

Safety and Health Update February 2008

More than three decades ago, Congress passed the Occupational Safety and Health Act, promising every worker the right to a safe job. Unions and our allies have fought hard to make that promise a reality — winning protections that have saved hundreds of thousands of lives and prevented millions of workplace injuries. Nonetheless, the toll of workplace injuries, illnesses and deaths remains enormous. In 2006, more than 4.1 million workers were injured and 5,703 workers were killed due to job hazards. Another 50,000 died due to occupational diseases.

Our fight for safe jobs has gotten harder as for more than seven years the Bush Administration has refused to act. Instead, at the behest of corporate interests, the Administration has moved to roll back and weaken protections. Voluntary compliance has been favored over issuing new protective standards and enforcement. Progress has ground to a halt and may be reversing. Many workers have little or no protection and major hazards remain unaddressed. Catastrophes in coal mines and factories continue, with little action to prevent them.

With the change in control of Congress, there has been increased attention to worker safety and health issues and oversight of OSHA and MSHA. Legislation to strengthen protections has been introduced. But with President Bush still in office and Republican blocking legislation in the Senate, it has been difficult to achieve any major advancements.

Hopefully, this year, with the election, we'll be able to change the direction of the country, make workers' issues a priority and make real progress in protecting workers' lives.

In 2008, here are some of the major challenges we face in our fight for safe jobs:

- **Millions of Workers Have No OSHA Protection** — More than three decades after the passage of the OSHAct, more than 8.6 million state and local public employees and other workers, including flight attendants, have no protection under the OSHA law.
- **Penalties for Violations are Weak** — The average penalty for a serious violation of the OSHA law continues to be woefully low — only \$906. Criminal penalties under OSHA are weaker than all other safety and health laws, limited only to those cases where a willful violation results in the death of a worker, and even then it is only a misdemeanor. Legislation has been introduced in the House and Senate (The Protecting America's Workers Act, H.R. 2049, S. 1244) that would strengthen OSHA penalties and other worker rights and protections.
- **No New Workplace Safety and Health Rules** — The Bush Administration killed dozens of worker protection measures under development at OSHA and MSHA, including rules on cancer causing substances, reactive chemicals, and infectious

diseases such as TB. This Administration has the worst record on safety rules in OSHA's entire history, issuing no new significant rules during its first term. The only health standard issued — a standard on hexavalent chromium in 2006 — was in response to a court order. For seven years, the Administration refused to issue a rule requiring employers to pay for personal protective equipment, particularly important for immigrant and low wage workers. Finally in 2007, this rule was issued, but only after the AFL-CIO and UFCW went to court and Congress ordered OSHA to act. The Administration has failed to protect workers from disabling and deadly lung disease caused by the butter flavoring diacetyl, used in microwave popcorn and other foods. The House of Representatives passed legislation (H.R. 2693) directing OSHA to issue an emergency rule, but Senate Republicans have stalled the bill.

- **Ergonomic Hazards Still a Major Problem** — Soon after taking office in 2001, the Bush Administration joined with anti-worker business groups to repeal OSHA's ergonomics standard. The standard, ten years in the making, would have required employers to protect workers from the nation's biggest job safety problem — injuries caused by heavy lifting and repetitive work. The Administration's promised "comprehensive plan" to address ergonomic hazards has turned out to be a sham. In six years, only three voluntary non-enforceable guidelines — for nursing homes, retail grocery and poultry — have been issued. No general duty violations for ergonomic hazards have been issued by federal OSHA since November 2005. Meanwhile, musculoskeletal disorders remain a major job safety problem, responsible for nearly one-third of all workplace injuries.
- **Securing Mine Safety Improvements** — In 2006, as a result of the Sago mine disaster and other mine disasters, the Congress enacted the Mine Improvement and New Emergency Response (MINER) Act. The legislation requires MSHA to adopt stricter standards on mine rescue teams, communications and oxygen availability and sets mandatory minimum penalties for egregious and repeated violations. But the Bush Administration has missed numerous deadlines under the law, and has threatened to veto a new mine safety bill passed by the House (H.R. 2768) that would further improve protections.
- **Employer Voluntary Programs Favored Over Enforcement** — The Administration has made expanding voluntary programs and outreach to employers a top priority. Bush's OSHA has set up partnerships and alliances with dozens of employers, largely excluding unions. At both OSHA and MSHA, industry officials have been appointed to top positions, increasing the employer friendly orientation and policies of these agencies.
- **Workplace Injuries are Underreported and Workers Discouraged from Reporting Injuries** — Even though the toll of reported injuries is high, recent studies have found that these reports miss two out of three workplace injuries. Increasingly, workers are being discouraged from reporting job injuries, often facing discipline or termination when they are injured. These practices are particularly rampant in industries where immigrant workers are employed, such as poultry. Despite this growing problem, OSHA has taken no action to stop these practices that put workers in danger, and totally distort the real toll of workplace injuries.
- **Protecting Workers from Pandemic Flu** — In the event of a pandemic flu outbreak, healthcare workers and other responders will be on the front lines, and at an increased

risk of infection, disease and death. But rather than moving to provide the best protection possible for these workers, the Bush Administration has dragged its feet and failed to ensure even the most basic occupational health protections, such as NIOSH-approved respirators, are provided to workers. The unions petitioned OSHA to issue an emergency standard, but Labor Secretary Chao has refused, stating OSHA can not act until after a flu pandemic has occurred.

- **Maintaining OSHA, MSHA and NIOSH Funding** — Since President Bush took office, maintaining adequate funding for the federal job safety programs has been a struggle, with repeated attempts to slash funding. Since FY 2001, the OSHA budget has been cut by \$30.2 million (6%) in real dollar terms and hundreds of positions have been eliminated. At MSHA, repeated attempts were made to cut funding for coal mine enforcement. Only after the Sago and other mine tragedies has the Administration requested additional funds for the mine safety program. But the FY 2009 budget request would cut the OSHA and MSHA programs, in real dollar terms, compared to FY 2008 funding levels, including cuts in the MSHA coal enforcement program. Once again, the Bush Administration proposes to eliminate OSHA's worker training program. For NIOSH, the job safety research agency, a \$34.1 million cut (in real dollar terms) is proposed, reducing the nation's commitment to researching and preventing workplace injuries, diseases and deaths.
- **Providing Medical Care for World Trade Center Responders** — Thousands of emergency workers, construction workers, and others who rushed to the World Trade Center (WTC) to assist in 9/11 rescue and recovery operations are now seriously ill as a result of toxic exposures. Many are disabled and some have died. Through the efforts of the New York Congressional delegation and the unions, temporary funding has been secured for medical screening and treatment for these workers. Legislation (H.R. 3543) has been introduced to provide long-term medical care and compensation for these workers, which the unions are urging to be enacted this year. But in the meantime, the Bush Administration is turning its back on these brave workers. They have failed to provide medical care for sick responders who came from outside the New York area, and have proposed to slash FY 2009 funding for the WTC treatment program by 77%, leaving thousands of sick workers without access to necessary care.

American workers need stronger safety and health laws and OSHA and MSHA programs that put workers, not employers, first. Hopefully, the election in November will bring a major change in the direction of the country, and an opportunity for improving workers' lives.

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