

LABOR CENTER REPORTER

Number 218
October 1987.

KILLING CAL OSHA, KILLING WORKERS?

4 [by Amelia Preece]

Ignoring the strong opposition of all the state's unions, Governor Deukmejian recently eliminated Cal OSHA from the state budget with a line-item veto. Claiming that the state program duplicated federal OSHA, the Governor acted to "save" \$8 million in administrative costs, but in the process reduced the stronger rights and protections of workers under Cal OSHA to lower standards and less effective enforcement procedures of the federal program.

Major business groups in the state were not able to organize support for the elimination of Cal OSHA, especially since many business representatives believe that their Workers' Compensation insurance costs will quickly increase more than enough to wipe out any "savings" claimed by the Governor. In addition, according to Los Angeles District Attorney Ira Reiner, the elimination of Cal OSHA represented "an effort to remove officers and executives of major corporations from being held personally liable from prosecution when they make . . . decisions to cut corners to save money in matters of worker safety."

For most workers, especially those without organized representation and those in the most dangerous jobs, Cal OSHA protection was more effective than the federal regulations which are now the law of California. Serious enforcement questions were raised even before the Governor's veto action. Federal OSHA officials had asked to deputize Cal OSHA employees to permit them to continue enforcing federal OSHA standards. This was not done. Thus at the outset only a skeleton federal crew was available to enforce health and safety regulations in California.

What Did Cal OSHA Provide? Cal OSHA was more up to date with its list of toxics, regulating 170 chemicals not covered by the federal program. It has more stringent standards for the level of exposure to 100 other chemicals. Some common substances including many pesticides have state but not federal standards. The less stringent regulation of chemicals means increased risk of illnesses for workers.

Cal OSHA recognized the hazards of confined spaces and moving equipment. It therefore required safe air quality or respirators for confined spaces, and special switches to turn off moving equipment. If this standard had been universally enforced in California it could have saved the life of at least one worker who was killed by a hamburger grinder that activated while it was being cleaned.

Cal OSHA construction site standards were much more stringent than federal standards. Cal OSHA required permits before most major types of construction, so that the enforcing agency would know where construction was occurring. Cal OSHA required ongoing accident prevention programs, and instruction on health and safety for new employees. Cal OSHA also required that only qualified persons could operate equipment, and that employers could not permit or require workers to work in an unsafe manner. Under federal OSHA workers no longer have these protections.

Farm workers will be harmed by the Governor's veto action. The Cal OSHA standard made use of short handle hoes illegal and required the provision of drinking water, toilets, and hand washing facilities in the fields. These standards have been shown to protect both workers and the public safety. The federal standards allow the use of the short handle hoe. A Federal Court of Appeals has condemned federal OSHA for delaying the issuance of more comprehensive farm-labor safety standards covering toilets and drinking water.

CAL OSHA gave all workers the right to know about hazardous substances in the work place. The federal OSHA gives this right only to manufacturing employees.

BERKELEY, CA 94720
(415) 642-0323

UNIVERSITY OF CALIFORNIA (BERKELEY)

CENTER FOR LABOR RESEARCH AND EDUCATION
INSTITUTE OF INDUSTRIAL RELATIONS



10/1/87

Enforcement Better Under Cal OSHA. Cal OSHA required immediate response to imminent hazards (because of understaffing, their actual response time was 4 days). Federal OSHA requires response in one day (their actual response time is 5 days). Cal OSHA inspectors could immediately shut down imminent hazards. Federal inspectors have to go to court to shut anything down, requiring at least 4 days. Cal OSHA investigated every death or serious accident; federal OSHA investigates fatalities but not serious accidents, unless 5 or more workers are involved.

Cal OSHA would respond to hazard information phoned in; federal OSHA can respond only to written reports. Cal OSHA required that employers notify the agency immediately after death or serious illness or injury; federal OSHA requires notification within 2 days for death and 5 days for serious illness or injury.

The minimum penalty under Cal OSHA was \$20,000, twice as high as the minimum penalty under federal standards.

The federal government has been very lax in criminal prosecution of serious health and safety violations. The Department of Labor has referred only 37 cases nation wide to the Justice Department since 1971, and only 14 of these have been prosecuted. Since 1981 there have been only 2 federal prosecutions of criminal cases. Cal OSHA has prosecuted many more cases in the time they have been in existence (about 255 since 1973).

Federal OSHA Cut Back. The federal government has been cutting its spending on OSHA. The budget has eliminated 27% of the federal OSHA enforcement staff in the past 6 years. The federal government with its current budget deficit is unlikely to do anything but continue to cut the enforcement of OSHA.

Saving Money by Risking Lives? Can the cutting of a program designed to increase worker safety really save money? The California Chamber of Commerce (which took no position on the issue) testified to the legislature that elimination of Cal OSHA would probably increase injuries, increase the cost of insurance premiums, and increase the cost of Workers' Compensation. If injuries, illness, and death increase, the cost to families and society will be greater. The workers, their families and the community will bear the cost of a saving which works out to be less than fifty cents per person in the state of California. The true beneficiaries of this change are those firms who are careless or are willing to cut costs at the expense of the safety of their workers. Responsible firms will lose in their competition with such firms who are not paying for safety.

-- Amelia Preece

This article does not necessarily represent the opinion of the Center for Labor Research and Education, the Institute of Industrial Relations, or the University of California. The author is solely responsible for its contents. Labor organizations and their press associates are encouraged to reproduce any LCR articles for further distribution.