

# COLLECTIVE BARGAINING FOR HEALTH AND SAFETY

A Handbook for Unions



---

Copyright © 2000, Labor Occupational Health Program (LOHP)

Cover photo copyright © 2000, Ken Light

LOHP is an occupational health and safety education program, affiliated with the Center for Occupational and Environmental Health, School of Public Health, University of California at Berkeley.

For more information:

Labor Occupational Health Program  
University of California  
2223 Fulton St., 4th Floor  
Berkeley, CA 94720-5120

Phone: (510) 642-5507 FAX (510) 643-5698

<http://socrates.berkeley.edu/~lohp>

# **COLLECTIVE BARGAINING FOR HEALTH AND SAFETY**

---

## **A Handbook for Unions**

Labor Occupational Health Program  
Center for Occupational and Environmental Health  
School of Public Health  
University of California, Berkeley



# ACKNOWLEDGMENTS

<b>Writing and Research</b> .....	Pamela Tau Lee Juliann Sum
<b>Other LOHP Contributors</b> .....	Robin Baker Diane Bush Elaine El-Askari Laura Stock Betty Szudy
<b>Editing</b> .....	Gene Darling
<b>Design, Layout, and Production</b> .....	Kate Oliver
<b>Production Assistance</b> .....	Paul Mathes
<b>Research Assistance</b> .....	Donna Iverson
<b>Cover Photograph</b> .....	Ken Light

# CONTRIBUTORS

Many individuals and organizations contributed ideas and examples of contract language to this handbook. Some also reviewed and commented on the text. Our most sincere thanks to the following for their thoughtful suggestions.

**Darryl Alexander**

American Federation of Teachers

**Bob Anderson**

International Association of Machinists and Aerospace Workers

**Donald Banas**

The Labor-Management Relations Center at James J. Nance College of Business,  
Cleveland State University

**Jordan Barab**

American Federation of State, County and Municipal Employees

**Russ Bargmann**

International Longshore and Warehouse Union

**Debbie Berkowitz**

Labor Union Consultant

**Eileen Betit**

International Union of Bricklayers and Allied Craftworkers

**Bill Borwegen**

Service Employees International Union

**LaMont Byrd**  
International Brotherhood of Teamsters

**Roxanne Cabral**  
American Postal Workers Union

**Michael Cimini**  
U.S. Bureau of Labor Statistics

**Bradley Cleveland**  
Service Employees International Union, Local 616

**Bradley Dodge**  
Paper, Allied-Industrial, Chemical and Energy Workers International Union,  
Local 1-5

**Joseph Durst, Jr.**  
Carpenters Health and Safety Fund, International Brotherhood of Carpenters

**Howard Egerman**  
American Federation of Government Employees, Local 3172

**Jim Ellenberger**  
American Federation of Labor-Congress of Industrial Organizations

**Rick Engler**  
International Union, United Automobile, Aerospace and Agricultural Implement  
Workers of America, UAW Local 726

**Joe Enos**  
International Union, United Automobile, Aerospace and Agricultural Implement  
Workers of America, UAW Local 2244

**Mike Flynn**  
International Association of Machinists and Aerospace Workers

**Eric Frumin**  
Union of Needletrades, Industrial and Textile Employees

**Larkie Gildersleeve**  
The Newspaper Guild-Communications Workers of America

**George Gray**  
School of Business, Virginia Commonwealth University

**Jim Howe**  
International Union, United Automobile, Aerospace and Agricultural Implement  
Workers of America, UAW

**Terence Huwe**  
Institute of Industrial Relations, University of California, Berkeley

**Sylvia Keiding**  
Paper, Allied-Industrial, Chemical and Energy Workers International Union

**Laurie Kellogg**  
Union of Needletrades, Industrial and Textile Employees

**Shelly Kessler**  
San Mateo County Central Labor Council

**Bob Krul**  
United Union of Roofers, Waterproofers and Allied Workers

**Laura Kurre**  
Labor Occupational Safety and Health Program, University of California,  
Los Angeles

**Dave LeGrande**  
Communications Workers of America

**Nancy Lessin**  
Massachusetts AFL-CIO

**Ron Lind**

United Food and Commercial Workers International Union, Local 428

**Adrienne Markowitz**

Retail, Wholesale and Department Store Union

**Massachusetts Coalition for Occupational Safety and Health**

Boston, Massachusetts

**Diane Matthew-Brown**

American Federation of State, County and Municipal Employees

**Manuel A. Mederos**

International Brotherhood of Electrical Workers

**Tammy Miller**

Service Employees International Union, 1199

**Mike Monroe**

International Brotherhood of Painters and Allied Trades

**John Morawetz**

International Chemical Workers Union Council, United Food and Commercial Workers International Union

**Donald Myers**

School of Business, Virginia Commonwealth University

**Phyllis Myers**

School of Business, Virginia Commonwealth University

**Jackie Nowell**

United Food and Commercial Workers International Union

**Jim Payne**

Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 1-5

**Patty Quinlan**

Occupational Medicine Program, University of California, San Francisco

**Charley Richardson**

Labor Extension Program, University of Massachusetts, Lowell

**Carolyn Robinson**

International Brotherhood of Teamsters, Local 315

**Milagro Rodriguez**

American Federation of Government Employees

**Jonathan Rosen**

Public Employees Federation, New York

**Bill Schell**

Operative Plasterers' and Cement Masons' International Association of the U.S. and Canada

**Eric Scherzer**

Committee of Interns and Residents, Service Employees International Union

**Scott Schneider**

Laborers' Health and Safety Fund of North America

**Fran Schreiber**

WORKSAFE! and Kazan, McClain, Edises, Simon & Abrams, A Law Corporation

**Steve Scott**

Operative Plasterers and Cement Masons of Northern California, Local 300

**T.A. Seymour**

Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 1-5

**Stan Smith**

San Francisco Building and Construction Trades Council

**Kirsten Snow Spalding**

Center for Labor Research and Education, University of California, Berkeley

**Diane Stein**

Paper, Allied-Industrial, Chemical and Energy Workers International Union

**Baldemar Velasquez**

Farm Labor Organizing Committee

**Paula Williams**

Labor Occupational Safety and Health Program, University of California,  
Los Angeles

**Michael Wright**

United Steelworkers of America

## **FINANCIAL CONTRIBUTORS**

Numerous individuals and labor organizations contributed funds to make publication of this book possible. These financial contributions were made in memory of former LOHP Director Paul Chown. Thanks to:

**Gloria Cozzo Adams**

**Russ Bargmann**

**Rosemary Brodie**

**Molly Coye**

**Fred Glass and Maureen Katz**

**Steven Hecker**

**Shelley Kessler**

**Labor Education and Research Center, University of Oregon**

**Marjorie and Norman Leonard**

**Bruce Poyer**

**Sacramento Central Labor Council**

**San Mateo County Workers Union**

**Service Employees International Union, Local 790**

**Suzanne Geier Seton**

**Donald Spatz**

**George and Helene Strauss**

**Peter Tiernon**

**Dick Walker**

**Nina Wallerstein**

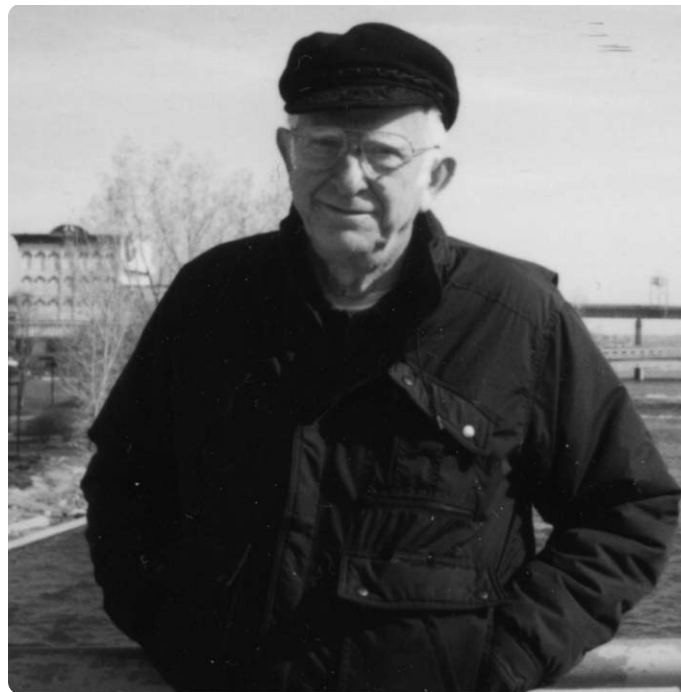


# DEDICATION

**T**his handbook is an updated 2000 edition of *Workplace Health and Safety—A Guide to Collective Bargaining*, originally published by the Labor Occupational Health Program in 1980. It is dedicated to the memory of former LOHP Director Paul Chown (1916-1997), the author of the original book.

Paul devoted his entire life to the labor movement as an organizer, negotiator, union official, and director of both LOHP and the Center for Labor Research and Education at UC Berkeley.

LOHP has distributed thousands of copies of *Workplace Health and Safety—A Guide to Collective Bargaining* since the first edition was published. It was an invaluable resource to labor organizations around the world, and has been used by labor educators, union negotiators, researchers, local leadership, and rank-and-file members. This unique resource has been updated as a tribute to Paul Chown. The new edition incorporates many health and safety issues, ideas, and approaches that have emerged during the two decades since the first edition appeared.



**Paul Chown**  
**1916–1997**



# TABLE OF CONTENTS

<b>Introduction</b>	.....	1
<b>Chapter 1</b>	Preparing for Bargaining .....	5
	Getting Reliable Information .....	5
	Involving the Workforce .....	8
	Using the Checklist To Set Priorities .....	9
	Priority Checklist .....	11
<b>Chapter 2</b>	Roles and Responsibilities .....	17
	Employer Is Responsible .....	17
	Union’s Role .....	21
<b>Chapter 3</b>	Union Participation .....	25
	Recognition by Employer .....	25
	Joint Labor-Management Activities .....	28
	Union Right to Health and Safety Information .....	34
	Bargaining Over Workplace Changes .....	39
<b>Chapter 4</b>	Worker Information and Training .....	45
	Exposure and Medical Records .....	45
	Training Programs .....	46
<b>Chapter 5</b>	Right To Act .....	51
	Right To Report Hazards .....	51
	Right To Refuse Unsafe Work .....	53
	No Reprisal .....	56
	Notice of Serious Incidents .....	57
	Resolving Disputes .....	58
	Right To Strike .....	60
<b>Chapter 6</b>	Specific Hazards .....	61
	Computer Terminals .....	61
	Ergonomic Hazards .....	64
	Hazardous Substances .....	67
	Heat and Cold .....	69
	Heavy Lifting .....	71
	Indoor Air Quality .....	73
	Infectious Diseases .....	75
	Noise .....	79
	Stress, Speed-up, and Staffing .....	80
	Tobacco Smoke .....	82
	Vehicles .....	83
	Workplace Violence .....	84

<b>Chapter 7</b>	Protective Measures .....	91
	Controlling Hazards .....	92
	Responding to Accidents and Emergencies .....	95
	Sanitation .....	97
<b>Chapter 8</b>	Injured Workers .....	99
	Medical Care and Choice of Physician .....	99
	Resolving Medical and Legal Disputes .....	100
	Preserving Wages and Benefits .....	101
	Return to Work .....	103
<b>Appendix 1</b>	Key to Abbreviations .....	109
<b>Appendix 2</b>	Tools for Collecting Information .....	113
<b>Appendix 3</b>	Resources .....	119

---

## INTRODUCTION

---

# WHY BARGAIN?

Although it has been shown that government regulations save lives, unions are still the worker's best protection against health and safety hazards on the job.

According to a recent report by the AFL-CIO, the national workplace fatality rate has been cut by 74% since Congress passed the federal Occupational Safety and Health Act and established OSHA in 1970. More than 204,000 lives have been saved and millions of injuries prevented.

But we still have a long way to go. The AFL-CIO suggests that OSHA has been limited due to the agency's weak enforcement authority and lack of resources. Given this reality, it is necessary that workers, through their unions, take an active role in achieving a safe and healthy workplace.

Unions throughout the U.S. and around the world have worked to incorporate health and safety language into their collective bargaining agreements. When health and safety clauses are included in the contract, unions have a tool for addressing workplace hazards immediately through existing means of contract enforcement. Unions have been able to win many health and safety contract provisions, ranging from establishment of joint labor-management safety committees to restrictions on hazardous conditions like noise and heavy lifting.

This handbook can assist union representatives and negotiating committees who bargain with employers over health and safety issues. You can use it to draft new contract language or improve existing language. The heart of the book is an extensive collection of sample contract clauses, taken from actual collective bargaining agreements and model language.

Negotiating health and safety contract language is just one of several avenues available to the union for improving conditions on the job. Other approaches include filing grievances, forming safety committees, making complaints to OSHA or other agencies, organizing direct actions, mobilizing public support through the media, and proposing legislation. The union can decide which is the most effective strategy in each particular case.

Why bargain for health and safety? Workplace health and safety remains a top priority for workers and unions as job-related injuries, illnesses, and deaths continue at high levels. The National Institute for Occupational Safety and Health (NIOSH) estimates that 16 people die of work-related injuries and 137 people die from work-related diseases every day in the U.S.

While OSHA sets health and safety standards to protect workers, many workers discover that this protection is inadequate. In addition, federal OSHA does not cover public employees, so public employees in states without their own state OSHA programs are not protected by OSHA at all. Currently there are 26 states without an OSHA program. These employees may have a special need for health and safety protection in the contract.

While OSHA and unions have made progress in reducing many workplace hazards, significant new hazards have emerged, and OSHA has not always kept pace with them. Indoor air pollution, violence in the workplace, infectious diseases, and repetitive motion injuries are but a few examples. The accelerating introduction of new technology, downsizing of the workforce, and increased demands for speed and productivity are other recent developments that can have serious health and safety implications. The union contract may be the best vehicle for addressing these emerging issues.

To deal with new issues that arise, a union does not necessarily have to wait until its next scheduled negotiations. The National Labor Relations Act requires the employer to bargain with the union over management decisions that will alter conditions of employment.

(Federal laws are published in a series of volumes called the United States Code. The requirement above is found in the United States Code, title 29, sections 158(a) and 158(d). See Appendix 3 for information on obtaining these laws.)

In many cases, if the union finds that safety has been seriously affected by new developments, it can also file a grievance citing contract language that requires the employer to maintain a safe workplace.

---

## How the Handbook Is Organized

---

The handbook begins with a chapter on how to prepare for effective bargaining. This is followed by several chapters that present dozens of sample contract clauses, organized by topic.

**Chapter 1—Preparing for Bargaining.** This chapter discusses the importance of gathering reliable information prior to bargaining, organizing the workforce to build support for union proposals, and prioritizing health and safety contract issues. It also provides tools for gathering information and a checklist that can help in setting priorities. The checklist also serves as a useful guide to the sample contract clauses in Chapters 2–8, which are organized in the same order.

**Chapters 2 to 8—Contract Language.** These chapters provide sample language on numerous health and safety topics. Most clauses are drawn from actual union contracts, but a few are “model” language suggested by union researchers and educators. For each topic, there is also a short discussion of significant issues to consider when developing contract proposals.

**Appendices.** These include a *Key to Abbreviations* that are used in the book; *Tools for Collecting Information*, a discussion of two important techniques; and *Resources*, which lists publications and organizations that can help the union in the bargaining process.





# PREPARING FOR BARGAINING

As you prepare for bargaining, keep in mind that reliable information and an involved workforce are the keys to success.

## Getting Reliable Information

You need good information to support the union's proposals. Rank-and-file union members can be the best source for learning about specific health and safety hazards in the workplace, how prevalent they are, and the most appropriate ways to control them. Members' input can be obtained through written surveys, risk maps, or meetings organized by the union to discuss health and safety.

In addition to consulting members, the union can also get information in other ways—for example, through workplace inspections and review of records.

### **Worker Surveys**

A worker survey is a useful way to determine how widespread specific health and safety problems are. In addition, the union can use this opportunity to talk with members, educate them, and get their opinions about bargaining priorities. For suggestions on how to conduct a worker survey, see Appendix 2.

## **Risk Mapping**

“Risk mapping” is another technique the union can use to gather information about hazards. A union group, such as a team of rank-and-file shop members, collectively creates a map of the workplace, showing the location of significant hazards. The map can be used to help identify and prioritize problems and solutions. The union may want to organize teams to create a risk map for each major work location.

This method is effective in all kinds of workplaces, including those where English is a second language, where workers speak many different languages, or where reading and writing limitations make a written survey difficult. Like surveys, risk mapping activities can help mobilize and organize the workforce. Workers are involved in creating the maps and identifying the hazards. Workers also differentiate and prioritize high and low risk conditions. These maps can be posted by the union so workers can provide additional information later. For more on risk mapping, see Appendix 2.

## **Workplace Inspections**

The union can also use a “walkthrough” inspection of the workplace to gather information about hazards. Those conducting the inspection can be, for example, union health and safety staff, committee members, or shop stewards. It may be necessary to arrange for access to the workplace, depending on the access language in the current contract.

During the inspection, it is best to use a workplace inspection checklist. This can help direct your attention to the types of hazards and conditions that should be examined. Comprehensive inspection checklists are available from unions or health and safety groups.

## **Information From Management**

Prior to negotiations, the union can request specific information from the employer. Under federal and state laws governing occupational health and safety and labor relations, the employer must provide copies of certain documents to the union upon request. The current union contract may give you the right to obtain additional information. By law, some documents must be provided to the union at no charge, but for others you may have to pay for copying.

Before requesting information, analyze what is actually needed to help the union understand and document particular health and safety problems. Then be clear and specific when making the request. This can help you avoid being overwhelmed with stacks of irrelevant material.

Requested documents may include:

- The employer's written health and safety plan, injury and illness prevention program, emergency/disaster plan, plans to control exposure to hazardous substances including bloodborne pathogens, and other policies or rules. (Federal or state laws require that the employer have written plans and policies in some of these areas.)
- Written information on health and safety training programs conducted by the employer.
- The specific chemical names of all potentially toxic substances found in the workplace.
- Material safety data sheets (MSDSs) issued by manufacturers of chemical products that may be hazardous. MSDSs are chemical information sheets that manufacturers or suppliers are required by law to provide to the employer. The employer must make them available to workers and the union upon request.
- Safety literature that the employer has received from manufacturers of machines and other equipment, or from designers of work processes.
- Results of monitoring done by the employer, by outside consultants hired by the employer, or by OSHA. There are several types of monitoring. Workplace environmental monitoring may have been done to measure workers' exposure to noise, chemicals, or radiation. Medical monitoring may have been done to assess workers' hearing, eyesight, breathing, blood lead levels, or radiation burden. If other types of workplace studies have been done (such as ergonomic evaluations of workstations or work processes), the union can request those results also.
- Copies of OSHA complaints that have been filed, along with documentation of the results (for example, inspection records, citations, and fines received).
- Copies of the employer's "OSHA 200" Logs. These are records of job-related injuries and illnesses. OSHA requires that employers keep them and make them available to workers and the union.
- The employer's costs for workers' compensation. This information may include premiums paid by the employer to its insurance company. If the employer is self-insured, costs may include benefits paid directly to injured workers, medical costs, legal costs, and administrative costs.

- Documentation of workers' compensation claims, including copies of claim forms (with personal identifying data removed if necessary) and information on lost time and on the causes of injuries and illnesses.
- Minutes of meetings of the employer's safety committee, or of a joint labor-management committee if one exists.
- Copies of hazard reports and accident reports.
- Copies of safety suggestions from employees.
- Information on anticipated changes in the workplace, including any new equipment or work processes.

Where possible, you will probably want to get the above information covering a period of several years—perhaps since the current contract went into effect.

## **Union Documents**

Other information may be available directly from the union's own files. For example, the union should have records of health and safety grievances and how they were resolved. If there is a union health and safety committee, its minutes will also be useful.

## **Involving the Workforce**

An organized and involved workforce, and an active and effective union safety committee, can be instrumental for successful contract negotiations. Member involvement enables the union to have a strong, unified voice at the bargaining table. Try to build interest and enthusiasm about the union's health and safety efforts. Members should be involved in every aspect of bargaining. In many situations, rank-and-file members can help to:

- Identify and investigate hazards
- Survey co-workers
- Evaluate current contract clauses and practices
- Analyze past accidents, injuries, illnesses, OSHA complaints, and health and safety grievances
- Mobilize and educate co-workers

- Prepare proposals.

Sometimes it is possible for rank-and-file members to attend bargaining sessions as participants or observers. Whether or not this is possible, the membership should be kept informed of bargaining progress at meetings and through “bargaining update” leaflets or newsletters.

## **Using the Checklist To Set Priorities**

The union probably can’t achieve all its goals in one round of negotiations. Health and safety issues may compete with other bargaining needs, and you’ll have to make choices. To set health and safety bargaining priorities, try to identify the problems that have the most serious impact on workers’ health and safety, that affect the greatest number of workers, and/or that cannot be resolved by other means like grievances using existing contract language, or OSHA complaints.

One way to identify your most important health and safety needs, and to prioritize the union’s possible contract proposals, is to follow these steps:

- 1.** Refer to the Priority Checklist at the end of this chapter. Look at the possible bargaining topics listed. (These are the same topics, in the same order, for which sample contract language is provided in Chapters 2–8.) Based on the information you collected, ask these questions for each topic:

- Is this a problem in your workplace?
- Have there been injuries and illnesses in your workplace because of this problem?
- Is this a problem that your members are concerned about?

Mark each topic that could be an important issue for your union.

- 2.** Find all health and safety language in the current contract. This may not all be in one place—sometimes health and safety issues are mentioned in various articles or sections. It may be useful to photocopy the relevant language from various sections and keep it together so you can analyze how different clauses relate to each other.
- 3.** Look at the topics on the Priority Checklist that you have marked as important, and compare them to the language in your current contract. For each of these topics, ask:
  - Does language about this problem already exist in your contract?

- Is the existing contract language adequate? Has it improved conditions? Have there been successful grievances involving this language? If the present language hasn't solved the problem, stronger language may be necessary.
4. For each topic on the Priority Checklist that you have marked as important, find out if there are any standards or regulations issued by federal or state OSHA. See if there are any legal protections offered by other federal, state, or local agencies. Decide if these sufficiently protect your members. If not, bargaining stronger protection in the contract may be necessary.
  5. After you complete the steps above, further prioritize the topics you have marked on the Priority Checklist. Select those that seem most in need of being addressed. Use the "Follow-Up" section at the end of the Priority Checklist for this. When narrowing down the list, draw on information gathered from members as well as the union's experience. Some factors to consider include:
    - Has the workforce strongly indicated their need to have this problem corrected?
    - Does the problem affect a significant number of workers?
    - Does the problem have a significant impact on workers?
    - Is the problem especially serious or dangerous?
    - Are other possible means of resolving the problem inadequate (for example, present contract language or OSHA)?
    - Has the union in the past attempted without success to resolve this problem with the employer?

# PRIORITY CHECKLIST

Use this checklist to help choose your union’s health and safety bargaining priorities. First, go through the sections below and check those topics of concern to your members and your union. For sample contract language on each topic, see the indicated pages in Chapters 2–8.

Don’t be concerned at this point whether the topics you check are already covered by your current contract or by OSHA. After you complete the checklist, the “Follow-Up” section at the end will let you consider these factors and set realistic priorities.

✓ *the topics most important to you*

## Roles & Responsibilities

### Employer is responsible:

- Must meet or exceed all legal requirements (*page 18*)
- Must have a safety program (*page 19*)
- Must correct unsafe conditions (*page 20*)
- Has the sole responsibility for health and safety (*page 21*)

### Union’s role:

- Does not assume or share the employer’s responsibility (*page 22*)
- Is not legally liable for health and safety problems (*page 23*)
- Is indemnified and held harmless from claims, charges, and suits (*page 23*)
- “May” take action (but not required to) (*page 23*)

## Union Participation

### Employer recognizes:

- Union’s role in health and safety (*page 26*)
- Union health and safety representatives (*page 26*)
- Union health and safety committees (*page 27*)

- Special union activities to promote workplace and environmental safety *(page 27)*

**Joint labor-management activities:**

- Contract provides for joint health and safety committee(s) *(page 28)*
- Paid time and training will be available for committee members *(page 31)*
- Funds will be provided for joint committees and other joint activities *(page 32)*
- Employer agrees to implement joint committee recommendations *(page 34)*

**Union right to health and safety information:**

- Employer will give the union routine information about conditions *(page 35)*
- Employer will notify the union about potential problems *(page 37)*
- Union may inspect the worksite *(page 37)*
- Union may conduct tests and studies *(page 38)*

**Bargaining over workplace changes:**

- Parties will discuss changes in technology and job design in advance *(page 40)*
- Parties will jointly participate on a “new technology” committee *(page 41)*

**Worker Information and Training**

- Employer will give workers access to workplace monitoring and medical records *(page 45)*
- Employer will give workers appropriate health and safety training *(page 48)*
- Trainers are chosen by the union *(page 48)*
- Training is on paid time and workers are reimbursed for travel *(page 48)*
- Employer will give workers training about special hazards *(page 48)*
- Workers will receive training at specified intervals *(page 49)*
- Contract provides for union involvement in design of training, or jointly-run training programs *(page 49)*
- Contract provides funds for joint training programs *(page 50)*



## Right To Act

- Contract specifies procedures for workers to report unsafe conditions *(page 52)*
- Contract prohibits safety incentive programs that discourage reporting of injuries *(page 52)*
- Workers have the right to refuse unsafe work in good faith *(page 54)*
- Contract specifies procedures for refusing unsafe work *(page 55)*
- Contract guarantees no reprisal or discrimination for reporting injuries, illnesses, or unsafe conditions; for making OSHA complaints; for following safety rules; or for refusing unsafe work *(page 57)*
- Union is notified of serious incidents and has the right to investigate *(page 57)*
- Contract has mechanisms (such as immediate arbitration) for resolving disputes over dangerous conditions *(page 58)*
- Union has the right to strike over immediately dangerous conditions *(page 60)*

## Specific Hazards

- |  |  |
|--|--|
| <input type="checkbox"/> Computer terminals <i>(page 61)</i>             | <input type="checkbox"/> Ergonomic hazards <i>(page 64)</i>  |
| <input type="checkbox"/> Hazardous substances <i>(page 67)</i>           | <input type="checkbox"/> Heat and cold <i>(page 69)</i>      |
| <input type="checkbox"/> Heavy lifting <i>(page 71)</i>                  | <input type="checkbox"/> Indoor air quality <i>(page 73)</i> |
| <input type="checkbox"/> Infectious diseases <i>(page 75)</i>            | <input type="checkbox"/> Noise <i>(page 79)</i>              |
| <input type="checkbox"/> Stress, speed-up, and staffing <i>(page 80)</i> | <input type="checkbox"/> Tobacco smoke <i>(page 82)</i>      |
| <input type="checkbox"/> Vehicles <i>(page 83)</i>                       | <input type="checkbox"/> Workplace violence <i>(page 84)</i> |

## Protective Measures

- Engineering controls will be the preferred way to reduce or eliminate hazards *(page 92)*
- Employer agrees to reduce use of toxic materials as much as possible (toxics-use reduction) *(page 92)*
- Administrative controls will be used to reduce hazards when appropriate *(page 94)*
- Personal protective equipment will be provided if necessary *(page 94)*

- Employer has clear emergency response procedures *(page 96)*
- Workers will receive training in CPR *(page 96)*
- Appropriate first aid supplies will be available *(page 96)*
- Emergency medical services and transport will be available *(page 96)*
- Employer will provide sanitation facilities including restrooms, washing areas, and clean drinking water *(page 97)*

### **Injured Workers**

- Employer will provide appropriate medical care *(page 100)*
- Worker may select own treating physician *(page 100)*
- Contract sets up mechanism(s) to resolve medical and legal disputes *(page 101)*
- Employer will preserve jobs, wages, and benefits of injured workers *(page 102)*
- Contract specifies rights and procedures for those who need different work to accommodate job injuries *(page 104)*
- Contract addresses bumping when injured workers return to work *(page 106)*
- Contract addresses compliance with the Americans With Disabilities Act (ADA) *(page 107)*

## FOLLOW-UP

After you have used the checklist above to mark topics of possible interest, go through the checklist again and try to determine your union’s health and safety bargaining priorities. For each topic you selected in the sections above, decide whether or not new contract language is needed. Make a note about why or why not. For example, is the current contract language adequate? Do OSHA standards or regulations already cover the topic adequately?

Use the space below to record your analysis. Copy the page if you need more room.

POSSIBLE PRIORITY	NEW CONTRACT LANGUAGE NEEDED?		WHY OR WHY NOT?
	YES	NO	
1. _____	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
2. _____	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
3. _____	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
4. _____	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
5. _____	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
6. _____	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____



# ROLES AND RESPONSIBILITIES

What is the employer's role in providing a safe and healthful workplace? Does the union have a role? The collective bargaining agreement should clearly describe the parties' respective roles and responsibilities.

## Employer Is Responsible

Most U.S. employers must comply with federal OSHA standards. In those states that operate their own OSHA programs, employers must comply with state standards that are "at least as effective as" the federal standards.

(Federal laws are published in a series of volumes called the United States Code. The requirements above are found in the United States Code, title 29, section 667(c)(2). See Appendix 3 for information on obtaining these laws.)

In some cases, employers must follow additional workplace health and safety requirements of other federal and state agencies or of city and county governments.

Instead of including the detailed wording of all these standards and regulations in the contract, unions often incorporate them by reference. Many unions include a provision in the contract that the employer will comply with "all applicable laws, standards, and regulations." This allows the union to use the grievance procedure and other labor-management

mechanisms to enforce government requirements. Then, when the employer does not fulfill its responsibilities, the union will not have to rely solely on OSHA or another government agency to correct the problem.

The federal Occupational Safety and Health Act gives employers a broad responsibility. Each employer must “furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm.” This is called OSHA’s “general duty clause.” (The clause is found in the United States Code, title 29, section 654(a)(1).) Incorporating this clause by reference in the contract can give the parties a way to deal with hazards that are currently unregulated, or even hazards that are now unknown but that will emerge in the future.

Some contracts explicitly state that OSHA and other health and safety standards will be considered as **minimum** requirements. This can encourage labor and management to go beyond the standards and agree to more stringent measures. If the agreed-upon philosophy and approach are more proactive than OSHA’s, strong language on specific issues can be added to the contract.

Although unions should negotiate for strong contract provisions, they should not take on the employer’s responsibilities and potential liabilities. The contract should confirm that the employer is **solely and exclusively responsible** for ensuring a safe and healthful workplace.

### **Must Meet or Exceed All Legal Requirements**

“The District shall conform to, and comply with, all applicable health, safety, fire, and sanitation requirements imposed by State or Federal or City or County laws or regulations . . .”

—*AFT Local 1521 and Los Angeles Community College District, 1998*

“Occupational safety, health, and fire standards adopted by [Health and Human Services] will be used throughout SSA and shall be considered minimum requirements.”

—*AFGE and Social Security Administration, 1996*

“It is the policy of the Company to provide safe and sanitary working conditions including health and injury assessments and the necessary safeguards on all machinery and equipment in conformity with all Federal, State and Local Regulations, as well as what is regarded as good practice in the particular industry.”

—*OCAW Local 8-149 and Berlex Laboratories, Inc., 1983–present*

“A health hazard is defined as a recognized violation of the Federal Occupational Safety and Health Act and/or a hazard recognized by competent medical authority as one requiring a cessation of exposure or transfer of the nurse.”

—*Registered Professional Nurses Local 23, District 1199, NUHHCE/AFSCME and Norwalk Hospital Association, 1993-96*

“The company shall institute and maintain all precautions to guarantee every worker a safe and healthy workplace and to protect the environment outside the workplace. The company shall comply in a timely manner with the Occupational Safety and Health Act, its regulations, codes of practice, and guidelines and all relevant environmental laws, regulations, codes of practice, and guidelines. All standards established under these laws shall constitute minimum acceptable practice to be improved upon by agreement . . .”

—*Canadian Auto Workers, Model Language*

## Must Have a Safety Program

“The company is committed to protect the health and safety of its employees. This goal will be accomplished by developing and implementing new and innovative programs that will be a model for the entire industry. Management has assigned responsibility for carrying out the various aspects of the health and safety program and the union will actively participate in the program’s implementation.”

—*UAW Model Health and Safety Contract Language, 1998*

“The Department agrees to maintain an effective Safety Program. To accomplish this end, the Department agrees to the following:

- The practice of safety shall have first priority in all Department activities . . .
- Those safety job orders pertaining to hazardous conditions affecting the personal safety of the Department personnel shall be given the first priority and those job orders pertaining to unsafe conditions which place an employee in immediate peril shall be completed in advance of any work that may be pending on that job.
- The Department will develop and employ a professional safety staff. The majority of this professional staff shall be assigned exclusively to safety . . .
- Employees have the right to a safe working environment so that no employee suffers impaired health or diminished life expectancy. Dangerous substances and conditions shall be identified and posted.

- All plant facilities and mobile equipment shall be designed or selected with employees' safety as a paramount consideration . . .”

—IBEW, *Survey of Utility Collective Bargaining Agreement Language, January 1995*

“The Company is committed to providing a safe and healthy work environment and encourages the active involvement and support of all employees. To achieve this end, the Company will:

- establish responsibilities of all levels of management and hold them accountable for implementing programs and procedures,
- ensure through proper support and training that all employees are aware of hazards and accept responsibility for working safely,
- establish and maintain operating procedures and programs,
- design, construct, continuously improve, and operate facilities in a manner which encourages the elimination of work related injuries and illnesses, and
- ensure that all operations conduct business in compliance with applicable safety and health laws and regulations.

The Union will actively participate in and support all aspects of the health and safety program. In order to provide for their own health and safety, employees will conduct themselves in accordance with the Company's health and safety programs and policies.”

—UAW and Navistar, 1995

“It is the objective of both parties to this agreement to maintain high standards of occupational health and safety in the plants of the Company and to provide a positive climate for addressing all health and safety issues. The Company, in cooperation with the Union, will provide programs and systems which seek to prevent and eliminate as far as possible industrial injuries and illnesses.”

—IAMAW and Boeing, December 1995

## **Must Correct Unsafe Conditions**

“The Employer shall make every reasonable effort to promptly abate unsafe or unhealthy working conditions.”

—AFGE and Social Security Administration, 1996

“A Registered Professional Nurse shall not be exposed unnecessarily to health hazards during the course of duty. In the event a health hazard does



exist, it shall, to the extent possible, be corrected. In the event the health hazard necessitates the transfer of a nurse, she shall be transferred to another patient unit.”

—*Registered Professional Nurses Local 23, District 1199, NUHHCE/AFSCME and Norwalk Hospital Association, 1993-96*

## Solely Responsible for Safety

“The Company agrees that it has the sole responsibility to provide a safe work place and to correct safety hazards, and that nothing in this Agreement shall imply that the Union has undertaken or assumed any portion of that responsibility.”

—*UFCW Local 538 and Oscar Mayer Foods Co., late 1970s*

“It is recognized that the Company ultimately has the exclusive responsibility to provide a safe and healthful workplace and conditions of employment.”

—*IBEW, Survey of Utility Collective Bargaining Agreement Language, January 1995*

## Union’s Role

Unions play a significant role in protecting workers on the shop floor. By bargaining strong health and safety language, unions can protect members from hazards not covered by regulations, and can also provide safeguards against watered down regulations or changes in the regulations.

Unions may also want contract language that spells out how they will participate in workplace health and safety efforts. What are their rights and responsibilities? Specific examples of union participation are described in Chapter 3.

One major caution for unions negotiating health and safety language is to avoid having the union assume legal responsibility for a member who gets hurt or sick on the job. For example, in its *Survey of Utility Collective Bargaining Agreement Language* (January 1995), IBEW cautions against language which makes it the “duty of both the Company and the Union” to see that protective equipment is used.

Clauses describing the union’s rights in this area should be worded carefully to avoid imposing unnecessary obligations on the union. In practice, this often means using the word “may” to describe the union’s rights, rather than “shall” or “must.”

Union liability became a concern when the U.S. Supreme Court ruled on this issue in 1990 in the case *Steelworkers versus Rawson*. (See Appendix 3 for reference.) The Supreme Court stated that in most situations, a union owes its members only a “duty of fair representation” in enforcing the labor-management contract. This duty was set forth in previous court decisions interpreting the National Labor Relations Act. It is different from the broader duty that employers owe to ensure a safe workplace. To breach its duty of fair representation, a union’s conduct toward a member must be arbitrary, discriminatory, or in bad faith. The Supreme Court said that a union will not breach this duty if it shows “mere negligence” (carelessness) in enforcing provisions of a contract.

A union could owe members a broader duty, however, if the collective bargaining agreement contains language specifically showing “an intent to create obligations enforceable against the union by its members.” In this uncommon situation, the union could be liable for negligence in enforcing a safety clause. (The *Rawson* decision refers to an earlier Supreme Court case, *Electrical Workers versus Hechler*. See Appendix 3 for reference.)

At least one state court has held that a union did owe the broader duty. In that case, the labor-management contract had stated that the union steward “shall see that the provisions of these working rules are complied with” and that “the Employer is in no way responsible for the performance of these functions by the steward.” The court said that the union had taken over management’s responsibility to enforce safety requirements. (The case is *Helton versus Hake*, decided by the Missouri Court of Appeals. See Appendix 3 for reference.)

The union can also negotiate specific language to confirm that it is not liable for injuries or illnesses and that the employer will indemnify (reimburse) the union for losses in case the union is sued over an injury or illness.

## **Union Doesn’t Share Responsibility**

“The Joint Safety and Health Committee established herein is empowered *only* to advise, assist and make recommendations to the Employer. In accordance with the requirements of OSHA, it is the Employer’s exclusive responsibility to ensure the safety and health of its employees.”

—*IBEW, Survey of Utility Collective Bargaining Agreement Language, January 1995*

“The Company agrees that it has the sole responsibility to provide a safe workplace and to correct safety hazards and that nothing in this Agreement shall imply that either the Local or the International Union has undertaken or assumed any portion of that responsibility.”

—*UFCW, Sample Safety and Health Contract Language, November 1997*

“Nothing in this article shall imply that the Union has undertaken or assumed any portion of the Employer’s responsibility to provide a safe workplace.”

—AFSCME Local 3794 (Ohio Council 8) and Lucas County, Ohio, 1993-96

## Union Not Liable

“The International Union, UAW, Local . . . , Health and Safety Committees, union officials, employees, and agents shall not be liable for any work-connected injuries, disabilities, or diseases which may be incurred by employees of the Company or its subsidiaries or by third parties while on Company property.”

—UAW (many contracts)

“Nothing in the Agreement or its Supplements relating to health, safety, or training rules or regulations shall create or be construed to create any liability or responsibility on behalf of the Union for any injury or accident to any employee or any person nor does the Union assume any such liability or responsibility.

The Employer will not commence legal action against the Union, on a subrogation theory, contribution theory, or otherwise, as a result of the Union negotiation of safety standards contained in this Agreement or failure to properly investigate or follow-up Employer compliance with those safety standards.”

—IBT and United Parcel Service, 1997-2002

## Indemnification

“The Company shall indemnify and hold the Union and its representatives harmless from and against any and all claims, demands, charges, complaints, or suits against them which are based on or arise out of any action taken by them in accordance with the foregoing provisions of this Section . . .”

—IAMAW and Boeing, December 1995

## Union “May” Act, Not “Shall”

“If the Union Safety Representative believes that the hazard has not been eliminated within a reasonable time, he may contact the plant Safety Manager and they shall attempt to resolve the problem.”

—UFCW Local 538 and Oscar Mayer Foods Co., late 1970s

“One (1) member of the Health and Safety Committee, as the Union representative, may accompany an OSHA inspector on a plant inspection tour if his presence is requested by such inspector.”

—*OCAW Local 8-149 and Berlex Laboratories, Inc., 1983-present*

# UNION PARTICIPATION

**L**abor-management contracts often describe how the employer and union will work together to create effective health and safety programs, policies, rules, and standards.

For example, language may be included that answers these questions: Will the employer recognize union health and safety representatives? Will there be a joint labor-management committee? How will joint health and safety activities be funded? What health and safety information must the employer provide to the union? Can the union participate in, or conduct its own, health and safety inspections, tests, and studies? Will there be a mechanism for ongoing health and safety negotiations between the parties to address new issues that arise, such as the introduction of new technology or other changes in the workplace?

## Recognition by Employer

Unions and employers work together on health and safety matters in different ways, depending on their relationship. The contract may spell out the details of this relationship.

Many contracts include a general statement that the employer will work with the union to develop effective policies and programs in health and safety.

Such clauses are useful, provided that the contract clearly affirms the employer's exclusive responsibility to ensure a safe workplace. (See Chapter 2.)

Unions can also negotiate for recognition of union health and safety representatives or union-based health and safety committees. Some contracts also provide for employer support of special union activities to promote safety or environmental awareness.

## Recognition of Union's Role

“The Company recognizes its obligations and responsibilities to provide a safe and healthful working environment for its employees. The Company is proud of its past accomplishments in this area and is committed to continue to work closely with the Union in developing and implementing health, safety and ergonomic programs that could be a model for use throughout the industry.”

—UAW Local 2244 and New United Motor Manufacturing, Inc., 1998

## Union Health and Safety Representatives

“The Company and the Union agree to establish a system of worker safety representatives. . . . Each worker safety representative will be appointed as the Certified Member and Co-Chairman for each Operation Safety, Health and Environment Committee in his Work Location. . . . Worker safety representatives will . . . be appointed, removed and replaced by the Local Union from among the employees working in the Work Locations set out in Schedule ‘J.’ Upon completion of his appointment he will return to his regular job which will have been posted as a limited job for the period of his absence. . . .

Worker safety representatives will . . . be paid at the equivalent of the wage rate for the Maintenance Electrician or at the rate of his regular occupational classification, whichever is greater . . . and will be supervised by the Local Union and the manager, or his designated superintendent, responsible for part or all of his Work Location.”

—USWA Local 6500 and INCO Limited, 1997

“The Company recognizes a Union Health and Safety Representative for the following locations . . . appointed by the UAW International Union.

In the manufacturing locations (Hagerstown, Allentown/Macungie, and Winnsboro), this will be a full-time position . . . and the Union Health and Safety Representative will be responsible for the administration of Health and Safety Programs for all Union represented employees in their respective Local.”

—UAW and Mack Truck, 1993

“The [union health and safety representative] will be paid \$1.00 above the Unit Operator-36 Months hourly rate when assigned to a job pursuant to this agreement.”

—OCAW Local 1-5 and Shell Martinez Refining Company, 1996-present

“To support those joint (health, safety, and ergonomic) programs, the Company recognizes that the Union General Representatives in Health and Safety and Ergonomics and the UAW Coordinator for Health, Safety and Ergonomics will participate in every aspect of such programs.”

—UAW Local 2244 and New United Motor Manufacturing, Inc., 1998

## Union Committees

“The company shall provide the union Health, Safety and Environment Committee with . . . an office with a filing cabinet, a desk, two chairs, a telephone, a CD player or access to the Canadian Centre for Occupational Health and Safety (CCOHS) to receive information either by computer or by CD-ROM kept current by subscription. When the access to the CCOHS by computer or CD-ROM is secured, the company shall ensure that training is provided to all members of the union Committee.

The union Health, Safety and Environment Committee shall meet for at least two hours a week without the company members.”

—Canadian Auto Workers, Model Language

## Support for Special Union Activities

“National Day of Mourning. . . . Each year on April 28 at 11:00 a.m., work will stop and one minute of silence will be observed in memory of workers killed or injured on the job.”

—Canadian Auto Workers, Model Language

“The Company shall institute and maintain all precautions to guarantee every worker a safe and healthy workplace and to protect the environment outside the workplace. . . . Each month the company shall pay the equivalent of a minute’s pay for each employee into the union’s environmental fund to be used by the National Union for environmental purposes.”

—Canadian Auto Workers, Model Language

## **Joint Labor-Management Activities**

Many contracts set up a framework for ongoing joint labor-management health and safety activities. Probably the most common is the joint health and safety committee.

Joint committees can be formed at the national, local, or worksite level. Sometimes committees are established to address specific hazards of particular concern, such as automation, ergonomics, or workplace violence. Contracts recognize the authority of these joint committees to investigate and report health and safety concerns to management. Some unions have expanded the authority of joint committees by negotiating “partnership” and “involvement” programs where bargaining can occur through the committee on issues not addressed during contract talks.

Some unions negotiate separate training for union members of the joint committee, conducted by trainers of the union’s choice. Contracts may also include guidelines for the structure and functioning of the joint committee. For example, there may be a joint chair or rotating chair structure, with specific duties of the chair, composition of the committee, and committee process spelled out. The contract should specify that union members are on paid time when engaged in the work of the committee.

Joint committees and “partnership” programs sometimes can be chiefly cosmetic with little power, or are so dominated by the employer that they are ineffective. Union members of any committee, therefore, should be clear about the union’s agenda and approaches in dealing with management. Unions should also maintain an effective presence by having at least 50% representation on all committees. It should be agreed that the union representative(s) are welcome at any or all meetings. Separate records and notes of meetings and other committee activities should be kept by the union. It is also useful if the contract expresses a commitment that committee recommendations for change will be implemented.

Employers are not permitted to establish “employer-dominated” committees to bargain over health and safety or other working conditions. This would “bypass the union,” in violation of the National Labor Relations Act. (These statements of law are found in a case decided by the U.S. Court of Appeals called *Electromation, Inc. versus NLRB*, and in a case decided by the National Labor Relations Board called *E. I. DuPont de Nemours & Co.* See Appendix 3 for references to these cases.)

### **Joint Committees**

“The Parties shall maintain occupational safety and health committees at the national, regional, and establishment levels . . . Written minutes of each



meeting will be maintained and distributed to each committee member and made available to employees upon request.”

—AFGE and U.S. General Services Administration, 1990

“To make effective the above statements and promote on the job accident prevention, employer-employee committees will be established in each port. These committees will consist of equal numbers of employer and employee representatives at the job level. Each category of employees should be represented. Employers’ representatives should be from the supervisory level. The purpose of the committees will be to obtain the interest of the men in accident prevention by making them realize that they have a part in the program, to direct their attention to the real causes of accidents and provide a means for making practical use of the intimate knowledge of working conditions and practices of the men on the job. It is further intended that this program will produce mutually practical and effective recommendations regarding corrections of accident-producing circumstances and conditions.”

—ILWU and Pacific Maritime Association, 1993-96

“There shall be . . . a Joint Health and Safety Committee consisting of equal representation from the Company and the Union. A minimum of three (3) committee members shall be appointed by the Company from among its employees and a minimum of three (3) committee members shall be appointed by the Union from among its members.

Chairman-Secretary. The positions of Chairman and Secretary of the Committee will be filled from among designated Committee members by agreement of the Company and the Union. Disputes arising over the filling of Chairman-Secretary positions will be resolved by rotating the positions between Company and Union Committee members on a basis determined by the Committee.

The Chairman will efficiently manage the business of Committee meetings in accordance with accepted rules of order and schedule meetings in accordance with the provisions of this article.

The Secretary will prepare for each meeting minutes and agendas, and distribute those items to the Committee members in advance (normally a minimum of one week) of each regular scheduled meeting.

Purpose of the Committee. The purpose of the Committee as herein agreed by the Company and the Union is to (i) further promote safety awareness and safe working conditions among all employees and supervisors; (ii) attempt to resolve issues in dispute and make recommendations with respect to additions or revisions in safety rules in the event a review of rules change is requested by the Union; (iii) review and discuss occupational accidents or

hazards and make recommendations to management concerning what hazards should be abated, safety practices that should be implemented or changed, and the appropriate compliance methods relating to safety and health standards; and (iv) to foster awareness of non-occupational and home safety for all employees.

**Meetings.** The Joint Health and Safety Committee shall regularly meet quarterly (normally on the first Wednesday) in the months of February, May, August, and November, unless it is mutually agreed in writing to schedule any such meeting on a different date or cancel it. In addition to the regular meetings the Committee shall also meet on a mutually convenient date at the request of any three (3) Committee members.

**Agenda.** The Committee members, the Company, or the Union may submit items for discussion to the Committee Secretary at least two (2) weeks (14 days) prior to any scheduled meeting date. Items so submitted will comply with the purpose of the Committee as stated above and will be listed on the agenda prepared by the Secretary. Additional agenda items will be considered by the Committee when pursuant to the purpose of the Committee.”

—*IBEW, Survey of Utility Collective Bargaining Agreement Language, January 1995*

“A Plant Health and Safety Committee will be established to provide overall direction and leadership. The committee will be made up of three union members, selected by the local union and three management members selected by the Plant Manager. The shop committee chairperson and the plant manager will Co-chair the committee. The committee will meet on a regular basis and minutes of the meetings will be kept . . .

The responsibilities of the committee will include but not be limited to:

- Review of injuries and illnesses to identify cause(s) and prevention.
- Review of changes in shop rules governing safety.
- Discussion of the Health and Safety Complaint Procedure.
- Participation during inspections conducted by the Government or International Union Representatives.
- Participation in the review of hazardous materials prior to their use in the plant.
- Review and analysis of OSHA 101 and 200 forms and medical visit data.

- Review of layout changes, machine modifications, and new equipment and machinery to insure that appropriate health and safety considerations have been addressed.
- Conducting regular inspections, documenting deficiencies, and following up on corrective action.
- Developing and evaluating programs such as Fall Prevention, Noise Abatement, Ergonomics, Toxic Material Reduction, Preventive Maintenance, Lockout, etc.
- Presenting problem areas and suggestions to the Plant Manager's operating staff.
- Reviewing new standards and regulations and recommending appropriate changes in the work environment and plant procedures.
- Monitoring compliance with government standards.
- Taking an active role in reviewing, recommending, and presenting local safety education and information programs and employee job-related safety training (e.g., hazard communication, lockout, confined space, new employee orientation, apprentice safety, etc.)
- Taking noise measurements, air contaminant and air flow readings using company supplied noise meters, dosimeters, smoke tubes, detector tubes, velometers, etc.”

—UAW Model Health and Safety Contract Language, 1998

## **Paid Time and Training**

“Union members of the committee will be paid for time spent carrying out the duties of the committee.”

—UAW Model Health and Safety Contract Language, 1998

“Employees on the above committees/council will be provided necessary training to discharge their role on the committee/council and will be on official time while performing authorized committee/council functions (including, when necessary, reasonable time to prepare for meetings) if otherwise in a duty status.”

—AFGE and U.S. Marine Corps, 1994

“The employee representative or the alternate and any employee who appears before the [Safety] Committee . . . shall not suffer loss of pay for attendance before the Committee. However, it is expressly understood that

all employees required to appear before the Committee shall immediately report back to their jobs following their testimony.”

—*AFSCME Local 1229 and Edwin Shaw Hospital, 1993-96*

“SSA will pay for all travel and per diem expenses incurred by Union members of health and safety committees . . .”

—*AFGE and Social Security Administration, 1996*

“Union representatives on safety committees shall receive the same safety training opportunities as other committee members as a result of their membership on the committee.”

—*AFGE and U.S. Environmental Protection Agency, 1994*

“Members of the Safety Committee will receive appropriate health and safety and ergonomics training in areas such as: Accident Investigation, Noise Control, Machine Guarding, Lockout, Confined Space Entry, Toxicology, Industrial Hygiene, Ergonomics, Fall Prevention, Ventilation, and Review of New Equipment. The Co-Chairs of the Safety Committee will select and schedule at least two (2) training sessions per year. The Company will cover expenses associated with this training.”

—*UAW Model Health and Safety Contract Language, 1998*

## **Funds for Joint Activities**

“Subject to the agreement of the [Joint Health and Safety Committee] and the availability of funding . . . specific activities of the Committee shall include, but are not limited to, the following . . . Development and implementation of a health and safety grants program to provide financial support to the activities of agency-level and local-level health and safety committees.”

—*Public Employees Federation and State of New York, 1988-91*

“The responsibility of the Safety and the Ergonomics Committees will be to evaluate and make recommendations on all aspects of the Employer’s respective Safety and Ergonomics Programs, to include program adequacy, field implementation, studies for improving the work environment, training and unsafe conditions. To support this process the Employer shall establish a fund of \$500,000 within ninety (90) days of the effective date of this Agreement. In January of 1997 and 1998 the Employer will replenish the fund to its original amount. The fund shall be supervised by the Joint National Labor-Management Safety Committee. Disbursement of the funds

for any expenditures shall be authorized by the chairperson of the Committee.”

—APWU and U.S. Postal Service, 1994-98

“The IAM/Boeing Health and Safety Institute is established to address occupational health and safety issues which impact employees within the bargaining units. . .

Governing Board. The Institute shall be directed by a Governing Board consisting of four representatives of each party. The Union’s representatives shall be appointed in writing by the Union’s Corporate Coordinator. The Company’s representatives shall be appointed in writing by the Vice President of Union Relations. The Governing Board shall meet at least quarterly and shall select from among its members a chairman who shall serve a one year term. The chairmanship shall rotate between the parties. The Governing Board shall have overall responsibility for directing the Institute. . .

Administrative Staff. There shall be a full-time dedicated administrative staff consisting of three individuals named by each party, for a total of six. The staff shall perform such functions as determined by the Governing Board, including the day-to-day operations of the Institute. . .

Expenditure of Funds. The Company shall spend in each year four (4) cents for each bargaining unit compensated hour, but not less than four (4) million dollars per year, in support of the Institute’s activities. . .

Indemnity. The Company shall indemnify and hold the Union and its representatives harmless from and against any and all claims, demands, charges, complaints or suits against them which are based on or arise out of any action taken by them in accordance with the foregoing provisions of this Section . . .”

—IAMAW and Boeing, December 1995

“The UAW-GM National Agreement provides for the establishment of a Joint Health and Safety Fund. The Company is obligated to contribute four cents for each hour a UAW member works in a General Motors Plant. The fund is jointly administered.”

—UAW Model Health and Safety Contract Language, 1998

“The UAW-GM National Agreement provides four (4) million dollars for research, jointly selected and administered, during the life of the contract.”

—UAW Model Health and Safety Contract Language, 1998

## Commitment to Action

“All labor/management joint recommendations developed in the [Health and Safety Committee] shall be implemented in a timely manner by the affected department.”

—AFSCME Local 3999 (Council 18) and City of Santa Fe, New Mexico, 1995-97

“The [Work Environment] Committee shall make recommendations in a written report to the Administration. The Administration shall respond in writing to the recommendations within thirty (30) days. The Committee shall work with the college president or his/her designee toward implementation of the committee’s recommendations, and, when necessary, through the appropriate shared governance procedures. Any violation of section A shall be corrected by the District in an expeditious manner with the exception of imminent hazards which shall be corrected immediately . . .”

—AFT Local 1521 and Los Angeles Community College District, 1998

“If the majority of the committee agrees that the replacement or addition of equipment or a change in procedures will significantly improve employee safety or health, the employer shall not unreasonably deny the committee’s request for the improvement.”

—The Newspaper Guild-CWA, Model Contract, February 1998

## Union Right to Health and Safety Information

Unions have the right to obtain certain health and safety information from the employer and from government agencies. Some unions have negotiated contract language that expands this right.

OSHA requires employers to give unions, upon request, reasonable access to employee exposure records, employee medical records (with the employee’s written consent), and reports or studies based on those records. (OSHA standards and regulations are published in a series of volumes called the Code of Federal Regulations. The requirement above is found in the Code of Federal Regulations, title 29, section 1910.1020. See Appendix 3 for information on obtaining standards and regulations.)

Employers must also provide access to annual records of job injuries and illnesses, contained in the Log and Summary of Occupational Injuries and Illnesses (OSHA Form 200), which nearly every employer is required to maintain. (See the Code of Federal Regulations, title 29, section 1904.2.)

OSHA's hazard communication standard gives unions (and individual employees) the right to see material safety data sheets (MSDSs) that describe the hazards of specific chemicals used in the workplace. (See the Code of Federal Regulations, title 29, section 1910.1200.)

Also, the National Labor Relations Act requires the employer to provide information that the union needs to meet its bargaining obligations. This can include information about health and safety conditions. The employer's duty to bargain is set forth in the United States Code, title 29, sections 158(a)(5) and 158(d). In 1985, a federal Court of Appeals held that as part of this duty, an employer was required to give the union access to the workplace for the purpose of measuring noise levels. This court decision is *NLRB versus Holyoke Water Power Company*. In 1986, the U.S. Supreme Court denied the employer's request to review this decision, so the decision stands. (See Appendix 3 for reference to this case.)

If information is not readily available from the employer, the union can often obtain employer-specific information from state or federal OSHA, county health departments, local fire departments, and other agencies. This information can include various types of inspection reports. Public right-to-know laws such as the federal Freedom of Information Act and state public records acts can be useful tools for obtaining such information.

The union may negotiate for additional rights involving health and safety information. For example, the union may seek contract language specifying that the employer will supply information within specific time limits. This can help avoid delays. Also, the union may negotiate the right to receive health and safety data not necessarily required by law, such as accident reports, chemical inventories, workers' compensation records, and the results of employer investigations. The union may also seek the right to be notified about potential problems, to inspect the workplace, and to conduct independent or joint tests and studies of worker exposure.

## Routine Information

“Upon the written request of the International Union Health, Safety and Environment Department, the Company will furnish additional information in its possession which is relevant and material to an understanding of potential significant occupational safety or health hazards which are alleged to exist. Where such information constitutes a legitimate trade secret, the company may require the International Union to sign an agreement to use the information only for the purpose of hazard evaluation and control and to take reasonable precautions to assure its confidentiality. This provision does not create an obligation to release personal medical information without the written consent of the affected Employee.”

—USWA and Bethlehem Steel, 1993-99

“Members of the [Plant Health and Safety Committee] will be provided access to information and data necessary to carry out their duties. Access will include but not be limited to: OSHA 101 and 200 forms, computerized illness and injury data, medical visit data, Material Safety Data Sheets, Industrial Hygiene Reports, layout and machinery drawings, photographs taken during accident investigations, hazardous waste information, environmental records, etc. If it is determined that an employee has a personal exposure exceeding the permissible level as set forth in 29 C.F.R. 1910.1000, Air Contaminants or other applicable standards adopted by the company the members of the Plant Health and Safety Committee will be informed.”

—*UAW Model Health and Safety Contract Language, 1998*

“Consistent with the Privacy Act, the Employer will provide to the Union, on a monthly basis, information with regard to each accident which occurred during the monthly reporting period. The report will contain the following information:

- date and time of accident;
- location of accident;
- nature of the injury, if any; and
- cause of the accident, if known.

The Safety Officer shall also provide a monthly report of potential safety hazards identified in Office of Personnel Management facilities during the preceding month.”

—*AFGE and U.S. Office of Personnel Management*

“The administration will annually provide all incident and accident figures required by [Health and Human Services] and OSHA to the appropriate Union component Health and Safety committees. These figures will be provided at the component level and will identify components and facilities. The Administration will also provide Agency-level workers’ compensation figures required by HHS and OSHA to the General Committee. The administration will make available, upon request, raw data (incident reports, workers’ compensation claims, etc.) at the regional office and headquarters component level.”

—*AFGE and Social Security Administration, 1996*

“The Employer shall provide the joint committee with all information pertinent to safety and health in the workplace. This information will include:

- A list of all chemicals, by chemical name, which are used or produced at the workplace, updated by January 15 of each year;



- Notice of any new or additional chemicals, procedures, operations, products, and equipment being introduced into the workplace no less than thirty (30) days before their arrival or introduction; . . .
- Copies of all reports, surveys, inspections and measurements of worker exposure to actual or potential toxic materials and harmful physical agents.”

—*IBEW, Survey of Utility Collective Bargaining Agreement Language, January 1995*

## Notification of Problems

“The Department shall post on all safety bulletin boards, with copies to the Union, any reports concerning the inspections which reveal hazardous conditions or toxic substances.”

—*IBEW, Survey of Utility Collective Bargaining Agreement Language, January 1995*

“When the Employer receives a report that a dangerous, unhealthful, or potentially dangerous or unhealthful condition is present at a particular worksite, the Employer shall notify the Health and Safety Committee or the local Union Health and Safety representative, as appropriate, of the alleged dangerous or unhealthful condition.”

—*AFGE and Social Security Administration, 1996*

## Union May Inspect

“When a health and safety inspection is conducted on the Employer’s premises, a Union representative will be notified in advance and permitted to accompany the inspection team.”

—*AFGE and U.S. Environmental Protection Agency, 1994*

“A Local Union Officer or Safety Committee member shall be entitled to participate in any worksite safety inspections conducted by the Safety Committee or by State or Federal OSHA Inspectors without loss of pay. Notice of such inspections or safety related inspections by other public officials shall be promptly given to the Local Union Presidents and to the Chairperson of the Safety Committee along with the written reports of results, if any.

To the extent practicable, State owned or leased worksites shall be inspected at least once per year. Such inspections for worksites in locations where there is no Local Safety Committee may be accomplished by a representative of

the Appointing Authority and a representative of the Local Union stationed at that worksite.”

—AFSCME Council 6 and State of Minnesota, 1995-99

“The Health and Safety Committee shall hold meetings as often as necessary, but not less than once each month at a regularly scheduled time and place. Prior to such monthly meetings the Employee Committee Members will be permitted two hours to conduct a walk through of the plant to identify employee safety concerns. Additional walk throughs shall be scheduled subject to such controls as the Committee may impose.”

—UFCW, *Sample Safety and Health Contract Language*, November 1997

## Tests and Studies

“Joint Studies: At either party’s request, a study may be initiated to review work stations, ergonomics of the jobs, and other health and safety issues in a particular department. Such a study shall be jointly designed by the parties and conducted by a mutually agreeable expert(s) in the area of occupational health issues. The cost for such a study shall either be equally borne by the parties or funded by other sources, such as foundations or other grants. All implementation issues and recommendations resulting from said study shall be resolved only by mutual agreement of the parties.”

—HERE Local 2 and San Francisco Multi-employer Hotel Group, 1999-2004

“Union representatives on the Committee shall have the right to accompany government inspectors and employees, as well as company personnel, consultants and representatives engaged in safety or health-related inspections, surveys, monitoring or testing, and to make independent measurements of worker exposures to actual potential toxic materials and harmful physical agents . . .

Union representatives on the Committee shall have the right to use all employer safety and health testing equipment for the purpose of making an independent judgment concerning an alleged safety or health hazard.”

—IBEW, *Survey of Utility Collective Bargaining Agreement Language*, January 1995

“At least once each year, the parties will undertake an industrial hygiene survey in the plants performed by a certified industrial hygienist mutually acceptable to the Company and the Union, and whose fee shall be paid by the Company. A Company representative and a Union representative shall accompany such hygienist at all times during any on-site inspection activities. An unedited report of the survey shall be submitted in writing to the Company and the Union. At a mutually established time, subsequent to the receipt of reports, the Company and the Union will meet to review such

reports and to consider the findings. The parties may conduct a second survey in any year by mutual agreement.”

—OCAW Local 8-149 and Barr Laboratories, 1996-2001

“Management in conjunction with the Local Joint Health and Safety Committee will assess the need and where required, a facility will develop and implement an air sampling plan. Such plans should be reviewed and updated on an appropriately scheduled basis. Guidance in the preparation of such plans will be provided by the National Joint Committee. Based upon the air sampling plan, an hourly employee selected by the International Union, working under the technical supervision of a GM Industrial Hygienist, may assist in the collection of air samples. Job function key elements will be established by the National Joint Committee. Reports of industrial hygiene and noise measurement surveys will be provided to the Local Health and Safety Committee and the National Joint Committee.”

—UAW and General Motors, 1993

“Each manufacturing facility will develop and implement an air sampling and noise exposure monitoring plan. The Local Union Safety Representative and the Management Safety Representative will identify the exposures to be monitored and the frequency and areas for measurements. The plan will be evaluated and updated annually.”

—UAW and Navistar, 1995

“Each Local Safety Committee in a facility with a laundry and/or a kitchen shall perform a routine heat survey to check temperature, humidity, and exhaust and fan systems in the laundries and kitchens. The Employer agrees to coordinate technical assistance to the Local Safety Committee upon request.”

—AFSCME Council 6 and State of Minnesota, 1995-97

## **Bargaining Over Workplace Changes**

In recent years, workers and unions have faced new job hazards with the introduction of new technologies and materials into the workplace. These hazards are often not addressed by traditional health and safety standards. Often such hazards are more effectively addressed in labor-management negotiations, where the parties can consider how new technologies can be adapted, how jobs can be modified to fit the worker, and which hazardous chemical substances can be eliminated or reduced. Some unions have successfully negotiated for the right to hold ongoing discussions or to reopen negotiations on new health and safety issues as they arise. (Also see “Ergonomic Hazards” and “Hazardous Substances” in Chapter 6, and “Controlling Hazards” in Chapter 7.)

Unions should try to negotiate language which gives them as strong a role as possible in protecting workers during any change in the workplace.

## **New Technology in the Workplace**

“The Guild shall be given 6 months’ notice of intent to introduce new or modified equipment, machines, apparatus, or processes, which will create a new job classification or alter the job content of an existing job classification. The parties shall immediately enter into negotiations for an agreement governing the time and procedures for the introduction of such new or modified equipment, machines, apparatus or processes, which shall not be introduced unless such agreement is reached. No employee shall be dismissed as a result of the introduction of new or modified equipment, machines, apparatus, or processes, and an employee whose displacement may be agreed to shall be retrained at the expense and on the time of the Employer, and continued in the employ of the Employer in a suitable job, at no reduction in classification and salary or impairment of benefits. The Employer shall abide by laws and regulations applicable to such equipment, machines, apparatus or processes, and shall monitor and regularly inspect the operation thereof to assure continuous compliance with such laws and regulations. The results of such monitoring and inspections shall be made available to the Guild. The Employer shall not establish standards of speed or accuracy in the use of such new equipment, machines, apparatus or processes, nor shall the Employer assign an employee to such new equipment, machines, apparatus or processes on the basis of proficiency in the operation thereof.”

—*The Newspaper Guild-CWA, Model Contract, February 1998*

“The Employer will meet with the Union on a semiannual basis and inform the Union of its automated systems development programs. The Employer also agrees to give appropriate consideration to human factors in the design and development of automated systems. Human factors and ergonomics of new automated systems are a proper subject for discussion at the National Joint Labor-Management Safety Committee.”

—*APWU and U.S. Postal Service, 1994-98*

“The company agrees not to implement any new technology or processes . . . that will pose an ergonomic hazard.

The company agrees to consult the union before purchasing any new equipment which could pose an ergonomic hazard or is being purchased because it has been determined to reduce the risk of ergonomic hazards.”

—*UFCW Sample Language, June 1998*

“Automated equipment will not be introduced without consultation of the Union regarding such equipment. Training on any new equipment shall be offered to appropriate staff members.”

—OCAW Local 8-149 and NYCOSH, 1991-92

## Technology Committees and Programs

“Technological change shall be defined as any significant change in equipment or materials which results in a significant change in the work of the bargaining unit or significantly diminishes the number of workers in the bargaining unit.

The Employer and the Union agree to establish a National Teamster/UPS Committee for Technological Change, consisting of an equal number of representatives from the Union and UPS. The Committee shall meet at the request of either party.

The Employer will advise the affected Local Unions and the National Teamster/UPS Committee for Technological Change of any proposed technological changes at least six (6) months prior to the implementation of such change except where the change was later determined in which case the Employer shall provide as much notice as possible.

The Employer shall be required to provide the Local Union of the National Teamster/UPS Committee for Technological Change, upon written request, any relevant information to the extent available regarding the technological changes.

The Employer will meet with the Local Union, or, if requested, the National Teamster/UPS Committee for Technological Change, promptly after notification to negotiate regarding the effects of the proposed technological changes.

In the event that the Local Union and Employer cannot reach an agreement on effects, the matter shall be referred to the National Teamster/UPS Committee for Technological Change.

In the event that the National Committee cannot reach agreement on the dispute, either party may refer all outstanding disputes to the National Grievance Committee for resolution in accordance with the provisions of Article 8 in order to determine if the Employer has violated the provisions of this Section or if the change will result in a violation of any other provision of the collective bargaining agreement.”

—IBT and United Parcel Service, 1997-2002

“The District and the AFT shall form a Technological Environment Committee (TEC) whose purpose it shall be to develop guidelines for the safe, healthful, and efficient use and operation of new technology and any affects on the Clerical/Technical Unit as a result of the implementation of technological changes. When necessary the committee shall meet and develop guidelines for other technological changes and the District and the AFT shall reopen negotiations on this Article in order to negotiate a good faith agreement on guidelines proposed by the TEC.”

—AFT College Guild #1521, 1998

“The Leadership Committee shall establish a new technology development and implementation program (Technological Change Program) which shall include the following elements:

- (1) Advance Notice: The Company shall provide the Leadership Committee advance notice of any proposed significant technological change no later than the time the Company’s outline of various options with respect thereto is first developed. Such notice shall be in writing, shall contain to the extent possible supporting information outlined below, and shall include updates of new or revised information necessary to full and current understanding of the proposed change. In the case of emergency technological changes, the Company shall give the maximum notice and information possible under the circumstances.
- (2) Information: Within the time periods referred to above, the Company shall give the Leadership Committee the following information:
  - (a) a description of the purpose and function of the technological change, and how it would fit into existing operations and processes;
  - (b) the estimated cost of the technology, a cost justification of it, and the proposed timetable for it; . . .
  - (d) the number and type of jobs (both inside and outside the bargaining unit) which would be changed, added, or eliminated by the technological change;
  - (e) the anticipated impact on the skill requirements of the work force;
  - (f) details of any training programs connected with the new technology;
  - (g) an outline of other options which were considered by the Company before formulating its proposed changes; and

(h) the expected impact of the change on the job content, pace of work, safety and health, training needs, and contracting out.

Union representatives on the Leadership Committee may request and receive reasonable access to Company personnel knowledgeable about proposed technological change . . . to review, discuss and receive follow up information.”

—*USWA and Bethlehem Steel, 1993-99*

“A program for the control of hazardous materials has been developed which requires that hazardous materials be evaluated and approved prior to use by the plant Hazardous Materials Control Committee. A Union Health and Safety Representative will be a member of this committee which will meet on a regular basis and develop procedures for its operation.”

—*UAW and Mitsubishi Manufacturing Motors of America, 1995*

**NOTE:** For clauses on reduction of toxic materials, see “Toxics-Use Reduction” under “Controlling Hazards” in Chapter 7.





# WORKER INFORMATION AND TRAINING

Many contracts address how the employer will inform and train its employees about hazards on the job.

## Exposure and Medical Records

The contract may give individual union members certain rights to information. OSHA requires employers to provide employees, upon request, reasonable access to records of their exposures to toxic substances, their medical records, and reports or studies based on those records. (OSHA standards and regulations are published in a series of volumes called the Code of Federal Regulations. The requirement above is found in the Code of Federal Regulations, title 29, section 1910.1020. See Appendix 3 for information on obtaining standards and regulations.)

Contracts may clarify these OSHA rights, give workers additional rights, or specify that the union itself may receive the same information.

### **Worker Access to Records**

“The Employer shall provide all employees with the chemical names of all chemicals present in the workplace and of the facts and levels of exposure of employees to any toxic substance or harmful physical agent or safety hazard.

The Employer shall provide each employee with a complete and accurate report of his/her medical examinations, and any other medical tests, epidemiological studies, and industrial hygiene measurements of investigations related to the employee's occupational exposure. These materials shall also be entered into the employee's personal medical file. Employee medical files shall be available only to the employee, and to medical personnel subject to professional ethical confidentiality requirements who shall not disclose the contents thereof to any other officer, representative or employee of the company, or any other person. The Employer shall be responsible for maintaining the security and confidentiality of such files.”

—IBEW, *Survey of Utility Collective Bargaining Agreement Language, January 1995*

“The Company agrees that in the future, employees who are monitored will be informed of the monitoring results, regardless of the level of exposure, and a copy of the monitoring results will be included in their medical file.”

—UAW and Navistar, 1979

## Training Programs

The federal OSHA hazard communication standard requires employers to give workers basic information and training on hazardous chemicals in the workplace. (This requirement is found in the Code of Federal Regulations, title 29, section 1910.1200.) Additional training is required by other OSHA standards, particularly those that deal with specific hazardous substances and work processes.

Some state OSHA programs have worker training requirements more extensive than the federal standards. For example, California employers are required to have “injury and illness prevention programs” that include training and other safety communication on many topics. These must be “in a form readily understandable by all affected employees.” In practice, this means using non-technical terms and communicating with non-English-speaking workers in a language they understand.

(California standards and regulations are published in the California Code of Regulations. The requirements above are found in the California Code of Regulations, title 8, section 3203. See Appendix 3 for information on obtaining standards and regulations.)

Some unions have successfully negotiated for more worker safety training than required by government standards and regulations. Contracts may also specify who will give the training, how it will be designed, and how it will be funded.

For example, some agreements establish comprehensive training programs run jointly by labor and management. Other agreements state that the employer will pay for workers to be trained by the union's own health and safety staff. Agreements may even provide funding for professional development of the union's trainers, enabling them to attend safety conferences and seminars.

Some agreements guarantee that the employer will reimburse both workers and union training staff for lost time, travel, lodging, and other expenses.

At a minimum, unions should seek some control over the content and format of safety training to ensure that it is understandable, useful, and relevant to workers' jobs. If a union wants comprehensive training language, it should address:

- What training is offered
- When it is offered
- Who pays for it
- Who has access to the training
- Who does the teaching
- The content of the training
- How the effectiveness of the training will be evaluated.

In some cases, access to safety training may have an impact on worker advancement. For example, workers with specialized training in lead or asbestos may receive certifications that qualify them for more advanced job duties. Unions may seek contract language that ensures fair access to training programs of this type.

Many employers are turning to computer-based training and virtual reality programs as a way to teach health and safety. These high-tech training methods can be very isolating. Workers have no opportunity to share experiences with each other or interact with an instructor.

The International Association of Machinists (IAM) and Boeing recently reached an agreement on interactive computer training programs. Computer-based training will be used only in conjunction with "live" site-specific training conducted by worker (peer) trainers. The IAM also negotiated the right to be involved in the design of the computer-based programs. (The exact language of this agreement is currently unavailable.)

## Appropriate Training

“The Employer shall provide a continuous training program, during work hours and at no cost to employees, to ensure that all employees are adequately trained in safely maintaining, handling, and using the materials, facilities, apparatus, and equipment at the workplace. No employees shall be required to perform any work until he or she receives adequate training, including training in emergency procedures.”

—*IBEW, Survey of Utility Collective Bargaining Agreement Language, January 1995*

“The Employer will provide employees with appropriate orientation and/or training to perform their jobs safely. Such training shall include instructions in proper work methods . . . and proper use of personal protective equipment.”

—*AFGE and U.S. General Services Administration, 1990*

“No employee shall be required or allowed to work on any job or operate any equipment until he/she has received proper education, training and instruction.”

—*Canadian Auto Workers, Model Language*

## Union Trainers and Paid Time

“All education and training for employees ... will be given by employees chosen by the union. All union trainers will attend the Workers Health and Safety Center for a two week instructor training program.”

—*Canadian Auto Workers, Model Language*

“The company will ensure that lost time, per diem or meal, and travel and accommodation if required will be paid to all employees who participate in education or training required by this Article.”

—*Canadian Auto Workers, Model Language*

## Special Hazard Training

“When duties involving special hazards must be performed, the Service will provide reasonable training or indoctrination to the employees involved concerning the hazards and the proper work methods to be used.”

—*AFGE and U.S. Immigration and Naturalization Service, 1993*

“For all employees covered by this Agreement, the Employer shall: Provide employees with adequate information on communicable diseases and infestations to which they may have routine exposure.”

—*AFSCME Local 3999 (Council 18) and City of Santa Fe, New Mexico, 1995-97*

“The District shall provide in-service training to unit employees regarding HIV/AIDS, its transmission, and the proper handling of blood or bodily fluids.”

—SEIU and City of Oakland, California

“The employer shall provide training to all employees at risk of assault on how to defuse potentially violent situations and verbal confrontation. Employers shall also be trained in self-protection. Training should include, but not be limited to: discussion of how to recognize warning signs and possible triggers to violence; how to resist attack and avoid escalation of the situation; how to control and defuse aggressive situations; and a full review of the employer’s written policy for dealing with assault on the job.”

—SEIU Sample Contract Language to Protect Workers from On-the-Job Assault, 1995

## Frequency of Training

“Safety Meetings. Monthly safety meetings will be held among employees by work group or location for the purpose of instruction in safe work practices.

Tailboard Meetings. The person in charge of a work group will hold meetings of employees under his or her responsibility for the purpose of daily work planning and review of conduct of work with regard to applicable safety rules. Tailboard meetings will be held prior to the beginning of each work assignment and when there is a substantive change in work assignment.”

—IBEW, Survey of Utility Collective Bargaining Agreement Language, January 1995

## Joint Training

“The Company and the Union agree that the Director of OCAW’s District Resource Center and the Company’s Associate director of Health and Safety shall meet and confer for the purpose of developing a mutually acceptable protocol for a joint training program on health and safety awareness for Barr’s bargaining unit employees. It is agreed that the curriculum and course content will be fully reviewed and approved in advance of any training session, that the training sessions will be in segments of no more than two (2) hours at a time and for a cumulative total in any calendar year of no more than four (4) hours, and that all such training sessions shall be scheduled at mutually agreeable times and in such a way as to minimize any disruption of the Company’s production and any impact on the Company’s ability to ensure regulatory compliance, product quality and integrity, productivity, efficiency and safety. Any further health and safety training deemed necessary by Management will be provided by the Company.”

—OCAW Local 8-149 and Barr Laboratories, 1996-2001

“The National UPS/IBT Safety and Health Committee is also responsible for an Occupational Safety and Health Subcommittee to provide training recommendations for handling hazardous materials, toxic and other harmful substances for appropriate bargaining unit employees.

This Committee shall function as part of the National UPS/IBT Safety and Health Committee and shall review UPS hazardous materials training programs and make recommendations for improvements in:

- Training course content, material and frequency.
- Equipment needed.
- Other related issues deemed appropriate by the Committee.

Failure of the subcommittee or the National UPS/IBT Safety and Health Committee to reach an agreement will result in the unresolved issue being processed under the National Grievance procedure rules.”

—*IBT and United Parcel Service, 1997-2002*

## **Training Funds**

“Effective May 10, 1993 the Painters’ Apprenticeship, Health and Safety Training Fund shall be established. This fund shall be jointly administered by duly-appointed representatives of the Builders’ Association and Painters’ District Council No. 3 and shall provide for Apprenticeship Training as well as ongoing Health and Safety Training for both Journeymen and Apprentices. All employees working under the jurisdiction of this Agreement shall be trained within one year under the mandatory Health and Safety Training Program. Employees shall be certified as having completed a variety of such training and examination under this Program including, but not limited to, First Aid, CPR, Pulmonary and Lead level blood testing, Respirator fit testing, etc.”

—*IBPAT and Builders’ Association, 1993*

# RIGHT TO ACT

**W**hat can an individual worker do if there is a hazard involving a violation of company rules, laws, or the union contract? Some contracts spell out a worker's right to act.

What can the union do in response to health and safety incidents and accidents? How can the union deal with serious, immediate hazards on the job, particularly if they involve a violation of company rules, laws, or the contract? Contract language may spell out the union's right to act.

## Right To Report Hazards

Some unions have negotiated defined procedures for workers to report unsafe conditions to management. The union should educate the membership about these procedures, and encourage members to report problems. Workers need to know they have a **right** to speak up about unsafe conditions.

Unions should be alert to employer programs that may discourage workers from reporting safety problems. These can include financial rewards for not having (or not reporting) on-the-job accidents, injuries, or illnesses. For example, some employers adopt versions of a game called "Safety Bingo," where teams of workers compete to see who has the lowest injury rate. The winning team may receive a cash reward.

Unions should negotiate for elimination of such programs, even if workers find them superficially attractive. These programs reflect a view that

accidents and injuries are within a worker's control, and that the worker is to blame if they happen. They also pit workers against each other and can cause serious trouble for workers who don't report accidents to help their team's score. Workers may be discouraged from seeking the medical care and compensation they need.

## Procedures for Reporting

“The Employer shall make available at each installation forms to be used by employees in reporting unsafe and unhealthful conditions. If an employee believes he/she is being required to work under unsafe conditions, such employees may:

- notify such employee's supervisor who will immediately investigate the condition and take corrective action if necessary;
- notify such employee's steward, if available, who may discuss the alleged unsafe condition with such employee's supervisor;
- file a grievance at Step 2 of the grievance procedure within fourteen (14) days of notifying such employee's supervisor if no corrective action is taken during the employees' tour, and/or
- make a written report to the Union representative from the local Safety and Health Committee who may discuss the report with such employee's supervisor.”

—APWU and U.S. Postal Service, 1994-98

“When an employee has concerns regarding an unsafe neighborhood, they shall discuss the situation with the case nurse and the immediate supervisor who shall determine the appropriate action, such as visit with another employee, escort service, etc. If the employee is not comfortable with the decision, the matter may be taken up immediately with the appropriate administrator or the Director of Human Resources. In any situation where an employee believes there is danger of immediate harm, the employee should take the appropriate action first and then advise the supervisor of the actions taken and the reasons therefore.”

—AFSCME Local 3098 (District Council 8) and Toledo Nurse Association, 1995-1997

## Incentive Programs

“Safety Incentive Programs, if implemented, shall be designed to improve safety in the workplace and raise awareness of safe work practices. Such programs shall not discourage the timely reporting of workplace accidents.



Safety incentive programs shall be designed in a way in which workers will not receive incentives for failing to report bona fide injuries.”

—*HERE Local 2 and San Francisco Multi-employer Hotel Group, 1999-2004*

## Right To Refuse Unsafe Work

When required to perform unsafe work, a worker is faced with a daunting choice: whether to do the work and put his or her life in danger, or refuse to do the work and risk discipline or dismissal. What rights does a worker have in this situation? The U.S. Supreme Court ruled on this issue in a case called *Whirlpool versus Marshall*. (See Appendix 3 for reference.)

The Court upheld the OSHA regulation that prohibits an employer from discriminating against a worker who refuses to perform a task because of “reasonable apprehension of death or serious injury.” This ruling applies only in situations where the employee cannot get the employer to correct the problem **and** there is not enough time to get help from a government agency like OSHA. An important requirement is that the worker’s fears be “reasonable.” If a court later finds that a worker acted “unreasonably” or “in bad faith,” the worker will not be protected from reprimand or discharge.

(OSHA standards and regulations are published in a series of volumes called the Code of Federal Regulations. The OSHA regulation prohibiting discrimination against a worker who refuses unsafe work is found in the Code of Federal Regulations, title 29, section 1977.12. See Appendix 3 for information on obtaining standards and regulations.)

Additional rights may apply to union members. The National Labor Relations Act provides that in some situations, workers may engage in “concerted activities for the purpose of . . . mutual aid or protection.” This could include refusing unsafe work to protect yourself and co-workers.

(Federal laws are published in a series of volumes called the United States Code. The language above is found in the United States Code, title 29, section 157. See Appendix 3 for information on obtaining these laws.)

Also, the Labor Management Relations Act provides that in some situations, workers may refuse to work under “abnormally dangerous conditions.” (See the United States Code, title 29, section 143.)

Unions can expand members’ rights in this area by negotiating contract language that does not require a finding of “reasonableness,” but only that the worker acted in good faith, or actually and honestly believed that the assigned task was unsafe. (For related contract language stating that a worker may refuse to drive an unsafe vehicle, see “Vehicles” in Chapter 6.)

Some employers may try to avoid responsibility for dangerous conditions by citing the employees' right to refuse unsafe work. In other words, if an injured employee believed the job unsafe, he or she should have refused it. Unions should therefore make sure to include language in the contract that confirms the employer's exclusive responsibility for ensuring a safe and healthful workplace. (See Chapter 2.)

## Good Faith Belief

“Longshoremen shall not be required to work when in good faith they believe that to do so is to immediately endanger health and safety. Only in cases of bona fide health and safety issues may a standby be justified. The Union pledges in good faith that health and safety will not be used as a gimmick. The employer shall have the option of having the men who raise a question of health and safety stand by until a decision is reached or “working around” the situation until it can be resolved, and no further work shall be performed on that disputed operation until the health and safety issue is resolved.”

—*ILWU and Pacific Maritime Association, 1993-96*

“The right of an employee to: (a) refuse to accept an assignment or a job which the employee has reason to believe is hazardous or is performed under hazardous conditions; and (b) refuse to report for work because the employee has reason to believe that travel to or from work, or work at the employee's place of work is hazardous, is hereby confirmed.

No employee shall be docked for work-time lost for: (a) exercising the aforesaid right to refuse an assignment, or job, or to report to work; or (b) inability to report for work because normal travel facilities are unavailable or inoperative and no practical alternative is available or operative, due to natural phenomena or hazardous conditions created by human acts, including by way of example but not limited to, storm, flood, fire, explosion, riot or other civil disturbance or military or police operation. . . .

The right of an employee to refuse to operate equipment, including a vehicle, (a) which the employee deems to be unsafe; or (b) in an unsafe or unlawful manner, is hereby confirmed.”

—*The Newspaper Guild-CWA, Model Contract, February 1998*

“No employee shall be discharged, penalized, coerced, intimidated or disciplined for refusing work on a job or in any workplace or to operate any equipment where he/she believes that it would be unsafe or unhealthy to himself/herself, a fetus, a workmate or the public, the environment or where it would be contrary to the applicable federal, provincial, or municipal health and safety or environmental laws, regulations or codes of practice.”

—*Canadian Auto Workers, Model Language*

## Procedures for Refusing

“The term “imminent danger” applies to conditions or practices in any workplace which pose a danger that could reasonably be expected to cause death or severe physical harm immediately or before the imminence of such danger can be eliminated through normal procedures. When an employee during the course of performing his or her official duties reasonably believes he or she is exposed to a health or safety hazard that presents an imminent danger, he or she shall cease the activity and notify the supervisor and, if so desiring, the activity safety officer. The supervisor will evaluate the situation, consulting appropriate safety personnel if necessary, and make a decision as to whether work may proceed. If the employee is not satisfied that the imminent danger is sufficiently eliminated, he or she will notify the supervisor. The supervisor will immediately notify the appropriate safety official and assign the employee to other duties, if appropriate. Thereafter, if the safety official determines that no imminent danger exists or has been corrected the employee will return to work.”

—*AFGE and U.S. Marine Corps, 1994*

“Employees who exercise . . . right of refusal shall be assigned to other available work . . . either at the . . . rate of the job from which he/she was relieved or the rate of the job to which he/she is assigned, whichever is higher.”

—*UAW and General Dynamics, 1991*

“Should there be a dispute on the application of safety rules, employees must specifically state their concerns. The employee in charge will discuss the appropriate actions to resolve such concerns. If no resolution can be found, the employee(s) who dispute the application will have the right to not commence the assignment, without fear of retribution or retaliation. The next level of supervision shall immediately be contacted to mediate and resolve the dispute. Disputes which cannot be resolved shall be documented as to time, location, persons involved and the rules and applications at issue, and referred to the Safety Dispute Panel for prompt review and resolution.”

—*BMWE and National Railroad Passenger Corporation (Amtrak), 1976–present*

“Employees shall report any unsafe work condition(s) and/or equipment to their immediate supervisor or department head. Employees will not be required to work under such conditions and/or use such equipment pending a determination by the immediate supervisor or department head with regard to the safety of the site and/or equipment. Reference to the safety manual should be made whenever possible.”

—*AFSCME Council 31 and Village of Fox Lake, Illinois, 1994-96*

“No employee shall be required to perform work which he/she reasonably believes involves a substantial probability that serious physical harm may occur. Employees who exercise this right of refusal, shall be assigned to other available work. The employee shall accept such assignment either at the higher rate of the job from which he/she was relieved or the rate of the job to which he/she is assigned, whichever is higher.”

—UAW and General Dynamics, 1991

“The company shall ensure that all employees are informed that they have the right to refuse hazardous work which may harm them, any person or the environment and that signs are posted . . . advising them of this right.

If a worker exercises his or her right to refuse he or she shall notify the supervisor or a union member of the Health, Safety and Environment Committee. He or she shall stand by in a safe place and participate fully in the investigation of the hazard. At every stage the company shall ensure that no other worker is asked or permitted to perform the work of the worker who refused.

The union co-chairperson or alternate shall fully participate in the investigation at every stage. The union co-chairperson or alternate may recommend a solution to the problem with the agreement of the refusing worker which shall be implemented by the company.”

—Canadian Auto Workers, Model Language

## No Reprisal

Employers are prohibited from retaliating against a worker for exercising his or her rights under the federal Occupational Safety and Health Act. This includes the right to report injuries, illnesses, and unsafe conditions to management, the right to file complaints with OSHA, and the right to refuse unsafe work.

(The prohibition above is found in the United States Code, title 29, section 660(c)(1).)

Many states have statutes that provide better or broader protections in some of these areas. For example, New Jersey has a very strong refusal provision.

Unions can expand these anti-discrimination provisions by negotiating language that:

- Specifies a broader range of worker activities that are protected.

- Specifies a broader range of employer activities that are prohibited.
- Defines procedures that workers can use to exercise their rights.

## For Reporting Unsafe Conditions

“The Administration shall assure that no employee is subject to restraint, interference, coercion, discrimination, or reprisal for filing a report of an unsafe or unhealthy working condition, or other participation in agency occupational safety and health program activities.”

—*AFGE and Social Security Administration, 1996*

## For Following Safety Rules

“No employee shall be discharged, penalized, coerced, intimidated or disciplined for acting in compliance with the Occupational Health and Safety Act, its regulations and codes of practice and environmental laws, regulations or codes of practice.”

—*Canadian Auto Workers, Model Language*

## For Refusing Unsafe Work

“No employee shall be discharged, penalized, coerced, intimidated or disciplined for refusing to work on a job or in any workplace or to operate any equipment where he/she believes that it would be unsafe or unhealthy to himself/herself, a fetus, a workmate or the public, the environment or where it would be contrary to the applicable federal, provincial, or municipal health and safety or environmental laws, regulations or codes of practice.

For the employee who refuses work . . . and all employees affected by the refusal . . . there shall be no loss of pay, seniority or benefits during the period of refusal.”

—*Canadian Auto Workers, Model Language*

## Notice of Serious Incidents

Some agreements state that the union will be notified of serious incidents and can investigate them on-site.

## Right To Investigate

“The company agrees to notify the union members of the Plant Health and Safety Committee and the International Union, UAW, Regional

Representative of incidents such as serious injuries, chemical spills, and fires. Access to the factory will be provided to the appropriate Union member(s) of the Plant Health and Safety Committee and the International Union in order to conduct an investigation.”

—*UAW Model Health and Safety Contract Language, 1998*

“The Union-designated Health and Safety Committee Representative(s) shall have the right to investigate accidents. The details and manner of the investigation are to be negotiated with the companies involved.”

—*OCAW Chemical Bargaining Policy (Health and Safety Language)*

## **Resolving Disputes**

Some contracts set up procedures for resolving health and safety disputes quickly—for example, through immediate arbitration.

### **Grievances and Arbitration**

“Any grievance which has as its subject a safety or health issue directly affecting an employee(s) which is subsequently properly appealed to arbitration in accordance with the provisions of Article 15 may be placed at the head of the appropriate arbitration docket at the request of the Union.”

—*APWU and U.S. Postal Service, 1994-98*

“Any complaint, disagreement, or dispute relating to safety or health is subject to the grievance/arbitration procedure of this Agreement.

Complaints, disagreements, or disputes relating to safety or health may be submitted directly to the arbitration step of the grievance/arbitration procedure provided that the matter is first submitted to the joint committee, for the committee’s consideration and possible recommendation to the Employer.”

—*IBEW, Survey of Utility Collective Bargaining Agreement Language, January 1995*

“The men must ask their steward to bring the question of health, safety, or onerousness to the attention of the foreman or walking boss in immediate charge of the operation. The steward and his immediate superior (gang boss, hatch boss, etc.) are the only individuals who shall present the situation to the foreman or walking boss.

If agreement cannot be reached in [the section above] the Business Agent shall be called. (The walking boss, gang boss, or hatch boss and the Business

Agent or steward, who are responsible and safety-minded individuals, should be able to determine whether a condition is safe or unsafe.)

If agreement cannot be reached in [the section above], an immediate Joint Port Labor Relations Committee meeting shall be called on the job.

If agreement cannot be reached in [the section above], the Area Arbitrator shall be called to the job for an immediate ruling. . . .

The Area Arbitrator shall make an immediate ruling as to how work shall proceed. After the work proceeds the Arbitrator shall make a further ruling that a bona fide health or safety issue did or did not exist.

Where the Arbitrator decides—or where agreement is reached in any one of the steps [above]—that the employers were correct, the men shall not be paid for standby time, if involved.

Where the Arbitrator decides—or where agreement is reached in any one of the steps [above]—that the men were correct, the men shall be paid for standby time, if involved.

If the Arbitrator decides or it is agreed under any step [above] that an unsafe condition exists which can be corrected, the men shall work as directed to correct such condition.

If it is determined at any step [above] that the condition claimed to be unsafe is in fact safe, the men shall resume work as directed and failure to resume work as directed shall be cause to remove the men from the payroll as of the time of standby.

If during a period of standby on an issue of health and safety any man leaves his place of work except upon instructions of the walking boss, he shall be removed from the payroll as of the time of standby regardless of how the issue is settled. Any man who so leaves without obtaining his own replacement shall be automatically subject to appropriate penalties under the grievance machinery.”

—*ILWU and Pacific Maritime Association, 1993-96*

“District committeepersons and UAW Health and Safety Representatives will discuss health and safety issues with the appropriate members of management. Failing resolution, the issue will be reduced to writing on a health and safety grievance/complaint form. This procedure applies to ergonomics as well as health and safety issues. . . .

Complaints in the first or second step of this procedure that are not answered within the specified time limits will be automatically moved to the next step.”

*UAW Model Health and Safety Contract Language, 1998*

## **Right To Strike**

A few contracts authorize the union to call a strike pending correction of urgent health and safety problems, if other attempts at resolution have failed.

### **Strike Procedure**

“Notwithstanding the provisions of Article 20 of the Master Agreement, the Union shall have the right, in connection with grievances alleging violations of health and safety provisions, to strike in accordance with the following procedure:

- a) Within sixty (60) days from the date of the written decision submitted at Step 3 of Article 5, the Union shall notify the Human Resources Manager, in writing, that it does not intend to arbitrate the grievance or grievances but that it has been authorized by a vote of its Local membership to strike concerning grievances specified in the written notice.
- b) During at least the ten working (10) days following such notice, the Company shall review such grievance or grievances with the International Union and the appropriate Local Bargaining Committee. The parties shall have the right to have their International Safety Committee members participate in such review, including the right to inspect the conditions which are the subject of grievance.
- c) Upon fulfillment of the review requirement of (b) above and during the ninety (90) day period following receipt in accordance with (a) above, the Union shall have the right to strike upon five (5) days written notice from the Regional Director of the UAW International Relations of the Company that International Union has authorized such strike.”

—UAW and Mack Truck, 1993



# **SPECIFIC HAZARDS**

Some workplace health and safety hazards are not covered by laws, standards, or regulations. Other hazards are covered only in a very general way. How should the employer control hazards that are inadequately regulated? Unions have negotiated contract language that spells out how the employer will protect workers from some of these hazards.

## **Computer Terminals**

As more and more computers are introduced into offices and other workplaces, the health and safety hazards of computer work are becoming well known. Vision problems, musculoskeletal injuries, and debilitating hand and wrist disorders like carpal tunnel syndrome are increasing. Few standards or regulations exist to address these and other ergonomic hazards. (See the next section, “Ergonomic Hazards.”)

Unions have negotiated contract provisions to protect their members who work on computers and video display terminals (VDTs). Some contracts now cover vision protection, proper furniture setup, appropriate breaks, and training. With risks that are suspected but not proven, such as reproductive effects of computer work, certain unions and employers have been able to agree on precautionary measures.

Some contracts also incorporate computer workstation guidelines developed by the American National Standards Institute (ANSI). (For information on obtaining ANSI guidelines, see Appendix 3.)

## Vision Protection

“The Employer agrees to provide an eye exam, as well as eye glasses needed for work, on an annual basis for an employee who is regularly assigned to work on a VDT who experiences abnormal visual discomfort, fatigue, or disease as a result of operating a VDT. The employer will pay for VDT-related eye exams up to \$600 per year for the entire bargaining unit.”

—OCAW Local 8-149 and NYCOSH, 1991-92

“The Employer shall strive to ensure that the extensive use of VDTs does not adversely affect operator’s eyes by taking the following precautions:

- Reduce the possibility of operators experiencing eye strain by choosing equipment with manufacturer-specified non-reflective screens, brightness controls, and contrast controls.
- Consider material differences in screen height, color, angle and character size as they relate to eye strain.
- Situate such equipment in such a way so as to reduce excessive screen glare.
- Adjust general lighting arrangements to reduce screen glare . . .”

—IBEW, *Survey of Utility Collective Bargaining Agreement Language, January 1995*

## Furniture and Accessories

“Chairs should be provided that are adjustable in height and the angle of the back support. The work station should be designed to provide for independent adjustment of the keyboard height, screen height and position (if available in said equipment). Other accessories which are required on an individual basis such as foot and wrist rests, anti-glare screens, anti-static pads or spray, etc., should be provided. Where practical, the work station should have direct sunlight shaded, and operators should be seated at right angles to any window to avoid seating arrangements that have the operator facing the window. Where practicable, non-fluorescent lighting should be provided for each work station. All existing fluorescent lighting should be modified to lessen or reduce glare. The work space should be free of any potential electrical hazards, including exposed wires or exposed extension cords . . .”

—AFSCME Local 4381 and County of Middlesex, New Jersey, November 1994

“Before the acquisition or transfer of Display Terminals or alternative displays or workstation furniture or accessories, the Employer shall consult with the Guild on their design, including such features as mouse and other

alternative input devices, separate keyboards, tiltable screens, brightness controls, radiation shielding and all other features relating to operator health and well being. No such equipment shall be installed until agreement has been reached on these matters. Adjustable chairs and desks shall be provided for all employees operating such equipment, and footrests, wristrests, glare shields, copy holders, and task lighting shall be provided upon the employee's request.”

—*The Newspaper Guild-CWA, Model Contract, February 1998*

## Breaks

“Every employee actively working at a VDT terminal shall be required to take a fifteen (15) minute work break every hour away from the terminal to accomplish other work. Such breaks shall be in addition to regularly scheduled rest breaks. Employees shall not be required to operate VDT equipment fifteen (15) minutes before the end of his/her shift.”

—*AFT Local 1521 and Los Angeles Community College District, 1998*

## Training

“The AFT and the District shall develop and distribute a written guide for the safe and healthful operation of VDTs and associated equipment. The guide shall include, but is not limited to, instruction on relaxation exercises for visual and musculoskeletal strain, the proper use of footrests and wristrests, proper posture and other beneficial work habits. As new information becomes available, it shall be incorporated into this guide.

The District and the AFT shall sponsor workshops regarding the safe and healthful use of VDTs and associated equipment semiannually. Attendance at workshops for newly assigned VDT operators shall be mandatory.

With regard to VDTs and other associated microelectronic technology, the following training opportunities shall be made available:

- VDT operators and users shall be trained on the normal use of VDTs and associated equipment and its safe and healthful operation. Such training shall be made available through formal classes, in-service training, on the job training, and/or training provided by manufacturers and vendors.
- All employees shall be provided training by the District in new office technology that they are required to use and operate. Employees are also encouraged to obtain training in new office technology as it is introduced in an office or operational unit; the District shall make every reasonable effort to make such training available to those who desire it. When the District requires an

employee to be trained on new hardware or software, the cost of the training shall be borne by the District, and appropriate release time shall be granted to the employee.”

—*AFT Local 1521 and Los Angeles Community College District, 1998*

## **Reproductive Effects**

“The Employer will make every reasonable effort to accommodate pregnant VDT operators who request transfer to another function. Where suitable alternate work is not available, more stretch breaks will be allowed and a liberal leave policy will be followed.”

—*AFGE and Social Security Administration, 1996*

## **Ergonomic Hazards**

Ergonomics is a field of research that studies how job processes, tools, and equipment can be made to fit the needs of the human body. Poor ergonomic design in the workplace can cause serious health problems, ranging from strained backs to repetitive stress injuries (RSIs). Ergonomics can be an issue in office work, agriculture, auto assembly, meat packing, health care, and many other occupations.

Ergonomics-related injuries have been steadily increasing in the U.S. over the past two decades. According to federal government statistics, RSIs and similar work-related musculoskeletal disorders are growing faster than any other type of job injury, and now represent about one third of all U.S. job injuries and illnesses.

However, few ergonomics standards or regulations exist at present. California’s health and safety agency, Cal/OSHA, recently issued an ergonomics standard, but it is limited in scope. Several other states, as well as federal OSHA, are now considering ergonomics standards.

(Cal/OSHA standards and regulations are published in the California Code of Regulations. The Cal/OSHA ergonomics standard is found in the California Code of Regulations, title 8, section 5110. See Appendix 3 for information on obtaining standards and regulations.)

Since regulations do not currently offer much protection, some unions deal with ergonomics issues through contract negotiations. Unions have negotiated comprehensive ergonomics programs, the establishment of joint labor-management ergonomics committees, employer recognition of union-appointed ergonomics representatives, and joint labor-management procedures for analyzing the impact of new machinery and equipment.

Negotiations on this subject can be especially productive because labor and management have a mutual interest in reducing ergonomics-related injuries. These injuries cost U.S. employers and insurance companies \$20 billion per year in workers' compensation costs alone. Employers also bear the cost of lost productivity. Workers pay a high price also—in pain, lost wages, and loss of future earning potential.

Also see the sections in this chapter on “Computer Terminals” and “Heavy Lifting.”

## Comprehensive Programs

“The company will establish a comprehensive ergonomics program. The program will include:

- On-going systematic analysis of injury and illness records (Workers' Compensation claims, OSHA recordables, medical visits, Sickness and Accident records).
- Utilization of early warning surveillance tools, such as symptom questionnaires.
- Job analysis to identify high risk jobs.
- Application of engineering controls to eliminate or reduce risk.
- Worker involvement in the identification of hazards and selection of control methods.
- Training for engineers, workers, and supervisors.
- Establishment of design criteria for engineers.
- Active involvement of the medical department in the identification of problems, medical evaluation, treatment, rehabilitation, record keeping, and job placement of restricted workers.”

—UAW Model Health and Safety Contract Language, 1998

## Ergonomics Committees and Representatives

- “
1. A joint labor/management ergonomics committee will be established. It will be comprised of plant managers, safety director, medical personnel and an equal number of representative persons chosen by the Union.
  2. The Committee will meet, at a minimum, once a month to review progress on ergonomic issues (or on the ergonomic program) and to

- prioritize problem areas. The Ergonomics Committee will be provided with a copy of the plant OSHA 200 logs on a monthly basis.
3. The company recognizes that worker involvement is crucial to the success of any ergonomics program. The following will be established . . .
    - a. The union will designate up to 7 individuals as Ergonomic Monitors (EM).
    - b. Each initial EM will be provided one (1) week of in-depth training by the company's ergonomic Consultant within 90 days of designation. Training of replacement EM's will be completed as soon as practicable after appointment. The training will be designed to assist these monitors in developing the skills to assist in identifying and analyzing jobs for ergonomic stress and to be able to recommend potential solutions.
    - c. The EM's will conduct surveys of their work area, using on-site inspections, to spot problem areas and offer potential solutions. The EM's will use both the IBP Ergonomic Report Forms and Ergonomic Job Checklist forms to conduct such inspections. Such inspections will occur every two weeks, and will not exceed 5 hours of paid time per month, unless prior approval is obtained from the plant manager.
    - d. The EM will act as a contact person for area employees as problems arise. All employees will be instructed on how to contact these monitors and/or Safety Committee members when a problem arises.
    - e. The EM will be notified of all testing of recommended solutions prior to such testing and will assist in evaluating the modified job after any ergonomic interventions using the Ergonomic Job Checklist and Employee Ergonomic Feedback Form.
  2. Meet with the Ergonomic Committee at least every other month where they will discuss program progress and provide feedback to committee on testing and implementation of program.
  4. The Company will maintain an ergonomic activity log that will keep track of all suggestions made by the ergonomic monitors and other plant personnel (including the ergonomic consultant).
  5. The Company agrees not to implement any recommendation regarding the reduction of ergonomic stress that is contrary to the terms of the instant collective bargaining agreement, unless the

Union expressly agrees to modify or amend the contract so as to permit implementation of the proposed controls or recommendations.”

—*UFCW and Iowa Beef Processors, Inc. (IBP), 1988*

## Ergonomics Studies

“The Company will contract and pay for an ergonomist’s study of the plant conducted by a consultant chosen by the joint Labor-Management Committee, to study ergonomic stress throughout the plant and make recommendations on methods to abate/relieve such stress. The Company will test such recommendations and implement all that are economically and technologically feasible.”

—*UFCW Model Contract Language, present*

## Hazardous Substances

Chemical exposure on the job is covered by many standards and regulations. Examples include OSHA standards on hazard communication and respiratory protection. In addition, OSHA has standards regulating dozens of specific hazardous substances. Other government agencies have some standards as well. The union may want to negotiate language that goes beyond existing standards and regulations to provide additional protection to workers and surrounding communities.

## Specific Chemicals

“The Grower will comply with the most current Environmental Protection Agency Worker Protection Standards.

In addition, the Grower will make a reasonable attempt to verbally notify workers and the Union Representative in advance of any pesticide application to the Grower’s pickle field where workers will be working or any application to Grower’s adjacent fields or to Grower’s fields adjoining Grower’s labor camp(s).

The growers will provide at the end of the season to the Union, a summary of the pesticides applied to the pickle crop. In the event that the Union has reasonable cause to believe there is medical indication for such information, the Grower shall provide detailed information to the affected worker’s attending physician as to pesticide use on a given farm. Such information shall remain confidential and not be furnished to parties other than necessary medical personnel, except by mutual agreement of the parties.

The grower shall place in each field signs indicating that pesticides will be applied, and the date and time when workers may legally re-enter the field, if such restriction applies. Such signs shall be placed at any reasonable entrances.”

—*Farm Labor Organizing Committee and Vlastic Pickle Growers Association, 1994-99*

“NIOSH/MESA approved, self-contained breathing equipment will be located in close proximity to all chlorine feeding locations or available in vehicles used to service those areas. In no case will less than two employees be used to change ton cylinders of chlorine. Alarm systems will be installed in locations where ton cylinders of chlorine are used.”

—*AFSCME Local 101 and Montgomery County, Ohio, 1994-95*

“The Company shall implement in a timely manner consistent with the hazards a reasonable program for the control of carbon monoxide which shall include but not be limited to the following . . .

Evaluation and, where necessary, amendment of safe job procedures for gas system maintenance programs with respect to equipment whose failure might result in exposure to dangerous concentrations of carbon monoxide. Copies of these procedures shall be included in the control program.

Installation of adequate automatic carbon monoxide sensing devices equipped with alarms and use of portable carbon monoxide monitors where necessary to protect Employees whose work assignments so require. Monitors, alarms and other parts of the detection and warning system shall be tested on a periodic basis sufficiently frequently to insure reliable operation. The control program shall include a general description of the location of the sensing devices and the general circumstances under which portable detectors shall be used and the frequency for periodic testing of the monitoring system.”

—*USWA and Bethlehem Steel, 1993-99*

## **Community Exposure**

“A Joint Hazard Prevention Committee will be established for the purpose of analyzing and correcting unsafe and unhealthful working conditions inside the plant, to insure that the operation of the plant does not pose a threat to the outside environment, to oversee training on health, safety, and environmental issues, and to establish a relationship with the community on these issues.

The Union Co-chairperson of the Committee and the Management Co-chairperson of the Committee will have the right, either together or separately, to shut down any operation that he/she believes presents an imminent danger to the health and safety of an employee or presents a danger to the outside environment.



The Committee will conduct regular inspections of the different areas of the plant to ensure that conditions are not hazardous. Reports of these inspections will be given to the Work Group(s) and Production and Support Council(s) in the areas inspected.”

—UAW Local 726 and Harvard Industries, 1991

## Heat and Cold

OSHA standards and regulations do not explicitly cover worker exposure to hot and cold environments. However, the National Institute for Occupational Safety and Health (NIOSH) has issued recommended guidelines on exposure to heat. (For information on obtaining the guidelines, see Appendix 3.) Some unions have negotiated language to protect their members from extreme temperatures. Certain clauses specify the range of permitted temperatures in the workplace. Other clauses, where workplace temperatures cannot be changed, rely on administrative controls, personal protective equipment, and training to prevent heat stress or hypothermia.

### General

“The parties recognize that temperature conditions in and around work areas can have a direct bearing on employees’ health. The parties agree that the problem of temperature extremes, either hot or cold, and appropriate measures to reduce the risk of exposed employees are appropriate matters for referral to established health and safety committees or to the local health and safety representatives, as appropriate.”

—AFGE and Social Security Administration, 1996

“The Employer shall make reasonable efforts to maintain a minimum temperature of fifty (50) degrees in the winter and a maximum of eighty-five (85) degrees in the summer. Equipment failures shall be remedied within five (5) days. Employees shall cooperate with the Employer in getting maximum benefit from heating and cooling equipment (i.e., keeping doors and windows closed).”

—AFSCME and Lucas County, Ohio, January 1994

“The City agrees to provide heating equipment similar to that provided by other utilities in this area for those employees who are required to work outside during cold weather.”

—AFSCME Council 8, Local 100, and City of Cleveland, Ohio, March 1998

## **Inclement Weather**

“The Company and the Union recognize the fact that temperatures, wind, or precipitation, or varying combinations of these factors produce conditions of weather under which work should continue only in the event of emergency. The Union recognizes that the employees who work outside will accept reasonable limits of discomfort from minimums of temperature, precipitation or maximums of wind and does not feel that such reasonable limits of discomfort should justify suspension of work. The Company recognizes that there are limits of temperatures, wind and precipitation, wind velocity or temperatures exceeded and, when confronted by them, the crew leader or foreman shall modify or suspend the work to meet the conditions. It is further recognized that there are conditions of weather under which work on the ground is tolerable, but when work on elevated structures is not. Due allowances are to be made for such conditions.

Unless the work is necessary to protect life, property or the continuity of operation and service, the Company will not require employees to do construction or maintenance work in exposed locations out-of-doors in precipitation when protective clothing will not keep them reasonably dry, in weather conditions making their work unsafe or when the temperature is 5 degrees Fahrenheit or below, and will not require Transmission and Distribution employees to perform any work above ground level when the wind chill factor is -22 degrees Fahrenheit or below.

An employee who reports at the designated time and place to perform his regular scheduled work shall not lose time because of inclement weather. During periods of inclement weather the Company may have employees not performing their normal work assigned to other work at their regular rate of pay and standby at designated locations for emergencies.

Nothing in this section shall be interpreted as to deny the right of the Company to require those employees furnished weather-protective clothing or accessible heated shelter or protective mobile equipment to continue work out-of-doors at their normal duties . . .”

—IBEW, *Survey of Utility Collective Bargaining Agreement Language, January 1995*

## **Special Work Areas**

“Freezer employees, including those employees who are required to work temporarily in the freezer and those employees who regularly go in and out of the freezer, shall be furnished with a freezer jacket, overshoes and gloves by the Company.

No employee working in a warm room shall be transferred or loaned to work in a cooler or freezer unless the employee is given time to cool off. Such

preparation time shall not exceed fifteen (15) minutes and the necessary preparation time shall be credited to the standard hours of the job to which the employee is being transferred or loaned.”

—UFCW Local 538 and Oscar Mayer Foods Co., late 1970s

“The Company will control temperature and humidity to provide a reasonably comfortable work environment at the LODIGE Room. Steps will be taken to prevent heat exhaustion and other heat related problems potentially present on operators in this room.”

—OCAW Local 8-149 and Berlex Laboratories, Inc., 1983–present

## **Heavy Lifting**

Back injuries are the number-one cause of disability for U.S. workers. However, at present there is no OSHA standard on lifting, a common cause of back injury.

To protect members from back problems and other injuries, some unions have been able to negotiate limits on workers lifting heavy items without assistance.

Also see the section in this chapter on “Ergonomic Hazards.”

### **Limits on Lifting**

“The parties agree that the health and safety of the employees are of the utmost importance. The Employer agrees that UPS management will not insist that any unsafe action be undertaken and the Union agrees to encourage its members to cooperate in effectuating the handling, pick-up and delivery of parcels without exposing themselves to safety hazards. . . .

No employee shall be required to handle any over 70 pound packages alone if it is the employee’s good faith belief that such handling would be a safety hazard to herself or himself. In such cases, the Employer shall provide whichever of the following is requested in good faith by the employee in handling over 70 pound packages:

- Another bargaining unit employee for assistance, or
- Appropriate lifting/handling devices, or
- Another bargaining unit employee and an appropriate lifting/handling device for handling, pick-up, or delivery circumstances that require both bargaining unit help and an appropriate lifting/handling device. . . .

The Employer agrees that it will periodically instruct its customers to place at least one (1) over 70 pound label on all such packages shipped, enter the weight of the packages on the label and notify the pick-up driver of the over 70 pound packages to be picked up. The driver shall complete and affix as many additional over 70 pound labels and/or identifying tape as is reasonably necessary to provide proper visual identification of the package for safe movement through the system. The label and tape shall be of bright contrasting colors . . .”

—*IBT and United Parcel Service, 1997-2002*

“Any masonry unit of concrete, cinder or like materials weighing 40 pounds or more shall be set by two masons.”

—*BAC Local 3 and Associated General Contractors of Connecticut*

“The Employer agrees to complete a census of all residents to determine the manner in which residents are to be lifted and transferred including, but not limited to, the use of mechanical hoists and sufficient number of employees required for team lifting where appropriate. The Employer shall insure that sufficient staff will be present on the shift so that team lifts can occur when required. The Joint Health and Safety Committee may review lifting procedures and provide comment or recommendation.”

—*SEIU District 1199P and University Park Nursing Center, 1996-99*

## **Training**

“The Employer shall insure that all employees and new hires have received adequate training and education on back injury prevention. There shall be a minimum of four (4) hours of hands on training annually which will be conducted on the clock. As part of this training, all employees will have the opportunity to practice what they learn with a variety of residents at the Facility. Employees attending this training will be replaced so as not to leave any floor or department short staffed. The training shall incorporate the active participation of staff and will include:

1. the problem of cumulative trauma disorders;
2. effective methods for preventing these injuries, including transfer techniques using lift and transfer equipment;
3. the communication system used by the Home to inform staff as to which equipment and/or assisted devices are to be utilized and how many staff members are to be present during the lift/transfer of every resident, as well as how this communication system is updated;
4. the importance of early reporting of symptoms and injuries; and

5. the special need of combative residents.

This training and education program shall be reviewed by the Union prior to its implementation.”

—*SEIU District 1199P and Church of the Brethren Home, 1999-2002*

## **Indoor Air Quality**

Many workers in newer public and commercial buildings have raised concerns about the quality of indoor air. Complaints include unpleasant odor, cough, eye irritation, headache, and allergic reactions. Among suspected causes are lack of natural ventilation, inadequate or poorly adjusted mechanical ventilation systems, molds or bacteria in ventilation systems, and emissions from office equipment, furniture, and carpets.

OSHA standards do not explicitly govern air quality in these non-industrial settings. However, other government agencies and private organizations have developed guidelines that labor can use in discussions with management to prevent or minimize indoor air quality problems. (See Appendix 3 for information on standards published by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) and a guide produced by the U.S. Environmental Agency (EPA) and the National Institute for Occupational Safety and Health (NIOSH).)

### **Employer Will Meet or Exceed Standards**

“The Employer agrees to make a good faith effort to meet standards outlined herein and including the outdoor air requirements for ventilation as outlined in ASHRAE Standard 62-89 (Table 2, Section 2.1 Commercial Buildings):

- There shall be 20 cubic feet per minute (CFM) per person of fresh air in all parts of the NYCOSH offices at all times.
- The mechanical ventilation system shall be on at all times bargaining unit members are in NYCOSH offices.

NYCOSH shall obtain a copy of the ventilation plan for all NYCOSH offices. These plans indicate the cfm delivered by the ventilation system, location of fans, diffusers, air exhaust vents, location of filters, etc. In addition, the plans shall indicate movement of air through other offices from which the air is recirculated to NYCOSH offices. A schedule for maintenance of the ventilation system shall be included in the plan.

When employees complain of indoor air quality problems, NYCOSH shall undertake the following steps:

- conduct an investigation of the ventilation system, looking particularly for any sources of chemical or microbial contamination that could contaminate the air supply at any point in the system.
- eliminate any sources of chemical or microbial contamination following the steps from NIOSH's *Guidance for Indoor Air Quality Investigations* . . .
- supplement mechanical ventilation systems by opening all openable windows. This does not apply during the cooling season.
- if employee complaints persist, the ventilation system's air supply rate will be increased to 25 cfm/person.

Relative humidity shall be kept between 30-60%.

Temperature shall be maintained at between 68-74 degrees Fahrenheit in the heating season, between 72-78 degrees in the cooling season, and between 68-78 degrees at all other times.”

—OCAW Local 8-149 and NYCOSH, 1991-92

- “
- A. The parties agree that all SSA employees are entitled to work in an environment containing safe and healthful indoor air quality.
  - B. The Administration shall provide safe and healthful indoor air quality by conforming to laws, guidelines, regulations and/or policies issued by federal regulatory agencies such as OSHA, EPA, and GSA.
  - C. Onsite investigations/inspections will be conducted when a problem concerning INDOOR AIR QUALITY or BUILDING RELATED ILLNESS is formally brought to management's attention. These investigations/inspections shall meet the criteria of the GSA Federal Property Management Regulations and the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE), the protocols of OSHA or the American Conference of Government Industrial Hygienists. . . .
  - F. Microbial Contamination. The Employer agrees to eliminate or control all known and potential sources of microbial contamination by assessments and appropriate response to all areas where water collection and leakage has occurred including floors, roofs, HVAC cooling coils, drain pans, humidifiers containing reservoirs of stagnant water, air washers, fan coil units, and filters. Such response will normally require prompt cleaning and repair of contaminated areas.

Also, the Agency agrees to:

- Clean and disinfect or remove and discard porous organic materials that are contaminated (e.g., damp insulation in ventilation system, moldy ceiling tiles, and mildewed carpets);
- Clean and disinfect non-porous surfaces where microbial growth has occurred with detergents, microbicides or other biocides and insuring that these cleaners have been removed before air handling units are turned on. In leased space, the Administration will deal with the lessor and/or GSA to achieve these objectives.”

—AFGE and Social Security Administration, 1996

## Infectious Diseases

Infectious diseases are a major concern for workers in health care, laboratories, social services, child and elder care, schools, and other jobs that involve working closely with people or with body fluids. There is currently an OSHA standard on worker exposure to bloodborne pathogens (such as HIV and Hepatitis B) and a proposed standard on tuberculosis.

(The bloodborne pathogens standard is found in the Code of Federal Regulations, title 29, section 1910.1030.)

Some labor-management contracts include additional measures to prevent exposure, inform and train workers, vaccinate those who are at risk, test for disease, and treat workers who may have been exposed.

An emerging issue is the use of needles with built-in injury protection in health care settings. Some unions have negotiated for use of these safer needle devices.

### **Preventing Exposure**

“The Employer shall provide the strongest feasible protection to nurses from occupational transmission of blood borne and airborne infectious diseases, including but not limited to Tuberculosis and HIV/AIDS, through the use of engineering controls, work practice controls, personal protective equipment, training and education and the development of a comprehensive blood borne and airborne infectious disease program.”

—SEIU Local 1991 and Public Health Trust, Miami-Dade County, Florida, 1997-99

“Engineering and work practice controls shall be used to eliminate or minimize employee exposure.

Needleless systems shall be used for:

1. Withdrawal of body fluids;
2. Administration of medication or fluids; and
3. Any other procedure involving the potential for an exposure incident for which a needleless system is available as an alternative to the use of needle devices.

Needle Devices. If needleless systems are not used, needles with engineered sharps injury protection shall be used for:

1. Withdrawal of body fluids;
2. Accessing a vein or artery;
3. Administration of medication or fluids; and
4. Any other procedure involving the potential for an exposure incident for which a needle with engineered sharps injury protection is available.

Non-needle Sharps. If sharps other than needle devices are used, or if objects that become sharps are used, these devices and objects shall include engineered sharps injury protection.”

—*SEIU Model Language*

“The City/Union shall take appropriate steps to ensure that the proper equipment for handling blood or bodily fluids is available at all worksites.”

—*SEIU and City of Emeryville, California*

“The Employer shall maintain a Needlestick Injury Log and shall record each exposure incident involving a sharp on the Log within 14 working days of the incident . . .

General Universal Precautions shall be observed to prevent contact with blood or other potentially infectious materials. Under circumstances in which differentiation between body fluid types is difficult or impossible, all body fluids shall be considered potentially infectious materials.”

—*American Federation of Nurses, SEIU 535, and Encino-Tarzana Regional Medical Center, 1998-2000*

“Those departments or agencies in which there is potential for occupational exposure to HIV, HBV, and TB, as determined by the New York State Department of Labor, shall establish and promulgate policies consistent with



generally accepted medical practices, New York State Department of Health Guidelines, and New York State Department of Labor Occupational Safety and Health Standards and Enforcement Guidelines.”

—*Public Employees Federation and State of New York, 1988-91*

“When infectious or contagious diseases are diagnosed among the inmate, resident, or Academy student population, upon request of the Local Union, the Appointing Authority shall meet promptly with the Local Union to determine what steps, if any, are necessary to educate employees about the diseases and to determine what steps, if any, are necessary to safeguard the health and safety of the employees as well as the inmates, residents, and students.”

—*AFSCME Council 6 and State of Minnesota, 1995-97*

“Policy Statement. In view of the recognition of the special hazards associated with risk or exposure to and transmission of bloodborne pathogens, including but not limited to HIV (human immunodeficiency virus), and HBV (hepatitis B virus), the following program has been implemented along with a special Bloodborne Pathogens Policy and Procedure Manual. Universal precautions will be used in all work activities with any potential for exposure to blood or other body fluids . . .”

**NOTE:** This contract continues by stating in detail the employer’s commitment to follow OSHA’s bloodborne pathogens standard. It includes sections on:

- Engineering and Work Practice Controls
- Handwashing
- Handling of Sharps
- Personal Habits & Food and Drink
- Specific Work Practices
- Storage and Transport of Blood or Other Infectious Body Fluids
- Equipment Contamination
- Personal Protective Equipment
- Cleaning and Disinfection
- Laundry Practices
- Biohazards Labeling.

—*AFSCME Local 829 (Council 57) and City of Foster City, California, 1994-96*

## Information and Training

“The Employer shall provide an annual infection control update for all employees which shall include, but not be limited to (1) transmission of bloodborne, airborne, and other infectious diseases; (2) universal precautions, respiratory precautions, and other infection control measures; and (3) post-needlestick and other blood and body fluid exposure management protocol.”

—*American Federation of Nurses, SEIU 535, and Encino-Tarzana Regional Medical Center, 1998-2000*

“Upon written request, an employee shall be provided with information on all communicable diseases to which he/she may have routine workplace exposure. Information provided to employees shall include the symptoms of the diseases, modes of transmission, methods of self-protection, proper workplace procedures, special precautions and recommendations for immunization where appropriate. The communicable disease policy and any subsequent revisions will be disseminated to the Agency Health and Safety Committee.”

—*AFSCME Local 11 and State of Ohio, 1994-97*

“Employees shall be immediately notified of any patient for whom they are expected to render direct patient care, who has a disease of a contagious type at the time the disease is either suspected to be contagious and brought to the attention of the employee’s immediate supervisor, or the disease is definitely diagnosed as contagious. The employees shall be notified of the type of disease and the type of precautionary measures to be taken prior to giving direct patient care to such patient.

Notification shall be made immediately to employees who, in the course of their duties in any department, may come in contact with a patient and/or personal effects of a patient, such as clothing, bedding, etc., who has a contagious type of disease. Employees shall be required to comply with universal precautions and all other policies adopted by the Infection Control Committee of the medical staff and approved by the Hospital Administration.”

—*AFSCME Local 1229 and Edwin Shaw Hospital, 1993-96*

## Vaccinations and Testing

“The employer will provide T.B. testing yearly and Hepatitis B inoculations at no cost to the employee.”

—*AFSCME District Council 89 and Adams County, Pennsylvania, 1994-96*

“The State will offer HBV antibody testing prior to administering the HBV vaccination series to experienced health care workers. Employees who are

found to have adequate levels of HBV antibodies will be counseled that HBV vaccination is not necessary.”

—CSEA/AFSCME and State of New York, June 1998

“In case of a suspected outbreak of a communicable disease, the Employer shall offer tests for such within the appropriate affected area, at no cost to the employees, where it gives such tests to the residents.”

—AFSCME and State of Illinois, 1994-97

“The Employer recognizes that some employees who work with individuals infected with hepatitis B virus may be at increased risk of acquiring hepatitis B infection. In accordance with the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) guidelines, hepatitis B vaccinations shall be made available to all employees who have high risk occupational exposure to the virus. Low risk employees will have vaccinations made available post exposure within the timelines required under federal regulations, i.e. if exposed to blood or other potentially infectious materials. Post exposure evaluation and follow up consultations will be made available for all employees who experience an exposure incident. . . . Hepatitis B vaccinations shall be offered within ten (10) working days of initial assignment to employees who have occupational exposure to blood or other potentially infectious materials. Employees who decline the initial vaccination may, at a later date, request and obtain the vaccination from the Employer. All hepatitis B vaccinations and related medical procedures pertaining to its administration are to be made available at no cost to the employee.”

—AFSCME Local 11 and State of Ohio, 1994-97

## Noise

The OSHA noise standard requires that employers use feasible administrative or engineering controls to reduce workers’ noise exposure where levels exceed 90 decibels (dBA), averaged over an 8-hour workday. Hearing protection (such as earplugs) must be furnished where levels cannot be reduced by administrative or engineering controls. Employers in general industry must have hearing conservation programs when noise exposure equals or exceeds 85 dBA, averaged over 8 hours.

(The noise standard is found in the Code of Federal Regulations, title 29, section 1910.95.)

Many health and safety experts and unions believe that the OSHA standard does not ensure that all workers will be protected from hearing loss and other health effects. Therefore, some unions have negotiated more stringent protection.

## Employer Responsibilities

“The Employer shall keep noise at a level which will not cause aural or other injury.”

—*The Newspaper Guild-CWA, Model Contract, February 1998*

“The Company will continue to administer a Noise Control and Hearing Conservation Program. The goal of the program will be to continuously reduce the percentage of employees required to wear hearing protection. A noise abatement plan will be developed on an annual basis and reviewed with the Local Union to provide an opportunity for suggestions intended to improve the plan. The Company recognizes the importance of considering the noise level when purchasing new equipment. The Company will make its best efforts to achieve an 80 dB standard, if and where technologically and financially feasible, and when the Company controls the purchasing decision.”

—*UAW Local 2244 and New United Motor Manufacturing, Inc., August 1998*

## Stress, Speed-up, and Staffing

Job stress can be caused by a heavy workload, poor supervisor-employee interactions, the threat of workplace violence, and other factors. Some of these causes are covered in other sections of this chapter.

Speed-up is one important cause of stress in the workplace today. Downsizing and layoffs can lead to increased workload and speed-up for those who remain behind. This can contribute to stress and other safety and health problems. Some unions have addressed this problem through explicit limits on workload and other measures.

### Stress

“Establish a new training program for operators who are about to complete ten years of service to include accident reduction strategies, awareness of the AC and regional transit systems, and provide strategies for anti-burnout interventions.”

—*ATU Local 192 and AC Transit, Oakland, California*

“All Employees . . . [including] licensed psychiatric technicians, licensed vocational nurses, and psychiatric care technicians working in direct services at Hope Community Mental Health Center shall be granted, effective October 1, 1979, and on each anniversary date of hire thereafter, a maximum of one day paid stress leave after one year of continuous employment, two days after two years of continuous employment, three days after three years

of continuous employment, and three days for each continuous year of employment thereafter. Such days must be used prior to the next anniversary date of hire and shall be taken after obtaining prior approval from the employer's supervisor and shall not be cumulative.”

—*SEIU Local 399 and Hope Community Mental Health Center, 1979-81*

## Workload

“Longshoremen on cargo handling operations shall not be required to work when in good faith they believe that to do so will result in an onerous workload. The Union pledges in good faith that the onerous workload claim will not be used as a gimmick. The employer shall have the option of having the men claiming onerousness stand by until a decision is reached or ‘working around’ the situation until it can be resolved. . . .

There shall be no interference by the Union with the Employer's right to operate efficiently and to change methods of work and to utilize labor-saving devices and to direct the work through employer representatives while explicitly observing the provisions and conditions of this Contract Document protecting the safety and welfare of the employees and avoiding speedup: ‘Speedup’ refers to an onerous workload on the individual worker; it shall not be construed to refer to increased production resulting from more efficient utilization and organization of the workforce, introduction of labor-saving devices, or removal of work restrictions.”

—*ILWU and Pacific Maritime Association, 1993-96*

“There shall be no imposition of speedup or unreasonable duties upon an employee. Whenever the work force is reduced below normal because of vacations, holidays, or sick leave, sufficient additional employees shall be hired so as to prevent an increase in the work load.”

—*The Newspaper Guild/CWA, Model Contract, February 1998*

“A room cleaner or bed maker in Class ‘A’ hotels . . . shall not be required to clean more than 14 rooms during an eight (8) hour shift. Effective August 14, 2000, when a room cleaner is assigned 7 or more checkouts per day, the daily room assignment shall be reduced by one room or credit; when a room cleaner is assigned 10 or more checkouts per day, the daily room assignment shall be reduced by two rooms or credits.

The hotel agrees to discuss with the Union, upon request, any concerns about room cleaners work load.”

—*HERE Local 2 and San Francisco Multi-employer Hotel Group, 1999-2004*

## Staffing

“The Union shall be notified at least two (2) weeks in advance of any permanent reduction in staffing levels on the wards/units, unless the reduction includes a change in work schedules in which case three (3) weeks notice shall be given. Upon request, the Union shall have the right to discuss the safety impact of such decisions and may process a grievance alleging that an unsafe condition results.”

—*State of Connecticut Health Care Facilities and Local 1199NE*

“The Employer shall make reasonable efforts to replace employees when necessary to patient care when employees have been removed from the schedule due to quits, terminations, leaves of absence, or other unexpected reasons.”

—*SEIU District 1199P and University Park Nursing Center, 1996-99*

“It shall be the policy of the Employer to maintain staffing consistent with quality patient care and worker safety. Staffing ratios and acuity shall take worker and resident safety into account. The Employer agrees to complete a census of all residents to determine special lifting considerations. Management shall maintain staffing levels that provide reasonable work loads based on staffing levels set by state law. In the event call offs reduce staffing, management will make its best effort to replace call offs.”

—*SEIU District 1199P and Beaver Valley Nursing and Rehabilitation Center, 1998-2001*

## Tobacco Smoke

Exposure to tobacco smoke is known to cause cancer, breathing problems, and other serious health conditions. More and more state and local regulations restrict smoking in the workplace. Some unions have negotiated a smoke-free workplace.

Since unions represent both smokers and non-smokers, contracts often provide for assistance to workers who want to quit, such as smoking cessation programs.

## Smoking Policy

“In keeping with the parties’ concern for the health, safety, and well-being of all SSA employees, there shall be no smoking in any SSA facility.

The parties agree that they will intensify efforts to assist those employees who are interested in breaking the smoking habit. We are committed to

making cessation programs available to each and every employee who wishes to participate in them. The cost of SSA-sponsored or approved programs will be paid by SSA, not by the employees. SSA-sponsored programs will be offered on the clock unless not available during duty hours. Programs approved by or sponsored by SSA will include or be similar to programs conducted by the American Lung Association or the American Heart Association.”

—*AFGE and Social Security Administration, November 1993*

“Smoking is prohibited in all facilities owned or leased in the name of the Board of County Commissioners, Lucas County, Ohio as per resolution #94-320. A covered butt hut shall be provided by the Employer within 6 months of the signing of this agreement and shall be located on the 4th floor of the attached parking structure. The existing smoking room shall be permanently designated the union office of the CSEA Chapter.”

—*AFSCME Local 544 and Lucas County (Ohio) Commission, 1995-98*

## Vehicles

Many federal and state laws govern the safety of vehicles used on the job. Some unions have negotiated to ensure that vehicles meet or exceed these existing safety standards. Others have agreed to procedures that protect workers who report unsafe vehicles or refuse to operate them.

### Safe Vehicles

“For all employees covered by this Agreement, the Employer shall. . . . Maintain in safe working condition all City owned motor vehicles . . .”

—*AFSCME Local 3999 (Council 18) and City of Santa Fe, New Mexico, 1995-97*

### Refusal To Operate

“The Employer shall not require employees to take out on the streets or highways any vehicle, or use any type of equipment, that is not in a safe operating condition or equipped with the safety appliances prescribed by law. . . .

It shall not be a violation of this Agreement, or cause for disciplinary action, where employees refuse to operate equipment or a vehicle when such operation constitutes a violation of any state or federal rules, regulations, standards or orders applicable to commercial motor vehicle safety or health, or because of the employee’s reasonable apprehension of serious injury to himself/herself or the public due to the unsafe conditions as set out in any

state or federal rules, regulations, standards or orders applicable to commercial motor vehicle safety or health to include Part 392.14 of the Federal Motor Carrier Regulations.

All equipment which is refused, or has been written up for repair, because not mechanically sound or properly equipped, shall be appropriately tagged, and placed out of service, so that it cannot be used by other drivers, or employees until the Automotive/Maintenance Department has adjusted the complaint.

Employees shall immediately, or at the end of their shifts, report all known defects of equipment on a suitable form furnished by the Employer. The Employer shall not ask or require any employee to utilize equipment that has been reported by any other employee as being in an unsafe condition. Such equipment will be red tagged, as necessary, by automotive/maintenance personnel. . . . Copies of the car-condition reports or Driver Vehicle Inspection Reports (DVIR) will be available in centers for review by drivers . . .”

—*IBT and United Parcel Service, 1997-2002*

## **Workplace Violence**

Workplace violence has become the second leading cause of death on the job. Weekly, an average of 20 U.S. workers are murdered and 20,000 are assaulted while at work. Research indicates that 85% of workplace homicides are due to robberies and other crimes.

OSHA has issued guidelines, but not enforceable standards, for protection against workplace violence. To date, OSHA guidelines exist only for health care institutions and late-night retail establishments. Some unions, particularly those whose members handle money or have frequent contact with the general public, have included workplace violence language in their contracts. Clauses may include measures to prevent violence and manage violent situations, programs to inform and train workers, and follow-up support for workers after a violent incident. (For more information, see LOHP’s publication *Violence on the Job: A Guidebook for Labor and Management*.)

### **Prevention**

“In developing measures and procedures to prevent violence, priority should be given to options such as job redesign, adequate staffing levels and improving the working environment, before considering the need for personal protection or alarms.”

—*OPEIU 491 Model Language*



“The Employer has a responsibility to take all reasonably practical steps to protect nurses from physical assault on the job.”

—SEIU Local 1991 and Public Health Trust, Miami-Dade County, Florida, 1997-99

“The Employer agrees to maintain reasonably secure parking facilities for all employees. . . . Security will be provided for employees who work at night and on weekends.”

—AFSCME Local 544-1 (Ohio Council 8) and  
Lucas County Dept. of Human Services, 1991-93

“The Company has for a long period of time followed a policy which provided a method whereby employees feeling the need for co-workers to accompany them on certain specific assignments in high crime areas might request such assistance. The Company will continue this policy.”

—IBEW, Survey of Utility Collective Bargaining Agreement Language, January 1995

“During hours of darkness, or when an employee’s workstation is in a remote area, Clerical/Technical unit employees may request that campus police provide a security escort for them. An escort shall be provided upon employee’s request. The escort may be a police aide, police officer, police cadet, or other District employee.”

—AFT Local 1521 and Los Angeles Community College District, 1998

“The employer shall provide two-way radios, alarms and/or paging systems, or other electronic warning devices or means of summoning immediate aid where employees ascertain a need. All equipment shall be maintained and periodically tested, and employees will receive training in the operation of the equipment.”

—SEIU Sample Contract Language to Protect Workers from On-the-Job Assault, 1995

“In worksites where actual violence is a continuing problem, the Commonwealth shall provide adequate safeguards, including security guards where necessary.

At those sites where employees are continually faced with threats of physical harm and/or verbal abuse, local representatives of the Employer and the Union shall meet to develop local policies to deal with such occurrences. If no agreement can be reached, the Employer and the Union shall meet and discuss at the Agency level to develop local policies to deal with such occurrences . . .”

—SEIU Local 668 and State of Pennsylvania, 1995

## Staffing

“The Employer agrees that, where there is a risk of violence, an adequate level of trained employees must be present. The Employer recognizes that workloads can lead to fatigue and a diminished ability both to identify and to subsequently deal with potentially violent situations.”

—OPEIU 491 Model Language

“The employer agrees to provide an adequate level of trained staff. Employees will not be required to work alone in potentially violent situations. . . .

Where appropriate, the employer shall institute additional security measures including, but not limited to:

- installation of metal detectors;
- installation of surveillance cameras;
- limiting public access to the facility and specific departments or units;
- installation of bullet-proof glass;
- installation of emergency ‘panic’ buttons to alert security personnel.”

—SEIU Sample Contract Language to Protect Workers from On-the-Job Assault, 1995

## Information and Training

“In an effort to provide a safer work environment, and to make Clerical/ Technical unit and management employees aware of issues regarding violence in the workplace, the District and the AFT shall develop training programs, which shall include, but not be limited to, the following topics:

- Security measures already existing in the workplace.
- ‘Sensitivity’ training.
- Recognizing threatening or potentially threatening situations, and the proper procedure for reporting them to campus and/or local law enforcement.
- Personal safety training to assist employees in avoiding violent or potentially violent situations, and to prepare them to better deal with such situations should they arise.

Violence in the Workplace procedures shall be published and distributed. The District and the AFT shall be responsible for providing an education and training program. Clerical/Technical unit employees shall attend the initial training and shall receive appropriate release time for this and subsequent training. The AFT and the District shall develop procedures for training new employees . . .”

—*AFT Local 1521 and Los Angeles Community College District, 1998*

“Employees will be notified about potentially violent or aggressive patients, residents or clients, and will work/travel in pairs when required to work under such circumstances.

The employer shall provide training to all employees at risk of assault on how to defuse potentially violent situations and verbal confrontation. Employers shall also be trained in self-protection. Training should include, but not be limited to: discussion of how to recognize warning signs and possible triggers to violence; how to resist attack and avoid escalation of the situation; how to control and defuse aggressive situations; and a full review of the employer’s written policy for dealing with assault on the job.”

—*SEIU Sample Contract Language to Protect Workers from On-the-Job Assault, 1995*

“Employees . . . that deal directly with patients shall be given training in resident control and self-defense.”

—*SEIU Local 668 and State of Pennsylvania, 1995*

## Follow-up Support

“The Employer shall provide employees appropriate and adequate Critical Incident Stress Debriefing (CISD). CISD is to be used for critical job-related incidents including, but not limited to, mass casualty, work peer suicide, serious work injury, and/or work-related death of co-workers.”

—*AFSCME Local 3999 (Council 18) and City of Santa Fe, New Mexico, 1995-97*

“An employee who is a victim of an assault arising out of his/her employment with the Commonwealth will be granted sufficient time off without loss of pay or leave time to file related criminal charges. If the Employer is subsequently made aware of the necessity for the employee to testify at any criminal proceeding arising out of such work-related criminal charge, the employee shall be granted reasonable time off without loss of pay or leave time. In addition, the Employer shall reimburse the employee for costs, if any, for the filing of such criminal charges. The provisions of the Section shall not be applicable where the employee is the aggressor.”

—*SEIU Local 668 and State of Pennsylvania, 1995*

“If an employee is off due to injury from an unprovoked assault, serious accident, or is hospitalized because of physical injury, he/she shall receive his/her regular rate of pay for his/her regular assigned hours for each workday lost during the three-day waiting period provided by the California Worker’s Compensation Act.”

—*ATU Local 192 and AC Transit, Oakland, California*

“Assault leave shall be granted to an employee who is unable to work and who, therefore, is absent from his/her assigned duties because of disability resulting from a physical assault which is clearly unprovoked. Said leave shall not be charged against sick leave earned. Said employee shall be granted the aforementioned assault leave and shall be maintained on full pay status during such absence, up to a maximum of ninety (90) working days.”

—*OAPSE/AFSCME Local 461-1 and Mathews Board of Education (Ohio), 1991-94*

“Leave shall be granted from the first day of absence resulting from assault and/or battery but paid leave shall not exceed one calendar year. . . .

When an employee is absent because of such assault and/or battery, the employee will be paid his/her full salary for the assignment in which serving when injured for a maximum of one calendar year. Except for the one year provision, compensation is paid under the same provisions as apply to other industrial accidents . . .”

—*NEA and Los Angeles College System*

“The Employer and the Union recognize that, where preventive measures have failed to prevent violent incidents, counseling and support must be available to help victims recover from such incidents.

Therefore, where the employee is a victim of violence, the Employer agrees to reimburse the employee for any counseling sessions with a licensed counselor of the employee’s choice.”

—*OPEIU 491 Model Language*

“The employer shall, in the event of an incident of assault, provide counseling and support for the affected employee(s). Employees are to be compensated for lost days of work, counseling sessions, hospitalization and other relevant expenses.

The employer shall offer referral information and assistance to any employee who is assaulted by a patient, visitor, or member of the public. Such information shall include, but not be limited to, the employee’s legal right to press charges in a court of law.”

—*SEIU Sample Contract Language to Protect Workers from On-the-Job Assault, 1995*

## Committees

“All incidents involving aggression or violence shall be brought to the attention of the Health and Safety Committee. The Employer agrees that the Health and Safety Committee shall concern itself with all matters relating to violence to staff, including but not limited to:

1. developing violence policies;
2. developing measures and procedures to prevent violence to staff;
3. receiving and reviewing reports of violent incidents; and
4. developing and implementing violence training programs.

Where no Union-Employer Health and Safety Committee has been established, the Employer agrees to consult with the Union.”

—OPEIU 491 Model Language



# PROTECTIVE MEASURES

**G**ood health and safety practice dictates that engineering controls be used to reduce or eliminate hazards where feasible. For example, dangerous processes can be enclosed so they no longer present a hazard, or use of some toxic materials can be eliminated altogether.

Administrative controls are considered a second-choice line of defense. These can include scheduling less time doing hazardous work, requiring good work practices, and worker training.

Only if engineering and administrative controls are impossible, or if these controls cannot reduce hazards to safe levels, should employers require workers to use personal protective equipment (PPE). In fact, several OSHA standards require that PPE be used only as a last resort.

Unions may decide to negotiate contract language confirming that employers will first consider engineering and administrative controls before workers are required to use PPE.

If PPE is used, OSHA requires employers to give workers most items at no cost. This PPE may include safety glasses, coveralls, earplugs, respirators, and other gear. Some contracts go beyond OSHA requirements and provide workers with optional additional PPE at no cost or at a discount.

Some contracts also cover the employer's obligation to have an emergency response plan, to provide first aid and other medical services in emergencies, and to maintain sanitary facilities.

## **Controlling Hazards**

Engineering controls remove the source of the hazard by redesigning the process that creates the hazard, or by eliminating the hazard altogether from the workplace and the environment. Administrative controls reduce exposure through scheduling, work practices, and training.

One effective type of engineering control is a "toxics-use reduction" program. Under some contracts, employers are required to find alternatives to the use of toxic materials.

Many union contracts confirm and clarify the employer's obligation to purchase and maintain personal protective equipment (PPE). Some contracts allow workers to purchase optional items (not required by law) at a discount. For example, these may include safety shoes or prescription eyewear.

## **Engineering Controls**

“Engineering controls shall be the method of choice in reducing cumulative trauma. Appropriate equipment will be made available to all workers. Available technologies shall be evaluated by the Health and Safety Committee. The Ergonomics Subcommittee shall identify, recommend and test engineering controls such as patient handling devices. During testing and evaluation, the Committee shall obtain and consider input from employees who perform the jobs being studied or evaluated. A regular program of maintenance and repairs shall be established to assure that all equipment continues to be available for use.”

—SEIU District 1199P and Mercy Health Care Center, 1997-99

“When engineering controls are determined to be necessary, feasible administrative controls will be used as necessary to control ergonomic risk [during the period] before engineering controls are implemented. Administrative controls will not be used as a substitute for engineering controls.”

—UAW Local 2244 and New United Motor Manufacturing, Inc., 1998

## **Toxics-Use Reduction**

“Effective control of hazardous materials will serve to protect the employees . . . as well as the environment in the surrounding community. The



company is committed to the continuous reduction in the use of hazardous materials. This will be accomplished through process changes and ongoing efforts to identify safer substitutes for materials currently in use. This program will be directed by the Plant Health and Safety Committee and is expected to reduce employee exposures and protect the environment.

The Company is committed to purchase only those hazardous materials that have adequate Material Safety Data Sheets and labels. When reviewing Material Safety Data Sheets, the Company will confirm supplier provided health warnings through toxicology references. The Company is committed to proper labeling, as required by the standard, of all transfer containers used to carry hazardous materials and will make an ongoing effort to accomplish this.”

—UAW Model Health and Safety Contract Language, 1998

“A program for the control of hazardous materials has been developed which requires that hazardous materials be evaluated and approved prior to use by the plant Hazardous Materials Control Committee. A Union Health and Safety Representative will be a member of this committee which will meet on a regular basis and develop procedures for its operation.”

—UAW and Mitsubishi Manufacturing Motors of America, 1995

“The company shall, in consultation with the Committee:

- (a) Ensure to the greatest extent possible the usage of substances in work processes which will eliminate or minimize harm to the employees and to the environment.
- (b) Evaluate all substances used or produced in the workplace to determine if a less hazardous substance can be substituted.
- (c) Where a less hazardous substance exists, use it in place of the more harmful substance.
- (d) If it is determined that a substance cannot be replaced in a particular application by an existing less hazardous substitute, conduct scientific or technical research to develop less hazardous substances beginning with machining fluids and solvents.
- (e) While such research is being undertaken, completely enclose the work process where machining fluids are being used. This will reduce workers’ exposure to 0.2 mg/m<sup>3</sup> in air, and allow no skin exposure.
- (f) All substances that cannot be substituted shall be evaluated and handled in the following manner in order of preference with the preferred method to be determined by the Committee:
  - (i) reused

- (ii) recycled
- (iii) disposed of in a manner to eliminate or minimize harm to the environment
- (iv) stored in an environmentally sound manner according to established regulations or guidelines.”

—*Canadian Auto Workers, Model Language*

## **Administrative Controls**

“Every employee actively working at a VDT terminal shall be required to take a fifteen (15) minute work break every hour away from the terminal to accomplish other work. Such breaks shall be in addition to regularly scheduled rest breaks. Employees shall not be required to operate VDT equipment fifteen (15) minutes before the end of his/her shift.”

—*AFT Local 1521 and Los Angeles Community College District, 1998*

“The Employer agrees that all irregular or incompatible packages such as bars, buckets, exposed metal parts, tire rims, etc., shall be given special handling in accordance with UPS handling methods and local conditions.”

—*IBT and United Parcel Service, 1997-2002*

## **Personal Protective Equipment**

“The Employer shall provide all employees, at no cost to them, all personal protective equipment or devices to be used by them in connection with their work. All such equipment and devices shall be maintained by the Employer in good working order.”

—*IBEW, Survey of Utility Collective Bargaining Agreement Language, January 1995*

“The City agrees to provide personal safety equipment, including safety goggles, safety glasses, safety shields, ear protection, safety vests, safety helmets and foot protection to all employees whose job duties necessitate this equipment.

The City will continue to provide slicker boots, hip boots, rain pants, rain jackets and gloves and will also provide helmet liners and helmet chin straps to all employees whose job duties necessitate this equipment.”

—*AFSCME Council 8, Local 100, and City of Cleveland, Ohio, March 1998*

“An employee regularly wearing prescription glasses shall be furnished prescription safety glasses by the Company, if the nature of his work requires such protection; however, prescription for such glasses shall be provided by the employee.”

—*UFCW Local 538 and Oscar Mayer Foods Co., late 1970s*

“The City will provide a purchase program to its employees who because of the regular course of their work exposure require in its opinion use of safety shoes, or special soled shoes, and safety glasses.

The purchase program shall make these items available to the employee at sixty percent (60%) of the cost of the item to the City with the remaining forty percent (40%) to be paid by the employee. However, when the City requires the use of safety shoes or special soled shoes, on hundred percent (100%) of the cost shall be borne by the City. A payroll deduction system will be established whereby the employee can authorize payment for items purchased under this program through the automatic deduction from the employee’s paycheck.”

—*AFSCME Council 8 and City of Toledo, Ohio*

## **Responding to Accidents and Emergencies**

Federal, state, and local regulations require employers to plan and train workers for emergencies such as accidents, fires, explosions, releases of toxic substances, and natural disasters. OSHA, for example, requires employers to plan for the evacuation of employees, safe cleanup of hazardous substances, and emergency medical care when needed.

OSHA standards and regulations are published in a series of volumes called the Code of Federal Regulations. The requirements above are found in the following sections of title 29 of the Code of Federal Regulations: 1910.38 (emergency action and fire prevention); 1910.119 (managing highly hazardous chemicals); 1910.120 (handling and cleaning up hazardous wastes); 1910.120(q) (responding to emergencies caused by release of hazardous substances); 1910.151 (medical services and first aid); and 1910.1200 (training regarding emergency response procedures). See Appendix 3 for information on obtaining standards and regulations.

The union contract may spell out in greater detail how employees are to be trained to deal with emergencies, evacuated from dangerous situations, and given emergency medical care if needed. Some employers, for example, have agreed to provide training in rescue of co-workers overcome by toxic chemicals, and in cardio-pulmonary resuscitation (CPR). Some have agreed to develop detailed plans for transport of injured workers to emergency medical facilities, to provide on-site medical services, and to maintain first aid kits in specific locations.

## Escape and Rescue Procedures

“ . . . Employees shall be instructed in escape and emergency rescue procedures. A detailed outline of the training procedures shall be included in the program;

[The program shall include] posting of emergency escape procedures in areas of potential hazard;

[There shall be] an emergency rescue program which shall include provisions for treatment of carbon monoxide exposures, emergency rescue techniques for various parts of the plant, and appropriate rescue and recovery equipment including resuscitators. The program shall include identification of the Employees trained in emergency rescue techniques.”

—*USWA and Bethlehem Steel, 1993-99*

## CPR Training

“The employer agrees to make reasonable efforts to assure that each installation has adequate personnel available to administer cardio-pulmonary resuscitation (CPR).

- The Administration will provide CPR shields and masks for CPR volunteers.
- Training for CPR certification and/or recertification will be at no cost to the volunteer. . . .

The employer agrees to maintain adequate first aid supplies at each permanent installation. All employees will have reasonable access to these supplies.”

—*AFGE and Social Security Administration, March 1996*

## First Aid

“Management will provide and maintain at least one fully stocked first aid kit on each floor in a well marked area. Crew leaders and supervisors will have fully stocked first aid kits in their County vehicles.”

—*AFSCME Local 101 and Montgomery County, Ohio, 1994-95*

## Medical Services

“The employer shall provide and maintain in-plant emergency medical services. These services shall include individuals trained in first-aid and

CPR, adequate supplies and equipment for emergency treatment, and a well detailed emergency transport plan.”

—*IBEW, Survey of Utility Collective Bargaining Agreement Language, January 1995*

## **Sanitation**

OSHA as well as state and local agencies require many employers to provide restrooms, washing facilities, and clean drinking water. However, these requirements vary depending on the industry and the number of workers at a given location. Worker protection in agriculture was especially weak until OSHA issued its standard on field sanitation in 1987. (The standard is found in the Code of Federal Regulations, title 29, section 1928.110.)

Union contracts may specify stricter requirements.

### **Field Sanitation**

“The Grower shall comply with all field sanitation requirements of applicable federal, state, or local statutes or regulations, regardless of the number of workers on the farm. As has been the case, all such field sanitation facilities shall be provided on all farms under contract regardless of number of workers, and shall be provided without cost to the workers.”

—*Farm Labor Organizing Committee and Vlasic Pickle Growers Association, 1994-99*



# INJURED WORKERS

What happens if a worker gets hurt or sick on the job? Most employers in the U.S. are required to pay for workers' compensation benefits. However, each state has its own, separate system of workers' compensation rights and procedures. Some states have "carved out" certain unions and employers from their usual rules, to allow them to bargain their own workers' compensation procedures. Federal employees are covered by different laws.

Unfortunately, most workers' compensation systems have significant limitations. Payments, rehabilitation services, and protection from job discrimination may be inadequate. Some unions have successfully negotiated additional benefits and protection for their injured members.

## Medical Care and Choice of Physician

Workers' compensation laws require employers to pay for medical care for employees hurt on the job. Some union contracts specify what kinds of medical services will be offered to an injured worker, and how the services will be provided.

In many states, the worker's "primary treating physician" makes medical determinations that affect the worker's eligibility for compensation payments, further medical treatment, and accommodations at work. However, the employer often has the right to select the primary treating physician. The union can negotiate to allow workers to make this selection themselves.

## Medical Services

“The Employer agrees that the first concern when an employee is injured on the job is to make certain that he/she gets prompt emergency medical aid. Doubts over whether medical attention is necessary will be resolved in favor of arranging medical aid.

When it is necessary to assist an employee to return home because of illness or incapacitation or to provide transportation to a medical facility, the Employer will arrange for transportation. If a coworker is required to transport the employee, there will be no charge to leave for the coworker.”

—*AFGE and Social Security Administration, 1996*

“The Company agrees to provide quality medical care for all employees and staff at the Health Center during plantwide production shifts with scheduled licensed and registered nurses and physicians. Nursing support will be scheduled 24 hours per day 7 days per week. Physicians will be scheduled on both shifts.

The Company will establish and monitor quality of care measures for the Medical Department on a regular basis. The results will be made available to the Local Union. The Company further agrees to hire, within 90 days of the effective date of this contract, a recognized expert in the field of occupational medicine, mutually agreeable to the Union, to assist in the establishment of quality measures for the evaluation of medical care.”

—*UAW Model Health and Safety Contract Language, 1998*

## Choice of Physician

“A player will have the right to choose the surgeon who will perform surgery provided that (a) the player will consult with the Club physician as to his recommendation as to the need for, the timing of, and who should perform the surgery; and (b) the player will give due consideration to the Club physician’s recommendation.”

—*NFL Players Association and NFL Management Council, 1982*

## Resolving Medical and Legal Disputes

An injured worker can face lengthy legal proceedings and delays in benefits if there are disputes over findings by the primary treating physician. Some union contracts specify procedures for resolving disputes quickly.



Some contracts also guarantee that an injured worker may have a union representative present when interviewed by an insurance carrier or other third party.

### Third Physician

“[The employer’s physician and the employee’s physician will] agree upon and appoint a third qualified and disinterested physician, preferably a specialist, for the purpose of making a further medical examination of the flight attendant. . . . [T]he case shall be settled upon the basis of such findings.”

—*Association of Flight Attendants (Section 6) and U.S. Air, Inc., 1993*

“The Employer reserves the right to select its own medical examiner or doctor and the Union may, if it believes an injustice has been done an employee, have said employee re-examined at the employee’s expense. If the two (2) doctors disagree, the Employer and the Union shall mutually agree upon a third (3rd) doctor within ten (10) working days, whose decision shall be final and binding on the Employer, the Union and the employee. Neither the Employer nor the Union will attempt to circumvent the decision of the third (3rd) doctor and the expense of the third (3rd) doctor shall be equally divided between the Employer and the Union.

If the third (3rd) doctor agrees that the employee should be returned to work, the employee shall be reimbursed at his/her daily guarantee, less any other monies received back to the date of the examination by the Company doctor. It shall exclude any time the employee was not available for examination or work.”

—*IBT and United Parcel Service, 1997-2002*

### Representation at Interviews

“Not less than twenty-four (24) hours notice shall be provided to an employee of a workers’ compensation investigatory interview conducted by a workers’ compensation carrier or other similar third party representative. Upon request, the employee shall have the right to have union representation present for such an interview providing that it does not delay the interview.”

—*HERE Local 2 and San Francisco Multi-employer Hotel Group, 1999-2004*

## Preserving Wages and Benefits

Often workers’ compensation payments only partially replace wages that a worker loses because of time off from work to recover from a job injury. In a few cases, OSHA requires the employer to go further and fully reimburse

lost wages. For example, the OSHA lead standard requires full payment for some workers who must take time off due to high lead exposure. (OSHA standards and regulations are published in a series of volumes called the Code of Federal Regulations. The lead standard is found in the Code of Federal Regulations, title 29, section 1910.1025. See Appendix 3 for information on obtaining standards.)

Unions have negotiated for payments that supplement workers' compensation, as well as for maintenance of seniority and other job benefits when members are injured.

## Wages

“An employee who is injured while working shall be paid on a biweekly basis while off work, the difference between the amount paid by State Workmen's Compensation Insurance and the amount that the employee would have received as wages at his regular straight-time rate for fifty-two (52) weeks. The payment shall stop at the end of fifty-two (52) weeks or when any one (1) of the following conditions occur:

- When the employee stops receiving weekly Workmen's Compensation benefits, or
- When the employee returns to his regular job or to another job, or
- When the employee's case is either ruled on by the State Compensation Board or settlement is made with the Compensation Carrier, or
- When the employee is released by the doctor to return to some suitable work, or
- When the employee fails to report such release within forty-eight (48) hours to his supervisor, or
- At the termination of employment.

An employee who is off work under this clause . . . for a period of three (3) months or longer shall have any applicable step progression suspended on a month for month basis while he is off work. Registered apprentices are covered by the apprentice standards and therefore are excluded from this clause.”

—*IBEW, Survey of Utility Collective Bargaining Agreement Language, January 1995*

“Any employee who is injured on the job, and who must miss time from work on the day of the injury (or the following day) and on the instructions

of the Company physician or other physicians acceptable to the Company, will be paid special compensation pay up to the balance of the work day as well as the following day. Any employee who receives compensation pay for this time period due to a claim from Workers' Compensation shall not be eligible for special compensation pay.”

—OCAW Local 8-149 and Barr Laboratories, 1996-2001

## Benefits

“An employee receiving Workers' Compensation payments for a period of disability found compensable by the Workers' Compensation Board shall be treated as though on the payroll for the length of the disability not to exceed twelve months per injury for the sole purposes of accruing seniority, continuous service, health insurance, and Employee Benefit Fund contributions normally made by the State, accrual of vacation and sick leave, and personal leave. Additionally, such employee shall be treated as though on payroll for the period of disability not to exceed twelve months per injury for the purposes of retirement credit and contributions normally made by the State and/or the employee.”

—CSEA/AFSCME and State of New York, Administrative Services Unit, 1995-99

“. . . seniority shall be retained and accumulated during absences from work due to work injury or illness.”

—Operating Engineers

## Return to Work

The federal Americans With Disabilities Act (ADA) and some state laws prohibit employers from discriminating against an employee because of a serious disability. In addition, employers must provide “reasonable accommodations” in the workplace for these employees. Accommodations may include modified work schedules, restructured jobs, and special equipment that enables the employee to do the job. Many of these provisions also apply when employees with job-related disabilities return to work.

In some states, employers are also prohibited from retaliating against an employee for filing a workers' compensation claim or for getting hurt on the job. However, in practice these non-discrimination laws do not always ensure full protection of injured workers.

The ADA and state laws are complex. For example, federal courts around the U.S. have developed different, sometimes contradictory definitions of “disability,” “reasonable accommodation,” and “discrimination.”

Issues such as availability of modified work, wages for modified work, and “bumping” of co-workers complicate the process of returning an injured worker to the job. Some unions have negotiated specific rights and procedures in this area.

## Different Work

“An employee who is released by his doctor to return to work after a disabling on-the-job injury shall be entitled to the following:

- Assignment to productive work at the regular straight-time rate paid him at the time of the accident (unless the employee is still receiving compensation, then wages shall be the difference between regular wages and compensation) for a maximum of fifty-two (52) weeks computed from the time of the accident.
- An evaluation of capabilities by both the Company and the Union as to the type of work the employee is able to perform or may be able to perform in the future. Evaluation of the employee’s capabilities shall include but shall not be limited to a physical examination and doctors report, the employee’s physical and mental ability, attitude, willingness to work, and trainability.
- Depending upon evaluation of his capabilities, the employee shall be assigned without discrimination to an available job that he is physically and mentally able to perform. The initial rate for such assignment shall be at least seventy-five percent (75%) of the employee’s pre-accident rate. Both the Company and the Union agree to use their best efforts to assure that such assignment may eventually result in the employee being able to satisfactorily produce in a classification of the same or higher level of pay as may have been the final result of the employee’s pre-accident job.
- Depending upon the evaluation of the employee and where necessary and practical, the Company shall provide job related education and training.
- Employee returning to work under this Section shall be subject to the normal rules and regulations of the Company.”

—IBEW, *Survey of Utility Collective Bargaining Agreement Language, January 1995*

“The company agrees to offer every disabled employee a suitable job upon the employee’s return to work which shall continue as long as the disability lasts and shall do so according to the following process:

- The company shall modify the employee’s job to accommodate the employee’s disability.

- If the union agrees that it is physically or technically impossible or financially prohibitive or not in the best interest of the employee to modify the employee's job, the company shall offer the employee an alternate job or modified alternate job within the bargaining unit considered suitable by the union and the employee.
- If the union agrees that reduced hours of work are in the best interests of the employee, the employer shall accommodate the reduced hours of work modification with a letter of understanding pertaining to the employee. Wage replacement benefits for the time not worked may be paid by workers' compensation or by the insurance carrier but in no case shall the employee receive less income than the applicable benefit level.
- If the union agrees that a modified job classification is in the best interests of the employee, the company shall accommodate the change to the job classification with a letter of understanding pertaining to the employee.
- The seniority provisions of the collective agreement such as the job posting procedures shall only be set aside to accommodate disabled employees if the union agrees. The layoff and recall provisions of the collective agreement, however, shall apply in the same manner as if the person had not been disabled.
- The company agrees to hire people with permanent disabilities as 6% of all new hires.”

—*Canadian Auto Workers, Model Language*

“If an employee shall become unable to perform his regular duties because of a mental or physical disability, the Company may provide him with a job he can do without regard to any established seniority provisions. In no event will the Company consider an employee where the proximate cause of such disability is due to any matter or thing specified in the Sick Leave Plan exclusions.

The disabled employee shall be paid the regular wage rate for the job to which assigned provided, however, if such employee is so transferred to a job which carries a lower regular wage rate and has fifteen (15) or more years of continuous employment with the Company, he shall receive over and above such regular wage rate an added wage rate equal to twenty percent (20%) of the difference between the regular wage rate of his former job and the regular wage of the job to which he was transferred plus three and two thirds percent (3 2/3%) of such differential for each full year and major fraction of a year of seniority over fifteen (15) full years. All wage rates calculated on the basis of the foregoing shall be fixed at the nearest one-half cent . . . and no wage rate so calculated shall exceed in total seventy-five percent (75%) of such differential which total percentage shall include said twenty percent (20%).

If an employee with fifteen (15) or more years of service is retrogressed due to a disability resulting from an occupational illness or injury occurring in the course of and arising out of his employment with the Company, he will receive the maximum rate for the job classification in which he is placed, plus a percentage of the difference between his former rate of pay and such maximum for the new job classification. Such percentage will be twenty percent (20%) for fifteen (15) years of service and increased four percent (4%) for each additional year of service up to a maximum of one-hundred percent (100%) of such difference.

An employee who has been retrogressed under the provisions of this Article . . . shall retain his seniority in the classification from which he was so retrogressed for a maximum period of two (2) years, but not more than a period equal to his total continuous length of service within the department at the time of his retrogression. If he recovers from the disability during the period in which he has such retained seniority to the extent that he is considered by the Company to be qualified to perform the normal duties of the classification from which he was removed due to the disability or to any interim classification, this will be done provided his retained seniority is sufficient to displace other employees who occupy the job to which he is being restored. The Company may require medical evidence of the extent of his recovery on which to base its consideration.

Fifty percent (50%) regular wage rate increases shall be granted to such employee so long as he is receiving under Section 2 above more than the current regular wage rate for the job to which he shall be assigned.”

—*IBEW, Survey of Utility Collective Bargaining Agreement Language, January 1995*

## **Bumping**

“In the event that an individual cannot perform a specific job function due to illness, injury or physical sensitivity to substances present in the workplace, that individual will be given suitable alternative work, if such work is available, provided the employee provides the Company with a statement from his physician confirming that, despite the limitation that precludes him from performing his normal job functions, he is fit to perform the job functions of the available alternative work. In addition, the Company may, in its sole and unrestricted discretion, require that any employee claiming to have a job related illness or injury or a physical sensitivity that interferes with or precludes his performance of the normal responsibilities of his position submit to an examination by a physician chosen and paid for by the Company for the purpose of obtaining independent medical verification of the condition and any work limitations resulting from it. In the event no alternative work is available, “bumping” shall apply unless the Company determines in its discretion that allowing the employee to exercise “bumping” rights would be inconsistent with the Company’s overall interests

of ensuring regulatory compliance and product quality and integrity, and maximizing productivity, efficiency and safety. Employees who are transferred or bump into positions pursuant to this Section that have lower wage rates than their usual jobs shall be compensated at the higher rate for one (1) month, and will thereafter be compensated at the lower rate.”

—OCAW Local 8-149 and Barr Laboratories, 1996-2001

## Resolving ADA Issues

“The parties agree that the Joint Steering Committee shall establish a Subcommittee on health and safety issues including workers’ compensation issues. This Subcommittee will also study ADA issues, including possible changes in the law. The parties will have the power during the term of the Agreement to agree that ADA employment issues should be subject to binding arbitration by mutual agreement.”

—HERE Local 2 and San Francisco Multi-employer Hotel Group, 1999-2004

“The parties agree to abide by the provisions of the Americans with Disabilities Act. The Company shall be required to negotiate with the Local Union prior to providing a reasonable accommodation to a qualified bargaining unit employee.

The Company shall make a good faith effort to comply in a timely manner with requests for a reasonable accommodation because of a permanent disability. Any grievance concerning the accommodation not resolved at the center level hearing will be referred to the appropriate Union and Company co-chairs for the Local Area or to the Region Grievance Committee, if applicable. If not resolved at that level within ten (10) days, the grievance shall be submitted directly to the National Safety and Health Grievance Committee . . .

Any claim in dispute concerning rights under this Section shall be addressed under the grievance and arbitration procedures of this Agreement. A grievance may be filed by an employee or the Union, notwithstanding any contrary provision in any Supplement, Rider, or Addendum. The submission of a claim under this Section to the grievance and arbitration procedures of the Agreement shall not prohibit or impede an employee or the Union from pursuing their statutory rights under the Americans with Disabilities Act (ADA) or comparable state or local laws.

The parties agree that appropriate accommodations under this section are to be determined on a case by case basis.”

—IBT and United Parcel Service, 1997-2002





# KEY TO ABBREVIATIONS

<b>AFGE</b>	American Federation of Government Employees
<b>AFL-CIO</b>	American Federation of Labor—Congress of Industrial Organizations
<b>AFSCME</b>	American Federation of State, County and Municipal Employees
<b>AFT</b>	American Federation of Teachers
<b>ANSI</b>	American National Standards Institute
<b>APWU</b>	American Postal Workers Union
<b>ASHRAE</b>	American Society of Heating, Refrigerating, and Air-Conditioning Engineers
<b>ATU</b>	Amalgamated Transit Union
<b>BAC</b>	International Union of Bricklayers and Allied Craftworkers
<b>BMWE</b>	Brotherhood of Maintenance of Way Employes

<b>CSEA</b>	Civil Service Employees Association, New York (affiliated with AFSCME)
<b>CWA</b>	Communications Workers of America
<b>EPA</b>	Environmental Protection Agency
<b>FLOC</b>	Farm Labor Organizing Committee
<b>HERE</b>	Hotel Employees & Restaurant Employees International Union
<b>IAMAW</b>	International Association of Machinists and Aerospace Workers
<b>IBEW</b>	International Brotherhood of Electrical Workers
<b>IBP</b>	Iowa Beef Processors, Inc.
<b>IBPAT</b>	International Brotherhood of Painters and Allied Trades
<b>IBT</b>	International Brotherhood of Teamsters
<b>ILWU</b>	International Longshore and Warehouse Union
<b>MSDS</b>	Material Safety Data Sheet
<b>NEA</b>	National Education Association
<b>NFL</b>	National Football League
<b>NIOSH</b>	National Institute for Occupational Safety and Health
<b>NLRB</b>	National Labor Relations Board
<b>NUHHCE</b>	National Union of Hospital and Health Care Employees (affiliated with AFSCME)
<b>NYCOSH</b>	New York Committee on Occupational Safety and Health
<b>OAPSE</b>	Ohio Association of Public School Employees (affiliated with AFSCME)
<b>OCAW</b>	Oil, Chemical and Atomic Workers International Union (now part of PACE)

---

<b>OPEIU</b>	Office and Professional Employees International Union
<b>OSHA</b>	Occupational Safety and Health Administration
<b>PACE</b>	Paper, Allied-Industrial, Chemical and Energy Workers International Union
<b>PEF</b>	Public Employees Federation, New York
<b>SEIU</b>	Service Employees International Union
<b>UAW</b>	International Union, United Automobile, Aerospace and Agricultural Implement Workers of America
<b>UFCW</b>	United Food and Commercial Workers International Union
<b>USWA</b>	United Steelworkers of America



# TOOLS FOR COLLECTING INFORMATION

Chapter 1 discusses two important techniques a union can use to involve members when preparing for bargaining. **Worker health and safety surveys** can help the union identify hazards while simultaneously building member interest and commitment. **Risk mapping** is a highly visual process that can involve members when language or reading limitations make written surveys difficult.

## Worker Surveys

A worker survey is a useful way to identify the major health and safety problems in the workplace. In addition, the union can use this opportunity to talk with members, educate them, and get their opinions about bargaining priorities.

When designing a survey project, the union should first determine:

- What is the purpose of the survey?
- How many workers will be surveyed? How will they be selected? Will they be a representative cross-section of different job titles, work locations, departments, and shifts?
- How will the survey be conducted? Will it be written or oral?

- Will a questionnaire or form be used? How will it be developed? What questions will be included?
- Will the form be tested before it is used?
- How will the results be compiled?
- How will the results be used?
- How will the results be reported back to the workers?

A sample survey form appears on the next page. Questions can be added, deleted, or changed to make the form relevant to your particular situation. Any form you develop should be simple to fill out, use everyday language, and include an open-ended section. The form should begin with a few sentences that explain the purpose of the survey to participants.

If the workforce includes speakers of several languages, it may be useful to translate the form, or have multilingual union members help co-workers fill it out.

When the results of your survey have been compiled, report the findings at a union meeting or through a leaflet or union newsletter.

Survey results should be used in conjunction with other information. To use the results to formulate bargaining proposals, the union may need to consult health and safety professionals such as industrial hygienists, occupational physicians, OSHA personnel, or others.

# HEALTH AND SAFETY SURVEY

The union is distributing this questionnaire to learn more about health and safety conditions in the workplace. With your help, we may be able to win health and safety improvements in the next contract. Try to answer each question as completely as possible.

Name (*optional*) \_\_\_\_\_

Work Location and Department \_\_\_\_\_

Job Title \_\_\_\_\_ Years at This Job \_\_\_\_\_

1. Have you ever been injured at work?  YES  NO

If yes, please describe:

2. Have you ever had an illness that seemed related to your job?  YES  NO

If yes, please describe any symptoms you have had (for example, coughing, back pain, wrist pain, dizziness, etc.):

If yes, please describe how the symptoms seemed related to your job:

3. Do you work with chemicals?  YES  NO

If yes, chemical names:

4. Have you ever been trained about toxic chemicals and other hazards in this workplace?  YES  NO

- 5.** Do you use personal protective equipment (PPE), like a respirator, hard hat, or gloves?  **YES**  **NO**

If yes, please list:

- 6.** If you use PPE, do you always receive the right equipment and is it in good condition?  **YES**  **NO**

If no, please describe:

- 7.** Has OSHA ever conducted an inspection of your workplace?  **YES**  **NO**  
 **Don't Know**

If yes, please describe:

- 8.** Please describe any areas or conditions in your workplace that you consider hazardous.

- 9.** What do you think is the most important health and safety improvement needed in this workplace?

- 10.** Do you know of any coming workplace changes that might affect worker health and safety? What changes do you expect, and what problems might they cause?



## Risk Mapping

“Risk mapping” is another technique the union can use to gather information about hazards. The drawing on the next page is an example of a risk map. By drawing a picture of their workplace, workers can identify the risks to their health and safety, discuss the problems, and decide what needs to be done. To prepare for health and safety bargaining, the union may want to have teams create a risk map for each major work location. The maps do not need to be elaborate or well drawn. Rough sketches work just as well.

Risk mapping helps to define priorities and long range goals. It is a flexible activity that encourages members to work collectively. The idea of risk mapping was first developed in Mexico, where trade unionists drew wall paintings or murals. There is a great benefit in relying on imagination, identification, and drawing skills rather than more formal written techniques. Workers can participate regardless of the language they speak or their literacy level. Risk mapping is now used all over the world.

A large piece of paper and some colored pens are all you need. Workers draw a rough outline (in black) of their workplace and then add important machinery, equipment, storage areas, work stations, etc. Then, step by step, the group can point out hazards in the area, using various colors and/or symbols. Here is one possible color code:

Black = Workplace floor plan, including doors, windows, furniture, equipment, and machinery

Red = Safety hazards

Green = Chemical hazards

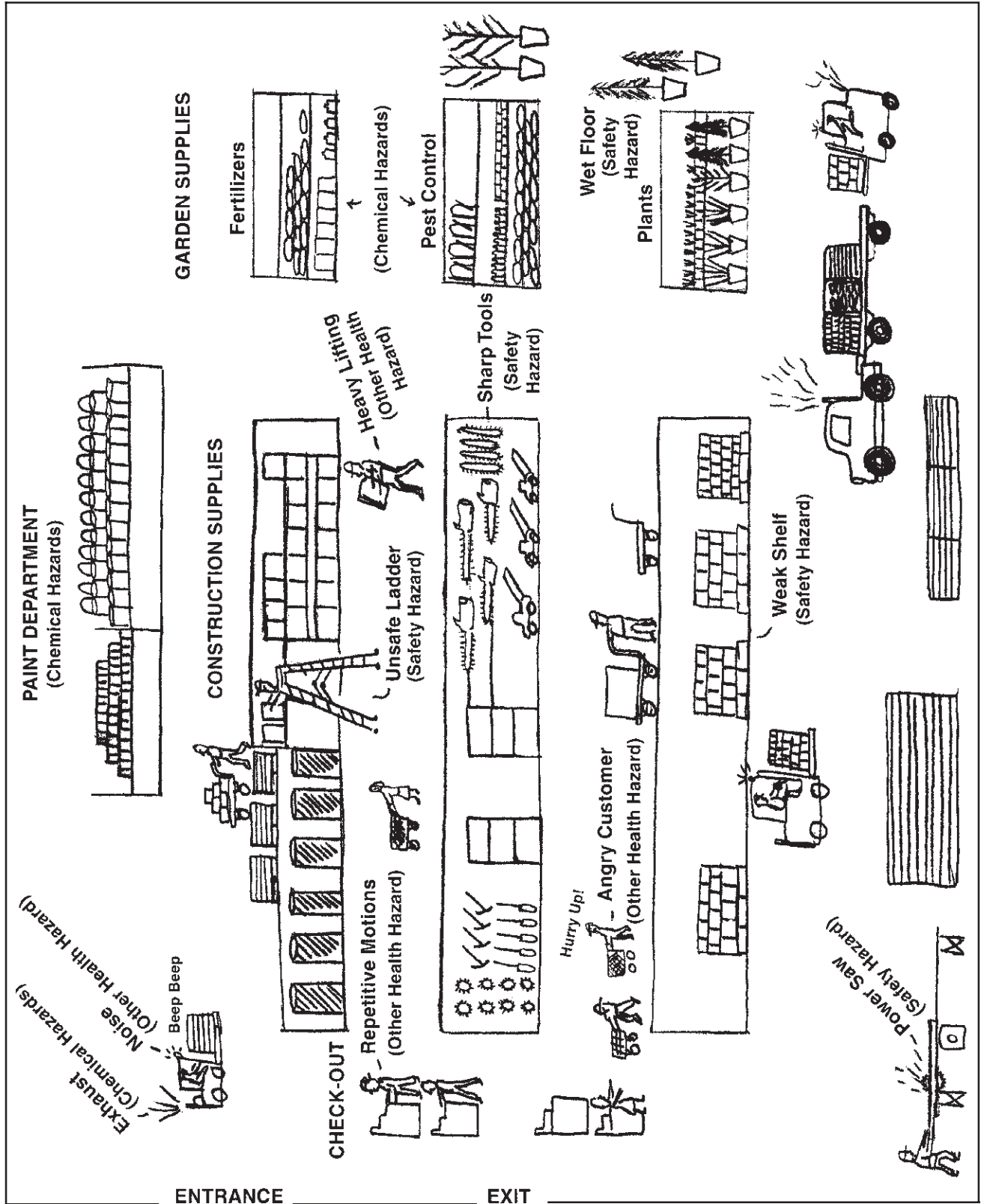
Blue = Other health hazards (noise, ergonomic hazards, etc.)

You can categorize hazards differently if appropriate.

When the map is complete, the next step is to analyze the hazards and decide what changes would help. For each workplace mapped, the union should try to determine:

- Which problems need further investigation or information
- Which problems can be corrected through enforcement of the existing contract, laws, or regulations
- Which problems may require new contract language.

# SAMPLE RISK MAP OF A WAREHOUSE STORE



# RESOURCES

## Publications

The materials listed here cover various aspects of collective bargaining for health and safety, or can serve as references when negotiating on particular topics. Many were used in the preparation of this book. Some include actual or model contract language. These materials may be available in university libraries and larger public libraries.

- American Federation of Labor-Congress of Industrial Organizations (AFL-CIO). *Death on the Job: The Toll of Neglect*, 8th edition, April 1999.
- American National Standards Institute (ANSI). *American National Standard for Human Factors Engineering of Visual Display Terminal Workstations*, ANSI/HFS 100-1988, published by The Human Factors Society, Inc., 1988.
- American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE). *Ventilation for Acceptable Indoor Air Quality*, ASHRAE Standard 62-1989, 1989.
- Bureau of Labor Statistics, U.S. Dept. of Labor. *Major Collective Bargaining Agreements: Safety and Health Provisions*, BLS Bulletin 1425-16, 1976.

- Ellenberger, James N. “Collective Bargaining and Workers Compensation,” in *John Burton’s Workers’ Compensation Monitor*, May-June 1992.
- Environmental Protection Agency (EPA) and National Institute for Occupational Safety and Health (NIOSH). *Building Air Quality: A Guide for Building Owners and Facility Managers*, December 1991.
- Gray, George R., Myers, Donald W., and Myers, Phyllis S. “Collective Bargaining Agreements: Safety and Health Provisions,” in Bureau of Labor Statistics, *Monthly Labor Review*, vol. 121, no. 5, May 1998.
- International Brotherhood of Electrical Workers (IBEW). *Survey of Utility Collective Bargaining Agreement Language*, January 1995.
- Massachusetts Coalition for Occupational Safety and Health (MassCOSH). *Using the Massachusetts Toxics Use Reduction Act (TURA) to Protect Worker Health: A Fact Pack for Labor Unions*, 1997.
- Massachusetts Coalition for Occupational Safety and Health (MassCOSH) and Technology and Work Program, University of Massachusetts, Lowell. *Labor and Toxics Use Reduction: Opportunities and Challenges*, September 1992.
- National Institute for Occupational Safety and Health (NIOSH). *Occupational Exposure to Hot Environments: Revised Criteria 1986*, DHHS (NIOSH) Publication No. 86-113, 1986.
- The Newspaper Guild-Communications Workers of America. “U.S. Model Contract,” in *Collective Bargaining Manual 2*, February 1998.
- Service Employees International Union (SEIU). “Sample Contract Language to Protect Workers from On-The-Job Assault,” in *Assault on the Job—We Can Do Something About Workplace Violence*, 2nd edition, 1995.
- United Auto Workers (UAW). *Model Health and Safety Contract Language*, 1998.
- United Food and Commercial Workers, Department of Health and Safety. *Job Hazards Fact Sheet: Sample Safety and Health Contract Language*, November 1997.

## Laws and Regulations

Federal statutes (laws enacted by the U.S. Congress) are published in the United States Code (USC). The USC is an extensive series of volumes, available in law libraries and larger public libraries.

Standards and regulations issued by OSHA (Occupational Safety and Health Administration, U.S. Dept. of Labor) are published in the Code of Federal Regulations (CFR). The CFR is an extensive series of volumes, available in most law libraries and larger public libraries. OSHA standards and regulations are also available on the World Wide Web at [www.osha.gov](http://www.osha.gov). Printed copies may be available from OSHA. For mailing address and phone number, see “Agencies and Organizations” later in this Appendix.

California standards and regulations issued by Cal/OSHA are published in the California Code of Regulations (CCR), available in most law libraries and larger public libraries in California. They can also be viewed on the World Wide Web at [www.dir.ca.gov](http://www.dir.ca.gov).

## Court and NLRB Decisions

The decisions below are relevant to certain health and safety bargaining issues, and are cited in Chapter 3. They are available in most law libraries and larger public libraries.

- *E.I. duPont de Nemours & Co.* Decisions and Orders of the National Labor Relations Board, volume 311 (May 28, 1993), case number 88.
- *Electrical Workers versus Hechler*. United States Reports, volume 481 (U.S. Supreme Court, 1987), starting on page 851.
- *Electromation, Inc. versus NLRB*. Federal Reporter, 3rd series, volume 35 (7th Circuit Court of Appeals, 1994), starting on page 1148. No request was made for U.S. Supreme Court review.
- *Helton versus Hake*. South Western Reporter, 2nd series, volume 564 (Missouri Court of Appeals, 1978), starting on page 313. In 1978, the U.S. Supreme Court declined to review this decision.
- *NLRB versus Holyoke Water Power Company*. Federal Reporter, 2nd series, volume 778 (1st Circuit Court of Appeals, 1985), starting on page 49. In 1986, the U.S. Supreme Court declined to review this decision.
- *Steelworkers versus Rawson*. United States Reports, volume 495 (U.S. Supreme Court, 1990), starting on page 362.
- *Whirlpool versus Marshall*. United States Reports, volume 445 (U.S. Supreme Court, 1980), starting on page 1.

## **Agencies and Organizations**

The government agencies and other organizations listed here can provide information on health and safety and/or collective bargaining issues.

### **AFL-CIO Health and Safety Department**

Can provide information on many workplace health and safety issues and labor's response.

AFL-CIO Health and Safety Department  
815 16th Street NW  
Washington, DC 20006

*Phone:* (202) 637-5000

*Website:* [www.aflcio.org](http://www.aflcio.org)

### **Bureau of Labor Statistics (BLS)**

An agency in the U.S. Department of Labor that collects, analyzes, and publishes data on the workforce. Has an archive of collective bargaining agreements and occasionally issues surveys of bargaining trends. Has regional offices throughout the country.

BLS Division of Information Services  
2 Massachusetts Avenue NE, Room 2860  
Washington, DC 20212

*Phone:* (202) 606-5886

*Website:* [stats.bls.gov](http://stats.bls.gov)

### **Committees on Occupational Safety and Health (COSH)**

These are local volunteer groups of trade unionists and community activists. Most have regular meetings, and many offer training and information.

*For a complete list of "COSH" groups in the U.S., contact:*

New York Committee on Occupational Safety and Health (NYCOSH)  
275 Seventh Ave., 8th Floor  
New York, NY 10001

*Phone:* (212) 627-3900

*Website:* [www.nycosh.org](http://www.nycosh.org)

## Labor Occupational Health Program (LOHP)

A University of California program at Berkeley. Provides training, publications, and assistance on health and safety for labor unions, joint labor-management committees, environmental groups, and the community.

LOHP  
2223 Fulton Street, 4th floor  
Berkeley, CA 94720-5120

*Phone:* (510) 642-5507

*Website:* <http://socrates.berkeley.edu/~lohp>

There are other University-based health and safety programs throughout the U.S. Check with your local university.

## National Institute for Occupational Safety and Health (NIOSH)

An agency in the U.S. Department of Health and Human Services. Offers free publications, conducts research on safety and health problems, evaluates health hazards in particular workplaces, and recommends exposure limits for toxic substances.

### Headquarters

NIOSH/CDC  
1600 Clifton Road NE  
Atlanta, GA 30333

*Phone:* (800) 356-4674

*Website:* [www.cdc.gov/niosh](http://www.cdc.gov/niosh)

### Publications

NIOSH Publications  
4676 Columbia Parkway  
Cincinnati, OH 45226

*Phone:* (513) 533-8287

## National Labor Relations Board (NLRB)

A federal government agency that implements and enforces the National Labor Relations Act. Holds representation elections and investigates complaints by private sector workers, unions, and employers. Has publications and other information about employment rights and labor laws. Has regional offices throughout the country.

NLRB  
1099 14th Street NW  
Washington, DC 20570-0001

*Phone:* (202) 273-1991

*Website:* [www.nlr.gov](http://www.nlr.gov)

## **Occupational Safety and Health Administration (OSHA)**

An agency in the U.S. Department of Labor that enforces federal health and safety laws, takes complaints, and inspects workplaces. Has many free publications and a video library. Has regional offices throughout the country.

OSHA  
U.S. Dept. of Labor  
200 Constitution Ave. NW  
Washington, DC 20210

*Phone:* (800) 321-OSHA

*Website:* [www.osha.gov](http://www.osha.gov)

## **State Occupational Safety and Health Agencies**

Twenty-three states have state OSHA plans. For information about state health and safety requirements, complaints, and inspections, contact a local office. Offices are usually listed in the “State Government Pages” of local phone books.

## **State Workers’ Compensation Agencies**

In most states, these agencies provide information on rights, payments, medical care, and other services available to injured workers. Offices are usually listed in the “State Government Pages” of local phone books.

## **Technology and Work Program**

A program of the University of Massachusetts. Provides unions with training, assistance, and strategic planning support on issues of technological change.

Technology and Work Program  
Labor Extension  
University of Massachusetts  
Lowell, MA 01854

*Phone:* (978) 934-3266







Labor Occupational  
Health Program

