

OSHA FactSheet

OSHA's Role When a Worker Dies On the Job

Occupational fatalities in the U.S. have fallen by 10 percent over the past decade. In 2002, fatality rates in American workplaces dropped by 6.6 percent to the lowest level ever recorded. In fact, on-the-job deaths have been cut in half since 1970, even though U.S. employment has more than doubled. That is the good news, but even one fatality is one too many.

Each day more than 15 American workers fail to return home to their loved ones. That is totally unacceptable. OSHA, along with safety and health professionals around the Nation, is working with employers and employees to move toward zero deaths on the job. And the agency will not be satisfied until every worker in America goes home safe and sound each day.

OSHA Fatality Inspections

OSHA regulations require employers to report deaths on the job within eight hours. Employers may call their local office or may use the agency's toll-free number: 800-321-OSHA (6742).

The agency then investigates the circumstances of the death, usually on-site, to determine the cause of death and if violations of the OSH Act are involved. (Exceptions are when the matter is clearly outside OSHA's jurisdiction, such as over-the-road traffic accidents and some apparent sudden deaths on the job such as heart attacks or strokes.) Depending on the nature and complexity of the incident, an OSHA investigation can take as long as six months.

If the agency determines that the employer has failed to follow safety and health requirements, it issues citations and proposed civil penalties. The proposed penalties are based on the statutory factors of employer size, gravity of the violation, good faith of the employer and the history of previous violations. The maximum penalty that can be assessed is \$7,000 for each serious violation or \$70,000 for a repeated or willful violation.

Therefore, OSHA penalties do not correspond to or reflect the value of a worker's life or the cost of an injury or illness. Although oftentimes this seems unfair, OSH Act penalties are primarily designed to deter future violations.

An important consideration for the agency is to get hazardous conditions corrected as soon as possible so that no further injuries or deaths occur and the workplace complies with all applicable safety and health standards. Therefore, the agency often settles citations and penalties when this will speed abatement. This may lead to reduced penalties in exchange for prompt correction of hazards and other measures that help reduce risk to other workers and provide a safer workplace.

OSHA Assistance to Family Members

It is a national loss when a worker dies on the job. As safety and health professionals, the employees at OSHA care about all workers and share in the loss of each one who loses his or her life in the workplace. But no one feels that loss more than the grieving members of that worker's family.

OSHA is committed to working with families to provide an accounting of the circumstances surrounding the deaths of workers and to doing everything possible to prevent future tragedies. Each OSHA Area and Regional office gives special consideration to the families and friends of workers who die as the result of workplace accidents and illnesses.

Agency representatives contact the family of the worker who died to let them know of the agency's

investigation and to arrange to provide further information as it becomes available. Investigators take into account relevant information that family members may provide concerning their loved one's working conditions and death.

OSHA's administrator also sends a letter of condolence acknowledging, "We realize the results of this investigation are very important to you, so we will let you know about our findings as soon as the investigation is completed." The letter includes contact information for the office handling the inspection. Family members may then request a copy of all citations, subsequent settlement agreements, or Review Commission decisions as soon as these are available.

The death of a worker leads to a very troubling and stressful time for his or her family. While OSHA is doing everything possible to provide information to families as soon as it becomes available, the agency must carefully follow procedures that will enable it to take appropriate legal action. In accordance with the Act, the civil actions that OSHA can bring are based solely on employers' violations of safety and health requirements and not on the consequences of these violations.

Criminal Prosecution of Willful Deaths

The OSH Act also provides that where OSHA can document that an employer willfully violated an OSHA standard and that violation caused the death of a worker, the matter may be referred to the Justice Department for consideration for criminal prosecution. Any criminal prosecution that the Department of Justice pursues is usually in addition to civil citations and penalties.

Criminal referral is one enforcement tool that OSHA uses. But many cases in which willful citations are issued as a result of fatality investigations do not merit criminal prosecution. The basic reason is that each element of a criminal violation, including willfulness, must be proven to a jury beyond a reasonable doubt. By contrast, to have a civil citation upheld, OSHA may meet a lesser standard of proof—preponderance of the evidence. The Department of Labor does not refer a case that OSHA and the Office of the Solicitor do not believe can meet the higher burden of proof required for acceptance by the Department of Justice for consideration for criminal prosecution.

This is one in a series of informational fact sheets highlighting OSHA programs, policies or standards. It does not impose any new compliance requirements. For a comprehensive list of compliance requirements of OSHA standards or regulations, refer to Title 29 of the Code of Federal Regulations. This information will be made available to sensory impaired individuals upon request. The voice phone is (202) 693-1999; teletypewriter (TTY) number: (877) 889-5627.

