may be assessed by the commissioner a civil penalty of not more than <u>$30,000</u> [$10,000] for each violation.

* Sec. 3. AS 18.60.095(b) is amended to read:

(b) An employer who receives a citation for a serious violation of a provision of AS 18.60.010 - 18.60.105 that is applicable to the employer or of a standard or regulation adopted under AS 18.60.010 - 18.60.105 shall be assessed by the commissioner a civil penalty of up to <u>$3,000</u> [$1,000] for each violation. For purposes of this

subsection, a serious violation is considered to exist if the violation creates in the place of employment a substantial probability of death or serious physical harm. However, a serious violation is not considered to exist if the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

* Sec. 4. AS 18.60.095(c) is amended to read:

(c) An employer who receives a citation for a violation of a provision of AS 18.60.010 - 18.60.105 that is applicable to the employer or a standard or regulation adopted under AS 18.60.010 - 18.60.105, and the violation is specifically determined not to be of a serious nature, may be assessed by the commissioner a civil penalty of up to $3,000 [$1,000] for each violation.

* Sec. 5. AS 18.60.095(d) is amended to read:

(d) An employer who fails to correct a violation within the period permitted for its correction for which a citation has been issued may be assessed by the commissioner a civil penalty of not more than $3,000 [$1,000] for each day during which the failure to correct the violation continues.

* Sec. 6. AS 18.60.095(e) is amended to read:

(e) An employer who knowingly [WILFULLY] or repeatedly violates a provision of AS 18.60.010 - 18.60.105 that is applicable to the employer or a standard or regulation adopted under AS 18.60.010 - 18.60.105, and the violation causes death to an employee, upon conviction, is punishable by a fine of not more than $30,000 [$10,000], or by imprisonment for not more than six months, or by both. However, upon a second conviction after a prior conviction for a violation causing death, an employer is punishable by a fine of not more than $60,000 [$20,000], or by imprisonment for not more than one year, or

by both.

* Sec. 7. AS 18.60.095(f) is amended to read:

(f) A person who knowingly makes a false statement, representation, or certification in an application, record, report, plan or other document filed or required to be maintained under AS 18.60.010 - 18.60.105, upon conviction, is punishable by a fine of not more than $30,000 [$10,000], or by imprisonment for not more than six months, or by both.

* Sec. 8. AS 18.60.095(g) is amended to read:

(g) An employer who violates the posting requirements of this chapter shall be assessed by the commissioner a civil penalty of up to $3,000 [$1,000] for each violation.

HB

292

STATE OF ALASKA
THE LEGISLATURE

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907·465·3800

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HB 292

H. R&C 11/28/89