

Memorandum from FRED DOVELL

Cancer,
Gen'l

TO:

Dr. W. D. Harris

SUBJECT:

Dr. P. W. Jonmaire

Someone should take a look at this to see what is being said, check for accuracy, etc. Do you know anyone who has a copy? (E.g., Tire Dir. Research at Troy?).

Fred

UPL 05037

California**ABSENCE OF DATE ON CITATION
NOT FATAL DEFECT, APPEALS BOARD SAYS**

SAN FRANCISCO — (By a BNA Staff Correspondent) — The absence of a date on a citation does not invalidate the document, according to a decision after reconsideration by the California Occupational Safety and Health Appeals Board.

"While the face of the citation contains a space for the date of issuance, nothing can be found in the applicable provisions of the Labor Code requiring the citation to be dated," the board explained.

The case involved *Channel Constructors, Inc.*, Irwindale (Docket Nos. 028-77 and 137-77), which contested one alleged serious, and two nonserious, violations before the board. The company was cited in 1977 by the Division of Occupational Safety and Health (DOSH) for alleged nonserious violation of 8 CAC 1541(a) for failure to meet minimum spacing requirements for trench shoring. Channel Constructors challenged the citation on several grounds including DOSH's failure to date the citation.

The Appeals Board concluded that the absence of an issuance date did not invalidate the citation. The panel noted that the Labor Code requires a citation to be served on the employer before further action may be taken by DOSH. It further observed that the employer's notice of appeal stated the date on which the citation was received and there was no apparent error in the form or manner of issuance or in the service of the citation.

Turning to the violation itself, the board affirmed DOSH's citation with a finding that shoring uprights were spaced too far apart. It also upheld the serious violation citation, finding that Channel Constructors failed to slope the walls of a trench properly. That infraction carried a \$650 civil penalty.

Other Decisions

In another decision after reconsideration, the board reversed an administrative law judge and ruled that an employee of an engineering company inspecting a construction site should have worn flagging garments when exposed to heavy earthmoving equipment. The ruling involved *Spencer Engineering, Eureka* (No. 1304-81), which was cited by DOSH for serious violation of 8 CAC 1590(a)(5) for allegedly exposing the employee to dangerous equipment without proper garments.

At issue in the case was whether the employer knew of the violation. The law judge found the knowledge requirement was not proven by DOSH, but the Appeals Board reversed, saying the employer's purported ignorance of the applicability of the rule was no excuse for non-compliance. The standard applies to employees exposed to vehicular traffic in off-highway conditions, the board said, a situation which existed in this case.

Finally, the board upheld a law judge's decision that cleaning sawdust from an electric eye of a sawmill saw is not servicing or cleaning within the meaning of 8 CAC 3314(a). That board ruling sustained an appeal by *Louisi-ana-Pacific Corporation, Samoa* (No. 1358-81).

"Cleaning, servicing, or adjusting operations within the meaning of section 3314(a) generally mean that parts of the machine are altered and that work is performed on a part or piece of that machinery itself," the board said in explaining its decision. Though it found no violation, the board did say the law judge erred in applying the standard solely to general repairmen. "The Appeals Board focuses on the

hazards to which the safety order is addressed and to which employees are exposed," the panel said in giving its view that the hazard is not minimized or negated by the employees' job titles or job functions.

California**JOB FATALITIES RECORDED IN 1980
HIT 40 YEAR LOW, STATE INDICATES**

SAN FRANCISCO — (By a BNA Staff Correspondent) — The number of occupational deaths in California in 1980 was the lowest recorded since 1940, the state Division of Labor Statistics and Research reported.

A total of 541 job related deaths occurred in 1980, a 19 percent drop from the previous year and the best record since 1940, when 536 workers lost their lives on the job, the division said.

Of the 541 fatalities in 1980, over half involved aircraft or motor vehicle accidents, the division said. It counted 233 deaths that were "standards related" and might have been associated with violations of state job safety and health rules. Despite the decrease in the overall number of deaths, fatalities due to falls from elevations, confined spaces, and contact with electric current all increased between 1979 and 1980.

The overall number of disabling work injuries in 1980 fell by 2.2 percent from the 1979 total of 382,227 despite a 2 percent increase in employment. The most common accident types were "struck by or against" and overexertion, which each accounted for 28 percent of the total. The most common injuries were strains, sprains, dislocations, and hernias, which together accounted for 42 percent of all injuries.

The division found that 44 percent of the workers injured in 1980 had worked for their employers for less than one year at the time the injuries occurred. It speculated that job experience and worker age are two factors that contribute to injuries.

Five industry categories enjoyed injury reductions in 1980: construction, manufacturing, transportation and utilities, wholesale trade, and state and local government. Mining and agriculture showed sharp increases in injuries and illnesses.

Copies of the report, entitled "California Work Injuries and Illnesses, 1980," are available by writing to the Division of Labor Statistics and Research, P.O. Box 603, San Francisco, Calif. 94101.

Unions**CAUSES OF WORKPLACE CARCINOGENS
ADDRESSED IN NEW UAW SLIDE SHOW**

An overview of the causes of and remedies for occupational cancer is provided in a new slide show produced by the United Auto Workers, the union announced.

The 20-minute film, "Fighting Workplace Cancer," focuses on the industries and operations where excess cancer has been found, the union stated. Cancer-causing chemicals are identified and control methods are discussed. In addition, policy issues relating to the regulation of carcinogens and obstacles to their control are explored, the announcement said.

Included in the show are 124 slides in a carousel and a tape with inaudible pulsing. A keyed script and a copy of a

booklet, "The Case of the Workplace Killers: A Manual for Cancer Detectives on the Job," also are included.

The show can be obtained from the UAW Education Department, 8000 East Jefferson Ave., Detroit, Mich. 48214; tel. (313) 926-5474. There is a charge of \$100 per copy plus \$10 for previewing.

Regulatory Reform

COST-BENEFIT, OMB REVIEW OF RULES CRITICIZED IN POLICY EXCHANGE STUDY

Cost-benefit analysis and centralized review of proposed safety and health regulations should not be the cornerstones of the federal regulatory reform effort, according to a study issued by the National Policy Exchange, a Washington, D.C., research and education organization whose board of directors includes former Labor Secretary Ray Marshall and AFL-CIO President Lane Kirkland.

More flexible compliance strategies and greater opportunities for negotiation during the standard-setting process offer "more promising routes out of the current regulatory traffic jam," according to the report, written by Marguerite Connerton, senior economist with the Department of Labor, and Mark McCarthy, a staff economist with the House Energy and Commerce Committee.

Tests on cost-benefit imposed by President Reagan's Executive Order 12291 (Reference File, 71:9601) and pending cost-benefit reform legislation are "steps in the wrong direction," the authors charged in *Cost-Benefit Analysis and Regulation: Expressway to Reform or Blind Alley?*

After examining the historical relationship between economics and the development of social regulation, Connerton and McCarthy assessed what they termed the scientific and factual uncertainty involved in identifying and measuring regulatory effects, especially where health and safety are involved.

Scientific understanding of the etiology of many occupational diseases is uncertain, the authors argued, and factors such as multiple exposure sources and long latency periods complicate any scientific determination of exposure hazards in the workplace. "For these reasons," according to Connerton and McCarthy, "many risk assessments may only support the qualitative conclusion that a substance poses a significant risk."

The need to measure regulatory benefits in monetary terms presents an even greater difficulty, the authors continued, noting that "the most controversial of these pricing problems concerns the valuation of human life." Assigning a monetary value to an individual based entirely on that person's economic contribution to society, they charged, leads "to the perverse conclusion that death is 'cheaper' than permanent disabilities which may involve long periods of expensive medical treatment ... on top of any earnings lost."

Centralized review of proposed standards by OMB, the study also charged, involves an "ill-defined boundary" between technical review and policy review of a proposal, and raises the possibility of "back door" influence of the President on agency policy.

The regulatory system might be made more efficient through the introduction of compliance strategies geared to

individual industries, the study suggested. As examples, it noted a tripartite OSHA/industry/labor agreement involving enforcement of the lead standard at an ASARCO smelter in Montana (Current Report, March 25, p. 843), and labor-management committees such as the one established at a Bechtel construction site in San Onofre, Calif.

Cost-Benefit Analysis: Expressway to Reform or Blind Alley? is available for \$5 from the National Policy Exchange, 1899 L Street, N.W., Suite 800, Washington, D.C. 20036; tel: (202) 833-3293.

California

THIRD QUARTER ENFORCEMENT REPORT SHOWS EMPLOYER COMPLIANCE RATE CLIMBED

SAN FRANCISCO — (By a BNA Staff Correspondent) — The percentage of employers found in compliance with California job safety and health standards climbed over the 30 percent mark for the first time in 1982, according to statistics submitted to the Occupational Safety and Health Administration.

California's report to OSHA on its third quarter enforcement activity showed that 30.3 percent of employers were found in compliance with state standards, a 3.4 percent increase over the second quarter (Current Report, Sept. 23, p. 348).

Between July 1 and Sept. 30, California's 184 job safety and health inspectors made 4,186 inspections, 752 fewer than in the previous quarter. Of those third quarter inspections, 459 were accident investigations, 1,357 were complaint responses, and 1,813 were listed as general schedule. Follow-ups numbered 557, and when they are excluded from the total, 30.3 percent of employers inspected were found in compliance.

The compliance officers cited 1,220 instances of alleged serious violations for which \$282,539 in penalties were proposed. That figure includes penalties for serious, repeat serious, and willful citations. Citations also were issued alleging 7,839 nonserious infractions for which proposed fines totaled \$62,573.

Publications

NIOSH ISSUES CUMULATIVE CATALOG LISTING AVAILABLE PUBLICATIONS

Copies of *NIOSH Publications Catalog: Fourth Edition*, are available from the National Institute for Occupational Safety and Health.

The 277-page catalog presents, in six sections, a cumulative listing of numbered publications, health hazard evaluations and technical assistance reports, NIOSH contract reports, industry-wide studies, unnumbered publications, and a variety of other educational and training materials. The final section of the catalog contains a subject index guide to all NIOSH documents.

The catalog also includes information for ordering documents from the Government Printing Office, the National Technical Information Service, and NIOSH itself.

To obtain the catalog (NIOSH Publication No. 82-116), contact Publications Dissemination, DSDTT, NIOSH, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

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